



MEMOS TO NATIONAL LEADERS

SUBJECT: STRENGTHENING ADMINISTRATIVE LEADERSHIP: FIXING THE APPOINTMENTS PROCESS

FROM: JAMES PFIFFNER, DWIGHT INK, DAVID LEWIS, and ANNE O'CONNELL

A President is elected every four years, but he or she does not run the government alone. Thousands of political appointees must be appointed to lead the departments and agencies of the executive branch. These appointments depend on an elaborate process of recruitment, confirmation, mastering their offices, and working with career executives to implement the President's priorities and execute the law. But the political appointee system that developed over the course of the 20th century is broken in several important ways.

According to Aspen Institute calculations, from 1984 to 1999 only 15% of the top appointees of the new President were in place within two months of inauguration. In the Clinton, Bush, and Obama administrations, about 50% of the top 75 national security appointments remained vacant on May 1 and 85% of the top sub-cabinet positions in legislative, legal, management, and budget officials remained empty. After one full year in office, President Obama had filled only 64.4% of the key Senate confirmed positions in the executive branch according to the *Washington Post* Headcount website. This is compared to 86.4% for Reagan, 80.1% for George H.W. Bush, 69.8% for Clinton, and 73.8% for George W. Bush.

Causes for these delay in nominations, include inadequate pre-election planning, inadequate human resources devoted to personnel, slow recruitment and vetting, multiple information forms to be filled out by candidates, and the flood of applications for jobs after each election. Once filled, these positions often became empty before the end of a President's term, leading to agency inaction, confusion of civil servants, and lack of accountability. In addition, the expanding role of political appointees, combined with their increasing numbers, has exacerbated the consequences of delayed confirmation and led to the underutilization of the career services, with serious program delivery consequences.

The memos below make a number of recommendations to alleviate the above problems. If the President and Congress put these recommendations in place, we will see significant improvements in the management of the government and the delivery of services to the American people.

The National Academy of Public Administration and the American Society for Public Administration are aware of other initiatives to improve executive leadership in the federal government, such as those of the Aspen Institute and the Partnership for Public Service, and we join them in calling for reforms in the Presidential appointments process and career leadership in the executive branch.

Memo #1: Recruiting Political Appointees (by James Pfiffner)

Abstract: *In order for the President to be able to fully implement his or her policy priorities and lead the nation, it is crucial to have the top levels of executive branch leadership in place. In recent administrations, delays have significantly slowed political appointments. For instance, in the Clinton, Bush, and Obama administrations, about 50% of the top 75 national security appointments remained vacant on May 1. To alleviate this problem, we recommend that Presidents establish priorities on positions to be filled quickly, especially those related national security. To do this, more resources should be allocated to the Office of Presidential Personnel, and the OPP should work closely with the Senate and vetting agencies to share information about nominees to expedite clearance processes. A reduction in the total number of political appointees would facilitate the political appointments process and improve the leadership of the executive branch.*

The United States needs to have a fully functioning government in place shortly after each new administration takes office. New Presidents often face unexpected crises without most of the leadership in the national security agencies, particularly the Departments of Defense and Homeland Security. Aside from national security, new Presidents need a fully functioning executive branch to pursue their policy objectives. The problem is that in recent administrations, Presidents and the Senate have not moved quickly enough to fill key positions.

Causes for the delay in nominations, include inadequate pre-election planning, inadequate human resources devoted to personnel, slow recruitment and vetting, multiple information forms to be filled out by candidates, and the flood of applications for jobs after each election. Admittedly, some delays in confirmation are due to political problems and Senate confirmation, but many are due to the inability of the transition personnel operation and the Office of Presidential Personnel to vet and prepare candidates for nomination. Presidential recruitment efforts need to be initiated earlier, the OPP needs more resources, and the administration need to get candidate backgrounds to the appropriate Senate committees earlier.

Scope of the Challenge

Each Presidential administration is faced with appointing about 3,000 people to help run the executive branch. In addition, there are about another 3,000 part time Presidential appointments as well as about 700 White House staff appointments. Of the 3,000 executives and commissioners, about 800 require Senate confirmation (not counting 2 to 3 hundred US attorneys, marshals, and ambassadors). In addition, there are about 800 non-career Senior Executive Service appointments and 1,500 Schedule C (GS 15 and below) appointments. SES and Schedule C appointments are technically made by department secretaries and agency heads, but in recent administrations, the OPP vets and designates these lower level appointments. Thus, each new incoming President must plan and gear up a process to recruit, vet, and nominate hundreds of people to lead the executive branch.

