

A Survivor's Guide for Presidential Nominees



The Council for Excellence in Government
The Presidential Appointee Initiative

Published in November 2000 by
The Presidential Appointee Initiative
A Project of the Brookings Institution funded by
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Foreword

From its very founding, American government has depended on presidential appointees to help lead the nation. The Founding Fathers clearly believed that the quality of a president's appointments could make or break their young democracy. "There is nothing I am so anxious about as good nominations," Thomas Jefferson wrote at the dawn of his presidency in 1801, "conscious that the merit as well as reputation of an administration depends as much on that as on its measures."

Having designed a government that depended on the wisdom and virtue of individual citizens, the Founders left their own private lives behind to take the first presidential appointments. They fully understood that presidential service would be difficult and inconvenient. They also understood that entering office might involve tough questions from the U.S. Senate about their qualifications for office. Yet the Founders understood that presidential service was both an obligation of citizenship and one of the greatest honors of their lives. They recognized that the young nation would not survive if its most talented citizens rejected the call to service.

More than 200 years later, the merit and reputation of an administration still depend on this willingness to serve. Presidential service is still inconvenient and often financially punishing, and the U.S. Senate still asks tough questions about qualifications for office. Yet, just as in the 1790s, presidential service is still one of the nation's greatest honors. The jobs may be stressful, the pay sometimes less than one could have earned in private endeavors and the public scrutiny intense, but presidential service is still essential to the nation's survival.

That is why we have published *A Survivor's Guide for Presidential Nominees*. A collaboration between The Council for Excellence in Government and The Presidential Appointee Initiative, and funded by The Pew Charitable Trusts, the *Guide* is designed to help individuals accept the call to service by providing nonpartisan information on what has become an increasingly complicated, and sometimes confusing, appointments process.

The *Guide* is based on the simple notion that good government is impossible if presidents cannot attract the nation's most talented citizens into service. As another of this nation's original citizen servants, Alexander Hamilton, warned 200 years ago in *The Federalist Papers*, "a government ill-executed, whatever it may be in theory, must be in practice a bad government." The American people cannot have confidence in the promises their leaders make if those leaders cannot attract talented citizens to join the government and work to fulfill those promises. To the extent the *Guide* helps those citizens help themselves as they navigate the nomination and confirmation process, the nation can only benefit.

The *Guide* is only one piece of The Presidential Appointee Initiative (PAI). Established by the Brookings Institution in 1999 with an advisory board co-chaired by former Office of Management and Budget Director Franklin D. Raines and former U.S. Senator Nancy Kassebaum Baker, PAI is committed to making the presidential appointments process easier, faster and more respectful toward the people who have accepted the call to

service. PAI is also working to remind America's civic and corporate leaders that presidential service remains one of the nation's highest honors, and one that they should encourage their most talented leaders to both pursue and accept.

PAI's collaborator on the *Guide* is The Council for Excellence in Government. Founded in 1983, CEG is a non-profit, nonpartisan organization dedicated to improving the performance of government at all levels, as well as government's place in the lives and esteem of American citizens.

Ultimately, the willingness to serve resides in each citizen's heart. Like the Founders themselves, citizens must be ready to accept the sacrifices of service to make American democracy succeed. The nation is much stronger today than it was during those first moments of vulnerability in the 1790s, but it is no less dependent on the talents and commitments of its citizen leaders.

Michael H. Armacost
President
The Brookings Institution

Acknowledgments

A Survivor's Guide for Presidential Nominees is a collaboration between the Council for Excellence in Government and The Presidential Appointee Initiative. A number of individuals and organizations contributed significantly to the publication of the *Guide*.

First, our warmest thanks and admiration go to author Christopher Connell. Chris is a veteran Washington journalist and editor who began working for the Associated Press while still at Princeton and, during a quarter century with the news service, covered health and education issues as well as the White House. He was the AP assistant bureau chief in Washington when he left in 1999 to launch his own writing and consulting business. His in-depth knowledge of Washington, his contacts and his excellent reporting and writing skills greatly enrich the final product.

We would also like to express our deep appreciation to David Hosansky, who edited the *Guide*. David is now a freelance writer and editor in Denver, Colo., specializing in the environment and public policy issues. He worked as a reporter for Congressional Quarterly Inc. from 1994-98, covering taxes, trade, transportation, agriculture and the environment. Earlier in his career, he covered state and local government issues for *The Florida Times-Union* in Jacksonville. His skillful editing and endless patience made him a pleasure to work with.

John H. Trattner, vice president of The Council for Excellence in Government, was one of the principal architects of the *Guide*. He generously contributed his knowledge of the appointments process and his considerable skills as a writer and editor. John has written a number of books for the Council, including

the six volumes in the *Prune Book* series, which examine issues related to the staffing and management of high-level positions filled by presidential appointment and profile the responsibilities and requirements of the most important posts. Trattner began his career as a journalist and served for nearly 20 years as a career U.S. foreign service officer specializing in press relations and public affairs. He also was press secretary to former Senator George Mitchell. He is the author of *A Survivor's Guide for Government Executives*, published in 1989.

PAI is very fortunate to have G. Calvin Mackenzie, distinguished presidential professor of American Government at Colby College, as its adviser on the appointments process. During the 1980s, Cal played a central role in the Presidential Appointee Project of the National Academy of Public Administration, as project director and principal author of several academy publications, including *Leadership in Jeopardy: The Fraying of the Presidential Appointments System*, *Guidebook for the Senior Executive Service* and both editions of *The Presidential Appointee's Handbook*. From 1994 through 1996, he served as executive director of the Twentieth Century Fund Task Force on the Appointment Process.

Special thanks must go to the staff of The Presidential Appointee Initiative. Executive Director Sandra Stencel supervised the project and played a major role in editing the *Survivor's Guide*. Associate Director Carole Plowfield provided invaluable administrative support and made insightful comments on the book's contents and countless editing suggestions. Research Assistant Michael Hafken was a dedicated and intrepid fact-checker. Communications

Coordinator Suzanne Morse and Administrative Coordinator Erin Murphy provided enthusiastic and generous help and support.

Many people contributed their time and ideas for this project. Dozens of senior officials who served in six administrations over the past three decades shared their wisdom and experiences with us. We solicited their advice and views in interviews conducted by the Council for the *Survivor's Guide* and *The 2000 Prune Book: How to Succeed in Washington's Top Jobs*. We would also like to thank those who participated in a focus group sponsored by PAI and CEG that explored the highs and lows of the appointments process.

