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Executive Order -- Assignment of National Security and Emergency Preparedness Communications Functions

EXECUTIVE ORDER

ASSIGNMENT OF NATIONAL SECURITY AND EMERGENCY PREPAREDNESS COMMUNICATIONS FUNCTIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. The Federal Government must have the ability to communicate at all times and under all circumstances to carry out its most critical and time sensitive missions. Survivable, resilient, enduring, and effective communications, both domestic and international, are essential to enable the executive branch to communicate within itself and with: the legislative and judicial branches; State, local, territorial, and tribal governments; private sector entities; and the public, allies, and other nations. Such communications must be possible under all circumstances to ensure national security, effectively manage emergencies, and improve national resilience. The views of all levels of government, the private and nonprofit sectors, and the public must inform the development of national security and emergency preparedness (NS/EP) communications policies, programs, and capabilities.

Sec. 2. Executive Office Responsibilities.

Sec. 2.1. Policy coordination, guidance, dispute resolution, and periodic in-progress reviews for the functions described and assigned herein shall be provided through the interagency process established in Presidential Policy Directive-1 of February 13, 2009 (Organization of the National Security Council System) (PPD-1).

Sec. 2.2. The Director of the Office of Science and Technology Policy (OSTP) shall: (a) issue an annual memorandum to the NS/EP Communications Executive Committee (established in section 3 of this order) highlighting national priorities for Executive Committee analyses, studies, research, and development regarding NS/EP communications;

(b) advise the President on the prioritization of radio spectrum and wired communications that support NS/EP functions; and

(c) have access to all appropriate information related to the test, exercise, evaluation, and readiness of the capabilities of all existing and planned NS/EP communications systems, networks, and facilities to meet all executive branch NS/EP requirements.

Sec. 2.3. The Assistant to the President for Homeland Security and Counterterrorism and the Director of OSTP shall make recommendations to the President, informed by the interagency policy process established in PPD-1, with respect to the exercise of authorities assigned to the President under section 706 of the Communications Act of 1934, as amended (47 U.S.C. 606). The Assistant to the President for Homeland Security and Counterterrorism and the Director of OSTP shall also jointly monitor the exercise of these authorities, in the event of any delegation, through the process established in PPD-1 or as the President otherwise may direct.

Sec. 3. The NS/EP Communications Executive Committee.

Sec. 3.1. There is established an NS/EP Communications Executive Committee (Executive Committee) to serve as a forum to address NS/EP communications matters.

Sec. 3.2. The Executive Committee shall be composed of Assistant Secretary-level or equivalent representatives designated by the heads of the Departments of State, Defense, Justice, Commerce, and Homeland Security, the Office of the Director of National Intelligence (DNI), the General Services Administration, and the Federal Communications Commission, as well as such additional agencies as the Executive Committee may designate. The

designees of the Secretary of Homeland Security and the Secretary of Defense shall serve as Co-Chairs of the Executive Committee.

Sec. 3.3. The responsibilities of the Executive Committee shall be to: (a) advise and make policy recommendations to the President, through the PPD-1 process, on enhancing the survivability, resilience, and future architecture of NS/EP communications, including what should constitute NS/EP communications requirements;

(b) develop a long-term strategic vision for NS/EP communications and propose funding requirements and plans to the President and the Director of the Office of Management and Budget (OMB), through the PPD-1 process, for NS/EP communications initiatives that benefit multiple agencies or other Federal entities;

(c) coordinate the planning for, and provision of, NS/EP communications for the Federal Government under all hazards;

(d) promote the incorporation of the optimal combination of hardness, redundancy, mobility, connectivity, interoperability, restorability, and security to obtain, to the maximum extent practicable, the survivability of NS/EP communications under all circumstances;

(e) recommend to the President, through the PPD-1 process, the regimes to test, exercise, and evaluate the capabilities of existing and planned communications systems, networks, or facilities to meet all executive branch NS/EP communications requirements, including any recommended remedial actions;

(f) provide quarterly updates to the Assistant to the President for Homeland Security and Counterterrorism and the Director of OSTP, through the Co-Chairs, on the status of Executive Committee activities and develop an annual NS/EP communications strategic agenda utilizing the PPD-1 process;

(g) enable industry input with respect to the responsibilities established in this section; and

(h) develop, approve, and maintain a charter for the Executive Committee.

