



Persistently Vacant

*Critical Federal Leadership Positions
Go Unfilled for Years*

Chris Piper and Dylan Torres

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CENTER FOR
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Introduction

The growing challenges faced by executive branch nominees in the Senate confirmation process leave important agency leadership positions vacant for extended periods of time. President Joe Biden's nominees took nearly three times longer to be confirmed during his first three years compared with the nominees during the George H.W. Bush administration. Biden also had approximately 250 to 300 fewer nominees confirmed through his third year compared with Presidents George H.W. Bush, Bill Clinton and George W. Bush.

In some cases, agencies may not take certain actions because they are waiting for confirmed leadership to arrive. In these cases, persistent vacancies in leadership positions make it more difficult for agencies to carry out the fundamental roles of government, from national security to public health and safety. In other cases, the functions of these positions are performed by non-Senate-confirmed officials.

The Partnership for Public Service's analysis of Senate-confirmed appointee tenure data shows that:

- Over 80 Senate-confirmed positions in executive branch agencies were vacant more than 50% of the time between 2009 and 2023.
- Over 20 of these positions have not had a Senate-confirmed appointee since the end of the Obama administration in 2016.
- Most of the extended vacancies in these 20-plus positions were caused by Senate inaction.
- Persistent vacancies affect both management and policy positions.

Because long-term vacancies are a disservice to federal agencies and the public that they serve, possible reforms to limit the number and length of vacancies deserve immediate review.

The first among these reforms should be to reduce the number of positions requiring Senate confirmation. Persistently vacant positions are a commonsense place to look. Many of these positions may no longer need Senate confirmation, as they are already regularly performed by non-Senate-confirmed career and political officials.

Other positions should continue to require confirmation due to constitutional or policy considerations. For these positions, reform to the nomination and confirmation process is needed to ensure that qualified leadership can be put in place in a timely manner.

While Congress ultimately may decide to require Senate confirmation for some of these jobs, the committees of jurisdiction should do their due diligence in examining them. Removing positions from the Senate confirmation process will reduce the burden on presidents and the Senate, as well as provide agencies with more stable leadership to accomplish their missions.



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Positions vacant at least 50% of the time since the Obama administration

Over 80 Senate-confirmed positions have been vacant more than 50% of the time since the beginning of the Obama (2009) administration.

According to our analysis, 83 positions requiring Senate confirmation were vacant at least 50% of the time between the beginning of President Barack Obama's administration (January 2009) and the first two years of the President Joe Biden's administration (January 2023). This means these positions were vacant for at least half of this 14-year period. The positions encompassed all 15 Cabinet departments and other important executive agencies.

Vacancies in these positions, ranging from the heads of major Cabinet bureaus to the chief financial officers of Cabinet departments, have grown over time due to the Senate confirmation process becoming more difficult. Since the Trump administration, these positions have been vacant on average 76% of the time.

Most vacancies in these 80+ positions arise out of Senate inaction or lengthy confirmation delays.

Both Presidents Biden and Donald Trump attempted to fill the vast majority of the 83 positions through the Senate confirmation process. Biden has made nominations for all but 13 of those positions while Trump made nominations for all but 12. Of those that received at least one nomination from Biden, about 27% never had a nominee confirmed. Trump's success rate was even lower, with 35% of positions that received at least one nomination not having someone confirmed.

Even when nominees were confirmed, the delays were considerable. The average time from first nomination to confirmation for Biden’s choices for these 83 positions was 248 days or about eight months. These delays have been caused by a closely divided Senate dealing with various considerations, from agency policy disagreements to nominee characteristics. One striking example was Biden’s nominee for the director of the Office on Violence Against Women, Rosie Hidalgo, who was nominated on May 26, 2022. Her confirmation process took 411 days after the Senate returned her nomination to the president, which resulted in the process starting over.

