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*Presidential Appointments to Full-time Positions in  
Executive Departments During the 108th Congress,  
2003-2004*

Henry B. Hogue, Government and Finance Division; Maureen Bearden and Dana Ely, Knowledge Services Group

January 8, 2007

**Abstract.** This report provides an overview of the process for filling positions to which the President makes appointments with the advice and consent of the Senate (PAS positions). It also specifies, for the 108th Congress, all nominations to full-time positions<sup>1</sup> in the 15 executive departments, including the then-new Department of Homeland Security, which came into existence on January 24, 2003. A profile of each department identifies full-time positions requiring Senate confirmation and, if applicable, their pay levels. The profiles also track nominations to these positions during the 108th Congress, providing information on Senate activity (i.e., confirmations, rejections (of which there were none), returns to the President, and elapsed time between nomination and confirmation) as well as further related presidential activity (i.e., withdrawals and recess appointments).

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# CRS Report for Congress

## Presidential Appointments to Full-time Positions in Executive Departments During the 108<sup>th</sup> Congress, 2003-2004

January 8, 2007

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Prepared for Members and  
Committees of Congress

# Presidential Appointments to Full-time Positions in Executive Departments During the 108<sup>th</sup> Congress, 2003-2004

## Summary

During the 108<sup>th</sup> Congress, the President submitted to the Senate 166 nominations to executive department full-time positions. Of these 166 nominations, 120 were confirmed; eight were withdrawn; one was returned to the President at the end of the first session; and 37 were returned to him at the end of the second session of the 108<sup>th</sup> Congress. For those nominations that were confirmed, an average of 98 days elapsed between the time of the nomination and the nomination's receipt and confirmation. The median number of days elapsed was 83. These statistics do not include the days during which the Senate was adjourned for its August recesses and between sessions of Congress.

President Bush made a total of 18 recess appointments to the departments during this time. Of those 18, three were made during the recess between the first and second sessions of the 108<sup>th</sup> Congress (*intersession* recess appointments). The remaining 15 were made during recesses within the first or second session of the 108<sup>th</sup> Congress (*intrasession* recess appointments).

Information for this report was compiled from data from the Senate nominations database of the Legislative Information System [<http://www.congress.gov/nomis/>], the *Congressional Record* (daily edition), the *Weekly Compilation of Presidential Documents*, telephone discussions with agency officials, agency websites, the *United States Code*, and the "Plum Book" (*United States Government Policy and Supporting Positions*).

This report will be updated as necessary.

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# Presidential Appointments to Full-time Positions in Executive Departments During the 108<sup>th</sup> Congress, 2003-2004

## Introduction

This report provides an overview of the process for filling positions to which the President makes appointments with the advice and consent of the Senate (PAS positions). It also specifies, for the 108<sup>th</sup> Congress, all nominations to full-time positions<sup>1</sup> in the 15 executive departments, including the then-new Department of Homeland Security, which came into existence on January 24, 2003.<sup>2</sup> A profile of each department identifies full-time positions requiring Senate confirmation and, if applicable, their pay levels. The profiles also track nominations to these positions during the 108<sup>th</sup> Congress, providing information on Senate activity (i.e., confirmations, rejections (of which there were none), returns to the President, and elapsed time between nomination and confirmation) as well as further related presidential activity (i.e., withdrawals and recess appointments).

## The Appointment Process for Advice and Consent Positions

The President and the Senate share the power to appoint the principal officers of the United States.<sup>3</sup> The Constitution (Article II, Section 2, clause 2) empowers the President to nominate and, by and with the advice and consent of the Senate, to appoint the principal officers of the United States.<sup>4</sup> Three distinct stages mark the

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<sup>1</sup> Full-time positions requiring Senate confirmation are included. Exceptions are U.S. Attorney and U.S. Marshal positions in the Department of Justice; Foreign Service and diplomatic positions in the Department of State; officer corps positions in the civilian uniformed services of the National Oceanic and Atmospheric Administration in the Department of Commerce, and of the Public Health Service in the Department of Health and Human Services; and the officer corps in the military services.

<sup>2</sup> This department was established by the Homeland Security Act of 2002, P.L. 107-296, enacted Nov. 25, 2002.

<sup>3</sup> A succinct historical and contemporary overview of the appointment power is found in Louis Fisher, "Appointment Powers," in his *Constitutional Conflicts between Congress and the President*, 4<sup>th</sup> ed. (Lawrence, KS: University Press of Kansas, 1997), pp. 22-48.

<sup>4</sup> Art. II, Sec. 2, cl. 2 provides that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

appointment process: selection, clearance, and nomination by the President; consideration by the Senate; and appointment by the President.

**Selection, Clearance, and Nomination.** In the first stage, the White House selects and clears a nominee before sending the formal nomination to the Senate. There are a number of steps in this stage of the process for most Senate-confirmed positions. First, with the assistance of, and preliminary vetting by, the White House Office of Presidential Personnel, the President selects a candidate for the position. Interested parties, including Members of Congress, may have input during this process. It could be argued that Senators are constitutionally entitled, by virtue of the advice and consent clause noted above, to provide advice to the President regarding his selection; the extent of this entitlement is a matter of some debate.<sup>5</sup> As a practical matter, in general, a nomination is likely to fare better if the Administration has first consulted Senators on the committee of jurisdiction.

During the clearance process, the candidate prepares and submits several forms: the “Public Financial Disclosure Report” (Standard Form (SF) 278), the “Questionnaire for National Security Positions” (SF 86), and the White House “Personal Data Statement Questionnaire.” The Office of the Counsel to the President oversees the clearance process, which often includes background investigations conducted by the Federal Bureau of Investigation (FBI), Internal Revenue Service (IRS), Office of Government Ethics (OGE), and an ethics official for the agency to which the candidate is to be appointed. If conflicts are found during the background check, OGE and the agency ethics officer may work with the candidate to mitigate the conflicts. Once the Office of the Counsel to the President has cleared the candidate, the nomination is ready to be submitted to the Senate.

The selection and clearance stage is often the longest part of the appointment process. There can be lengthy delays, particularly if many candidates are being processed, as they are at the beginning of an Administration, or if conflicts need to be resolved. Candidates for higher-level positions are often accorded priority in this process. In an effort to reduce the elapsed time between a new President’s inauguration and the appointment of his or her national security team, amendments to the Presidential Transitions Act of 1963,<sup>6</sup> enacted at the end of 2004, encourage a President-elect to submit, for security clearance, potential nominees to high-level national security positions as soon as possible after the election.<sup>7</sup> A separate provision of law, enacted as part of the Federal Vacancies Reform Act of 1998, lengthens, during presidential transitions, the potential length of a temporary appointment by at least 90 days.<sup>8</sup> Although this provision might give some additional flexibility to an incoming President, it might also lengthen the appointment process for some positions by, in effect, extending the deadline by which a permanent appointment must be completed.

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<sup>5</sup> See, for example, Michael J. Gerhardt, *The Federal Appointments Process: A Constitutional and Historical Analysis* (London: Duke University Press, 2000), pp. 29-34.

<sup>6</sup> 3 U.S.C. § 102 note.

<sup>7</sup> P.L. 108-458, § 760; 118 Stat. 3856.

<sup>8</sup> 5 U.S.C. § 3349a.

For positions located within a state (e.g., U.S. attorney, U.S. marshal, and U.S. district judge), the President, by custom, normally nominates an individual recommended by the Senator or Senators (if they are from the same party as the President) from that state. If neither Senator is from the President's party, he usually defers to the recommendations of party leaders from the state. Occasionally, the President solicits recommendations from Senators of the opposition party because of their positions in the Senate. Before making a nomination to a federal position at the state or national level, the President must consider how it will fare in the confirmation process.

A nominee has no legal authority to assume the duties and responsibilities of the position; the authority comes with Senate confirmation and presidential appointment. A nominee who is hired by the agency as a consultant while awaiting confirmation may serve only in an advisory capacity. If circumstances permit and conditions are met, the President may give the nominee a recess appointment to the position (see below). Recess appointments may have political consequences, however, particularly if Senators perceive that an appointment is an effort to circumvent their constitutional role. Some Senate-confirmed positions, such as many of those in the executive departments, may also be temporarily filled under the Vacancies Act.<sup>9</sup>

**Senate Consideration.** In the confirmation or second stage, the Senate alone determines whether or not to confirm a nomination.<sup>10</sup> The way the Senate acts on a nomination depends largely on the importance of the position involved, existing political circumstances, and policy implications. Generally, the Senate shows particular interest in the nominee's views and how they are likely to affect public policy.<sup>11</sup> Two other factors may also affect the scrutiny with which a nominee's personal and professional qualities are examined: whether or not the President's party controls the Senate and the degree to which the President becomes involved in supporting the nomination.

The Senate confirmation process is centered at the committee level. Committee nomination activity generally includes investigation, hearing, and reporting stages. As part of investigatory work, committees may draw on information provided by the White House as well as information collected by the committees. Hearings provide a public forum to discuss a nomination and any issues related to the program or agency for which the nominee would be responsible. Even if confirmation is thought to be a virtual certainty, hearings may provide Senators and the nominee with an opportunity to go on the record with particular views or commitments. Senators may

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<sup>9</sup> P.L. 105-277, Div. C, Title I, § 151; 5 U.S.C. §§ 3345-3349d. For more on the Vacancies Act, see CRS Report 98-892, *The New Vacancies Act: Congress Acts to Protect the Senate's Confirmation Prerogative*, by Morton Rosenberg.

<sup>10</sup> For further information, see CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki; CRS Report RL32935, *Congressional Oversight of Judges and Justices*, by Elizabeth B. Bazan and Morton Rosenberg, pp. 7-13; and CRS Report RL31948, *Evolution of the Senate's Role in the Nomination and Confirmation Process, A Brief History*, by Betsy Palmer.

<sup>11</sup> G. Calvin Mackenzie, *The Politics of Presidential Appointments* (New York: The Free Press, 1981), pp. 97-189.



use hearings to explore a nominee's qualifications, articulate a policy perspective, or raise related oversight issues. Some committees hold hearings on nearly all nominations; others hold hearings for only some.

The committee may discontinue acting on a nomination at any point — upon referral, after investigation, or after a hearing. If the committee votes to report the nomination back to the full Senate, it has three options: it may report the nomination to the Senate favorably, unfavorably, or without recommendation. If the committee elects not to report a nomination, the Senate may, under certain circumstances, discharge the committee from further consideration of the nomination in order to bring it to the floor.<sup>12</sup>

The Senate historically has confirmed most, but not all, executive nominations. Rarely, however, does a rejection occur on the Senate floor. Nearly all rejections occur in committee, either by committee vote or by committee inaction. Rejections in committee occur for a variety of reasons, including opposition to the nomination, inadequate amount of time for consideration of the nomination, or factors that may have nothing to do with the merits of the nomination. If a nomination is not acted upon by the Senate by the end of a Congress, it is returned to the President. Pending nominations also may be returned automatically to the President at the beginning of a recess of 30 days or longer, but the Senate rule providing for this return is often waived.<sup>13</sup>

**Appointment.** In the final stage, the confirmed nominee is given a commission signed by the President, with the seal of the United States affixed thereto, and is sworn into office. The President may sign the commission at any time after confirmation. Once the appointee is given the commission and sworn in, he or she has full authority to carry out the responsibilities of the office.

## Recess Appointments

The Constitution also empowers the President to make limited-term appointments without Senate confirmation when the Senate is in recess.<sup>14</sup> Such recess appointments expire at the end of the next session of Congress. Appendix C provides a table showing the dates of the Senate recesses for the 108<sup>th</sup> Congress and the number of recess appointments during each recess.

Presidents have occasionally used the recess appointment power to circumvent the confirmation process. In response, Congress has placed restrictions on the President's authority to make a recess appointment. Under 5 U.S.C. § 5503(a), if the

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<sup>12</sup> For more information, see CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki, p. 7.

<sup>13</sup> The rule may be found in U.S. Congress, Senate Committee on Rules and Administration, *Senate Manual*, 107<sup>th</sup> Cong., 1<sup>st</sup> sess., S. Doc. 107-1 (Washington: GPO, 2002), p. 55, Rule XXXI, paragraph 6 of the Standing Rules of the Senate. For an example of a waiver of the rule, see Sen. John E. Sununu, "Nomination in Status Quo," *Congressional Record*, daily edition, vol. 149, July 31, 2003, p. S10844.

