Staffing a New Administration:
A Guide to Personnel Appointments in a Presidential Transition

Prepared for Journalists by
The Presidential Appointee Initiative
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Purpose of the Guide

The transition to a new administration is as much of a challenge for journalists as it is for the president-elect and his team. When the new president takes office, thousands of people will join him to staff the senior positions in the executive branch of government. As former Secretary of State William Rogers once said, "Each appointment is a little drama of its own." So there are many stories to report.

But many journalists have never covered a presidential transition before, and no two transitions are the same. It's a challenge to know where the most interesting stories are likely to occur and often a bigger challenge to bring the necessary context and understanding to reporting those stories.

One of the goals of The Presidential Appointee Initiative is to ensure that Americans know who is being chosen to lead their government, how those choices are made and why some people were selected and others were not. Assisting journalists in their efforts to cover the new administration's staffing activities is one of the best means of accomplishing that goal.

There are important long-term questions here as well. Are the American people well-served by the contemporary appointments process? Does it ensure and abet a steady flow of the most talented and experienced citizens into government at the highest levels? Does it work with enough efficiency and rationality to permit the winner in the presidential election to impose his own sense of direction and policy priorities on the federal government and to do so without undue delay?

This paper is an effort to distill several decades of study and analysis into a concise package of factual and historical information about previous presidential transitions and to add some context for understanding the one that will begin in the fall of 2000. We hope this will help journalists to see the current transition, and especially its staffing activities, more clearly and to report its events fairly and accurately. That is the sole purpose of this paper.

The Presidential Appointee Initiative (PAI) is a project of the Brookings Institution funded by a grant from The Pew Charitable Trusts. PAI has three primary goals: (1) to serve as a nonpartisan, full-service resource for the next class of presidential appointees; (2) to seek pragmatic, fundamental reforms that will lead to a faster, more supportive and more efficient appointments process; and (3) to renew America's commitment to the ideal of public service. PAI is led by a distinguished advisory board, co-chaired by Franklin D. Raines, Chairman and CEO of Fannie Mae and former Director of the Office of Management and Budget, and former Senator Nancy Kassebaum Baker.

What is the Presidential Appointments Process?

When the 1960-61 transition occurred, there was really no presidential appointments process. There was certainly no set of standard procedures and institutions that framed the selection of leaders for the new administration. Since then, however, following a long period of evolution, an appointments process has emerged that has become quite standardized. Each new president may add a twist or two to what he inherits, but these usually are changes at the margin of a routine set of procedures that now survive from one administration to the next.

Perhaps the best way to describe the contemporary appointments process is to take a walk through it, the sort of path that a typical appointee will follow in the new administration. We should note before setting off, however, that there are two quite different phases in the staffing of a new administration.

One occurs between the election and inauguration of the new president and may spill over into the post-inauguration period. That phase is often marked by ambiguity, overlap and duplication of responsibilities, with great uncertainty about procedures for recruiting, vetting, selecting and approving nominees. It's a learning period for a new administration. Order is hard to impose before a president has taken office, and nowhere is that more apparent than in the vortex of activity surrounding the personnel selection process. On the one hand, the president-elect's aides are scouring the country for just the right people to serve in the new administration. But, on the other, they're fielding tens of thousands of unsolicited resumes and coping with hordes of aggressive job-seekers. E. Pendleton James, a veteran of the process in 1981, has described it as "trying to drink from a fire hydrant."

During the pre-inauguration period, most presidents-elect try to choose the members of the Cabinet and perhaps a few other nominees for prominent positions like ambassador to the U.N. or head of the Environmental Protection Agency. This is the most personalized and ad hoc phase of the personnel selection process, where the president is usually deeply involved and many of the people selected for high-level positions are well-known to him.[1]

But what happens before the inauguration bears little resemblance to what follows. Then the president's attention is pulled elsewhere and the routines set in. The second phase of staffing a new administration—the post-inauguration phase—begins to take on a life of its own as the president's personal involvement begins to diminish. An important reason for the change is the scope of the task. The president simply cannot commit much time to the selection of thousands of people who will fill positions in the new administration. Let's look at some of the data.

1 Stephen Hess, "First Impressions: Presidents, Appointments, and the Transition," The Presidential Appointee Initiative, September 18, 2000.

Presidential Appointments By the Numbers

What kinds of positions are these? Where are they located? How many are there? And has this number been consistent over time?

Let's start with the kinds of positions that presidents fill by appointment. The principal categories are:

- *Positions Subject to Presidential Appointment with Senate Confirmation*. These are often called PAS positions and include most of the highest ranking positions in the Cabinet departments and independent agencies, members of regulatory commissions, ambassadors, U.S. attorneys and U.S. marshals.
- *Positions Subject to Presidential Appointment without Senate Confirmation*. These are often called PA positions. They include many members of the White House staff.
- *Senior Executive Service General Positions Filled by Noncareer Appointment.* Under the law, 10 percent of the positions in the Senior Executive Service are set aside for appointment by the president. (The other 90 percent are covered by the civil service.) These appointments do not require Senate confirmation.
- *Schedule C Excepted Appointment.* These positions, usually called Schedule C's, are confidential or policy-determining positions ranging from chauffeur and personal secretary to important members of the staffs of senior officials in the executive branch. Schedule C appointments do not require Senate confirmation.

The 1996 edition of the Plum Book (formally called *United States Government Policy and Supporting Positions*) identified over 7,300 leadership and support positions in the executive branch, including hundreds requiring Senate confirmation, that can be filled by non-competitive appointment. The 2000 edition of the Plum Book will be published on or about election day by the Senate Committee on Governmental Affairs and will provide a detailed listing of these positions, their salaries and current incumbents.

Much worth noting is the growth that has occurred over the last 40 years in the number of senior positions filled by presidential appointments that require Senate confirmation. Table 1 indicates the steady and significant growth that occurred between 1960 and 1998. President Kennedy had to fill 196 of these Cabinet-department positions. The new president faces a much larger burden with nearly 800 positions to fill.

