

Secretary of Labor shall lead the POWER Initiative by measuring both Government-wide and agency-level performance and reporting to me annually.

Each executive department and agency shall bear its own costs for participating in the POWER Initiative, and nothing in this memorandum shall be construed to impair or otherwise affect the authority granted by law to an executive department or agency, or the head thereof.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Secretary of Labor is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 7903. Protective clothing and equipment

Appropriations available for the procurement of supplies and material or equipment are available for the purchase and maintenance of special clothing and equipment for the protection of personnel in the performance of their assigned tasks. For the purpose of this section, "appropriations" includes funds made available by statute under section 9104 of title 31.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 531; Pub. L. 97-258, §3(a)(16), Sept. 13, 1982, 96 Stat. 1063.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118g.	Aug. 2, 1946, ch. 744, §13, 60 Stat. 809.

The definition of the word "appropriations" is added on authority of section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1982—Pub. L. 97-258 substituted "section 9104" for "section 849".

§ 7904. Employee assistance programs relating to drug abuse and alcohol abuse

(a) The head of each Executive agency shall, in a manner consistent with guidelines prescribed under subsection (b) of this section and applicable provisions of law, establish appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and alcohol abuse for employees in or under such agency.

(b) The Office of Personnel Management shall, after such consultations as the Office considers appropriate, prescribe guidelines for programs and services under this section.

(c) The Secretary of Health and Human Services, on request of the head of an Executive agency, shall review any program or service provided under this section and shall submit comments and recommendations to the head of the agency concerned.

(Added Pub. L. 99-570, title VI, §6004(a), Oct. 27, 1986, 100 Stat. 3207-159.)

§ 7905. Programs to encourage commuting by means other than single-occupancy motor vehicles

(a) For the purpose of this section—

(1) the term "employee" means an employee as defined by section 2105, a member of a uniformed service, and a student who provides voluntary services under section 3111;

(2) the term "agency" means—

(A) an Executive agency;

(B) an entity of the legislative branch; and

(C) the judicial branch;

(3) the term "entity of the legislative branch" means the House of Representatives, the Senate, the Office of the Architect of the Capitol (including the Botanic Garden), the Capitol Police, the Congressional Budget Office, the Copyright Royalty Tribunal, the Government Printing Office, the Library of Congress, and the Office of Technology Assessment; and

(4) the term "transit pass" means a transit pass as defined by section 132(f)(5) of the Internal Revenue Code of 1986.

(b)(1) The head of each agency may establish a program to encourage employees of such agency to use means other than single-occupancy motor vehicles to commute to or from work.

(2) A program established under this section may involve such options as—

(A) transit passes (including cash reimbursements therefor, but only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the agency);

(B) furnishing space, facilities, or services to bicyclists; and

(C) any non-monetary incentive which the agency head may otherwise offer under any other provision of law or other authority.

(c) The functions of an agency head under this section shall—

(1) with respect to the judicial branch, be carried out by the Director of the Administrative Office of the United States Courts;

(2) with respect to the House of Representatives, be carried out by the Committee on House Administration of the House of Representatives; and

(3) with respect to the Senate, be carried out by the Committee on Rules and Administration of the Senate.

(d) The President shall designate 1 or more agencies which shall—

(1) prescribe guidelines for programs under this section;

(2) on request, furnish information or technical advice on the design or operation of any program under this section; and

(3) submit to the President and the Congress, before January 1, 1995, and at least every 2 years thereafter, a written report on the operation of this section, including, with respect to the period covered by the report—

(A) the number of agencies offering programs under this section;

(B) a brief description of each of the various programs;

(C) the extent of employee participation in, and the costs to the Government associated with, each of the various programs;

(D) an assessment of any environmental or other benefits realized as a result of programs established under this section; and

(E) any other matter which may be appropriate.

(Added Pub. L. 103-172, §2(a), Dec. 2, 1993, 107 Stat. 1995; amended Pub. L. 107-296, title XIII, §1314(a), Nov. 25, 2002, 116 Stat. 2296.)

