



# Filling Advice and Consent Positions at the Outset of a New Administration

**Henry B. Hogue**

Analyst in American National Government

**Maureen Bearden**

Information Research Specialist

**Betsy Palmer**

Analyst on the Congress and Legislative Process

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## Summary

In its 2004 report, the 9/11 Commission identified what it perceived were shortcomings in the appointment process during presidential transitions. The report asserted that delays in filling top executive branch leadership positions, such as those experienced during the 2000-2001 transition, could compromise national security policymaking in the early months of a new Administration. Although the unique circumstances of the 2000 presidential race truncated the ensuing transition period, the commission's observations could be applied to other recent transitions; lengthy appointment processes during presidential transitions, particularly between those of different political parties, have been of concern to observers for more than 20 years. The process is likely to develop a bottleneck during this time, even under the best of circumstances, due to the large number of candidates who must be selected, vetted, and, in the case of positions filled through appointment by the President with the advice and consent of the Senate (PAS positions), considered by that body.

The advice and consent appointment process has three stages: selection and vetting, Senate consideration, and presidential appointment. Congress has taken steps to accelerate appointments during presidential transitions. In recent decades, Senate committees have provided for pre-nomination consideration of Cabinet-level nominations; examples of such actions are provided in this report. In addition, recently adopted statutory provisions appear designed to facilitate faster processing of appointments during presidential transitions. Among the new statutory provisions were those enacted by Congress in response to 9/11 Commission recommendations, mainly in the Intelligence Reform and Terrorism Prevention Act of 2004. Also part of this act was a sense of the Senate resolution stating that nominations to national security positions should be submitted by the President-elect to the Senate by Inauguration Day, and that Senate consideration of all such nominations should be completed within 30 days of submission.

The President has certain powers—constitutional recess appointment authority and statutory authority under the Federal Vacancies Reform Act of 1998—that he could, under certain circumstances, use to unilaterally fill PAS positions on a temporary basis.

The final portion of the report provides comprehensive data and analyses related to the length of time taken during recent party-turnover transitions to fill Cabinet-level positions and selected higher-level subcabinet positions. In general, transition-period Cabinet-level nominees were selected, vetted, considered, and confirmed expeditiously; they generally took office shortly after the new President's inauguration. On average, the interval between election day and final disposition of nominations to selected subcabinet positions was more than twice as long as that of nominations to Cabinet-level positions, though nominees to subcabinet positions in some departments were faster than others. The pre-nomination portion of this period was notably longer than the period of Senate consideration. The Senate confirmed more than half of the selected subcabinet nominations 23 days or fewer after the nomination was submitted.

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## Introduction

In its July 22, 2004, report, the National Commission on Terrorist Attacks Upon the United States (known as the 9/11 Commission) identified what it perceived were shortcomings in the appointment process during presidential transitions that could compromise national security policymaking in the early months of a new Administration. The commission noted, in particular, the abbreviated transition period resulting from the delayed resolution of the 2000 presidential race. As the report stated, “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.”<sup>1</sup> The commission reported, among other findings, that “the new [George W. Bush] administration did not have its deputy cabinet officers in place until the spring of 2001, and the critical subcabinet officials were not confirmed until the summer—if then. In other words, the new administration—like others before it—did not have its team on the job until at least six months after it took office.”<sup>2</sup>

Although the unique circumstances of the 2000 presidential race truncated the ensuing transition period, the commission’s observations could be applied to other recent transitions. The length of presidential transitions, particularly between those of different political parties, has been of concern to observers for more than 20 years.<sup>3</sup> The appointment process is likely to develop a bottleneck during this time, even under the best of circumstances, due to the large number of candidates who must be selected, vetted, and, in the case of positions filled through appointment by the President with the advice and consent of the Senate (PAS positions), considered by that body. By the end of the first 100 days of the Reagan presidency, nominees had been confirmed for only 20% of vacant PAS positions. At the same juncture at the outset of the Clinton Administration, nominees had been confirmed for only 10% of these openings. At the end of the first 100 days of the presidency of George W. Bush, nominees had been confirmed for only 6% of PAS vacancies.<sup>4</sup> Delays in installing new leadership would not be welcome at any time, but they may be particularly problematic during the transition period between Presidents. As noted by the 9/11 Commission, a new President is likely to need his or her top advisers in place to maintain continuity in national security policymaking.<sup>5</sup> Furthermore, the President has limited time following his or her election to initiate an administrative and legislative agenda.

As the 9/11 Commission pointed out, presidential transitions involve large-scale changes in the political leadership of the executive branch. **Table 1** summarizes Office of Personnel Management (OPM) data indicating that more than 2,500 political appointees occupied positions in the 15 departments as of September 1, 2008. These officials included top-level policymaking presidential appointees, political managers, and confidential support staff. Unlike career public service executives and employees, top political officials in the federal departments and agencies nearly always serve at the pleasure of the President or agency head. These officials typically

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<sup>1</sup> U.S. National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (Washington: GPO, 2004), p. 198 (hereafter referred to as *9/11 Commission Report*).

<sup>2</sup> *Ibid.*, p. 422.

<sup>3</sup> See, for example, National Academy of Public Administration, *Leadership in Jeopardy: The Fraying of the Presidential Appointments System* (Washington: National Academy of Public Administration, 1985), pp. 9-10.

<sup>4</sup> CRS Report RL31054, *Nominations and Confirmations to Policy Positions in the First 100 Days of the George W. Bush, William J. Clinton, and Ronald W. Reagan Administrations*, by Rogelio Garcia (archived CRS report available from the authors of this report).

<sup>5</sup> *9/11 Commission Report*, p. 422.

resign when the Administration changes, especially if the incoming President is from a different party.<sup>6</sup>

This report focuses on the processes, during a presidential transition, by which top-level executive branch PAS positions are filled. Outside of top White House staff appointments, these are a new President’s earliest and arguably most important appointments. In the next section, the usual process is described in three stages: “Selection and Vetting”, “Senate Consideration”, and “Appointment”. That section also provides examples of ways the Senate has adapted its procedures during recent presidential transitions. The report then discusses processes—recess appointments and designations under the Federal Vacancies Reform Act of 1998—that could be used by the President to unilaterally fill positions on a temporary basis. The final portion of the report provides additional information on the length of time required in the past to fill Cabinet positions and certain national-security-related subcabinet positions. This section provides related data for the last three party turnover transitions prior to 2008: Carter-Reagan (1980-1981), Bush-Clinton (1992-1993), and Clinton-Bush (2000-2001).

**Table 1. Political Appointees by Department and Appointment Type as of September 1, 2008**

Department	Pres. Appt. Requiring Senate Approval	Pres. Appt. Not Requiring Senate Approval	Non-Career Senior Executive Service	Schedule C	Total
Agriculture	16	0	43	168	227
Commerce	23	2	33	103	161
Defense	53	0	94	134	281
Education	17	1	14	112	144
Energy	22	0	30	66	118
Health and Human Services	20	1	48	66	135
Homeland Security	20	1	61	102	184
Housing and Urban Development	15	0	18	49	82
Interior	17	0	30	36	83
Justice	223	0	45	68	336
Labor	19	0	29	105	153
State	222	3	36	125	386
Transportation	23	0	31	41	95
Treasury	33	0	23	45	101
Veterans Affairs	15	0	8	9	32
<b>Total</b>	<b>738</b>	<b>8</b>	<b>543</b>	<b>1229</b>	<b>2518</b>

<sup>6</sup> Not all political appointees change with a change in Administration, however. Some presidential appointees, such as members of most regulatory commissions, serve in fixed-term positions, and these appointees may continue to serve out their terms when the President changes.

**Source:** Table created by CRS using data drawn from the 2008 edition of the committee print commonly known as the “Plum Book” (U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *United States Government Policy and Supporting Positions*, committee print, 110<sup>th</sup> Cong., 2<sup>nd</sup> sess., S.Prt. 110-36 (Washington: GPO, 2008), pp. 197-199). The Office of Personnel Management provided the data for the Plum Book.

## The Appointment Process for PAS Positions

Under the Constitution, the power to appoint the top officers of the United States is shared by the President and the Senate. The appointment process consists of three stages—selection and vetting, Senate consideration, and appointment.

### Selection and Vetting

The first stage of the process begins with the President’s selection of a candidate for the position. Following this selection, the candidate needs to be cleared for nomination. The Office of the Counsel to the President oversees this part of the process, which usually includes background investigations conducted by the Federal Bureau of Investigation (FBI), Internal Revenue Service (IRS), Office of Government Ethics (OGE), and an ethics official for the agency to which the President wishes to appoint the candidate. Once the Office of the Counsel has cleared the candidate, the nomination is ready to be submitted to the Senate. Candidates for higher-level positions, such as Cabinet Secretaries, are often accorded priority in this process. A nominee has no legal authority to assume the duties and responsibilities of the position; the authority comes with Senate confirmation and formal presidential appointment.

### Selection and Vetting During Presidential Transitions

An incoming President can, of course, begin the process of selecting the members of his Administration at any time. During recent decades, most major candidates have begun preparing for a potential presidency before election day by assigning a small number of advisors to begin developing transition plans.<sup>7</sup> With regard to the selection of personnel, the 2008 candidates and their transition advisors were aided by a recently enacted statute. The Intelligence Reform and Terrorism Prevention Act of 2004 (known as the Intelligence Reform Act)<sup>8</sup> included a provision that directs the Office of Personnel Management (OPM) to transmit an electronic record “on Presidentially appointed positions,” with specified contents, to each major party presidential candidate “not later than 15 days” after his or her nomination.<sup>9</sup> The provision permits OPM to make such a record available to any other presidential candidate after these initial transmittals.

The Intelligence Reform Act also included several provisions that responded to 9/11 Commission recommendations regarding the vetting process. One provision of law permits each major party presidential candidate to submit, before the general election, security clearance requests for “prospective transition team members who will have a need for access to classified information” in the course of their work. The law directs that resulting investigations and eligibility

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<sup>7</sup> John P. Burke, *Presidential Transitions: From Politics to Practice* (Boulder: Lynne Rienner, 2000).

<sup>8</sup> P.L. 108-458, 118 Stat. 3638.

<sup>9</sup> P.L. 108-458, § 8403(b); 118 Stat. 3870.

determinations be completed, as much as possible, by the day after the general election.<sup>10</sup> To the degree that transition team members go on to be nominees to positions in the new Administration, this proactive clearance process might also accelerate the transition period appointment process. The Intelligence Reform Act also amended the Presidential Transition Act of 1963. The amendments included a provision stating that the President-elect should submit, as soon as possible after the presidential election, the “names of candidates for high level national security positions through the level of undersecretary” of agencies and departments. A second provision requires the responsible agency or agencies to carry out background investigations of these candidates for high-level national security positions “as expeditiously as possible ... before the date of the inauguration.”<sup>11</sup>

## Senate Consideration

In the consideration stage, the Senate determines whether or not to confirm a nomination.<sup>12</sup> Once received from the President, each nomination is referred to the committee with jurisdiction over the agency in which the nominee would serve or the subject matter related to the nomination. Action at the committee level is at the discretion of the committee chair. No Senate or committee rule requires that a committee, or the full Senate, act on any nomination.<sup>13</sup> Most nominations, however, proceed through the process in a routine, timely fashion. During the last presidential transition in the 107<sup>th</sup> Congress, the Senate took a median<sup>14</sup> of 36 days to confirm a nomination to a full-time departmental position.<sup>15</sup>

The Senate confirmation process begins at the committee level. The rules and procedures of the committees frequently include timetables specifying minimum periods between steps in the process. Committee activity on nominations generally includes investigation, hearing, and reporting stages. During the investigation phase, many committees require nominees to fill out questionnaires that the committee has prepared. If the committee acts on a nomination, the process typically begins with a hearing, where the nominee and other interested parties may testify and Senators may question the nominee.<sup>16</sup> After the hearing—if there is one—the committee usually votes to report the nomination to the Senate. The committee may choose to report the nomination favorably, unfavorably, or without recommendation.

