

CRS Report for Congress

Congressional Budget Office: Appointment and Tenure of the Director and Deputy Director

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Congressional Budget Office: Appointment and Tenure of the Director and Deputy Director

Summary

The requirements regarding the appointment and tenure of the CBO director, which are simple and straightforward, are set forth in Section 201(a) of the 1974 Congressional Budget Act, as amended, and codified at 2 U.S.C. 601(a). The Speaker of the House of Representatives and the President pro tempore of the Senate jointly appoint the director after considering recommendations received from the House and Senate Budget Committees. The Budget Committee chairs inform the congressional leaders of their recommendations by letter. The appointment usually is announced in the *Congressional Record*.

Section 201(a) requires that the selection be made “without regard to political affiliation and solely on the basis of his fitness to perform his duties.” Media reports over the years indicate that the CBO director is selected under informal practices in which the House and Senate Budget Committees alternate in recommending a nominee to the Speaker and President pro tempore of the Senate. These reports also indicate that the Speaker and President pro tempore have adhered to the Budget Committees’ recommendations in making past selections. To the extent that these practices are informal, there may be disagreement with regard to their operation in the future selection of a CBO director.

The director is appointed to a four-year term that begins on January 3 of the year that precedes the year in which a presidential election is held. If a director is appointed to fill a vacancy prior to the expiration of a term, then that person serves only for the unexpired portion of that term. There is no limit on the number of times that a director may be reappointed to another term. Section 201(a) also authorizes a CBO director to continue to serve past the expiration of his term until a successor is appointed. A CBO director may be removed by either House by resolution.

Section 201(a) also provides that the director shall appoint a deputy director. The deputy director serves during the term of the director that appointed the deputy director (and until his or her successor is appointed), but may be removed by the director at any time. The deputy director serves as the acting director if the director resigns, is incapacitated, or is otherwise absent.

Seven persons have served as CBO director — Alice Rivlin, Rudolph Penner, Robert Reischauer, June O’Neill, Dan Crippen, Douglas Holtz-Eakin, and Peter R. Orszag. The most recent director, Peter R. Orszag, was appointed on January 18, 2007, and resigned on November 25, 2008. Eleven persons have served as deputy director; five of them also served as the acting director (for periods amounting in total to about three years). The current deputy director, Robert A. Sunshine, was appointed to the position in August 2007; he began serving as acting director upon Peter Orszag’s resignation.

This report will be updated as developments warrant.

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Congressional Budget Office: Appointment and Tenure of the Director and Deputy Director

Background

The Congressional Budget Office (CBO) was established by Title II of the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344; July 12, 1974; 2 U.S.C. 601-603). The organization officially came into existence on February 24, 1975, upon the appointment of the first director, Alice Rivlin.¹

CBO's mission is to support the House and Senate in the federal budget process by providing budgetary analysis and information in an objective and nonpartisan manner.² Specific duties are placed on CBO by various provisions in law, particularly Titles II, III, and IV of the 1974 Congressional Budget Act, as amended. CBO prepares annual reports on the economic and budget outlook and on the President's budget proposals, and provides cost estimates of legislation, scorekeeping reports, assessments of unfunded mandates, and products and testimony relating to other budgetary matters.

In addition to statutory duties, CBO is subject to directives included in annual budget resolutions. The FY2009 budget resolution (S.Con.Res. 70, 110th Congress), for example, imposes a requirement that the CBO director prepare estimates of the deficit impact of certain legislation in support of a point-of-order procedure in the Senate against legislation increasing the deficit over the long term.³

For FY2008, CBO received an annual appropriation of \$37.399 million, an amount expected to support a staff of about 235 full-time-equivalent (FTE) positions.

¹ A detailed discussion of the appointment of Alice Rivlin as CBO director and the establishment of the agency is presented in: Schick, Allen, *Congress and Money; Budgeting, Spending and Taxing*, The Urban Institute (Washington: 1980); see Chapter V ("The Budget's New Analysts"), pp. 131-165.

² For more information on the mission, organization, and policies of CBO, see the agency's website at [<http://www.cbo.gov>] In addition, the House Budget Committee held an oversight hearing on CBO during the 107th Congress: *Congressional Budget Office Role and Performance: Enhancing Accuracy, Reliability, and Responsiveness in Budget and Economic Estimates* (May 2, 2002).