Special thanks to Donald Alexander, James Anderson, William Apgar, David Apol, Cheryl Arvidson, Gregory Baer, James Baker, Richard Baker, Mary Jo Bane, Rita Beamish, Robert Bork, James Bourke, Raymond Bramucci, Walter Broadnax, Louis Caldera, Michael Copps, Paul Costello, Christopher Cross, A.B. Culvahouse, Q. Todd Dickinson, Marie Therese Dominguez, Al Felzenberg, Jacques Gansler, Rogelio Garcia, Jane Garvey, Gene Gibbons, Stuart Gilman, Joshua Gotbaum, Michelle Haines, Maria Haley, Judith Heumann, John Holum, Diana Huffman, Brit Hume, Carolyn Huntoon, Charles Jeffress, Judith Johnson, Raymond Kammer, Joel Klein, Jacob Lew, Jane Ley, William Lynn, Roger Majek, Bob Maranto, Hans Mark, Richard McGahey, Richard Meserve, Kent McGuire, Bob Nash, Jim O'Hara, F. Whitten Peters, James Pfiffner, Thomas Pickering, Jan Piercy, Wayne Pines, Stephen Potts, Claudio Prieto, William Reinsch, Charles Rossotti, Lee Sachs, Timothy Sanders, Dan Tate, Virginia Thomas, Chase Untermeyer, Shirley Watkins, Sarah Wilson and Catherine Woteki. We appreciate their candor and insight.

The *Guide* also utilizes material from a survey of 435 officials from the Reagan, Bush and Clinton administrations who were interviewed for The Presidential Appointee Initiative. The survey was conducted by Princeton Survey Research Associates, under the direction of Mary McIntosh. The survey's findings are analyzed in a report published by PAI on April 28, 2000, "The Merit and Reputation of an Administration," by Paul C. Light and Virginia L. Thomas.

We also want to express our deep gratitude to those who read the manuscript in whole or in part and offered counsel on words and facts. Constance Horner, director of presidential personnel in the Bush administration and chair of PAI's Senior Review Committee, read the manuscript with great care and attention and provided invaluable advice. Martha Joynt Kumar, director of the White House 2001 Project and professor at Towson University, generously provided background materials and ideas for the *Guide*.

We would also like to thank Patricia Hord and her talented designer Alyson Brooks at Patricia Hord.Graphik Design for the exquisite design of the book and for supervising the production. Special thanks as well to indexer Jan Danis.

This *Guide* could not have been produced without the generous support of The Pew Charitable Trusts. We would like to express special thanks to Pew President Rebecca W. Rimel, Venture Fund Director Donald Kimelman and Program Officer Lawrence White. Pew has been a leader in both asking hard questions about the current state of American democracy and supporting the rigorous research needed to provide the answers.

Finally, we would like to express our deep appreciation to Patricia G. McGinnis, president of The Council for Excellence in Government, and Michael H. Armacost, president of the Brookings Institution, for their support of this *Guide*. The Council for Excellence in Government is a nonpartisan, nonprofit organization that seeks to foster strong public-sector leadership and performance and to increase citizen confidence and participation in government and governance through better understanding of government and its role. The Brookings Institution is an independent organization devoted to nonpartisan research, education and publication in economics, government, foreign policy and the social sciences. Its principal purposes are to aid in the development of sound public policies and to promote public understanding of issues of national importance.

A Survivor's Guide for Presidential Nominees is designed to provide accurate and authoritative information. It is published with the understanding that the publisher is not engaged in rendering legal, accounting or other professional advice. If legal advice or other professional assistance is required, the services of a qualified professional should be sought.

Paul C. Light
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*“Public service is one of the
highest callings in the land.*

*You have an opportunity
to make a positive impact
on families, communities,
states and sometimes
the world.”*

Introduction: When the Phone Rings

Your phone rings, and it's the White House calling, or perhaps the transition office of the president-elect: "We're looking to fill a senior position in the new administration, and we understand that you're one of the best, most knowledgeable people in your field. Are you interested?"

How do you react?

You're honored and flattered, of course. You may have been hoping for this call and doing everything possible to make sure it would come. Or it's possible that this summons has arrived out of the blue. Either way, there's a new president in town, and he wants you to join his management team. If you've always wanted to perform public service, this is a golden opportunity.

But you're also apprehensive. You've heard the stories about how long and difficult the confirmation process has become, how it can take months for the FBI to investigate your background, then additional months for the Senate to confirm you — or even longer if a senator decides to hold you "hostage" in a policy fight or simply doesn't like your background. You may know someone whose confirmation became an unseemly ordeal.

Maybe you have more questions than answers, and you're not certain how to make up your mind. You want to find out what this would mean for you, your family and the people you work with, both now and after you complete your stint in government. Or you definitely want the job but need more information about filling out the required forms, navigating the Senate and, perhaps, relocating to Washington.

If you fit into any (or all) of these categories, then you are precisely the person we had in mind when writing *A Survivor's Guide for Presidential Nominees*. A collaboration between The Presidential Appointee Initiative, a project of the Brookings Institution funded by The Pew Charitable Trusts, and the nonprofit, nonpartisan Council for Excellence in Government, the *Guide* attempts to answer virtually every question a nominee might have upon being asked to serve. It draws upon the experiences of dozens of senior officials who served in six administrations over the past three decades, as well as on numerous reports by academics and blue-ribbon commissions. The purpose is to ensure that nominees hit the ground running.

The Changing of the Guard

Appointing people to fill senior positions is one of the first major undertakings facing any new administration — and one of the most challenging. Rogelio Garcia, a specialist in American government at the Congressional Research Service who has tracked nominations for years, calculates that there are more than 1,000 leadership posts in the executive branch that require presidential nomination and Senate confirmation, including approximately:

- 330 full-time positions in the 14 executive departments, including Cabinet secretaries, deputy secretaries, under secretaries, assistant secretaries and general counsels;
- 120 full-time posts in independent executive agencies, such as the Small Business Administration and the National Aeronautics and Space Administration;
- 150 ambassadors, two-thirds of whom customarily come from the career Foreign Service;

- 187 U.S. attorneys and marshals;
- 130 full-time regulatory positions, including the Federal Trade Commission and the Securities and Exchange Commission; and
- 160 presidential appointees to part-time positions, such as the Legal Services Corporation and the Postal Service Board of Governors.

Many sections of this *Guide* will prove useful to all presidential appointees regardless of whether they require Senate confirmation. (See glossary, p. 13.) But the special focus of the book is on those nominees who must first pass the White House’s muster and then convince a majority of the U.S. Senate that they are worthy of high government office.

The Senate reserves its most exacting scrutiny for nominees to the Supreme Court and, to a lesser extent, judges of the lower courts, all of whom receive lifetime appointments if confirmed. But it has raised the bar for many executive branch nominees as well. As a result, many important but mundane positions have sparked skirmishes, and high-profile jobs such as surgeon general have become lightning rods for the battles over abortion and other difficult issues. No one disputes that a president should be allowed to nominate like-minded individuals with the requisite experience, credentials and character to carry out the administration’s policies, but the Senate has a constitutional role to fulfill in screening nominees. Although the vast majority of nominees are eventually confirmed, the Senate never was and never will be a rubber stamp for the White House.

Getting the Most Out of the Guide

The *Survivor’s Guide* need not be read front to back. You can jump to the chapters that concern you most at the outset and skip to others as new issues come up. There is a chapter filled with practical advice on moving to Washington for those of you who have not already pitched camp inside the Beltway, the 64-mile highway around the nation’s capital. You may find yourself returning frequently to the sections on financial disclosure and ethics rules. And when the time comes for you to leave government service, you may want to reach for the *Guide* again to refresh

your understanding of the conflict-of-interest rules and the “cooling off” period for senior government officials.

