



PARTNERSHIP FOR PUBLIC SERVICE

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Subcommittee on Government Operations**

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“The Elements of Presidential Transitions”

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Good morning, Chairman Connolly, Ranking Member Hice, and members of the subcommittee. Thank you for the opportunity to participate in today's important hearing on presidential transitions. I am Max Stier, President and CEO of the Partnership for Public Service, a nonpartisan nonprofit organization dedicated to making our federal government more efficient and effective. The Partnership's Center for Presidential Transition serves as the premier nonpartisan source of information and resources for presidential candidates and their teams to lay the groundwork for a new administration or for a president's second term.

Thank you for holding a hearing today on the challenging management task of transitioning the stewardship of the entire federal government from one U.S. president to another. Since passage of the Presidential Transition Act of 1963,¹ Congress has established and regularly updated a framework for presidential transitions that has served our country well. The changes to the Act have been made with the backdrop of the growing complexities that our nation faces, and the ever-increasing speed with which the U.S. government must act to address our most urgent problems. As amended over the years, the Act enables early transition planning by both presidential candidates and the incumbent administration. This hearing begins a process of examining how that process could be improved even further.

The importance of presidential transition planning

From the very first day in office, a new president must be ready to make countless domestic, economic and foreign policy decisions of great consequence, deal with unexpected crises and manage relations with Congress.² The chief executive must oversee an enterprise that spends \$4 trillion a year as well as a workforce of 2 million civilian employees and more than 2 million active-duty and military reserve members. A new president also typically fills more than 4,000 political jobs, including roughly 1,250 positions requiring Senate confirmation. Even in so-called "normal" times, preparing for these tasks is daunting. With the current health and economic crises facing the country, the need for a new president to be ready on day one is paramount.

It was once considered presumptuous for a newcomer to begin preparing to govern in advance of Election Day. But the stark reality is that the time between the election and the inauguration – roughly 75 days – is insufficient given the enormous scope of responsibility. That is why Congress has acted over the years to promote and enable planning well before Election Day.

The fact that President-Elect Joe Biden will assume office in the midst of the pandemic crisis is not without historical precedent. Presidents have been inaugurated during crises before. In 1861, President Abraham Lincoln took office after seven states seceded during the transition period. Another four would secede shortly thereafter. In 1933, Franklin Delano Roosevelt became president during the height of the Great Depression. In 2009, President Barack Obama took office during another perilous recession.

¹ 3 U.S.C. § 102 note.

² For detailed information on the entire transition process, see the Presidential Transition Guide (April 2020) and the Agency Transition Guide (June 2020) produced by the Partnership for Public Service's Center for Presidential Transition and the Boston Consulting Group. <https://presidentialtransition.org/publications/presidential-transition-guide/>
<https://presidentialtransition.org/publications/agency-transition-guide/>

Presidents also must be fully prepared to handle a major crisis at a moment's notice. President Donald Trump was confronted with an emergency response to three major hurricanes in 2017, as well as escalating tensions over the North Korean nuclear threat. The World Trade Center in New York was bombed in February 1993, about one month after President Bill Clinton was inaugurated. And of course, the Sept. 11, 2001, terrorist attacks occurred just eight months after President George W. Bush's inauguration.

Candidates cannot wait until after the election to begin thinking about how they will deal with such emergencies or the demanding day-to-day requirements of governing. This work must begin amid the presidential campaign so the new administration will be ready to govern on day one.

The challenges of presidential transition planning

One inescapable feature of presidential transitions is the calendar—there will be an election and there will be a finite amount of time in which to prepare for the move from campaigning to governing. Therefore, planning begins no later than spring of an election year—and sometimes sooner.

Preparing to take over the functions of government is immensely complicated and requires extensive preparation. Managed well, it can result in a new administration ready to take immediate control of the duties of the presidency. Managed poorly, it can lead to delays in staffing key positions, strategic errors in policy rollout and communication and, at worst, difficulty responding to pressing national security and domestic challenges.

Presidential transitions consist primarily of three groups: the transition team, federal career officials within agencies, and the incumbent presidential administration. Each group has its own responsibilities and timetable.