³ See Section 311 (Senate Point Of Order Against Legislation Increasing Long-Term Deficits), pp. 33-34, in the conference report to accompany the FY2009 budget resolution, S.Con.Res. 70 (H.Rept. 110-659, May 20, 2008).

For FY2009, CBO requested an appropriation of \$42.740 million, but continuing appropriations at the FY2008 level were provided through March 6, 2009 by the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110-329).⁴

Seven persons so far have served as CBO director — Alice Rivlin, Rudolph Penner, Robert Reischauer, June O’Neill, Dan Crippen, Douglas Holtz-Eakin, and Peter R. Orszag. The most recent director, Peter R. Orszag, was appointed on January 18, 2007, and resigned on November 25, 2008. Eleven persons have served as deputy director; five of them also served as the acting director (for periods amounting in total to about three years). The current deputy director, Robert A. Sunshine, was appointed to the position in August 2007; he began serving as acting director upon Peter Orszag’s resignation.

Appointment Process

The requirements regarding the appointment and tenure of the CBO director, which are simple and straightforward, are set forth in Section 201(a) of the 1974 Congressional Budget Act, as amended, and codified at 2 U.S.C. 601(a) (see the **Appendix**). The Speaker of the House of Representatives and the President pro tempore of the Senate jointly appoint the director after considering recommendations received from the House and Senate Budget Committees. The Budget Committee chairs inform the congressional leaders of their recommendations by letter. The appointment usually is announced in the *Congressional Record*.⁵

Section 201(a) requires that the selection be made “without regard to political affiliation and solely on the basis of his fitness to perform his duties.” Media reports over the years indicate that the CBO director is selected under informal practices in which the House and Senate Budget Committees alternate in recommending a nominee to the Speaker and President pro tempore of the Senate. These reports also indicate that the Speaker and President pro tempore have adhered to the Budget Committees’ recommendations in making past selections. To the extent that these practices are informal, there may be disagreement with regard to their operation in the future selection of a CBO director.⁶

⁴ See CBO Director Orszag’s testimony, *Appropriation Request for Fiscal Year 2009*, March 12, 2008, on the CBO website at [<http://www.cbo.gov/ftpdocs/90xx/doc9044/03-12-CBO-FY2009.pdf>]. Also, see Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2009, Appendix*, February 4, 2008, p. 26-27.

⁵ For example, see the announcement regarding the appointment of Dan Crippen in the *Congressional Record* of February 4, 1999, on p. H422; the appointment of Douglas Holtz-Eakin in the *Congressional Record* of February 5, 2003, on p. H313; and the appointment of Peter R. Orszag in the *Congressional Record* of January 18, 2007, on p. S731, and January 19, on p. H764.

⁶ *CQ Today*, “Democrats to Name New CBO Director,” by David Clarke, November 25, 2008. Further discussions of informal selection practices may be found in: (1) “Amid Criticism, CBO Director O’Neill Forgoes Second Term,” by David Baumann, *National* (continued...)

The director is appointed to a four-year term that begins on January 3 of the year that precedes the year in which a presidential election is held. If a director is appointed to fill a vacancy prior to the expiration of a term, then that person serves only for the unexpired portion of that term. There is no limit on the number of times that a director may be reappointed to another term. Section 201(a) also authorizes a CBO director to continue to serve past the expiration of his term until a successor is appointed.

A CBO director may be removed by either House by resolution.

Section 201(a) also provides that the director shall appoint a deputy director. The deputy director serves during the term of the director that appointed the deputy director (and until his or her successor is appointed), but may be removed by the director at any time. The deputy director serves as the acting director if the director resigns, is incapacitated, or is otherwise absent.