Here’s a thumbnail sketch of what each chapter offers:

- 1. First Things First.** Questions to ask yourself before saying yes to a nomination — and tips for improving your prospects of getting the White House nod.
- 2. People and Places Along the Way.** A close look at the key people and offices you will be dealing with, from the White House Office of Presidential Personnel to the U.S. Office of Government Ethics to the Senate committee that will take up your confirmation.
- 3. Forms and Financial Disclosure.** A roadmap to filling out the maze of online and printed forms, along with tips on speeding the process.
- 4. Navigating the Senate.** An explanation of how the process works on the Hill, including the Senate’s use of secretive legislative holds.
- 5. Before and After You’re Confirmed: Ethical and Legal Considerations.** Practical advice on avoiding ethical and legal problems, both while serving in an acting capacity and after taking office.
- 6. Dealing with the Media.** Sage advice from seasoned journalists, Senate staff and former officials about what to say, or not say, to the press while awaiting confirmation.
- 7. Moving to Washington.** For those facing the added complication of when and whether to move to Washington, a quick look at such matters as neighborhoods, local schools, commutes and the comparative income tax rates in the District of Columbia, Maryland and Virginia.
- 8. Life After Government.** An overview of the employment restrictions that you might face after returning to private life.

The goal of the *Survivor’s Guide* is to walk you through the entire nomination and confirmation process. It may help you build support for your candidacy even before the administration contacts you. It will provide you with questions to ask the White House (and yourself) prior to accepting the appointment, steer you through the vetting process and help you prepare for the Senate confirmation hearing.

The Burdens and Blessings of Public Service

People considering public service face the nagging question of whether they really want to put up with the hassles that come with government work. Politicians and appointed public officials alike suffer from image problems these days. Washington has become synonymous with gridlock, grandstanding and grand inquisitions.

No Cabinet, unfortunately, is ever scandal-free. Some senior government officials inevitably run afoul of the conflict-of-interest rules, which are complex and unforgiving, and largely incapable of distinguishing between a careless oversight and premeditated grand larceny. There are hordes of reporters — almost 5,000 accredited by the congressional press galleries — eager to pounce on any misstep. The White House, the FBI and the Senate pry ever deeper into candidates' backgrounds.

So why would anyone subject himself or herself to this?

For many who will be asked by the 43rd president to join his team in Washington, this will be a decision of the heart as much as the head. You have an opportunity to help run this government of ours, the chance to play a small but vital role in this grand and still unfolding political pageant that began more than two centuries ago.

There is important work to be done here. Those who answer the call to public service are following a noble tradition that can be traced back to the late 18th century when Thomas Jefferson and Alexander Hamilton helped guide policy as Cabinet secretaries during the presidency of George Washington. Ever since, presidential appointees have been a cornerstone of democracy.

Paul C. Light, vice president and director of governmental studies at the Brookings Institution and senior adviser to The Presidential Appointee Initiative, put public service in a historical context:

American government was designed to be led by citizens who would step out of private life for a term of

office, then return to their communities enriched by service and ready to recruit the next generation of citizen servants. The Founding Fathers believed in a democracy led by individuals who would not become so enamored of power and addicted to perquisites that they would use government as an instrument of self-aggrandizement.

The Best Jobs They Ever Had

While you undoubtedly have heard much that is negative about the appointments process, you may not have heard what former officials told us in interviews over and over again: the time spent in public service was the most challenging and rewarding period of their professional lives.

Arthur "A.B." Culvahouse Jr., who was Ronald Reagan's last White House counsel and has since guided prominent nominees through the appointments process, says, "I've never done anything as a lawyer in private practice as much fun as the 22 months I had in the White House." That period spanned the bitter defeat of Robert H. Bork's nomination to the Supreme Court, Senate passage of the treaty with the Soviet Union banning intermediate-range nuclear missiles and Reagan's riding out the Iran-contra controversy.

Q. Todd Dickinson went through the confirmation process twice in the Clinton administration, first as deputy assistant secretary of Commerce and deputy commissioner of patents and trademarks and then as assistant secretary of Commerce and commissioner of patents and trademarks. His first confirmation was delayed for a spell in mid-1998 while certain senators pressured Commerce Secretary William Daley to appoint their constituents to regional fishery boards. He encountered an even longer delay when the patents commissioner left in 1999; Dickinson spent most of the year as the acting assistant secretary before the Senate finally confirmed him in November 1999. Dickinson, who was later promoted to under secretary of Commerce for intellectual property and director of patents and trademarks, says, "It's one of those processes that seems very frustrating when you're in it, but after it's done, it's like finding a park-

ing place. It's extremely annoying as time goes by, but once you find that place, well, the pain dissipates."

Presidential appointments "come along only once in a lifetime for most people," notes Dr. D. James Baker, under secretary of Commerce and administrator of the National Oceanic and Atmospheric Administration in the Clinton administration.

Lee Sachs, assistant secretary of the Treasury for financial markets under Clinton, observes, "The quality of people that I've had a chance to work with — including [Treasury secretaries] Bob Rubin and Larry Summers — and the issues that I got to wrestle with, well, you can't match that combination in the private sector." Another Treasury official, glancing toward the fireplace in his office overlooking the Ellipse, added, "It's the best job I'll ever have in my life — and the best office I'll ever have in my life."

The actual job aside, Washington offers rare pleasures and satisfactions to those who join a president's senior team: invitations to receptions at the White House, perhaps even a seat at a state dinner, serenaded by the president's own Marine Corps Band. There are soirees, embassy parties and black-tie affairs, galas at Smithsonian museums and the old Pension Building (one of the best places in town for an indoor event), fireworks and festivals on the Mall and family nights at the National Zoo. Then there are the more quiet pleasures, such as walking by the cherry blossoms in the early spring. You may well experience a variant of the transformation that a seasoned Democratic whip, Senator Ham Lewis of Illinois, once described for Harry Truman, then a freshman senator from Missouri: "For the first six months you'll wonder how you got here. After that, you'll wonder how the rest of us got here."

As difficult as the confirmation process sometimes is, most nominees make it through unscathed. Bob J. Nash, director of the White House Office of Presidential Personnel for the final six years of the Clinton administration and former under secretary of Agriculture, says he always assured apprehensive candidates that it was extremely rare for a confirmation battle to turn nasty. Nash would also remind them:

Very few people in the country ever get to serve at the highest levels of government. Public service is one of the highest callings in the land. You have an opportunity to make a positive impact on families, communities, states and sometimes the world, if you're at State or an international organization like the Peace Corps or AID [Agency for International Development]. You can help improve the ways people live and work in this country, and you ought to serve.

The decision to accept the call to public service may impose hardships on you and your family. It may earn you little sympathy or thanks from lawmakers, the press or the public. But a new president is embarking on a four-year journey at the helm of the ship of state, and he's asked you to join him on the bridge.

We hope *A Survivor's Guide for Presidential Nominees* will help you with that decision — and make the path easier if you answer the call to service.

Glossary of Appointed Positions

Career Appointment: Selection by agency merit staffing process and approval of executive qualifications by a Qualifications Review Board run by the Office of Personnel Management (OPM). Also referred to as non-political appointees.

