



PARTNERSHIP FOR PUBLIC SERVICE

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Prepared for

**The Senate Committee on Homeland Security and
Governmental Affairs
Subcommittee on the Oversight of Government Management,
the Federal Workforce and the District of Columbia**

**Hearing Entitled,
“After the Dust Settles: Examining Challenges and Lessons
Learned in Transitioning the Federal Government”**

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Chairman Akaka, Senator Voinovich, Members of the Subcommittee, thank you very much for the opportunity to appear before you today. I am Max Stier, President and CEO of the Partnership for Public Service, a nonpartisan, nonprofit organization dedicated to revitalizing the federal civil service and transforming the way government works. It has been a privilege to represent the Partnership before this Subcommittee on a number of occasions over the years. There are few places where one can find the bipartisanship and shared purpose that is evident on this Subcommittee, which has devoted itself for more than a decade now to improving the management of our workforce and our government. Chairman Akaka and Senator Voinovich, you have been a formidable team and as Senator Voinovich looks ahead to passing the baton, let me just say thank you, to both of you, for your truly outstanding work and for allowing the Partnership to contribute on so many occasions.

Having said that, it is clear to me and to everyone here that if anything, the Subcommittee's efforts to make government better are ramping up, not slowing down, so let me get right to the heart of today's hearing – the presidential transition process.

The Partnership has two principal areas of focus. First, we work to inspire new talent to join federal service. Second, we work with government leaders to help transform government so that the best and brightest will enter, stay and succeed in meeting the challenges of our nation. We know from our work that the leaders in government – including the politically appointed leaders in federal departments and agencies – are crucial drivers of employee engagement. So in 2007, the Partnership began to follow the next presidential campaign and transition to assess the preparation for a transfer of power and the ability of a new administration to install leaders and respond to urgent national challenges. We released our final report, *“Ready to Govern: Improving the Presidential Transition,”* one year after the inauguration and I am pleased to highlight many of our findings and recommendations for you today.

I. The 2008-2009 Presidential Transition

Although not without glitches, the 2008-2009 transition is widely regarded as one of the most successful in recent memory. The outgoing Bush administration and the incoming Obama administration each did a lot right, both before and after the election. President Bush set a tone of professionalism and cooperation when he committed his administration to doing everything possible to assist the next team, regardless of political affiliation. He recognized that in a post-9/11 world, the safe and seamless transition of power could not be left to chance.

Then-candidate Senator Obama also took a proactive approach to planning for the presidential transition. His pre-election transition effort was highly organized, well-financed and had a policy and personnel operation that carried over in the formal transition after his November 2008 electoral victory.

The central problem we face, as one former White House aide told us when we were working on the *Ready to Govern* report, is “how to make a transition not depend on

personalities and good will. It worked this time because you had two grown-ups.” We believe that Congress should take steps to modernize the way we transition between administrations and ensure that a smooth transfer of power is not left to chance.

A. Pre-Election Transition Planning

Creating an atmosphere that will result in a seamless transition must begin well before election day. In our *Ready to Govern* report, we detail many of the actions and activities that the campaigns and the Bush administration initiated to ensure that a new administration could assume office ready to lead. This pre-election phase of transition planning is often overlooked or derided as presumptuous, but it is necessary for an effective and successful transition. Even if conducted quietly behind the scenes, a campaign must appreciate the importance of pre-election planning as essential to the security and safety of the nation.

A candidate must take steps to identify key White House staff positions and the individuals who would fill those positions if the candidate is elected. They need to prepare lists of potential Cabinet nominees and other senior politically appointed leadership posts, and prioritize important issues that will need to be addressed early in a new administration. The campaign must also work with the General Services Administration (GSA) to plan for office space and other logistical and personnel requirements in the post-election period – a time when the formation of a new government must be put into high gear.

The Obama team took pre-election transition planning seriously, creating a highly structured, well-funded and well-managed transition. According to his aides, Obama felt strongly about the need to lay a firm foundation so that he would be prepared if elected. In the summer of 2008, his transition operation had a paid staff, dozens of volunteers and a budget funded from private donations that reached about \$400,000 during the pre-election period. The money was used to pay for office space, salaries, computers and software, travel, and telephones. By election day, they had identified about 300 top jobs and determined the order in which they wanted to fill them. The Obama aides we interviewed reported that a good deal of the transition’s organization had been laid out based on the experience of prior transitions or the transition plans of past major party candidates.