Table 1.

GROWTH IN TOP-LEVEL EXECUTIVE BRANCH POSITIONS, 1960-1998

Position	1961	1993	1998
Secretary	10	14	14
Deputy Secretary	6	20	23
Under Secretary	15	32	41
Assistant Secretary	87	225	212
Deputy Assistant Secretary	78	518	484
TOTAL	196	809	774

SOURCE: Paul C. Light, *The True Size of Government* (Washington: Brookings, 1999), pp. 170-72.

The Appointments Process in Operation

Selection of nominees after inauguration. The first stage in the process is the selection of an individual to fill a position in the executive branch. After successfully navigating this part of the process, the person will become the president's nominee for the position.

With few exceptions, the initial screening of potential nominees is done by the Office of Presidential Personnel (OPP) in the White House. OPP identifies positions to be filled, prepares job descriptions and other relevant information about the position and oversees the collection of names of candidates. Some of those names will come from personnel searches carried out by OPP staff, others from unsolicited resumes, still others from recommendations made by people in the administration, members of Congress and others in the Washington community.

Names from these sources are reviewed, and the list is shortened to a few for internal discussion. From those discussions, one name usually emerges as the top candidate. OPP then conducts a vetting process that includes checking references and verifying resume items. The candidate then runs through a series of political clearances that may vary slightly from position to position, but generally include White House officials, the Cabinet secretary, state and local party leaders, relevant interest groups and members of Congress most likely to be interested in the position.

If the vetting is successful, the candidate is subjected to further background checks by OPP staff, focusing principally on whether there is anything in the candidate's background that may prove to be damaging to the nomination or embarrassing to the president. In many cases, the OPP director interviews the candidate at this point to ask some of these questions and to judge the candidate's ability to handle penetrating personal and political questions.

Once OPP is satisfied that it has the right candidate for the job, a recommendation is sent to the president's chief of staff. If the chief of staff concurs, the recommendation then goes to the president. This part of the process has varied in recent administrations. Some presidents have received just one recommendation from OPP, others have received several names with a preference indicated but with opportunities to pass on the recommended candidate and select one of the alternates. Once the selection has been made, the process moves to its second stage.

Clearance. The management of the process now shifts to the Office of the Counsel to the President. The Counsel's office oversees a variety of formal clearances to ensure that candidates for appointments are free of legal or ethical entanglements or personal flaws that might undermine their nominations.

At the outset of a new administration, when many appointments are flowing through the pipeline, it's not uncommon for backlogs and delays to build up at this stage. Nominees can linger "in clearance" for a long time, often for many months.

The first step in the clearance process is the completion of what to many candidates seems a daunting array of forms and questionnaires. At a minimum these include:

- Acknowledgment and consent regarding intent to nominate or appoint
- White House Personal Data Statement Questionnaire
- SF-278: Executive Branch Personnel Public Financial Disclosure Report
- SF-86: Questionnaire for National Security Positions
- Supplement to SF-86
- Consent to have FBI conduct investigation
- Waiver for IRS to conduct tax check
- Disclosure and Authorization Pertaining to Consumer Reports Pursuant to the Fair Credit Reporting Act
- Fingerprint Approval Form

The information in these forms then becomes the basis for subsequent discussions to ensure that nominees meet all the legal and informal standards for presidential appointees. For example, if the public financial disclosure form, SF-278, indicates that a candidate holds a stock that may pose a potential conflict of interest, the candidate will have a discussion with staff of the Office of Government Ethics (OGE) and the ethics official from the department or agency to which he or she has been appointed. These discussions usually will lead to a cure for the potential conflict and will not derail the nomination.

The other principal element of the clearance process is the FBI full-field background investigation. The FBI investigation usually involves several dozen interviews by field agents with business associates, neighbors and others who know the candidate and can comment from personal knowledge on his or her fitness for public service. The FBI makes no judgment itself on fitness; it merely passes its findings from these interviews on to the Counsel's office for review. In contentious nominations, the FBI file may also later be reviewed by the chairman and ranking minority member of the confirmation committee in the Senate.

Once the clearance process has been completed, and no evidence has emerged to prevent the nomination from going forward, the White House Press Office makes a public announcement of the president's intent to nominate the candidate.

