



THE WHITE HOUSE
TRANSITION PROJECT
1997—2017

RICE UNIVERSITY'S
BAKER INSTITUTE
FOR PUBLIC POLICY

SMOOTHING THE PEACEFUL TRANSFER OF DEMOCRATIC POWER

Report 2017—07

WHAT HAPPENS NEXT?

FORMAL CANDIDATE TRANSITION SERVICES TO BEGIN AUGUST 1ST

Martha Joynt Kumar, Director
the White House Transition Project

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WHO WE ARE & WHAT WE DO

The White House Transition Project. Established in 1997 to provide information to incoming White House staff members so that they can hit the ground running, The White House Transition Project includes a group of presidency scholars from across the country who participate in writing essays about past transitions and the inner workings of key White House offices. Since its creation, it has participated in the 2001, 2009 and now the 2017 presidential transitions with the primary goal of streamlining the process and enhancing the understanding of White House operations. WHTP maintains an important, international dimension by consulting with foreign governments and organizations interested in improving governmental transitions. <http://whitehousetransitionproject.org>

Rice University's James A. Baker, III Institute for Public Policy. Founded in 1993 on the campus of Rice University, the Baker Institute has twenty programs that focus on a broad range of issues including energy, health, conflict resolution, science and technology, tax and expenditure policy and Latin America and China studies. With an eye toward educating and engaging the next generation of leaders, the Baker Institute collaborates with experts from academia, government, the media, business, and nongovernmental and private organizations. <http://bakerinstitute.org>

The Moody Foundation. Chartered in 1942 by William Lewis Moody, Jr., a successful businessman from Galveston, Texas, the Moody Foundation makes a difference for the people of Texas. The Foundation makes grants for projects focusing on the arts, humanities, religion, education, social services, community development, and health. In addition, the Moody Foundation has contributed to the building of many universities, hospitals, museums, and libraries across Texas. <http://moodyf.org>

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THE SEQUENCE OF EVENTS

The first week of August following the Democratic and Republican nominating conventions marks a beginning for the presidential candidates for the formal transition process between them and the federal government. There are three basic actions that take place once the major parties select their candidates. Following the actions beginning August 1st is a discussion of who is eligible to receive government transition funds and a description of the key agencies involved in transition planning.

1. General Services Administration Provides Government Services

First, the 2010 Pre-Election Presidential Transition Effectiveness Act provides, if eligible candidates choose to accept them, that the General Services Administration (GSA) will supply them with government space and services. In accepting government funds, a candidate agrees to receive a maximum of \$5,000 from an individual for private transition funds and to make the information public and open to government audit. In return, the 2010 legislation provides candidates with what is characterized as a “turn-key” office space. While GSA picks up some of the costs of space, furniture, utilities, computers, phones, the candidates who use the space pay for some of the operations. The space provided to each candidate in the 2016 pre-election

period accommodates 100 people. Following the election, however, the President-elect will have larger quarters.

Governor Romney, who is the only candidate who has had a pre-election operation, established a separate privately funded operation - R2P - that covered costs GSA did not pick up. The \$8.9 million costs of the GSA September – November arrangements broke down as follows: information technology and computer and other IT equipment costs \$5.6 million, office construction and planning \$2.5 million, furniture \$740,000, office supplies \$30,000.

Before a candidate can get the above space and services, his or her representative must sign a Memorandum of Understanding (MOU) governing what they are to receive and pay for and what the government does not cover. Click here to see the MOU between the General Services Administration and the Romney Readiness Project. It is on the Partnership for Public Service website.

<http://presidentialtransition.org/publications/viewcontentdetails.php?id=859>

2. Attending Sessions of the White House Transition Coordinating Council and Agency Transition Directors Council

Second, following the nominating conventions, candidates can choose to have a representative attend meetings of the two government transition planning councils called for in President Obama's May 6th executive order formally establishing the Councils. They serve in an "advisory capacity." See it here:

<http://www.presidency.ucsb.edu/ws/index.php?pid=117404&st=&st1>

The order implements the Council provisions of the Presidential Improvements Act of 2015. See it here: <https://www.congress.gov/114/plaws/publ136/PLAW-114publ136.pdf>.

The White House Transition Coordinating Council. White House staff and administration officials direct transition planning by: providing guidance to the Federal Transition Coordinator, Tim Horne, and to departments and agencies on what materials agencies should provide; by coordinating succession arrangements for the turnover of administration positions; and are responsible for planning and executing crisis table top maneuvers. The Council is also directed to: "facilitate communication and information sharing between the transition representative of eligible candidates and senior employees in agencies and the Executive Office of the President, including the provision of information relevant to facilitating the personnel aspects of a Presidential transition..."