<sup>14</sup> Art. II, Sec. 2, cl. 3.

position falls vacant while the Senate is in session and the President fills it by recess appointment, the appointee may not be paid from the Treasury until he or she is confirmed by the Senate. The salary prohibition does not apply: (1) if the vacancy arose within 30 days before the end of the session; (2) if a nomination for the office (other than the nomination of someone given a recess appointment during the preceding recess) was pending when the Senate recessed; or (3) if a nomination was rejected within 30 days before the end of the session and another individual was given the recess appointment. A recess appointment falling under any one of these three exceptions must be followed by a nomination to the position not later than 40 days after the beginning of the next session of the Senate. For this reason, when a recess appointment is made, the President generally submits a new nomination for the nominee even when an old nomination is pending.<sup>15</sup> Section 5503 of Title 5 has been interpreted by the Department of Justice to preclude payment of an appointee who is given successive recess appointments to the same position.<sup>16</sup>

Although recess appointees whose nominations to a full term are subsequently rejected by the Senate may continue to serve until the end of their recess appointment, a recurring provision of the funding bill for the Department of the Treasury and other agencies may prevent them from being paid after their rejection.<sup>17</sup>

## Temporary Appointments

Congress has provided limited statutory authority for the temporary filling of vacant positions requiring Senate confirmation. It is expected that, in general, officials holding PAS positions who have been designated as “acting” are holding their offices under this authority or other statutory authority specific to their agencies. Under the Federal Vacancies Reform Act of 1998,<sup>18</sup> when an executive agency position requiring confirmation becomes vacant, it may be filled temporarily in one of three ways: (1) the first assistant to such a position may automatically assume the functions and duties of the office; (2) the President may direct an officer in any agency who is occupying a position requiring Senate confirmation to perform those tasks; or (3) the President may select any officer or employee of the subject agency who is occupying a position for which the rate of pay is equal to or greater than the minimum rate of pay at the GS-15 level, and who has been with the agency for at least 90 of the preceding 365 days. The temporary appointment is for 210 days, but the time restriction is suspended if a first or second nomination for the position is pending. In addition, during a presidential transition, the 210-day restriction period does not begin to run until either 90 days after the President assumes office, or 90

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<sup>15</sup> For further information, see CRS Report RS21308, *Recess Appointments: Frequently Asked Questions*, by Henry B. Hogue.

<sup>16</sup> 15 Op. O.L.C. 93 (1991). See also 6 Op. O.L.C. 585 (1982); 41 Op. A.G. 463 (1960).

<sup>17</sup> P.L. 108-447, Division H, § 609. The provision reads, “No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.” This provision has been part of this funding bill since at least 1950.

<sup>18</sup> P.L. 105-277, Div. C, Title I, § 151; 5 U.S.C. §§ 3345-3349d.

days after the vacancy occurs, if it is within the 90-day inauguration period. The act does not apply to positions on multi-headed regulatory boards and commissions and to certain other specific positions that may be filled temporarily under other statutory provisions.<sup>19</sup>

## Appointments During the 108<sup>th</sup> Congress

During the 108<sup>th</sup> Congress, the President submitted to the Senate 166 nominations to executive department full-time positions. These include the initial nominations to the newly created Department of Homeland Security, which came into existence at the beginning of the 108<sup>th</sup> Congress, on January 24, 2003.<sup>20</sup> Of these 166 nominations, 120 were confirmed; eight were withdrawn; one was returned to the President at the end of the first session; and 37 were returned to him at the end of the second session of the 108<sup>th</sup> Congress.

President Bush made a total of 18 recess appointments to the departments during this time. Of those 18, three were made during the recess between the first and second sessions of the 108<sup>th</sup> Congress (*intersession* recess appointments). The remaining 15 were made during recesses within the first or second session of the 108<sup>th</sup> Congress (*intrasession* recess appointments). **Table 1** summarizes this appointment activity.

**Table 1. Appointment Action for 15 Departments During the 108<sup>th</sup> Congress**

<b>Positions in the 15 departments (total)</b>	<b>360</b>
Positions to which nominations were made	142
Individual nominees	145
<b>Nominations submitted to the Senate during the 108<sup>th</sup> Congress (total)</b>	<b>166</b>
Disposition of nominations	
Confirmed by the Senate	120
Withdrawn	8
Returned (total)	38
Beginning of the August 2003 recess	0
End of the 1 <sup>st</sup> session of the 108 <sup>th</sup> Congress	1
Beginning of the August 2004 recess	0
End of the 2 <sup>nd</sup> session of the 108 <sup>th</sup> Congress	37
<b>Recess Appointments (total)</b>	<b>18</b>
Intersession	3
Intrasession	15

<sup>19</sup> For more on the Vacancies Act, see CRS Report 98-892, *The New Vacancies Act: Congress Acts to Protect the Senate's Confirmation Prerogative*, by Morton Rosenberg.

<sup>20</sup> This department was established by the Homeland Security Act of 2002, P.L. 107-296, enacted Nov. 25, 2002.

## Length of Time to Confirm a Nomination

The length of time a given nomination may be pending in the Senate varies widely. Some nominations are confirmed within a few days; others may not be confirmed for several months; and some are never confirmed. This report provides, for each executive department nomination that was confirmed in the 108<sup>th</sup> Congress, the number of days between nomination and confirmation (“days to confirm”). These counts exclude days during August recesses and between sessions of Congress. This cutoff point is suggested by the Senate rules, which provide that “if the Senate shall adjourn or take recess for more than thirty days, all nominations pending and not finally acted upon” shall be returned to the President, although this rule is often waived.<sup>21</sup> The 31 days during the August 2003 recess, the 41 days between the first and second sessions of the 108<sup>th</sup> Congress, and the 46 days during the August 2004 recess were subtracted from the “days to confirm” for those nominations that spanned one or more of these recesses. The sole exception was a 35-day recess during October and November 2004. In order to maintain consistency with similar reports for previous Congresses, no days were subtracted for this recess.

## Organization of This Report

**Executive Department Profiles.** Each of the 15 executive department profiles provided in this report is organized into two parts: a table identifying full-time PAS positions<sup>22</sup> and associated pay levels<sup>23</sup> as of the end of the 108<sup>th</sup> Congress, and a table listing nominations and appointments to these positions during the 108<sup>th</sup> Congress. Data for these tables were collected from several authoritative sources.<sup>24</sup>

The appointment action table provides, in chronological order, information concerning each nomination and recess appointment. It shows the name of the nominee, position involved, date of nomination or appointment, date of confirmation,

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<sup>21</sup> U.S. Congress, Senate Committee on Rules and Administration, *Senate Manual*, 106<sup>th</sup> Cong., 1<sup>st</sup> sess., S.Doc. 106-1 (Washington: GPO, 1999), p. 55, Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

<sup>22</sup> As noted above, the following full-time positions are not included in this report: U.S. Attorney and U.S. Marshal positions in the Department of Justice; Foreign Service and diplomatic positions in the Department of State; officer corps positions in the civilian uniformed services of the National Oceanic and Atmospheric Administration in the Department of Commerce, and of the Public Health Service in the Department of Health and Human Services; and the officer corps in the military services.

<sup>23</sup> For most presidentially appointed positions requiring Senate confirmation, the pay levels fall under the Executive Schedule, which, as of Jan. 2005, ranged from level I (\$180,100) for cabinet level offices to level V (\$131,400) for the lowest-ranked positions.

<sup>24</sup> Sources include the Senate nominations database of the Legislative Information System [<http://www.congress.gov/nomis/>], the *Congressional Record* (daily edition), the *Weekly Compilation of Presidential Documents*, telephone discussions with agency officials, agency websites, the *United States Code*, and the “Plum Book” (U.S. Congress, House Committee on Government Reform, *United States Government Policy and Supporting Positions*, committee print, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., Committee Print, Nov. 22, 2004 (Washington: GPO, 2004)).

and number of days between receipt of a nomination and confirmation. Actions other than confirmation (i.e., nominations returned to or withdrawn by the President) are also noted. Some nominees were nominated more than once for the same position, either because the first nomination was returned to the President or because of a recess appointment. When a nominee is awaiting Senate action and he or she is given a recess appointment, a second, follow-up, nomination is usually submitted to comply with the requirements of 5 U.S.C. § 5503(b).

Each appointment action table provides the average “days to confirm” in two ways: mean and median. The mean is determined by calculating, for each confirmed nomination, the number of days between the nomination and confirmation dates, determining the cumulative total of these days, and dividing the result by the number of nominations confirmed. The median is the middle number when the “days to confirm” data for all the confirmed nominations are arranged in numerical order.

**Additional Appointment Information.** Appendix A presents a table of all nominations and recess appointments to positions in executive departments, alphabetically organized and following a similar format to that of the department appointment action tables. It identifies the agency involved and the dates of nomination and confirmation. The table also indicates if a nomination was confirmed, withdrawn, or returned. The mean and median numbers of days taken to confirm a nomination are also provided, calculated as described above.

Appendix B provides a table with summary information on appointments and nominations, by department. For each of the 15 executive departments discussed in this report, the table provides the number of positions, nominations, individual nominees, confirmations, nominations returned, nominations withdrawn, and recess appointments. The table also provides the mean and median numbers of days to confirm a nomination.

Appendix C provides a table showing the dates of the Senate recesses for the 108<sup>th</sup> Congress and the number of recess appointments during each recess.

A list of department abbreviations can be found in Appendix D.

## Department of Agriculture (USDA)

### Full-time PAS Positions, as of the End of the 108<sup>th</sup> Congress

Position	Pay level
Secretary	I
Deputy Secretary	II
Under Secretary - Farm and Foreign Agricultural Services	III
Under Secretary - Food, Nutrition, and Consumer Services	III
Under Secretary - Food Safety	III
Under Secretary - Marketing and Regulatory Programs	III
Under Secretary - Natural Resources and Environment	III
Under Secretary - Research, Education, and Economics	III
Under Secretary - Rural Development	III
Assistant Secretary - Administration	IV
Assistant Secretary - Civil Rights <sup>a</sup>	IV
Assistant Secretary - Congressional Relations	IV
Chief Financial Officer <sup>b</sup>	IV
General Counsel	IV
Inspector General <sup>c</sup>	IV
Administrator - Rural Utilities Services	IV

a. The position of Assistant Secretary - Civil Rights in the Department of Agriculture was established by P.L. 107-171, § 10704 (116 Stat. 518), and filled for the first time during the 108<sup>th</sup> Congress, as shown below.

b. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)).

c. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he “shall communicate the reasons for any such removal to both Houses of Congress” (5 U.S.C. App. § 3(b)).

### USDA Appointment Action During the 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
Thomas C. Dorr	Under Secy. - Rural Development	01/09/03	Returned 12/08/04 <sup>a</sup>	
Vernon B. Parker	Asst. Secy. - Civil Rights	01/14/03	03/27/03	72
Michael J. Harrison	Asst. Secy. - Administration	09/15/04	11/21/04	67
<b>Mean number of days to confirm a nomination</b>				<b>70</b>
<b>Median number of days to confirm a nomination</b>				<b>70</b>

a. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Department of Commerce (DOC)

### Full-time PAS Positions, as of the End of the 108<sup>th</sup> Congress

Position <sup>a</sup>	Pay level
Secretary	I
Deputy Secretary	II
Under Secretary - Economic Affairs	III
Under Secretary - Export Administration	III
Under Secretary - Intellectual Property/Director - Patent and Trademark Office	III
Under Secretary - International Trade	III
Under Secretary - Oceans and Atmosphere/Administrator - National Oceanic and Atmospheric Administration (NOAA)	III
Under Secretary - Technology	III
Assistant Secretary - Administration and Chief Financial Officer <sup>b</sup>	IV
Assistant Secretary - Communications and Information	IV
Assistant Secretary - Economic Development	IV
Assistant Secretary - Export Administration	IV
Assistant Secretary - Export Enforcement	IV
Assistant Secretary - Import Administration	IV
Assistant Secretary - Legislative and Intergovernmental Affairs	IV
Assistant Secretary - Market Access and Compliance	IV
Assistant Secretary - Oceans and Atmosphere/Deputy Administrator National Oceanic and Atmospheric Administration (NOAA)	IV
Assistant Secretary - Technology Policy	IV
Assistant Secretary - Manufacturing and Services <sup>c</sup>	IV
Assistant Secretary - Trade Promotion/Director General - U.S. and Foreign Commercial Service <sup>d</sup>	IV
Director - Bureau of the Census	IV
Director - National Institute of Standards and Technology	IV
General Counsel	IV
Inspector General <sup>e</sup>	IV
Chief Scientist - National Oceanic and Atmospheric Administration (NOAA) <sup>f</sup>	V

a. Does not include positions in the officer corps of the National Oceanic and Atmospheric Administration (NOAA).

b. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)).

c. The position of Assistant Secretary - Manufacturing and Services was formerly the Assistant Secretary - Trade Development.

d. The position of Assistant Secretary - Trade Promotion /Director General - U.S. and Foreign Commercial Service was formerly the Assistant Secretary/Director General - U.S. and Foreign Commercial Service.

e. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he “shall communicate the reasons for any such removal to both Houses of Congress” (5 U.S.C. App. § 3(b)).

f. According to an agency spokesperson, this position has not been filled since 1996, and there are currently no plans to fill it.

