

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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<https://oversight.house.gov>

February 28, 2025

The Honorable Sean Duffy
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Duffy:

The Committee on Oversight and Government Reform is investigating hiring-related personnel actions taken by the outgoing Biden-Harris Administration, especially those occurring after the November elections. We are concerned about job postings and hiring surges not based on actual agency mission needs, but based on political goals, including a desire to “Trump-proof” agency staffs by placing personnel opposed to President Donald Trump’s agenda. The Committee requests documents and information to facilitate our oversight of the Biden-Harris Administration’s apparent attempt to impede President Trump’s agenda.

We are particularly concerned about reported efforts to improperly embed Biden-Harris Administration political appointees into career civil service positions. For example, Ms. Elizabeth Peña, a political appointee in the Biden-Harris White House and Department of Labor (DOL) and a staffer on the Kamala Harris transition team, was just recently hired back by DOL as a non-political “term” position in the Bureau of International Labor Affairs that will carry over into the Trump Administration.¹ “Term” status enabled DOL to avoid the disclosure of a political appointee hired into a civil service job—a practice known as “burrowing in.”² The job Ms. Peña was recently hired for is not one that has historically been advertised as a “term” position.³ We believe this may not be the only instance in which the outgoing Administration has attempted to exploit loopholes in federal personnel law to embed partisans in civil service positions.

Non-career or political appointee positions in the executive branch may convert to career positions in the competitive service, the Senior Executive Service, or the excepted service.⁴ However, to ensure the process is competitive and free from political influence, these personnel actions must follow strict procedures codified in statute at 5 U.S.C. Part III⁵ and in federal

¹ Luke Rosiak, *EXCLUSIVE: Biden Admin Uses Loophole To Put Kamala Transition Aide In Trump Workforce*, THE DAILY WIRE (Jan. 15, 2025).

² BARBARA L. SCHWEMLE, CONG. RSCH. SERV., IF12720, POLITICAL-TO-CAREER CONVERSIONS (“BURROWING IN”) (2024).

³ Rosiak, *supra* note 1.

⁴ Schwemle, *supra* note 2.

⁵ 5 U.S.C. § 4508 (1994).

regulations at 5 C.F.R. Parts 4, 7, 300, and 317.⁶ These actions must adhere to merit principles⁷ and avoid prohibited personnel practices.⁸

A December 30, 2022, Office of Personnel Management (OPM) memorandum reminded agencies of the policies regarding burrowing in, including the types of appointments that are subject to OPM pre-appointment review and approval.⁹ On May 24, 2024, OPM issued an additional memorandum, covering the Presidential election period, further cautioning agencies to avoid burrowing.¹⁰ Despite these memoranda, we are concerned that the Biden-Harris Administration maneuvered to embed political appointees into positions in the competitive service.

To better understand the Biden-Harris Administration's actions to burrow in its own political appointees to thwart the prerogatives of the Trump Administration, we request the following documents and information as soon as possible but no later than March 14, 2025:

1. A list of all hires between January 1, 2024 through January 20, 2025, including name, position title, classification, position status (permanent career, term, temporary, etc.) and hiring authorities used.
2. A list of all civil service job postings between January 1, 2024 through January 20, 2025. For each, note whether the posting was taken down or not, the status of the candidate assessment process, and, if the position was filled, the name of the individual selected.
3. A list of all positions whose titles changed within the last calendar year, including the former and current title.
4. A list of all hiring actions between January 1, 2024 through January 20, 2025 that were made outside of the standard Title V competitive service hiring process, including those positions filled using excepted hiring authority or direct hire authority.
5. A list of any individuals who served as political appointees during the Biden-Harris Administration who are currently employed by the executive branch in any capacity.

To schedule the delivery of the responsive documents or if you have questions regarding this request, please contact the Committee on Oversight and Government Reform staff at (202) 225-5074.

⁶ 5 C.F.R. § 4.2, 7.1, 300.301, 317.501, 317.903

⁷ 5 U.S.C 2301

⁸ 5 U.S.C 2302

⁹ Memorandum from Mark W. Lambert, Assoc. Dir. of U.S. Off. Pers. Mgmt., to Chief Human Capital Officers (Dec. 30, 2022) available at <https://chcoc.gov/content/political-appointees-and-career-civil-service-positions-6>.

¹⁰ Memorandum from Mark W. Lambert & Veronica E. Hinton, Assoc. Dirs. of U.S. Off. Pers. Mgmt., to Heads of Departments and Agencies (May 24, 2024) available at <https://www.chcoc.gov/content/appointments-and-awards-during-2024-presidential-election-period>.

The Committee on Oversight and Government Reform is the principal oversight committee in the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style with a large, stylized "J" and "C".

James Comer
Chairman
Committee on Oversight and Government Reform

cc: The Honorable Gerald Connolly, Ranking Member
Committee on Oversight and Government Reform