Collection: Roberts, John G.: Files
Folder Title: JGR/Executive Orders, 1983 (2 of 3)
Box: 24

THE WHITE HOUSE

WASHINGTON

February 25, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Proposed Executive Order Entitled "Nuclear Cooperation With Euratom"

Richard Darman has requested comments by February 2~~8~~2 on the above-referenced proposed executive order and the accompanying proposed letter to the Congress. The Atomic Energy Act prohibits nuclear cooperation with any country ~~which~~ that does not give the United States a right of approval over reprocessing of U.S.-supplied nuclear material. 42 U.S.C. § 2156(5). The U.S. has been cooperating with EURATOM, the European nuclear organization, for over two decades. The agreements which form the basis for this cooperation do not recognize the required U.S. right of approval. The Act nonetheless permits year-by-year continuation of this cooperation if the President (1) determines that failure to extend cooperation would be seriously prejudicial to non-proliferation objectives or otherwise harm defense interests, (2) notifies Congress of this determination, and (3) issues an appropriate executive order. 42 U.S.C. § 2155(a)(2). President Carter extended the period of cooperation in 1980, and President Reagan did so in 1981, ~~and~~ 1982, and 1983.

The Department of State prepared the attached executive order and letter~~s~~ to Congress. They have been approved by OMB and, as to form and legality, by the Office of Legal Counsel. I see no legal objections.

Attachment

THE WHITE HOUSE

WASHINGTON

February 25, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Executive Order Entitled "Nuclear Cooperation With Euratom"

Counsel's Office has reviewed the above-referenced proposed executive order, and the accompanying draft letters to Congress, and finds no objection to them from a legal perspective.

FFF:JGR:aw 2/25/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

February 25, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Executive Order Entitled "Nuclear Cooperation With Euratom"

Counsel's Office has reviewed the above-referenced proposed executive order, and the accompanying draft letters to Congress, and finds no objection to them from a legal perspective.

FFF:JGR:aw 2/25/83

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Chron

ID # 112155 CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

Roberts

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) ___ / ___ / ___

CONFIDENTIAL ATTACHMENT

Name of Correspondent: RICHARD G. DARMAN

☐ **MI Mail Report** **User Codes:** (A) ______ (B) ______ (C) ______

Subject: Proposed Executive Order Entitled "Nuclear Cooperation With Euratom"

ROUTE TO: ACTION DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
W Holland	ORIGINATOR	83,02,24			/ /
	Referral Note:				
WAT 18	D	83,02,24		S	83,02,28
	Referral Note:				
		/ /			/ /
	Referral Note:				
		/ /			/ /
	Referral Note:				
		/ /			/ /
	Referral Note:				

ACTION CODES:
- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure
- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:
- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: ______

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
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5/81

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release March 7, 1983

TEXT OF A LETTER FROM THE
PRESIDENT TO THE SPEAKER OF THE
HOUSE OF REPRESENTATIVES
AND THE PRESIDENT OF THE SENATE

March 7, 1983

Dear Mr. Speaker: (Dear Mr. President:)

The United States has been engaged in nuclear cooperation with the European Community for many years. This cooperation was initiated under agreements concluded over two decades ago between the United States and the European Atomic Energy Community (EURATOM) which extend until December 31, 1995. Since the inception of this cooperation, the Community has adhered to all its obligations under those agreements.

The Nuclear Non-Proliferation Act of 1978 amended the Atomic Energy Act to establish new nuclear export criteria, including a requirement that the United States have a right to consent to the reprocessing of fuel exported from the United States. Our present agreements for cooperation with EURATOM do not contain such a right. To avoid disrupting cooperation with EURATOM, a proviso was included in the law to enable continued cooperation until March 10, 1980, and provide for negotiations concerning our cooperation agreements.

The law also provides that nuclear cooperation with EURATOM can be extended on an annual basis after March 10, 1980, upon determination by the President that failure to cooperate would seriously prejudice the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security and after notification to the Congress. President Carter made such a determination three years ago and signed Executive Order 12193, permitting continued nuclear cooperation with EURATOM until March 10, 1981. I made such determinations in 1981 and 1982 and signed Executive Orders 12295 and 12351, permitting continued nuclear cooperation through March 10, 1983.

The United States has engaged in four rounds of talks with EURATOM regarding the renegotiation of the US-EURATOM agreements for cooperation. These were conducted in November 1978, September 1979, April 1980 and January 1982. We also consulted with EURATOM on a number of issues related to these agreements last summer. We expect to continue the talks in 1983.