## DOC Appointment Action During the 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
James J. Jochum	Asst. Secy. - Import Administration	04/09/03	08/01/03	114
Julie L. Myers	Asst. Secy. - Export Enforcement	06/25/03	10/17/03	83
Peter Lichtenbaum	Asst. Secy. - Export Administration	07/22/03	10/17/03	56
Michael D. Gallagher	Asst. Secy. - Communications and Information	10/14/03	11/21/04	317
Rhonda Keenum	Asst. Secy. - Trade Promotion/Dir. Gen. - U.S. and Foreign Commercial Service	12/09/03	04/08/04	80
Theodore W. Kassinger	Deputy Secretary	02/26/04	11/21/04	223
Jonathan W. Dudas	Under Secy. - Intellectual Property/Dir. - Patent and Trademark Office	03/22/04	11/21/04	198
Benjamin H. Wu	Asst. Secy. - Technology Policy	04/08/04	11/21/04	181
Brett T. Palmer	Asst. Secy. - Legislative and Governmental Affairs	05/11/04	11/21/04	148
Albert A. Frink Jr.	Asst. Secy. - Manufacturing and Services	06/17/04	11/21/04	111
Michael D. Gallagher	Asst. Secy. - Communications and Information	Recess Appointment 07/02/04 <sup>a</sup>		
Theodore W. Kassinger	Deputy Secretary	Recess Appointment 07/02/04 <sup>a</sup>		
Michael D. Gallagher	Asst. Secy. - Communications and Information	07/19/04	Returned 12/08/04 <sup>b</sup>	
Theodore W. Kassinger	Deputy Secretary	07/19/04	Returned 12/08/04 <sup>b</sup>	
Jonathan W. Dudas	Under Secy. - Intellectual Property/Dir. - Patent and Trademark Office	Recess Appointment 08/02/04 <sup>a</sup>		
Albert A. Frink Jr.	Asst. Secy. - Manufacturing and Services	Recess Appointment 08/02/04 <sup>a</sup>		
Albert A. Frink Jr.	Asst. Secy. - Manufacturing and Services	09/10/04	Returned 12/08/04 <sup>b</sup>	
Jonathan W. Dudas	Under Secy. - Intellectual Property/Dir. - Patent and Trademark Office	09/10/04	Returned 12/08/04 <sup>b</sup>	
<b>Mean number of days to confirm a nomination</b>				<b>151</b>
<b>Median number of days to confirm a nomination</b>				<b>131</b>

a. These four recess appointments of Gallagher, Kassinger, Dudas, and Frink would have expired at the end of the first session of the 109<sup>th</sup> Congress. By that time, however, each appointee had been confirmed by the Senate, as shown above.

b. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.



## Department of Defense (DOD)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress

Position	Pay level
Secretary	I
Deputy Secretary	II
Under Secretary - Acquisition, Technology, and Logistics	II
Under Secretary - Intelligence <sup>a</sup>	III
Under Secretary - Comptroller/Chief Financial Officer <sup>b</sup>	III
Under Secretary - Policy	III
Under Secretary - Personnel and Readiness	III
Deputy Under Secretary - Logistics and Materiel Readiness	III
Principal Deputy Under Secretary - Acquisition, Technology, and Logistics	III
Principal Deputy Under Secretary - Policy	IV
Principal Deputy Under Secretary - Personnel and Readiness	IV
Assistant Secretary - Networks and Information Integration/Chief Information Officer	IV
Assistant Secretary - Health Affairs	IV
Assistant Secretary - Legislative Affairs	IV
Assistant Secretary - International Security Policy	IV
Assistant Secretary - Public Affairs	IV
Assistant Secretary - Reserve Affairs	IV
Assistant Secretary - Special Operations and Low-Intensity Conflict	IV
Assistant Secretary - International Security Affairs	IV
Assistant Secretary - Homeland Defense <sup>c</sup>	IV
Director - Defense Research and Engineering	IV
Director - Operational Test and Evaluation	IV
General Counsel	IV
Inspector General <sup>d</sup>	IV
Assistant to the Secretary - Nuclear, Chemical, and Biological Defense Programs	V
 <b>Department of the Air Force</b>	
Secretary	II
Under Secretary	IV
Assistant Secretary - Acquisition	IV
Assistant Secretary - Financial Management/Comptroller	IV
Assistant Secretary - Manpower and Reserve Affairs	IV
Assistant Secretary - Installations, Environment, and Logistics	IV
General Counsel	IV

**Department of the Army**

Secretary	II
Under Secretary	IV
Assistant Secretary - Civil Works	IV
Assistant Secretary - Financial Management/Comptroller	IV
Assistant Secretary - Installations and Environment	IV
Assistant Secretary - Manpower and Reserve Affairs	IV
Assistant Secretary - Acquisition, Logistics, and Technology	IV
General Counsel	IV

**Department of the Navy**

Secretary	II
Under Secretary	IV
Assistant Secretary - Financial Management/Comptroller	IV
Assistant Secretary - Installations and Environment	IV
Assistant Secretary - Manpower and Reserve Affairs	IV
Assistant Secretary - Research, Development, and Acquisition	IV
General Counsel	IV

**Joint Chiefs of Staff °**

Chairman	(Members of the Joint Chiefs of Staff are compensated under the military pay system, rather than the executive schedule.)
Vice Chairman	
Chief of Staff (Air Force)	
Chief of Staff (Army)	
Chief of Naval Operations	
Commandant of the Marine Corps	

- 
- a. The position of Under Secretary - Intelligence in the Department of Defense was established by P.L. 107-314, Title IX, Subtitle A, § 901(a)(2) (116 Stat. 2619), and filled for the first time during the 108<sup>th</sup> Congress, as shown below.
  - b. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)).
  - c. The position of Assistant Secretary - Homeland Defense in the Department of Defense was established by P.L. 107-314, Title IX, Subtitle A, § 902(a) (116 Stat. 2620), and filled for the first time in the 108<sup>th</sup> Congress, as shown below.
  - d. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he “shall communicate the reasons for any such removal to both Houses of Congress” (5 U.S.C. App. § 3(b)).
  - e. The chairman and vice chairman serve two-year terms; other members serve four-year terms.

### DOD Appointment Action During the 108<sup>th</sup> Congress

Nominee	Positions	Nominated	Confirmed	Days to confirm
Paul McHale	Asst. Secy. - Homeland Defense	01/09/03	02/04/03	26
Christopher R. Henry	Deputy Under Secy. - Policy	01/09/03	02/04/03	26
John Paul Woodley Jr.	Asst. Secy. - Army - Civil Works	01/22/03	Returned 12/08/04 <sup>a</sup>	
Steven A. Cambone	Under Secy. - Intelligence	02/04/03	03/07/03	31
Thomas W. O'Connell	Asst. Secy. - Special Operations and Low-Intensity Conflict	05/01/03	07/21/03	81
James G. Roche	Secretary - Army	07/07/03	Withdrawn 04/08/04	
Gordon England	Secretary - Navy	09/03/03	09/26/03	23
Michael W. Wynne	Under Secy. - Acquisition , Technology, and Logistics	09/03/03	Returned 12/08/04 <sup>a</sup>	
John Paul Woodley Jr.	Asst. Secy. - Army - Civil Works	Recess Appointment 08/22/03 <sup>b</sup>		
John Paul Woodley Jr.	Asst. Secy. - Army - Civil Works	10/01/03	Returned 12/08/04 <sup>a</sup>	
Francis J. Harvey	Asst. Secy. - Command, Control, Communications, and Intelligence	11/06/03	Withdrawn 09/15/04	
Lawrence T. Di Rita	Asst. Secy. - Public Affairs	11/21/03	Withdrawn 11/16/04	
Jaymie Alan Durnan	Asst. Secy. - Army - Installations and Environment	11/21/03	Withdrawn 02/23/04	
John J. Young Jr.	Principal Deputy Under Secy. - Acquisition, Technology, and Logistics	01/23/04	Returned 12/08/04 <sup>a</sup>	
Dionel M. Aviles	Under Secy. - Navy	02/06/04	09/28/04	189
Tina W. Jonas	Under Secy. - Comptroller	03/11/04	07/22/04	133
Peter C. W. Flory	Asst. Secy. - International Security Policy	06/01/04	Returned 12/08/04 <sup>a</sup>	
Valerie L. Baldwin	Asst. Secy. - Army - Financial Management/Comptroller	07/08/04	07/22/04	14
Raymond F. DuBois	Deputy Under Secy. - Logistics and Materiel Readiness	09/08/04	Returned 12/08/04 <sup>a</sup>	
Richard Greco Jr.	Asst. Secy. - Navy - Financial Management/Comptroller	09/13/04	10/10/04	27
Francis J. Harvey	Secretary - Army	09/15/04	11/16/04	62
Buddie J. Penn	Asst. Secy. - Navy - Installations and Environment	09/23/04	Returned 12/08/04 <sup>a</sup>	
<b>Mean number of days to confirm a nomination</b>				<b>61</b>
<b>Median number of days to confirm a nomination</b>				<b>29</b>

a. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

b. Woodley's recess appointment expired at the end of the second session of the 108<sup>th</sup> Congress.

## Department of Education (ED)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress

Position	Pay level
Secretary	I
Deputy Secretary	II
Director - Institute of Education Sciences <sup>a</sup>	II
Under Secretary	III
Chief Financial Officer <sup>b</sup>	IV
Assistant Secretary - Management	IV
Assistant Secretary - Civil Rights	IV
Assistant Secretary - Educational Research and Improvement	IV
Assistant Secretary - Elementary and Secondary Education	IV
Assistant Secretary - Intergovernmental and Interagency Affairs	IV
Assistant Secretary - Legislation and Congressional Affairs	IV
Assistant Secretary - Postsecondary Education	IV
Assistant Secretary - Special Education and Rehabilitative Services	IV
Assistant Secretary - Vocational and Adult Education	IV
Commissioner - Education Statistics <sup>c</sup>	IV
General Counsel	IV
Inspector General <sup>d</sup>	IV
Commissioner - Rehabilitation Services Administration	V

a. The position of Director, Institute of Education Sciences was established by P.L. 107-279, § 114 (116 Stat. 1946). As permitted by this provision, the President, alone, appointed the last Assistant Secretary for Educational Research and Improvement to serve as the first Director. Subsequent Directors must be appointed by the President with the advice and consent of the Senate. The position has a six-year term and specified qualifications. P.L. 107-279, § 402 (116 Stat. 1984-1985) eliminated the position of Assistant Secretary for Educational Research and Improvement.

b. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)).

c. Position has a six-year term and specified qualifications. See 20 U.S.C. § 9517(b).

d. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he “shall communicate the reasons for any such removal to both Houses of Congress” (5 U.S.C. Appx. § 3(b)).

## ED Appointment Action During the 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
Gerald Reynolds	Asst. Secy. - Civil Rights	01/09/03	Returned 12/08/04 <sup>a</sup>	
Karen Johnson	Asst. Secy. - Legislation and Congressional Affairs	01/21/03	05/23/03	122
Robert Lerner	Commissioner of Education Statistics	06/03/03	Returned 12/08/04 <sup>a</sup>	
Raymond Simon	Asst. Secy. - Elementary and Secondary Education	09/22/03	01/26/04	85
Susan K. Sclafani	Asst. Secy. - Vocational and Adult Education	10/29/03	01/26/04	48
Robert Lerner	Commissioner of Education Statistics	Recess Appointment 12/23/03 <sup>b</sup>		
Raymond Simon	Asst. Secy. - Elementary and Secondary Education	Recess Appointment 12/23/03 <sup>c</sup>		
Robert Lerner	Commissioner of Education Statistics	01/21/04	Returned 12/08/04 <sup>a</sup>	
Raymond Simon	Asst. Secy. - Elementary and Secondary Education	01/21/04	Returned 12/08/04 <sup>a</sup>	
Eugene Hickok	Deputy Secretary	01/28/04	Returned 12/08/04 <sup>a</sup>	
Edward R. McPherson	Under Secretary	02/26/04	11/21/04	223 <sup>d</sup>
Eugene Hickok	Deputy Secretary	Recess Appointment 04/16/04 <sup>e</sup>		
Edward R. McPherson	Under Secretary	Recess Appointment 04/18/04 <sup>e</sup>		
Eugene Hickok	Deputy Secretary	05/13/04	11/21/04	146
Edward R. McPherson	Under Secretary	05/13/04	11/21/04	<sup>d</sup>
John H. Hager	Asst. Secy. - Special Education and Rehabilitative Services	06/01/04	11/21/04	127
<b>Mean number of days to confirm a nomination</b>				<b>125</b>
<b>Median number of days to confirm a nomination</b>				<b>125</b>

a. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

b. Lerner's recess appointment expired at the end of the second session of the 108<sup>th</sup> Congress.

c. The recess appointment of Simon would have expired at the end of the second session of the 108<sup>th</sup> Congress, by which time he had been confirmed, as shown above.

d. President Bush submitted two nominations of McPherson to be Under Secretary. Usually when two or more identical nominations are submitted and the nominee is confirmed, one nomination is documented as confirmed and the others are returned to the President. In this case, both nominations were shown, in the LIS database, as confirmed. The elapsed time (days to confirm) for the first nomination was used in the calculation of the mean and the median.

e. The recess appointments of McPherson and Hickok would have expired at the end of the first session of the 109<sup>th</sup> Congress, by which time both had been confirmed to their respective positions, as shown above.