The White House must also play a role in the pre-election phase, even if the sitting president is seeking re-election. The White House must facilitate security clearances for key aides of a challenger, help agencies with coordination for a possible transition, and include funding in the president’s budget request for transition activities. An incumbent who is not seeking reelection can take additional steps to provide information and facilitate a smooth transfer of power.

President George W. Bush acted to prepare the agencies for the presidential transition – helping them focus and understand what actions and resources were needed. A cornerstone of the administration’s contact with the campaigns was what it called

“uniformity of access.” Seeking to avoid any charges of favoritism, all materials, meetings and guidance given to one transition team were simultaneously offered to the other.

The Bush administration issued a guidance memo in July 2008 directing the members of the President’s Management Council to identify the career officials responsible for assuming the positions of departing political appointees at each major bureau and office of their department or agency, and by fall to sign off on the individuals who would temporarily fill those jobs. The agencies were also directed to identify a career official to serve as their transition coordinator and as a liaison to the president-elect’s team. The agencies were also asked by November 1 to prepare a brief summary of their department’s organization, current missions and performance goals, and to identify and summarize their important policy, internal management, and legal and infrastructure issues.

The Bush administration offered to expedite security clearances for as many of each candidate’s advisers and transition aides as needed. The Obama campaign took advantage of this offer and obtained security clearances for well in excess of 100 people who would be dealing with national security, economic and other important issues.

President Bush created a White House Presidential Transition Coordinating Council by executive order in the fall of 2008 that included senior economic, national security and homeland security officials, representatives from the two presidential campaigns, and other experts. This important council met in the 2008 pre-election period and afterward to discuss pertinent issues and plan for a smooth transfer of power.

The administration for the first time ever also brought together a number of career agency transition coordinators in the fall of 2008, prior to the election, to discuss common issues they would need to confront during the post-election transition. These sessions were led by Gail Lovelace, GSA’s director for the presidential transition, and continued after the election. Although the sessions proved helpful, when we interviewed Gail Lovelace for our *Ready to Govern* report, she said agency coordinators should have been engaged much earlier and more should have been done to ensure they were making the necessary preparations.

B. From Election Day to the Inaugural

The period between election day and inauguration day is a short but extremely crucial period. When well-executed, this time of “formal” transition can enable a new administration to get off to a fast and productive start. Post-election transition operations must grow quickly, be highly organized and be able to communicate with the public, Congress, the outgoing administration and key allies.

In this period between early November and the inauguration, the president-elect must select key White House staff, Cabinet secretaries and numerous others to head independent agencies and other top positions. The personnel team must also begin

processing applications for other administration jobs and deploy information technology to help handle the task.

Cooperation with the White House at this time is crucial on a number of matters, including briefings on national security, economic and other issues that may be important at the time. President Bush continued to emphasize a spirit of cooperation in this post-election phase and directed his staff to help the next president and his team hit the ground running. The White House provided high-level briefings on a range of mission-critical issues, catalogued President Bush's commitments to foreign leaders and ensured the president-elect's team had access to – and cooperation from – federal agencies. The White House organized a national security crisis training drill that included key outgoing and incoming Cabinet and national security officials, and suggested that future transitions should include additional training exercises.

President-elect Obama's formal transition got off to a swift pace, building off the pre-election phase. One day after his election, he named the leaders of his transition team and appointed other close allies to handle key aspects of the transition, including vetting job candidates. That same week, he named a White House chief of staff and ramped up his transition staff.

The Obama transition staff was funded with about \$5.3 million in taxpayer funds. The president-elect also collected more than \$4 million in private donations to cover the additional costs of the transition.

The president-elect was determined not to delay in naming Cabinet nominees and White House staff, so most of his Cabinet nominees were chosen before Christmas and his top West Wing jobs were filled before the inauguration. His personnel operation was not without bumps along the road, however; the incoming administration encountered setbacks when select nominees withdrew or were delayed over ethical concerns, including pending investigations and delinquent tax payments. As a result, the already-extensive personnel vetting process tightened and prospective personnel were subject to unprecedented scrutiny of their personal, financial and professional backgrounds.

President-elect Obama and his national security and economic teams met regularly with their counterparts in the Bush administration during this period, so the incoming appointees had the benefit of working together with outgoing officials. Also at this time, the Obama review teams began their assessments of more than 100 federal departments and agencies to identify program and policy priorities, pour over budgets, identify potential minefields and prepare detailed briefing materials. There was a transition contact at every agency and, although tensions sometimes arose, a vast majority of the Obama review teams were able to complete their reviews successfully.