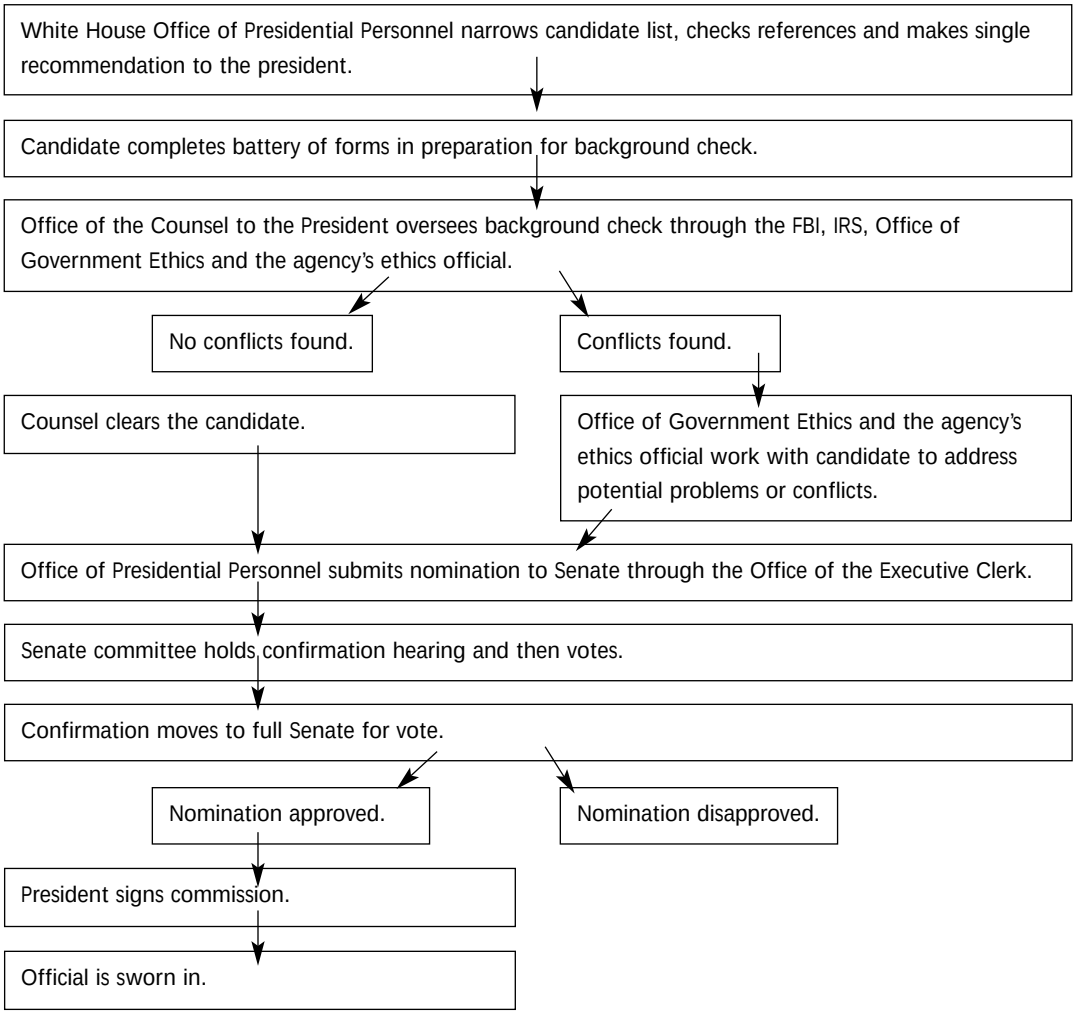
Senate confirmation. The formal nomination triggers the Senate confirmation process. In the Senate, the process is dominated by the committee that has jurisdiction over the nomination. Committees vary in their confirmation processes and in the nature of the additional forms and questionnaires they impose on nominees. But, in every case, a nominee will have to provide more information, much of it duplicating what was already provided in the White House vetting process.

Shortly after the formal nomination, the nominee will seek to make an appointment for informal conversations with the committee chair and often with other committee members as well. Typically, the Office of Presidential Personnel is out of the picture at this point and the confirmation is overseen by the department or agency in which the nominee will serve. But many nominees need more assistance than their department provides and seek out a "private sherpa." These are people, like Tom Korologos for Republicans and Michael Berman for Democrats, who've long volunteered to help Washington novices navigate the confirmation process: accompanying them on their calls to Senators, helping prepare them for confirmation hearings and warning them of potential pitfalls in the process.

The committee staff reviews the materials from the clearance process and puts together its own file on the nomination. Unless problems are detected, the completion of this activity usually leads to the scheduling of a confirmation hearing. If the staff finds reason for concern in its own analysis of the nominee, this may result in more interviews with the nominee, further investigation or a request for more information from the White House. Any of these can slow the confirmation of the nominee.

Until 1929, nearly all confirmation hearings were held in executive session and, until World War II, nominees rarely appeared at their confirmation hearings. Confirmation hearings today are always held in public, unless there is a matter that requires discussion in executive session—and that is very rare. Most hearings are friendly affairs, conversational in tone. They usually last no more than an hour. A few are more controversial and confrontational, carrying on for days and attracting significant coverage from the news media. These are the exception to the norm, but because of their visibility they've come to define confirmation hearings in the public mind. This definition—the confirmation hearing as horror show—gives pause to some candidates when they consider an appointment that has been offered to them by a president.

Figure 1.
Overview of the Presidential Appointments Process



After the hearing, the committee votes on the nomination and reports it out. A floor vote follows when it fits the Senate schedule. Many such votes are completed by unanimous consent. The number of recorded roll-call votes on nominations is relatively small. After approval by the full Senate, the appointee receives a commission and is sworn into office.

One potential monkey wrench in the confirmation process is the practice known as a Senate "hold." Any member of the Senate may place a hold on a nomination at any time by informing the Majority Leader of his or her desire to do so. Senators need not indicate the reasons for their holds, nor until recently was the existence of a hold even public information. In its traditional deference to individual members, the full Senate delays action on a nomination until the hold is lifted by the Senator who placed it. There have been times in recent years when several dozen holds were in place at one time. Senators now often use this device, not because of qualms about the fitness of the nominee placed on hold, but to hold the nomination hostage as part of an effort to get some agreement from the administration on some matter unrelated to the nomination.

Ethics Rules for Presidential Appointees

If this guide had been published in 1960, it would not have had much to say about ethics. It would have assumed that presidents would choose people who were honest and honorable and that politics and other natural forces would yield administrations full of appointees who had these qualities as well. But after the national catharsis with Watergate and other subsequent scandals, that assumption withered. In its place came repeated efforts to legislate into existence a framework of ethics regulations that would ensure a scandal-proof government.

It has not worked, of course. But the response to each new scandal—in the great American tradition of "there oughtta be a law"—has been renewed efforts to strengthen the regulatory framework. What does that mean now? It means that the people chosen by the president to staff the new administration must endure a gauntlet of clearances, investigations, interviews and questionnaires intended to ensure that they have never done anything that violates any of the new ethical standards or that would embarrass the president were their misdeeds to become known. Nothing has added more to the thickening and lengthening of the appointments process over the past two decades than the imposition of successive layers of ethics requirements.