General Senior Executive Service Appointment: A position in the Senior Executive Service (SES) that may be filled through any type of SES appointment, i.e., career, non-career, limited term or limited emergency.

Limited-Emergency Appointment: Nonrenewable appointment for up to 18 months to an SES general position that must be filled urgently. Total number of limited-term and limited-emergency appointments may not exceed 5 percent of SES position allocation governmentwide. Each agency has a pool equal to a percentage of its position allocation for making limited appointments of career or career-type employees from outside the SES. OPM must approve each use of appointment authority in other cases.

Limited-Term Appointment: Nonrenewable appointment for up to three years to an SES general position that will expire because of the nature of the work (e.g., a special project).

Non-Career Senior Executive Service Appointment: Appointment authority allocated on individual case basis by OPM; authority reverts to OPM when the non-career appointee leaves the position. Appointments may be made only to general positions and cannot exceed 25 percent of the agency's SES position allocation; governmentwide, only 10 percent of SES position allocations may be used for non-career appointments. Also referred to as political appointees.

PA: Positions subject to presidential appointment without Senate confirmation.

PAS: Positions subject to presidential appointment with Senate confirmation.

Recess Appointment: An appointment made by the president when the Senate is not in session, either during a session (intrasession recess appointment) or between sessions (intersession recess appointment). Recess appointments expire at the end of the next session of Congress.

Schedule C Appointment: Political appointments to confidential or policy-determining positions that are exempt from merit testing and qualifications and are subject to direct appointment by the president.

SES Position: A Senior Executive Service position in the executive branch. These jobs are classified above GS-15 or Level IV or V of the Executive Schedule. They do not require Senate confirmation. SES positions are for executives who: direct the work of an organizational unit; are held accountable for the success of programs or projects; monitor progress toward organizational goals; supervise employees other than personal assistants; or otherwise exercise important policy-making functions.

Sources: U.S. Office of Personnel Management, Congressional Research Service

*“People shouldn’t just jump
because the White House
called and asked
them [to serve].
They need to do
a lot of homework before
they say yes.”*

1 First Things First

Let's take this one step at a time.

There are some serious questions to consider if the White House or the president-elect's chief headhunter comes calling — or even if they don't know you from Adam and you've been trying gamely (if not shamelessly) to get your resume to jump out of the stack. Regardless of how much you want that coveted job, it pays to perform what lawyers call "due diligence." Before agreeing to a post and before the FBI begins combing through your life history, perform a background check of your own to determine whether the job is right for you — and vice versa.

"In fairness to yourself, your family and everyone else, you really need to ask some very pointed questions and get good information before you make that decision," advises Stephen D. Potts, director of the U.S. Office of Government Ethics from 1990 to 2000.

To start, each candidate should scrutinize his or her own motives and qualifications and answer these fundamental questions:

- Do I want this job? (And, if so, how do I get it?)
- Am I the right person for this position?
- What will this mean for me financially and personally?
- What kind of help will I need to get through the nomination and confirmation process?

Although it may seem more mundane, another question to ask if you live outside the Beltway is: Will I enjoy living in Washington?

If you decide to pursue the job, you need to engage in a time-honored Washington tradition: create a fall-back strategy in case the job falls through. After all, you still face formidable obstacles even if the White House signals its interest in you.

1. Do I want this job?

It isn't easy to say no to the president of the United States, even if he lacks the legendary persuasive powers of a Lyndon B. Johnson. But if you are lucky enough to be one of those prominent people who the White House is actively recruiting, you need to think rationally about this opportunity. If you can't convince yourself that you want this position, you may have a difficult time convincing the Senate that you deserve it. More importantly, you may lack the energy and enthusiasm needed for such an all-consuming job.

When the late Les Aspin resigned as Defense secretary after the deaths of 18 Army Rangers in Mogadishu, Somalia, President Clinton waited just 24 hours before appearing in the Rose Garden with Aspin's chosen successor: retired admiral Bobby Ray Inman. "To ensure the greatest possible continuity, I wanted to announce a successor as soon as possible," the president explained. Inman, standing before the cameras, sounded more than hesitant. "As you know, I did not seek the job. In honesty, I did not want the job," said the 62-year-old Texas business executive. He mentioned that he had voted for George Bush and said only "duty and country" had impelled him "to give up a very happy and prosperous life" back in Austin.

The White House later revealed that Inman had sent the Internal Revenue Service (IRS) a check for \$6,000 for six years' of Social Security taxes owed for a part-time housekeeper (the same "nanny tax" situation that sank Zoë Baird's chances to become President Clinton's attorney general). Inman asked President Clinton to withdraw his nomination a few weeks later. In a letter to the president announcing his intention to withdraw, he assailed pundits and senators for trying to "disparage or destroy reputations." Inman's outburst came as a shock, although there were rumblings around Washington about personal matters that he had concealed from the White House. Clinton commented afterward, "Down deep inside, I think maybe he wasn't sure he wanted to go back." It was an unfortunate way for the curtain to fall on Inman's life of public service. But the nominee obviously had not spent enough time thinking things through before joining the president in the Rose Garden.

Like Inman, many nominees are driven by a feeling of duty and a desire to accept a high-ranking position. But the drawbacks include uprooting yourself and your family, subjecting yourself to intense public scrutiny and partisan barbs and possibly taking a cut in pay. Any misstep in office can be unfairly magnified in the Washington fishbowl, potentially scarring your reputation and leaving you embarrassed and hurt. If there are skeletons in your closet — from unpaid taxes or debts to a run-in with the law to the messy details of a broken marriage — you must disclose them to the White House and be prepared for the possibility that they may become public knowledge. Even candidates for sub-Cabinet positions that normally do not attract the spotlight must be ready for the rough-and-tumble life of Washington politics.

"A tough skin"

The stakes are highest for Cabinet officers, but every post that requires Senate confirmation comes with plenty of challenges. Charles Jeffress, who joined the Clinton administration in 1997 to run the Occupational Safety and Health Administration, an agency that routinely locks horns with the businesses it regulates, offers this advice:

Make sure you've got a tough skin. Come with a very clear agenda about what you want to achieve. And make sure that agenda is important enough to you personally to sacrifice money and family time and other opportunities to get it done. You've got to believe strongly in something to do this job. If you come because you think it's going to be fun or for the accolades, you're probably not going to stay long enough to do anybody any good.

Nominees should be prepared for what's to come. Donald C. Alexander, an IRS commissioner from 1973 to 1977 who helped the agency weather withering congressional scrutiny in the aftermath of Watergate, says:

The people asked to be secretary of Defense or the head of an agency are people who've done important things in their lives and feel that they are important. They come into the process believing they are good people. They've been contributors in their communities, they've been good students in school, they've got all these A's checked off. And they are about to enter a process that says to them in a lot of ways: "You're not as good as you thought you were."

Dislocation

Presidential appointees typically stay two years or less in their posts — although appointees in the Clinton administration, who were younger and more diverse than usual, and the first Democrats in charge of executive branch agencies in a dozen years, stayed 26 months on average. Members of President Clinton's Cabinet stayed more than three years on average, and five members of his original Cabinet — Richard Riley at Education, Donna Shalala at Health and Human Services, Bruce Babbitt at Interior, Janet Reno at Justice and Carol Browner at the Environmental Protection Agency (who has Cabinet rank) — stayed all eight years.