## Department of Energy (DOE)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress

Position	Pay level
Secretary	I
Deputy Secretary	II
Under Secretary - Energy, Science, and Environment	III
Under Secretary - Nuclear Security/Administrator - National Nuclear Security Administration <sup>a</sup> (NNSA)	III
Principal Deputy Administrator - NNSA <sup>a</sup>	IV
Deputy Administrator - Defense Programs, NNSA	IV
Deputy Administrator - Defense Nuclear Nonproliferation, NNSA	IV
Administrator - Energy Information Administration	IV
Assistant Secretary - Congressional and Intergovernmental Affairs	IV
Assistant Secretary - Energy Efficiency and Renewable Energy	IV
Assistant Secretary - Environment, Safety, and Health	IV
Assistant Secretary - Environmental Management	IV
Assistant Secretary - Fossil Energy	IV
Assistant Secretary - International Affairs and Domestic Policy	IV
Assistant Secretary - Nuclear Energy, Science, and Technology	IV
Chief Financial Officer <sup>b</sup>	IV
Director - Civilian Radioactive Waste Management	IV
Director - Office of Minority Economic Impact	IV
Director - Office of Science	IV
General Counsel	IV
Inspector General <sup>c</sup>	IV

a. The position of Principal Deputy Administrator - NNSA in the Department of Energy was established by P.L.107-107, Division C, Title XXXI, § 3141 (115 Stat. 1369), and filled for the first time during the 108<sup>th</sup> Congress, as shown below.

b. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)).

c. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he “shall communicate the reasons for any such removal to both Houses of Congress” (5 U.S.C. Appx. § 3(b)).

## DOE Appointment Action During 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
Linton F. Brooks	Under Secy. - Nuclear Security/ Administrator - NNSA <sup>a</sup>	02/04/03	05/01/03	86
Paul M. Longworth	Deputy Admin. - Defense Nuclear Nonproliferation, NNSA <sup>a</sup>	04/28/03	07/21/03	84
Rick A. Dearborn	Asst. Secy. - Congressional and Intergovernmental Affairs	06/26/03	10/03/03	68
Susan J. Grant	Chief Financial Officer	10/14/03	12/08/04	334
Jerald S. Paul	Principal Deputy Admin. - NNSA <sup>a</sup>	02/03/04	07/22/04	170
Karen A. Harbert	Asst. Secy. - International Affairs and Domestic Policy	07/22/04	12/08/04	93
John S. Shaw	Asst. Secy. - Environment, Safety, and Health	07/22/04	12/08/04	93
Susan J. Grant	Chief Financial Officer	Recess Appointment 08/02/04 <sup>b</sup>		
Susan J. Grant	Chief Financial Officer	09/10/04	Returned 12/08/04 <sup>c</sup>	
<b>Mean number of days to confirm a nomination</b>				<b>133</b>
<b>Median number of days to confirm a nomination</b>				<b>93</b>

a. NNSA: National Nuclear Security Administration

b. Grant's recess appointment would have expired at the end of the first session of the 109<sup>th</sup> Congress, by which time she had been confirmed, as shown.

c. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Department of Health and Human Services (HHS)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress

Position	Pay level
Secretary	I
Deputy Secretary	II
Administrator - Centers for Medicare & Medicaid Services	III
Administrator - Substance Abuse and Mental Health Services Administration	IV
Assistant Secretary - Aging	IV
Assistant Secretary - Children and Families	IV
Assistant Secretary - Legislation	IV
Assistant Secretary - Budget, Technology, and Finance/Chief Financial Officer <sup>a</sup>	IV
Assistant Secretary - Planning and Evaluation	IV
Assistant Secretary - Public Affairs	IV
Assistant Secretary - Health	b
Commissioner - Food and Drug Administration	IV
Director - National Institutes of Health	IV
General Counsel	IV
Inspector General <sup>c</sup>	IV
Commissioner - Children, Youth, and Families	V
Commissioner - Administration for Native Americans	V
Director - Indian Health Services <sup>d</sup>	V
Surgeon General <sup>e</sup>	f

- a. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)). Department representatives have indicated that positions have been combined as noted in the table.
- b. The Assistant Secretary for Health is compensated as a commissioned officer at Level 0-10 (37 U.S.C. § 201).
- c. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he “shall communicate the reasons for any such removal to both Houses of Congress” (5 U.S.C. Appx. § 3(b)).
- d. Position has a four-year term; a Director may serve more than one term. See 25 U.S.C. § 1661(a).
- e. Position has a four-year term and specified qualifications. See 42 U.S.C. § 205.
- f. The Surgeon General is compensated as a commissioned officer at Level 0-9 (37 U.S.C. § 201).



## HHS Appointment Action During the 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
Charles W. Grim	Director - Indian Health Services	03/27/03	07/16/03	111
Kerry N. Weems	Asst. Secy.- Budget, Technology, and Finance	07/22/03	Withdrawn 09/04/03	
Cristina Beato	Asst. Secy. - Public Health and Science	07/30/03	Returned 12/08/04 <sup>a</sup>	
Jennifer Young	Asst. Secy. - Legislation	09/03/03	12/08/03	96
Michael O'Grady	Asst. Secy. - Planning and Evaluation	09/08/03	12/08/03	91
Daniel R. Levinson	Inspector General	07/19/04	Returned 12/08/04 <sup>a</sup>	
<b>Mean number of days to confirm a nomination</b>				<b>99</b>
<b>Median number of days to confirm a nomination</b>				<b>96</b>

a. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Department of Homeland Security (DHS)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress <sup>a</sup>

Position <sup>b</sup>	Pay level
Secretary	I
Deputy Secretary	II
Assistant Secretary, Transportation Security Administration	II
Under Secretary - Information Analysis and Infrastructure Protection	III
Under Secretary - Science and Technology	III
Under Secretary - Border and Transportation Security	III
Under Secretary - Emergency Preparedness and Response <sup>c</sup>	III
Under Secretary - Management	III
Director - Bureau of Citizenship and Immigration Services	III
Commissioner - Customs <sup>d</sup>	III
Assistant Secretary - Bureau of Immigration and Customs Enforcement	IV
Assistant Secretary - Border and Transportation Security Policy	IV
Assistant Secretary - Plans, Programs, and Budgets	IV
Chief Financial Officer <sup>e</sup>	IV
General Counsel	IV
Inspector General <sup>f</sup>	IV
Commandant of the Coast Guard <sup>g</sup>	Admiral
Director - Office for State and Local Government Coordination and Preparedness	IV
United States Fire Administrator <sup>h</sup>	IV

a. The Homeland Security Act of 2002, P.L. 107-296, § 103 (116 Stat. 2135) established the Department of Homeland Security, and the first new appointments to positions in the department were made during the 108<sup>th</sup> Congress.

b. The Homeland Security Act (P.L. 107-296, § 103 (116 Stat. 2135)) provided for “Not more than 12 Assistant Secretaries” appointed through the advice and consent process. Of these, only the four positions in use at the end of the 108<sup>th</sup> Congress are shown.

c. The previously appointed Deputy Director of the Federal Emergency Management Agency (FEMA) (Michael Brown) was appointed as the Under Secretary for Emergency Preparedness and Response without the advice and consent of the Senate, under § 1511(c)(2) of the Homeland Security Act (116 Stat. 2309).

d. The previously appointed Commissioner of Customs (Robert Bonner) continued to serve after the transfer of his agency to the new department.

e. The Homeland Security Act established the chief financial officer (CFO) as a position to which appointments were made by the President alone (P.L. 107-296, § 103(d)(4) (116 Stat. 2145)). P.L. 108-330 (118 Stat. 1275), enacted in 2004, provided that future office holders would be appointed under the process statutorily required for most other departmental CFOs. Under this process, the CFO may be appointed by the President, by and with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)).

f. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he “shall communicate the reasons for any such removal to both Houses of Congress” (5 U.S.C. Appx. § 3(b)).

g. The previously appointed Commandant of the Coast Guard (Thomas H. Collins) continued to serve after the transfer of his agency to the new department.

h. The previously appointed U.S. Fire Administrator (R. David Paulison) continued to serve after the transfer of his agency to the new department. For a period after the effective date of the Homeland Security Act, this position was not a PAS position. During that time, Paulison continued to serve, so the change had no material effect. The position was re-established as a PAS position by P.L. 108-169, § 102 (117 Stat. 2036).

## DHS Appointment Action During 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
Thomas J. Ridge	Secretary	01/07/03	01/22/03	15
Gordon England	Deputy Secretary	01/07/03	01/30/03	23
Clark Kent Ervin	Inspector General	01/10/03	Returned 12/08/04 <sup>a</sup>	
Asa Hutchinson	Under Secy. - Border and Transportation Security	01/10/03	01/23/03	13
Janet Hale	Under Secy. - Management	01/21/03	03/06/03	44
Charles E. McQueary	Under Secy. - Science and Technology	02/14/03	03/19/03	33
Edward Aguirre Jr.	Dir.- Bureau of Citizenship and Immigration Services	03/11/03	06/19/03	100
Michael J. Garcia	Asst. Secy. -Bureau of Immigration and Customs Enforcement	03/26/03	11/25/03	213
C. Stewart Verdery Jr.	Asst. Secy. - Border and Transportation Security Policy and Planning	04/10/03	06/19/03	70
Frank Libutti	Under Secy. - Information Analysis and Infrastructure Protection	04/28/03	06/23/03	56
Joe D. Whitley	General Counsel	04/28/03	07/31/03	94
C. Suzanne Mencer	Dir. - Office for Domestic Preparedness <sup>b</sup>	06/16/03	10/03/03	78
Penrose C. Albright	Asst. Secy. - Science & Technology	06/26/03	10/03/03	68
James M. Loy	Deputy Secretary	11/05/03	11/25/03	20
Clark Kent Ervin	Inspector General	Recess Appointment 12/23/03 <sup>c</sup>		
Clark Kent Ervin	Inspector General	01/21/04	Returned 12/08/04 <sup>a</sup>	
David M. Stone	Asst. Secy. - Transportation Security Administration	04/08/04	07/22/04	105
<b>Mean number of days to confirm a nomination</b>				<b>67</b>
<b>Median number of days to confirm a nomination</b>				<b>62</b>

a. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

b. Under a secretarial reorganization in 2004, this office was merged with the Office of State and Local Government Coordination to become the Office of State and Local Government and Preparedness (letter from Secretary Tom Ridge to Senator Joseph I. Lieberman, Jan. 26, 2004).

c. Ervin's recess appointment expired at the end of the second session of the 108<sup>th</sup> Congress.

## Department of Housing and Urban Development (HUD)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress

Position	Pay level
Secretary	I
Deputy Secretary	II
Director - Office of Federal Housing Enterprise Oversight <sup>a</sup>	II
Assistant Secretary - Administration	IV
Assistant Secretary - Community Planning and Development	IV
Assistant Secretary - Congressional and Intergovernmental Relations	IV
Assistant Secretary - Fair Housing and Equal Opportunity	IV
Assistant Secretary - Housing/Federal Housing Commissioner	IV
Assistant Secretary - Policy Development and Research	IV
Assistant Secretary - Public Affairs	IV
Assistant Secretary - Public and Indian Housing	IV
Chief Financial Officer <sup>b</sup>	IV
General Counsel	IV
Inspector General <sup>c</sup>	IV
President - Government National Mortgage Association	IV

a. Position has a five-year term and specified qualifications. See 12 U.S.C. § 4512.

b. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)).

c. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he “shall communicate the reasons for any such removal to both Houses of Congress” (5 U.S.C. Appx. § 3(b)).