In our earlier walk through the appointments process, we encountered the agencies and actors that implement these standards and conduct the clearances and investigations designed to ensure compliance. But what are the new rules?
Put simply, the core tenet of all of the current ethics regulations is that public officials should not use their public offices or authority to enrich themselves, their families or their friends. When a public official makes a decision or takes an action that affects a relative or potentially changes the value of an asset that she or a family member holds, that is a conflict of interest. It's a conflict between the official's responsibility to serve the public impartially and wisely and her personal interest in being better off financially. Modern ethics laws are designed to identify situations where a conflict of interest may exist, to prevent officials from confronting such situations and to provide a range a "cures" when potential conflicts do occur.

As defined by the Ethics in Government Act of 1978 and subsequent amendments and additions, the basic rules are these:[2]

Public disclosure of personal finances. At the time of appointment and annually thereafter, every presidential appointee must disclose the source and categories of value of all income, property investments and assets, compensation, positions held and liabilities. Disclosure must also be made for the appointee's spouse and dependent children.

2 The following material on ethics was prepared by G. Calvin Mackenzie and was earlier published in similar form in *Obstacle Course: The Report of the Twentieth Century Fund Task Force on the Presidential Appointment Process* (New York: The Twentieth Century Fund Press, 1996), pp. 79-82.

Supplementation of salary. No executive branch official may have his or her salary supplemented by non-government sources. Supplementation of salary is any cash, property or other gift of value intended to increase the compensation of federal employees, whether or not special favor is expected in return.

Self-dealing. No executive branch employee may engage in any government activity or decision in which he or she has a direct financial interest. Among the potential instruments for avoiding conflicts of interest are:

- *Divestiture:* Disposing of the asset that creates the potential conflict of interest, e.g., selling a stock.
- *Recusal/Disqualification:* Signing a formal agreement not to participate in any decision involving a company or other organization in which an official has a personal interest, e.g, recusal from participation in contract decisions involving a company in which an official holds stock.
- *Qualified blind trust or qualified diversified trust:* Establishing a trust to manage an official's assets while in public service. The trust is managed by a trustee and the official receives no information on any specific transactions made by the trustee.
- *Waivers:* A written agreement in which restrictions are waived and an official may act or decide in a matter in which he or she has a potential conflict of interest. This usually occurs only when the personal interest is so small or remote as to make it highly unlikely the official's public actions will be affected by it.

Acceptance of gifts, gratuities, entertainment and travel. As part of official duties, federal executives often meet with representatives of organizations that are regulated by or seek to do business with their agencies. Federal law strictly limits the ability of federal employees to accept items of value from such private sources.

Outside income and activities. Current regulations strictly limit the receipt of earned income from non-government sources by executive branch employees. Presidential appointees may accept no outside earned income, including honoraria.

Misuse of government property. Government employees may not use government property for private purposes or "for other than officially approved activities."

Misuse of government information. Information available to government officials should not be used for any private purpose or advantage.

Negotiating for future employment while in government service. Government employees should consider a potential future employer, with whom negotiations for employment are underway or anticipated, as a source of conflict of interest and withdraw from any government activity or decisions involving that potential future employer.

Restrictions on post-employment representation and service. Former government employees are strictly limited in representing private parties before their former agencies and in matters in which the former employee participated

personally and substantially while in government. There are several fundamental restrictions on post-government employment activities:

- A lifetime ban against acting as a representative on "particular matters" in which an individual "personally and substantially" participated as a government employee.
- A two-year ban on representing anyone on matters that were within the former employee's official responsibilities during the last year of service.
- A two-year ban on certain former "senior employees," prohibiting their representation "by personal presence" in particular matters in which they participated personally.
- A one-year ban on communications by former senior officials made with intent to influence their former agencies in any particular matter pending before that agency.
- A one-year ban on former Cabinet secretaries and very senior White House officials lobbying any other senior executive branch official on any subject.
- A one-year ban on all former presidential appointees from lobbying for a foreign government or foreign political party.

In addition to these statutory requirements, President Clinton issued Executive Order 12834 on January 20, 1993, which requires certain non-career senior appointees and trade negotiators to sign a pledge that establishes a contractual commitment limiting their lobbying activities for a period of five years after the termination of employment or after personal and substantial participation in a trade negotiation. They must also pledge never to engage in any lobbying activities on behalf of any foreign government or political party.

"Appearance" of impropriety or conflict of interest. Government employees shall endeavor to avoid any actions, such as those listed below, which create the appearance that they are violating the law or ethical standards. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

- Using public office for private gain
- Giving preferential treatment to any person
- Impeding government efficiency or economy
- Losing complete independence or impartiality
- Making a government decision outside of official channels
- Affecting adversely the confidence of the public in the integrity of the government

Most of these rules are designed to proscribe behavior after an appointee takes office. But much time is consumed during the transition in requiring nominees to fill out a broad array of forms and questionnaires in which they disclose the information about their personal finances that alerts the ethics regulators to potential problems and initiates negotiations to prevent the occurrence of conflicts of interest. The length of time actually consumed depends on the extent and diversity of a nominee's financial holdings and the degree of potential conflict they pose in the position under consideration.

Pace of the Transition

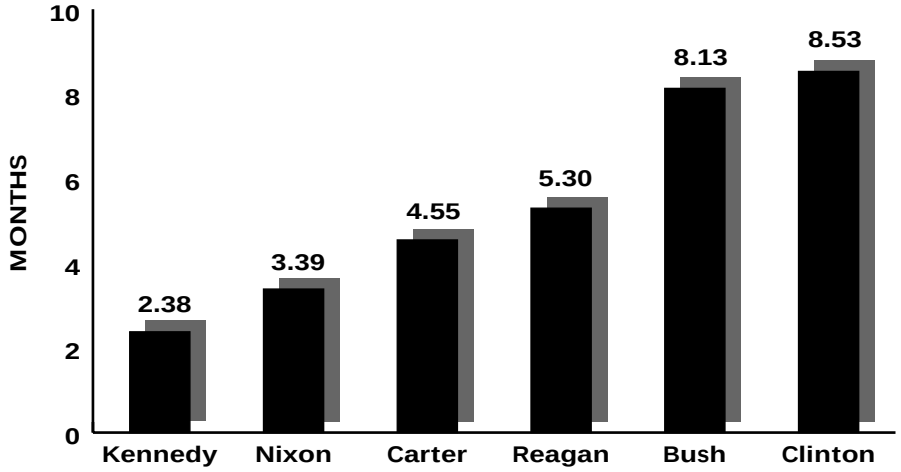
Every new president wants to hit the ground running, but none wants to run alone. Getting a senior executive team in place early in the new administration is often critical to a president's efforts to take advantage of the window of opportunity—what is sometimes called the "honeymoon"—that occurs at the outset of a new presidential term. Yet recent experience has been that presidents struggle for a year or more to get their appointees selected, vetted and investigated, and confirmed. One important measure of the success of the current transition will be the length of time it takes to get fully staffed.