Chief of Staff Denis McDonough serves as chair of the Council, with Anita Breckinridge, Deputy Chief of Staff for Operations, serving as Vice Chair. Eight of the dozen Council members are Assistants to the President (Counsel, Personnel, National Security, Homeland Security, Economic Policy, as well as three from the Chief of Staff office), plus the director of National Intelligence, the director of the Office of Management and Budget, the administrator of the General Services Administration, and the Federal Transition Coordinator.

The Agency Transition Directors Council is co-chaired by the Federal Transition Coordinator, Tim Horne, and the Deputy Director for Management of the Office of Management and Budget, Andrew Mayock, with senior career executives representing each of the 15 departments and five large agencies as well as a representative of each "eligible

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candidate.” The Council’s purpose is to: “To implement the guidance provided by the White House Transition Coordinating Council and to coordinate transition activities across agencies.” Among its responsibilities, the Agency Transition Directors Council shall “ensure the Federal government has an integrated strategy for addressing interagency challenges and responsibilities around Presidential transition and turnover of non-career appointees.” The Council is directed to “coordinate transition activities among the Executive Office of the President, agencies, and the transition team of eligible candidates and the President-elect and the Vice-President-elect.” In addition to meeting with departments and the large agencies represented on the Council, Mayock and Horne bring together all of the smaller agencies to direct them in their transition preparations. Horne and Mayock have met the Council itself several time and also met with smaller agencies to provide them with similar information. The Council also coordinates with the President’s Management Council, a permanent council of departments and agencies, that meets regularly throughout the year. Andrew Mayock, the Deputy for Management of the Office of Management and Budget, chairs the Council.

3. National Security Briefings

Third, beginning in August following the national party nominating conventions the candidates receive national security briefings, a process managed by the Office of the Director of National Intelligence. Since 1952 through President Truman’s initiative, presidential candidates have received briefings from the intelligence community alerting them to global security issues as a group and situations in individual countries.

When there are formally nominated presidential candidates, national security briefings can take place. For a history of the CIA briefings based on interviews and records of those conducting presidential candidate briefings from 1952-2004, click on the CIA link below. The monograph by John L. Helgerson is titled: “Getting to Know the President: CIA Briefings of Presidential Candidates 1952-2004.” second edition. See it here:

<https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/getting-to-know-the-president/pdfs/U-%20Book-Getting%20to%20Know%20the%20President.pdf>

A look at the sweep of that time period shows several patterns that relate to the intelligence briefings of presidential candidates prior to the November election.

* There are differences between the briefings given to presidential candidates, the president-elect, and to the president. Each of the three levels involves more detailed information. Additionally, traditionally the intelligence officials who give the briefings to candidates are at a lower level than those who brief the president-elect. Once a candidate wins the election, the head of the intelligence community often conducts the briefing.

* There are two goals for the transition briefings, says Helgerson. First is to inform the president about events abroad that “will require his decisions and actions as presidents.” Equally important, though, is the intelligence community goal to “establish a solid working relationship with each new president and his advisers.” P. 177.

* Presidential candidates get the same written briefing materials. But the briefing process may yield different information depending on the questions candidates ask and the information they may ask for. The same is true for the number of briefings a candidate gets between the convention and the election. Candidates are not equally interested in the briefings and their schedules differ as well.

* Presidents can be involved in deciding what information a candidate / president-elect gets. Even when he was vice president, for example, Lyndon Johnson was not allowed to have the same information President Kennedy had though the secretaries of State and Defense did. President Kennedy's intelligence aide wrote: "under no circumstances should the Checklist [the contemporary version of today's President's Daily Brief] be given to Johnson." P. 51.

* Debates make a difference in the eagerness of candidates to be briefed. The debate sequences involve at least one debate on foreign policy. Thus, candidates are eager to be informed. When there are no debates, as in 1968, Richard Nixon did not care about briefings before the election.

* Presidential candidates do not receive certain types of information prior to the election. "In subsequent presidential campaigns years, the Agency's practice came to be one of delaying briefings even on established covert action programs, as well as on sensitive technical and human-source collection programs until after the election had determined who would be president." P. 32

CANDIDATES ELIGIBLE TO RECEIVE TRANSITION FUNDS

There are specified criteria that determine which candidates are eligible for transition support from the General Services Administration.

In the Pre-election Presidential Transition Act of 2010 (see it here: <http://www.gsa.gov/portal/content/178099>), there are four requirements for a presidential candidate to be classified as a candidate eligible to receive transition funding. An "eligible candidate" meets:

- 1/ the requirements of Article II, Section 1 of the Constitution;
- 2/ is on the ballots of states that add up to more than 50 percent of presidential electors;
- 3/ has "demonstrated a significant level of public support in national public opinion polls, so as to be realistically considered among the principal contenders" for the presidency;
- 4/ whether "national organizations have recognized the candidate as being among the principal contenders for the general election to such offices, including whether the Commission on Presidential Debates has determined that the candidate is eligible to participate in the candidate debates for the general election..." The debate commission requires a candidate reach a threshold of 15% support in five national public opinion polls.