With the increasing number of appointees the Office of Presidential Personnel has difficulty matching individual policy background, managerial experience, and political skills necessary to lead organizations with thousands of employees and responsible for spending billions of dollars.

While seeking out potential appointees for these political positions is daunting, the responsibilities of the Office of Presidential Personnel are quite a bit broader. After each election the new administration is swamped with flood of eager office seekers. People who have worked on Presidential campaigns hope for and expect appointments in the government.

During the transition from President Reagan to President Bush 16,000 resumes were waiting to be vetted, and by the end of May more than 70,000 applications and recommendations had been received. During the Clinton transition the personnel operation had received 3,000 resumes by the end of their first week, and by February 1993 they were receiving 2,000 per day. According to Robert Nash, OPP director for President Clinton, the OPP computers contained 190,000 resumes in the last year of the administration. With the new technology of internet communications, it was reported that the Obama transition personnel operation received up to 300,000 applications, most of them online. Even though most of these applicants were not qualified for the positions available, it takes time for the personnel operation to separate the wheat from the chaff; the numbers are daunting.

Given the increasing numbers of political positions and the increasing scope of coverage of the OPP, it is not surprising that the pace of appointments has slowed considerably in the past four decades

Transition Personnel Teams and the Office of Presidential Personnel

In order to handle political appointments, Presidents have gradually increased the size of the Office of Presidential Personnel. President Nixon created the first systematic recruitment effort with about 35 people devoted to the task. As Presidential transitions became more organized Presidential nominees began to set aside resources for personnel planning several months before elections and even before formal nominations had been won. The incoming Reagan administration had about 100 people working on personnel by the time the election had been won. Despite this increase in resources, the time it takes to nominate and confirm the top tiers of the executive branch continues to increase. As a result, Presidents have gone well into their first terms before they have most of their leadership team in place in departments and agencies.

For instance, from 1964 to 1984, Presidents had about 48% of their top appointees in place within two months. But from 1984 to 1999 only 15% were in place. [source: Light and Thomas, Brookings, 2000] In the Clinton, Bush, and Obama administrations, about 50% of the top 75 national security appointments remained vacant on May 1 and 85% of the top sub-cabinet positions in legislative, legal, management, and budget officials remained empty [source: Aspen Institute]. After one year, President Obama had filled only 64.4% of the key Senate confirmed positions in the executive branch according to the *Washington Post* Headcount website. This is compared to 86.4% for Reagan, 80.1% for George H.W. Bush, 69.8% for Bill Clinton, and 73.8% for George W. Bush [source: Anne Joseph O'Connell, "Waiting for Leadership, 2010].

Of course, the routine functions of government continue to be carried out by the civil and military officials responsible for implementing policies that are in place. But they cannot represent a new administration, provide policy leadership, or make decisions about significant changes in policy. In addition, the increasing layers of political appointees means that there are fewer career executive who have the requisite experience to serve effectively at the highest levels of departments and agencies.

Given the lack of agency leadership in the early months of each new administration, it is imperative that the appointments process be reformed so that the President's team can take control of the government and implement the new administration's policy priorities

Thus we make the following recommendations:

For newly elected Presidents:

- Early planning is essential for an effective appointments process. Personnel planning should begin several months before the election so that it is ready to go immediately after the election.
- The President elect should designate the head of transition personnel planning to be the first director of the Office of Presidential Personnel. Top members of the personnel recruitment team should commit to stay in their jobs at least a year rather than taking other positions with the new administration.
- New Presidents should set priorities for nominations to top national security posts in DOD, DHS, State, Treasury and other positions in the areas of Presidential policy priorities.