The full Senate may then take up the nomination and vote on it. Confirmation of a nomination by the Senate requires a simple majority. If there is opposition to the nomination, however,

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<sup>10</sup> P.L. 108-458, § 7601(c); 118 Stat. 3857.

<sup>11</sup> P.L. 108-458, § 7601(a); 118 Stat. 3856.

<sup>12</sup> For further information, see CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki; and CRS Report RL31948, *Evolution of the Senate’s Role in the Nomination and Confirmation Process: A Brief History*, by Betsy Palmer.

<sup>13</sup> A chair may decide not to schedule committee consideration of a nomination. Nominations on which the Senate does not act are returned to the President at the end of a session or if the Senate is adjourned for more than 30 days.

<sup>14</sup> The median is the middle value in a numerical distribution. In this case, half the confirmations took less time, and half took more time.

<sup>15</sup> See CRS Report RL31346, *Presidential Appointments to Full-Time Positions in Executive Departments During the 107<sup>th</sup> Congress, 2001-2002*, by Henry B. Hogue.

<sup>16</sup> While most high-level nominations receive hearings, many other nominations, such as those for military promotions or public health officials, do not receive individual attention, and are acted upon by both the committee and the full Senate as a group.



opponents may try to prevent a vote on it, using what is known as a filibuster. If a nomination is subject to a filibuster, it can take 60 votes to bring an end to Senate consideration of the nomination (that is, invoke cloture) and get to a final vote. Senators may also place “holds” on nominations to prevent them from being considered, or for other reasons. A “hold” is an informal Senate practice in which a Senator requests that his or her party leader delay floor action on a particular matter, in this case a nomination. It is up to the Senate Majority Leader whether to honor the request of the Senator wishing the hold or to try to bring the nomination to a vote. A “hold” will not necessarily have the effect of killing a nomination, but it could signal that the Senate may not be able to consider the nomination without considerable delay and the need for a super-majority vote to invoke cloture.<sup>17</sup>

Although the Senate confirms most nominations, some are not confirmed. Rarely, however, is a nomination voted down on the Senate floor. Most rejections occur in committee, either by committee vote or by committee inaction. Rejections in committee occur for a variety of reasons, including opposition to the nomination, inadequate amount of time for consideration of the nomination, or factors that may have nothing to do with the merits of the nomination. If a nomination is not acted upon by the Senate by the end of a Congress, it is returned to the President. Pending nominations also may be returned automatically to the President at the beginning of a recess of 30 days or longer, but the Senate rule providing for this return is often waived.<sup>18</sup>

The 9/11 Commission, which expressed concern about delays in the confirmation process for the nation’s national security team, recommended that the Senate change its rules to require that all action on these nominations, such as hearings, committee meetings, and floor votes, be conducted within 30 days of the Senate’s receipt of the nomination.<sup>19</sup> The Senate adopted a sense of the Senate resolution stating that the 30-day target should be the goal.<sup>20</sup> Such sense of the Senate language is not binding on the chamber, but represents a position that at least a majority of the Senators endorsed.

## **The Senate Confirmation Process and Presidential Transitions**

Under regular procedure, Senate action on nominations is triggered by the President’s submission of the nomination to the Senate. During recent Presidential transitions, however, it appears that the Senate has developed a flexible, informal process to allow quick action on nominations to Cabinet and other high-level positions.

When the President is sworn-in on January 20, one of his first official acts is typically to send to the Senate many, if not all, of his nominations to Cabinet positions and some other high-level positions.<sup>21</sup> It is not uncommon for the Senate to confirm many of those individuals on January 20

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<sup>17</sup> See CRS Report 98-712, “*Holds*” in the Senate, coordinated by Walter J. Oleszek.

<sup>18</sup> The rule may be found in U.S. Congress, Senate Committee on Rules and Administration, *Senate Manual*, 106<sup>th</sup> Cong., 1<sup>st</sup> sess., S. Doc. 106-1 (Washington: GPO, 1999), p. 55. Rule XXXI, paragraph 6 of the Standing Rules of the Senate. For an example of a waiver of the rule, see Sen. John E. Sununu, “Nomination in Status Quo,” *Congressional Record*, daily edition, vol. 149, July 31, 2003, p. S10844.

<sup>19</sup> *9/11 Commission Report*, p. 422; P.L. 108-458, § 7601(b).

<sup>20</sup> P.L. 108-458, § 7601(b); 118 Stat. 3857.

<sup>21</sup> Prior to January 20, a President-elect does not have the authority to submit nominations to the Senate. That power is held by the sitting President until the new President is sworn in.

or very soon thereafter. If the Senate did not act quickly, it is possible that the President could be in the position of trying to make new policy without his top people in place to carry out his plans. But the tight timeline would typically allow the Senate very little time to review the nominations to some of the most important positions in the federal government. The Senate appears to have developed a method for handling this situation by allowing its committees to act on an “anticipated” or “expected” nomination. As shown in **Appendix A**, which is discussed in detail later in this report, Senate committees held hearings on most nominations to Cabinet positions at the outset of the Reagan, Clinton, and George W. Bush Administrations before inauguration day. Some committees also reported out the nominations before January 20.

During the transition from President Carter to President Reagan, for example, Senate committees held confirmation hearings and voted to recommend confirmation of Reagan’s nominees to be secretaries of Defense, State, and Treasury before the formal submission of the nominees on January 20. That allowed the full Senate to vote almost immediately on those nominations. The Senate followed the same pattern for the three positions during the transition from President George H. W. Bush to President Clinton, and Senate committees reported nominations to two of the positions during the transition from President Clinton to President George W. Bush. (Delays in Senate organization at the start of the 107<sup>th</sup> Congress prevented the Senate Finance Committee from acting on the nominee for Secretary of the Treasury, and the committee consented to be discharged from its responsibilities on the nomination to allow the Senate to act on the nomination on January 20.)<sup>22</sup>

The Senate Foreign Relations Committee voted to report the nomination of Alexander M. Haig, Jr., to be President Reagan’s Secretary of State on January 15, 1981, during the final session of its confirmation hearing on the nomination. The chair of the committee moved “that in anticipation of the nomination, that it be approved, subject to the formal receipt of it from the new President of the United States.”<sup>23</sup>

When the Senate Finance Committee acted upon the nomination of Lloyd Bentsen to be President Clinton’s Secretary of the Treasury on January 12, 1993, the chair made the following motion before the hearing began: “I would ask that a vote be undertaken in the following form. The resolution will read, ‘The Committee on Finance, having under consideration the perspective (sic) nomination of Lloyd Bentsen to be Secretary of the Treasury, recommends that the nomination be confirmed when received by the Senate.’”<sup>24</sup>

The Senate Armed Services Committee, on January 19, 2001, acted on the “expected” nomination of Donald H. Rumsfeld to be Secretary of Defense. The committee reported the nomination to the full Senate with the recommendation that Rumsfeld be confirmed. The language in the committee’s legislative calendar for the 107<sup>th</sup> Congress notes that “On January 19, 2001, the Committee voted by a roll call vote of 19-0 in favor of a motion that the Committee recommend

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<sup>22</sup> Sen. Charles Grassley, remarks in Senate, *Congressional Record*, daily edition, Jan. 20, 2001, p. S65. By unanimous consent, the Treasury Secretary nomination, along with eight other nominations, was, upon receipt by the Senate, placed directly on the Executive Calendar. (Sen. Pat Roberts, “Executive Calendar,” remarks in the Senate, *Congressional Record*, daily edition, Jan. 20, 2001, pp. S57-S58.)

<sup>23</sup> U.S. Congress, Senate Committee on Foreign Relations, *The Nomination of Alexander M. Haig, Jr., to be Secretary of State*, 97<sup>th</sup> Cong., 1<sup>st</sup> sess., Jan. 9, 10, 12, 13, 14, 15, 1981, pt. 2, p. 115.

<sup>24</sup> Federal News Service transcript, hearing of the Senate Finance Committee, *Confirmation Hearing for Secretary of the Treasury-Designate Senator Lloyd Bentsen*, Jan. 19, 1993. Accessed on Nexis.com on Nov. 21, 2008.

the Senate give its advise and consent to the nomination when it was received by the Senate from the President and without referral to the Committee.”<sup>25</sup>

Other nominations to Cabinet or top-level positions also have been approved by committees in advance of their actual submission. On January 18, 2001, for example, the Senate Energy and Natural Resources Committee reported the nomination of Spencer Abraham to be Secretary of Energy. During the committee meeting, the chair said that the committee’s actions were “in keeping with the past practices of the committee in reporting cabinet nominations made by incoming presidents prior to their official receipt by the Senate....” In that case, the motion agreed to by the committee was to “move that the committee report favorably on the proposed nomination and recommend that when the nomination is received the Senate give its advice and consent.”<sup>26</sup>

## Appointment

In the final stage, the confirmed nominee is given a commission signed by the President, with the seal of the United States affixed thereto, and is sworn into office. The President may sign the commission at any time after confirmation, and the appointment process is not complete until he or she does so. Once the appointee is given the commission and sworn in, he or she has full authority to carry out the responsibilities of the office. The length of the time between confirmation and appointment varies in accordance with the preferences of the Administration and appointee. It is usually shorter than either of the other two stages, and has not been identified as problematic by presidential appointment scholars.

## Temporary Staffing of PAS Positions During Presidential Transitions

Several provisions of law allow for temporarily filling PAS positions without Senate approval during presidential transitions, as well as at other times. Congress has provided limited statutory authority for temporary presidential appointments under the Federal Vacancies Reform Act of 1998.<sup>27</sup> Appointees under the Vacancies Act are authorized to “perform the functions and duties of the office temporarily in an acting capacity subject to the time limitations” provided in the act.<sup>28</sup> A temporary appointment under the Vacancies Act ordinarily may last up to 210 days (approximately seven months). During a presidential transition, however, the 210-day restriction period does not begin to run until either 90 days after the President assumes office (i.e., mid-April), or 90 days after the vacancy occurs, if it is within the 90-day inauguration period.

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<sup>25</sup> U.S. Congress, Senate Committee on Armed Services, *Legislative Calendar*, committee print, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess. (Washington: GPO, 2002), p. 83.

<sup>26</sup> Federal News Service, transcript of the Senate Energy and Natural Resources Committee, *Nomination of Gale Norton As Secretary of the Interior*, Jan. 18, 2001. Accessed on Nexis.com on Nov. 20, 2008.

<sup>27</sup> P.L. 105-277, Div. C, Title I, § 151; 5 U.S.C. §§ 3345-3349d. The act does not apply to positions on multi-member regulatory boards and commissions, to certain other specific positions that may be filled temporarily under other statutory provisions, or to new positions that have never been filled. This law superceded previous, similar statutory provisions. For more on the Vacancies Act, see CRS Report 98-892, *The New Vacancies Act: Congress Acts to Protect the Senate’s Confirmation Prerogative*, by Morton Rosenberg.

<sup>28</sup> 5 U.S.C. § 3345(a)(1).

Furthermore, the time restriction is suspended if a first or second nomination for the position has been submitted to the Senate for confirmation and is pending.

When an executive agency position requiring confirmation becomes vacant, it may be filled temporarily under the Vacancies Act in one of three ways. First, the first assistant to such a position may automatically assume the functions and duties of the office. This provision may be of limited utility to a new President, because he probably would not yet have installed a first assistant of his own choosing. Nonetheless, if the first assistant who becomes the acting leader is a career executive, he or she might lend continuity to agency operations and reduce organizational confusion and paralysis during the transition.