I believe that it is essential that cooperation between the United States and the Community continue and likewise that we work closely with our Allies to counter the threat of nuclear explosives proliferation. A disruption of nuclear cooperation would also cause serious problems in our overall relationships. Accordingly, I have determined that failure to continue peaceful nuclear cooperation with EURATOM would be seriously prejudicial to the achievement of United States non-proliferation objectives and would jeopardize the common defense and security of the United States. I intend to sign an Executive Order to extend the waiver of the application of the relevant export criterion of the Nuclear Non-Proliferation Act for an additional twelve months from March 10, 1983.

Sincerely,

RONALD REAGAN

# # # # # #

Ex. Order

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

May 5, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Executive Order Entitled "Incentive Pay for Hazardous Duty"

Richard Darman has requested comments by close of business May 6 on the above-referenced proposed executive order, prepared by the Department of Defense and approved by OMB and, as to form and legality, by the Office of Legal Counsel. Public Law 97-60 amended 37 U.S.C. § 301(a) to permit the award of hazardous duty pay, subject to regulations issued by the President, for frequent and regular exposure to toxic pesticides and for laboratory work utilizing live dangerous viruses or bacteria. The proposed executive order amends Executive Order 11157, adding specific definitions of the new types of hazardous duty recognized by Public Law 97-60. The executive order is made retroactive to October 1, 1981, the effective date of Public Law 97-60.

There is what I take to be a typographical error in the third line of the draft executive order. "Title 3" should be "Title 37." (There is no Section 301(a) of Title 3.) I have no other objections.

Attachment

THE WHITE HOUSE

WASHINGTON

May 5, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Executive Order Entitled "Incentive Pay for Hazardous Duty"

Counsel's Office has reviewed the above-referenced proposed executive order, and finds no objection to it from a legal perspective. In the third line, however, "Title 3" should be "Title 37."

FFF:JGR:aw 5/5/83

cc: FFFielding
JGRoberts
Subj.
Chron

1. Subparagraph (3) of paragraph (a) of section 1631.7 of Part 1631, *Quotas and Calls*, is amended to read as follows:

"(3) Nonvolunteers who have attained the age of 19 years and have not attained the age of 26 years and who (A) do not have a wife with whom they maintain a bona fide family relationship in their homes, in the order of their dates of birth with the oldest being selected first, or (B) have a wife whom they married after the effective date of this amended subparagraph and with whom they maintain a bona fide family relationship in their homes, in the order of their dates of birth with the oldest being selected first."

2. Subparagraph (4) is amended to read as follows:

"(4) Nonvolunteers who have attained the age of 19 years and have not attained the age of 26 years and who have a wife whom they married on or before the effective date of this amended subparagraph and with whom they maintain a bona fide family relationship in their homes, in the order of their dates of birth with the oldest being selected first."

3. The effective date of the amended subparagraphs referred to in this Order is the date of this Order.

LYNDON B. JOHNSON

THE WHITE HOUSE,
August 26, 1965.

Executive Order 11242

AMENDING EXECUTIVE ORDER NO. 11157 [1] AS IT RELATES TO INCENTIVE PAY FOR HAZARDOUS DUTY

By virtue of the authority vested in me by sections 301 (a) and (f) of title 37, United States Code, and as President of the United States, it is ordered that Executive Order No. 11157 of June 22, 1964, be, and it is hereby, amended by adding to section 109 of Part I the following new subsection:

"(f) The term 'duty involving frequent and regular participation in flight operations on the flight deck of an aircraft carrier' shall be construed to mean duty performed by members who are designated for and ordered to such duty by competent authority from among the crew of an attack aircraft carrier, an antisubmarine aircraft carrier, or an aviation unit operating from either such type of carrier, and who in any calendar month (1) participate in flight operations on the flight deck during a minimum of four days or (2) participate on the flight deck, in the minimum number of aircraft launches or recoveries, or both, that is prescribed by the Secretary of the Navy as the equivalent of participation under clause (1). No member shall be entitled, however, to receive the pay provided for in this subsection

[1] 29 F.R. 7973.

such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

SEC. 302. *Prior bodies and orders.* The President's Council on Recreation and Natural Beauty and the Citizens' Advisory Committee on Recreation and Natural Beauty are hereby terminated and the following are revoked:

(1) Executive Order No. 11278 of May 4, 1966.

(2) Executive Order No. 11359A of June 29, 1967.

(3) Executive Order No. 11402 of March 29, 1968.

Richard Nixon

THE WHITE HOUSE,
May 29, 1969.