For incumbent Presidents:

- The OPP should deliver background material to Senate staff of the appropriate committee as soon as the President nominates the person.
- Pursuant to the Working Group Report created by S. 679, a common on-line form for background information should be developed so that a nominee has to enter the information only once and the required information can be made separately available to the OPP, FBI, the Office of Government ethics, and the appropriate Senate committee.
- The Office of Presidential Personnel should be increased in size so that the resources are available to move quickly at the beginning of a new administration. Likewise, the FBI, OGE, and Senate should increase their staffs so that the vetting process and keep up with nominations.
- A separate confirmation unit should be established in the White House with members of the OPP, the counsel's office, and the Office of Congressional Liaison to assist nominees and shepherd them through the confirmation process.
- A reduction of the total number of political appointees would alleviate most of the problems noted in this report.

[Some of these recommendations echo recommendations of the Aspen Institute and the Partnership for Public Service.]

Memo #2: Interaction of Political and Career Leaders (by Dwight Ink)

Abstract: *Over the past several decades, the expanding role of political appointees, combined with their increasing numbers, has led to an underutilization of the career services. No matter how sound the policies or how skillful the political skills of a President, success will depend heavily on how well career executives implement his or her initiatives. The level of performance of these career leaders will depend on the extent to which department and agency heads understand their value and provide an environment that utilizes their potential contributions. An effective partnership between political and career leaders from the beginning of each new administration will do much to determine the success or failure of the President's agenda. The policy roles of the political appointees and operational roles of the career leaders need to be clarified. These two groups are interdependent. Therefore, they need to join in close cooperation without losing accountability for their roles. The ability of career leaders to perform at their potential will be enhanced by increasing their developmental opportunities and reducing the number of lower level political appointees.*

We hear a constant drumbeat about government being broken. It seems to be increasingly sluggish and expensive when measured against the growing complexity of the challenges it faces in a globalized, highly competitive world. We are exasperated with the political rancor in Washington that holds political points above national interests. Addressing this political gridlock is beyond the scope of this paper, but there is another little noted development that also has significantly reduced the capacity of government to meet its responsibilities.

The expanding role of political appointees, combined with their increasing numbers, has led to an underutilization of the career service, and too many cases of unsatisfactory political/career relationships, with serious program delivery consequences. It has created major political problems for Presidents. Several examples:

- Much negative publicity has been focused on the mismanagement of the Katrina recovery. Yet the media says nothing about the fact that there were career people who could have told them how to design and implement the recovery in ways that would have dramatically expedited the recovery and slashed its cost.
- We have been dismayed by the first abysmal efforts to help Iraq recover after our successful military operation. Yet there were career leaders available who could have explained how wrong these initial plans were and, drawing upon past experience, suggested far better approaches that were tailored to the culture and political realities of Iraq.
- Greater reliance on experienced career leadership would have prevented the mismanagement problems of the Minerals Management Agency that led to the mishandling of the BP drilling permit, resulting in the Gulf Oil Spill.

Over the years many of the largest Presidential initiatives for reform of government operations or for addressing urgent crises have shown the value of reliance on career leaders for their design and implementation. Bureau of the Budget career management staff helped Roosevelt organize, and later dismantle, his wartime agencies. It also designed the management of Truman's Marshall Plan and the

new LBJ departments. Career people designed and operated most of the massive interagency and intergovernmental reforms of Nixon. Carter's Civil Service Reform was designed by career task forces.

Today, career leaders rarely have the opportunity to make such contributions. Instead, these government operational leadership roles are given increasingly to the growing number of political appointees who are moving beyond policy into operational assignments formerly handled by career leaders.

Given the opportunity, their experience enables career leaders to assess organization and personnel capabilities better than political appointees, understand the level of acceptable risks more clearly, innovate quickly, and act more rapidly. And when career personnel are prohibited from recommending the award of grants and contracts, merit can be replaced with favoritism and corruption, increasing costs and often undermining public confidence in their government. Basic values of public service, such as equity, transparency, and accountability lose ground and government performance declines. The public deserves a highly trained professional career service to administer the laws impartially.

Underutilization of the career leadership is caused in part by a failure to grasp the enormous positive or negative impact political appointees can have on the capacity of their organizations to achieve their goals. Appointees who regard federal employees as overpaid bureaucrats who lack creativity and initiative, are not apt to enlist career leaders to help carry out new Presidential initiatives. More likely, they will strive to "control the bureaucrats" rather than empower them to act. Productivity, innovation, and initiative suffer. Other appointees simply feel they are too busy to think about steps that might enable their agency's workforce to perform at a higher level in advancing Presidential initiatives.