For comparison purposes, we offer some summary data from previous transitions. In each case, we looked back at the end of the first year and calculated how long it took from inauguration day to Senate confirmation to fill each position in the new administration. Then we calculated an average of those individual cases for the entire administration. Note that these numbers actually understate how long it takes because we only examined those positions that had been filled by the end of the first year. Those that were still vacant—and there were a significant number of those in the Bush and Clinton transitions—were not included in the calculation.

Figure 2 summarizes the average length of time it took after inauguration day to get an appointee confirmed in the Kennedy, Nixon, Carter, Reagan, Bush and Clinton administrations.

Figure 2.

Average Number of Months from Inauguration to Confirmation for Initial PAS Appointees, by Administration



SOURCE: Calculated by G. Calvin Mackenzie from data in Congressional Quarterly *Almanacs* for 1961, 1969, 1977, 1981 and 1989. Data for Clinton administration is calculated from reports prepared by Rogelio Garcia, Specialist in American National Government, Government and Finance Division, Congressional Research Service. See "CRS Report to Congress: Presidential Appointments to Full-Time Positions in Executive Departments During the 103d Congress" (93-736 GOV, Revised December 29, 1993) and "CRS Report to Congress: Presidential Appointments to Full-Time Positions in Independent and Other Agencies, 103d Congress" (93-924 GOV, Revised December 30, 1993). Included in this calculation are PAS appointees in all of the Cabinet departments and most of the large independent agencies. Regulatory commissions are not included, nor are inspectors general, ambassadors, U.S. attorneys or U.S. marshals.

Evidence from surveys conducted by the National Academy of Public Administration in 1985 and The Presidential Appointee Initiative in 2000 indicates some other dimensions of the growing length of presidential transitions. Nearly a third (30%) of the appointees who served between 1984 and 1999 said the nomination and confirmation process took more than six months. By the same token, while almost half of the 1964-1984 cohort said the process took one to two months, only 15 percent of the 1984-1999 cohort could say the same. (See Table 2). The differences by recent administration are indicated in Table 3.

Table 2.

LENGTH OF APPOINTMENTS PROCESS AS REPORTED BY APPOINTEES

	1964 – 1984	1984 – 1999
1 or 2 months	48%	15%
3 or 4 months	34	26
5 or 6 months	11	26
More than 6 months	5	30
N	532	435

SOURCE: The Presidential Appointee Initiative, "The Merit and Reputation of an Administration: Presidential Appointees on the Appointments Process," April 28, 2000, p. 8.

Table 3.

LENGTH OF PROCESS BY ADMINISTRATION AS REPORTED BY APPOINTEES

	Total	Reagan	Bush	Clinton
1-2 months	15%	21	23	7
3 or 4 months	26	36	25	21
5 or 6 months	26	29	24	26
More than 6 months	30	11	25	44
N	435	107	127	201

SOURCE: The Presidential Appointee Initiative, "The Merit and Reputation of an Administration: Presidential Appointees on the Appointments Process," April 28, 2000, p. 8.

Although the delays have increased in each administration since 1960, the jump was particularly significant during the Bush and Clinton administrations.

As the presidential appointments process has become more difficult, it has come to favor nominees with Washington experience. Over half of the 1984-1999 (58%) appointees worked inside the Beltway at the time of their nominations, and over a third actually held another position in the federal government (35%). Others came from law firms (17%), businesses or corporations (18%), or educational institutions or research organizations (14%), while relatively few had positions in state or local government (8%) or in charitable or nonprofit organizations (4%).

Table 4.

WHERE APPOINTEES WORKED BEFORE ACCEPTING APPOINTMENTS

The federal government	35%
A business or corporation	18
A law firm	17
An educational institution or research organization	14
State or local government	8
A charitable or nonprofit organization	4
An interest group	1
A labor union	*
A public relations firm	*
Some other place	3
N	435

SOURCE: The Presidential Appointee Initiative, "The Merit and Reputation of an Administration: Presidential Appointees on the Appointments Process," April 28, 2000, p. 18.

In assessing the speed with which an administration gets its appointees chosen and confirmed, it's important to note that each new administration faces a different set of opportunities and constraints. Principal among these is the partisan make-up of the Senate. While a Senate controlled by the president's own party is no longer a lock-sure guarantee of swift and easy confirmations, presidents invariably encounter less resistance from a Senate controlled by their own party. Table 5 indicates the partisan situation that recent presidents confronted in Congress when they first came to office.

Table 5.

PARTISAN DIVISION OF CONGRESS AT THE OUTSET OF NEW ADMINISTRATIONS, 1953-1993

President	Year	Congress	Senate	House
Eisenhower (R)	1953	83	D-47	D-211
			R-48	R-221
Kennedy (D)	1961	87	D-65	D-263
			R-35	R-174
Nixon (R)	1969	91	D-57	D-245
			R-43	R-188
Carter (D)	1977	95	D-61	D-289
			R-38	R-146
Reagan (R)	1981	97	D-46	D-242
			R-53	R-192
Bush (R)	1989	101	D-55	D-258
			R-45	R-176
Clinton (D)	1993	103	D-56	D-258
			R-44	R-176

SOURCE: Calculated from Congressional Quarterly *Almanacs*, various volumes. Vacancies and seats held by independents are not included in partisan divisions of House and Senate.