Executive Order 11473

AMENDING EXECUTIVE ORDER NO. 11157 AS IT RELATES TO INCENTIVE PAY FOR HAZARDOUS DUTY INVOLVING PARTICIPATION IN FLIGHT OPERATIONS ON THE FLIGHT DECK OF AN AIRCRAFT CARRIER

By virtue of the authority vested in me by section 301 (a) and (f) of title 37, United States Code, and as President of the United States and Commander in Chief of the armed forces of the United States, section 109(f) of Executive Order No. 11157[1] of June 22, 1964, as amended by Executive Order No. 11242 of August 28, 1965, is amended to read as follows:

"(f) The term 'duty involving frequent and regular participation in flight operations on the flight deck of an aircraft carrier' shall be construed to mean duty performed by members who are designated for and ordered to such duty by competent authority from among the crew of a fixed-wing aircraft carrier or an aviation unit operating from that type of carrier, and who in any calendar month (1) participate in flight operations on the flight deck during a minimum of four days or (2) participate on the flight deck, in the minimum number of aircraft launches or recoveries, or both, that is prescribed by the Secretary of the Navy as the equivalent of participation under clause (1). No member shall be entitled, however, to receive the pay provided for in this subsection if, during any month or portion thereof, he is also eligible to receive incentive pay for other hazardous duty under the provisions of section 301 of title 37, United States Code."

Richard Nixon

THE WHITE HOUSE,
June 14, 1969.

[1] 29 F.R. 7973; 3 CFR, 1964–1965 Comp., p. 200.

1–703. So much of the personnel, property, records, and unexpended balances or appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions assigned to the Director of the Peace Corps or to the Director of ACTION by this Order as the Director of the Office of Management and Budget shall determine, shall be transferred to the Director of the Peace Corps or the Director of ACTION at such time or times as the Director of the Office of Management and Budget shall direct.

1–704. To the extent permitted by law, such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the provisions of this Order shall be carried out by such agencies as the Director of the Office of Management and Budget shall specify.

1–705. The authority conferred by Sections 1–703 and 1–704 of this Order shall supplement, not limit, the provisions of Section 1–108 of this Order.

1–706. Executive Order Nos. 11041, 11250, 11470 and 11603 are hereby superseded.

1–707. This Order shall become effective May 16, 1979.

JIMMY CARTER

THE WHITE HOUSE,
May 16, 1979.

Executive Order 12138 of May 18, 1979

Creating a National Women's Business Enterprise Policy and Prescribing Arrangements for Developing, Coordinating and Implementing a National Program for Women's Business Enterprise

In response to the findings of the Interagency Task Force on Women Business Owners and congressional findings that recognize:

1. the significant role which small business and women entrepreneurs can play in promoting full employment and balanced growth in our economy;

2. the many obstacles facing women entrepreneurs; and

3. the need to aid and stimulate women's business enterprise;

By the authority vested in me as President of the United States of America, in order to create a National Women's Business Enterprise Policy and to prescribe arrangements for developing, coordinating and implementing a national program for women's business enterprise, it is ordered as follows:

1–1. *Responsibilities of the Federal Departments and Agencies.*

1–101. Within the constraints of statutory authority and as otherwise permitted by law:

(a) Each department and agency of the Executive Branch shall take appropriate action to facilitate, preserve and strengthen women's business enterprise and to ensure full participation by women in the free enterprise system.

(b) Each department and agency shall take affirmative action in support of women's business enterprise in appropriate programs and activities including, but not limited to:

(1) management, technical, financial and procurement assistance,

(2) business-related education, training, counseling and information dissemination, and

(3) procurement.

(c) Each department or agency empowered to extend Federal financial assistance to any program or activity shall issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprise and to prohibit actions or policies which discriminate against women's business enterprise on the ground of sex. For purposes of this subsection, Federal financial assistance means assistance extended by way of grant, cooperative agreement, loan or contract other than a contract of insurance or guaranty. These regulations shall prescribe sanctions for noncompliance. Unless otherwise specified by law, no agency sanctions shall be applied until the agency or department concerned has advised the appropriate person or persons of the failure to comply with its regulations and has determined that compliance cannot be secured by voluntary means.

1–102. For purposes of this Order, affirmative action may include, but is not limited to, creating or supporting new programs responsive to the special needs of women's business enterprise, establishing incentives to promote business or business-related opportunities for women's business enterprise, collecting and disseminating information in support of women's business enterprise, and insuring to women's business enterprise knowledge of and ready access to business-related services and resources. If, in implementing this Order, an agency undertakes to use or to require compliance with numerical set-asides, or similar measures, it shall state the purpose of such measure, and the measure shall be designed on the basis of pertinent factual findings of discrimination against women's business enterprise and the need for such measure.

1–103. In carrying out their responsibilities under Section 1–1, the departments and agencies shall consult the Department of Justice, and the Department of Justice shall provide legal guidance concerning these responsibilities.

1–2. *Establishment of the Interagency Committee on Women's Business Enterprise.*

1–201. To help insure that the actions ordered above are carried out in an effective manner, I hereby establish the Interagency Committee on Women's Business Enterprise (hereinafter called the Committee).