Sec. 4. Executive Committee Joint Program Office.

Sec. 4.1. The Secretary of Homeland Security shall establish an Executive Committee Joint Program Office (JPO) to provide full-time, expert, and administrative support for the Executive Committee's performance of its responsibilities under section 3.3 of this order. Staff of the JPO shall include detailees, as needed and appropriate, from agencies represented on the Executive Committee. The Department of Homeland Security shall provide resources to support the JPO. The JPO shall be responsive to the guidance of the Executive Committee.

Sec. 4.2. The responsibilities of the JPO shall include: coordination of programs that support NS/EP missions, priorities, goals, and policy; and, when directed by the Executive Committee, the convening of governmental and nongovernmental groups (consistent with the Federal Advisory Committees Act, as amended (5 U.S.C. App.)), coordination of activities, and development of policies for senior official review and approval.

Sec. 5. Specific Department and Agency Responsibilities.

Sec. 5.1. The Secretary of Defense shall: (a) oversee the development, testing, implementation, and sustainment of NS/EP communications that are directly responsive to the national security needs of the President, Vice President, and senior national leadership, including: communications with or among the President, Vice President, White House staff, heads of state and government, and Nuclear Command and Control leadership; Continuity of Government communications; and communications among the executive, judicial, and legislative branches to support Enduring Constitutional Government;

(b) incorporate, integrate, and ensure interoperability and the optimal combination of hardness, redundancy, mobility, connectivity, interoperability, restorability, and security to obtain, to the maximum extent practicable, the survivability of NS/EP communications defined in section 5.1(a) of this order under all circumstances, including conditions of crisis or emergency;

(c) provide to the Executive Committee the technical support necessary to develop and maintain plans adequate to provide for the security and protection of NS/EP communications; and

(d) provide, operate, and maintain communication services and facilities adequate to execute responsibilities consistent with Executive Order 12333 of December 4, 1981, as amended.

Sec. 5.2. The Secretary of Homeland Security shall: (a) oversee the development, testing, implementation, and sustainment of NS/EP communications, including: communications that support Continuity of Government; Federal,

State, local, territorial, and tribal emergency preparedness and response communications; non-military executive branch communications systems; critical infrastructure protection networks; and non-military communications networks, particularly with respect to prioritization and restoration;

(b) incorporate, integrate, and ensure interoperability and the necessary combination of hardness, redundancy, mobility, connectivity, interoperability, restorability, and security to obtain, to the maximum extent practicable, the survivability of NS/EP communications defined in section 5.2(a) of this order under all circumstances, including conditions of crisis or emergency;

(c) provide to the Executive Committee the technical support necessary to develop and maintain plans adequate to provide for the security and protection of NS/EP communications;

(d) receive, integrate, and disseminate NS/EP communications information to the Federal Government and State, local, territorial, and tribal governments, as appropriate, to establish situational awareness, priority setting recommendations, and a common operating picture for NS/EP communications information;

(e) satisfy priority communications requirements through the use of commercial, Government, and privately owned communications resources, when appropriate;

(f) maintain a joint industry-Government center that is capable of assisting in the initiation, coordination, restoration, and reconstitution of NS/EP communications services or facilities under all conditions of emerging threats, crisis, or emergency;

(g) serve as the Federal lead for the prioritized restoration of communications infrastructure and coordinate the prioritization and restoration of communications, including resolution of any conflicts in or among priorities, in coordination with the Secretary of Defense when activities referenced in section 5.1(a) of this order are impacted, consistent with the National Response Framework. If conflicts in or among priorities cannot be resolved between the Departments of Defense and Homeland Security, they shall be referred for resolution in accordance with section 2.1 of this order; and

(h) within 60 days of the date of this order, in consultation with the Executive Committee where appropriate, develop and submit to the President, through the Assistant to the President for Homeland Security and Counterterrorism, a detailed plan that describes the Department of Homeland

Security's organization and management structure for its NS/EP communications functions, including the Government Emergency Telecommunications Service, Wireless Priority Service, Telecommunications Service Priority program, Next Generation Network Priority program, the Executive Committee JPO, and relevant supporting entities.