Trump faced a slightly longer average delay of 270 days for these 83 positions. One of Trump’s nominees that experienced a lengthy delay was Robert L. King who was nominated to be the assistant secretary for postsecondary education at the Department of Education on August 27, 2018. His nomination was returned to the president once and it took almost a year for King to be confirmed.

While the confirmation delays faced by Biden and Trump for these positions have been extreme, it is notable that the average delay for the more than 1,250 executive branch positions requiring Senate approval also has been lengthy. Through year three of their administrations, it has taken an average of 172 days for Biden appointees and 153 days for Trump appointees to be confirmed.

20 Senate-Confirmed Positions Vacant the Longest Between 2009 and 2023

Position	Agency	Percent of Time Vacant Between 2009-2023
Special counsel for immigration-related unfair employment practices	Department of Justice	100
Chief financial officer (subject to dual appointment authority) ¹	Department of State	100
Director, Bureau of Alcohol, Tobacco, Firearms and Explosives	Department of Justice	85
Assistant secretary for communications and outreach	Department of Education	84
Assistant attorney general for the tax division	Department of Justice	84
Director, Office on Violence Against Women	Department of Justice	84
Assistant secretary for administration	Department of Housing and Urban Development	84

Chief financial officer (subject to dual appointment authority) ²	Department of Agriculture	83
Associate director for technology	Office of Science and Technology Policy	80
Assistant administrator for research and development	Environmental Protection Agency	76
Assistant secretary of state for energy resources	Department of State	75
Assistant secretary for financial markets	Department of the Treasury	75
Chief financial officer (subject to dual appointment authority) ³	Department of Energy	75
Undersecretary for domestic finance	Department of the Treasury	74
Deputy director	National Science Foundation	74
Assistant secretary and administrator for children and families (Assistant secretary for family support)	Department of Health and Human Services	72
Assistant secretary for policy	Department of Labor	71
Director, Bureau of Land Management	Department of the Interior	71
Associate director for national security and international affairs	Office of Science and Technology Policy	71
Deputy director	Office of Personnel Management	70

¹ The Chief Financial Officers Act allows that rather than nominating someone as the CFO, other officials within the agency that have been Senate-confirmed can perform the functions of the position on a permanent basis. The CFO positions on this list have tended not to receive nominations for a singular CFO position. Instead, the functions have been folded into another Senate-confirmed or non-Senate-confirmed position on a permanent or acting basis. For the purposes of this figure, these positions are considered vacant when there is no Senate-confirmed official exclusively performing the role of the CFO.

² See above footnote on CFO's.

³ See above footnote about CFO's.

NOTE: THIS TABLE REPORTS POSITIONS THAT WERE VACANT FOR THE LARGEST PERCENTAGE OF TIME BETWEEN JANUARY OF 2009 AND JANUARY OF 2023. WHILE VACANCIES IN THESE POSITIONS HAVE TENDED TO WORSEN SINCE THE OBAMA ADMINISTRATION, THERE IS VARIATION. FOR EXAMPLE, THE DEPUTY DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT WAS FILLED FOR A MAJORITY OF THE TRUMP ADMINISTRATION AND HAS BEEN FILLED SINCE DECEMBER OF 2022 IN THE BIDEN ADMINISTRATION.



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Positions vacant since 2017

Over 20 Senate-confirmed positions have been vacant since at least the end of the Obama administration.

In our data analysis, we identified 21 positions that have been vacant since at least the end of the Obama administration (January 2017). While all these positions have been consistently vacant for at least the last seven years, there are a number that have been vacant for more than 15 years. The 21 positions are in eight of 15 Cabinet departments and agencies including the Environmental Protection Agency and Small Business Administration.

Several of these positions have remained vacant due to a lack of nominations from presidents.

Six of the 21 positions have not received a nomination since they were last filled with a Senate-confirmed official. This includes the chief financial officer of the Department of State and the deputy administrator of the Drug Enforcement Administration. An additional six positions had not received a nomination from Biden as of April 15, 2024, including the assistant attorney general for the tax division at the Department of Justice and the chief counsel for advocacy at the Small Business Administration.

