U.S. Department of Labor

Office of the Solicitor
Washington, D.C. 20210

May 18, 2009

CERTIFICATION OF PUBLIC INTEREST WAIVER FOR NAOMI WALKER

FROM: ROBERT A. SHAPIRO
Associate Solicitor for Legal Counsel
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SUBJECT: Waiver from Restrictions Related to the AFL-CIO

Pursuant to the authority delegated under Section 3 of Executive Order 13490 and for the reasons stated in the attached memorandum and after consultation with the Counsel to the President, I hereby certify that a limited waiver of the restrictions of paragraph 2 of the ethics pledge is in the public interest for appointee Naomi Walker in the position of Associate Deputy Secretary in the Department of Labor. Ms. Walker shall not be restricted from participating in any particular matter involving specific parties that is directly and substantially related to her former employer, the AFL-CIO, subject to the limitations set forth in the attached memorandum. This waiver does not otherwise affect Ms. Walker's obligation to comply with other provisions of the Ethics Pledge or with all other pre-existing government e

Signed _____ Date May 18, 2009

Robert A. Shapiro
Associate Solicitor for Legal Counsel
Alternate Designated Agency Ethics Official
Department of Labor

Attachment

May 18, 2009

MEMORANDUM IN SUPPORT OF PUBLIC INTEREST WAIVER FOR NAOMI WALKER, ASSOCIATE DEPUTY SECRETARY, UNITED STATES DEPARTMENT OF LABOR

In accordance with Section 3 of Executive Order 13490 (January 21, 2009), I have determined that it is in the public interest to grant a limited waiver to Naomi Walker in order for her to effectively carry out her duties as Associate Deputy Secretary, United States Department of Labor. This waiver is limited to enable Ms. Walker to have certain individual communications with her former employer on particular matters of general applicability notwithstanding the definition of "particular matter involving specific parties" in Section 2(h) of the Order.

Background. The United States Department of Labor was established in 1913. Its stated purpose is "to foster, promote, and develop the welfare of wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment." 29 U.S.C. §551. The Department's broad responsibilities are not limited to those persons currently in the workforce. It serves persons who seek the skills to enter the workforce through its employment and training program. It also serves those who are temporarily out of work through the unemployment insurance system. Finally, through the pension laws it administers, the Department protects the retirement savings of those who have left the workforce. The Department administers a variety of Federal labor laws, including those that guarantee workers' rights to safe and healthful working conditions; a minimum hourly wage and overtime pay; freedom from employment discrimination; unemployment insurance; and other income support. In carrying out its responsibilities, the Department necessarily interfaces and maintains dialogues with a large number of external groups, including labor unions, businesses, trade associations, public interest groups, and other stakeholders.

Justification for the Waiver. To carry out these public liaison and outreach activities, the Department has historically assigned one or more persons at very senior levels in the Department whose principal responsibilities include communication with individuals and groups about the Department's responsibilities and programs. One of these senior positions is the Associate Deputy Secretary. Based on an expert understanding of the views and philosophy of the Secretary, the Associate Deputy Secretary is charged with spearheading several initiatives and programs for the Secretary. This responsibility is carried out in several ways. First, the Associate Deputy Secretary fully participates in the overall management of the agency and exercises primary responsibility for matters pertaining to policy and program coordination, especially for those dealing with the labor movement, worker advocacy organizations, and other related organizations. The Associate Deputy Secretary also analyzes and advises on the implications of proposed, new or revised policies, regulations, and legislative proposals and assesses their impact on outside groups, organizations and businesses. In this regard, the incumbent

coordinates and consults with senior management officials of the Department, other agencies, and external stakeholders, as appropriate, regarding major initiatives, actions accomplished, milestones to be achieved, and any issues or problems as related. The Associate Deputy Secretary also has the very important role of representing the Department of Labor in discussions and negotiations with representatives of public and private organizations and officials of other Government agencies. In this capacity, the incumbent presents and explains the views and proposals of the Secretary and in turn conveys to the Secretary the views and proposals of other parties, accompanied by in-depth analyses of the impact of such proposals. It should be noted, however, that this position has no regulatory or enforcement responsibilities, nor does it have authority to award contracts or grants on behalf of the Department.