Memory Refreshers

Recent transitions have all yielded some visible examples of appointments gone awry. Here we offer brief synopses of some of those. It's important to note, however, that these were exceptions. Most appointees—more than 90%, without exception—encounter little resistance or opposition once the president has chosen them. The appointments process has steadily lengthened and thickened; it's slower than it ever was, across the board. But most appointees slog through it without becoming household names and without encountering hostility or negative publicity. These are some, however, for whom the experience was not so pleasant.

1969: Walter Hickel

Richard Nixon nominated Walter Hickel, then Governor of Alaska, to serve as his first secretary of the Interior, following the traditional practice of choosing Interior secretaries from west of the Mississippi River. The nomination was announced on December 11, 1968. But Hickel immediately encountered opposition from environmentalists who thought him a pro-business governor indifferent to conservation. During five days of ferocious Senate hearings, Hickel repeatedly declared his devotion to conservation. The nomination was finally approved in time for Hickel to be sworn in with other new Cabinet members on January 23, 1969. The Senate vote on the nomination was 73-16.

1977: Theodore Sorensen

Jimmy Carter's nomination of Theodore Sorensen to head the CIA never made it to a Senate vote. Sorensen had been a long-term member of John F. Kennedy's Senate staff, then a top aide to Kennedy when he was president. In the time between his departure from the White House in early 1964 and this nomination, Sorensen had been an attorney in New York who dabbled from time to time in Democratic politics.

His nomination quickly drew fire from several quarters. Some, especially in the intelligence community, criticized his lack of credentials for managing the intelligence establishment. Other opponents questioned the propriety of having a CIA director who had been a conscientious objector during World War II, as Sorensen had. Then the Senate Intelligence Committee was told that Sorensen had taken classified information with him when he left the White House to use in writing his book about the Kennedy administration. Finally, it was noted that Sorensen's law firm represented foreign governments.

The piling on got too heavy for the nomination to survive, and on January 17th, before significant Senate action, Sorensen asked Carter to withdraw his name from consideration. The quick withdrawal under fire probably saved Carter some early embarrassment.

1981: Ray Donovan, F. Keith Adkinson, William M. Bell, C. Everett Koop, Ernest W. Lefever, Warren Richardson, John R. Van de Water

Ray Donovan was an executive in a New Jersey construction company when Ronald Reagan tapped him to be secretary of Labor in the weeks following his election. Shortly thereafter, an underworld informer accused Donovan of delivering money to a union courier in an effort to buy labor peace from the Teamsters. Donovan vigorously denied the allegation. The Senate Labor and Human Resources Committee delayed a confirmation hearing until the FBI could investigate the charges. No evidence was found to corroborate the charges and the hearings began. On January 29, 1981, the committee reported the nomination with five Democrats voting "present." On February 3, 1981, the Senate confirmed the nomination by a vote of 80-17.

F. Keith Adkinson was nominated to the Federal Trade Commission, but his nomination was later withdrawn by the president in the face of charges that he had lied to the Senate Commerce Committee about the details of a book and movie contract with a convicted felon and used his former position on the Senate Permanent Subcommittee on Investigations staff to further his own financial interests.

William M. Bell was nominated to head the Equal Employment Opportunity Commission. The nomination died at the end of the 1981 session. Bell, though black, was opposed by civil rights groups and had little successful experience in business and none in government. Support for his nomination evaporated and no vote ever took place in the Labor Committee.

C. Everett Koop, a prominent physician and national leader in the pro-life movement, was nominated to be Surgeon General. His nomination inspired opposition from liberals who feared he would use his government position to limit abortion rights. The nomination was also slowed by his age, 64, which exceeded the maximum age for a Surgeon General under the law. Koop was confirmed on November 16th by a vote of 68-24.

Ernest W. Lefever was nominated to be assistant secretary of State for human rights. He asked the president to withdraw his name from consideration after the Foreign Relations Committee voted 13-4 to reject him. Opponents questioned his commitment to human rights after he testified that he opposed cutting foreign aid to countries whose governments violate human rights. There were also questions about the relationship between the Ethics and Public Policy Center, which he headed, and the Nestlé Corporation.

Warren Richardson, nominated to be assistant secretary of Health and Human Services, withdrew in the face of charges that he was anti-Semitic. He had served as general counsel of the Liberty Lobby.

John R. Van de Water was nominated to head the National Labor Relations Board. The Labor Committee voted 8-8 to reject the nomination on the grounds that Van de Water was an anti-labor partisan who could not be an impartial judge in labor-management disputes. The nomination died there.

1989: John Tower

John Tower had served as a Republican Senator from Texas for 24 years before he retired in 1985. When George Bush nominated him to be Secretary of Defense in 1988, Tower had two powerful historical forces on his side. First, the Senate rarely failed to confirm Cabinet appointments—rejecting fewer than 10 in all of American history. Second, the Senate had always acted deferentially to its own present or former members when presidents nominated them to other positions in the federal government. Yet Tower's appointment became one of the bloodiest confirmation battles in Senate history.

During his years in the Senate, Tower's abrasive style, particularly during his tenure as chairman of the Armed Services Committee, had built resentments among many of his colleagues. This inspired an unusually vigorous investigation of a former colleague by the committee. His opponents were able to build a case, not against his competence or knowledge of defense issues, but against his character.

Rumors and accounts of Tower's legendary womanizing, his abuse of alcohol and his unusual financial dealings with defense contractors began to pile up. Every time Tower responded to one charge, another arose. Day after day, Tower sat before the committee and responded to the charges. Finally on February 23, 1989, the committee voted 11-9 along party lines to send the nomination to the full Senate with an unfavorable report. After a rancorous debate, the Senate killed the Tower nomination by a largely party-line vote of 47 to 53 on March 9, 1989.