## HUD Appointment Action During the 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
Steven B. Nesmith	Asst. Secy. - Congressional and Intergovernmental Relations	04/07/03	05/22/03	45
Mark C. Brickell	Director - Office of Federal Housing Enterprise Oversight	06/12/03	Withdrawn 01/21/04	
Alphonso R. Jackson	Secretary	01/28/04	03/31/04	63
Cathy M. MacFarlane	Asst. Secy. - Public Affairs	02/11/04	11/21/04	238
Dennis C. Shea	Asst. Secy. - Policy Development and Research	02/11/04	11/21/04	238
Romolo A. Bernardi	Deputy Secretary	03/11/04	11/21/04	209
Romolo A. Bernardi	Deputy Secretary	Recess appointment 05/28/04 <sup>a</sup>		
Cathy M. MacFarlane	Asst. Secy. - Public Affairs	Recess appointment 05/28/04 <sup>a</sup>		
Dennis C. Shea	Asst. Secy. - Policy Development and Research	Recess appointment 05/28/04 <sup>a</sup>		
Carin M. Barth	Chief Financial Officer	06/01/04	11/21/04	127
Cathy M. MacFarlane	Asst. Secy. - Public Affairs	06/24/04	Returned 12/08/04 <sup>b</sup>	
Dennis C. Shea	Asst. Secy. - Policy Development and Research	06/24/04	Returned 12/08/04 <sup>b</sup>	
Romolo A. Bernardi	Deputy Secretary	06/24/04	Returned 12/08/04 <sup>b</sup>	
Carin M. Barth	Chief Financial Officer	Recess appointment 08/02/04 <sup>a</sup>		
Carin M. Barth	Chief Financial Officer	09/10/04	Returned 12/08/04 <sup>b</sup>	
Pamela H. Patenaude	Asst. Secy. - Community Planning and Development	09/15/04	Returned 12/08/04 <sup>b</sup>	
<b>Mean number of days to confirm a nomination</b>				<b>153</b>
<b>Median number of days to confirm a nomination</b>				<b>168</b>

a. The recess appointments of Bernardi, MacFarlane, Shea, and Barth would have expired at the end of the first session of the 109<sup>th</sup> Congress, by which time each of the nominees had been confirmed.

b. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Department of the Interior (DOI)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress

Position	Pay level
Secretary	I
Deputy Secretary	II
Special Trustee for American Indians	<sup>a</sup>
Assistant Secretary - Fish, Wildlife, and Parks	IV
Assistant Secretary - Indian Affairs	IV
Assistant Secretary - Land and Minerals Management	IV
Assistant Secretary - Policy, Management, and Budget/Chief Financial Officer <sup>b</sup>	IV
Assistant Secretary - Water and Science	IV
Chairman - National Indian Gaming Commission <sup>c</sup>	IV
Inspector General <sup>d</sup>	IV
Solicitor	IV
Director - National Park Service	V
Director - Office of Surface Mining Reclamation and Enforcement	V
Commissioner - Bureau of Reclamation	V
Director - Bureau of Land Management	V
Director - U.S. Fish and Wildlife Service	V
Director - U.S. Geological Survey	V
Commissioner - Indian Affairs <sup>e</sup>	V

a. The Special Trustee is to be paid “at a rate determined by the Secretary to be appropriate for the position, but not less than the rate of basic pay payable at Level II of the Executive Schedule...” (25 U.S.C. § 4042).

b. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)).

c. Position has a three-year term, specified qualifications, and limitations on the President’s removal power. See 25 U.S.C. § 2704(b).

d. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he “shall communicate the reasons for any such removal to both Houses of Congress” (5 U.S.C. Appx. § 3(b)).

e. Position (provided for at 25 U.S.C. § 1) has been vacant since 1981.

## DOI Appointment Action During the 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
Ross O. Swimmer	Special Trustee for American Indians	02/04/03	04/10/03	65
David W. Anderson	Asst. Secy. - Indian Affairs	09/15/03	12/09/03	85
Sue Ellen Wooldridge	Solicitor	02/02/04	11/21/04	247
Sue Ellen Wooldridge	Solicitor	Recess appointment 05/28/04 <sup>a</sup>		
Sue Ellen Wooldridge	Solicitor	06/24/04	Returned 12/08/04 <sup>b</sup>	
<b>Mean number of days to confirm a nomination</b>				<b>132</b>
<b>Median number of days to confirm a nomination</b>				<b>85</b>

a. Wooldridge's recess appointment would have expired at the end of the first session of the 109<sup>th</sup> Congress, by which time she had been confirmed, as shown above.

b. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Department of Justice (DOJ)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress

Position <sup>a</sup>	Pay level
Attorney General	I
Deputy Attorney General	II
Director - Federal Bureau of Investigation <sup>b</sup>	II
Administrator of Drug Enforcement	III
Associate Attorney General	III
Solicitor General	III
Director - Bureau of Alcohol, Tobacco, Firearms and Explosives <sup>c</sup>	III
Assistant Attorney General - Antitrust Division	IV
Assistant Attorney General - Civil Division	IV
Assistant Attorney General - Civil Rights Division	IV
Assistant Attorney General - Criminal Division	IV
Assistant Attorney General - Environment and Natural Resources	IV
Assistant Attorney General - Legislative Affairs	IV
Assistant Attorney General - Office of Justice Programs	IV
Assistant Attorney General - Office of Legal Counsel	IV
Assistant Attorney General - Office of Legal Policy	IV
Assistant Attorney General - Tax Division	IV
Administrator - Office of Juvenile Justice and Delinquency Prevention	IV
Deputy Administrator - Drug Enforcement Administration	IV
Director - Bureau of Justice Assistance	IV
Director - Bureau of Justice Statistics	IV
Director - Community Relations Service <sup>d</sup>	IV
Director - National Institute of Justice	IV
Director - Office for Victims of Crime	IV
Director - U.S. Marshals Service	IV
Inspector General <sup>e</sup>	IV
Special Counsel - Immigration-Related Unfair Employment Practices <sup>f</sup>	<sup>g</sup>
Director - Violence Against Women Office <sup>h</sup>	V

a. Does not include positions of U.S. Attorney and U.S. Marshal. The position of chief financial officer (CFO) is also not listed here. Although the Department of Justice is included in the statute that provides presidentially appointed and Senate-confirmed CFOs for all of the major executive branch agencies (31 U.S.C. § 901(a)(1)), this provision is superseded by 28 U.S.C. § 507. The latter section provides that the Assistant Attorney General for Administration, appointed by the Attorney General with the approval of the President, shall be the CFO for the Department of Justice.

b. Position has a 10-year term. See 28 U.S.C. § 532 note.

c. The Homeland Security Act of 2002 (P.L.107-296) transferred, in early 2003, the law enforcement functions of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) from the Department of the Treasury to the Department of Justice (Subtitle B, 116 Stat. 2274).

d. Position has a four-year term. See 42 U.S.C. § 2000g.

e. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he “shall communicate the reasons for any such removal to both Houses of Congress” (5 U.S.C. Appx. § 3(b)).

f. Position has a four-year term. See 8 U.S.C. § 1324b(c)(1).

g. “The Special Counsel for Immigration-Related Unfair Employment Practices is entitled to receive compensation at a rate not to exceed the rate now or hereafter provided for grade GS-17 of the General Schedule,” under 5 U.S.C. § 5332 (8 U.S.C. § 1324b(c)(3)).

h. The position of Director of the Violence Against Women Office in the Department of Justice was established by P.L. 107-273, Title IV, § 402 (116 Stat. 1789), and filled for the first time during the 108<sup>th</sup> Congress, as shown below.



## DOJ Appointment Action During the 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
Diane M. Stuart	Director - Violence Against Women Office	03/05/03	07/31/03	148
R. Hewitt Pate	Asst. Atty. General - Antitrust Division	03/13/03	06/13/03	92
William E. Moschella	Asst. Atty. General - Legislative Affairs	04/02/03	05/09/03	37
Robert D. McCallum Jr.	Associate Attorney General	04/07/03	06/27/03	81
Peter D. Keisler	Asst. Atty. General - Civil Division	04/10/03	06/05/03	56
Karen P. Tandy	Admin. - Drug Enforcement	06/02/03	07/31/03	59
Jack L. Goldsmith III	Asst. Atty. General - Office of Legal Counsel	06/09/03	10/03/03	85
Christopher A. Wray	Asst. Atty. General - Criminal Division	06/09/03	09/11/03	63
Rene Acosta	Asst. Atty. General - Civil Rights Division	06/26/03	08/01/03	36
Daniel J. Bryant	Asst. Atty. General - Office of Legal Policy	07/08/03	10/03/03	31
Domingo S. Herraiz	Director - Bureau of Justice Assistance	09/08/03	03/08/04	141
Michele M. Leonhart	Deputy Admin. - Drug Enforcement	10/03/03	03/08/04	116
James B. Comey	Deputy Attorney General	10/17/03	12/09/03	53
William Sanchez	Special Counsel - Immigration-Related Unfair Employment Practices	06/01/04	12/08/04	144
Alberto R. Gonzalez	Attorney General	11/16/04	Returned 12/08/04 <sup>a</sup>	
<b>Mean number of days to confirm a nomination</b>				<b>82</b>
<b>Median number of days to confirm a nomination</b>				<b>72</b>

a. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Department of Labor (DOL)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress

Position	Pay level
Secretary	I
Deputy Secretary	II
Assistant Secretary - Administration and Management	IV
Assistant Secretary - Congressional and Intergovernmental Affairs	IV
Assistant Secretary - Employment and Training Administration	IV
Assistant Secretary - Employment Standards Administration	IV
Assistant Secretary - Mine Safety and Health Administration	IV
Assistant Secretary - Occupational Safety and Health Administration (OSHA)	IV
Assistant Secretary - Office of Public Affairs	IV
Assistant Secretary - Employee Benefits Security Administration	IV
Assistant Secretary - Policy	IV
Assistant Secretary - Veterans' Employment and Training Service	IV
Assistant Secretary - Disability Employment Policy	IV
Chief Financial Officer <sup>a</sup>	IV
Commissioner - Bureau of Labor Statistics <sup>b</sup>	IV
Inspector General <sup>c</sup>	IV
Solicitor	IV
Administrator - Wage and Hour Division	V
Director - Women's Bureau <sup>d</sup>	e

a. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)).

b. Position has a four-year term. See 29 U.S.C. § 3.

c. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he "shall communicate the reasons for any such removal to both Houses of Congress" (5 U.S.C. Appx. § 3(b)).

d. By statute, the incumbent must be a woman (29 U.S.C. § 12).

e. Ungraded senior level position with a salary maximum equal to Executive Schedule Level IV.

### DOL Appointment Action During the 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
Howard Radzely	Solicitor	05/06/03	12/09/03	186
Steven J. Law	Deputy Secretary	11/07/03	12/09/03	32
Lisa Kruska	Asst. Secy. - Office of Public Affairs	12/09/03	11/21/04	261
Veronica V. Stidvent	Asst. Secy. - Policy	06/01/04	12/08/04	144
<b>Mean number of days to confirm a nomination</b>				<b>156</b>
<b>Median number of days to confirm a nomination</b>				<b>165</b>

## Department of State (DOS)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress

Position <sup>a</sup>	Pay level
Secretary	I
Deputy Secretary	II
Deputy Secretary - Management and Resources <sup>b</sup>	II
Under Secretary - Economic, Business, and Agricultural Affairs	III
Under Secretary - Global Affairs	III
Under Secretary - Arms Control and International Security	III
Under Secretary - Management	III
Under Secretary - Political Affairs	III
Under Secretary - Public Diplomacy and Public Affairs	III
Counselor	III
Ambassador-at-Large - International Religious Freedom	III
Ambassador-at-Large/Director - Office to Monitor and Combat Trafficking in Persons <sup>c</sup>	IV
Ambassador-at-Large - War Crimes	IV
Ambassador-at-Large /Coordinator - Counterterrorism	IV
Coordinator - U.S. Global AIDS <sup>d</sup>	IV
Chief of Protocol	IV
Assistant Secretary - Administration	IV
Assistant Secretary - African Affairs	IV
Assistant Secretary - Arms Control	IV
Assistant Secretary - Consular Affairs	IV
Assistant Secretary - Democracy, Human Rights, and Labor	IV
Assistant Secretary - Diplomatic Security and Director - Office of Foreign Missions	IV
Assistant Secretary - East Asia and Pacific Affairs	IV
Assistant Secretary - Economic and Business Affairs	IV
Assistant Secretary - Educational and Cultural Affairs	IV
Assistant Secretary - European and Eurasian Affairs	IV
Assistant Secretary - Intelligence and Research	IV
Assistant Secretary - International Narcotics and Law Enforcement	IV
Assistant Secretary - International Organizations	IV
Assistant Secretary - Legislative Affairs	IV
Assistant Secretary - Near Eastern Affairs	IV
Assistant Secretary - Non-proliferation	IV
Assistant Secretary - Oceans and International Environmental and Scientific Affairs	IV
Assistant Secretary - Political and Military Affairs	IV
Assistant Secretary - Population, Refugee, and Migration Affairs	IV
Assistant Secretary - Public Affairs	IV
Assistant Secretary - South Asian Affairs	IV
Assistant Secretary - Verification and Compliance	IV
Assistant Secretary - Western Hemisphere Affairs	IV
Assistant Secretary - Resource Management	IV
Chief Financial Officer <sup>e</sup>	IV
Director General - Foreign Service <sup>f</sup>	IV
Inspector General <sup>g</sup>	IV
Legal Adviser	IV

Position <sup>a</sup>	Pay level
<b>International Organizations</b>	
U.S. Representative - United Nations	II
U.S. Representative - Organization of American States	h
U.S. Deputy Representative - United Nations	III
U.S. Alternate Representative - U.N. Economic and Social Council	IV
U.S. Alternate Representative - U.N. Management and Reform	IV
U.S. Alternate Representative - Special Political Affairs in the U.N.	IV

- a. Does not include chiefs of mission in overseas posts.
- b. The position of Deputy Secretary - Management and Resources in the Department of State was established by P.L. 106-553, § 404 (a) (114 Stat. 2762A96), enacted Dec. 21, 2000. This position has never been filled.
- c. The position of Director - Office to Monitor and Combat Trafficking in Persons in the Department of State was established by P.L. 106-386, Division A, § 105 (e) (114 Stat. 1474), enacted Oct. 28, 2000. It became an advice and consent position with P.L. 108-193, § 6 (b)(1) (117 Stat. 2881), enacted Dec. 19, 2003.
- d. The position of Coordinator of United States Government Activities to Combat HIV/AIDS Globally (called U.S. Global AIDS Coordinator) in the Department of State was established by P.L. 108-25 § 102 (117 Stat. 721), and filled for the first time during the 108<sup>th</sup> Congress, as shown below.
- e. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)). With regard to State Department appointments, since 2001, the same individual has been separately and simultaneously nominated for, and confirmed to, the positions of chief financial officer and Assistant Secretary for Resource Management.
- f. By law, incumbent must be a current or former career senior foreign service officer (22 U.S.C. § 3928).
- g. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he “shall communicate the reasons for any such removal to both Houses of Congress” (5 U.S.C. Appx. § 3(b)).
- h. Senior Foreign Service - political appointment on a career track.