Compensation for the director and the deputy director originally was set at Level III and Level IV of the Executive Schedule (5 U.S.C. 5314), respectively. (For 2008, the annual salary for Level III is \$158,500 and the annual salary for Level IV is \$149,000.)⁷ In order to increase pay for the director and deputy director, the Consolidated Appropriations Act for FY2000 changed the compensation of the director to the lower of the highest annual rate of compensation of any officer of the House or Senate, and changed the compensation of the deputy director to \$1,000 less than the annual rate of pay received by the director.⁸

Record of Appointments and Tenure

Seven persons have served as director of CBO during the nine terms beginning in 1975 (see **Table 1**):

Alice M. Rivlin. Alice Rivlin served two terms as CBO director, from 1975-1983. Prior to serving as CBO director, she served as assistant secretary for planning

⁶ (...continued)

Journal's *Congress Daily*, October 28, 1998; (2) "Domenici Recommends Dan Crippen As New Congressional Budget Office Director," by Bud Newman, BNA's *Daily Report for Executives*, January 14, 1999; (3) "Crippen Will Be New CBO Director," by Ethan Wallison, *Roll Call*, January 14, 1999; (4) "White House Economist Selected to Replace Crippen at CBO," by Andrew Taylor, *CQ Monitor*, January 9, 2003; (5) "Bush Economist Holtz-Eakin Nominated by Nussle to Become New CBO Director," by Bud Newman, BNA's *Daily Report for Executives*, January 10, 2003; and (6) "Peter Orszag Selected to Head CBO; Formal Appointment Seen In January," by Jonathan Nicholson, BNA's *Daily Report for Executives*, December 13, 2006.

⁷ Rates of federal pay are provided at the website of the Office of Personnel Management at [<http://www.opm.gov>]

⁸ See Section 224 of H.R. 3425 (113 Stat. 1501A-299), as enacted into law by cross-reference in Section 1000(a)(4) of P.L. 106-113 (113 Stat. 1501-1537; November 29, 1999). The provisions were incorporated into Section 201 of the 1974 Congressional Budget Act as Section 5(A) and (B).

and evaluation with the Department of Health, Education, and Welfare, and as a senior fellow with the Brookings Institution.

Rudolph G. Penner. Rudolph Penner served as CBO director for one term, from 1983-1987. Previously, he served as chief economist at the Office of Management and Budget under President Gerald Ford and as director of tax policy studies with the American Enterprise Institute.

Robert D. Reischauer. Robert Reischauer served two terms as CBO director, from 1989-1995 (he was not appointed until about halfway into the first four-year term). Mr. Reischauer previously served as CBO deputy director (under Alice Rivlin) and as a senior vice president of the Urban Institute.

June Ellenoff O'Neill. June O'Neill served as CBO director for one term, covering 1995-1999. Before her appointment as CBO director, she headed the Center for the Study of Business and Government at Baruch College and was an adjunct scholar at the American Enterprise Institute.

Dan L. Crippen. Dan Crippen served as CBO director for one term, covering 1999-2003. Prior to his appointment, he served as chief counsel and economic policy adviser to Senate Majority Leader Howard Baker, domestic policy adviser to President Ronald Reagan, and, more recently, as a member of the law firm, Washington Counsel.

Douglas Holtz-Eakin. Douglas Holtz-Eakin served as CBO director for one term (leaving a little more than a year before the term's completion). Prior to beginning his term, he served as chief economist for the Council of Economic Advisers. While director, he was on leave from Syracuse University, where he held the position of Trustee Professor of Economics at the Maxwell School.

Peter R. Orszag. Peter Orszag began his service as CBO director on January 18, 2007, shortly after his four-year term began. He resigned on November 25, 2008 (a little more than two years before the term's completion). Mr. Orszag previously was the Joseph A. Pechman senior fellow and deputy director of Economic Studies at the Brookings Institution, and before that held positions with the President's Council of Economic Advisers and National Economic Council.

Eleven persons have served as deputy director of CBO — (1) Robert Reischauer (in two instances); (2) Robert A. Levine; (3) Raymond Scheppach; (4) Eric A. Hanushek; (5) Edward Gramlich; (6) Robert Hartman; (7) James Blum; (8) Barry Anderson; (9) Elizabeth Robinson; (10) Donald B. Marron; and (11) Robert A. Sunshine, the current deputy director. The position was vacant on two occasions. Five different deputy directors served as acting director, as discussed below.

As **Table 1** shows, the gap between the beginning of a term and the appointment of the director has varied considerably. Peter Orszag was appointed 15 days after the beginning of his term; Alice Rivlin, June O'Neill, Dan Crippen, and Douglas Holtz-Eakin were appointed (or reappointed) within one to three months of the beginning of their terms. Rudolph Penner, however, was not appointed until nearly seven months after his term had begun (and did not assume his office until more than a

month later). Finally, Robert Reischauer began his first term more than two years after it had started.

