



G A O

Accountability • Integrity • Reliability

United States Government Accountability Office  
Washington, DC 20548

B-308669

December 20, 2006

The Honorable Michael O. Johanns  
Secretary of Agriculture

Dear Mr. Secretary:

The purpose of this letter is to remind you of the requirements of the Federal Vacancies Reform Act of 1998,<sup>1</sup> and in particular, of provisions that require executive departments and agencies to report information about vacant positions to the Congress and the Comptroller General. This letter is being sent to the heads of all executive departments and agencies in recognition of the fact that many vacancies occur in the final two years of a presidential term.

The Vacancies Reform Act, enacted on October 21, 1998, provides rules for the temporary filling of certain vacant positions that require Presidential appointment and Senate confirmation.<sup>2</sup> Under the Act, an acting officer in a position covered by the Act may serve in a vacant position for a period no longer than 210 days from the date of the vacancy. Adjustments are made in the 210-day time limitation if the President submits a nomination to fill the position.<sup>3</sup>

The Act requires executive departments and agencies to immediately report to the Congress and to the Comptroller General when a vacancy occurs, the name of any person serving in an acting capacity, the name of any person nominated to fill the position, and the date of a rejection, withdrawal, or return of any nomination. The Act also requires the Comptroller General to report to Congress, the President, and the Office of Personnel Management if the Comptroller General determines that an acting official is serving longer than the 210-day period (including applicable extensions) established by the Act.

---

<sup>1</sup> 5 U.S.C. §§ 3345-3349d.

<sup>2</sup> The Vacancies Reform Act applies to all Presidentially-appointed, Senate-confirmed nominees, except for Article I judges, members of the Federal Energy Regulatory Commission and the Surface Transportation Board, and any appointment to a multimember board or commission that governs an independent establishment or a government corporation. 5 U.S.C. § 3349c.

<sup>3</sup> The Department of Justice's Office of Legal Counsel provides advice to agencies on the application of the Vacancies Reform Act to specific vacancies. Some general guidance is available at: <http://www.usdoj.gov/olc/finalqa.htm>.