C. Inauguration Day and Beyond

A highlight of the period following the inauguration of the president is the nomination process. New administrations spend enormous energy to scrutinize, announce and then shepherd a long list of political appointees through the Senate confirmation process, a task that stretches through the first year of an administration and beyond.

The 2008 edition of the Plum Book (United States Government Policy and Supporting Positions) listed 1,141 Senate-confirmed positions, including Cabinet and sub-Cabinet positions, agency heads, U.S. attorneys, ambassadors, judges and members of various boards and commissions. A Washington Post tracking system lists 516 positions that it considers “top tier.”

It is somewhat surprising, given the high level of cooperation from the Bush administration and the commitment to preparation by the Obama transition team, that the Obama administration has fared no better than its recent predecessors in filling key posts in a timely manner.

Although President Obama got off to a fast start, six months into the administration, nominees had been confirmed for only 37.5% of those top tier positions. That number increased to 51.5% after nine months, and at the one year mark, 59.2% of positions were filled by appointees confirmed by the Senate. As of April 11th of this year, the Senate had confirmed 366 nominees, accounting for 70.1% of top tier positions, and the President had announced the nomination of (or intent to nominate) another 51.¹ Some key positions, including the Administrator for Medicare and Medicaid Services at HHS, remain vacant.

The initial hiccups in the personnel operation of the new administration were attributed in part to a lack of continuity in the operation of the presidential personnel office. The office had a change in leadership when the head of the office was appointed White House deputy chief of staff, and another change when his successor was named to an ambassadorship.

As some high-profile presidential appointees ran into difficulty in the Senate confirmation process, the already-stringent standards of the Obama personnel operation tightened further. Nominees were subject to detailed disclosure requirements, including examination of years of tax records. Some qualified individuals were discouraged from pursuing positions; others were disqualified or withdrew after long periods of inaction and uncertainty.

The vetting process is onerous and requires three lengthy questionnaires and detailed financial and tax information in addition to an FBI background check and additional Senate questionnaires and disclosure requirements on a wide range of issues. The

¹ washingtonpost.com/wp-srv/politics/fedpage/, Washington Post, Fed Page: *Head Count: Tracking Obama's Appointments* (April 13, 2010)

nominees are interviewed numerous times, including by Senate committee staff. Nominees at times are held up in committee for a variety of political and policy reasons, or because problems were encountered in their background investigations.

A number of government experts have argued that the disclosure requirements are unwieldy and that the sheer number of political appointees requiring Senate confirmation has grown too large. Even this Committee has sought to streamline the presidential appointments process. The process as it exists today results in difficulty persuading talented individuals to serve, delays in the nomination process that leave jobs vacant, and constraints on the ability of a new president to govern.

II. Improving the Process in 2012 and Beyond: Recommendations for Congress

Mr. Chairman, taking steps to improve presidential transitions more than two years before the next presidential election is not high on everyone's priority list, and this Subcommittee must be commended for holding today's hearing to surface longstanding issues and initiate changes that will contribute to smooth presidential transitions in future years. We are pleased to share our recommendations with you for your consideration.

A. Pass S. 3196, the Pre-election Presidential Transition Act of 2010

We enthusiastically support S. 3196, the Pre-election Presidential Transition Act of 2010, introduced by Senator Kaufman and cosponsored by Senators Voinovich, Akaka and Lieberman. This important legislation addresses a critical factor in the success of any transition – the need for candidates and outgoing administrations to plan ahead.

Too often, presidential candidates are derided as presumptuous if they prepare to assume the role of president prior to being elected – and as a result, most are reluctant to do much planning publicly until after the election. Rather than viewing candidates as presumptuous, we need to shift the mindset of the public and the candidates themselves so that advance planning is perceived as a prudent, responsible and necessary activity for anyone pursuing our nation's highest office.

The Pre-election Presidential Transition Act makes this possible by enabling qualified presidential candidates to access important transition resources. The bill directs the General Services Administration (GSA) to offer qualified candidates an array of services, including office space, communication services, briefings, training and initiation of security clearances for prospective personnel. The bill also allows candidates to establish a fund, separate from a campaign fund, to pay for transition-related expenses or to supplement the services provided through GSA. While eligible candidates are under no obligation to accept these services from GSA or to devote additional monies to transition activities, S. 3196 provides a powerful incentive for them to do so while providing the political cover that candidates need to plan ahead without appearing presumptuous.