Even that is a short stay if you hope to make a lasting impact on your corner of the government. "Almost nobody has any sense before they come into government of the rhythm and flow of the budget process," says Christopher Cross, an assistant secretary of Education in the Bush administration.

“To make significant change, it takes at least three years and a couple of budget cycles.”

A former government official described his decision to join the Reagan administration as “a tithe of my working life.” And in this era when talented workers of all ages switch jobs and careers with abandon, public service presents an opportunity for you to make a contribution and be adventurous for a few years — like that stint in the Peace Corps you passed up when you got out of college.

But it also requires a sober judgment about whether you can afford to move to Washington, even on a temporary basis. This is an expensive area riding the crest of a real estate and technology boom. There are family considerations: Do you want to uproot your children from school and ask your spouse to rearrange his or her life — or, alternatively, endure the emotional wear of a commuter marriage? Some lawmakers do that, commuting back to their homes and districts on weekends and during congressional recesses, but that is not a realistic option for most presidential appointees. Lawmakers, who need to spend time in their districts as part of their duties, are reimbursed by the government for such travel; Cabinet or sub-Cabinet officers are on their own.

Jane Garvey, administrator of the Federal Aviation Administration under President Clinton, has a commuter marriage. Her husband remained in Massachusetts for his work when she came to Washington, first as deputy administrator of the Federal Highway Administration in 1993, and then as the FAA chief in 1997. “I don’t advise this,” Garvey says. “My husband’s job is such that he’s not able to live down here, so we have a commuter marriage. It’s much easier to do after you’ve been married for 27 years, and much harder to do if you were married for six months, I suspect. And it’s easier because we’re on the East Coast.” But she adds, “It’s very expensive. We don’t get the congressional stipend or flying privileges in terms of using the government rate.”

Getting noticed

A few nominees possess resumes that need no embellishment. They come here from the pinnacles

of careers in business, academe or government, like Harold Varmus, the Nobel Prize winner in medicine who revitalized the National Institutes of Health, or Robert Rubin, who left Wall Street to win wide acclaim as an economic adviser and then Treasury secretary under Bill Clinton. They are in a league of their own.

Most nominees cast a smaller shadow. For a great many, a presidential appointment marks the capstone of their careers. It opens opportunities that they never had before — positions with even greater responsibilities in government or in the business or academic world they came from. Thinking of public service as a stepping stone, however, is a serious mistake. If the job you really have your eye on is the one that awaits you after your stint in government, you run a serious risk of fumbling your work on the public’s behalf.

“You should go in understanding it’s not the way to the pot of gold at the end of the rainbow,” says Cross, the former Education Department official. “You have to think in terms of the responsibilities of the office and doing the best job that you can. If you think of your own self interest, you’re not going to be there very long and you’ll have a very rocky time.”

Still, there are far more people seeking these jobs than there are positions available. Unlike the meek in the Bible who shall inherit the Earth, a meek executive branch aspirant risks being overlooked. You need to be your own strongest advocate in order to land a presidential appointment.

If you’ve waited until after the election to figure out how to connect yourself to the new president and his team, you may have waited too long. That doesn’t mean you have no chance of being chosen, but the odds favor those who have already made themselves indispensable, or at least known, to the winning candidate or party. Bob Nash, Clinton’s director of presidential personnel, warns that if you’ve taken no initiative by November, “you’re going to be behind the eight ball as it relates to someone else equally capable and competent who has been connected with the new administration.”

But that doesn't mean you should give up. Instead, look to tap any potential connection you have at the White House, no matter how indirect. Perhaps your congressman is on close terms with an incoming Cabinet secretary, or the Washington lobbyist of your professional organization raised money for the president's campaign. Many job candidates will find this whole business distasteful. "It's very embarrassing to ask everybody you know to make phone calls on your behalf. ... But you have to consider it a political campaign and just be absolutely shameless about it," says Gregory Baer, a former lawyer for the Federal Reserve System who became assistant secretary of the Treasury for financial institutions in 1997.

Obviously, it helps to have a powerful advocate such as a Cabinet secretary. But even that is no guarantee of an appointment. The late Commerce Secretary Ron Brown wanted William A. Reinsch to be his under secretary for export administration, even though Reinsch had spent most of his career working for Republicans on Capitol Hill. The White House had other ideas; it preferred a business executive who had raised money for the Democrats. Reinsch describes the standoff that ensued:

The White House did not want to make the decision that Ron wanted them to make. The way the process works is they don't say no; they just don't say yes. It becomes a battle of wills. They waited to see if Brown would drop it and he waited to see if they'd give up. Secretary Brown, to my great gratitude, stuck to his guns. In my case, the White House blinked — but it took them six months to blink.

But the appointments power definitely rests with the White House. James P. Pfiffner, a professor of political science at George Mason University and an expert on presidential transitions, tells the story about the time Health, Education and Welfare Secretary John Gardner complained at a White House meeting with President Johnson about the choices being forced upon him for assistant secretaryships. Johnson cut him off, saying, "John here thinks I am smart enough to pick him for secretary — but not smart enough to pick any of his people."

2. Am I the right person for this position?

It's always disconcerting to take a hard look in the mirror and gauge your strengths and weaknesses. But now is the time to decide whether you have the technical skills — as well as the managerial experience — to tackle the position that the White House has in mind for you. You also need to shift into a research mode, examining the agency as intensely as the administration is examining you.

Some jobs and talents are transferable. An assistant secretary for legislation who knows how to work Capitol Hill can ply that craft adeptly whether working for the Department of Energy, the Department of Housing and Urban Development or another Cabinet agency. The same often holds true for a media-savvy assistant secretary for public affairs or a general counsel with a keen grasp of the law. Caspar Weinberger earned the sobriquet "Cap the Knife" for his skill at budget cutting as director of the Office of Management and Budget (OMB) under President Richard M. Nixon. Later, he demonstrated a facility for spending as secretary of Defense during the Reagan military build-up. Elliott Richardson glided from being secretary of Health, Education and Welfare to running the Pentagon and the Justice Department (briefly) in the Nixon administration, then returned to the Cabinet Room as secretary of Commerce under President Gerald R. Ford.

But the majority of presidential appointments to full-time posts demand specific skills and expertise. While your managerial, professional and political talents might be useful in a variety of openings, you need to be certain that the specific job on the table is right for you. Especially at the outset of an administration, a single candidate may be considered for a number of openings. When one vacancy is filled, the also-rans often are shopped around to various Cabinet secretaries or departments. But don't let yourself be shuffled around to the point where the job in question makes no sense for you. And don't be swayed by grandiose titles. Find out if there is real work to be done, and room to do it.

All the jobs at the president's disposal are listed in the publication *United States Government Policy and Supporting Positions*, popularly called the Plum Book (some say because the first edition had a plum-colored cover; others say because the book lists the most important and desirable jobs in government). It is published in the fall of each presidential election year by the Senate Committee on Governmental Affairs or the House Committee on Government Reform and Oversight (they take turns) with help from the U.S. Office of Personnel Management, Uncle Sam's human resource department. You can also find the Plum Book's list of jobs online at the Government Printing Office Web site, www.access.gpo.gov/plumbook/toc.html.

