



November 20, 2025

VIA ELECTRONIC MAIL

The Honorable Gene Dodaro
Comptroller General
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

cc: General Counsel Edda Emmanuelli Perez

Dear Comptroller General Dodaro,

The Center for Biological Diversity writes to request a legal determination from the Government Accountability Office (GAO) on whether Jeffrey Bossert Clark is lawfully performing his current role as Acting Administrator of the Office of Information and Regulatory Affairs. The Center further requests that, if GAO finds that a violation of the Federal Vacancies Reform Act (FVRA) exists, GAO report that violation as required by 3349(b) of title 5 of the United States Code.

The facts and circumstances giving rise to our request are as follows.

On January 20, 2025, former Administrator Richard Revesz resigned his position as Administrator of OIRA. Beginning on January 20, 2025, Deputy Administrator Dominic Mancini began serving as Acting Administrator of OIRA. Deputy Administrator Mancini held that post until March 3, 2025.

According to a statement recently made by Office of Management and Budget spokesperson Rachel Cauley, Mr. Clark was appointed to the position of “‘first assistant’ to the associate administrator” on March 3, 2025.¹ Ms. Cauley claimed that “when Clark was appointed to that position on March 3, by law, he became the acting administrator at OIRA. The first assistant automatically serves as the acting head under the Vacancies Act.”²

On March 3, 2025, Mr. Clark began to serve as Acting Administrator of OIRA.

To date, the President has not nominated Mr. Clark or any other person for the position of Administrator of OIRA. Three hundred and three days have now elapsed since January 20, 2025. Additionally, according to GAO’s online tool for searching “Federal Vacancies for Current Administration,” OIRA has not reported that the position of Administrator is vacant as required by law.³

¹ Kevin Bogardus, *Watchdog weighs lawsuit against White House regs boss*, E&E NEWS (Nov. 18, 2025).

² *Id.*

³ 5 U.S.C. § 3349(a); *Federal Vacancies for Current Administration*, GAO, <https://www.gao.gov/legal/federal-vacancies-reform-act/federal-vacancies-current-administration> (search in search bar “Office of Information and Regulatory Affairs”) (last visited November 18, 2025).



To our knowledge no other authorities are considering this issue.

FVRA establishes the requirements for temporarily authorizing an official to fill vacant positions that require presidential appointment and Senate confirmation (PAS positions) in an “acting” capacity. Under FVRA, there are three categories of people who may occupy “acting” roles.⁴ The first category consists of the chief assistant to the vacant position. This person shall serve as acting officer unless the president designates a person from either of the latter two categories to fill the vacant position.⁵ The second and third categories are 2) a person serving in another PAS position or 3) a senior employee who has served for a minimum period of time prior to the vacancy.⁶

Additionally, under FVRA, “acting” officials may not serve for longer than 300 days, subject to various exceptions.⁷

When Mr. Clark began holding himself out as Acting Administrator at OIRA, however, he did not fit within any of the three categories described above. OMB’s spokesperson appears to believe that the newly designated “position of ‘first assistant’ to the associate administrator” is the position that “by law” would assume the acting role when there is a vacancy in the role of administrator.⁸ This is incorrect. The chief assistant to the vacant position, in this case, is the Deputy Administrator. As contemplated by FVRA, Mr. Mancini became Acting Administrator upon the resignation of Administrator Revesz. His removal from that role on March 3 was a violation of FVRA.

Mr. Clark does not fit either of the latter categories of civil servants eligible for acting roles. Clark does not serve in another PAS position, nor had he served at OIRA for any length of time prior to assuming the title of Acting Administrator. When Mr. Clark began serving on March 3, 2025, he did not meet any of the requirements for eligibility to serve as Acting Administrator of OIRA.

The Center believes that Mr. Clark is currently violating FVRA both by serving in an acting role beyond the 300 day maximum and by serving without possessing the qualifications required by FVRA for an “acting” official. We request an investigation from GAO to confirm that a violation does exist.

Sincerely,
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⁴ 5 U.S.C. § 3345.

⁵ *Id.* at § 3345(a)(1).

⁶ *Id.* at § 3345(a)(2)–(3).

⁷ *Id.* at § 3349(a).

⁸ Kevin Bogardus, *Watchdog weighs lawsuit against White House regs boss*, E&E NEWS (Nov. 18, 2025).



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