REFERENCES IN TEXT

Section 132(f)(5) of the Internal Revenue Code of 1986, referred to in subsec. (a)(4), is classified to section 132(f)(5) of Title 26, Internal Revenue Code.

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107-296 substituted “, a member of a uniformed service, and a student who provides voluntary services under section 3111” for “and a member of a uniformed service”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE

Section 3 of Pub. L. 103-172 provided that: “This Act [enacting this section and provisions set out as notes under this section and section 7901 of this title] and the amendments made by this Act shall take effect on January 1, 1994.”

TRANSIT SUBSIDY FOR DEPARTMENT OF LABOR EMPLOYEES OF NATIONAL CAPITAL REGION

Pub. L. 111-8, div. F, title I, §104, Mar. 11, 2009, 123 Stat. 761, provided that: “After September 30, 2008, the Secretary of Labor shall issue a monthly transit subsidy of not less than the full amount (of not less than \$115) that each of its employees of the National Capital Region is eligible to receive.”

Pub. L. 110-161, div. G, title I, §104, Dec. 26, 2007, 121 Stat. 2167, provided that: “After September 30, 2007, the Secretary of Labor shall issue a monthly transit subsidy of not less than the full amount (of not less than \$110) that each of its employees of the National Capital Region is eligible to receive.”

TRANSIT PASS TRANSPORTATION FRINGE BENEFITS

Pub. L. 109-59, title III, §3049(a), Aug. 10, 2005, 119 Stat. 1711, as amended by Pub. L. 109-435, title VI, §604(f), Dec. 20, 2006, 120 Stat. 3242, provided that:

“(1) IN GENERAL.—Effective as of the first day of the next fiscal year beginning after the date of the enactment of this Act [Aug. 10, 2005], each covered agency shall implement a program under which all qualified Federal employees serving in or under such agency shall be offered transit pass transportation fringe benefits, as described in paragraph (2).

“(2) BENEFITS DESCRIBED.—The benefits described in this paragraph are the transit pass transportation fringe benefits which, under section 2 of Executive Order No. 13150 [set out below], are required to be offered by Federal agencies in the National Capital Region on the date of the enactment of this Act.

“(3) DEFINITIONS.—In this subsection—

“(A) the term ‘covered agency’ means any agency, to the extent of its facilities in the National Capital Region;

“(B) the term ‘agency’ means any agency (as defined by 7905(a)(2) of title 5, United States Code), the Postal Regulatory Commission, and the Smithsonian Institution;

“(C) the term ‘National Capital Region’ includes the District of Columbia and every county or other geographic area covered by section 2 of Executive Order No. 13150;

“(D) the term ‘Executive Order No. 13150’ refers to Executive Order No. 13150 (5 U.S.C. 7905 note);

“(E) the term ‘Federal agency’ is used in the same way as under section 2 of Executive Order No. 13150; and

“(F) any determination as to whether or not one is a ‘qualified Federal employee’ shall be made applying the same criteria as would apply under section 2 of Executive Order No. 13150.

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be considered to require that a covered agency—

“(A) terminate any program or benefits in existence on the date of the enactment of this Act, or postpone any plans to implement (before the effective date referred to in paragraph (1)) any program or benefits permitted or required under any other provision of law; or

“(B) discontinue (on or after the effective date referred to in paragraph (1)) any program or benefits referred to in subparagraph (A), so long as such program or benefits satisfy the requirements of paragraphs (1) through (3).”

TRANSPORTATION SUBSIDY FOR EMPLOYEES OF THE SENATE

Pub. L. 107-68, title I, §112, Nov. 12, 2001, 115 Stat. 569, authorized an employing office of an employee of the Senate to provide a monthly transportation subsidy to such employee up to the maximum monthly amount authorized under section 132(f)(2)(A) of Title 26, Internal Revenue Code.

TRANSIT SUBSIDIES; APPROPRIATIONS

Pub. L. 105-277, div. A, §101(f) [title II, §210], Oct. 21, 1998, 112 Stat. 2681-337, 2681-359, provided that: “Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, for the National Institutes of Health may be used to provide transit subsidies in amounts consistent with the transportation subsidy programs authorized under section 629 of Public Law 101-509 [see note preceding section 7901 of this title] to non-FTE bearing positions including trainees, visiting fellows and volunteers.”