You'll find many of the toughest positions in the federal government profiled in a helpful publication by The Council for Excellence in Government, *The 2000 Prune Book: How to Succeed in Washington's Top Jobs*. It examines issues related to staffing the upper echelons of the executive branch. The text of the book will be available on the council's Web site, www.excelgov.org. The entire *U.S. Government Manual*, the official handbook of the federal government, is available online through the GPO site at this link: www.access.gpo.gov/nara/browse-gm-00.html. It contains names, phone numbers and job titles for senior officials and department heads throughout the government.

You might be interested in knowing where a particular position falls in the executive branch hierarchy and salary structure. To find out whether a position is classified as Executive Level I (secretary rank), II (deputy secretary rank) III (under secretary rank), IV (assistant secretary rank) or V (administrators, directors and commissioners), you can check out Title 5 of the U.S. Code, Chapter 53, Subchapter 2. One place to find this online is at www4.law.cornell.edu/uscode/unframed/5/ch53.html.

Playing to your strengths

Versatility may be your strong suit, but don't let yourself get thrust into a position that plays to your weaknesses. Put another way, if your specialty is teaching French, but the only opening is for a

Russian instructor, don't be foolhardy enough to think you can learn enough Russian to teach the class by the fall.

On the other hand, knowing all about an agency's programs does not necessarily mean you would do a great job at overseeing them. Some appointees are taken aback by the management demands of what they thought would be strictly policy jobs.

Hans Mark, a former chancellor of the 15-campus University of Texas System who returned to government as the Pentagon's director of defense research and engineering in 1998, believes that management skills are essential for government jobs. Many highly technical positions such as his own might be handled equally well by top civil servants, he says. Mark, a physicist who served previously as secretary of the Air Force and deputy administrator of NASA, thinks that presidential appointees should be accomplished in something more "than working the Washington political system." He suggests candidates think about the following questions: "Have you managed a project? Have you run an organization, been a university president, run a company? Can you fire somebody? Can you do the things that a manager has to do?"

Many of the people who have gone through the nomination and confirmation process stress the importance of talking to others who have served in government. They also recommend using this period to look for possible mentors or to establish informal networks of people who can serve as a "kitchen cabinet" if you do assume a government post. This is especially important if you have little prior experience with senior government service and your acquaintances tend not to run in these circles, says Jan Piercy, the U.S. executive director of the World Bank.

You should be on the lookout for people you meet going through the process. If you develop respect and rapport with people who might be in a position to advise you without conflicts of interest, consider asking them for help. Appointees often tell me that taking my advice to find a mentor, coach or set of personal advisers was the best step they ever took entering office.

Too deeply involved?

Another issue to consider is whether you are so deeply involved in a particular field or an issue that it could tie your hands from making key decisions once confirmed. If your law practice consists entirely of representing corporate clients in tax disputes with the IRS, you might be hamstrung by recusals if you were offered the job of IRS commissioner. Likewise, if you worked for a pharmaceutical company and were slated for a top job at the Food and Drug Administration or elsewhere in the Department of Health and Human Services, your past life might force you to sit on the sidelines in making major decisions that could directly affect your former employer. While you can be recused from making decisions involving matters you dealt with before joining the government, neither you nor the people hiring you want someone who will be unable to shoulder important parts of the job.

But just because you are involved in an area in the private sector doesn't mean that you have to give up your involvement once you enter government. Potts explains:

We encourage recusal as a way of solving a real conflict problem. But we sometimes run into problems where somebody's got a hot potato and they say, "Well, my wife's cousin is involved in this, so I better recuse myself." And we say, "Wait a minute. You were put in the job to get the job done. Just because some distant relative is involved in the other side, that doesn't give you grounds for recusal. Do your job."

One thinks of judges' recusing themselves from cases in which they have a personal or financial interest, but recusal in recent years has become more commonplace in the executive as well as the judicial branch, especially as awareness has grown about the importance of complying with the conflict-of-interest statutes. Potts, in a light-hearted footnote to an April 26, 1999, memo to agency ethics officials about the recusal obligation, had this to say about the meaning of "recusal":

For those of you who counsel employees who may not fully appreciate the meaning of the term "recuse," here is something you could share with

them. An employee should refrain, abstain, refuse, relinquish, forbear, forgo, hold off, keep away, give up, decline, desist, discontinue, end, cancel, close, quit, terminate, stop, halt, cease, drop it, stay away, shun, avoid, participation in the matter before him or her. In other words, just don't do it.

But even if your company or law firm is involved in a certain matter, you are not necessarily disqualified from handling the issue once you enter government. Take Roger Majek, whose Washington law practice dealt primarily with telecommunications issues. President Clinton nominated him to be assistant secretary of Commerce for export administration, which was not the area he specialized in. Majek had gotten export licenses for some clients, but that was not the bulk of his practice. His confirmation went through without a hitch. "I think I might have had more of a problem if I had been doing nothing but export controls, and I certainly would have had more recusals afterward," he says.

Learning about agencies

Remember that even if the White House considers you qualified for a position, you will still face grilling from senators about your knowledge of an agency's functions, policies and priorities, including its responsiveness to congressional dictates. In the Clinton administration, a nominee for a senior post within the Office of Management and Budget learned the hard way that she needed to do her homework on the Government Performance and Results Act of 1993, a bipartisan initiative that requires all federal agencies to develop strategic plans and submit annual performance reports to Congress. The nominee "was chopped to ribbons" at a confirmation hearing when she professed ignorance of how the statute was working, a colleague recalls.

Even putting aside what's in store at your confirmation hearing, it makes sense to learn as much as you can about an agency's budget and problems to assess whether you are suited for the job. Potential nominees must learn "the president's agenda for their particular corner of the world," says Virginia L. Thomas, a senior fellow in government studies at the Heritage Foundation. She counsels candidates to find

out how many people they would be able to hire or if the White House is “likely to impose on you a whole bunch of characters fresh off the campaign trail who know nothing about the department.”

Thomas, a former aide to House Majority Leader Dick Armey (R-Texas) and a deputy assistant secretary in the Labor Department during the Bush administration, adds, “People shouldn’t just jump because the White House called and asked them. They need to do a lot of homework before they say yes.” She recommends that nominees pick up the phone and call those who served in the position previously, whether they are Republicans or Democrats.

“Talk with them about the position itself, the pitfalls, the benefits, what they accomplished, and what they wished they had accomplished,” she suggests. “It may be compulsive, but I’d do an awful lot of research, because this is a very rough and tumble environment. The daggers are out, especially in divided government.” (Thomas, by the way, should know: her husband is Supreme Court Justice Clarence Thomas, who weathered one of the roughest confirmation battles of recent decades.)