1–202. The Chairperson of the Committee (hereinafter called the Chairperson) shall be appointed by the President. The Chairperson shall be the presiding officer of the Committee and shall have such duties as prescribed in this Order or by the Committee in its rules of procedure. The Chairperson may also represent his or her department, agency or office on the Committee.

1–203. The Committee shall be composed of the Chairperson and other members appointed by the heads of departments and agencies from among high level policy-making officials. In making these appointments, the recommendations of the Chairperson shall be taken into consideration. The following departments and agencies and such other departments and agencies as the Chairperson shall select shall be members of the Committee: the Departments of Agriculture; Commerce; Defense; Energy; Health, Education, and Welfare; Housing and Urban Development; Interior; Justice; Labor; Transportation; Treasury; the Federal Trade Commission; General Services Administration; National Science Foundation; Office of Federal Procurement Policy; and the Small Business Administration. These members shall have a vote. Nonvoting members shall include the Executive Director of the Committee and at least one but no more than three representatives from the Executive Office of the President appointed by the President.

1–204. The Committee shall meet at least quarterly at the call of the Chairperson, and at such other times as may be determined to be useful according to the rules of procedure adopted by the Committee.

1–205. The Administrator of the Small Business Administration shall provide an Executive Director and adequate staff and administrative support for the Committee. The staff shall be located in the Office of the Chief Counsel for Advocacy of the Small Business Administration, or in such other office as may be established specifically to further the policies expressed herein. Nothing in this Section prohibits the use of other properly available funds and resources in support of the Committee.

1–3. *Functions of the Committee.* The Committee shall in a manner consistent with law:

1–301. Promote, coordinate and monitor the plans, programs and operations of the departments and agencies of the Executive Branch which may contribute to the establishment, preservation and strengthening of women's business enterprise. It may, as appropriate, develop comprehensive interagency plans and specific program goals for women's business enterprise with the cooperation of the departments and agencies.

1–302. Establish such policies, definitions, procedures and guidelines to govern the implementation, interpretation and application of this order, and generally perform such functions and take such steps as the Committee may deem to be necessary or appropriate to achieve the purposes and carry out the provisions hereof.

1–303. Promote the mobilization of activities and resources of State and local governments, business and trade associations, private industry, colleges and universities, foundations, professional organizations, and volunteer and other groups toward the growth of women's business enterprise, and facilitate the coordination of the efforts of these groups with those of the departments and agencies.

1–304. Make an annual assessment of the progress made in the Federal Government toward assisting women's business enterprise to enter the mainstream of business ownership and to provide recommendations for future actions to the President.

1–305. Convene and consult as necessary with persons inside and outside government to develop and promote new ideas concerning the development of women's business enterprise.

1–306. Consider the findings and recommendations of government and private sector investigations and studies of the problems of women entrepreneurs, and promote further research into such problems.

1–307. Design a comprehensive and innovative plan for a joint Federal and private sector effort to develop increased numbers of new women-owned businesses and larger and more successful women-owned businesses. The plan should set specific reasonable targets which can be achieved at reasonable and identifiable costs and should provide for the measurement of progress towards these targets at the end of two and five years. Related outcomes such as income and tax revenues generated, jobs created, new products and services introduced or new domestic or foreign markets created should also be projected and measured in relation to costs wherever possible. The Committee should submit the plan to the President for approval within six months of the effective date of this Order.

1–4. *Other Responsibilities of the Federal Departments and Agencies.*

1–401. The head of each department and agency shall designate a high level official to have the responsibility for the participation and cooperation of that department or agency in carrying out this Executive order. This person may be the same person who is the department or agency's representative to the Committee.

1–402. To the extent permitted by law, each department and agency upon request by the Chairperson shall furnish information, assistance and reports and otherwise cooperate with the Chairperson and the Committee in the performance of their functions hereunder. Each department or agency shall ensure that systematic data collection processes are capable of providing the Committee current data helpful in evaluating and promoting the efforts herein described.

1–403. The officials designated under Section 1–401, when so requested, shall review the policies and programs of the women's business enterprise program, and shall keep the Chairperson informed of proposed budget, plans and programs of their departments or agencies affecting women's business enterprise.

1–404. Each Federal department or agency, within constraints of law, shall continue current efforts to foster and promote women's business enterprise and to support the program herein set forth, and shall cooperate with the Chairperson and the Committee in increasing the total Federal effort.

1–5. *Reports.*

1–501. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report of the activities of the Committee hereunder during the previous fiscal year. Further, the Chairperson shall, from time to time, submit to the President the Committee's recommendations for legislation or other action to promote the purposes of this Order.

1–502. Each Federal department and agency shall report to the Chairperson as hereinabove provided on a timely basis so that the Chairperson and the Committee can consider such reports for the Committee report to the President.