For the transition team itself, the work begins long before the November election – usually starting in early spring of a presidential election year. Candidates for the presidency, even during primary season, have begun to initiate transition planning so they can be ready. Serious contenders designate transition leaders, establish a clear set of priorities and develop a robust work plan covering policy, personnel, federal agency review and a host of other issues. The transition leadership must also develop a cooperative relationship with the campaign and raise sufficient resources. This work is generally done behind-the-scenes because campaigns want the public attention to remain on the election and the candidate.

By law, federal agencies must prepare for the possibility of a new president, and – if there is an incumbent running for re-election – the possibility of a second term. Each agency head must select a senior career official to lead transition planning no later than May of an election year.

The incumbent administration, whether or not the current president is running for a second term, also must prepare to share information and national security intelligence to a new administration.

The full presidential transition process consists of three main phases, covering roughly one year, from April or May of the election year through the inauguration and the new administration's first 200 days.

- **Pre-election planning phase:** Beginning in spring of the election year, a candidate for president will name a transition chair, assemble a transition team, set goals and deliverables, allocate resources for each core workstream, develop an overall project plan to guide the team through

the entire process. They also need to establish relationships with Congress, the current administration, the General Services Administration, the Office of Government Ethics, and the Federal Bureau of Investigation.

- **Post-election transition phase:** If the election produces an apparent winner – a much different standard than the outcome of the electoral college vote – the transition moves into another gear during the roughly 75-day period between the election and inauguration. The priorities are to identify key staff for the White House and agency leadership roles, deploy agency review teams to visit agencies, build a policy and management agenda, and communicate with foreign leaders and the American public.
- **Post-inauguration handover phase:** Following the inauguration and transfer of power to the next president, a new administration has a narrow window in which to achieve quick wins and build the momentum necessary to propel significant policy initiatives forward. The focus in this phase tends to be on identifying and vetting the right staff and appointees based on the president’s top priorities—a formidable task given that the new administration will fill roughly 4,000 political appointments, including about 1,250 that require Senate confirmation. The new political team should also be focused on building an effective relationship with the career workforce. Finally, the transition team will have to close down the transition operation and preserve important records for historical value and to aid future transition teams.³

During these various periods, transition teams generally focus on four key workstreams.

- **Operations:** set up and oversee team activities including office space, human resources, IT support, communications and work closely with GSA.
- **Appointments:** identify, select and vet candidates for presidential appointments and help guide them through the appointment process.
- **Agency review:** evaluate agencies, the state of their workforce, their most pressing issues and opportunities to implement the president-elect’s top priorities.
- **Policy:** translate the president-elect’s campaign promises into a comprehensive policy platform and implementation plan.

Laws governing transitions

Congress has passed several key laws establishing the requirements for stakeholders and determining support offered by the federal government. The primary law is the Presidential Transition Act of 1963, which Congress passed to promote the orderly transfer of power and establish a framework to prepare for a transition from one president to another. The act was created to encourage the executive branch and candidates to start planning earlier, to invest more resources and to do everything possible to be ready on day one.

With strong bipartisan support, the act has been amended over the years to recognize the increasing complexities of presidential transitions.⁴ The law requires GSA to provide office space and other core

³ The Partnership for Public Service’s Center for Presidential Transition has historical documents provided by past transition teams available at www.presidentialtransition.org.

⁴ The Act has been updated in the last two decades by the Presidential Transition Act of 2000 (P.L. 106-293), the Pre-Election Presidential Act of 2010 (P.L. 111-283), the Edward “Ted” Kaufman and Michael Leavitt Presidential Transitions Act of 2015 (P.L. 114-136), and the Presidential Transition Enhancement Act of 2019 (P.L. 116-121).

support services to presidents-elect and vice presidents-elect, as well as pre-election space and support to major candidates. The act also requires the White House and agencies to begin transition planning well before a presidential election, benefitting both first and second term administrations.⁵

Another key law is the Intelligence Reform and Terrorism Prevention Act of 2004,⁶ which allows each eligible candidate, before the election, to submit security clearance requests for prospective transition team members needing access to classified information.⁷ This legislation implements recommendations of the 9/11 Commission, which addressed the vulnerability of our nation during periods of transition.

