

THE WHITE HOUSE

WASHINGTON

January 20, 2021

MEMORANDUM FOR TOM MURPHY

Director Northeast District, Veterans  
Benefits Administration

Pursuant to the Constitution and the laws of the United States, including section 3345(a) of title 5, United States Code, you are directed to perform the duties of the office of Under Secretary for Benefits of the Department of Veterans Affairs.

A handwritten signature in black ink, appearing to read "J. R. ...". The signature is written in a cursive style with a large initial "J" and "R". There is a small "x" mark to the left of the signature.

**Department of  
Veterans Affairs**

# Memorandum

**Date:** January 20, 2021

**From:** Acting Secretary (00)

**Subj:** Notification of Presidential Designation as Acting Under Secretary for Veterans Benefits Administration, Washington, DC (4322877)

**To:** Thomas Murphy, Director Northeast District, Veterans Benefits Administration (20)

1. This is to inform you that, effective January 20, 2021, the President designated you as the Acting Under Secretary for Veterans Benefits Administration.

2. The Under Secretary for Veterans Benefits Administration position requires Presidential appointment by and with the consent of the Senate (PAS). The position is covered by provisions of the Federal Vacancies Reform Act of 1998 (5 U.S.C. §§ 3345 - 3349d). The Act establishes the methods by which a PAS position may be temporarily filled on an acting basis. An Acting PAS may perform all the duties and exercise all the powers of the office and use the title of Acting PAS.

3. The President's signed designation is provided with this notification. By operation of the law, you may serve in an Acting capacity for a period of up to 300<sup>1</sup> days from the date of the inauguration (i.e., through November 16, 2021), unless an Under Secretary is appointed and confirmed, or another Acting Under Secretary is designated by the President. If before November 16, 2021, the President submits a nomination for the position of Under Secretary for Veterans Benefits Administration to the Senate, you may continue to serve in an Acting capacity until the Senate acts on the nomination.<sup>2</sup> If the nomination is subsequently withdrawn, rejected, or returned, a new 210-day period, during which an Acting officer may serve, starts. If no nomination is submitted before November 16, 2021, the Acting designation ends on November 16, 2021. If a new Under Secretary for Veterans Benefits Administration is appointed and confirmed during the 210-day period, your Acting designation ends upon that appointment.

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<sup>1</sup> In accordance with 5 U.S.C. §§ 3349a, because the vacancy exists on the date of the inauguration, the 210-day period is deemed to begin 90-days after the transitional inauguration day.

<sup>2</sup> Except, if you are nominated for the position, you will not be able to continue serving in an Acting capacity as long as the nomination is pending.

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4. If the statutory time limit expires and an Under Secretary for Veterans Benefits Administration has not been appointed, you or another official may be designated to perform all delegable duties performed by the Under Secretary for Benefits, except duties that, according to statute or regulation, must be performed only by the Under Secretary for Veterans Benefits Administration. During such a vacancy of the Under Secretary for Veterans Benefits Administration, in which an Acting officer is not designated, only the Secretary of Veterans Affairs may perform those non-delegable duties.

5. My team will keep you apprised as events occur that may impact your status as Acting Under Secretary. If you have questions about the Federal Vacancies Reform Act, please contact Mr. Aaron Robison, Office of General Counsel, at 916-843-7595.

A handwritten signature in black ink that reads "Dat Tran". The signature is written in a cursive, flowing style.

Dat P. Tran