

WORKING WITH TRANSITION TEAMS

○ Guidance and Recommendations for Agency Ethics Officials

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March 10, 2016



WORKING WITH TRANSITION TEAMS

- Guaranteed Change
- Planning and Preparation
- Flexibility
- Emotional Intelligence



WAVES OF TRANSITION

- Post-election
- Post-inauguration of a new President
- Post-swearing in of a new leader
- Sub-cabinet appointments



AFTER THE ELECTION

- At Cabinet-level agencies
 - Shortly after November 8 (Election Day) through January 20 (Inauguration Day), an early transition team may come to make early assessments. The early transition team will likely be very experienced persons from former Administrations.
 - 2008 v. 2000
 - Be prepared for natural tensions and dealing with competing priorities of the exiting and incoming Administrations.



AFTER THE ELECTION

- At Cabinet-level agencies
 - In 2008, President-elect Obama announced several cabinet selections on December 13. The early transition team may or may not reflect the values of the new Secretary.
 - Briefings and papers. Staff your office to address this need of the transition teams.
 - Consult with your counsel about what can and cannot be shared.
- At smaller agencies
 - It may be very quiet for more than a year.



POST-INAUGURATION-CABINET LEVEL AGENCIES

- In Cabinet-level agencies, the leader will likely be nominated and confirmed expeditiously. HUD Secretary Shaun Donovan was confirmed by the Senate two days after the inauguration and was sworn in six days after the inauguration.
- The transition team will continue its work, but the make-up of the team will change when a new Secretary arrives.
- A hold-over will be asked to stay for a few days or months.
- A skeletal group will come in with a new Secretary, including a White House Liaison. Anticipate younger, less experienced staff from the campaign.



POST-INAUGURATION-CABINET LEVEL AGENCIES

- Immediate questions that impact ethics officials:
 - How to staff the Office of the Secretary and the Department until the sub-cabinet is confirmed?
 - Contractors
 - Special Government Employees (SGEs)
 - Intergovernment Personnel Act employees (IPAs)
 - Be prepared to address ethics issues, disclosures and conflicts of interest issues with these types of personnel.



POST-INAUGURATION-CABINET LEVEL AGENCIES

- Immediate questions that impact ethics officials:
 - What can be shared and with whom?
When in doubt, consult with counsel.
 - Delegations of Authority– what career staff acting in PAS positions can and cannot do under the Vacancies Act, orders of succession and delegations of authority?



POST-INAUGURATION-CABINET LEVEL AGENCIES

- Preparing PAS nominees for their Senate confirmation hearings
 - Work with the White House Liaison/Chief of Staff
 - Be open and willing to participate in mock hearings and brief nominees about possible questions about their financial disclosures and positions from which they will need to resign, if confirmed.
 - Encourage the White House Liaison to work with career staff to identify possible areas for questioning. Career staff should identify compliance reports, monitoring reviews, OIG audits, etc. involving the nominee's prior place(s) of employment and leadership.



SUB-CABINET TRANSITIONS

- There will be a steady stream of press stories about intentions to nominate and actual nominees.
- Each sub-cabinet appointee will have staff and each new appointee will be another transition event.
- If the past is an indicator, sub-cabinet will generally start being nominated and confirmed in the spring of 2017, after the April recess.



WHAT CAN I DO NOW TO PREPARE?

- Research the timeline for past appointments during transitions at your agency.
- Learn about the Vacancies Act and think through the implications for your agency.
- Talk to your Office of General Counsel and leadership about whether your agency's delegations of authority and orders of succession will enable the career staff to keep the trains running.



WHAT CAN I DO NOW TO PREPARE?

- Research how your agency has handled ethics issues involving SGEs, IPAs and contractors. Talk to other agency ethics officials. Talk to your CHCO.
- Think about professional liability insurance.



WHAT CAN I DO NOW TO PREPARE?

- Prepare your ethics training program for on-boarding new appointees and their staffs.
- Space the training out and prioritize. New appointees and their staffs are drinking at the fire hose.
- Prepare for one-on-one briefings and small groups.



WHAT CAN I DO NOW TO PREPARE?

- DAEOs and ADAEOs should talk to other career colleagues about how as an agency the career staff wants to onboard new appointees. Do not operate in an ethics vacuum. Coordinate on-boarding training.



TIPS

- Ask the nominee and his support to set up separate email accounts for communication with the agency about transition and ethics issues. Encourage the nominee to avoid comingling ethics exchanges with personal and work email accounts. This is trigger ediscovery issues.
- Be prepared for questions from colleagues about potential nominees. Office gossip escalates during a transition.
- “Cone of Silence” Be clear about ground rules with colleagues.



TIPS

- Be transparent where you can.
- Exercise emotional intelligence with colleagues.
- Transition teams will not necessarily work within established structures. Be flexible.
- Develop a good working relationship with the White House Liaison/Chief of Staff



TIPS

- Check your email box regularly (nights and weekends) for incoming from OGE about nominations.
Communicate with OGE about POCs and keep this regularly updated.
- Transition papers are subject to FOIA. In 2009, there was a government-wide FOIA for “all transition papers.” Be staffed to address the increase in FOIAs associated with transitions.



TIPS

- If OGE wants your ethics staff for a rotation or a detail during the transition, grab the opportunity. It is good for your agency and a great developmental opportunity for staff.
- Take a vacation before the election.
- As ethics officials, you will often be the first person at an agency to develop a relationship with new leadership. This is a big responsibility. Do not abuse it.



RESOURCES

- GSA

<https://presidentialtransition.usa.gov/>

- White House webpage on status of nominations:

[https://www.whitehouse.gov/briefing-room/nominations-and-](https://www.whitehouse.gov/briefing-room/nominations-and-appointments)

[appointmentshttps://www.whitehouse.gov/briefing-room/nominations-and-appointments](https://www.whitehouse.gov/briefing-room/nominations-and-appointments)