The Vacancies Act also provides that the President may direct an officer in any agency who is occupying a position requiring Senate confirmation to perform the tasks associated with the vacant position. Although this option would allow a new President to authorize one of his confirmed appointees to perform key tasks, it might be of limited utility in the early months of the new Administration when PAS positions in general are thinly staffed. Individuals the President might designate to serve under this provision include appointees of the President's party who are incumbents in fixed-term membership positions on boards and commissions and holdover appointees from the previous Administration who support the President's policy preferences.

Finally, the Vacancies Act provides that the President may temporarily fill the vacant position with any officer or employee of the subject agency who has been occupying a position for which the rate of pay is equal to or greater than the minimum rate of pay at the GS-15 level, and who has been with the agency for at least 90 of the preceding 365 days. Under this provision, the President could draw, for example, from among an agency's career Senior Executive Service members, and this might allow him to select, as a temporary office holder, an individual who supports his policy preferences.

A second form of limited-term appointment without Senate confirmation is a presidential recess appointment. The President's authority to make recess appointments is conferred by the Constitution, which states that "[t]he President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session."<sup>29</sup> Such appointments during within-session Senate breaks are termed *intrasession* recess appointments, and those which occur during between-session recesses are known as *intersession* recess appointments. Intrasession recess appointments have, however, sometimes provoked controversy in the Senate, and there is also an academic literature that has drawn their legitimacy into question.<sup>30</sup> Notwithstanding the ongoing discourse in this area, recent Presidents have made recess appointments during both kinds of recesses. Recess appointments expire at the end of the next session of Congress. As a result, a recess appointment may last for less than a year, or nearly two years, depending on when the appointment is made.<sup>31</sup>

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<sup>29</sup> Article 2, § 2, cl. 3 of the Constitution.

<sup>30</sup> Regarding Senate controversy, see Sen. George Mitchell, "The Senate's Constitutional Authority to Advise and Consent to the Appointment of Federal Officers," *Congressional Record*, vol. 139, July 1, 1993, p. 15266; and Senate Legal Counsel, "Memorandum of United States Senate as Amicus Curiae in Support of Plaintiffs' Motion, and in Opposition to Defendants' Motions, for Summary Judgment on Count Two," U.S. District Court for the District of Columbia, *Mackie v. Clinton*, C.A. No. 93-0032-LFO, *Congressional Record*, vol. 139, July 1, 1993, pp. 15267-15274. For academic literature, see, for example, Michael A. Carrier, "When Is the Senate in Recess for Purposes of the Recess Appointments Clause?" *Michigan Law Review*, vol. 92, June 1994.

<sup>31</sup> For information on recess appointments generally, see CRS Report RS21308, *Recess Appointments: Frequently* (continued...)

Although a new President might elect to use his recess appointment authority during a Senate recess soon after he takes office, three recent Presidents used it sparingly during their first calendar years in office. President George H.W. Bush made five such appointments in November and December of 1989. President Clinton did not use this authority until 1994. President George W. Bush made one recess appointment during the Senate's August recess in 2001. A fourth recent President, President Reagan, did not use this authority during his first six months in office, but he made 34 recess appointments between August and December of 1981.

At times, a nominee is hired as a consultant while awaiting confirmation, but he or she may serve only in an advisory capacity and may not take on the functions and duties of the office to which he or she has been nominated. A nominee to a Senate-confirmed position has no legal authority to assume the responsibilities of this position; the authority comes with one of the limited-term appointments discussed above, or with Senate confirmation and subsequent presidential appointment.

## The Length of the Appointment Process

As noted at the outset of this report, the length of the appointment process during presidential transitions, particularly between incoming and outgoing Presidents of different political parties, has been of concern to observers for more than 20 years.<sup>32</sup> The 9/11 Commission drew fresh attention to this issue in 2004, recommending changes that might accelerate the selection, clearance, and Senate consideration processes, particularly for “national security positions.”<sup>33</sup> Congress responded by enacting new statutory provisions related to the selection and vetting process, as well as a provision expressing a “sense of the Senate” regarding a timetable for submission and consideration of high-level national security nominations during transitions. (See “Selection and Vetting During Presidential Transitions” and “The Senate Confirmation Process and Presidential Transitions,” above.) It could be argued that, with federal government efforts to address the nation’s economic and financial downturn underway during the 2008-2009 presidential transition, the pace at which top leadership positions at the Department of the Treasury are filled would also be of concern.

Given these concerns and reform measures, Congress might elect to evaluate the length of the 2008-2009 transition-period appointment process. Baseline data about past transition-period appointments could be helpful in such an effort. The 2008-2009 transition is a transition during which the incoming President is of a political party different from the outgoing President. Arguably, other recent “party-turnover” transitions would be more comparable to this one than would be transitions between Presidents of the same political party.<sup>34</sup> **Appendix A** provides

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(...continued)

*Asked Questions*, by Henry B. Hogue; and CRS Report RL33310, *Recess Appointments Made by President George W. Bush, January 20, 2001- October 31, 2008*, by Henry B. Hogue and Maureen Bearden. For information on related legal issues, see CRS Report RL32971, *Judicial Recess Appointments: A Legal Overview*, by T. J. Halstead; and CRS Report RL33009, *Recess Appointments: A Legal Overview*, by T. J. Halstead.

<sup>32</sup> See, for example, National Academy of Public Administration, *Leadership in Jeopardy: The Fraying of the Presidential Appointments System* (Washington: National Academy of Public Administration, 1985), pp. 9-10.

<sup>33</sup> *9/11 Commission Report*, p. 422.

<sup>34</sup> During such a transition, most politically appointed positions were vacated by the time of the inauguration of the new President. This would not necessarily be the case during transitions between two Presidents of the same political party. When President George H.W. Bush took office, for example, Treasury Secretary Nicholas Brady, Attorney General (continued...)

nominee-level data on the length of the process for making appointments to Cabinet-level positions during the three most recent party turnover transitions prior to 2008: Carter-Reagan (1980-1981), Bush-Clinton (1992-1993), and Clinton-Bush (2000-2001). **Appendix C** provides nominee-level data on the length of the process for making appointments to selected higher-level subcabinet positions during the transitions. **Appendix B** provides information on the method for selecting those positions that were included in **Appendix C**.

**Appendix A** and **Appendix C** each provide information about the intervals, in elapsed days, between different points in the appointment process.<sup>35</sup> These points include election day, which is the point after which the successful candidate and his supporters turn their attention from campaigning to selecting a governing team, announcement of a proposed nominee, submission of a nomination, Senate committee hearing on the nomination, Senate committee report or discharge, and final disposition by the Senate.<sup>36</sup>

The remainder of this section provides brief analyses of these data.

## Transition-period Cabinet Appointment Intervals

The analysis presented here summarizes the data presented in **Appendix A**. Cabinet-level PAS positions considered in this analysis include all heads of departments,<sup>37</sup> the Administrator of the Environmental Protection Agency (EPA), the Director of the Office of Management and Budget (OMB), the U.S. Trade Representative, and the Director of the Office of National Drug Control Policy (ONDCP).<sup>38</sup>

**Table 2** shows, for each position, across the three transitions, the mean length of the intervals between specified points in the process: election day and the announcement; the announcement and the first hearing date; the announcement and the final disposition of the nomination (usually confirmation); and election day and final disposition of the nomination. The table also provides

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(...continued)

Richard Thornburgh, and Secretary of Education Lauro F. Cavazos, each of whom had been appointed by President Ronald W. Reagan, remained in office.

<sup>35</sup> The appendices differ slightly with regard to the intervals they provide, because the transition-period appointment process for Cabinet-level positions differs from the usual appointment process. **Appendix A** does not provide the interval between submission and final disposition, for example. As discussed in the sections identified, Senate committees often begin consideration of prospective Cabinet-level nominations before the new President takes office and has the authority to submit formal nominations. Consequently, the submission-to-final disposition interval would not be a meaningful measure of the Senate consideration period. (See “The Senate Confirmation Process and Presidential Transitions” above.)

<sup>36</sup> As noted earlier in the report, confirmation by the Senate must be followed by formal presidential appointment and swearing in, but these steps may be carried out quickly, at the discretion of the Administration, and are generally inconsequential in pace of the overall process.

<sup>37</sup> As noted in the table, no nomination has been made to the position of Secretary of Homeland Security during a presidential transition. The Department of Homeland Security, which was established in 2003, was not in existence during any prior transition.

<sup>38</sup> Department heads are generally considered to be members of the Cabinet by tradition. Other officials may be accorded Cabinet rank at the President’s discretion. For the purposes of this table, the category of Cabinet-rank nominees includes nominees to the four additional PAS positions given Cabinet rank by President George W. Bush. All of these positions, as well as others, were given Cabinet rank by President Clinton. President Reagan accorded Cabinet rank to two of these positions—OMB Director and U.S. Trade Representative—as well as others.

the means, and medians, for each of these intervals in each of three categories of Cabinet nominees: department head nominees, Cabinet-rank nominees, and all Cabinet nominees.<sup>39</sup>

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<sup>39</sup> Two measures of central tendency are presented here: the mean and the median. The mean is the more familiar measure, and it was calculated, in each instance, by adding together the elapsed times for all of the cases and dividing the resulting sum by the total number of cases. The median is the middle number in a set of observations (or, in this case, because of an even number of observations, the average of the two middle numbers). In data sets, such as those under discussion here, where the data are skewed because of a limited number of extreme values, the median is often considered to be the more accurate of the two measures of central tendency.

**Table 2. Mean and Median Length of Appointment Process Intervals for Transition-period Cabinet-level Nominees of President Ronald W. Reagan, President William J. Clinton, and President George W. Bush**

Position (number of nominees)	Mean (or median*) elapsed days			
	Election day to announcement	Announcement to first hearing date	Announcement to final disposition	Total: election day to final disposition
Department heads				
Secretary of State (3)	43	26	33	77
Secretary of the Treasury (3)	39	29	38	77
Secretary of Defense (3)	46	19	31	76
Attorney General (4)	58	28	36	94
Secretary of the Interior (3)	50	21	30	81
Secretary of Agriculture (3)	48	21	30	77
Secretary of Commerce (3)	40	22	38	77
Secretary of Labor (3)	48	22	36	84
Secretary of Health and Human Services (3)	42	27	36	78
Secretary of Housing and Urban Development (3)	45	25	33	78
Secretary of Transportation (3)	48	21	31	79
Secretary of Energy (3)	51	22	27	77
Secretary of Education (3)	55	14	23	77
Secretary of Veterans Affairs (2)	48	21	30	78
Secretary of Homeland Security (0) <sup>a</sup>	n.a.	n.a.	n.a.	n.a.
<b>Department head nominees (42)—mean</b>	<b>47</b>	<b>23</b>	<b>32</b>	<b>80</b>
<b>Department head nominees (42)—median</b>	<b>48*</b>	<b>25*</b>	<b>31*</b>	<b>79*</b>
Cabinet-rank positions				
Administrator of the Environmental Protection Agency (3)	64	42	51	115
Director of the Office of Management and Budget (3)	40	29	40	80
U.S. Trade Representative (3)	60	19	23	83



Position (number of nominees)	Mean (or median*) elapsed days			
	Election day to announcement	Announcement to first hearing date	Announcement to final disposition	Total: election day to final disposition
Director of the Office of National Drug Control Policy (2)	181	53	129	309
<b>Cabinet-rank nominees (11)—mean</b>	<b>77</b>	<b>34</b>	<b>55</b>	<b>133</b>
<b>Cabinet-rank nominees (11)—median</b>	<b>51*</b>	<b>28*</b>	<b>42*</b>	<b>84*</b>
<b>All Cabinet nominees (53)—mean</b>	<b>54</b>	<b>25</b>	<b>37</b>	<b>91</b>
<b>All Cabinet nominees (53)—median</b>	<b>48*</b>	<b>26*</b>	<b>32*</b>	<b>79*</b>

**Source:** Table created by CRS based on data from **Appendix A** of this report.

**Note:** n.a. = not applicable.

- a. The Department of Homeland Security was established in 2003. As of the beginning of the 2008-2009 transition, no incoming President had made appointments to the position of Secretary of Homeland Security.