There’s a wealth of information about the government at your fingertips, including:

- General Accounting Office reports about federal programs that you can download from the Web at www.gao.gov.
- Departmental Web sites, which include inspector general reports about troubled programs, and department and agency performance reports, which must be filed annually to Congress by March 31. (Please refer to the Resources Chapter for a complete list of Web sites.)
- The Library of Congress’s indispensable Web site — thomas.loc.gov — with links to executive and judicial as well as legislative resources. The executive branch Web sites can be found at lcweb.loc.gov/global/executive/fed.html.
- The Federal Register, which is easily searchable and contains all the rules and notices issued by each federal agency. It can be found at the Government Printing Office Web site

www.access.gpo.gov/su_docs/aces/aces140.html.

- The Government Printing Office Web page on Congress also includes links to each Senate committee, a roster of members and committee rules at www.access.gpo.gov/congress/senate/index.html.
- The White House Web site at www.whitehouse.gov.
- Congressional Research Service reports on scores of issues each year for members of Congress, committees and their staffs. Some of its authoritative, non-partisan reports can be found on the Senate Web site, www.senate.gov/~dpc/crs/reports/reptsubj.html, including “Where to Get Publications from Executive & Independent Agencies” (CRS Report 97-129). Federal depository libraries and university libraries often have CRS reports available online, or you may request CRS reports through your member of Congress.

3. What are the financial and personal ramifications, including restrictions on post-government employment?

As prestigious as a presidential appointment may be, it can have detrimental effects on your income. There are two issues to consider: salary and post-employment restrictions. Government salaries are sometimes lower than salaries in the private sector. The pay for most presidential appointees in 2000 ranged from \$122,400 for Executive Level IV positions (assistant secretaries and general counsels) to \$157,000 for Executive Level I posts (Cabinet secretaries). You should also be aware that there are legal restrictions that can affect the work you do after leaving government service.

Salary and assets

Your government salary may stay flat or grow very slowly during your time in office. Top law firms, for example, are hiring law school graduates today at salaries approaching what a deputy Cabinet secretary makes. There are no stock options or bonuses for political appointees. And senior-level political appointees cannot moonlight. By an executive order that President Bush issued in 1989, Cabinet-level officials, deputy secretaries and certain other high-level officials cannot “receive any earned income for any

Job Benefits

Presidential appointees are eligible for health insurance from day one if they are appointed to a post lasting a year or longer. They can choose coverage from the wide range of private health plans — from full fee-for-service plans to health maintenance organizations to preferred provider organizations — offered through the Federal Employees Health Benefits Program, the world's largest employer-sponsored health plan and a widely extolled model for health insurance. There are no waiting periods or exclusions for pre-existing conditions, and children are covered through the age of 21. Typically the government picks up 71 percent of the costs of insurance, the employee 29 percent.

Presidential appointees also can accrue pension benefits, although it generally takes five years to qualify for a pension under the Federal Employees Retirement System (FERS). Military service counts toward that minimum, and if you ever were covered under the prior Civil Service Retirement System (CSRS), you may be eligible for benefits under that program. FERS works in conjunction with Social Security and Medicare coverage; CSRS does not include Social Security or Medicare. You would pay the regular 7.65 percent Social Security and Medicare tax, and an additional 0.8 percent would be deducted from your pay for the basic FERS pension benefit. If you quit government without qualifying for a pension, your FERS contributions would be refunded.

After six to 12 months on the job (the wait varies by agency), presidential appointees also can contribute up to 10 percent of their salaries to the Thrift Savings Plan, a retirement savings plan similar to a 401(k) plan. There is a 4 percent government match on the first 5 percent of employee contributions, plus an automatic 1 percent agency match. If you leave the government before two years, you can keep the amount you saved plus the 4 percent government match and any earnings. The money can stay in the Thrift Savings Plan, or you can roll it over into another retirement account. But you forfeit the 1 percent automatic agency match unless you stay for two years or more.

Presidential appointees do not accumulate sick leave or vacation in the same way that other federal employees do. They are paid monthly and are not required to account for hours spent on or off the job. Any leave is strictly between them and the president or Cabinet secretary who appointed them.

For more detailed information on job benefits, visit the Office of Personnel Management's web site at www.opm.gov.

outside employment or activity performed during that Presidential appointment." The prohibition includes speaking fees. Other rules and restrictions apply to those below this level. Political appointees do qualify for health insurance and other job benefits. (See sidebar on job benefits.)

Ethics officials may also decide that you have to divest stocks to avoid a conflict of interest. But do not divest prematurely. You may qualify for a certificate of divestiture from the Office of Government Ethics allowing you to postpone payments of capital gains taxes when you sell the stocks and put the pro-

ceeds into an open-end, diversified mutual fund or U.S. Treasury notes or bonds. (That became an option in 1989.) It will complicate the tax calculations when you eventually sell those assets, but it can spare you a hefty tax bill at a time you may be between jobs and incurring the expenses of moving to Washington. The Office of Government Ethics only grants these certificates, however, after it reviews your financial disclosure statement and decides that certain assets pose a genuine conflict of interest. It will not issue a “CD” (certificate of divestiture) retroactively if you have already sold the stock or property.

Employment restrictions

As for the post-government employment restrictions, here in a nutshell is what federal law requires:

- **Lifetime Ban.** An employee is prohibited from representing anyone else before the government on any matter in which he or she participated personally and substantially.
- **Two-Year Ban.** An employee is prohibited for two years from representing another person or entity on a matter he or she supervised or was responsible for during the last year of government service.
- **One-Year Ban.** Senior officials are subject to an additional restriction barring them from representing anyone before their entire departments or agencies for one year.
- **Additional One-Year Ban.** Cabinet secretaries and other very senior officials cannot represent anyone before any federal department or agency for one year.

Under an executive order issued by President Clinton, all senior appointees must sign a pledge not to lobby their departments for five years. The Clinton-era pledge also bars senior appointees from ever working as agents for a foreign government or political party. U.S. trade negotiators cannot work for foreign businesses, either. These restrictions will stay in effect unless they are lifted or modified by the current administration or future presidents.

With the exception of the restrictions on working for foreign governments, the law does not bar you from working for anyone you wish after you leave Uncle

Sam’s payroll. But it does impose certain restrictions on all federal employees who move to the private sector. There are extra restrictions on those who served in senior positions, especially those who required Senate confirmation. There are special restrictions for procurement officers that will apply to you if you personally award contracts in your government post. Please refer to Chapter 8 for a fuller discussion of post-government employment issues.

When Congress revised the Ethics in Government Act in 1989, it also boosted the salaries of top government officials by 35 percent in an effort to overcome problems that agencies and departments were having in recruiting talent from both industry and academia. A 1992 report by the National Academy of Sciences, *Ensuring the Best Presidential Appointments*, warned:

The post-Watergate period has yielded a steady flow of new laws and regulations intended to improve the integrity of the federal government. Some ... make good sense. But the efforts to achieve a scandal-proof government have gone too far and, on balance, do more harm than good by deterring talented and experienced scientific and engineering personnel from taking senior government positions.

The same argument can be made about professionals from many fields, not just the scientists and engineers. Still, don’t assume that the restrictions will be an albatross for you personally. There are blanket exceptions to the restrictions if you go to work for a state or local government, a college or other not-for-profit organization. Most officials returning to academia, the corporate world, medicine, the news media and other walks of life will experience little, if any, impact on their abilities to earn a living.

