



COMMISSIONER ELLEN L. WEINTRAUB
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 10, 2020

Emily W. Murphy
Administrator
General Services Administration
via email: emily.murphy@gsa.gov

Administrator Murphy,

I am deeply disturbed by your delay in issuing President-Elect Biden the ascertainment letter his team needs to begin its transition.

I write to you today in my individual capacity as a Commissioner at the Federal Election Commission, one of the federal agencies that participates in the presidential transition process. I am of course concerned that delay on your part will hinder the Commission's ability to fulfill its responsibilities to the incoming Administration.

But I am far more concerned with the larger issue here. The new Administration will take office at a time of grave public health and economic crisis for our country. As of yesterday, the pandemic has killed [more than 238,000 Americans](#) and is accelerating its rampage across America.

The Biden Administration needs to hit the ground running like few before it. The resources that GSA contributes to this process are essential to its success. Your delay is damaging the ability of President-Elect Biden to fully address the pandemic head-on when he takes office.

The basis of your delay is not clear. It is not the practice of GSA administrators to wait weeks until the states have released official results, nor until the Electoral College has met and voted. GSA administrators' consistent practice has been to begin working with the apparent successful candidates almost immediately.

There has been no doubt since Saturday that Joseph R. Biden, Jr. and Kamala D. Harris are the apparent successful candidates for the office of President and Vice President, respectively. The race was called in their favor on Saturday morning by the Associated Press and every other major news organization after those organizations calculated that it was mathematically impossible for lawsuits or the outstanding ballots to change the outcome.

As to the ascertainment you are required to make, there is no relevant difference between this election and the elections of 2008 and 2016, the last two times the presidency transitioned to a new officeholder.

Letter of FEC Commissioner Ellen L. Weintraub
to GSA Administrator Emily W. Murphy, Nov. 10, 2020

In all three cases (2008, 2016, 2020), the polls closed, enough votes were counted to mathematically determine the result, and the Associated Press and the other major news organizations projected the winner.

And in the previous two instances, GSA's Administrator acted swiftly. In 2008, Acting GSA Administrator James A. Williams provided President-Elect Obama's transition team with its ascertainment letter [one day after the election](#). In 2016, Donald Trump was deemed the apparent successful candidate for president on the basis of nothing more than the same conclusion the Associated Press and other major news organizations have reached as to President-Elect Biden.

Yet you have failed to ascertain that President-Elect Biden is the apparent winner of the presidential election. Why? If you are relying on criteria not used in previous elections to withhold your ascertainment, you owe the American people an immediate explanation of exactly what they are.

I am aware that several legal challenges are proceeding through the courts. They should not keep you from clearing the way for President-Elect Biden's transition to proceed. The Presidential Transition Act's use of the term "apparent" calls upon you to make your ascertainment with less than 100% certainty in the election results. The result of this presidential election is no less certain than it was in 2008 or 2016. Even if every lawsuit that has been filed this year were to succeed, they simply do not challenge enough ballots to affect the outcome of the presidential race.

Comparisons to the 2000 election are inapposite. James Baker, who led George W. Bush's legal and political team during the 2000 Florida recount, says there are "[huge differences](#)" between the two situations.

One thing that *is* different in this election – unprecedented in American history – is that the incumbent president has so far refused to concede the election he has apparently lost. This is irrelevant to your decision. When Mr. Trump objects to the election results, he does so as one of the candidates who participated in the election, not as the nation's Chief Executive, and not as your boss. His objections carry no official weight and they should not sway you from your duty under the law to immediately issue a letter of ascertainment to President-Elect Biden.

The next Administration faces a daunting job the moment it takes office. Every day, every hour that you stand in the way, you damage its chances of success. Your true bosses – the American people – desperately need you to get this presidential transition rolling immediately.

Sincerely,



Ellen L. Weintraub
Commissioner, Federal Election Commission

cc: Mary Gibert, Federal Transition Coordinator, mary.gibert@gsa.gov
presidentialtransition2020@gsa.gov