The most successful large government operations are usually those with strong political leaders who know how to motivate and utilize the career service in ways that employ partnership characteristics. James Webb's skill in getting the best from the NASA professional staff in going to the moon is a good example. So is the performance of James Witt in turning around the problem plagued FEMA through his skill in leading the career service to far greater levels of performance.

The interaction between political appointees and the career service is often discussed in the literature, but surprisingly little concrete action has been targeted toward its improvement. In fact, it is almost absent in the selection and confirmation of top leadership appointees, an incomprehensible failure in view of its importance. It is given only cursory attention in the orientation sessions for incoming cabinet members.

As the number of political appointees has grown, the roles of the lower level appointees and career leaders have become blurred and accountability has been weakened. In addition, the clarity of a Presidential message becomes diffused as it filters down to career leaders through increasing layers of political appointees, some of whom feel stronger loyalty to their political sponsor than to the President. Finally, the layering of political appointees also weakens the priority attention agencies give to public service values such as equity, transparency, and accountability. Most advanced countries limit the role of political appointees to policy rather than operational roles.

Recommendations:

1. **Presidential Commission.** A bipartisan commission should be appointed to review political appointee practices that contribute heavily to improved agency operations such as those that energize the career service, and those practices that impact operations negatively. It should review their political role only as it impacts agency operations, such as whether the increased number of appointees is resulting in career leaders being replaced by political appointees with less experience and knowledge of government operations as this author asserts. Steps to enhance working relationships between top political appointees and SES leaders should be included.
2. **Limit Political Appointments.** A limit on the number of political appointees should be established by Congress, especially for Schedule C appointments. The congressional limit on political appointments in the Senior Executive Service has little meaning if political appointees can be added through Schedule C appointments.
3. **Development Program.** To ensure development of career personnel capable of handling key operational roles, OPM should expedite a program to provide development opportunities for qualified career personnel from entry through the SES. Each deputy to a program assistant secretary or bureau chief should be drawn from the SES.
4. **Mobility.** The Partnership for Public Service has found that only 8% of SES executives have worked at more than one agency, and almost half have stayed in one position in their agencies. OMB and OPM should work together to facilitate greater mobility of senior executives among agencies. To ensure continuity, legislation is also recommended to mandate mobility opportunities for high performing personnel wishing to advance to top SES assignments, taking care to provide flexibility to adapt to agency needs and changing conditions.

Memo #3: Reducing the Number of Political Appointees (by David Lewis)

Abstract: *Presidents understandably want to fill political positions in the executive branch with those who have worked for them and who share their political and policy priorities. But with three to four thousand appointments to make, the quality of appointees, especially at lower levels, necessarily suffers. Political appointees at top policy-making positions are central to Presidential leadership, but the key program and agency management positions require experienced managers who know those programs well. Thus we recommend the reduction of the total number of political appointees in order to allow Presidents to focus on those most important to policy leadership. In addition, freeing up positions at the management level will improve career opportunities for the best career executives and encourage them to continue in the public service.*

The next President should reduce the number of appointees in the federal executive establishment. The number of appointed positions that currently exists is not the result of careful Presidential choice but the inheritance of past political choices and overwhelmed Presidential personnel operations. Judicious reductions in the number of appointees will improve government performance by increasing managerial capacity, decreasing harmful management turnover, and facilitating efforts to recruit and retain the best and brightest in government service.

Background

Upon assuming office the President must fill 3,000 to 4,000 positions in the federal executive establishment. Presidents fill these positions under time constraints and tremendous scrutiny from supporters, Congress, and the press.

Increases in appointees. Since the middle of the 20th Century, the number of appointed positions has almost doubled, both in total numbers and as a percentage of federal civilian employees. Presidents, with the cooperation of Congress, have increased the number of appointees. Some of the increase is the natural result of an increase in the number of federal programs and agencies. When Congress creates new programs or agencies, they create new Senate-confirmed positions to manage these endeavors. A significant source of the increase in appointees, however, is the desire of Presidents to secure more control of the policymaking process within federal agencies. Appointees are added to rein in agency activities or enforce new agency priorities.