1–6. *Definitions.* For the purposes of this Order, the following definitions shall apply:

1–601. "Women-owned business" means a business that is at least 51 percent owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

1–602. "Women's business enterprise" means a woman-owned business or businesses or the efforts of a woman or women to establish, maintain or develop such a business or businesses.

1–603. Nothing in subsections 1–601 or 1–602 of this Section (1–6) should be construed to prohibit the use of other definitions of a woman-owned business or women's business enterprise by departments and agencies of the Executive Branch where other definitions are deemed reasonable and useful for any purpose not inconsistent with the purposes of this Order. Wherever feasible, departments and agencies should use the definition of a woman-owned business in subsection 1–601 above for monitoring performance with respect to women's business enterprise in order to assure comparability of data throughout the Federal Government.

1–7. *Construction.* Nothing in this Order shall be construed as limiting the meaning or effect of any existing Executive order.

JIMMY CARTER

THE WHITE HOUSE,
May 18, 1979.

Editorial Note: The President's remarks of May 18, 1979, on signing Executive Order 12138, are printed in the Weekly Compilation of Presidential Documents (vol. 15, p. 887).

Executive Order 12139 of May 23, 1979

Foreign Intelligence Electronic Surveillance

By the authority vested in me as President by Sections 102 and 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1802 and 1804), in order to provide as set forth in that Act for the authorization of electronic surveillance for foreign intelligence purposes, it is hereby ordered as follows:

1–101. Pursuant to Section 102(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1802(a)), the Attorney General is authorized to approve electronic surveillance to acquire foreign intelligence information

THE WHITE HOUSE

WASHINGTON

May 5, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Executive Order Entitled "Incentive Pay for Hazardous Duty"

Counsel's Office has reviewed the above-referenced proposed executive order, and finds no objection to it from a legal perspective. In the third line, however, "Title 3" should be "Title 37."

FFF:JGR:aw 5/5/83

cc: FFFielding
JGRoberts
Subj.
Chron

ID # CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING

☐ H - INTERNAL

☐ I - INCOMING
Date Correspondence
Received (YY/MM/DD) / /

Roberts

Name of Correspondent: RICHARD G. DARMAN

☐ **MI Mail Report** **User Codes:** (A) ______ (B) ______ (C) ______

Subject: Executive Order entitled "Incentive Pay for Hazardous Duty"

ROUTE TO: Office/Agency (Staff Name)	ACTION: Action Code	Tracking Date YY/MM/DD	DISPOSITION: Type of Response	Code	Completion Date YY/MM/DD
CUH011	ORIGINATOR	83,05,05			/ /
	Referral Note:				
CUAT18	D	83,05,05		S	83,04,06
	Referral Note:				COB
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ACTION CODES:
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5/81

Document No. 125138SS

WHITE HOUSE STAFFING MEMORANDUM

DATE: May 4, 1983 ACTION/CONCURRENCE/COMMENT DUE BY: C.O.B. May 6, 1983

SUBJECT: Executive Order entitled "Incentive Pay for Hazardous Duty"

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	GERGEN	✓	☐
MEESE	☐	✓	HARPER	✓	☐
BAKER	☐	✓	JENKINS	☐	☐
DEAVER	☐	✓	MURPHY	☐	☐
STOCKMAN	☐	☐	ROLLINS	☐	☐
CLARK	✓	☐	WHITTLESEY	☐	☐
DARMAN	☐P	✓SS	WILLIAMSON	☐	☐
DUBERSTEIN	✓	☐	VON DAMM	☐	☐
FELDSTEIN	☐	☐	BRADY/SPEAKES	☐	☐
FIELDING	✓	☐	ROGERS	☐	☐
FULLER	✓	☐	______	☐	☐

Remarks:

Please provide any comments to our office by c.o.b. May 6.

Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:

U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

The President,

The White House.

My dear Mr. President:

I am herewith transmitting a proposed Executive order entitled "Incentive Pay for Hazardous Duty."

This proposed order was submitted by the Department of Defense and has been forwarded for the consideration of this Department as to form and legality by the Office of Management and Budget with the approval of the Director.

The proposed Executive order is approved as to form and legality.

Respectfully,

Theodore B. Olson

Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel

U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

MEMORANDUM

Re: Proposed Executive order entitled
"Incentive Pay for Hazardous Duty"

The attached proposed Executive order was submitted by the Department of Defense and has been forwarded for the consideration of this Department as to form and legality by the Office of Management and Budget with the approval of the Director.

The proposed order will give two new groups in the uniformed services incentive pay for hazardous duty, as provided for in Pub. L. No. 97-60, § 111, 95 Stat. 989 (1981). The individuals covered will now include those whose jobs entail either frequent and regular exposure to highly toxic pesticides or laboratory work that utilizes live dangerous viruses or bacteria.

The proposed Executive order is acceptable as to form and legality.

Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 19, 1983

MEMORANDUM FOR: THE PRESIDENT

FROM: DAVID A. STOCKMAN DAS

SUBJECT: PROPOSED EXECUTIVE ORDER ENTITLED "INCENTIVE PAY FOR HAZARDOUS DUTY"

SUMMARY. This memorandum forwards for your consideration a proposed Executive order which provides incentive pay for members of the uniformed services who perform certain defined hazardous duties.

BACKGROUND. Section 111 of the Uniformed Services Pay Act of 1981 (Public Law 97-60) entitles members to receive incentive pay for hazardous duty. The law establishes broad categories of hazardous duty and requires that the President define the specific duties for which members are entitled to receive incentive pay.

The proposed Executive order was prepared by the Department of Defense to provide definitions of the hazardous duties included within two new duty categories:

(1) Frequent and regular exposure to highly toxic pesticides, and

(2) Laboratory work that utilizes live dangerous viruses or bacteria.

This order will make possible the implementation of these incentive pay provisions effective on and retroactive to October 1, 1981, as required by the Act.

None of the affected agencies objects to the proposed order.

RECOMMENDATION. I recommend that you sign the proposed Executive order.

Enclosures

EXECUTIVE ORDER

- - - - - - -

INCENTIVE PAY FOR HAZARDOUS DUTY

By the authority vested in me as President of the United States of America by Public Law 97-60 and Section 301(a) of Title 3 of the United States Code, and in order to define the scope of two additional categories of hazardous duty, it is hereby ordered as follows:

Section 1. Executive Order No. 11157 of June 22, 1964, as amended, is further amended by adding the following new subsections to Section 109 of Part I:

"(h) The term "duty involving frequent and regular exposure to highly toxic pesticides" shall be construed to mean duty performed by members who, while under competent orders assigning such members to the entomology, pest control, pest management, or preventive medicine functions of a uniformed service for a period of 30 consecutive days or more, are required to perform in any calendar month a fumigation task utilizing (1) phosphine, sulfuryl fluoride, hydrogen cyanide, methyl bromide, or (2) a fumigant of comparable high acute toxicity and hazard potential.

"(i) The term "duty involving laboratory work that utilizes live dangerous viruses or bacteria" shall be construed to mean primary duty performed by members who work with micro-organisms (1) that cause disease (A) with a high potential for mortality, and (B) for which effective therapeutic procedures are not available, and (2) for which no effective prophylactic immunization exists, while such members are assigned by competent orders for a period of 30 consecutive days or more to participate in or conduct applied or basic research that is characterized by a changing variety of techniques, procedures, equipment, and experiments.".

Sec. 2. This Order shall be effective as of October 1, 1981.

THE WHITE HOUSE,

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release September 8, 1983

EXECUTIVE ORDER

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PRESIDENT'S TASK FORCE ON FOOD ASSISTANCE

By the authority vested in me as President by the Constitution and laws of the United States of America, in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), an advisory committee to examine programs intended to render food assistance to the needy and to make recommendations on how such programs may be improved, it is hereby ordered as follows:

Section 1. Establishment. (a) There is established the President's Task Force on Food Assistance, which shall be composed of not more than fifteen persons, who shall be appointed by the President from among citizens of the United States who are not full-time officers or employees of the Federal Government.

(b) The President shall designate a Chairman, and may also designate a Vice Chairman, from among the members of the Task Force.

Sec. 2. Functions. The Task Force shall analyze Federal and other programs intended to render food assistance to the needy and shall make recommendations to the President and the Secretary of Agriculture with respect to how such programs may be improved. The Task Force shall submit its report to the President within ninety days of its first meeting.

Sec. 3. Administration. (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Task Force such information as it may require for purposes of carrying out its functions.

(b) Members of the Task Force shall serve without compensation for their work on the Task Force, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701-5707), to the extent funds are available therefor.

(c) The Secretary of Agriculture shall, to the extent permitted by law and subject to the availability of funds, provide the Task Force with such administrative services,

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facilities, staff and other support services as may be necessary for the effective performance of its functions.

Sec. 4. General. (a) Notwithstanding any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended, which are applicable to the Task Force, except that of reporting to the Congress, shall be performed by the Secretary of Agriculture in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Task Force shall, unless sooner extended, terminate thirty days after submission of its report to the President, but in no event later than January 31, 1984.

RONALD REAGAN

THE WHITE HOUSE,

September 8, 1983.

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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release September 21, 1983

EXECUTIVE ORDER

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PRESIDENTIAL COMMISSION ON INDIAN RESERVATION ECONOMIES

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered as follows:

Section 1. Section 2(d) of Executive Order No. 12401 is hereby amended to provide as follows:

"The Commission shall submit its final report to the President and the Secretary of the Interior by November 30, 1984.".