Transition planning in 2020

GSA plays an essential role in transition planning by serving as a liaison between transition teams and the federal government. In 2020, GSA has prepared successfully for the possibility of a transition to a new president or a second term of the Trump administration.⁸ Led by Federal Transition Coordinator Mary Gibert, the GSA team has done exceptional work, and has been highly organized, professional and non-partisan.

By May, GSA ensured that each agency had designated a senior career official responsible for overseeing transition activities. Throughout the year, the Federal Transition Coordinator has convened the Agency Transition Directors Council (ATDC), which provides guidance on planning for federal agencies, and has participated in the White House Transition Coordinating Council, which is established by the President and provides guidance to the ATDC.⁹ GSA prepared office space in downtown Washington, D.C. for the Biden transition team, as required by law. Additionally, consistent with the statute, GSA ensured that by September 15 agencies had in place succession plans for senior non-career officials and by November 1 had prepared transition briefing materials. GSA's logistical support to an outgoing administration is also an important part of the transition process.

While almost all of this work goes on behind-the-scenes and with little fanfare, a new administration cannot be ready without such support. And while the COVID pandemic has forced changes in the way employees work, Ms. Gibert has stated the unusual situation has caused no delays and little impact on planning, if any.¹⁰ Much of the work can be performed remotely as the GSA and federal agencies have increased the use of videoconference platforms and made documents available in digital formats.

This year did experience one unnecessary pause in the transition when the ascertainment of the apparent winner of the election was delayed for nearly three weeks after the outcome of the election was sufficiently clear for an ascertainment to be made. For almost all other recent presidential transitions, GSA identified the winner immediately following the election. The only exception was in

⁵ See the Center for Presidential Transition summary of the Act, available at <https://presidentialtransition.org/publications/presidential-transition-act-summary/>

⁶P.L. 108-458.

⁷ P.L. 108-458.

⁸ See GSA 2020 Presidential Transition Activities 6 Month and 3 Month Reports to Congress, available at <https://www.gsa.gov/governmentwide-initiatives/presidential-transition-directory/congressional-reports>

⁹ General Services Administration, *2020 Presidential Transition Activities: Progress Report*, May 2020.

¹⁰ "Preparing the government for a presidential transition: An Interview with Mary Gibert of the GSA." Partnership for Public Service's Center for Presidential Transition. Transition Lab podcast, 10 Aug. 2020.

<https://presidentialtransition.org/blog/preparing-presidential-transition/>

2000 during the tight election between George W. Bush and Al Gore. That year, the GSA identified the winner on Dec. 13 immediately after the race had been called.

While this year's delay meant the Biden transition team had only 57 days to plan with official aid and access to the federal government, as opposed to the usual 75 days, the process has resumed and by all accounts is proceeding effectively – a testament to both the administration's transition planning throughout 2020 and the impressive planning by the Biden transition team. There will, of course, be some speed bumps, and with thousands of officials involved, some will be less than cooperative. However, our understanding is that the overall level of collaboration has been strong.

Transition delays can cause problems

Even though the current transition activities now appear to be on-schedule and the Biden transition team expects to be fully prepared to lead come Inauguration Day, delays can lead to problems that impact an incoming administration and the national security of the country.

The most relevant example of the consequences of a shortened transition is from 2000 when the Bush team could not start its formal transition planning until Dec. 13. That delay meant the Bush transition had only 37 days before inauguration. Even with an experienced team, that was a trying task for the president-elect and his staff.

Although the terrorist attacks of Sept. 11, 2001, did not occur until about eight months after Bush took office, the bipartisan 9/11 Commission determined the Bush administration did not have its full national security team in place for at least six months after it took office. "Since a catastrophic attack can occur with little or no notice as we experienced on 9/11, we concluded that the government must seek to minimize disruption of national security policymaking during the change of administrations," wrote co-chairs of the commission Governor Thomas Kean and Congressman Lee Hamilton.¹¹ The report read in part, "The dispute over the election and the 36-day delay cut in half the normal transition period. Given that a presidential election in the United States brings wholesale change in personnel, this loss of time hampered the new administration in identifying, recruiting, clearing, and obtaining Senate confirmation of key appointees."¹²

Further research by the Partnership's Center for Presidential Transition showed that the shortened transition in 2000 had an impact that lasted long into Bush's first term. Bush made the first announcement for nominee to a Senate-confirmed position on Dec. 16, 2000. At the equivalent time in 2008, Obama had announced 15 key officials, including seven Cabinet secretaries. At the 100-day mark, the Bush administration had half as many top appointees in place as Obama did eight years later with a full transition period.¹³

¹¹ Kean, Thomas and Hamilton, Lee. "The Impact of the 9/11 Commission on Current Presidential Transition Planning." Partnership for Public Service's Center for Presidential Transition, 11 Sept. 2020.