## DOS Appointment Action During the 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
Grant S. Green Jr.	Dep. Secy. - Management and Resources	01/09/03	Returned 12/08/04 <sup>a</sup>	
Roger F. Noriega	Asst. Secy. - Western Hemisphere Affairs	03/24/03	07/29/03	127
John F. Maisto	U.S. Rep. - Organization of American States	04/02/03	06/27/03	86
Robert B. Charles	Asst. Secy. - International Narcotics and Law Enforcement	07/15/03	10/03/03	49
W. Robert Pearson	Director General - Foreign Service	09/15/03	10/03/03	18
Randall L. Tobias	Coordinator - U.S. Global AIDS	09/15/03	10/03/03	18
Margaret D. Tutwiler	Under Secy. - Public Diplomacy and Public Affairs	10/14/03	12/09/03	56
Stuart W. Holliday	U. S. Alt. Rep. - Special Political Affairs in the United Nations	10/16/03	12/09/03	54
Constance B. Newman	Asst. Secy. - African Affairs	03/22/04	06/03/04	73
Thomas Fingar	Asst. Secy. - Intelligence and Research	04/19/04	07/21/04	93
John C. Danforth	U.S. Rep. - United Nations	06/14/04	06/24/04	10
John R. Miller	Ambassador-at-Large/Dir. - Office to Monitor and Combat Trafficking	06/17/04	07/22/04	35
Howard J. Krongard	Inspector General	09/08/04	Returned 12/08/04 <sup>a</sup>	
<b>Mean number of days to confirm a nomination</b>				<b>56</b>
<b>Median number of days to confirm a nomination</b>				<b>54</b>

a. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Department of Transportation (DOT)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress

Position	Pay level
Secretary	I
Deputy Secretary	II
Under Secretary - Policy <sup>a</sup>	II
Administrator - Federal Aviation Administration <sup>b</sup>	II
Administrator - Federal Highway Administration	II
Administrator - Federal Motor Carrier Safety Administration	III
Administrator - Federal Railroad Administration	III
Administrator - Federal Transit Administration	III
Administrator - Maritime Administration	III
Administrator - National Highway Traffic Safety Administration	III
Administrator - Research and Special Programs Administration	III
Administrator - St. Lawrence Seaway Development Corporation <sup>c</sup>	IV
Assistant Secretary - Aviation and International Affairs	IV
Assistant Secretary - Budget and Programs/Chief Financial Officer <sup>d</sup>	IV
Assistant Secretary - Governmental Affairs	IV
Assistant Secretary - Transportation Policy	IV
Deputy Administrator - Federal Aviation Administration <sup>e</sup>	IV
Director - Bureau of Transportation Statistics	IV
General Counsel	IV
Inspector General <sup>f</sup>	IV

a. The position of Under Secretary - Policy in the Department of Transportation was established by P.L. 107-295, § 215 (116 Stat. 2101), and filled for the first time during the 108<sup>th</sup> Congress, as shown below. P.L. 107-295, § 215 also abolished the position of Associate Deputy Secretary.

b. Position has a five-year term and specified qualifications. See 49 U.S.C. § 106.

c. Position has a seven-year term. See 33 U.S.C. § 982(a).

d. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)).

e. Position has specified qualifications. See 49 U.S.C. § 106.

f. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he “shall communicate the reasons for any such removal to both Houses of Congress” (5 U.S.C. Appx. § 3(b)).

## DOT Appointment Action During the 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
Emil H. Frankel	Asst. Secy. - Transportation Policy	01/09/03	03/19/03	69
Jeffrey Shane	Associate Deputy Secretary	01/09/03	Withdrawn 02/11/03	
Robert A. Sturgell	Dep. Admin. - Federal Aviation Administration	01/15/03	03/19/03	63
Jeffrey Shane	Under Secy. - Policy	02/11/03	03/19/03	36
Annette Sandberg	Admin. - Federal Motor Carrier Safety Administration	03/24/03	07/31/03	129
Nicole R. Nason	Asst. Secy. - Governmental Affairs	05/14/03	07/23/03	70
Karan K. Bhatia	Asst. Secy. - Aviation and International Affairs Administration	09/03/03	12/09/03	97
Kirk Van Tine	Deputy Secretary	09/18/03	Returned 12/09/03 <sup>a</sup>	
Jeffrey A. Rosen	General Counsel	10/03/03	12/09/03	67
Linda M. Combs	Asst. Secy. - Budget and Programs	11/25/03	05/21/04	137
Kirk Van Tine	Deputy Secretary	01/26/04	Returned 12/08/04 <sup>b</sup>	
Linda M. Combs	Asst. Secy. - Budget and Programs		Recess Appointment 04/16/04 <sup>c</sup>	
Linda M. Combs	Asst. Secy. - Budget and Programs	05/13/04	Returned 12/08/04 <sup>b</sup>	
Kirk Van Tine	Deputy Secretary		Recess Appointment 05/28/04 <sup>c</sup>	
Kirk Van Tine	Deputy Secretary	06/24/04	Returned 12/08/04 <sup>b</sup>	
<b>Mean number of days to confirm a nomination</b>				<b>84</b>
<b>Median number of days to confirm a nomination</b>				<b>70</b>

a. Returned to the President at the end of the first session of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

b. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

c. Recess appointments would have expired at the end of the first session of the 109<sup>th</sup> Congress. By this time, Combs had been confirmed, as shown above, and Van Tine had left office.

## Department of the Treasury (TREA)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress

Position	Pay level
Secretary	I
Deputy Secretary	II
Commissioner of Internal Revenue <sup>a</sup>	III
Commissioner of Customs	III
Comptroller of the Currency <sup>b</sup>	III
Director - Office of Thrift Supervision <sup>c</sup>	III
Under Secretary - Domestic Finance	III
Under Secretary - Terrorism and Financial Intelligence <sup>d</sup>	III
Under Secretary - International Affairs	III
Assistant Secretary - Economic Policy	IV
Assistant Secretary - Financial Institutions	IV
Assistant Secretary - Financial Markets	IV
Assistant Secretary - Intelligence and Analysis <sup>e</sup>	IV
Assistant Secretary - Management/Chief Financial Officer <sup>f</sup>	IV
Assistant Secretary - Public Affairs and Public Liaison	IV
Assistant Secretary - Tax Policy	IV
Assistant Secretary - Terrorist Financing <sup>g</sup>	IV
Deputy Under Secretary/Assistant Secretary - International Affairs	IV
Deputy Under Secretary/Assistant Secretary - Legislative Affairs	IV
General Counsel	IV
Inspector General <sup>h</sup>	IV
Inspector General for Tax Administration	IV
Chief Counsel - IRS/Assistant General Counsel for Tax	V
Director of the Mint <sup>i</sup>	SL <sup>j</sup>
Treasurer of the United States	SL <sup>j</sup>

a. Position has a five-year term and specified qualifications. See 26 U.S.C. § 7803(a)(1).

b. Position has a five-year term, and a limitation on the President's removal power. See 12 U.S.C. § 2.

c. Position has a five-year term and specified qualifications. See 12 U.S.C. § 1462a(c).

d. The position of Under Secretary for Terrorism and Financial Crimes (called Under Secretary for Terrorism and Financial Intelligence) was established by P.L. 108-447, Division H, Title II, § 222 (118 Stat. 3242). The Under Secretary was the successor office to the Office of Enforcement, and the incumbent in that office, Stuart Levey, continued to serve.

e. The position of Assistant Secretary for Intelligence and Analysis was established by P.L. 108-177, § 105 (117 Stat. 2603), but it had not been filled by the end of the 108<sup>th</sup> Congress.

f. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)).

g. The position of Assistant Secretary for Terrorist Financing was initially created administratively, in early 2004, as a successor position to the Assistant Secretary for Enforcement. As shown below, Juan C. Zarate was nominated and confirmed for this position. P.L. 108-447 established the Assistant Secretary for Terrorist Financing as a distinct position with responsibility for "formulating and coordinating the counter-terrorist financing and anti-money laundering efforts of the Department of the Treasury..." [Div. H, Title II, § 222(a), 118 Stat. 3242].

h. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he "shall communicate the reasons for any such removal to both Houses of Congress" (5 U.S.C. Appx. § 3(b)).

i. Position has a five-year term and a limitation on the President's removal power. See 31 U.S.C. § 304.

j. Ungraded senior level position with a base pay maximum at a rate equal to Executive Schedule Level IV, but base plus locality maximum is Executive Schedule Level III.



## TREA Appointment Action During the 108<sup>th</sup> Congress

Nominee	Position	Nominated	Confirmed	Days to confirm
John W. Snow	Secretary	01/13/03	01/30/03	17
Mark W. Everson	Commissioner of Internal Revenue	01/22/03	05/01/03	99
Teresa M. Ressel	Asst. Secy. - Management	04/02/03	08/01/03	121
Robert S. Nichols	Asst. Secy. - Public Affairs and Public Liaison	04/10/03	08/01/03	113
Susan C. Schwab	Deputy Secretary	07/17/03	Withdrawn 12/09/03	
Arnold I. Havens	General Counsel	10/29/03	12/09/03	41
J. Russell George	Inspector General for Tax Administration	11/19/03	11/21/04	281
Mark J. Warshawsky	Asst. Secy. - Economic Policy	11/25/03	03/12/04	67
Samuel W. Bodman	Deputy Secretary	12/09/03	02/12/04	24
Donald Korb	Chief Counsel - IRS/Assistant General Counsel - Tax	12/09/03	04/08/04	80
Brian C. Roseboro	Under Secy. - Domestic Finance	12/09/03	04/08/04	80
Juan C. Zarate	Asst. Secy. - Terrorist Financing	03/11/04	07/21/04	132
Stuart Levey	Under Secy. - Enforcement	04/08/04	07/21/04	104
Timothy S. Bitsberger	Asst. Secy. - Financial Markets	05/11/04	11/21/04	148
Gregory F. Jenner	Asst. Secy. - Tax Policy	07/22/04	Returned 12/08/04 <sup>a</sup>	
Anna E. Cabral	Treasurer of the United States	07/22/04	11/21/04	43
Jesus H. Delgado-Jenkins	Asst. Secy. - Management	09/20/04	Returned 12/08/04 <sup>a</sup>	
Harold Damelin	Inspector General	10/07/04	Returned 12/08/04 <sup>a</sup>	
<b>Mean number of days to confirm a nomination</b>				<b>96</b>
<b>Median number of days to confirm a nomination</b>				<b>90</b>

a. Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Department of Veterans Affairs (DVA)

### Full-time Positions, as of the End of the 108<sup>th</sup> Congress

Position	Pay level
Secretary	I
Deputy Secretary	II
Under Secretary - Benefits <sup>a</sup>	III
Under Secretary - Health <sup>b</sup>	III
Under Secretary - Memorial Affairs	III
Assistant Secretary - Congressional and Legislative Affairs	IV
Assistant Secretary - Human Resources and Administration	IV
Assistant Secretary - Management and Chief Financial Officer <sup>c</sup>	IV
Assistant Secretary - Policy, Planning, and Preparedness	IV
Assistant Secretary - Public and Intergovernmental Affairs	IV
Assistant Secretary - Information and Technology	IV
Chairman - Board of Veterans' Appeals <sup>d</sup>	IV
General Counsel	IV
Inspector General <sup>e</sup>	IV

a. Position has a four-year term, limitations on the President's removal power, and specified qualifications. See 38 U.S.C. § 306.

b. Position has a four-year term, limitations on the President's removal power, and specified qualifications. See 38 U.S.C. § 305.

c. The chief financial officer may be appointed by the President, with the advice and consent of the Senate, or may be designated by the President from among agency officials who have been confirmed by the Senate for other positions (31 U.S.C. § 901(a)(1)). Department representatives have indicated that positions will be combined as noted in the table.

d. Position has a six-year term, limitations on the President's removal power, and specified qualifications. See 38 U.S.C. § 7101(b).

e. The President may remove an inspector general (IG) from office, as he may remove most other appointed officials in the departments. In the case of the IG, however, the law provides that he "shall communicate the reasons for any such removal to both Houses of Congress" (5 U.S.C. Appx. § 3(b)).