Sec. 2. Section 4(b) of Executive Order No. 12401 is hereby amended to provide as follows:

"The Commission shall, unless sooner extended, terminate 30 days after it transmits its final report to the President.".

RONALD REAGAN

THE WHITE HOUSE,

September 21, 1983.

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THE WHITE HOUSE

WASHINGTON

October 20, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Possible Executive Order Implementing 18 U.S.C. § 218 (allows the President to authorize voiding of transactions when certain crimes are committed)

By letter dated September 13 Robert D. Wallick raised concerns about a possible executive order implementing 18 U.S.C. § 218. That statutory provision (Tab A) permits "...the President or, under regulations prescribed by him, the head of any department or agency involved..." to nullify government contracts or transactions in relation to which there has been a final conviction for violation of Chapter 11, Title 18 of the United States Code. With respect to such a contract, § 218 permits the Government to recover, in addition to any other penalties provided by law or contract, "the amount expended or the thing transferred or delivered on its behalf, or the reasonable value thereof." Chapter 11 of Title 18 consists of §§ 201-224, the bribery, graft, and conflict of interest provisions.

The President has never issued regulations authorizing heads of departments or agencies to void contracts under § 218, nor have I discovered any instances of the President taking direct action under § 218. The only context in which § 218 has been discussed has been in the course of rejecting arguments that other government remedies - including common law remedies - were supplanted by § 218. See United States v. Podell, 572 F.2d 31, 35 (2 Cir. 1978). In short, the law has apparently been a dead letter since it was first enacted in 1962.

Mr. Wallick's fear that an executive order is imminent is, however, well founded. Secretary Weinberger proposed a delegation of authority under § 218 to himself and the heads of the military departments on March 28, 1983 (Tab B). OMB's latest - and nearly final - draft (Tab C) delegates authority more broadly to all department and agency heads. The draft specifies that any implementing regulations adopted by agency heads must provide certain due process protections. According to OMB's John Cooney, the order should be ready for Justice clearance by the middle of next week.

Wallick suggests that bar and industry reaction to an executive order under § 218 will rival that generated by OMB Circular A-122, but the proposed executive order hardly strikes me as unreasonable. I recommend a brief reply to Wallick saying we are considering issuing regulations under 18 U.S.C. § 218 (this is widely known) and that we will carefully consider his views. A draft is attached. If you agree, the draft should be signed promptly lest the executive order come off the presses first. I have cleared the draft with Cooney.

Attachment

§ 218. Voiding transactions in violation of chapter; recovery by the United States

In addition to any other remedies provided by law the President or, under regulations prescribed by him, the head of any department or agency involved, may declare void and rescind any contract, loan, grant, subsidy, license, right, permit, franchise, use, authority, privilege, benefit, certificate, ruling, decision, opinion, or rate schedule awarded, granted, paid, furnished, or published, or the performance of any service or transfer or delivery of anything to, by or for any agency of the United States or officer or employee of the United States or person acting on behalf thereof, in relation to which there has been a final conviction for any violation of this chapter, and the United States shall be entitled to recover in addition to any penalty prescribed by law or in a contract the amount expended or the thing transferred or delivered on its behalf, or the reasonable value thereof.

Added Pub.L. 87–849, § 1(e), Oct. 23, 1962, 76 Stat. 1125.

Historical Note

Prior Provisions. A prior section 218 of this title was redesignated section 213.

Effective Date. Section effective 90 days after Oct. 23, 1962, see section 4 of Pub.L. 87–849, set out as a note under section 201 of this title.

Canal Zone. Applicability of section to Canal Zone, see section 14 of this title.

Legislative History. For legislative history and purpose of Pub.L. 87–849, see 1962 U.S.Code Cong. and Adm.News, p. 3852.

Cross References

Definitions, see section 202 of this title.
Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.
Secret Service, detection and arrest of persons violating this section, see section 3056 of this title.

Library References

United States ⟹68, 126.
C.J.S. United States §§ 90, 183.

§ 219. Officers and employees acting as agents of foreign principals

Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

Nothing in this section shall apply to the employment of any agent of a foreign principal as a special Government employee in

THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA

2 8 MAR 1983

Honorable David A. Stockman
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Dave,

The enclosed proposed Executive order, entitled "Exercise of Authority under Section 218 of Title 18, United States Code," is submitted for approval in accordance with Executive Order No. 11030, as amended, 1 C.F.R. 20 (1982), reprinted in 44 U.S.C. §1505 note at 428-429 (1976) and at 108 (Supp. IV 1980).

The enclosed Executive order would prescribe regulations under 18 U.S.C. §218 (1976), pursuant to which the Secretary of Defense and the Secretaries of the Military Departments may exercise authority to declare void and rescind a contract in relation to which there has been a final conviction for bribery, graft, or conflict of interest. Section 218 provides that, with respect to such a contract, "the United States shall be entitled to recover in addition to any penalty prescribed by law or in a contract the amount expended or the thing transferred or delivered on its behalf, or the reasonable value thereof."