Several positions have received multiple nominations from presidents while experiencing inaction from the Senate.

Six of the 21 positions received at least four nominations since they were last filled. These examples demonstrate the challenges nominees face navigating the confirmation process and the political sensitivity of these jobs. For example, Trump nominated three separate individuals to be the director of Immigration and Customs Enforcement. One was

withdrawn after six months, one was withdrawn after nearly eight months and one was announced, but never formally submitted. Biden’s nominee for this job was withdrawn in July of 2022 after waiting over 14 months for Senate action, and he has not submitted a new nominee since. With immigration considered to be one of the most important issues facing the country, the challenge in placing a Senate-confirmed official overseeing this critical agency for more than seven years deserves examination.

Several of the positions perform key management roles.

Among the positions vacant for at least the last seven years are several key management roles. For example, the chief financial officers of the departments of Agriculture, State and Treasury have been vacant since at least the beginning of the Trump administration. The controller in the Office of Federal Financial Management has also been vacant for the same time. Without consistent Senate-confirmed leadership, the management and operations of key federal agencies and the government at large suffer. For example, the financial management of the Department of Homeland Security, which has only had a Senate-confirmed chief financial officer for less than one year since the beginning of the Trump administration, remains on the Government Accountability Office’s High Risk List even though most other DHS management functions have been removed from the list.

Chief financial officers are a special case that show up three times on the list. The Chief Financial Officers Act allows for these positions to be filled either by an official with the sole role of being CFO or by another Senate-confirmed official within the agency that will perform the functions and duties of the CFO, such as the undersecretary of Defense that is both the comptroller and chief financial officer. Some agencies like the departments of Agriculture, Energy and State have tended to choose the latter option or have the position performed on a temporary basis by a non-Senate-confirmed official. To ensure that the essential financial management functions of agencies are consistently performed across the federal enterprise, the [Partnership for Public Service](#) recommends that these positions be converted to non-Senate-confirmed roles.

Senate-Confirmed Positions Vacant Since the End of the Obama Administration

Position	Agency	Last Filled	Number of Nominations Since Last Filled	Date of Last Nomination
Special counsel for immigration-related unfair employment practices	Department of Justice	1/20/09	0	1/18/07
Chief financial officer (subject to dual appointment authority) ¹	Department of State	1/20/09	0	12/13/05
Ambassador, Bahamas ²	Department of State	11/21/11	9	1/3/23

Associate director for technology	Office of Science and Technology Policy	2/8/12	2	1/6/14
Chief financial officer (subject to dual appointment authority) ³	Department of the Treasury	4/14/12	4	2/12/15
Assistant secretary for communications and outreach	Department of Education	11/12/12	5	1/23/23
Assistant attorney general for the tax division	Department of Justice	6/6/14	2	2/12/20
Deputy director	National Science Foundation	8/24/14	1	8/5/15
Assistant administrator for administration and resources management (mission support)	Environmental Protection Agency	8/31/14	2	6/15/21
Deputy administrator, Drug Enforcement Administration	Department of Justice	5/16/15	0	2/17/11
Assistant secretary for planning and evaluation	Department of Health and Human Services	6/3/16	6	1/8/24
Associate director for science	Office of Science and Technology Policy	1/11/17	0	1/6/14
Chief financial officer (subject to dual appointment authority) ⁴	Department of Agriculture	1/20/17	3	1/8/24
Assistant secretary for civil rights	Department of Agriculture	1/20/17	4	1/23/23
Director, Immigration and Customs Enforcement	Department of Homeland Security	1/20/17	5	1/4/22
Coordinator for threat reduction programs	Department of State	1/20/17	0	4/20/09
Special trustee for American Indians	Department of the Interior	1/20/17	0	1/6/14
Chief counsel for advocacy	Small Business Administration	1/20/17	3	3/2/20
Undersecretary for food, nutrition and consumer services	Department of Agriculture	1/20/17	3	1/23/23
Controller, Office of Federal Financial Management	Office of Management and Budget	1/20/17	3	1/4/22
Ambassador, Cuba ⁵	Department of State	NA	1	9/28/16

1 See above footnote about CFO's.

2 The Constitution requires that ambassadors to be confirmed by the Senate. Therefore, this position would not be a candidate for the removal of Senate confirmation.

