

**Nomination Hearing for the Honorable Ernest W. DuBester to be Member, and Ms. Julia Akins Clark to be General Counsel, Federal Labor Relations Authority
&
Mr. Rafael Borrás to be Under Secretary for Management, Department of Homeland Security
Statement of Senator Daniel K. Akaka
Committee on Homeland Security and Governmental Affairs
July 29, 2009**

Today, the Committee on Homeland Security and Governmental Affairs meets to consider the nominations of Ernest DuBester to be a member on the Federal Labor Relations Authority (FLRA) and Julia Clark to be General Counsel of the FLRA.

Mr. DuBester attended Boston College and received his law degree at Catholic University. Mr. DuBester has been involved in public service since 1975. After graduating from law school, he worked as legal counsel to the National Labor Relations Board.

In 1993, President Clinton nominated Mr. DuBester to serve on the National Mediation Board (NMB), and the Senate unanimously confirmed him. He became the Chairman of the NMB in 1993. Mr. DuBester also has taught law at the George Mason University School of Law and the Catholic University School of Law.

Ms. Clark graduated from Oklahoma Baptist University and received her law degree from the Washington College of Law at American University. For the past fourteen years, she has served as General Counsel to the International Federation of Professional and Technical Engineers, a union that represents dedicated Federal employees throughout the country, including many in my home state of Hawai'i.

The positions to which Mr. DuBester and Ms. Clark have been nominated are among the most important to Federal employees. If confirmed, I expect these nominees to be strong advocates for fair employment practices in the Federal government.

The nominations of Mr. DuBester and Ms. Clark come at a critical juncture for the FLRA. The FLRA is responsible for providing leadership in establishing policies and guidance relating to Federal sector labor relations. It also resolves complaints of unfair labor practices and decides issues involving federal union representation. These are very important responsibilities. For far too long, however, the FLRA has failed to carry out its mission. The FLRA has been without a general counsel since February of 2008. Moreover, prior to October 2008, the FLRA had only one member. Last year, I am glad we were able to fill two of the seats, however, it is better to have a full complement. Personnel shortages have led to a serious backlog of cases at the FLRA. I trust both nominees, if confirmed, will work to reinvigorate the FLRA.

I am also concerned about low employee morale at the FLRA. In the Partnership for Public Service's 2009 Best Places to Work Rankings, the FLRA ranked last among small Federal agencies. The FLRA received the lowest score in several categories, including effective

leadership, strategic management, and employee training and development. Clearly, big changes are needed to address these serious issues. I look forward to hearing the nominees' thoughts on these issues.

During the past Administration, Federal employees and their representatives at times believed their views were not adequately considered when changes to federal programs and workplace policies were made. In your roles, if confirmed, you can help rebuild strong partnerships between unions and management throughout the Federal Government, which I believe is necessary to help agencies best carry out their missions.

Welcome to the second part of today's hearing, as the Committee on Homeland Security and Governmental Affairs meets to consider the nomination of Mr. Rafael Borrás to be Under Secretary for Management at the Department of Homeland Security (DHS).

Mr. Borrás has been nominated to this important position with over twenty years of federal, local, and private sector management experience. It is my hope that this diverse experience will guide the nominee well, should he be confirmed.

As you know, I, along with my friend Senator Voinovich, feel that the Under Secretary for Management is such an important position because he or she oversees the Department's budget, finances, procurement, human capital, information technology, facilities, as well as performance measurements.

The role is so important that I cosponsored Senator Voinovich's bill, the Effective Homeland Security Management Act, which would elevate this position to a term appointed Deputy Secretary with a fixed five year term. This legislation, which was approved by this Committee this morning, would promote more focused and robust management at DHS, which is critical to improving the cohesiveness, efficiency, and effectiveness of the Department's action. Even if our bill is not enacted this year, I trust that Mr. Borrás will use his position to implement sound management practices.

The Department of Homeland Security has been on the Government Accountability Office's "high risk list" since 2003 because of the challenges it faces through its continued transition from over twenty distinct entities into the third-largest Department in the federal government. Since its creation, DHS has been one of the biggest management challenges in the federal government.

Mr. Borrás, you will be coming to an agency that continues a long struggle to integrate and become one-DHS. You will have been left several management reform projects to take over. I have no doubt from our discussions that you have your own enthusiastic ideas as well, and I look forward to hearing more about those ideas today.

As you know, one of my primary concerns at DHS has been that of accountability. Today, there are far too many contractors at DHS, and not enough federal employees to oversee them. It is essential that we fix the contractor – federal employee mix to ensure that there are

enough career professionals to carry out the critical missions of this Department. It is also important that agencies look to innovative methods to leverage the diverse talent of the federal workforce to fulfill critical mission gaps.

In particular, a problem throughout the federal government, but especially important at DHS, is the acquisition workforce. These are the professionals who are responsible for the development and execution of billions of dollars worth of contracts every year. Unfortunately, as this Committee has heard in several hearings, the government is losing acquisition professionals to retirement or other employers, and it is not recruiting and training new ones quickly enough. This is an issue that my Oversight of Government Management Subcommittee will continue to address in the near future.

More broadly, DHS, with the rest of the federal government, faces looming workforce challenges as baby boomers retire. DHS must attract the next generation of employees, proud of federal service, and committed to the Department's mission. This will require seeking out talent with unique skills from both outside and within the government. These efforts can best be achieved by ensuring the use of veterans' preference, a diverse workforce, and a commitment to working with employee unions and groups.

Again, Mr. Borras, I want to thank you for your willingness to take on the challenges that you will surely face in this position. It is my hope that you will work closely with this Committee as we move forward in addressing the strategic management challenges facing DHS.