## Findings

On average, Cabinet appointments were confirmed within 91 days (approximately three months) of the election. This means that the average Cabinet appointment was confirmed within about two weeks after inauguration day. This finding suggests that, on the whole, the transition-period appointment process has been effective at installing the top leaders of a new Administration soon after the new President takes office.

Cabinet-level nominees do not all move through the process this quickly, however. As **Table 2** shows, there are notable differences between the mean interval from election day to final disposition for department head nominees (80 days) and for Cabinet-rank nominees (133 days). Department head nominees were announced sooner, brought before the committee of jurisdiction more quickly, and confirmed at an earlier date than Cabinet-rank nominees.

There was more variation in the intervals between election day and final disposition among the Cabinet-rank nominees than the department head nominees. The overall duration of the appointment process for OMB Director and U.S. Trade Representative nominees was similar to that of department head nominees. On average, the EPA Administrator nominations were confirmed more than a month later than nominees to these two positions. Most notably, nominations to the position of Director of the Office of National Drug Control Policy took far longer to go through every stage of the process than any other Cabinet nomination.

With regard to the EPA Administrator nominations, the data in **Table 2** suggest that the nominations were announced later than, and brought before the committee of jurisdiction for a hearing less quickly than, the average department head nomination. As the data in **Appendix A** show, however, one of the three EPA nominations, President Reagan's nomination of Ann M. Gorsuch, took twice as long as either of the other two to get to final disposition. This single nomination appears to account for most of the variation from the department head average.

Both transition period nominations to the position of ONDCP Director,<sup>40</sup> on the other hand, were anomalous among all Cabinet-level nominations. As the data in **Appendix A** show, both of these nominations took much longer than other Cabinet nominations. But the elapsed time between election day and final disposition for President Bush's nomination of John P. Walters was 393 days, 168 days longer than the same period for President Clinton's nomination of Lee P. Brown. Because of these extreme values, for Cabinet-rank nominees, the mean length of the process is much greater than the median.

## Transition-period Subcabinet Appointment Intervals

The analysis presented here summarizes the data presented in **Appendix C**. This appendix includes data on 75 nominations to 29 positions across the three party-turnover transitions identified above. Positions considered in this analysis include selected higher-level subcabinet posts in the federal government organizations that are most involved with policymaking related to national security and to the federal response to the economic and financial downturn. A complete

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<sup>40</sup> As noted in **Appendix A**, the position of ONDCP Director was established near the end of the Reagan Administration, so there were only two transition-period appointments prior to the 2008-2009 transition.

list of these selected positions and a detailed explanation of the method by which they were chosen are provided in **Appendix B**.

**Table 3** provides, at the department level, the mean and median length of the intervals between specified points in the process: election day and nomination submission; submission and hearing; hearing and report or discharge; report or discharge and final disposition of the nomination (usually confirmation); submission and final disposition; and election day and final disposition of the nomination. The table does not provide this information for the Department of Homeland Security (DHS) or the Intelligence Community. In each of these cases, only one position was included in the selected group of subcabinet positions. These cases would not necessarily be representative of all DHS or the Intelligence Community subcabinet positions. The nominees to positions in these agencies are, however, included in the mean and median values in the rows entitled “All specified subcabinet nominees” at the bottom of the table.

## Findings

For many of the intervals in **Table 3**, the mean is notably greater than the median. This suggests that these data include a limited number of extreme values.<sup>41</sup> In such cases, the median is often considered to be the more accurate of the two measures of central tendency. Consequently, the analysis in this subsection will focus on the median.

The median length of the total process, from election day to final disposition, for all specified subcabinet nominees was 182 days. This means that half of the nominees to positions in this group were confirmed within approximately six months of election day, or, in other words, within approximately 3½ months of inauguration day. The remaining half were confirmed after that point.

State Department nominees, on average, completed the process most swiftly. Half the nominations reached the point of final disposition within 139 days, or about 4½ months, after election day. The median interval between election day and nomination submission, at 121 days, or roughly four months, is shorter for State Department nominees than it is for any of the other groups of nominees, and this appears to account for the faster progress of these nominees.

Nominees to Department of Energy positions took the longest to be confirmed, on average. The median interval between election and confirmation for the seven nominees was 234 days, or nearly eight months. In large part, this appears to be due to a relatively long interval between election day and the submission of nominations to the Senate. Half of these nominations were submitted 196 days (about 6½ months) or more after election day. Once the Energy Department nominations were submitted, the median number of days before confirmation was 25 (less than one month).

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<sup>41</sup> A review of the data in **Appendix C** verified that this is correct. A nomination with one or more time intervals that are far longer than average is not necessarily one that faced a problematic process or led to extended vacancy in the position in question. For example, President Bush submitted his first nomination to the position of Under Secretary of Energy for Nuclear Security/Administrator, National Nuclear Security Administration on February 4, 2003, 819 days after the presidential election and more than two years into his presidency. In this case, however, the incumbent under the Clinton Administration, John Gordon, remained in office until July 2002. Following Gordon’s departure, Linton F. Brooks, who was then Deputy Administrator for Defense Nuclear Nonproliferation, became Acting Administrator. He was President Bush’s nominee to the position, and was confirmed on May 1, 2003, approximately three months after the nomination was submitted.

As **Table 3** shows, for all selected subcabinet nominations, the median interval between election and submission is nearly six times longer than the median interval between submission and final disposition. In other words, during the past three party-turnover transitions, the incoming Administration has typically taken much longer to submit one of these nominations than the Senate has taken to dispose of it, once it is submitted.

**Table 3. Mean and Median Length of Appointment Process for Selected Transition-period Subcabinet Nominees of President Ronald W. Reagan, President William J. Clinton, and President George W. Bush**

Department (number of nominees)	Elapsed days											
	Election day to submission		Submission to hearing		Hearing to report or discharge		Report or discharge to final disposition		Submission to final disposition		Total: election day to final disposition	
	Mean	Median	Mean	Median	Mean	Median	Mean	Median	Mean	Median	Mean	Median
State (22)	121	121	24	15	6	5	5	1	33	23	154	139
Treasury (9)	131	133	16	16	9	6	37	19	55	50	186	189
Defense (20)	162	155	13	9	14	8	2	1	28	15	190	189
Justice (12)	223	170	59	28	21	8	8	4	88	50	311	206
Energy (7)	317	196	24	17	5	7	13	9	41	25	358	234
<b>All selected subcabinet nominees (75)</b>	<b>166</b>	<b>133</b>	<b>25</b>	<b>13</b>	<b>11</b>	<b>6</b>	<b>10</b>	<b>2</b>	<b>43</b>	<b>23</b>	<b>209</b>	<b>182</b>

**Source:** Table created by CRS based on data from **Appendix C** of this report.

## Summary

In general, transition-period Cabinet-level nominees are selected, vetted, considered, and confirmed expeditiously; they generally take office shortly after the new President's inauguration. Nominations to be Director of ONDCP, a position that was accorded Cabinet rank by President Clinton and President Bush, were different; they took far longer than other Cabinet-level nominations to be confirmed.

On average, the interval between election day and final disposition of nominations to selected subcabinet positions was more than twice as long as that of nominations to Cabinet-level positions. There were notable differences in the average election to final disposition interval among the subcabinet positions in different departments; on average, State Department subcabinet nominations were processed and confirmed more quickly than those of any other department. The pre-nomination portion of this period was notably longer than the period of Senate consideration. The Senate confirmed more than half of the selected subcabinet nominations 23 days or less after the nomination was submitted.

# Appendix A. Transition Period Nominations to Cabinet Positions by President Ronald W. Reagan, President William J. Clinton, and President George W. Bush

**Table A-1. Transition Period Nominations to Cabinet Positions by President Ronald W. Reagan, President William J. Clinton, and President George W. Bush**

Nominee (nominating President)	Date of action				Elapsed days <sup>a</sup>			
	Announcement	Committee hearings	Submission	Confirmation or other final disposition	Election day to announcement	Announcement to first hearing date	Announcement to final disposition	Total: election day to final disposition
<b>TRADITIONAL CABINET MEMBERS (HEADS OF THE 15 DEPARTMENTS)</b>								
<b>Secretary of State (Committee on Foreign Relations)</b>								
Alexander M. Haig Jr. (Reagan)	12/16/80	1/9/81, 1/10/81, 1/12/81, 1/13/81, 1/14/81 <sup>b</sup>	1/20/81	1/21/81	42	24	36	78
Warren Christopher (Clinton)	12/22/92	1/13/93, 1/14/93	1/20/93	1/20/93	49	22	29	78
Colin L. Powell (Bush)	12/16/00	1/17/01	1/20/01	1/20/01	39	32	35	74
<i>Mean elapsed days for initial appointments to be Secretary of State</i>					43	26	33	77
<b>Secretary of the Treasury (Committee on Finance)</b>								
Donald T. Regan (Reagan)	12/11/80	1/6/81	1/20/81	1/21/81	37	26	41	78
Lloyd Bentsen (Clinton)	12/10/92	1/12/93	1/20/93	1/20/93	37	33	41	78
Paul H. O'Neill (Bush)	12/20/00	1/17/01	1/20/01	1/20/01	43	28	31	74
<i>Mean elapsed days for initial appointments to be Secretary of the Treasury</i>					39	29	38	77
<b>Secretary of Defense (Committee on Armed Services)</b>								
Caspar W. Weinberger (Reagan)	12/11/80	1/6/81	1/20/81	1/20/81	37	26	40	77
Les Aspin (Clinton)	12/22/92	1/7/93	1/20/93	1/20/93	49	16	29	78

Nominee (nominating President)	Date of action				Elapsed days <sup>a</sup>			
	Announcement	Committee hearings	Submission	Confirmation or other final disposition	Election day to announcement	Announcement to first hearing date	Announcement to final disposition	Total: election day to final disposition
Donald H. Rumsfeld (Bush)	12/28/00	1/11/01	1/20/01	1/20/01	51	14	23	74
<i>Mean elapsed days for initial appointments to be Secretary of Defense</i>					46	19	31	76
<b>Attorney General (Committee on the Judiciary)</b>								
William F. Smith (Reagan)	12/11/80	1/15/81	1/20/81	1/22/81	37	35	42	79
Zoe Baird (Clinton)	12/24/92	1/19/93, 1/21/93	1/20/93	(Withdrawn, 1/26/93)	51	26	33	84
Janet Reno (Clinton)	2/11/93	3/9/93, 3/10/93	2/26/93	3/11/93	100	26	28	128
John Ashcroft (Bush)	12/22/00	1/16/01, 1/17/01, 1/18/01, 1/19/01	1/29/01	2/1/01	45	25	41	86
<i>Mean elapsed days for initial appointments to be Attorney General</i>					58	28	36	94
<b>Secretary of the Interior (Committee on Energy and Natural Resources)</b>								
James G. Watt (Reagan)	12/22/80	1/7/81, 1/8/81	1/20/81	1/22/81	48	16	31	79
Bruce Babbitt (Clinton)	12/24/92	1/19/93, 1/21/93	1/20/93	1/21/93	51	26	28	79
Gale A. Norton (Bush)	12/29/00	1/18/01, 1/19/01	1/20/01	1/30/01	52	20	32	84
<i>Mean elapsed days for initial appointments to be Secretary of the Interior</i>					50	21	30	81
<b>Secretary of Agriculture (Committee on Agriculture, Nutrition and Forestry)</b>								
John R. Block (Reagan)	12/23/80	1/6/81	1/20/81	1/22/81	49	14	30	79
Mike Espy (Clinton)	12/24/92	1/14/93	1/20/93	1/21/93	51	21	28	79
Ann M. Veneman (Bush)	12/20/00	1/18/01	1/20/01	1/20/01	43	29	31	74
<i>Mean elapsed days for initial appointments to be Secretary of Agriculture</i>					48	21	30	77
<b>Secretary of Commerce (Committee on Commerce, Science and Transportation)</b>								
Malcolm Baldrige (Reagan)	12/11/80	1/6/81	1/20/81	1/22/81	37	26	42	79
Ronald H. Brown (Clinton)	12/12/92	1/6/93	1/20/93	1/21/93	39	25	40	79