Similar provisions were contained in the following prior appropriations act:

Pub. L. 105-78, title II, §210, Nov. 13, 1997, 111 Stat. 1489.

PURPOSE OF PUB. L. 103-172

Section 1(b) of Pub. L. 103-172 provided that: “The purpose of this Act [enacting this section and provisions set out as notes under this section and section 7901 of this title] is to improve air quality and to reduce traffic congestion by providing for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles.”

EX. ORD. NO. 13150. FEDERAL WORKFORCE TRANSPORTATION

Ex. Ord. No. 13150, Apr. 21, 2000, 65 F.R. 24613, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Transportation Equity Act for the 21st Century (Public Law 105-178) [see Tables for classification], section 1911 of the Energy Policy Act of 1992 (Public Law 102-486) [amending section 132 of Title 26, Internal Revenue Code], section 531(a)(1) of the Deficit Reduction Act of 1984 (26 U.S.C. 132), and the Federal Employees Clean Air Incentives Act (Public Law 103-172) [enacting this section and provisions set out as notes above], and in order to reduce Federal employees’ contribution to traffic congestion and air pollution and to expand their commuting alternatives, it is hereby ordered as follows:

SECTION 1. *Mass Transportation and Vanpool Transportation Fringe Benefit Program.* (a) By no later than October 1, 2000, Federal agencies shall implement a transportation fringe benefit program that offers qualified Federal employees the option to exclude from taxable wages and compensation, consistent with section 132 of

title 26, United States Code, employee commuting costs incurred through the use of mass transportation and vanpools, not to exceed the maximum level allowed by law (26 U.S.C. 132 (f)(2)). These agency programs shall comply with the requirements of Internal Revenue Service regulations for qualified transportation fringe benefits under section 1.132-9 of title 26, Code of Federal Regulations, and other guidance.

(b) Federal agencies are encouraged to use any non-monetary incentive that the agencies may otherwise offer under any other provision of law or other authority to encourage mass transportation and vanpool use, as provided for in section 7905(b)(2)(C) of title 5, United States Code.

SEC. 2. *Federal Agencies in the National Capital Region.* Federal agencies in the National Capital Region shall implement a “transit pass” transportation fringe benefit program for their qualified Federal employees by no later than October 1, 2000. Under this program, agencies shall provide their qualified Federal employees, in addition to current compensation, transit passes as defined in section 132(f)(5) of title 26, United States Code, in amounts approximately equal to employee commuting costs, not to exceed the maximum level allowed by law (26 U.S.C. 132(f)(2)). The National Capital Region is defined as the District of Columbia; Montgomery, Prince George’s, and Frederick Counties in Maryland; Arlington, Fairfax, Loudon, and Prince William Counties in Virginia; and all cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of said counties.

SEC. 3. *Nationwide Pilot Program.* The Department of Transportation, the Environmental Protection Agency, and the Department of Energy shall implement a “transit pass” transportation fringe benefit program, as described in section 2 of this order, for all of their qualified Federal employees as a 3 year pilot program by no later than October 1, 2000. Before determining whether the program should be extended to other Federal employees nationwide, it shall be analyzed by an entity determined by the agencies identified in section 4 of this order to ascertain, among other things, if it is effective in reducing single occupancy vehicle travel and local area traffic congestion.

SEC. 4. *Guidance.* Federal agencies shall develop plans to implement this order in consultation with the Department of the Treasury, the Department of Transportation, the Environmental Protection Agency, the Office of Personnel Management, the General Services Administration, and the Office of Management and Budget. Federal agencies that currently have more generous programs or benefits in place may continue to offer those programs or benefits. Agencies shall absorb the costs of implementing this order within the sums received pursuant to the President’s FY 2001 budget request to the Congress.

SEC. 5. *Judicial Review.* This order is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

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2008—Pub. L. 110-181, div. A, title XI, § 1105(b), Jan. 28, 2008, 122 Stat. 349, added item 8102a.

¹ So in original. Does not conform to section catchline.