As a consequence of these appointment gaps, incumbent directors have remained in office for weeks or months after their term has expired or CBO has operated with an acting director. Alice Rivlin stayed in office for nearly eight months (until August 31, 1983) before her successor, Rudolph Penner, took over. Rudolph Penner remained in office for about four months (until April 28, 1987), but left long before a new director was appointed; Edward Gramlich, and then James Blum, served successively as acting director for a period of nearly two years.

Robert Reischauer stayed on as director for almost two months (until February 28, 1995) before he was succeeded. June O'Neill stayed in office nearly a month after her term ended (until January 29, 1999), but left about a week before her successor was appointed; James Blum served as acting director during the interim. Finally, Barry Anderson served as acting director from the time that Dan Crippen left office, on January 3, 2003, until Douglas Holtz-Eakin was appointed to succeed him on February 5, about a month later.

Similarly, appointment gaps may occur when a director resigns before his or her term is completed. As indicated previously, Douglas Holtz-Eakin resigned on December 29, 2005, a little more than a year before the completion of his term (on January 3, 2007). The deputy director, Donald B. Marron, began serving as acting director at that time; he continued in that capacity until the appointment of Peter Orszag just over a year later.

Peter Orszag resigned on November 25, 2008 (a little more than two years before the term's completion); President-elect Barack Obama announced that day that he intended to nominate him to the position of Director of the Office of Management and Budget. On the same day, Robert A. Sunshine, the current deputy director, also began serving as the acting director.⁹

At the conclusion of a CBO director's term, the practice of the Senate has been for the chairman and ranking member of the Budget Committee to introduce a simple resolution commending the director for his or her service, which the Senate then adopts by unanimous consent. On December 20, 2005, for example, the Senate adopted S.Res. 341, regarding the service of Douglas Holtz-Eakin as director (the

⁹ Congressional Budget Office, *CBO Director Orszag Resigns; Sunshine Becomes Acting Director*, press advisory, available on the CBO Website at [<https://www.cbo.gov/communications/advisory/2008-11-25-director.shtml>]. See also BNA's *Daily Report for Executives*, "President-Elect Vows Spending Reform During Rollout of Key OMB Appointments," by Michael Bologna and Jonathan Nicholson, November 26, 2008.

text of the measure is provided in **Box 1**).¹⁰ In the House, the chairman of the Budget Committee inserted a commendation into the *Congressional Record*.¹¹

The Senate agreed to a similar resolution commending James Blum for his service as deputy director.¹²

**Box 1. Text of S.Res. 341, 109th Congress,
Commending Douglas Holtz-Eakin
(Adopted by the Senate on December 20, 2005)**

Commending Dr. Douglas Holtz-Eakin for his dedicated, faithful, and outstanding service to his country and to the Senate.

Whereas Dr. Douglas Holtz-Eakin has served as the sixth Director of the Congressional Budget Office since February 4, 2003 and will end his service on December 29, 2005;

Whereas during his tenure as Director, he has continued to encourage the highest standards of analytical excellence within the staff of the Congressional Budget Office while maintaining the independent and nonpartisan character of the organization;

Whereas during his tenure as Director, he has expanded and improved the accessibility of the Congressional Budget Office's work products to the Congress and the public;

Whereas he has expanded and enhanced the agency's macroeconomic analyses of the range of negative and positive feedbacks on the economy and budget from fiscal policy changes; and

Whereas he has earned the respect and esteem of the United States Senate: Now, therefore, be it

Resolved, That the Senate of the United States commends Dr. Douglas Holtz-Eakin for his dedicated, faithful, and outstanding service to his country and to the Senate.

¹⁰ For Senate action on S.Res. 341 (109th Cong.), see the *Congressional Record*, December 20, 2005, pp. S14194-S14195. For additional examples of commendation resolutions, see (1) S.Res. 81, 104th Congress, commending Robert Reischauer (*Congressional Record*, February 27, 1995, p. S3223); (2) S.Res. 39, 106th Congress, commending June O'Neill (*Congressional Record*, February 12, 1999, p. S1651); and (3) S.Res. 15, 108th Congress, commending Dan Crippen (*Congressional Record*, January 9, 2003, p. S175).

