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## Presidential Transition Is Sooner Than We Think

### From the Experts

*Robert Rizzi, Jason Abel and  
Dianna Mullis*

New presidential transition rules mean that the vetting of hopeful presidential appointees will start sooner than ever before. Are the campaigns, and the prospective appointees, ready? No later than July, both parties will have the statutory authorization, and more importantly the funds, to set up presidential transition teams. Once those teams are up and running, both parties will be in a position to start screening individuals for cabinet and subcabinet appointments, to be ready in the event their candidate wins the general election. This is a full four months earlier than in any previous election cycle. Few individuals who hope to serve in the next administration are even aware of this accelerated timing.

The acceleration of transition planning is partly a result of the terrorist attacks of



Sept. 11, 2001, and the “9/11 commission” report that followed. The report raised a number of concerns regarding “continuity of government” and the need for a smooth transition, especially in national security positions. In the past, most presidential transitions started informally, and in secret, sometime between the date the nomination of their candidate appeared firm and Election Day,

but was formally organized only in November, after the election.

In response to recommendations of various good government reformers, Congress has enacted two major improvements to presidential transition procedures, first in 2010 and again in 2015. In the past, transition teams have suffered from “measuring the drapes” syndrome, whereby preparation for a transition by a candidate can be attacked as

presumptuous. Hopefully, the new accelerated timelines created by Congress will eliminate this perception. Now, both major party candidates will be encouraged (not least by the prospect of receiving cash) to set up formal transition organizations as early as July, and to begin the process of contingency planning for a prospective administration, including by identifying potential cabinet members and other key appointees.

These changes are good policy, and if implemented effectively, could be good for the entire political process. In the past, the scramble to fill executive branch positions was shoehorned into a very short period of time, and, as a result, many positions were not ready for confirmation by Inauguration Day. One of the best examples of this failure was the Obama administration's transition in 2008. On Inauguration Day 2009, only a handful of positions were ready for Senate approval, and the slow confirmation process continued. Once the administration fell behind, it was very difficult to catch up. Historic levels of vacancies characterized many departments throughout the first years of the administration. Moreover, many of the hurdles to successful nomination, including background checks and the

need to clear potential financial conflicts of interest, could easily have been resolved given sufficient lead time.

This time, candidates from both parties may have a chance to get off on a better footing, and thus start selecting and carefully filling positions in the administration. However, there remain a number of hurdles to the successful implementation of the next presidential transition.

One major hurdle in the presidential transition is the inherent tensions between the campaign and transition planning. Many participants in political campaigns desire to serve in the administration if their candidate is successful. These prospective appointees will be fully engaged in the campaign, trying to actually win the election, when the transition team starts operating pursuant to the new statutes. In the past, this tension prevented transition teams from making some personnel and other decisions for the new administration. Moreover, the most important component of the political operation – the presidential nominee – has little time to participate in any of the decisions related to the transition. Thus, regardless of how early a transition organization is in place, it will have to operate largely on its

own, and without the ability to control certain critical events.

Second, in recent years the process of vetting prospective appointees has been bogged down by various time-consuming steps required to meet government ethics requirements for service in the government. In ordinary circumstances, the vetting process, including obtaining security clearances, performing background checks and evaluating potential financial conflicts of interest has contributed to the increasing delay in filling positions in the federal government. In a presidential transition, these hurdles are exacerbated by the volume of positions to be filled and the limited time frame, and therefore create much more serious problems. The consideration of an ultimately unsuccessful appointee will also delay consideration of alternatives. In every presidential transition, there will be a priority list of individuals for positions in the prospective administration. If the first choice does not pan out, then the second choice, third choice, etc. must be quickly evaluated and cleared. To counteract this problem, it is essential for transition teams to design procedures to get “fast to no” – that is, mechanisms that allow potentially problematic

nominees to be sidelined quickly so that alternatives can be found and reviewed.

Third, and perhaps most important, the presidential transition team must overcome the problem of confidentiality. This is always a concern with presidential appointments, and it's heightened in a presidential transition. Especially if a prospective appointee is potentially controversial. Knowledge of the identity of that individual can be used as political ammunition to attack the candidate himself or herself. Disclosure of the potential appointee also raises potential reputational risks, and even if the candidate appears flawless (there are always a few), any number of problems can arise. Because of the nature of security clearances and background checks, which require interviews by the FBI or other investigators, it is hard to keep the identity of prospective appointees secret for long.

On the other hand, a number of improvements will assist transition organizations in limiting the amount of information that is public. For example, the Office of Government Ethics, the principal agency charged with reviewing potential financial conflicts, can screen prospective appointees on a no-name basis. OGE has an

unblemished record on presidential appointments.

It is not clear that any of the campaigns, or many potential appointees, have started to focus on the transition problems. They have other things on their minds at the moment. But it is the nature of the American political process to accelerate quickly after months of maneuvering, and to narrow the field of candidates within a matter of weeks. Once the conventions are over, the presidential transition teams will be up and running, in some form. And individuals with an interest in service will have to be prepared to start through the process.

These people should begin a "diagnostics" of their own right now. Transition teams will look at a variety of standard criteria, including past tax returns, assets (both amount and type) of the individual, their spouse and dependents, destinations of foreign travel and other foreign connections. Vetting this information will be critical for security clearances, for preventing conflicts of financial interests and to assess possible political liabilities. Getting ahead of this information curve will better position individuals with an interest in public service when the transition teams hit the accelerator.

**Robert Rizzi** is a partner in Steptoe & Johnson's Washington, D.C., and New York offices, and co-chairs the firm's tax practice. He has represented prospective political appointees requiring Senate confirmation through the vetting process, including Cabinet and sub-Cabinet members, administrators and commissioners of various agencies, and numerous ambassadorial appointees in both Democratic and Republican administrations. **Jason Abel** is of counsel in the firm's Washington office, and is former counsel to Sen. Charles Schumer and chief counsel of the U.S. Senate Committee on Rules and Administration. He counsels clients, including those in the financial services industry, on campaign finance and political law, and on federal, state and local pay-to-play rules. **Dianna Mullis** is an associate in the same office and represents prospective political appointees through the vetting process. She has negotiated the terms of financial disclosures, divestitures and waivers in connection with the federal conflict-of-interest requirements.