1993: Zoë Baird, Lani Guinier, Morton Halperin and Roberta Achtenberg

No new president ever had a rougher go in the Senate than Bill Clinton did in trying to get his nominations confirmed in 1993. The first controversy occurred around the nomination of **Zoë Baird** to be attorney general. Baird was general counsel of Aetna Life and Casualty Company and had ample qualifications for any high-level legal job in the new administration. But she and her husband, a law professor, had hired an illegal alien to care for their child and then failed to pay the required Social Security taxes on her wages. A firestorm of criticism spread through the radio talk-show world, putting pressure on the Senate Judiciary Committee to question her closely on this issue. As it became more difficult to defend scofflaw activity by the person nominated to be the country's highest law enforcement officer, her nomination was withdrawn.

Morton Halperin's nomination on August 6, 1993, as assistant secretary of Defense for peacekeeping and democracy was opposed successfully by many in the national security community who argued that his views on a number of critical policy issues were in conflict with the standing national security policies of the United States. Halperin asked the president to withdraw his nomination after Senators criticized him for his past writings and statements on security policy and his nomination seemed unlikely to be confirmed.

Lani Guinier, a law professor nominated to be assistant attorney general for civil rights, quickly became a cause celebre in the Senate after her nomination on April 29, 1993. She was accused by opponents of wanting to undermine the Constitution with proposed schemes that would strengthen the impact of votes from minority groups. Some opponents labeled her the "Quota Queen." President Clinton, faced with a growing controversy, agreed to review some of her writings and, after so doing, withdrew the nomination on June 3, 1993.

Roberta Achtenberg of California was nominated to be assistant secretary for fair housing and equal opportunity at the Department of Housing and Urban Development. She had very little direct experience in housing matters and had been a prominent lesbian activist in California. Her opponents criticized her lack of experience, her lesbian lifestyle and her prior efforts, in their characterization, to advance a gay-lesbian agenda. Special criticism was directed at her legal attempts to deny funding to the Boy Scouts because of the organization's refusal to permit gays to hold leadership positions. She was confirmed on May 24, 1993, by a vote of 58-31.

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Appendix I
Compensation for Presidential Appointees

Most appointees are paid according to the Executive Schedule. Table 6 indicates rates of pay for each level at the beginning of 2000.

Table 6.
EXECUTIVE SCHEDULE COMPENSATION LEVELS, 2000

Executive Level	EL - 1	EL - 2	EL - 3	EL - 4	EL - 5
Salary	$157,000	$141,300	$130,200	$122,400	$114,500

SOURCE: U.S. Office of Personnel Management. Effective January 1, 2000.

A large sample of recent appointees from the Reagan, Bush and Clinton administrations were asked in a PAI survey how their salaries changed when they accepted a presidential appointment. Table 7 indicates their answers.

Table 7.
CHANGE IN SALARY ONCE APPOINTED, REPORTED BY APPOINTEES IN REAGAN, BUSH AND CLINTON ADMINISTRATIONS

A lot more	30%
Somewhat more	16
Roughly the same	25
Somewhat less	20
A lot less	6
N	435

SOURCE: The Presidential Appointee Initiative, "The Merit and Reputation of an Administration: Presidential Appointees on the Appointments Process," April 28, 2000, p. 6.

Those appointees who had lived outside of Washington before their appointments were asked how they found the Washington cost of living compared with their previous places of residence. Table 8 indicates their answers.

Table 8.

COST OF LIVING FOR NEW DISTRICT OF COLUMBIA RESIDENTS COMPARED WITH PREVIOUS PLACE OF RESIDENCE, REPORTED BY APPOINTEES IN REAGAN, BUSH AND CLINTON ADMINISTRATIONS

A lot more expensive	36%
Somewhat more	16
Equally expensive	25
Somewhat less	20
A lot less expensive	6
N	168

SOURCE: The Presidential Appointee Initiative, "The Merit and Reputation of an Administration: Presidential Appointees on the Appointments Process," April 28, 2000, p. 6.

Appendix II
Constitutional Language on the Appointment Power

The Constitution of the United States

Section. 2.
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.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Appendix III
Excerpts from Federalist 76, Which Focuses on the Appointment Power

The Federalist No. 76
ALEXANDER HAMILTON
April 1, 1788.

To the People of the State of New York:
THE President is "to NOMINATE, and, by and with the advice and consent of the Senate, to appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not otherwise provided for in the Constitution. But the Congress may by law vest the appointment of such inferior officers as they think proper, in the President alone, or in the courts of law, or in the heads of departments. The President shall have power to fill up ALL VACANCIES which may happen DURING THE RECESS OF THE SENATE, by granting commissions which shall EXPIRE at the end of their next session."

It has been observed in a former paper, that "the true test of a good government is its aptitude and tendency to produce a good administration." If the justness of this observation be admitted, the mode of appointing the officers of the United States contained in the foregoing clauses, must, when examined, be allowed to be entitled to particular commendation. It is not easy to conceive a plan better calculated than this to promote a judicious choice of men for filling the offices of the Union; and it will not need proof, that on this point must essentially depend the character of its administration.

It will be agreed on all hands, that the power of appointment, in ordinary cases, ought to be modified in one of three ways. It ought either to be vested in a single man, or in a SELECT assembly of a moderate number; or in a single man, with the concurrence of such an assembly. The exercise of it by the people at large will be readily admitted to be impracticable; as waiving every other consideration, it would leave them little time to do anything else. When, therefore, mention is made in the subsequent reasonings of an assembly or body of men, what is said must be understood to relate to a select body or assembly, of the description already given. The people collectively, from their number and from their dispersed situation, cannot be regulated in their movements by that systematic spirit of cabal and intrigue, which will be urged as the chief objections to reposing the power in question in a body of men.