¹¹ See the remarks of Representative Jim Nussle, "Tribute to CBO Director, Dr. Douglas J. Holtz-Eakin, in the *Congressional Record* of December 19, 2005, p. E2623.

¹² See S.Res. 40, 106th Congress (*Congressional Record*, February 12, 1999, pp. S1651-52).

Table 1. Terms of the Director of the Congressional Budget Office

Term	Director	Date of Appointment	Date Appointment Announced in Congressional Record	Effective Date of Appointment
January 3, 1975-January 3, 1979	Alice M. Rivlin	February 24, 1975	February 25, 1975 (page 4151)	February 24, 1975
January 3, 1979-January 3, 1983	Alice M. Rivlin	March 28, 1979	[none]	March 28, 1979
January 3, 1983-January 3, 1987	Rudolph G. Penner	July 20, 1983	July 21, 1983 (page 20285)	September 1, 1983
January 3, 1987-January 3, 1991	Robert D. Reischauer ^a	February 28, 1989	March 2, 1989 (page 3218)	March 6, 1989
January 3, 1991-January 3, 1995	Robert D. Reischauer	November 27, 1991	November 26, 1991 (page 35842)	November 27, 1991
January 3, 1995-January 3, 1999	June Ellenoff O'Neill	February 22, 1995	February 22, 1995 (page S2984); February 28, 1995 (page H2373)	March 1, 1995
January 3, 1999-January 3, 2003	Dan L. Crippen ^b	February 3, 1999	February 4, 1999 (page H422)	February 3, 1999
January 3, 2003-January 3, 2007	Douglas Holtz-Eakin ^c	February 5, 2003	February 5, 2003 (page H313)	February 5, 2003
January 3, 2007-January 3, 2011	Peter R. Orszag ^d	January 18, 2007	January 18, 2007 (page S731); January 19, 2007 (page H764)	January 18, 2005

Source: Congressional Budget Office and the *Congressional Record*, various years.

- a. Deputy Directors Edward Gramlich and James Blum served successively as acting director between April 28, 1987, when Rudolph Penner left office, and March 6, 1989, when Robert Reischauer's appointment took effect.
- b. Deputy Director James Blum served as acting director between January 29, 1999, when June O'Neill left office, and February 3, 1999, when Dan Crippen's appointment took effect.
- c. Deputy Director Barry Anderson served as acting director between January 3, 2003, when Dan Crippen left office, and February 5, 2003, when Douglas Holtz-Eakin's appointment took effect.
- d. Deputy Director Donald Marron served as acting director between December 29, 2005, when Director Holtz-Eakin left office, and January 18, 2007, when Peter R. Orszag's appointment took effect. Deputy Director Robert A. Sunshine began serving as acting director on November 25, 2008, when Peter Orszag left office.

Appendix. Establishment of the Congressional Budget Office Under Section 201(a) of the 1974 Congressional Budget Act

(2 U.S.C. 601(a))

(a) In General. —

(1) There is established an office of the Congress to be known as the Congressional Budget Office (hereinafter in this chapter referred to as the “Office”). The Office shall be headed by a Director; and there shall be a Deputy Director who shall perform such duties as may be assigned to him by the Director and, during the absence or incapacity of the Director or during a vacancy in that office, shall act as Director.

(2) The Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after considering recommendations received from the Committees on the Budget of the House and the Senate, without regard to political affiliation and solely on the basis of his fitness to perform his duties. The Deputy Director shall be appointed by the Director.

(3) The term of office of the Director shall be 4 years and shall expire on January 3 of the year preceding each Presidential election. Any individual appointed as Director to fill a vacancy prior to the expiration of a term shall serve only for the unexpired portion of that term. An individual serving as Director at the expiration of a term may continue to serve until his successor is appointed. Any Deputy Director shall serve until the expiration of the term of office of the Director who appointed him (and until his successor is appointed), unless sooner removed by the Director.

(4) The Director may be removed by either House by resolution.

(5)(A) The Director shall receive compensation at an annual rate of pay that is equal to the lower of —

(I) the highest annual rate of compensation of any officer of the Senate; or

(ii) the highest annual rate of compensation of any officer of the House of Representatives.

(B) The Deputy Director shall receive compensation at an annual rate of pay that is \$1,000 less than the annual rate of pay received by the Director, as determined under subparagraph (A).