<https://presidentialtransition.org/blog/9-11-commission-on-transition-planning/>

¹² The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States, 22 July 2004. <https://www.govinfo.gov/app/details/GPO-911REPORT>

¹³ Condreay, Christina. "A Late Start to a Transition Can Delay Filling Key Leadership Positions Critical for the American People." Partnership for Public Service's Center for Presidential Transition, 17 Nov. 2020.

<https://presidentialtransition.org/wp-content/uploads/sites/6/2020/11/Late-Start-to-Transition.pdf>

The only way a new administration can have a full complement of officials in key leadership positions on day one is to begin background checks prior to the election. And since transition teams do not get financial and post-election logistical support from GSA until ascertainment – and cannot communicate with key agencies – any shortening of the usual 75-day period makes it more difficult for a new administration to be fully prepared to defend the country when the new president takes office.

Congressional Oversight of Transitions

While transitions involve extensive interaction between an outgoing and incoming administration, Congress plays an important role in funding the transition process, conducting oversight to ensure that milestones are met, and guarding against rushed activities by an outgoing administration that complicate the transition and intentionally or inadvertently bend rules. Traditional areas of concern during transition periods include “burrowing” (when a political appointee converts to a career position), “midnight regulations” issued in the waning days of an administration, and compliance by outgoing appointees with the Federal Records Act and the Presidential Records Act.

Examples of Congressional vigilance in these areas include amendments that were attached to the Edward “Ted” Kaufman and Michael Leavitt Presidential Transitions Improvement Act of 2015 to require OPM to report to Congress on its reviews of burrowing requests from agencies and to require the Government Accountability Office to conduct a review of midnight regulations issued at the end of recent administrations.

The Partnership believes the most urgent need for congressional action now is in blocking implementation of President Trump’s executive order creating a new Schedule F for classifying federal employees. This order directs agencies to begin a process of transferring career employees working in policy roles into the new Schedule F, removing them from longstanding protections against politically motivated personnel decisions. The executive order also opens the door to a wave of non-competitive hiring. Simply put, this order threatens the integrity of the professional, nonpartisan civil service that has been a hallmark of the American government since the late 1800s. And at a time when our government needs to be focused on the pandemic, the economic crisis and the presidential transition, hundreds of thousands of federal employees are now living under the threat of a purge. For example, it has been reported that the Director of the Office of Management and Budget has proposed reclassifying 88 percent of OMB’s career 425 employees, throwing into turmoil an agency that is not only at the center of COVID and economic relief (as well as the next federal budget) but is also deeply respected for its nonpartisan service to presidents of both parties.

No doubt, there is much about federal personnel management that needs to be modernized, as the Partnership has testified before this and other committees many times. The basic civil service framework dates back to laws passed in 1949 and 1978 – decades behind the workforce realities of today. The Schedule F order, drafted in secret without input from key stakeholders, only undermines the system and does nothing to improve it. The proper course of action would be for the new administration and Congress – working with key stakeholders – to begin an open process of discussion to craft legislative and regulatory updates that better enable the federal government to attract and retain top talent, recognize excellence and hold poor performers accountable. As a start, the 117th Congress should act swiftly to implement the National Commission on Military, National and Public Service’s

recommendations on the federal civil service,¹⁴ which are closely aligned with the Partnership's views and resulted from the Commission's two years of careful, nonpartisan and open deliberations.