Why new appointed positions persist. Once new positions are created, they often persist. Each new administration uses the previous administration's map of appointees as a starting point for their own staffing. New Presidents are reluctant to give up appointed positions because they hold out the promise of helping them secure control of agency policy making and also provide a means of satisfying the immense demand for jobs in the new administration. New administrations also do not have the time or capacity to review existing positions to determine where appointees are helpful and improve both responsiveness and management and where their elimination would cost nothing more than the loss of patronage possibilities. The result is an irregular but noticeable increase in the total number of appointees and a consequent reduction in the overall quality of executive branch management.

Appointees and Performance

Most existing research on appointees and management performance suggests that agencies function best when there is an appropriate mix of career professionals from inside the agency and political appointees drawn from outside the agency. Each type of manager brings unique perspectives and skills to the management team that, in the proper amounts, can lead to high agency performance. Scholars in the United States worry that increases in the number of appointees in the last 50 years have disrupted the mix of appointees and careerists in ways that have been harmful for performance. The increasing depth and penetration of appointees has both visible and hidden effects on agency performance.

Appointee vs. career executive management. Appointees play a vital role since they provide electoral accountability. The possibility of Presidential removal makes appointees more responsive than their careerist counterparts. Appointees' close connections to administration officials and partisans in Congress provide them a unique perspective on agency tasks and relationships that can facilitate the provision of budgets and necessary political support for agency programs. Appointees are more likely to see the world through the eyes of elected stakeholders like the President and can bring energy, responsiveness, and risk taking into agency decision making in a way that can improve performance.

Career executives inside agencies are more likely to have program and policy expertise derived from agency work experience and long tenures managing or helping manage federal programs. Careerists are more likely to have public management experience in the federal government and agency they work in. They have a better understanding of the rhythms of public sector work, informal networks, and the arcane realities of public agency management. Their long familiarity with the agency and its budgets and process helps them manage programs better and interface more effectively with outside stakeholders and inside partners.

If appointees assume the bulk of the key program and agency management positions in the federal executive establishment, agencies are increasingly characterized by lower levels of expertise and public management experience that can lead to poor management performance. This can be seen in dramatic cases such as the Federal Emergency Management Agency's response to Hurricane Katrina and Iraq Reconstruction.

Hidden Costs: Turnover and Vacancies. Even if appointees have the background and qualifications to manage federal programs well, their presence down at the program management level can be harmful to government performance. Once key management positions are filled by appointees, they stay that way in future administrations. This means management positions filled by appointees experience systematically higher rates of turnover on average than management positions filled by careerists. While the average CEO in the private sector stays five to seven years, the average tenure of an appointee varies by level but is usually about 2.5 years.

Regular turnover in management positions has corrosive effects on management performance. Two years is about long enough to start new initiatives and begin to see them implemented but not long enough to see them fully carried out. Appointees are and are perceived to be short timers. This can be

problematic for agency management since this myopic focus systematically reduces the incentive of agency managers to engage in long term planning.

Hidden Costs: Recruitment and Retention. Increasing numbers of appointees also damage agency efforts to recruit and retain the best talent in the civil service. If increasing numbers of the top agency jobs are filled by appointees, there are fewer jobs available to career professionals. This damages the ability of the agency to retain top career professionals or induce the best and brightest workers to come to the agency in the first place. In the current political environment, where elected officials criticize government workers and threaten to cut pay and benefits, it is already difficult to recruit and retain the best and the brightest workers. If appointees take the highest paying jobs and the jobs with the most prestige and influence, careers in government service become even less attractive for workers who have options in other sectors.

Smart Reductions

The next President should take action to reduce the number of political appointees. Many former Presidential personnel officials agree that the President does not need 3,000 to 4,000 positions to manage the executive branch. Of course, efforts to cut appointed positions must be done judiciously. Presidential administrations are naturally concerned that a reduction in appointees could influence their ability to control the executive branch and reward supporters with jobs. Yet, most experienced personnel officials believe that control can be accomplished with fewer appointees and that many politically appointed positions are at lower levels and provide only modest political benefit to the President.