Except that of being at the 15% threshold in the polls, Libertarian presidential candidate Gary Johnson meets all the requirements. As of August 1st, he is at 7.5% on the Real Clear Politics average in a three-way presidential contest and 7.0% in a four-way race. See that report:

http://www.realclearpolitics.com/epolls/2016/president/us/general_election_trump_vs_clinton_vs_johnson-5949.html

GOVERNMENT AGENCIES AND LEADERS INVOLVED IN PRESIDENTIAL TRANSITIONS.

The following are the basic government agencies tasked with transition responsibilities

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through presidential transition legislation. Included is a brief description of their roles in the transition process and the identity of their directors.

General Services Administration: Denise Turner-Roth, Administrator. GSA provides services and office space to the candidates as well as helps with training and orientation for staff. Appointed by the Administrator, the **Federal Transition Coordinator** directs the preparations. **Tim Horne**, a career official who performed the same functions in 2012, holds that position mandated under the 2015 legislation. Post-nominating conventions, GSA also participates in the early stage of the clearance process as candidates begin to hire for the presidential transition should the person win the presidency. In addition to its space and services functions for candidates, GSA provides an online Presidential Transition Directory: <https://presidentialtransition.usa.gov/>

Office of Government Ethics (OGE): Walter Schaub, Director. Created in 1978, OGE controls the financial disclosure process through the SF 278 form nominees for government positions are required to fill out (see those here: <https://www.oge.gov/>) Additionally, the office maintains records of Public Financial Disclosure reports filled out by presidential candidates at:

<https://www.oge.gov/web/oge.nsf/Presidential%20Candidates?OpenView>

and presidential appointee and nominee records at:

<https://www.oge.gov/web/oge.nsf/Presidential+Appointee+&+Nominee+Records>

Federal Bureau of Investigation and Others Involved in the Security Clearance Process: James Comey, Director. There are several government agencies involved in background checks for appointees for executive branch positions. The FBI background conducts investigations of persons chosen by the presidential candidates for positions on their transition teams and, post-election, the nominees a president-elect chooses for top-level executive branch positions requiring Senate confirmation.

The **Office of the Director of National Intelligence, James Clapper, Director**, clears nominees for positions requiring top-level national security clearances.

Office of Personnel Management (OPM): Beth Cobert, Acting Director. Traditionally, OPM through its Federal Investigative Services (FIS) provided 95% of background checks and investigations for 100 agencies. After a massive hacking of federal government employee files, the administration sought a way to secure personnel information. In a January 2016, the White House staff announced the creation of the National Background Investigations Bureau (NBIB) to do security clearances of federal employees, military members, and contractors doing sensitive government work. The Defense Department will be responsible for the security and operation of the IT system, but the unit will be housed in OPM, replacing FIS.

In addition to its clearance role, the 2010 transition law mandates OPM along with the National Archives and Records Administration and the Office of Government Ethics provide information to candidates on departments and agencies.

National Archives and Records Administration: David Ferriero, Archivist of the United States. The 2010 transition law directs NARA to provide information and briefings on past presidential transitions as well as developing and explaining rules for the creation and maintenance of federal and presidential records. The Presidential Records Act of 1978 governs what records a president and his staff must keep. It defines presidential records as: “documentary materials, or any reasonably segregable portion thereof, created or received by

the President, his immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise and assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President...”

Office of Management and Budget: Shaun Donovan, Director. The Deputy for Management at OMB, Andrew Mayock, co-chairs the Agency Transition Directors Council, which coordinates department and agency transition operations. He also heads the President’s Management Council, which is a permanent coordinating council composed of two dozen chief operating officers of departments and agencies. President Obama’s order provides that the Agency Transition Directors Council “consult with the President’s Management Council...in carrying out its duties.” Thus, Mayock has a key leadership role on two of the three councils.

White House: The president sets in motion the timing and the preparations for the coming presidential transition. He establishes information policies and chooses those of his senior aides who will guide the administration’s work with the incoming team and with departments and agencies. In President Obama’s case, he promulgated an executive order creating the White House Transition Coordinating Council and the Agency Transition Directors Council. His top aides sit on the White House Transition Coordinating Council. Additionally, the chief of staff coordinates contacts with the eligible candidates and their representatives, and then post-election, with the president-elect.

The executive order signed by President Obama also provides for the White House Office of Presidential Personnel to coordinate with all departments and agencies on the development of a catalogue of all positions requiring Senate confirmation and to provide specified information about those positions. The Personnel office also works with agencies on policies and procedures for those leaving the administration at the end of his term.