Recommendations

As we have in the past, the Partnership will gather lessons learned from this transition to determine what went well and what needs to be improved. We are still midstream in the transition process, and many lessons are yet to come. Over the next several months, we will interview dozens of individuals involved with the transition and form recommendations that we will bring to you. Congress has improved the Presidential Transition Act five times since it was originally passed, and we thank the committee for its work in passing the Presidential Transition Enhancement Act early this year, which has made a positive difference for this year's transition. With each transition, we learn more about how the Act can be updated, improved and modernized even more.

In the meantime, here are ten other recommendations that Congress – and this subcommittee in particular – can take in making the 2020-2021 presidential transition, and future transitions, as smooth as possible:

1. Clarify the standard for ascertainment of the apparent winner of the presidential election.

The Partnership believes that the provisions of the Act relating to ascertainment are fairly straightforward and were inappropriately applied this year. Nevertheless, it would make sense to explore whether the statute could provide additional clarity to ensure that the country avoid the unnecessary controversy we experienced this year. GSA doesn't pick a president; it determines whether an outcome is sufficiently clear that should trigger the start of basic transition help for a candidate. The period in between election and inauguration is short, and every day matters for preparing to take office.

2. Provide earlier transition support.

Using the model of the Intelligence Reform and Terrorism Prevention Act of 2004, which allows the presidential candidates to request security clearances for prospective transition team members before the election, Congress can authorize other ways to provide transition support earlier in the election year. For example, Congress could consider authorizing and giving resources to the Office of Government Ethics begin pre-election ethics reviews for top prospective appointees and requiring early assistance from the Office of Personnel Management on human resource issues. Congress should also make clear that candidates, even in a disputed election, receive the full range of intelligence briefings and access.

¹⁴ <https://inspire2serve.gov/reports/final-report>

3. Prepare appointees and hold them accountable.

Congress can also ensure that onboarding and leadership development for appointees set them up for success in their federal roles. Leadership in government is grounded in a stewardship of the public trust and a commitment to public good. Each administration should instill these core foundational principles in each appointee. The Partnership has developed a Leadership Model that is a new standard for federal leadership.¹⁵

Also, many appointees come from outside government and would benefit from a better understanding of how government management and operations (for acquisition, information technology, financial management and human resources, for example) often differ significantly from outside government given the use of taxpayer dollars, laws that protect against political influence and the need for transparency and accountability. Onboarding should also include time for appointees to get to know the senior career executives of their agency, who are the bridge between the political leadership and the rest of the career workforce.

Congress should also ensure that political appointees have clear, transparent performance plans that include accountability not only for policy areas but also for stewardship of the management of their agencies. Congress enacted a requirement for such plans for appointees at the Department of Veterans Affairs, which could serve as a model for the rest of the government.¹⁶

4. Reduce the number of appointees and the number subject to confirmation.

The sheer number of appointees – over 4,000, with about 1,250 subject to Senate confirmation – makes it difficult for a new president to get a full team in place quickly. In the 112th Congress, the Obama administration and Congress worked together to identify positions that could be converted from Senate-confirmed status to presidential appointments not requiring confirmation. This effort resulted in the Presidential Appointment Efficiency and Streamlining Act of 2011,¹⁷ removing 163 positions from the confirmation process and creating a “privileged” Senate confirmation process for positions that traditionally have been filled without controversy. Congress and the Biden administration should engage in a new effort to decrease the number of confirmed positions as well as the overall number of appointees, and the Senate should revisit the privileged nomination process and find other ways to help make the confirmation process smoother.

Congress should also consider capping the number of Schedule C positions (political appointees in confidential or policy-making roles), in a similar way to the caps on non-career members of the Senior Executive Service. We note again that the recently signed executive order

¹⁵ <https://ourpublicservice.org/our-work/public-service-leadership-model/>

¹⁶ VA Choice & Quality Employment Act of 2017, P.L. 115-46.

¹⁷ P.L. 112-166.

establishing Schedule F would have the opposite effect, creating more positions subject to political considerations.

To help provide continuity of operations and a long-term vision for the federal government, Congress should consider converting political positions responsible for overall management and operations – for example, some of the C-suite positions – to career executive positions to be filled by individuals who are experts in their field, with fixed terms and performance contracts. Another approach would be to change the expectation that certain politically-appointed positions turn over with a change in administration. Sustained leadership and institutional knowledge in these positions would improve an agency’s ability to implement changes over time. A long-term position spanning administrations, whether by statute or expectation, could set the expectation that the officeholder is driving long-term management initiatives and should be insulated to some extent from political whirlwinds.