By the terms of section 218, the authority to declare void and rescind a contract is provided to the President or, under regulations prescribed by him, to the head of any department or agency involved. While section 218 was enacted in 1962, no Executive order has yet issued the presidential regulations that are a prerequisite to the exercise by heads of departments and agencies of their authority under section 218.

The enclosed Executive order would prescribe the necessary regulations with respect to the Secretary of Defense and the Secretaries of the Military Departments. In so doing, the order would enable them to exercise important statutory relief that Congress has provided against those who would undermine the integrity of the process of procurement by the Department of Defense. Thus, the order is intended to enhance the soundness of that process. Approval of the order is strongly recommended.

Sincerely,

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EXECUTIVE ORDER OF , 1983

EXERCISE OF AUTHORITY UNDER SECTION 218 OF TITLE 18, UNITED STATES CODE

By the authority vested in me as President by the Constitution and statutes of the United States of America, including section 218 of title 18 of the United States Code, it is hereby ordered as follows:

Section 1. The Secretary of Defense and the Secretaries of the Military Departments are empowered to exercise the authority vested in them by section 218 of title 18 of the United States Code in accordance with the following:

(a) Appropriate notice shall be given to the person or entity affected.

(b) The person or entity affected may submit relevant information in its behalf before a final decision is made.

(c) A hearing shall not be held if the amount at issue is less than $25,000.

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(d) The decision of the Secretary or designee shall be final.

Sec. 2. The Secretary of Defense shall promulgate procedures that implement the statute and this Order, and shall approve related directives of the Military Departments before the exercise of powers under the statute and this Order by the Secretaries of those Departments.

THE WHITE HOUSE

_______________, 1983

15388

THE WHITE HOUSE

WASHINGTON

October 20, 1983

Dear Mr. Wallick:

Thank you for your letter of September 13. In that letter you raised concerns about a possible Executive Order implementing 18 U.S.C. § 218, and urged that no action be taken to issue such an order without a genuine showing of need and then only if there are adequate protections against excesses.

The Government is reviewing means of ensuring the integrity of the procurement process, including the possibility of issuing regulations of the sort authorized by 18 U.S.C. § 218. I have shared your concerns with the officials most directly involved with this issue, and can assure you that those officials will accord your views every appropriate consideration.

Thank you for writing.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Robert D. Wallick
Steptoe & Johnson
1250 Connecticut Avenue
Washington, D.C. 20036

FFF:JGR:aea 10/20/83

bcc: FFFielding
JGRoberts
Subj
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EXECUTIVE ORDER

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EXERCISE OF AUTHORITY UNDER SECTION 218 OF TITLE 18, UNITED STATES CODE

By the authority vested in me as President by the Constitution and statutes of the United States of America, including section 218 of title 18 of the United States Code, and in order to provide federal agencies with the authority to promulgate regulations for voiding or rescinding contracts or other benefits obtained through bribery, graft or conflict of interest, it is hereby ordered as follows:

Section 1. The head of each Executive department, Military department and Executive agency is hereby delegated the authority vested in the President to declare void and rescind the transactions set forth in section 218 of title 18 of the United States Code in relation to which there has been a final conviction for any violation of chapter 11 of title 18.

Sec. 2. The head of each Executive department and agency described in section 1 may exercise the authority hereby delegated by promulgating implementing regulations; provided that the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration jointly shall issue government-wide implementing regulations related to voiding or rescission of contracts.

Sec. 3. Implementing regulations adopted pursuant to this Order shall, at a minimum, provide the following procedural protections:

(a) Written notice of the proposed action shall be given in each case to the person or entity affected;

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(b) The person or entity affected shall be afforded an opportunity to submit pertinent information on its behalf before a final decision is made;

(c) Upon the request of the person or entity affected, a hearing shall be held at which it shall have the opportunity to call witnesses on its behalf and confront any witness the agency may present; and

(d) The head of the agency or his designee shall issue a final written decision specifying the amount of restitution or any other remedy authorized by section 218, provided that such remedy shall take into consideration the fair value of any tangible benefits received and retained by the agency.

THE WHITE HOUSE,

THE WHITE HOUSE

WASHINGTON

October 20, 1983

This is very late

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

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THE WHITE HOUSE

WASHINGTON

October 20, 1983

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Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Mr. Robert D. Wallick
Steptoe & Johnson
1250 Connecticut Avenue
Washington, D.C. 20036

FFF:JGR:aea 10/20/83

bcc: FFFielding
JGRoberts
Subj
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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release November 4, 1983

EXECUTIVE ORDER

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RONALD REAGAN

THE WHITE HOUSE,

November 4, 1983.

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