



441 G St. N.W.
Washington, DC 20548

B-329918

May 9, 2018

The President
The White House

Subject: *Violation of the Time Limit Imposed by the Federal Vacancies Reform Act of 1998:
Inspector General, Department of Housing and Urban Development*

Dear Mr. President:

Pursuant to section 3349(b) of title 5 of the United States Code, we are reporting a violation of the Federal Vacancies Reform Act of 1998¹ (herein “the Vacancies Reform Act” or “Act”) at the Department of Housing and Urban Development (HUD) with respect to the Inspector General position. Specifically, we are reporting that the service of Helen Albert as Acting Inspector General at HUD after November 16, 2017, is in violation of the Act.

The Vacancies Reform Act establishes requirements for temporarily authorizing an acting official to perform the functions and duties of certain vacant positions that require Presidential appointment and Senate confirmation. The Act generally limits the period of time that such a position may be filled with an acting official to 210 days beginning on the date the vacancy occurs, not when the official began serving in the acting capacity. 5 U.S.C. § 3346(a)(1). In the year of a transitional Presidential inauguration, that time period is extended to 300 days after the vacancy occurs with respect to any vacancy that exists during the 60-day period beginning on the transitional inauguration date. 5 U.S.C. § 3349a(b). Under the provisions of section 3349(b), the Comptroller General is required, upon a determination that an acting official has served longer than the allowable period of service, to report such findings to Congress, the President, and the Office of Personnel Management.

In response to our recent inquiry to all federal departments and agencies with positions subject to the Vacancies Reform Act to update the status of any vacancies, acting officials, or nominations, the General Counsel of HUD reported that the position of Inspector General remains vacant.² Our research indicates that the position was vacant on January 20, 2017, a transitional Presidential inauguration date, and Helen Albert became Acting Inspector General on July 10, 2017. To date there have been no nominations submitted for that position.

¹ Pub. L. No. 105-277, Div. C, Title I, 112 Stat. 2681-611 (Oct. 21, 1998), as amended, 5 U.S.C. §§ 3345-3349d.

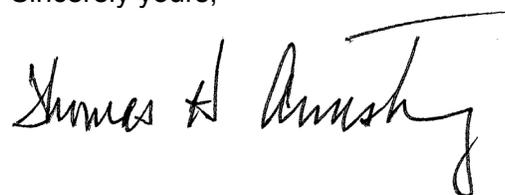
² We contacted the HUD General Counsel by letter dated February 8, 2018, requesting updated information on the vacancies in Presidentially appointed, Senate confirmed positions at HUD. Letter from General Counsel, GAO to General Counsel, HUD, February 8, 2018. HUD responded by letter dated March 1, 2018. Letter from General Counsel, HUD to General Counsel, GAO, March 1, 2018.

In accordance with the Vacancies Reform Act, the 300-day period began to run on January 20, 2017, and ended on November 16, 2017. Thus, the position of Inspector General should have been vacant beginning November 17, 2017. HUD reported Ms. Albert discontinued service as Acting Inspector General on November 15, 2017.³ However, as of April 12, 2018, a review of HUD's website, as well as that of the HUD Inspector General, shows that Ms. Albert is still using the acting title. We have previously determined that using the acting title of a position during the period in which the position should be vacant violates the time limitations in the Vacancies Reform Act.⁴ Therefore, Ms. Albert was not authorized to continue serving using the title of Acting Inspector General after November 16, 2017.

In accordance with the requirements of the Vacancies Reform Act, we are sending letters reporting this violation to the chairs and ranking members of the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Oversight and Government Reform, the Senate and House Committees on Appropriations, the Senate Committee on Banking, Housing, and Urban Affairs, the House Committee on Financial Services, and the Director of the Office of Personnel Management.

If you have any questions regarding this matter, please call me at 202-512-5400, or Managing Associate General Counsel Robert J. Cramer at 202-512-7227.

Sincerely yours,

A handwritten signature in black ink that reads "Thomas H. Armstrong". The signature is written in a cursive style with a prominent horizontal line above the first name.

Thomas H. Armstrong
General Counsel

³ Letter from General Counsel, HUD to General Counsel, GAO, March 1, 2018, at 1.

⁴ See, e.g., B-318244, *Violations of the 210-day Limit Imposed by the Vacancies Reform Act of 1998 – General Counsel, Department of Health and Human Services*, June 18, 2014, at 5-6; B-287720, *Violation of the 210-day Limit Imposed by the Vacancies Reform Act of 1998 – Director, Institute of Museum and Library Services*, May 18, 2011, at 3.