5. Update paperwork and security clearance processes for appointees.

The Presidential Appointment Efficiency and Streamlining Act established a working group which produced recommendations¹⁸ on reducing paperwork burdens for appointees and improve the efficiency of the background investigation process. The executive branch and Congress should revisit the recommendations of the working group, which remain largely unimplemented, and Congress should consider establishing a new working group to develop fresh recommendations. Additionally, while the reforms of the Intelligence Reform and Terrorism Prevention Act of 2004 have greatly assisted transitions, Congress should explore how better to enable full security clearance processes for designated appointees of a new administration, to be completed by Inauguration Day.

6. Block Schedule F and undertake civil service modernization.

For the reasons stated above, Congress should immediately block implementation of the Schedule F executive order, which threatens to disrupt the transition and inflict long-term damage on the merit-based civil service. Even if the President-elect rescinds the executive order creating Schedule F, it could take agency Chief Human Capital Officers weeks to unwind any dismissals of employees by the current administration under Schedule F and throw into question any hires made under Schedule F before Inauguration Day.

The new administration and Congress should turn their attention to modernizing the civil service framework. Toward that goal, Congress should work to restore the health of OPM. The agency recently has lost many career senior executives and is under budget pressures caused by the migration of the security clearance function to the Department of Defense. The nominee for

¹⁸ Working Group on Streamlining Paperwork for Executive Nominations, Streamlining Paperwork for Executive Nominations (Nov. 2012) and Streamlining Background Investigations for Executive Nominations (May 2013).

OPM Director should be someone with extensive government experience and deep expertise in federal personnel issues. Then, a revitalized OPM, in consultation with Congress and other stakeholders, should develop a proposal for a new, modernized personnel system for government that will appeal to today's top talent through a flattened hierarchy, team-oriented assignments, competitive salaries, opportunities for professional development, and enhanced workplace flexibilities like remote work. Again, we point to the recommendations of the National Commission on National, Military and Public Service as a starting point. The Partnership would be pleased to share or discuss specific proposals with the Subcommittee.

7. Create a modern Plum Book.

Congress should require an on-line, searchable, regularly updated listing of political and other senior positions in the federal government. Traditionally, this information is published only in a presidential year and is out of date by the time it is published. This every-four-year publication, which is known as the "Plum Book," is published very late in an election year – even after the presidential election – leaving presidential transition teams to plan appointments without an up-to-date directory of positions to be filled.

In addition to being a useful tool to transition teams and those seeking to serve in the executive branch, an on-line, real-time Plum Book would bring increased accountability to government by letting the American people know who is serving in policy and management roles. Both the Committee on Oversight and Reform and the Committee on Homeland Security and Governmental Affairs have advanced legislation to require OPM to create a modernized Plum Book data base.¹⁹ The Partnership urges Congress to pass this legislation and lay a foundation for continued reforms that will enable a real-time data base of political appointees.

8. Guard against improper burrowing.

Congress should strengthen and require transparency into OPM's reviews of political appointees who convert into career positions. While instances of burrowing are relatively rare, cases of improper burrowing erode the public's confidence that federal hiring is conducted without favoritism, cronyism or discrimination. Under OPM guidelines, agencies may not convert political appointees into permanent career positions without an OPM merit staffing review intended to ensure that agencies follow merit system principles in hiring and that the individuals are qualified for the positions to which they are converting.

The Edward "Ted" Kaufman and Michael Leavitt Presidential Transitions Improvement Act of 2015 requires OPM to report regularly to this committee and the Senate Committee on Homeland Security and Governmental Affairs (quarterly in a presidential election year; yearly in

¹⁹ The Periodically Listing Updates to Management Act of 2020, H.R. 7107, sponsored by Chairwoman Carolyn Maloney, and S. 3896, sponsored by Senator Tom Carper, 116th Congress.

other years). Congress should amend this law to provide that the reports be public, so that transparency helps drive accountability. In addition, Congress should consider putting the burrowing review process in statute and consider whether the review should be conducted somewhere other than OPM, for example by the Merit Systems Protection Board. Congress should also ensure that the process applies to conversions into temporary as well as permanent positions and ensure processes to detect burrowing that circumvents the required review process are effective.