**DVA Appointment Action During the 108<sup>th</sup> Congress**

<b>Nominee</b>	<b>Position</b>	<b>Nominated</b>	<b>Confirmed</b>	<b>Days to confirm</b>
John W. Nicholson	Under Secy. - Memorial Affairs	01/09/03	04/11/03	92
Dee Ann McWilliams	Asst. Secy. - Human Resources and Administration	03/24/03	06/02/03	70
Cynthia R. Church	Asst. Secy. - Public and Intergovernmental Affairs	07/11/03	01/22/04	154
Robert N. McFarland	Asst. Secy. - Information and Technology	10/14/03	01/22/04	59
Gordon H. Mansfield	Deputy Secretary	11/03/03	01/22/04	39
Pamela M. Iovino	Asst. Secy. - Congressional and Legislative Affairs	01/28/04	11/21/04	252
Robert A. Pittman	Asst. Secy. - Human Resources and Administration	06/17/04	11/21/04	111
<b>Mean number of days to confirm a nomination</b>				<b>111</b>
<b>Median number of days to confirm a nomination</b>				<b>92</b>

## Appendix A. Nominations and Recess Appointments, 108<sup>th</sup> Congress

Nominee	Position	Dept.	Nomina- tion date	Confirm- ation date	Days to confirm
Rene Acosta	Asst. Atty. General - Civil Rights Division	DOJ	06/26/03	08/01/03	36
Edward Aguirre Jr.	Dir. - Bureau of Citizenship and Immigration Services	DHS	03/11/03	06/19/03	100
Penrose C. Albright	Asst. Secy. - Science & Technology	DHS	06/26/03	10/03/03	68
David W. Anderson	Asst. Secy. - Indian Affairs	DOI	09/15/03	12/09/03	85
Dionel M. Aviles	Under Secy. - Navy	DOD	02/06/04	09/28/04	189
Valerie L. Baldwin	Asst. Secy. - Army - Financial Management/ Comptroller	DOD	07/08/04	07/22/04	14
Carin M. Barth	Chief Financial Officer	HUD	06/01/04	11/21/04	127
Carin M. Barth	Chief Financial Officer	HUD	Recess appointment 08/02/04		
Carin M. Barth	Chief Financial Officer	HUD	09/10/04	Returned 12/08/04	
Cristina Beato	Asst. Secy. - Public Health and Science	HHS	07/30/03	Returned 12/08/04	
Romolo A. Bernardi	Deputy Secretary	HUD	03/11/04	11/21/04	209
Romolo A. Bernardi	Deputy Secretary	HUD	Recess appointment 05/28/04		
Romolo A. Bernardi	Deputy Secretary	HUD	06/24/04	Returned 12/08/04	
Karan K. Bhatia	Asst. Secy. - Aviation and International Affairs Administration	DOT	09/03/03	12/09/03	97
Timothy S. Bitsberger	Asst. Secy. - Financial Markets	TREA	05/11/04	11/21/04	148
Samuel W. Bodman	Deputy Secretary	TREA	12/09/03	02/12/04	24
Mark C. Brickell	Director - Office of Federal Housing Enterprise Oversight	HUD	06/12/03	Withdrawn 01/21/04	
Linton F. Brooks	Under Secy. - Nuclear Security/Administrator National Nuclear Security Administration (NNSA)	DOE	02/04/03	05/01/03	86
Daniel J. Bryant	Asst. Atty. General - Office of Legal Policy	DOJ	07/08/03	10/03/03	31
Anna E. Cabral	Treasurer of the United States	TREA	07/22/04	11/21/04	43
Steven A. Cambone	Under Secy. - Intelligence	DOD	02/04/03	03/07/03	31
Robert B. Charles	Asst. Secy. - International Narcotics and Law Enforcement	DOS	07/15/03	10/03/03	49
Cynthia R. Church	Asst. Secy. - Public and Intergovernmental Affairs	DVA	07/11/03	01/22/04	154
Linda M. Combs	Asst. Secy. - Budget and Programs	DOT	11/25/03	05/21/04	137
Linda M. Combs	Asst. Secy. - Budget and Programs	DOT	Recess Appointment 04/16/04		
Linda M. Combs	Asst. Secy. - Budget and Programs	DOT	05/13/04	Returned 12/08/04	
James B. Comey	Deputy Attorney General	DOJ	10/17/03	12/09/03	53
Harold Damelin	Inspector General	TREA	10/07/04	Returned 12/08/04	
John C. Danforth	U.S. Rep. - United Nations	DOS	06/14/04	06/24/04	10

<b>Nominee</b>	<b>Position</b>	<b>Dept.</b>	<b>Nomina- tion date</b>	<b>Confirm- ation date</b>	<b>Days to confirm</b>
Rick A. Dearborn	Asst. Secy. - Congressional and Intergovernmental Affairs	DOE	06/26/03	10/03/03	68
Jesus H. Delgado-Jenkins	Asst. Secy. - Management	TREA	09/20/04	Returned 12/08/04	
Lawrence T. Di Rita	Asst. Secy. - Public Affairs	DOD	11/21/03	Withdrawn 11/16/04	
Thomas C. Dorr	Under Secy. - Rural Development	USDA	01/09/03	Returned 12/08/04	
Raymond F. DuBois	Dep. Under Secy. - Logistics and Materiel Readiness	DOD	09/08/04	Returned 12/08/04	
Jonathan W. Dudas	Under Secy. - Intellectual Property/Dir. - Patent and Trademark Office	DOC	03/22/04	11/21/04	198
Jonathan W. Dudas	Under Secy. - Intellectual Property/Dir. - Patent and Trademark Office	DOC	Recess Appointment 08/02/04		
Jonathan W. Dudas	Under Secy. - Intellectual Property/Dir. - Patent and Trademark Office	DOC	09/10/04	Returned 12/08/04	
Jaymie Alan Durnan	Asst. Secy. - Army -Installations and Environment	DOD	11/21/03	Withdrawn 02/23/04	
Gordon England	Deputy Secretary	DHS	01/07/03	01/30/03	23
Gordon England	Secretary - Navy	DOD	09/03/03	09/26/03	23
Clark Kent Ervin	Inspector General	DHS	01/10/03	Returned 12/08/04	
Clark Kent Ervin	Inspector General	DHS	Recess Appointment 12/23/03		
Clark Kent Ervin	Inspector General	DHS	01/21/04	Returned 12/08/04	
Mark W. Everson	Commissioner of Internal Revenue	TREA	01/22/03	05/01/03	99
Thomas Fingar	Asst. Secy. - Intelligence and Research	DOS	04/19/04	07/21/04	93
Peter C.W. Flory	Asst. Secy. - International Security Policy	DOD	06/01/04	Returned 12/08/04	
Emil H. Frankel	Asst. Secy. - Transportation Policy	DOT	01/09/03	03/19/03	69
Albert A. Frink Jr.	Asst. Secy. - Trade Development	DOC	06/17/04	11/21/04	111
Albert A. Frink Jr.	Asst. Secy. - Trade Development	DOC	Recess Appointment 08/02/04		
Albert A. Frink Jr.	Asst. Secy. - Trade Development	DOC	09/10/04	Returned 12/08/04	
Michael D. Gallagher	Asst. Secy. - Communications and Information	DOC	10/14/03	11/21/04	317
Michael D. Gallagher	Asst. Secy. - Communications and Information	DOC	Recess Appointment 07/02/04		
Michael D. Gallagher	Asst. Secy. - Communications and Information	DOC	07/19/04	Returned 12/08/04	
Michael J. Garcia	Asst. Secy. -Bureau of Immigration and Customs Enforcement	DHS	03/26/03	11/25/03	213
J. Russell George	Inspector General for Tax Administration	TREA	11/19/03	11/21/04	281
Jack L. Goldsmith III	Asst. Atty. General - Office of Legal Counsel	DOJ	06/09/03	10/03/03	85
Alberto R. Gonzalez	Attorney General	DOJ	11/16/04	Returned 12/08/04	
Susan J. Grant	Chief Financial Officer	DOE	10/14/03	12/08/04	334
Susan J. Grant	Chief Financial Officer	DOE	Recess Appointment 08/02/04		
Susan J. Grant	Chief Financial Officer	DOE	09/10/04	Returned 12/08/04	
Richard Greco Jr.	Asst. Secy. - Navy - Financial Management/Comptroller	DOD	09/13/04	10/10/04	27

<b>Nominee</b>	<b>Position</b>	<b>Dept.</b>	<b>Nomina- tion date</b>	<b>Confirm- ation date</b>	<b>Days to confirm</b>
Grant S. Green Jr.	Dep. Secy. - Management and Resources	DOS	01/09/03	Returned	12/08/04
Charles W. Grim	Director - Indian Health Services	HHS	03/27/03	07/16/03	111
John H. Hager	Asst. Secy. - Special Education and Rehabilitative Services	ED	06/01/04	11/21/04	127
Janet Hale	Under Secy. - Management	DHS	01/21/03	03/06/03	44
Karen A. Harbert	Asst. Secy. - International Affairs and Domestic Policy	DOE	07/22/04	12/08/04	93
Michael J. Harrison	Asst. Secy. - Administration	USDA	09/15/04	11/21/04	67
Francis J. Harvey	Asst. Secy. - Command, Control, Communications, and Intelligence	DOD	11/06/03	Withdrawn	09/15/04
Francis J. Harvey	Secretary - Army	DOD	09/15/04	11/16/04	62
Arnold I. Havens	General Counsel	TREA	10/29/03	12/09/03	41
Christopher R. Henry	Dep. Under Secy. - Policy	DOD	01/09/03	02/04/03	26
Domingo S. Herraiz	Dir. - Bureau of Justice Assistance	DOJ	09/08/03	03/08/04	141
Eugene Hickok	Deputy Secretary	ED	01/28/04	Returned	12/08/04
Eugene Hickok	Deputy Secretary	ED	Recess Appointment 04/16/04		
Eugene Hickok	Deputy Secretary	ED	05/13/04	11/21/04	146
Stuart W. Holliday	U.S. Alt. Rep. - Special Political Affairs in the United Nations	DOS	10/16/03	12/09/03	54
Asa Hutchinson	Under Secy. - Border and Transportation Security	DHS	01/10/03	01/23/03	13
Pamela M. Iovino	Asst. Secy. - Congressional and Legislative Affairs	DVA	01/28/04	11/21/04	252
Alphonso R. Jackson	Secretary	HUD	01/28/04	03/31/04	63
Gregory F. Jenner	Asst. Secy. - Tax Policy	TREA	07/22/04	Returned	12/08/04
James J. Jochum	Asst. Secy. - Import Administration	DOC	04/09/03	08/01/03	114
Karen Johnson	Asst. Secy. - Legislation and Congressional Affairs	ED	01/21/03	05/23/03	122
Tina W. Jonas	Under Secy. - Comptroller	DOD	03/11/04	07/22/04	133
Theodore W. Kassinger	Deputy Secretary	DOC	02/26/04	11/21/04	223
Theodore W. Kassinger	Deputy Secretary	DOC	Recess Appointment 07/02/04		
Theodore W. Kassinger	Deputy Secretary	DOC	07/19/04	Returned	12/08/04
Rhonda Keenum	Asst. Secy. - Trade Promotion/Director General - U.S. and Foreign Commercial Service	DOC	12/09/03	04/08/04	80
Peter D. Keisler	Asst. Atty. General - Civil Division	DOJ	04/10/03	06/05/03	56
Donald Korb	Chief Counsel - IRS/Assistant General Counsel - Tax	TREA	12/09/03	04/08/04	80
Howard J. Krongard	Inspector General	DOS	09/08/04	Returned	12/08/04
Lisa Kruska	Asst. Secy. - Office of Public Affairs	DOL	12/09/03	11/21/04	261
Steven J. Law	Deputy Secretary	DOL	11/07/03	12/09/03	32