Section 3 of S. 3196 encourages the outgoing administration to prepare for a transfer of power and to assist eligible candidates. Among other things, the bill authorizes the president to establish and operate a transition council in the White House, comprised of senior members of the administration and members of the president's cabinet, in order to plan and coordinate the information and assistance that will be provided to each eligible candidate. The bill also authorizes the establishment and operation of an agency transition directors council, which includes career employees designated to lead transition efforts in executive branch agencies.

Mr. Chairman, S. 3196 is an important piece of legislation and we are pleased to give it our full and enthusiastic support. We believe the legislation will do much to pave the way for smooth transitions in the future. We encourage the Subcommittee to consider whether the bill might be further strengthened by incentivizing or requiring an outgoing administration to establish the councils described in Section 3 of the bill. We also suggest that the report language to accompany this bill describe in some detail what is expected of the councils and the important function they can play in facilitating a seamless transfer of power between administrations. Finally, we encourage the Subcommittee to consider bill language directing an outgoing administration to name specific career employees to lead each agency's transition efforts well before a presidential election and to designate career employees to fill critical positions on an interim basis until the incoming administration's appointees are in place. These changes would ensure continuity in federal operations and ensure that no critical area is left without leadership during a transfer of power.

B. Improve the Confirmation Process

As members of this Subcommittee well know, the Senate confirmation process is much maligned – and with good reason. In our view, there are too many political appointees requiring Senate confirmation, too few resources available for vetting candidates, too much red tape for the nominees to wade through, and too little sense of urgency when a sense of urgency is exactly what we need. This is an extraordinary time in our nation's history on virtually every front – and the American people need all hands on deck. Unfortunately, that is not what they are getting, as the Obama administration has encountered the same hurdles that slowed its predecessors. One year into the administration, President Obama had only 59.2% of his top tier nominees named and confirmed; as of April 11th this year, that number had increased to only 70.1%. No administration can govern at its very best when it is missing senior members of its political leadership.

We encourage the Committee, and Congress, to evaluate the number of political appointees requiring Senate confirmation and consider whether Senate confirmation is necessary in all of those cases. We are well aware that this ground is well-trod by the Committee and that this would be an exceedingly difficult task, given the dynamics of the Senate, but we also believe that it is a recommendation worth making and would have a very significant impact on the pace of the presidential transition.

Improving the Senate confirmation process would be truly “game-changing” – that is, a paradigm shift with highly consequential results. We believe that Congress and the incoming administration should work together to ensure that the new president’s team is in place as soon as possible. The Senate and the president-elect should agree on a timetable that would enable the Senate to vote on the top 50 administration officials on or immediately after inauguration day, including all key posts within the Departments of Defense, Homeland Security, Justice, State and Treasury, provided those names were received by a date mutually agreed upon and no problems with the nominees surfaced. The Senate should strive to have 100 appointees confirmed within the first 100 days of the administration and close to all 516 key positions filled by the August recess. We encourage the Subcommittee to consider adding a “Sense of the Senate” to S. 3196 establishing a Senate-wide objective of expediting consideration of a new administration’s top nominees according to this timetable.

Meeting this ambitious goal would require high levels of cooperation among Senators and between the Senate and the incoming administration – but we believe it is achievable. One necessary precondition, however, is a streamlined process. Current ethics, financial disclosure and overall vetting processes place a significant burden on the system. We encourage the Subcommittee to task the Government Accountability Office with developing measurements that would allow a better understanding of the costs and benefits of the current processes with an eye toward improvements that would contribute to a better system for clearing and confirming political appointees. These improvements may include more vetting resources and personnel for the White House personnel office and the Office of Government Ethics during high-volume periods, streamlined questionnaires for nominees, and streamlined security clearances. We also suggest that the Office of Government Ethics be granted statutory authority to revise and update financial disclosure forms for the executive branch to address the changing nature of “conflict of interest” and other increased complexities in financial products and services.

Conclusion

The seamless transfer of power from one president to the next cannot depend on good luck. There are steps that can and must be taken to ensure that thorough planning for a new administration occurs on a routine basis. S. 3196, the Pre-Election Presidential Transition Act, is one of those steps and we thank the sponsor and cosponsors of this legislation for your leadership. We believe that passage of S. 3196, along with many of the other recommendations we have shared with you today, will ensure that future transitions are well-executed and a positive reflection on our government and our nation.

Thank you and I would be pleased to answer any questions.