Nominee (nominating President)	Date of action				Elapsed days <sup>a</sup>			
	Announcement	Committee hearings	Submission	Confirmation or other final disposition	Election day to announcement	Announcement to first hearing date	Announcement to final disposition	Total: election day to final disposition
Donald L. Evans (Bush)	12/20/00	1/4/01	1/20/01	1/20/01	43	15	31	74
<i>Mean elapsed days for initial appointments to be Secretary of Commerce</i>					40	22	38	77
<b>Secretary of Labor (Committee on Health, Education, Labor and Pensions (formerly Labor and Human Resources))</b>								
Raymond J. Donovan (Reagan)	12/16/80	1/12/81, 1/27/81	1/20/81	2/3/81	42	27	49	91
Robert B. Reich (Clinton)	12/11/92	1/7/93	1/20/93	1/21/93	38	27	41	79
Elaine L. Chao (Bush)	1/11/01	1/24/01	1/29/01	1/29/01	65	13	18	83
<i>Mean elapsed days for initial appointments to be Secretary of Labor</i>					48	22	36	84
<b>Secretary of Health and Human Services (Committee on Finance)</b>								
Richard S. Schweiker (Reagan)	12/11/80	1/6/81	1/20/81	1/21/81	37	26	41	78
Donna E. Shalala (Clinton)	12/11/92	1/14/93 <sup>c</sup>	1/20/93	1/21/93	38	34	41	79
Tommy G. Thompson (Bush)	12/29/00	1/18/01 <sup>d</sup>	1/20/01	1/24/01	52	20	26	78
<i>Mean elapsed days for initial appointments to be Secretary of Health and Human Services</i>					42	27	36	78
<b>Secretary of Housing and Urban Development (Committee on Banking, Housing, and Urban Affairs)</b>								
Samuel R. Pierce Jr. (Reagan)	12/22/80	1/13/81	1/20/81	1/22/81	48	22	31	79
Henry G. Cisneros (Clinton)	12/17/92	1/12/93	1/20/93	1/21/93	44	26	35	79
Mel Martinez (Bush)	12/20/00	1/17/01	1/20/01	1/23/01	43	28	34	77
<i>Mean elapsed days for initial appointments to be Secretary of Housing and Urban Development</i>					45	25	33	78
<b>Secretary of Transportation (Committee on Commerce, Science and Transportation)</b>								
Andrew L. Lewis Jr. (Reagan)	12/11/80	1/7/81	1/20/81	1/22/81	37	27	42	79
Federico Pena (Clinton)	12/24/92	1/7/93	1/20/93	1/21/93	51	14	28	79
Norman Y. Mineta (Bush)	1/2/01	1/24/01	1/24/01	1/24/01	56	22	22	78
<i>Mean elapsed days for initial appointments to be Secretary of Transportation</i>					48	21	31	79

Nominee (nominating President)	Date of action				Elapsed days <sup>a</sup>			
	Announcement	Committee hearings	Submission	Confirmation or other final disposition	Election day to announcement	Announcement to first hearing date	Announcement to final disposition	Total: election day to final disposition
<b>Secretary of Energy (Committee on Energy and Natural Resources)</b>								
James B. Edwards (Reagan)	12/22/80	1/12/81	1/20/81	1/22/81	48	21	31	79
Hazel R. O'Leary (Clinton)	12/21/92	1/19/93	1/20/93	1/21/93	48	29	31	79
Spencer Abraham (Bush)	1/2/01	1/18/01	1/20/01	1/20/01	56	16	18	74
<i>Mean elapsed days for initial appointments to be Secretary of Energy</i>					51	22	27	77
<b>Secretary of Education (Committee on Health, Education, Labor, and Pensions)</b>								
Terrel H. Bell (Reagan)	1/7/81	1/15/81	1/20/81	1/22/81	64	8	15	79
Richard W. Riley (Clinton)	12/21/92	1/12/93	1/20/93	1/21/93	48	22	31	79
Roderick R. Paige (Bush)	12/29/00	1/10/01	1/20/01	1/20/01	52	12	22	74
<i>Mean elapsed days for initial appointments to be Secretary of Education</i>					55	14	23	77
<b>Secretary of Veterans Affairs (Committee on Veterans' Affairs)</b>								
Jesse Brown (Clinton)	12/17/92	1/7/93	1/20/93	1/21/93	44	21	35	79
Anthony J. Principi (Bush)	12/29/00	1/18/01	1/20/01	1/23/01	52	20	25	77
<i>Mean elapsed days for initial appointments to be Secretary of Veterans Affairs</i>					48	21	30	78
<b>Secretary of Homeland Security (Committee on Homeland Security and Governmental Affairs) (No nominations during presidential transitions)<sup>e</sup></b>								
Mean elapsed days for all appointments to department head positions					47	23	32	80
Median elapsed days for all appointments to department head positions					48	25	31	79
<b>ADDITIONAL ADVICE AND CONSENT POSITIONS THAT HELD CABINET RANK DURING THE GEORGE W. BUSH ADMINISTRATION</b>								
<b>Administrator of the Environmental Protection Agency (Committee on Environment and Public Works)</b>								
Ann M. Gorsuch (Reagan)	2/21/81	5/1/81	3/3/81	5/5/81	109	69	73	182
Carol M. Browner (Clinton)	12/10/92	1/11/93	1/20/93	1/21/93	37	32	42	79
Christine T. Whitman (Bush)	12/22/00	1/17/01	1/20/01	1/30/01	45	26	39	84
<i>Mean elapsed days for initial appointments to be Administrator of the Environmental Protection Agency</i>					64	42	51	115

Nominee (nominating President)	Date of action				Elapsed days <sup>a</sup>			
	Announcement	Committee hearings	Submission	Confirmation or other final disposition	Election day to announcement	Announcement to first hearing date	Announcement to final disposition	Total: election day to final disposition
<b>Director of the Office of Management and Budget (Committee on Homeland Security and Governmental Affairs)<sup>f</sup></b>								
David A. Stockman (Reagan)	12/11/80	1/8/81	1/20/81	1/27/81	37	28	47	84
Leon E. Panetta (Clinton)	12/10/92	1/11/93	1/20/93	1/21/93	37	32	42	79
Mitchell E. Daniels Jr. (Bush)	12/22/00	1/19/01	1/20/01	1/23/01	45	28	32	77
<i>Mean elapsed days for initial appointments to be Director of the Office of Management and Budget</i>					40	29	40	80
<b>U.S. Trade Representative (Committee on Finance)</b>								
William E. Brock III (Reagan)	1/7/81	1/19/81	1/20/81	1/21/81	64	12	14	78
Michael Kantor (Clinton)	12/24/92	1/19/93	1/20/93	1/21/93	51	26	28	79
Robert B. Zoellick (Bush)	1/11/01	1/30/01	1/29/01	2/6/01	65	19	26	91
<i>Mean elapsed days for initial appointments to be U.S. Trade Representative</i>					60	19	23	83
<b>Director of the Office of National Drug Control Policy (Committee on the Judiciary)</b> new position - P.L. 100-690 signed into law 11/18/1988, Title I, Subtitle A, Section 1002(b)								
Lee P. Brown (Clinton)	4/28/93	5/25/93	5/20/93	6/16/93	176	27	49	225
John P. Walters (Bush) <sup>g</sup>	5/11/01	7/28/01	6/5/01	12/5/01	185	78	208	393
<i>Mean elapsed days for initial appointments to be Director of the Office of National Drug Control Policy</i>					181	53	129	309
<b>Mean elapsed days for all appointments to cabinet rank positions</b>					<b>77</b>	<b>34</b>	<b>55</b>	<b>133</b>
<b>Median elapsed days for all appointments to Cabinet-rank positions</b>					<b>51</b>	<b>28</b>	<b>42</b>	<b>84</b>
<b>MEAN ELAPSED DAYS FOR ALL APPOINTMENTS</b>					<b>54</b>	<b>25</b>	<b>37</b>	<b>91</b>
<b>MEDIAN ELAPSED DAYS FOR ALL APPOINTMENTS</b>					<b>48</b>	<b>26</b>	<b>32</b>	<b>79</b>

**Source:** Table created by CRS using data gathered from the nominations database of the Legislative Information System (LIS), which is available to the congressional community at <http://www.congress.gov/nomis/>, various Senate committee calendars, various hearing records, various volumes of the *Journal of the Executive Proceedings of the Senate of the United States of America*, and the *U.S. Code*. Announcement dates were drawn from contemporary news accounts (articles available from the authors), and from Charles O. Jones, *Passages to the Presidency: From Campaigning to Governing* (Washington: Brookings, 1998), p. 97.

**Notes:** This table includes, in sequential sections, the traditional Cabinet positions that are filled through the advice and consent process (i.e., heads of departments), and the four additional PAS positions given Cabinet rank by President George W. Bush. All four positions, as well as others, were given Cabinet rank by President Clinton. President Reagan accorded Cabinet rank to two of these positions—OMB Director and U.S. Trade Representative—as well as others. In each of these sections, the

positions are listed in the order they were established as advice and consent positions. The table does not include an individual whose selection was announced if he or she was not subsequently nominated.

- a. This table does not provide the interval between submission and final disposition. As discussed in the body of this report, Senate committees often begin consideration of prospective Cabinet-level nominations before the new President takes office and has the authority to submit formal nominations. Consequently, the submission-to-final disposition interval would not be a meaningful measure of the Senate consideration period. (See “The Senate Confirmation Process and Presidential Transitions” above.)
- b. The record of hearings concerning the nomination of Alexander M. Haig Jr. before the Senate Committee on Foreign Relations includes a transcript of the January 15, 1981, meeting of the committee to review and vote on the nomination. (U.S. Congress, Senate Committee on Foreign Relations, *Nomination of Alexander M. Haig, Jr.*, hearings on the nomination of Alexander M. Haig, Jr., to be Secretary of State, 97<sup>th</sup> Cong., 1<sup>st</sup> sess., January 9, 10, 12, 13, 14, 15, 1981 (Washington: GPO, 1981).) The committee does not appear to have heard any testimony on the 15<sup>th</sup>, however. In addition, the committee calendar does not include January 15, 1981, as a hearing date. (U.S. Congress, Senate Committee on Foreign Relations, *Legislative Calendar, Final Edition*, committee print, 97<sup>th</sup> Cong., 2<sup>nd</sup> sess. (Washington: GPO, 1983).) Consequently, this date is not included here.
- c. The Committee on Labor and Human Resources also held a hearing on this nomination on January 15, 1993.
- d. The Committee on Health, Education, Labor, and Pensions also held a hearing on this nomination on January 19, 2001.
- e. The Department of Homeland Security was established in 2003. As of the beginning of the 2008-2009 transition, no incoming President had made appointments to the position of Secretary of Homeland Security.
- f. According to the Legislative Information System, President Reagan’s nomination of Stockman to this position was also referred to the Committee on Finance. The Committee on Homeland Security and Governmental Affairs was formerly known as the Committee on Governmental Affairs.
- g. This row summarizes President Bush’s two sequential nominations of Walters to the position. The first nomination, on June 5, 2001, was returned to the President on August 3, 2001, at the beginning of the Senate’s August recess, under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate. The President renominated Walters to the position on September 4, 2001, and the nomination was confirmed on December 5, 2001. The two nominations are combined here to provide a more accurate understanding of the length of the entire process.