<b>Nominee</b>	<b>Position</b>	<b>Dept.</b>	<b>Nomina- tion date</b>	<b>Confirm- ation date</b>	<b>Days to confirm</b>
Michele M. Leonhart	Dep. Admin. - Drug Enforcement	DOJ	10/03/03	03/08/04	116
Robert Lerner	Commissioner of Education Statistics	ED	06/03/03	Returned 12/08/04	
Robert Lerner	Commissioner of Education Statistics	ED	Recess Appointment 12/23/03		
Robert Lerner	Commissioner of Education Statistics	ED	01/21/04	Returned 12/08/04	
Stuart Levey	Under Secy. - Enforcement	TREA	04/08/04	07/21/04	104
Daniel R. Levinson	Inspector General	HHS	07/19/04	Returned 12/08/04	
Frank Libutti	Under Secy. - Information Analysis and Infrastructure Protection	DHS	04/28/03	06/23/03	56
Peter Lichtenbaum	Asst. Secy. - Export Administration	DOC	07/22/03	10/17/03	56
Paul M. Longworth	Dep. Admin. - Defense Nuclear Nonproliferation, NNSA	DOE	04/28/03	07/21/03	84
James M. Loy	Deputy Secretary	DHS	11/05/03	11/25/03	20
Cathy M. MacFarlane	Asst. Secy. - Public Affairs	HUD	02/11/04	11/21/04	238
Cathy M. MacFarlane	Asst. Secy. - Public Affairs	HUD	Recess appointment 05/28/04		
Cathy M. MacFarlane	Asst. Secy. - Public Affairs	HUD	06/24/04	Returned 12/08/04	
John F. Maisto	U.S. Rep. - Organization of American States	DOS	04/02/03	06/27/03	86
Gordon H. Mansfield	Deputy Secretary	DVA	11/03/03	01/22/04	39
Robert D. McCallum Jr.	Associate Attorney General	DOJ	04/07/03	06/27/03	81
Robert N. McFarland	Asst. Secy. - Information and Technology	DVA	10/14/03	01/22/04	59
Paul McHale	Asst. Secy. - Homeland Defense	DOD	01/09/03	02/04/03	26
Edward R. McPherson	Under Secretary	ED	02/26/04	11/21/04	223
Edward R. McPherson	Under Secretary	ED	Recess Appointment 04/18/04		
Edward R. McPherson	Under Secretary	ED	05/13/04	11/21/04	
Charles E. McQueary	Under Secy. - Science and Technology	DHS	02/14/03	03/19/03	33
Dee Ann McWilliams	Asst. Secy. - Human Resources and Administration	DVA	03/24/03	06/02/03	70
C. Suzanne Mencer	Dir. - Office for Domestic Preparedness	DHS	06/16/03	10/03/03	78
John R. Miller	Ambassador-at-Large/Dir. - Office to Monitor and Combat Trafficking	DOS	06/17/04	07/22/04	35
William E. Moschella	Asst. Atty. General - Legislative Affairs	DOJ	04/02/03	05/09/03	37
Julie L. Myers	Asst. Secy. - Export Enforcement	DOC	06/25/03	10/17/03	83
Nicole R. Nason	Asst. Secy. - Governmental Affairs	DOT	05/14/03	07/23/03	70
Steven B. Nesmith	Asst. Secy. - Congressional and Intergovernmental Relations	HUD	04/07/03	05/22/03	45
Constance B. Newman	Asst. Secy. - African Affairs	DOS	03/22/04	06/03/04	73
Robert S. Nichols	Asst. Secy. - Public Affairs and Public Liaison	TREA	04/10/03	08/01/03	113
Roger F. Noriega	Asst. Secy. - Western Hemisphere Affairs	DOS	03/24/03	07/29/03	127
John W. Nicholson	Under Secy. - Memorial Affairs	DVA	01/09/03	04/11/03	92

<b>Nominee</b>	<b>Position</b>	<b>Dept.</b>	<b>Nomina- tion date</b>	<b>Confirm- ation date</b>	<b>Days to confirm</b>
Thomas W. O'Connell	Asst. Secy. - Special Operations and Low-Intensity Conflict	DOD	05/01/03	07/21/03	81
Michael O'Grady	Asst. Secy. - Planning and Evaluation	HHS	09/08/03	12/08/03	91
Brett T. Palmer	Asst. Secy. - Legislative and Governmental Affairs	DOC	05/11/04	11/21/04	148
Vernon Bernard Parker	Asst. Secy. - Civil Rights	USDA	01/14/03	03/27/03	72
R. Hewitt Pate	Asst. Atty. General - Antitrust Division	DOJ	03/13/03	06/13/03	92
Pamela H. Patenaude	Asst. Secy. - Community Planning and Development	HUD	09/15/04	Returned 12/08/04	
Jerald S. Paul	Principal Dep. Admin. - NNSA	DOE	02/03/04	07/22/04	170
W. Robert Pearson	Dir. General - Foreign Service	DOS	09/15/03	10/03/03	18
Buddie J. Penn	Asst. Secy. - Navy - Installations and Environment	DOD	09/23/04	Returned 12/08/04	
Robert A. Pittman	Asst. Secy. - Human Resources and Administration	DVA	06/17/04	11/21/04	111
Howard Radzely	Solicitor	DOL	05/06/03	12/09/03	186
Teresa M. Ressel	Asst. Secy. - Management	TREA	04/02/03	08/01/03	121
Gerald Reynolds	Asst. Secy. - Civil Rights	ED	01/09/03	Returned 12/08/04	
Thomas J. Ridge	Secretary	DHS	01/07/03	01/22/03	15
James G. Roche	Secretary - Army	DOD	07/07/03	Withdrawn 04/08/04	
Brian C. Roseboro	Under Secy. - Domestic Finance	TREA	12/09/03	04/08/04	80
Jeffrey A. Rosen	General Counsel	DOT	10/03/03	12/09/03	67
William Sanchez	Special Counsel - Immigration-Related Unfair Employment Practices	DOJ	06/01/04	12/08/04	144
Annette Sandberg	Admin. - Federal Motor Carrier Safety Administration	DOT	03/24/03	07/31/03	129
Susan C. Schwab	Deputy Secretary	TREA	07/17/03	Withdrawn 12/09/03	
Susan K. Sclafani	Asst. Secy. - Vocational and Adult Education	ED	10/29/03	01/26/04	48
Jeffrey Shane	Associate Deputy Secretary	DOT	01/09/03	Withdrawn 02/11/03	
Jeffrey Shane	Under Secy. - Policy	DOT	02/11/03	03/19/03	36
John S. Shaw	Asst. Secy. - Environment, Safety, and Health	DOE	07/22/04	12/08/04	93
Dennis C. Shea	Asst. Secy. - Policy Development and Research	HUD	02/11/04	11/21/04	238
Dennis C. Shea	Asst. Secy. - Policy Development and Research	HUD		Recess appointment 05/28/04	
Dennis C. Shea	Asst. Secy. - Policy Development and Research	HUD	06/24/04	Returned 12/08/04	
Raymond Simon	Asst. Secy. - Elementary and Secondary Education	ED	09/22/03	01/26/04	85
Raymond Simon	Asst. Secy. - Elementary and Secondary Education	ED		Recess Appointment 12/23/03	
Raymond Simon	Asst. Secy. - Elementary and Secondary Education	ED	01/21/04	Returned 12/08/04	
John W. Snow	Secretary	TREA	01/13/03	01/30/03	17



Nominee	Position	Dept.	Nomina- tion date	Confirm- ation date	Days to confirm
Veronica V. Stidvent	Asst. Secy. - Policy	DOL	06/01/04	12/08/04	144
David M. Stone	Asst. Secy. - Transportation Security Administration	DHS	04/08/04	07/22/04	105
Diane M. Stuart	Dir. - Violence Against Women Office	DOJ	03/05/03	07/31/03	148
Robert A. Sturgell	Dep. Administrator - Federal Aviation Administration	DOT	01/15/03	03/19/03	63
Ross O. Swimmer	Special Trustee for American Indians	DOI	02/04/03	04/10/03	65
Karen P. Tandy	Administrator of Drug Enforcement	DOJ	06/02/03	07/31/03	59
Randall L. Tobias	Coordinator - U.S. Global AIDS	DOS	09/15/03	10/03/03	18
Margaret D. Tutwiler	Under Secy. - Public Diplomacy and Public Affairs	DOS	10/14/03	12/09/03	56
Kirk Van Tine	Deputy Secretary	DOT	09/18/03	Returned 12/09/03	
Kirk Van Tine	Deputy Secretary	DOT	01/26/04	Returned 12/08/04	
Kirk Van Tine	Deputy Secretary	DOT	Recess Appointment 05/28/04		
Kirk Van Tine	Deputy Secretary	DOT	06/24/04	Returned 12/08/04	
C. Stewart Verdery Jr.	Asst. Secy. - Border and Transportation Security Policy and Planning	DHS	04/10/03	06/19/03	70
Mark J. Warshawsky	Asst. Secy. - Economic Policy	TREA	11/25/03	03/12/04	67
Kerry N. Weems	Asst. Secy. - Budget, Technology, and Finance	HHS	07/22/03	Withdrawn 09/04/03	
Joe D. Whitley	General Counsel	DHS	04/28/03	07/31/03	94
John Paul Woodley Jr.	Asst. Secy. - Army - Civil Works	DOD	01/22/03	Returned 12/08/04	
John Paul Woodley Jr.	Asst. Secy. - Army - Civil Works	DOD	Recess Appointment 08/22/03		
John Paul Woodley Jr.	Asst. Secy. - Army - Civil Works	DOD	10/01/03	Returned 12/08/04	
Sue Ellen Wooldridge	Solicitor	DOI	02/02/04	11/21/04	247
Sue Ellen Wooldridge	Solicitor	DOI	Recess appointment 05/28/04		
Sue Ellen Wooldridge	Solicitor	DOI	06/24/04	Returned 12/08/04	
Christopher A. Wray	Asst. Atty. General - Criminal Division	DOJ	06/09/03	09/11/03	63
Benjamin H. Wu	Asst. Secy. - Technology Policy	DOC	04/08/04	11/21/04	181
Michael W. Wynne	Under Secy. - Acquisition, Technology, and Logistics	DOD	09/03/03	Returned 12/08/04	
Jennifer Young	Asst. Secy. - Legislation	HHS	09/03/03	12/08/03	96
John J. Young Jr.	Principal Dep. Under Secy. - Acquisition, Technology, and Logistics	DOD	01/23/04	Returned 12/08/04	
Juan C. Zarate	Asst. Secy. - Terrorist Financing	TREA	03/11/04	07/21/04	132
<b>Mean number of days to confirm <sup>a</sup></b>					<b>98</b>
<b>Median number of days to confirm <sup>a</sup></b>					<b>83</b>

## Appendix B. Appointment Action, 108<sup>th</sup> Congress

Department	Positions	Nominations	Individual Nominees †	Confirmations	Returned	Withdrawn	Recess Appointments	Mean days to confirm	Median days to confirm
Agriculture	16	3	3	2	1	0	0	70	70
Commerce	25	14	10	10	4	0	4	151	131
Defense	53	21	20	10	7	4	1	61	29
Education	18	12	8	7 *	5	0	4	125	125
Energy	21	8	7	7	1	0	1	133	93
Health and Human Services	19	6	6	3	2	1	0	99	96
Homeland Security	19	16	15	14	2	0	1	67	62
Housing and Urban Development	15	12	8	6	5	1	4	153	168
Interior	18	4	3	3	1	0	1	132	85
Justice	28	15	15	14	1	0	0	82	72
Labor	19	4	4	4	0	0	0	156	165
State	50	13	13	11	2	0	0	56	54
Transportation	20	13	10	8	4	1	2	84	70
Treasury	25	18	18	14	3	1	0	96	90
Veterans Affairs	14	7	7	7	0	0	0	111	92
<b>Total</b>	<b>360</b>	<b>166</b>	<b>147</b>	<b>120</b>	<b>38</b>	<b>8</b>	<b>18</b>	<b>98</b>	<b>83</b>

† This column counts Gordon England twice, because he was nominated to positions in DHS (Deputy Secretary) and DOD (Secretary of the Navy) during the 108<sup>th</sup> Congress. Likewise, Francis J. Harvey and Jeffrey Shane, each of whom was nominated to more than one position in a single department (DOD and DOT, respectively), are counted twice each for the figures in this column.

\* Includes two confirmations for Edward R. McPherson. See ED Appointment Action table for further information.

## Appendix C. Senate Recesses<sup>a</sup> for the 108<sup>th</sup> Congress

Date Recessed	Date Reconvened	Number of Days Recessed <sup>b</sup>	Number of recess appointments to departmental positions
The first session of 108 <sup>th</sup> Congress convened on 01/07/03.			
01/23/03	01/28/03	4	0
02/14/03	02/24/03	9	0
04/11/03	04/29/03	17	0
05/23/03	06/02/03	9	0
06/27/03	07/07/03	9	0
08/01/03	09/02/03	31	1
10/03/03	10/14/03	10	0
11/25/03	12/09/03	10	0
The Senate adjourned sine die on 12/09/03. The second session of 108 <sup>th</sup> Congress convened 01/20/04. The intersession (period between these two dates) was 41 days long.			3
02/12/04	02/23/04	10	0
03/12/04	03/22/04	9	0
04/08/04	04/19/04	10	3
05/21/04	06/01/04	10	5
06/09/04	06/14/04	4	0
06/25/04	07/06/04	10	2
07/22/04	09/07/04	46	4
10/11/04	12/07/04	35	0
11/24/04	12/07/04	12	0
The Senate adjourned sine die on 12/08/04. The first session of the 109 <sup>th</sup> Congress convened on 01/04/05. The intersession (period between these two dates) was 26 days long.			0

a. Includes all recesses of four days or longer as indicated in the Senate “Days-in-Session Calendars” website at [<http://thomas.loc.gov/home/ds/index.html#senate>], visited Nov. 15, 2006.

b. The entries for the number of days adjourned include all days between the day the Senate adjourned and the day it reconvened. They do not include the days of adjournment or reconvening because the Senate is able to act on nominations on these days.

## Appendix D. Abbreviations of Departments

DHS	Department of Homeland Security
DOC	Department of Commerce
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of the Interior
DOJ	Department of Justice
DOL	Department of Labor
DOS	Department of State
DOT	Department of Transportation
DVA	Department of Veterans Affairs
ED	Department of Education
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
TREA	Department of the Treasury
USDA	Department of Agriculture