

NAS Committee Urges a Streamlined Presidential S&T Appointment Process

The U.S. Committee on Science, Engineering, and Public Policy (COSEPUP) of the National Academy of Sciences (NAS) recommends that the Presidential administration and Congress improve the process by which Presidential appointments are made to science and technology (S&T) positions. This effort is needed, the committee states in a brief report, *Science and Technology in the National Interest: The Presidential Appointment Process*, because complexities and delays in the process that have developed over the years could "deter potential candidates from accepting Presidential appointments."

The committee found, both from interviewing other S&T appointees and from personal experiences (all 11 members were Presidential appointees in administrations going back to 1969, but the survey covers back to 1964), that the time to complete the appointee review process has lengthened to the point where it is unduly burdensome to the appointee. From 1964 to 1984, for example, almost 90% of Presidential appointments were completed within four months. From 1984 to 1999, however, only 45% of appointments were completed within that timeframe.

This delay is particularly puzzling in the case of S&T appointments, according to the committee, because "many scientists and engineers...already have high-level security clearances, which could be used to jump-start the more extensive clearances for...Presidential appointment[s]."

"We speculated about the evolution of the problem," said NAS committee member Martha Krebs, former assistant secretary of energy and former director of the Department of Energy's Office of Science, "but we couldn't come up with a consistent view." She said that committee members discovered that their personal experiences varied, with some encountering "long, intrusive, and frustrating" reviews from White House investigators, while others suffered similarly during the confirmation process. In general, however, "we came to view it as the product of divided government, with Congress imposing increasingly strict investigations of candidates, and the White House responding with more detailed reviews of its own," she said.

The committee, whose members were split more or less evenly between Democrat and Republican administrations, focused particular criticism on White House candidate tracking procedures, which "frequently fail to provide timely reports to candidates while they are making their way to nomination status."

The situation is serious enough to pose a threat to the workings of the government, according to the committee. The report states that new S&T appointees "need to be in office by late spring or early summer if they are to interact with Congress on the current budget submission, and to begin preparation for the next." To meet that deadline, the report continues, the President needs to submit nominees to the Senate "no later than April."

Krebs said, "These appointments are important to the business of government. Although none of us [on the committee] would have missed the opportunity to serve, new potential candidates might be so daunted by the process that they would decline such a request."

One main problem described in the report is that "financial and vocational obstacles" may discourage many qualified candidates from serving among some 80 senior scientists and engineers who will be nominated to S&T positions that have direct impact on federal research efforts. In materials-research-related areas, key appointees include the directors and deputy directors of the National Science Foundation, Defense Research and Engineering, National Institute of Standards and Technology, and the DOE's Office of Science.

Under current requirements, according to the committee, accepting a federal S&T position may require "severing all ties with employers; foregoing pension benefits; selling stock, options, or other financial interests in companies at unfavorable terms; and foregoing options that are not yet vested." The last item is "a particular problem for those in emerging fields," according to the committee's report.

One of the committee's specific suggestions include a *de minimus* rule, which would require a candidate to divest holdings of a company or organization that might create a conflict of interest only if those holdings represent more than a small percentage of a company or a small portion of the candidate's assets. Other relevant recommendations include loosening the rules concerning blind trusts, and allowing continued private health- and pension-plan coverage at the candidate's option. The committee also suggests "equitable treatment" of the unvested portion of stock options, so that candidates do not have to sacrifice future increased security, based on work done prior to their government service.

An additional problem involves the complex and subtle variations in pre-employment and post-employment restrictions among federal agencies and Congressional committees. Each agency or committee can impose its own supplemental

rules or specific interpretations of federal employment requirements. For example, according to Krebs, although a lot of financial disclosure information is duplicated in White House and Congressional paperwork, because the information is "phrased differently," it increases the workload on S&T candidates.

At the end of their terms of service, federal S&T appointees may face significant restrictions, including

- permanent bans from any attempts to influence the government on matters in which they participated,
- two-year prohibitions against communicating with the government on matters that were pending during service, and
- bans from communicating with one's former agency.

According to the committee, such restrictions "can curtail one's professional post-government options, especially in industry."

In order to improve this situation, the committee recommends that the Presidential administration take "basic steps to improve recruitment," such as ensuring that there is sufficient S&T expertise in the Office of Presidential Personnel. At the same time, the committee urges "academe, industry, and disciplinary societies [to] actively encourage midcareer scientists and engineers to take leadership positions in the federal government."

Furthermore, based on its yearlong investigation, and on discussions with members of the legal community, the committee concludes that changes cannot be made without the participation of Congress because many of the current restrictions are statutory, and therefore Congress must change existing laws to allow changes in candidate review procedures.

The committee advises that the Presidential administration and Congress establish a bipartisan framework, including participation by the Office of Government Ethics, "to identify actions that should be taken...to broaden and deepen the pool of qualified persons willing to consider Presidential appointments." Otherwise, the committee cautions, the supply of available candidates with outstanding credentials will continue to dwindle.

The committee also urges the White House to streamline the background-investigations process to incorporate the results of previous investigations and to improve its tracking system so that it can deliver "timely reports to candidates on the status of their appointment during stages in which it has control over the process."

The report can be accessed online: www4.nationalacademies.org/pd/cosepup.nsf.

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