In order to effectively carry out all of these responsibilities and duties, the Associate Deputy Secretary must bring to the job a wide range of job skills and experiences. While some of these qualifications can be obtained through education and training, most require job experiences with the very kinds of groups and organizations that the Associate Deputy Secretary will interface as part of her responsibilities at the Department of Labor. In addition to the practical experience and knowledge of their workings, prior work with these public and private sector organizations inherently enhances the incumbent's credibility and effectiveness.

Naomi Walker, the Associate Deputy Secretary, brings a wide range of relevant experiences to this position. Since 1997, she has held several responsible positions with the AFL-CIO. Most recently, she has been Director of State Government Affairs. In that role she has developed and led the federation's state legislative agenda in coordination with affiliated unions, departments within the AFL-CIO, and policy organizations. In doing so, she worked with key state and national policy organizations to develop strategy, coordinate message, and provide research and technical assistance to state federations and state legislators. She established and directed the National Labor Caucus of State Legislators, now consisting of over 1000 members. She convened regular conference calls and meetings to discuss key legislative issues and represented labor at meetings of intergovernmental organizations like the National Conference of State Legislators. Earlier in her tenure at the AFL-CIO, she served as Media Outreach Coordinator. In this capacity she designed and developed communications strategies to highlight family and policy issues, from Social Security and affordable health care to paycheck deception and campaign finance reform. In this role, she wrote sample press materials and talking points to assist state federations with state and national legislative campaigns. She also worked with allied organizations to coordinate message and grassroots events.

Prior to joining the AFL-CIO, Ms. Walker held a number of other positions utilizing skills needed in her current position. Specifically she served as: Field Director for the Center for Public Policy in Washington, D.C.; Midwestern Regional Field Organizer for the Children's Defense Fund in Columbus, Ohio; and Training Coordinator for the Ohio Youth Services Network in Columbus, Ohio.

Conclusion. Section 1 of Executive Order 13490 provides that every appointee in every executive branch agency appointed on or after January 20, shall sign, and upon signing shall be contractually committed to, a pledge that contains a number of provisions. Of relevance here is the "Revolving Door Ban – All Employees Entering Government." Appointees signing this pledge commit to the following:

> *I will not for a period of 2 years from that date of my appointment, participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.*

The term "particular matter involving specific parties" is defined as follows:

> *"Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(b) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties."*

Executive Order 13490, Section 2(h).

As explained above, the core responsibilities of the Associate Deputy Secretary position involve communication and outreach to labor unions, public interest groups, and others. Any incumbent in this position has a real advantage, and one that benefits the Department and the public, if he or she has background working in one of these organizations. This is especially true when the organization is a major labor union, such as the AFL-CIO, which represents 56 national and international unions representing 11 million workers. Regardless of the Presidential Administration, the Department of Labor has maintained regular lines of communication with the AFL-CIO on a wide range of Departmental programs or activities. Limiting the Associate Deputy Secretary's communications would be detrimental to the Department and to the millions of persons represented by the AFL-CIO. There is no other position in the Department whose incumbent has similar responsibilities.

Accordingly, I have determined that – because of the nature and importance of the Associate Deputy Secretary position and Ms. Walker's uniquely suited qualifications – it is in the public interest to grant a limited waiver of Executive Order 13490, in accordance with Section 3 of that Order. As stated earlier, this waiver is limited to enable Ms. Walker to have individual communications with the AFL-CIO on particular matters of general applicability as defined in Section 3(h) of the Order. Ms. Walker has been, and will continue to be advised, on the applicability of all other aspects of the Order, as well as the restrictions imposed by all other ethics laws and regulations, and has agreed to take the necessary steps to be in full compliance with these authorities. In particular, she will

abide by the restriction in Section 1.2 of the Order prohibiting, for a 2 year period from the date of her appointment, her participation in any particular matter involving specific parties that is directly and substantially related to the AFL-CIO, including regulations and contracts.

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