Those who have themselves reflected upon the subject, or who have attended to the observations made in other parts of these papers, in relation to the appointment of the President, will, I presume, agree to the position, that there would always be great probability of having the place supplied by a man of abilities, at least respectable. Premising this, I proceed to lay it down as a rule, that one man of discernment is better fitted to analyze and estimate the peculiar qualities adapted to particular offices, than a body of men of equal or perhaps even of superior discernment.

The sole and undivided responsibility of one man will naturally beget a livelier sense of duty and a more exact regard to reputation. He will, on this account, feel himself under stronger obligations, and more interested to investigate with care the qualities requisite to the stations to be filled, and to prefer with impartiality the persons who may have the fairest pretensions to them. He will have FEWER personal attachments to gratify, than a body of men who may each be supposed to have an equal number; and will be so much the less liable to be misled by the sentiments of friendship and of affection. A single well-directed man, by a single understanding, cannot be distracted and warped by that diversity of views, feelings, and interests, which frequently distract and warp the resolutions of a collective body. There is nothing so apt to agitate the passions of mankind as personal considerations whether they relate to ourselves or to others, who are to be the objects of our choice or preference. Hence, in every exercise of the power of appointing to offices, by an assembly of men, we must expect to see a full display of all the private and party likings and dislikes, partialities and antipathies, attachments and animosities, which are felt by those who compose the assembly. The choice which may at any time happen to be made under such circumstances, will of course be the result either of a victory gained by one party over the other, or of a compromise between the parties. In either case, the intrinsic merit of the candidate will be too often out of sight. In the first, the qualifications best adapted to uniting the suffrages of the party, will be more considered than those which fit the person for the station. In the last, the coalition will commonly turn upon some interested equivalent: "Give us the man we wish for this office, and you shall have the one you wish for that." This will be the usual condition of the bargain. And it will rarely happen that the advancement of the public service will be the primary object either of party victories or of party negotiations.

The truth of the principles here advanced seems to have been felt by the most intelligent of those who have found fault with the provision made, in this respect, by the convention. They contend that the President ought solely to have been authorized to make the appointments under the federal government. But it is easy to show, that every advantage to be expected from such an arrangement would, in substance, be derived from the power of NOMINATION, which is proposed to be conferred upon him; while several disadvantages which might attend the absolute power of appointment in the hands of that officer would be avoided. In the act of nomination, his judgment alone would be exercised; and as it would be his sole duty to point out the man who, with the approbation of the Senate, should fill an office, his responsibility would be as complete as if he were to make the final appointment. There can, in this view, be no difference between nominating and appointing. The same motives which would influence a proper discharge of his duty in one case, would exist in the other. And as no man could be appointed but on his previous nomination, every man who might be appointed would be, in fact, his choice.

But might not his nomination be overruled? I grant it might, yet this could only be to make place for another nomination by himself. The person ultimately appointed must be the object of his preference, though perhaps not in the first degree. It is also not very probable that his nomination would often be overruled. The Senate could not be tempted, by the preference they might feel to another, to reject the one proposed; because they could not assure themselves, that the person they might wish would be brought forward by a second or by any subsequent nomination. They could not even be certain, that a future nomination would present a candidate in any degree more acceptable to them; and as their dissent might cast a kind of stigma upon the individual rejected, and might have the appearance of a reflection upon the judgment of the chief magistrate, it is not likely that their sanction would often be refused, where there were not special and strong reasons for the refusal.

To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. In addition to this, it would be an efficacious source of stability in the administration.

It will readily be comprehended, that a man who had himself the sole disposition of offices, would be governed much more by his private inclinations and interests, than when he was bound to submit the propriety of his choice to the discussion and determination of a different and independent body, and that body an entire branch of the legislature. The possibility of rejection would be a strong motive to care in proposing. The danger to his own reputation, and, in the case of an elective magistrate, to his political existence, from betraying a spirit of favoritism, or an unbecoming pursuit of popularity, to the observation of a body whose opinion would have great weight in forming that of the public, could not fail to operate as a barrier to the one and to the other. He would be both ashamed and afraid to bring forward, for the most distinguished or lucrative stations, candidates who had no other merit than that of coming from the same State to which he particularly belonged, or of being in some way or other personally allied to him, or of possessing the necessary insignificance and pliancy to render them the obsequious instruments of his pleasure.

To this reasoning it has been objected that the President, by the influence of the power of nomination, may secure the complaisance of the Senate to his views. This supposition of universal venality in human nature is little less an error in political reasoning, than the supposition of universal rectitude. The institution of delegated power implies, that there is a portion of virtue and honor among mankind, which may be a reasonable foundation of confidence; and experience justifies the theory. It has been found to exist in the most corrupt periods of the most corrupt governments. The venalty of the British House of Commons has been long a topic of accusation against that body, in the country to which they belong as well as in this; and it cannot be doubted that the charge is, to a considerable extent, well founded. But it is as little to be doubted, that there is always a large proportion of the body, which consists of independent and public-spirited men, who have an influential weight in the councils of the nation. Hence it is (the present reign not excepted) that the sense of that body is often seen to control the inclinations of the monarch, both with regard to men and to measures. Though it might therefore be allowable to suppose that the Executive might occasionally influence some individuals in the Senate, yet the supposition, that he could in general purchase the integrity of the whole body, would be forced and improbable. A man disposed to view human nature as it is, without either flattering its virtues or exaggerating its vices, will see sufficient ground of confidence in the probity of the Senate, to rest satisfied, not only that it will be impracticable to the Executive to corrupt or seduce a majority of its members, but that the necessity of its co-operation, in the business of appointments, will be a considerable and salutary restraint upon the conduct of that magistrate. Nor is the integrity of the Senate the only reliance. The Constitution has provided some important guards against the danger of executive influence upon the legislative body: it declares that “No senator or representative shall during the time FOR WHICH HE WAS ELECTED, be appointed to any civil office under the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person, holding any office under the United States, shall be a member of either house during his continuance in office.”