Sec. 5.3. The Secretary of Commerce shall: (a) provide advice and guidance to the Executive Committee on the use of technical standards and metrics to support execution of NS/EP communications;

(b) identify for the Executive Committee requirements for additional technical standards and metrics to enhance NS/EP communications;

(c) engage with relevant standards development organizations to develop appropriate technical standards and metrics to enhance NS/EP communications;

(d) develop plans and procedures concerning radio spectrum allocations, assignments, and priorities for use by agencies and executive offices;

(e) develop, maintain, and publish policies, plans, and procedures for the management and use of radio frequency assignments, including the authority to amend, modify, or revoke such assignments, in those parts of the electromagnetic spectrum assigned to the Federal Government; and

(f) administer a system of radio spectrum priorities for those spectrum-dependent telecommunications resources belonging to and operated by the Federal Government and certify or approve such radio spectrum priorities, including the resolution of conflicts in or among such radio spectrum priorities during a crisis or emergency.

Sec. 5.4. The Administrator of General Services shall provide and maintain a common Federal acquisition approach that allows for the efficient centralized purchasing of equipment and services that meet NS/EP communications requirements. Nothing in this section shall be construed to impair or otherwise affect the procurement authorities granted by law to an agency or the head thereof.

Sec. 5.5. With respect to the Intelligence Community, the DNI, after consultation with the heads of affected agencies, may issue such policy directives and guidance as the DNI deems necessary to implement this order. Procedures or other guidance issued by the heads of elements of the Intelligence Community shall be in accordance with such policy directives or guidelines issued by the DNI.

Sec. 5.6. The Federal Communications Commission performs such functions as are required by law, including: (a) with respect to all entities licensed or regulated by the Federal Communications Commission: the extension, discontinuance, or reduction of common carrier facilities or services; the control of common carrier rates, charges, practices, and classifications; the construction, authorization, activation, deactivation, or closing of radio stations, services, and facilities; the assignment of radio frequencies to Federal Communications Commission licensees; the investigation of violations of pertinent law; and the assessment of communications service provider emergency needs and resources; and

(b) supporting the continuous operation and restoration of critical communications systems and services by assisting the Secretary of Homeland Security with infrastructure damage assessment and restoration, and by providing the Secretary of Homeland Security with information collected by the Federal Communications Commission on communications infrastructure, service outages, and restoration, as appropriate.

Sec. 6. General Agency Responsibilities. All agencies, to the extent consistent with law, shall: (a) determine the scope of their NS/EP communications requirements, and provide information regarding such requirements to the Executive Committee;

(b) prepare policies, plans, and procedures concerning communications facilities, services, or equipment under their management or operational control to maximize their capability to respond to the NS/EP needs of the Federal Government;

(c) propose initiatives, where possible, that may benefit multiple agencies or other Federal entities;

(d) administer programs that support broad NS/EP communications goals and policies;

(e) submit reports annually, or as otherwise requested, to the Executive Committee, regarding agency NS/EP communications activities;

(f) devise internal acquisition strategies in support of the centralized acquisition approach provided by the General Services Administration pursuant to section 5.4 of this order; and

(g) provide the Secretary of Homeland Security with timely reporting on NS/EP communications status to inform the common operating picture required under 6 U.S.C. 321(d).

Sec. 7. General Provisions. (a) For the purposes of this order, the word "agency" shall have the meaning set forth in section 6.1(b) of Executive Order 13526 of December 29, 2009.

(b) Executive Order 12472 of April 3, 1984, as amended, is hereby revoked.

(c) Executive Order 12382 of September 13, 1982, as amended, is further amended by striking the following language from section 2(e): "in his capacity as Executive Agent for the National Communications System".

(d) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency, or the head thereof; or

(ii) the functions of the Director of the OMB relating to budgetary, administrative, or legislative proposals.

(e) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(f) This order 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.

BARACK OBAMA