9. Update the Federal Vacancies Reform Act

From the early days of the republic, Congress has protected the advice and consent role of the U.S. Senate by limiting the who may serve, and for how long, in the vacant position of a position subject to Senate confirmation pending a new nomination and confirmation process. Since passage of the latest iteration of these limits in 1998 under the Federal Vacancies Reform Act,²⁰ ambiguities in the FVRA and its unclear relation to other agency-specific statutes governing leadership succession have led to numerous instances of non-confirmed officials performing the functions of positions subject to Senate confirmation long after the FVRA time limits have expired.

Legislation introduced in the House this year would provide several straight-forward, common-sense improvements to the FVRA, such as clarifying that the FVRA applies when an official is fired, establishing timelines for the reporting of vacancies, and ensuring that vacancies in Inspectors General positions are filled in an acting capacity by officials from elsewhere in the IG community.²¹ The Partnership looks forward to engaging with the committee on other important issues, such as who qualifies as a “first assistant” under the FVRA, overturning the 2017 Supreme Court decision²² that upended interpretation by Presidents of both parties that individuals can serve in an acting capacity while also being nominated for the position, re-evaluating the practice of dual- or even triple-hatting officials so that they are performing more than one role in a Senate-confirmed position at the same time, and ensuring that designation of “first assistants” for purposes of the FVRA aligns with agency succession plans required by the Presidential Transition Enhancement Act of 2019.²³

10. Shape the next management agenda

The shaping of a President’s Management Agenda has become an important part of presidential transition. Across administrations of different parties, there has been much consistency in management goals, and each president has built on the strengths of the prior presidents’

²⁰ 5 U.S.C. §§ 3345-3349c.

²¹ H.R.6689, Accountability for Acting Officials Act, 116th Congress.

²² *National Labor Relations Board v. SW General, Inc.*, 137 S.Ct. 929 (2017).

²³ P.L. 116-121.

efforts. The President's Management Agenda also stems from Congress, which established the Deputy Director for Management position at the Office of Management and Budget, created C-suite executive positions across federal agencies, and enacted legislation like the Government Performance and Results Act, the Digital Accountability and Transparency (DATA) Act, the Federal Information Technology Reform Act (FITARA), the Modernizing Government Technology (MGT) Act, and many other laws meant to make the government more accountable and capable. The Committee on Oversight and Reform and the Subcommittee on Government Operations have a rich legacy of bipartisan leadership, legislation and oversight around government management, and the Partnership for Public Service stands ready to work with you as you carry on this tradition in the 117th Congress.

The Partnership recently launched the "Roadmap for Renewing Our Federal Government"²⁴ an initiative that aims to revitalize our nation's most important democratic institution. We offer a set of "early actions" as well as a "first 100 days checklist"²⁵ for the next administration to begin laying the groundwork for renewing the federal government. The recommendations focus on four key issues: leadership and stewardship, talent, innovation and technology modernization, and collaboration. The good news is that our government has been innovating in amazing ways in response to the pandemic and we encourage Congress to support agencies in the identification and harvesting of those innovations, so they become normal practice across the entire government. One of the most prominent examples of success is the way that government quickly pivoted and adapted to remote work. Agencies such as the Department of Veterans' Affairs and the Small Business Administration have also dramatically reduced their time to hire and talent across government has been onboarded remotely.²⁶

Conclusion

Thank you again for the opportunity to discuss presidential transitions and lay out the Partnership's recommendations to improve the process and strengthen our democracy in doing so. We look forward to working with you in the 117th Congress as you address these and other important issues through both oversight and legislation.

²⁴ <https://ourpublicservice.org/roadmap-for-renewal/>

²⁵ <https://ourpublicservice.org/publications/roadmap-for-renewing-our-federal-government-first-100-days-checklist/>

²⁶ For a discussion of effective strategies for surge hiring, see the Partnership for Public Service's report, Rapid Reinforcements: Strategies for Surge Hiring, available at <https://ourpublicservice.org/research/>