Congress and the President should seriously consider making cuts in the following areas:

1. First, Presidents should aim to reduce the number of Senate-confirmed positions in management positions and part-time, commission, and advisory posts. Management positions are ideally suited for experienced persons concerned with long term planning and the agency's health. Presidents could fill these posts with career members of the Senior Executive Service whose long experience in the federal government would be valuable but over whom the President still retains substantial control. Cuts in part-time, commission, and advisory posts (which often require Senate confirmation) would not directly help performance in the larger agencies but cutting such positions would make the personnel task easier for the PPO and reduce the burden on the Senate to let both parties focus on the nominees for the key policymaking positions.
2. Second, efforts to cut appointees of all types should focus on the program or bureau level. The best empirical evidence suggests that career managers perform more effectively than political appointees at this level of management. David Lewis has compared PART scores (2004-08) of agencies headed by political appointees and career executives. He found that programs administered by career executives systematically performed better than those headed by political appointees. Placing career executives in program management roles will induce career executives to stay and build careers in the federal service without sacrificing political accountability. Presidential appointees at the head of agencies and bureaus will continue to oversee the careerist managers of federal programs.

3. Third, Schedule C positions should be reduced. Schedule C positions are for persons serving in policy and supporting positions but usually in a staff role. Persons appointed in these positions have little formal authority, but can accrue substantial informal authority. Some of the difficulties in the past administration with appointees stemmed from personnel in Schedule C positions. Comparable positions to those filled by appointees in Schedule C positions are filled by careerists in different agencies with little apparent sacrifice in responsiveness.

The President could pursue these changes through legislation or executive action. Eliminating Senate confirmed positions requires legislative action. Short of new legislation, the President may simply nominate career professionals to Senate-confirmed positions, reduce the number of non-career appointees to the Senior Executive Service, or refuse to create Schedule C positions (which must be created new each time an appointee departs).

We applaud the recently enacted Presidential Appointment and Efficiency and Streamlining Act of 2011 (S. 679) which reduces the number of positions requiring confirmation by 166. But more can and should be done. If the President and Congress continue on this path and put the above recommendations in place, we will see significant improvements in the management of the government and the delivery of services to the American people.

Memo #4: Decreasing Agency Vacancies (by Anne O’Connell)

***Summary:** In addition to delays at the beginning of new administrations, vacant positions continue to hinder effective policy leadership throughout Presidential administrations. In order to reduce these gaps in executive branch leadership, we recommend that Presidents require appointees to commit themselves to serve until the end of the President’s term. In addition, we encourage the Senate to establish fast-track procedures for the confirmation or rejection of Presidential nominations. Finally, systematic, institutionalized orientation sessions for new appointees would improve their performance and thus the length of their service.*

The modern federal bureaucracy shapes important public policy. To run effectively, that bureaucracy needs skilled and accountable leaders. In recent administrations, vacancies in key positions have contributed to agency inaction, confusion of civil servants, and lack of accountability. It generally has taken many months to get the first wave of Senate-confirmed appointees into place. Then, once filled, these positions often empty out before the end of a President’s term as appointees seek jobs in the private sector or move into other slots in the administration. And near the end of a two-term administration, the positions are open in large numbers again.

The cycle of agency vacancies depends on a combination of how long it takes to fill positions and how long officials stay once those positions are filled. On the former, the vacancy period runs from the departure of a preceding official to the starting date of a new formal appointee. Putting recess appointees and acting officials to the side, the vacancy period between traditional appointees has two major phases: the period between the departure of the former appointee and the President’s nomination of the new appointee—the “nomination lag” (addressed in a previous memo); and the period between the President’s nomination and the Senate’s confirmation of the appointee—the “confirmation lag.” In addition to reducing the time to fill senate confirmed positions, appointees need to serve for longer periods.

The Confirmation Lag

Presidents of both parties complain about the length of the confirmation process for their agency (and judicial) nominees. Although the nomination lag is longer than the confirmation lag, the latter is still substantial. It also appears to be increasing. In addition, expected hurdles in the confirmation process may slow Presidents in making nominations. Several issues likely contribute to the confirmation lag: holds by individual Senators, lack of deadlines, and increased challenges to the White House’s picks. Other factors, such as inconsistent and duplicative disclosure mandates to appointees, matter as well.