## **Appendix B. Subcabinet Position Selection Method**

This report includes analysis of a group of higher-level subcabinet positions in the departments most involved with policymaking related to national security and to the federal response to the economic and financial downturn. A two stage process was used to select this group. First, relevant criteria were used to identify an appropriate pool of positions. Second, those positions to which a nomination had been made during at least one previous presidential transition were selected from this pool.

The inclusion of the national security related positions was based on a 9/11 Commission recommendation that the “president-elect ... submit the nominations of the entire new national security team, through the level of under secretary of cabinet departments, not later than January 20,” and that the “Senate ... adopt special rules requiring hearings and votes to confirm or reject national security nominees within 30 days of their submission.”<sup>42</sup> The commission did not further specify which departments or under secretaries should be treated in this manner. In an effort to select positions for analysis that might match those intended by the commission, criteria similar to those in the passages above were adopted. Positions were to be part of the Department of State, the Department of Defense, the Department of Justice, the Department of Energy, the Department of Homeland Security, or the Intelligence Community and either (1) at Level II of the Executive Schedule; (2) titled as under secretaries; or (3) for those organizations without under secretaries, the equivalent title at Level III of the Executive Schedule.

It could be argued that, with federal government efforts to address the nation’s economic and financial downturn underway during the 2008-2009 presidential transition, the pace at which top leadership positions at the Department of the Treasury are filled would also be of concern. For this reason, Treasury positions similar to those in the other organizations were included. In addition, two new positions specifically associated with the federal government’s efforts, the Assistant Secretary for Financial Stability and the Special Inspector General for the Troubled Asset Relief Program, were included.

The list below shows the positions that met the criteria specified above. The positions are listed by organization, and the organizations are listed in the order established. The subcabinet positions that were actually subject to analysis in this report were drawn from this pool. Given the nature and purpose of the study, the group selected for analysis includes only those positions to which a nomination has been made during at least one presidential transition; positions that have come into existence since the 2000-2001 transition were not included in the final pool. Selected positions are marked with an asterisk in the list below.

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### **Department of State**

- Deputy Secretary\*
- Administrator of the U.S. Agency for International Development\*
- U.S. Permanent Representative to the United Nations\*
- Under Secretary for Arms Control and International Security\*
- Under Secretary for Democracy and Global Affairs\*

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<sup>42</sup> *9/11 Commission Report*, p. 422.

Under Secretary for Economic Business and Agricultural Affairs\*

Under Secretary for Management\*

Under Secretary for Political Affairs\*

Under Secretary for Public Diplomacy and Public Affairs\*

**Department of the Treasury**

Deputy Secretary\*

Under Secretary for Domestic Finance\*

Under Secretary for Terrorism and Financial Intelligence\*

Under Secretary for International Affairs\*

Assistant Secretary for Financial Stability

Special Inspector General for the Troubled Asset Relief Program

**Department of Defense**

Deputy Secretary\*

Secretary of the Army\*

Secretary of the Navy\*

Secretary of the Air Force\*

Under Secretary for Acquisitions, Technology, and Logistics

Under Secretary - Comptroller\*

Under Secretary for Intelligence

Under Secretary for Personnel and Readiness\*

Under Secretary for Policy\*

**Department of Justice**

Deputy Attorney General\*

Administrator of Drug Enforcement\*

Associate Attorney General\*

Solicitor General\*

Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives

**Department of Energy**

Deputy Secretary\*

Under Secretary\*

Under Secretary for Nuclear Security/Administrator of the National Nuclear Security Administration\*

Under Secretary for Science

**Department of Homeland Security**

Deputy Secretary

Director of the Federal Emergency Management Agency\*

Under Secretary for Intelligence and Analysis

Under Secretary for Management

Under Secretary for Preparedness (also known as the Under Secretary for National Protection and Programs Directorate)

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Under Secretary for Science and Technology

**Intelligence Community**

Director of National Intelligence

Director of Central Intelligence\*

Principal Deputy Director of National Intelligence

Director of the National Counterterrorism Center

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**Note:** Positions marked with an asterisk are those that were selected from this pool and subject to analysis in this report. See text above for more information.

# Appendix C. Transition Period Nominations to Selected Subcabinet Positions by President Ronald W. Reagan, President William J. Clinton, and President George W. Bush

Table C-1. Transition Period Nominations to Selected Subcabinet Positions by President Ronald W. Reagan, President William J. Clinton, and President George W. Bush

Nominee (nominating President)	Date of action				Elapsed days					
	Submission	Committee hearing(s)	Reported or discharged	Confirmation or other final disposition	Election to submission	Submission to hearing	Hearing to report or discharge	Report or discharge to final disposition	Submission to final disposition	Total: election to final disposition
<b>DEPARTMENT OF STATE</b>										
<b>Deputy Secretary (Committee on Foreign Relations)</b>										
William P. Clark (Reagan)	1/26/81	2/2/81	2/13/81	2/24/81	83	7	11	11	29	112
Clifton R. Wharton Jr. (Clinton)	1/20/93	1/22/93	1/26/93	1/26/93	78	2	4	0	6	84
Richard L. Armitage (Bush)	3/8/01	3/15/01	3/23/01	3/23/01	121	7	8	0	15	136
<i>Mean elapsed days for initial appointments to be Deputy Secretary of State</i>					94	5	8	4	17	111
<b>Administrator of the U.S. Agency for International Development (USAID) (Committee on Foreign Relations)</b>										
M. Peter McPherson (Reagan)	2/3/81	2/20/81	2/24/81	2/26/81	91	17	4	2	23	114
J. Brian Atwood (Clinton)	4/5/93	4/29/93	5/6/93	5/7/93	153	24	7	1	32	185
Andrew S. Natsios (Bush)	3/22/01	4/25/01	4/26/01	4/26/01	135	34	1	0	35	170
<i>Mean elapsed days for initial appointments to be Administrator of the USAID</i>					126	25	4	1	30	156
<b>U.S. Permanent Representative to the United Nations (U.N.) (Committee on Foreign Relations)</b>										
Jeane J. Kirkpatrick (Reagan)	1/20/81	1/15/81	n.a. <sup>a</sup>	1/29/81	77	n.a. <sup>a</sup>	n.a. <sup>a</sup>	n.a. <sup>a</sup>	9	86
Madeleine K. Albright (Clinton)	1/20/93	1/21/93	1/26/93	1/26/93	78	1	5	0	6	84



Nominee (nominating President)	Date of action				Elapsed days					
	Submission	Committee hearing(s)	Reported or discharged	Confirmation or other final disposition	Election to submission	Submission to hearing	Hearing to report or discharge	Report or discharge to final disposition	Submission to final disposition	Total: election to final disposition
John D. Negroponte (Bush) <sup>b</sup>	5/14/01	9/13/01	9/13/01	9/14/01	188	122	0	1	123	311
<i>Mean elapsed days for initial appointments to be U.S. Permanent Representative to the U.N.</i>					114	62	3	1	46	160
<b>Under Secretary for Arms Control and International Security (Committee on Foreign Relations)</b> (New position as of 1999, 106 <sup>th</sup> Congress) <sup>c</sup>										
John R. Bolton (Bush)	3/8/01	3/29/01	4/26/01	5/8/01	121	21	28	12	61	182
<b>Under Secretary for Democracy and Global Affairs (Committee on Foreign Relations)<sup>d</sup></b>										
Robert C. McFarlane (Reagan)	2/3/81	2/20/81	2/24/81	2/26/81	91	17	4	2	23	114
Timothy E. Wirth (Clinton)	3/8/93	3/25/93	4/1/93	4/21/93	125	17	7	20	44	169
Paula Dobriansky (Bush)	4/4/01	4/25/01	4/26/01	4/26/01	148	21	1	0	22	170
<i>Mean elapsed days for initial appointments to be Under Secretary for Democracy and Global Affairs</i>					121	18	4	7	30	151
<b>Under Secretary for Economic, Business, and Agricultural Affairs (Committee on Foreign Relations)<sup>e</sup></b>										
Myer Rashish (Reagan)	3/17/81	4/28/81	5/4/81	6/11/81	133	42	6	38	86	219
Joan E. Spero (Clinton)	3/16/93	3/24/93	3/25/93	3/31/93	133	8	1	6	15	148
<i>Mean elapsed days for initial appointments to be Under Secretary for Economic, Business, and Agricultural Affairs</i>					133	25	4	22	51	184
<b>Under Secretary for Management (Committee on Foreign Relations)</b>										
Richard T. Kennedy (Reagan)	2/3/81	2/18/81	2/24/81	2/26/81	91	15	6	2	23	114
J. Brian Atwood (Clinton)	3/8/93	3/17/93	3/23/93	3/31/93	125	9	6	8	23	148
Grant S. Green Jr. (Bush)	3/8/01	3/21/01	3/27/01	3/28/01	121	13	6	1	20	141
<i>Mean elapsed days for initial appointments to be Under Secretary for Management</i>					112	12	6	4	22	134
<b>Under Secretary for Political Affairs (Committee on Foreign Relations)</b>										
Walter J. Stoessel Jr. (Reagan)	2/3/81	2/18/81	2/24/81	2/26/81	91	15	6	2	23	114
Peter Tarnoff (Clinton)	2/26/93	3/4/93	3/9/93	3/10/93	115	6	5	1	12	127

