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THE ASPEN INSTITUTE

## **Commission to Reform the Federal Appointments Process**

Governing the United States of America does not pause during presidential transitions. Pressing matters – such as the financial crisis, two wars and threats of terrorism during the Bush-Obama transition in 2009 – do not wait for a new president to put his or her leadership team into place throughout the government.

Yet it takes much too long for each new president to be able to fully grasp the reins of government. Only a small fraction of the presidential appointees they most need to run their departments and agencies are usually nominated and confirmed by May 1 – 100 days into a new administration

On average in recent administrations, only 35 percent of the 100 most needed leadership roles were filled by May 1. Yes, cabinet secretaries and heads of major agencies were usually nominated by the president and confirmed by the Senate within ten days of the Inauguration Day, but they had too few of the senior staff officials they needed to be able to most effectively lead their departments and agencies. And only 25 percent of the 35 or so most important appointees responsible for national security were on the job by May 1.

Even by the August congressional recess – about 200 days into a new administration – only 80 percent of the most needed agency management officials and 50 percent of the key national security officials were in place.

### **Why does this happen?**

The federal appointments process is dysfunctional. Presidential candidates devote too little attention to preparations for making key appointments in the event they win nomination by their party and the general election. The White House, the FBI, the Office of Government Ethics, and the Senate devote too few people and related resources to expeditiously carry out their responsibilities for vetting people selected for presidential appointments. The nominees themselves must navigate an archaic, unnecessarily burdensome and time-consuming background information process during their vetting and consideration for confirmation.

Yes, political disputes, differences of opinion about what kind of person is best qualified for each position, and unexpected issues and challenges confronting the president and the Senate can also delay the nomination and confirmation process. But too much of the delay is caused by systemic shortcomings that could and should be remedied, without playing politics or interfering with the prerogatives of the president or the Senate.

### **Why does it matter?**

Presidential appointees provide essential leadership and policy direction for the civil and military services that run the daily machinery of the federal government. Newly confirmed department secretaries and agency heads need their own management, budget, legal, legislative, and public communications officials to respond to emergencies, set new priorities, lead government employees, work with other agencies, Congress, state, local, and foreign governments, and to communicate with the American people.

As for the initial absence of key national security officials, the 9/11 commission warned in its report: “Since a catastrophic attack could occur with little or no notice, we should minimize as much as possible the disruption of national security policymaking during the change of administrations by accelerating the process for national security appointments.” Timothy Geithner, for example, initially lacked his equivalent of national security senior staff when he became Secretary of the Treasury in the midst of a financial crisis in January, 2009.

### **What needs to be done?**

The people filling the 100 to 50 most time-sensitive presidentially appointed positions should be nominated at the beginning of each term and confirmed by May 1, about 100 days after the president’s inauguration. Including those, the 400 most time-sensitive positions should be filled by the August congressional recess, about seven months into a new administration. New presidents will decide which positions are the most time-sensitive for their administrations, based on their priorities and the current challenges and opportunities awaiting them.

### **How should this be done?**

All viable presidential candidates should publicly commit to make it a priority to fill the positions by these deadlines. They should commit sufficient personnel and resources separate from their campaigns to begin substantial planning for a presidential transition and selection of appointees at least four months before the election. They should also refrain from accusing other candidates who take these steps of “measuring the drapes in the Oval Office.”

The president-elect should transform the personnel selection planning capacity created before the election into a sufficiently large presidential personnel office for the transition and at least the first half year in office – as much as double the capacity of recent new administrations – to meet the recommended deadlines for filling time-sensitive positions.

The sitting president, even when seeking re-election, should direct the FBI and the Office of Government Ethics to prepare sufficiently for the possibility of a new administration being elected by assembling the staff and resources necessary to investigate a larger volume of nominated presidential appointees more rapidly. Relevant congressional committees also should designate sufficient staff and resources to review more nominees more quickly for confirmation votes. These steps are vital to speeding up the process of nomination and confirmation without sacrificing thoroughness in the scrutiny of appointees.

The Obama administration also should develop and adopt, by June, 2012, the faster and less burdensome electronic background information gathering for appointees called

for in the Presidential Appointment and Efficiency and Streamlining Act of 2011. The current process, in which each appointee must fill out numerous, long, overlapping background data forms, should be replaced by a secure, computerized database, enabling nominees to supply all necessary information one way, one time, so vetting agencies and congressional committees can download what they need.

These reforms should help rather than hinder the White House and the executive branch in selecting and vetting the best candidates for presidentially appointed positions and the Senate in exercising its power to advise and consent on those appointments.

The news media and public interest groups should monitor progress on these reforms and keep score on how well each new administration is meeting presidential appointment and confirmation deadlines to which they had committed.

### **What has happened in the past?**

Over the past quarter century, the press, good government groups, and nine other special commissions have called for fixing the broken presidential appointments process by starting presidential transition and personnel planning earlier, speeding up background investigations and reducing the number of appointments requiring Senate confirmation. In response, Congress passed legislation in 2000, 2004, and 2010 encouraging earlier transition planning and expedited consideration of nominees for national security positions.

In 2008, both Barack Obama and John McCain began preparing for presidential transitions significantly earlier in their campaigns than any previous candidates. The Obama administration then was able to nominate and have confirmed more appointees in the first 100 days than any other President in recent times.

### **Much more needs to be done.**

The 20-member, bipartisan Aspen Institute-Rockefeller Foundation Commission to Reform the Federal Appointments Process has been actively working with representatives of the Senate, the White House, government agencies, and groups including the U. S. Chamber of Commerce, the U.S. Conference of Mayors, and the Partnership for Public Service to identify and expedite reforms.

Passage of the Presidential Appointment and Efficiency and Streamlining Act of 2011 by the House of Representatives, for example, would exempt from Senate confirmation 169 non-policymaking, non-senior presidentially appointed positions (management officers, public affairs officials, and members of various advisory commissions and boards) to begin unclogging the appointments pipeline. The Act also authorizes the development of an improved system for obtaining background information from presidential appointees.

*The commission will now work with supporting organizations to help:*

- Educate viable presidential candidates about why and how they should make earlier preparations with more personnel for making appointments faster if elected. The next president-elect should do everything possible to make nominations for the 100 to 150 most time-sensitive positions by March 15, 2013 and the rest of the 400 most time-sensitive positions by

June 15, 2013, to make it possible for them to be confirmed (or not) by the Senate by May 1 and the August congressional recess, respectively.

- Obtain commitments from all the viable candidates to do so and identify the necessary personnel and resources in their campaigns before next August.
- Develop and adopt by next June the electronic system for improved collection and distribution of background information from people being considered for presidential appointments and Senate confirmation.
- Work with the current administration, the FBI, the Office of Government Ethics, and Senate committee staffs to increase their capacity to vet those being considered for appointment and confirmation and significantly increase turnaround times.
- Obtain from the incumbent administration current, accurate job descriptions for each presidentially appointed position, including statutory and management responsibilities.
- Identify and provide funding where necessary.

#### **What would be the measure of success?**

The American people should consider the presidential appointment process to be reformed if all these benchmarks are met, and new presidents are more fully functional, with their teams in place, for closer to a full four years each term, rather than the little more than three years in recent experience.

*If you would like to contact the Commission to Reform the Federal Appointments Process, please do so by contacting us at 202.721.5581 or by emailing us at [CRFAP@aspeninstitute.org](mailto:CRFAP@aspeninstitute.org).*