A hold, often secret, prevents the Senate from voting on a nominee unless 60 votes can be obtained for a cloture vote or until the hold is lifted. It therefore provides tremendous power to an individual senator and can prevent a nominee from being confirmed. Historically, the Senate has been deferential to the President’s choices for agency leaders. Recently, however, holds have become commonplace, even if there is no question about the competence of the particular nominee.

In early 2010, for instance, Senator Richard Shelby (R-AL) put a hold on dozens of nominations in the Defense and State Departments. According to his spokesman early on, Senator Shelby placed the hold on “several” nominees over the reopening of a particular contract that was going to be carried out in his state and over funding he wanted to construct a counterterrorism center also in his state. In the end, Senator Shelby admitted to placing holds on 47 nominees. Senator Shelby eventually lifted these holds, which were not connected to specific nominees. If senators have complaints about the administration’s policy judgments, they can take up those complaints most directly with the White House or less directly through committee hearings and the appropriations process, all of which are legitimate ways of expressing policy disagreements. Although they should be discouraged, holds involving concerns over an appointee’s qualifications or statements to the Senate may be appropriate in certain circumstances.

Even if there are no holds on particular nominees, the process can stall for a significant period. There are currently no deadlines on how long the relevant committee (or committees) can consider a nomination or on how long the Senate can consider a nomination after committee action. Many nominees, after languishing in the Senate, have been approved by votes far exceeding the sixty needed for cloture.

Both parties in the Senate are to blame, both when they are in the majority and in the minority. The majority party often has not made confirmation of agency leaders a sustained priority. The minority party has placed procedural obstacles in the confirmation process, knowing that they would only delay but not stop certain nominations from going through. The Senate could, for instance, require the relevant committees to vote on a nomination within a set period, such as two months from when the Senate receives the nomination. Ideally, but likely much less politically feasible, the Senate should also impose a deadline on itself, for a vote on a nomination, such as three months from receipt of the nomination. The Senate operates under deadlines in other contexts—fast-track repeal of major regulations under the Congressional Review Act, for instance. It could establish deadlines in this context as well.

With delays in confirmation, Presidents can resort to recess appointments. This route, however, is far from ideal, since the term of the appointee is limited, and separation of power issues may arise between the Senate and the President.

Appointee Tenure

Commentators also lament the short tenures of top agency officials. As one staff member from President Eisenhower’s administration quipped, agency leaders seem to stay for “a social season and a half and then leave.” In reality, tenure is longer, but not by much. In recent administrations, politically appointed officials stay an average of 2.5 years. Several issues encourage short service but two are noteworthy, the lack of express commitment to serving longer and inadequate training for the position.

Appointee commitments to serve out a Presidential term are not legally binding, but they discourage potential appointees from using government service as a quick stepping stone to more financially lucrative jobs in the private sector. Of course, the President could still ask any official serving at his pleasure to step down at any time.

Meaningful orientation and training can improve performance or at least help appointees manage expectations. New members of Congress have an intensive orientation at the Capitol; they can also attend a supplemental week-long training at Harvard University. Agency leaders generally have not had comparable opportunities, despite their similarly critical responsibilities. A 2008 survey of agency appointees by the IBM Center for the Business of Government and the National Academy of Public Administration found that 45 percent of respondents had no orientation and that 33 percent felt their orientation was only somewhat effective, not very effective, or poor. Most respondents wanted more training. Such programs have been used in the past, and the most effective practices should be systematically developed.

To improve the appointment process we make the following recommendations:

1. The Senate should limit or constrain the time of holds on agency nominations, especially if the hold is unrelated to the nominee.
2. The Senate should consider a fast track system for nominations to executive branch positions. This could be done by imposing deadlines on two stages of the confirmation process: how long the relevant committee or committees can consider but not vote on a nomination and how long the Senate can consider but not vote on a nomination.
3. The Senate should defer in most circumstances to the White House on agency nominations, unless there is a genuine concern about the individual nominated.
4. The President should require agency officials to commit to serve for a full Presidential term.
5. Systematic, institutionalized orientation and training sessions for new appointees should be instituted.

The recently enacted Presidential Appointment and Efficiency and Streamlining Act of 2011 (S. 679), in addition to reducing the number of Senate-confirmed positions by 166, also sets up a working group to formulate a plan to reduce paperwork, streamline background investigations, and speed the processing of background information on nominees. We applaud this step forward and hope their recommendations will be implemented.