Nominee (nominating President)	Date of action				Elapsed days					
	Submission	Committee hearing(s)	Reported or discharged	Confirmation or other final disposition	Election to submission	Submission to hearing	Hearing to report or discharge	Report or discharge to final disposition	Submission to final disposition	Total: election to final disposition
Marc I. Grossman (Bush)	3/8/01	3/20/01	3/23/01	3/23/01	121	12	3	0	15	136
<i>Mean elapsed days for initial appointments to be Under Secretary for Political Affairs</i>					109	11	5	1	17	126
<b>Under Secretary for Public Diplomacy (Committee on Foreign Relations)</b> (New position as of 1998 - 106 <sup>th</sup> Congress) <sup>f</sup>										
Charlotte L. Beers <sup>g</sup> (Bush)	6/29/01	9/24/01	9/25/01	9/26/01	234	87	1	1	89	323
<i>Mean elapsed days for appointments to selected Department of State positions</i>					121	24	6	5	33	154
<i>Median elapsed days for appointments to selected Department of State positions</i>					121	15	5	1	23	139
<b>DEPARTMENT OF THE TREASURY</b>										
<b>Deputy Secretary (Committee on Finance)</b>										
R. T. McNamar (Reagan)	2/2/81	2/6/81	2/6/81	2/16/81	90	4	0	10	14	104
Roger Altman (Clinton)	1/20/93	1/13/93	n.a. <sup>h</sup>	1/21/93	78	n.a. <sup>h</sup>	n.a. <sup>h</sup>	n.a. <sup>h</sup>	1	79
Kenneth W. Dam (Bush)	3/8/01	3/29/01	5/1/01	8/3/01	121	21	33	94	148	269
<i>Mean elapsed days for initial appointments to be Deputy Secretary of the Treasury</i>					96	8	11	35	54	151
<b>Under Secretary (Domestic Finance) (Committee on Finance)<sup>i</sup></b>										
Norman B. Ture (Reagan)	3/17/81	3/20/81	3/25/81	3/27/81	133	3	5	2	10	143
Frank N. Newman (Clinton)	3/22/93	4/26/93	4/28/93	5/11/93	139	35	2	13	50	189
Peter R. Fisher (Bush)	4/30/01	5/10/01	5/24/01	8/3/01	174	10	14	71	95	269
<i>Mean elapsed days for initial appointments to be Under Secretary (Domestic Finance)</i>					149	16	7	29	52	200
<b>Under Secretary (International Affairs) (Committee on Finance)</b> (New position as of 1985 - 99 <sup>th</sup> Congress) <sup>j</sup>										
Lawrence H. Summers (Clinton)	3/2/93	3/18/93	3/24/93	3/31/93	119	16	6	7	29	148
John B. Taylor (Bush)	4/4/01	4/26/01	5/1/01	5/26/01	148	22	5	25	52	200
<i>Mean elapsed days for initial appointments to be Under Secretary (International Affairs)</i>					134	19	6	16	41	174
<b>Under Secretary for Terrorism and Financial Crimes (Committee on Finance)<sup>k</sup></b>										
James Gurule (Bush)	4/30/01	5/16/01	5/24/01	8/3/01	174	16	8	71	95	269

Nominee (nominating President)	Date of action				Elapsed days					
	Submission	Committee hearing(s)	Reported or discharged	Confirmation or other final disposition	Election to submission	Submission to hearing	Hearing to report or discharge	Report or discharge to final disposition	Submission to final disposition	Total: election to final disposition
<i>Mean elapsed days for appointments to selected Department of the Treasury positions</i>					131	16	9	37	55	186
<i>Median elapsed days for appointments to selected Department of the Treasury positions</i>					133	16	6	19	50	189
<b>DEPARTMENT OF DEFENSE</b>										
<b>Deputy Secretary (Committee on Armed Services)</b>										
Frank C. Carlucci (Reagan)	1/22/81	1/13/81	1/29/81	2/3/81	79	n.a. <sup>1</sup>	16	5	12	91
William J. Perry (Clinton)	2/24/93	2/25/93	3/5/93	3/5/93	113	1	8	0	9	122
Paul Wolfowitz (Bush)	2/15/01	2/27/01	2/28/01	2/28/01	100	12	1	0	13	113
<i>Mean elapsed days for initial appointments to be Deputy Secretary of Defense</i>					97	4	8	2	11	109
<b>Secretary of the Army (Committee on Armed Services)</b>										
John O. Marsh Jr. (Reagan)	1/23/81	1/26/81	1/29/81	1/29/81	80	3	3	0	6	86
Togo D. West Jr. (Clinton)	11/5/93	11/18/93	11/18/93	11/20/93	367	13	0	2	15	382
Thomas E. White (Bush)	5/1/01	5/10/01	5/21/01	5/24/01	175	9	11	3	23	198
<i>Mean elapsed days for initial appointments to be Secretary of the Army</i>					207	8	5	2	15	222
<b>Secretary of the Navy (Committee on Armed Services)</b>										
John F. Lehman Jr. (Reagan)	1/23/81	1/28/81	1/29/81	1/29/81	80	5	1	0	6	86
John H. Dalton (Clinton)	7/1/93	7/13/93	7/20/93	7/21/93	240	12	7	1	20	260
Gordon England (Bush)	4/30/01	5/10/01	5/21/01	5/22/01	174	10	11	1	22	196
<i>Mean elapsed days for initial appointments to be Secretary of the Navy</i>					165	9	6	1	16	181
<b>Secretary of the Air Force (Committee on Armed Services)</b>										
Verne Orr (Reagan)	1/23/81	1/28/81	2/5/81	2/6/81	80	5	8	1	14	94
Sheila E. Widnall (Clinton)	7/22/93	7/29/93	7/30/93	8/5/93	261	7	1	6	14	275
James G. Roche (Bush)	5/7/01	5/10/01	5/21/01	5/24/01	181	3	11	3	17	198
<i>Mean elapsed days for initial appointments to be Secretary of the Air Force</i>					174	5	7	3	15	189

Nominee (nominating President)	Date of action				Elapsed days					
	Submission	Committee hearing(s)	Reported or discharged	Confirmation or other final disposition	Election to submission	Submission to hearing	Hearing to report or discharge	Report or discharge to final disposition	Submission to final disposition	Total: election to final disposition
<b>Under Secretary for Acquisitions, Technology, and Logistics (Committee on Armed Services)</b> (New position 1986, 99 <sup>th</sup> Congress) <sup>m</sup>										
John M. Deutch (Clinton)	3/25/93	3/30/93	3/31/93	4/1/93	142	5	1	1	7	149
Edward C. Aldridge (Bush)	4/23/01	4/26/01	5/1/01	5/8/01	167	3	5	7	15	182
<i>Mean elapsed days for initial appointments to be Under Secretary for Acquisitions, Technology, and Logistics</i>					155	4	3	4	11	166
<b>Under Secretary - Comptroller (Committee on Armed Services)</b> (New position as of 1986, 99 <sup>th</sup> Congress) <sup>n</sup>										
John J. Hamre (Clinton)	8/4/93	9/23/93	10/21/93	10/25/93	274	50	28	4	82	356
Dov S. Zakheim (Bush)	3/13/01	4/24/01	5/1/01	5/1/01	126	42	7	0	49	175
<i>Mean elapsed days for initial appointments to be Under Secretary - Comptroller</i>					200	46	18	2	66	266
<b>Under Secretary for Personnel and Readiness (Committee on Armed Services)</b> (New position as of 1993, 103 <sup>rd</sup> Congress) <sup>o</sup>										
David S. C. Chu (Bush)	4/30/01	5/10/01	5/21/01	5/26/01	174	10	11	5	26	200
<b>Under Secretary for Policy (Committee on Armed Services)</b>										
Fred C. Ikle (Reagan)	3/17/81	3/26/81	3/26/81	3/27/81	133	9	0	1	10	143
Frank G. Wisner (Clinton)	2/24/93	3/4/93	6/30/93	7/1/93	113	8	118	1	127	240
Douglas J. Feith (Bush)	4/30/01	6/5/01	7/11/01	7/12/01	174	36	36	1	73	247
<i>Mean elapsed days for initial appointments to be Under Secretary for Policy</i>					140	18	51	1	70	210
<b>Mean elapsed days for appointments to selected Department of Defense positions</b>					162	13	14	2	28	190
<b>Median elapsed days for appointments to selected Department of Defense positions</b>					155	9	8	1	15	189
<b>DEPARTMENT OF JUSTICE</b>										
<b>Deputy Attorney General (Committee on the Judiciary)</b>										
Edward C. Schmults (Reagan)	1/30/81	2/5/81	2/5/81	2/6/81	87	6	0	1	7	94
Philip B. Heymann (Clinton)	5/7/93	5/18/93	5/24/93	5/28/93	185	11	6	4	21	206
Larry D. Thompson (Bush)	3/22/01	4/5/01	5/10/01	5/10/01	135	14	35	0	49	184
<i>Mean elapsed days for initial appointments to be Deputy Attorney General</i>					136	10	14	2	26	161

Nominee (nominating President)	Date of action				Elapsed days					
	Submission	Committee hearing(s)	Reported or discharged	Confirmation or other final disposition	Election to submission	Submission to hearing	Hearing to report or discharge	Report or discharge to final disposition	Submission to final disposition	Total: election to final disposition
<b>Administrator of Drug Enforcement (Committee on the Judiciary)<sup>a</sup></b>										
Francis M. Mullen Jr. (Reagan) <sup>a</sup>	3/29/82	6/15/83	9/30/83	10/7/83	510	443	107	7	557	1067
Thomas A. Constantine (Clinton)	1/26/94	3/2/94	3/9/94	3/10/94	449	35	7	1	43	492
Asa Hutchinson (Bush)	6/12/01	7/17/01	7/26/01	8/1/01	217	35	9	6	50	267
<i>Mean elapsed days for initial appointments to be Administrator of Drug Enforcement</i>					392	171	41	5	217	609
<b>Associate Attorney General (Committee on the Judiciary)</b>										
Rudolph W. Giuliani (Reagan)	3/17/81	3/27/81	4/8/81	4/27/81	133	10	12	19	41	174
Webster L. Hubbell (Clinton)	4/7/93	5/19/93	5/24/93	5/28/93	155	42	5	4	51	206
Jay B. Stephens (Bush)	9/10/01	9/20/01	10/4/01	11/8/01	307	10	14	35	59	366
<i>Mean elapsed days for initial appointments to be Associate Attorney General</i>					198	21	10	19	50	249
<b>Solicitor General (Committee on the Judiciary)</b>										
Rex E. Lee (Reagan)	6/11/81	7/14/81	7/14/81	7/31/81	219	33	0	17	50	269
Drew S. Days III (Clinton)	4/7/93	5/20/93	5/24/93	5/28/93	155	43	4	4	51	206
Theodore B. Olson (Bush)	3/13/01	4/5/01	5/24/01	5/24/01	126	23	49	0	72	198
<i>Mean elapsed days for initial appointments to be Solicitor General</i>					167	33	18	7	58	224
<b>Mean elapsed days for appointments to selected Department of Justice positions</b>					<b>223</b>	<b>59</b>	<b>21</b>	<b>8</b>	<b>88</b>	<b>311</b>
<b>Median elapsed days for appointments to selected Department of Justice positions</b>					<b>170</b>	<b>28</b>	<b>8</b>	<b>4</b>	<b>50</b>	<b>206</b>
<b>DEPARTMENT OF ENERGY</b>										
<b>Deputy Secretary (Committee on Energy and Natural Resources)</b>										
W. Kenneth Davis (Reagan)	4/27/81	5/13/81	5/13/81	5/14/81	174	16	0	1	17	191
William H. White (Clinton)	5/18/93	6/8/93	6/16/93	6/25/93	196	21	8	9	38	234
Francis S. Blake (Bush)	4/30/01	5/9/01	5/16/01	5/25/01	174	9	7	9	25	199
<i>Mean elapsed days for initial appointments to be Deputy Secretary of Energy</i>					181	15	5	6	27	208