3 See above footnote about CFO's.

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Case studies of vacancies

In light of persistent vacancies, presidents and agency leaders have turned over important responsibilities to other officials. Two examples highlight the reliance on non-Senate-confirmed officials when positions are vacant:

- **Assistant attorney general for the Tax Division:** The Tax Division of the Department of Justice is responsible for enforcing the nation's tax laws. Despite having such an important role, the assistant attorney general in charge of the division has been vacant since June 2014 and no nomination has been made for this position in more than four years. The division has been led since 2021 by a career member of the Senior Executive Service, the executive branch's corps of senior leaders serving in key positions just below agencies' top political appointees. Both Obama and Trump relied on non-career members of the Senior Executive Service to fill the position while it was vacant.
- **Deputy administrator of the Drug Enforcement Administration:** The Drug Enforcement Administration's mission is to enforce the controlled substances laws and regulations of the United States. Despite its essential mission, the agency has faced critical challenges in getting Senate-confirmed leadership. The administrator position was vacant for over six years from May 2015 to June 2021 and the deputy administrator position has remained vacant for nine years. With no nomination for the deputy position since May 2015, presidents have relied on a series of SES members serving in a separate non-Senate-confirmed principal deputy administrator role.

Vacancies can also have detrimental effects on agency management and performance.

- **Undersecretary for health:** The undersecretary for health in the Department of Veterans Affairs carries the responsibility of leading the Veterans Health Administration, the largest integrated health system in the nation. This important role was vacant for over five years, from February 2017 to July 2022. Compounding this issue, recent reports from the Government Accountability Office highlight

"system wide challenges" within the VHA. The lack of consistent leadership may have hindered the department's ability to enact necessary changes that would help to better serve our nation's veterans.



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Conclusion

The delays in the Senate confirmation process have resulted in many critical management and policy-focused positions remaining vacant for years. These vacancies may harm agencies' ability to undertake long-term planning and harm the public reliant on their services.

While vacant roles can at times be performed temporarily by non-Senate-confirmed career or political officials, these leaders would be better equipped if they had a greater sense of permanence in their positions.

To address the vacancy crisis, Congress should review whether to remove the requirement of Senate confirmation for the persistently vacant positions identified in this report. While some of these roles are best performed by an appointee of the president due to their close connection to policymaking, many could be better served by the consistent leadership of a member of the Senior Executive Service.

The troubles faced by executive branch nominees in the Senate confirmation process have gotten worse year by year. More nominees are left in limbo and those who eventually reach confirmation take longer than ever before to move through the process.

Federal agencies need consistent leaders in place to best carry out an administration's agenda and provide guidance and strategic direction to the agency's workforce. Having leadership positions regularly filled also improves the ability of Congress to conduct oversight.

Reducing the number of Senate-confirmed positions and allowing more of these positions to be more easily filled by non-Senate-confirmed appointees or career officials is the best way to achieve this result.

Project Team

Husam AlZubaidy
Associate

Valerie Boyd
Director, Center for Presidential Transition

Bob Cohen
Senior Writer and Editor

Troy Cribb
Director of Policy

Samantha Donaldson
Vice President, Communications

Paul Hitlin
Senior Manager, Center for Presidential Transition

Delaney Hyde
Graphic Design Associate



Chris Piper
Manager, Center for Presidential Transition



Audrey Pfund
Creative Director

Dylan Torres
Former Intern



600 14th Street NW
Suite 600
Washington, DC 20005
(202) 775-9111

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