Nominee (nominating President)	Date of action				Elapsed days					
	Submission	Committee hearing(s)	Reported or discharged	Confirmation or other final disposition	Election to submission	Submission to hearing	Hearing to report or discharge	Report or discharge to final disposition	Submission to final disposition	Total: election to final disposition
<b>Under Secretary (Committee on Energy and Natural Resources)</b>										
Guy W. Fiske (Reagan)	8/28/81	9/14/81	9/16/81	9/18/81	297	17	2	2	21	318
Charles B. Curtis (Clinton)	11/20/93	2/1/94	2/2/94	2/7/94	382	73	1	5	79	461
Robert G. Card (Bush)	5/2/01	5/9/01	5/16/01	5/25/01	176	7	7	9	23	199
<i>Mean elapsed days for initial appointments to be Under Secretary of Energy</i>					285	32	3	5	41	326
<b>Under Secretary for Nuclear Security/Administrator, National Nuclear Security Administration (Committee on Armed Services) New Position as of 1999 - 106<sup>th</sup> Congress<sup>f</sup></b>										
Linton F. Brooks (Bush)	2/4/03	2/27/03	3/6/03	5/1/03	819	23	7	56	86	905
<b><i>Mean elapsed days for appointments to selected Department of Energy positions</i></b>					<b>317</b>	<b>24</b>	<b>5</b>	<b>13</b>	<b>41</b>	<b>358</b>
<b><i>Median elapsed days for appointments to selected Department of Energy positions</i></b>					<b>196</b>	<b>17</b>	<b>7</b>	<b>9</b>	<b>25</b>	<b>234</b>
<b>DEPARTMENT OF HOMELAND SECURITY<sup>s</sup></b>										
<b>Director of the Federal Emergency Management Agency (FEMA) (Committee on Governmental Affairs)<sup>t</sup></b>										
Louis O. Giuffrida (Reagan)	4/3/81	5/6/81	5/12/81	5/19/81	150	33	6	7	46	196
James L. Witt (Clinton)	3/16/93	3/31/93	4/1/93	4/5/93	133	15	1	4	20	153
Joe M. Allbaugh (Bush)	2/6/01	2/13/01	2/15/01	2/15/01	91	7	2	0	9	100
<i>Mean elapsed days for initial appointments to be Director of the Federal Emergency Management Agency</i>					125	18	3	4	25	150
<b>INTELLIGENCE COMMUNITY<sup>u</sup></b>										
<b>Director of Central Intelligence (Select Committee on Intelligence)<sup>v</sup></b>										
William J. Casey (Reagan)	1/20/81	1/13/81	n.a. <sup>w</sup>	1/27/81	77	n.a. <sup>w</sup>	n.a. <sup>w</sup>	n.a. <sup>w</sup>	7	84
R. James Woolsey (Clinton)	1/20/93	2/2/93	2/3/93	2/3/93	78	13	1	0	14	92
<i>Mean elapsed days for initial appointments to be Director of the Central Intelligence</i>					78	n.a.	n.a.	n.a.	11	88
<b>MEAN ELAPSED DAYS FOR ALL APPOINTMENTS</b>					<b>166</b>	<b>25</b>	<b>11</b>	<b>9</b>	<b>43</b>	<b>209</b>

**Source:** Table created by CRS using information gathered from the nominations database of the Legislative Information System (LIS), which is available to the congressional community at <http://www.congress.gov/nomis/>, various Senate committee calendars, various volumes of the *Journal of the Executive Proceedings of the Senate of the United States of America*, and the *U.S. Code*.

**Note:** Includes PAS positions in the listed organizational units that are either (1) at Level II of the Executive Schedule; (2) titled as under secretaries; or (3) for those organizations without under secretaries, the equivalent title at Level III of the Executive Schedule. The table includes only those positions to which a nomination has been made during at least one presidential transition. Positions that have come into existence since the 2000-2001 transition are not included.

n.a.= not applicable.

- a. The Kirkpatrick nomination was one of a group of nominations that was submitted by President Reagan on January 20, 1981, and, by unanimous consent, held at the desk (not referred to committee). Consequently, there is no entry in this row for date of committee report or discharge, and no entries for elapsed days between this date and other dates. The Committee on Foreign Relations held hearings on the anticipated Kirkpatrick nomination before the President-elect took office and had the authority to formally submit the nomination to the Senate. As a result, the elapsed time from submission to hearing is not applicable. The elapsed time from the committee hearing to confirmation was 14 days.
- b. This row summarizes President Bush's two sequential nominations of Negroponte to the position. The first nomination, on May 14, 2001, was returned to the President on August 3, 2001, at the beginning of the Senate's August recess, under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate. The President re-nominated Negroponte to the position on September 4, 2001, and the nomination was confirmed on September 14, 2001. The two nominations are combined here to provide a more accurate understanding of the length of the entire process.
- c. The position of Under Secretary of State for Arms Control and International Security was established by P.L. 105-277, § 1213 (112 Stat. 2681-767). Bolton's nomination to the position was the first during a presidential transition.
- d. This Under Secretary position has been entitled differently, under prior administrations, as, for example, Under Secretary for Global Affairs. Furthermore, its predecessor position was "Counselor" prior to the enactment of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236; 108-382). The Counselor was compensated at Level IV of the Executive Schedule until 1983, when it became a Level III position (5 U.S.C. § 5314).
- e. This Under Secretary position has been entitled differently, under prior administrations, as, for example, Under Secretary for Economic Affairs and Under Secretary for Economic and Agricultural Affairs. No new appointment was made to the position at the outset of the Bush presidency. Alan P. Larson was nominated to the position by President Clinton, was confirmed on November 19, 1999, and continued to serve under President Bush. Larson was replaced by Josette S. Shiner, who was confirmed on July 29, 2005.
- f. The position of Under Secretary of State for Public Diplomacy was established by P.L. 105-277, § 1313 (112 Stat. 2681-776). Beers's nomination to the position was the first during a presidential transition. During the George W. Bush Administration, the position has been known as Under Secretary of State for Public Diplomacy and Public Affairs.
- g. This row summarizes President Bush's two sequential nominations of Beers to the position. The first nomination, on June 29, 2001, was returned to the President on August 3, 2001, at the beginning of a 31-day Senate recess, under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate. The President re-nominated Beers to the position on September 4, 2001, and the nomination was confirmed on September 26, 2001. The two nominations are combined here to provide a more accurate understanding of the length of the entire process.
- h. The Altman nomination was one of a group of nominations that was submitted by President Clinton on January 20, 1993, and, by unanimous consent, placed directly on the Executive Calendar (and not referred to committee). Consequently, there is no entry in this row for date of committee report or discharge, and no entries for elapsed days between this date and other dates. The Committee on Foreign Relations held hearings on the anticipated Altman nomination before the President-elect took office and had the authority to formally submit the nomination to the Senate. As a result, the elapsed time from submission to hearing is not applicable. The elapsed time from the committee hearing to confirmation was eight days.

- i. This position, is entitled simply “Under Secretary” in statute, and has been named in various ways by different Administrations. Under the George W. Bush Administration, it was known as the Under Secretary for Domestic Finance.
- j. This under secretary position was established by P.L. 99-190, § 141 (99 Stat. 1324). It replaced the position of Under Secretary for Monetary Affairs. Summers' nomination to the position was the first during a party turnover presidential transition. (A nomination had been submitted during the Reagan-Bush transition in 1989.) The position, which is entitled simply “Under Secretary” in statute, has generally been known as Under Secretary for International Finance under various Administrations.
- k. The position of Under Secretary for Enforcement was established by P.L. 103-211, § 2003 (108 Stat. 24). Gurule's nomination to the position was the first during a presidential transition. He was succeeded in that position by Stuart Levey. The position of Under Secretary for Terrorism and Financial Crimes was established as a successor position to the Under Secretary for Enforcement by P.L. 108-447, Division H, Title II, § 222 (118 Stat. 3242). After the transition, Levey, the incumbent, continued to serve. During the George W. Bush Administration, the position has been known under a slightly different name, Under Secretary for Terrorism and Financial Intelligence.
- l. Hearings on the Carlucci nomination were held before President-elect Reagan took office and had the authority to formally submit the nomination to the Senate. Consequently, the elapsed time from submission to hearing is not applicable.
- m. The position of Under Secretary of Defense for Acquisition was established in 1986 by P.L. 99-348, § 501(a) (100 Stat. 707). The position has since been retitled in statute as “Under Secretary of Defense for Acquisition, Technology, and Logistics” (10 U.S.C. § 133). Deutch's nomination to the position was the first during a party turnover presidential transition.
- n. The position of Comptroller of the Department of Defense was established by the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (P.L. 99-433, § 107; 100 Stat. 998), and this position was compensated at Level IV of the Executive Schedule. The National Defense Authorization Act for Fiscal Year 1994 (P.L. 103-160; 107 Stat. 1547) enhanced the status of the position by changing its compensation to Level III of the Executive Schedule (§ 901). This act also established the Comptroller as the “agency Chief Financial Officer of the Department of Defense for the purposes of chapter 9 of title 31” (the Chief Financial Officers Act) (§ 902). In 1994, the title of the position was changed to “Under Secretary of Defense (Comptroller)” (P.L. 103-337, Div. A, § 903(a); 108 Stat. 2823). Hamre's nomination to the Comptroller position was the first during a party turnover presidential transition. He was confirmed shortly before enactment of the provisions enhancing the position's compensation. Zakheim's nomination was the first to the position, as it is currently titled and compensated, during a presidential transition.
- o. The position of Under Secretary of Defense for Personnel and Readiness was established in 1993 by P.L. 103-160, § 903 (107 Stat. 1727). Chu's nomination to the position was the first during a presidential transition.
- p. During each of the three transitions covered by this table, incumbents from the preceding Administration remained in office for a number of months after the new President's inauguration: Mullen's predecessor, Peter B. Bensinger, stayed on until July 10, 1981; Constantine's predecessor, Robert C. Bonner, stayed on until October 31, 1993; and Hutchinson's predecessor, Donnie R. Marshall, stayed on until June 30, 2001.
- q. This row summarizes President Reagan's three sequential nominations of Mullen to the position. The first nomination, on March 29, 1982, was returned to the President on December 27, 1982, after the Senate adjourned sine die near the end of the 97<sup>th</sup> Congress, under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate. The President renominated Mullen to the position on January 25, 1983, and this nomination was returned, under the same provisions, at the beginning of a 39-day Senate recess. After the end of the recess, on September 9, 1983, the President renominated Mullen again, and Mullen was confirmed on October 7, 1983. The three nominations are combined here to provide a more accurate understanding of the length of the entire process.
- r. The position of Under Secretary of Energy for Nuclear Security was established in 1999 by P.L. 106-65, § 3202 (113 Stat. 954). Brooks's nomination to the position was the first during a presidential transition. Brooks' predecessor, John Gordon, remained in office until July 2002. Brooks, who was then Deputy Administrator for Defense Nuclear Nonproliferation, became Acting Administrator at that point, and he appears to have served in that capacity until he was later confirmed and appointed to the Administrator position.



- s. The Department of Homeland Security was established during the Administration of President George W. Bush, so most positions in this department that would otherwise be covered in this table have never been filled during a presidential transition. The Federal Emergency Management Agency (FEMA) predates DHS, however, and prior nominations to its top position are shown here. The FEMA leader is now entitled “Administrator.”
- t. At the time of each of these nominations, this committee was entitled the Committee on Governmental Affairs. It is now named the Senate Committee on Homeland Security and Governmental Affairs.
- u. The leadership structure of the Intelligence Community changed during the Administration of President George W. Bush. Most of these positions would be covered in this table, but they have never been filled during a presidential transition.
- v. The CIA Director at the end of the Clinton Administration, George Tenet, continued to serve during the first years of the Bush Administration; there was no nomination to this position during the 2000-2001 transition. Due to the nature of the data for nominations to this position, calculated averages would not be meaningful, and are therefore not included.
- w. The Casey nomination was one of a group of nominations that was submitted by President Reagan on January 20, 1981, and, by unanimous consent, held at the desk (not referred to committee). Consequently, there is no entry in this row for date of committee report or discharge, and no entries for elapsed days between this date and other dates. The Select Committee on Intelligence held hearings on the anticipated Casey nomination before the President-elect took office and had the authority to formally submit the nomination to the Senate. As a result, the elapsed time from submission to hearing is not applicable. The elapsed time from the committee hearing to confirmation was 14 days.

## **Author Contact Information**

Henry B. Hogue  
Analyst in American National Government  
hhogue@crs.loc.gov, 7-0642

Betsy Palmer  
Analyst on the Congress and Legislative Process  
bpalmer@crs.loc.gov, 7-0381

Maureen Bearden  
Information Research Specialist  
mbearden@crs.loc.gov, 7-8955