Short-term difficulties

But the post-employment restrictions can pose real, short-term difficulties for those whose whole careers, including their stints in government service, were bound up in dealing with a particular government agency or program, such as the IRS or the Export-Import Bank. They also create problems for those leaving a regulatory post to return to the industry they regulated.

Richard Meserve, the chairman of the Nuclear Regulatory Commission, says the restrictions pose particular drawbacks for lawyers. “This wasn’t a job I was looking for,” he says. It not only required a substantial cut in pay, he notes, but also restricted his ability to resume the law practice he specialized in before the White House came calling. That practice had included nuclear issues, such as nonproliferation and licensing.

John Holum, the under secretary of State for arms control and international security, says he noticed that colleagues who left State were “exceedingly cautious in contacting their former agencies, even for information. They didn’t want to raise any questions.” (Actually, former officials can — and should — continue to get advice from the ethics officials in their former agencies after they leave government.) Although the restrictions may be inconvenient, the intent is to promote good government. They have cut back on officials’ moving back and forth between federal agencies and the industries that lobby them, “and that’s a good thing,” says Holum, once a top staffer to former Sen. George McGovern (D-S.D.). “It’s better to maintain some distance.”

4. What kind of help will I need to get through the nomination and confirmation process?

You’ll need to tackle a pile of paperwork at the outset of the appointments process. Most nominees for posts requiring Senate confirmation must complete:

- The Executive Branch Personnel Public Financial Disclosure Report (SF 278) on income, assets and liabilities.
- The Questionnaire for National Security Positions (SF 86) that is used for the background investigation and security clearance.
- The White House Personal Data Statement Questionnaire.
- A separate background questionnaire required by the appropriate Senate committee.

These forms are, as the 1992 National Academy of Sciences report put it, “separate, complicated, and

incompatible.” Some nominees face more than one committee, and must fill out separate forms for each. Chapter 3 provides more details on the myriad forms.

As intimidating as the paperwork is, this is just one aspect of the vetting process. You will also be investigated by the FBI (and, in some cases, questioned by Senate committee investigators as well). Embarrassing details of your life could become public. Have you ever used alcohol excessively? Has anyone ever filed a sexual harassment case against you? Do you belong to a club that excludes women or minorities? Even if you never broke the law, you could find yourself facing public criticism for engaging in activities many years ago that seemed entirely harmless. Now is a good time for you to take a hard look at the vetting process and decide whether you want to put yourself (and your family and friends) through it.

The paper maze

The first question is: Do I need help navigating this paper maze?

The majority of nominees tackle this pile of paperwork on their own and they do it successfully. But if you have complex or extensive financial holdings, you will need help — and it may cost you thousands of dollars.

The most difficult form to fill out is the SF 278, the financial disclosure form for the executive branch, which you must update each year you stay in the government. It is a complex form, demanding a level of detail of income, assets and liabilities that few have at their fingertips. Don’t be intimidated. David Apol, a White House associate counsel who dealt with nominees’ financial disclosure forms and conflict-of-interest issues, says “virtually everyone” must redo the 278 to correct initial mistakes.

Most of the officials from current and past administrations interviewed by Princeton Survey Research Associates on behalf of The Presidential Appointee Initiative did not hire outside experts. Some were assisted by professionals who volunteered to help them with the accounting or legal aspects of the process. Of those who hired help, more than 40 percent spent less than \$1,000. Only 6 percent of nomi-

nees spent \$10,000 or more, and most of them came from outside government.

Nominees with considerable wealth or complicated business holdings or severance arrangements should not hesitate to put a private attorney and accountant on the case. Sometimes even lawyers accustomed to guiding clients through complex legal and tax questions summon outside help when they enter the confirmation thicket. When President Bush tapped Stephen Potts to run the Office of Government Ethics in 1990, Potts assumed “that all the stuff that I’d filled out would be sent on up to the Senate and they would rely mostly on that. That is not the case. You get this whole big deluge. All the forms are similar, but enough different that you can’t just copy what you did for the White House.” And the topper was a request from the Senate Governmental Affairs Committee for a net worth statement.

“I thought, ‘Well, I can do that. You get all your assets, your liabilities, you subtract, and you’ve got it,’” Potts recalls. But when he checked with his accountant to be on the safe side, he learned he had miscalculated the deferred liability in his 401(k) plan. Potts wound up paying the CPA \$2,500 so he could tell the Governmental Affairs Committee with assurance what he was worth. “I’m glad I did, particularly for this job,” he adds. “You don’t want anything inaccurate to crop up.”

Charles Rossotti, a business executive recruited by the Clinton administration to run the IRS, was astounded at the complexity of the disclosure requirements. “If you come in after 30 years in business with various kinds of financial affairs and different kinds of assets, it’s really very, very difficult to get anybody to give you a clear explanation of what the options really are,” he says. “I hired a very experienced lawyer from one of the major firms to help sort it out for me. It cost me quite a bit of money, but I would never have gotten through it otherwise.”

Regardless of the size of your portfolio, the important thing is to get these forms filled out expeditiously. If you let them gather dust on your desk or dresser, you are creating your own confirmation delay.

Sticky situations

A word of warning: Some things that develop into sticky situations may not appear that way at first. The nominee’s financial disclosure form (SF 278) is reviewed by the White House Counsel’s Office, by the department he or she is headed to and by the Office of Government Ethics prior to the confirmation hearing. The Office of Government Ethics must certify the report before it is sent to the Senate. The lawyers there will analyze the nominee’s holdings, discuss potential conflicts and propose remedies such as divestitures, recusals, setting up blind trusts and, in some instances, waivers. The nominee agrees in writing to carry out the recommended actions, usually within 90 days of being sworn in.

Former Postmaster General Marvin Runyon inadvertently got into a conflict when his blind trust expired and he neglected to sell a block of Coca-Cola stock that he had owned for years. The blind trust had carried over from Runyon’s earlier post as chairman of the Tennessee Valley Authority, but it ended after five years. Runyon landed in trouble because he took part in discussions to put thousands of Coke vending machines in post office lobbies while he still held that stock.

Sometimes the remedial actions are more complicated than just calling a broker and selling a block of stock. Jacques Gansler, under secretary of Defense for acquisition and technology, was told he had to get rid of his 5 percent share in an office building because one tenant was a defense contractor. “The other owners had no plans to sell the building, so they had to go out and get an appraisal. They then gave me 20 percent less than what my 5 percent was worth because, as they said, ‘Suppose the price goes down?’” he recalls.

The staff of the Senate Armed Services Committee also told Gansler’s wife to get out of an investment club that she had started. Why? It owned shares in Disney and Merck, two blue chip companies not commonly thought of as defense stocks but which are vendors to military commissaries and hospitals. Gansler also had to pay full capital gains tax on stock options he had to cash in. “You can’t roll that over like you can with stock,” he says.

Coming clean

No matter how embarrassing some personal or financial details from your life may be, it is important to make a clean breast of them on the forms the White House asks you to fill out. There are many pointed questions, including whether you have illegally used a controlled substance. You will be asked if you paid payroll taxes on the salary of your nanny or other household help, defaulted on any debts or did anything else that conceivably could prove embarrassing to you and the president. Lawyers who have worked on vetting candidates for the White House say it is better to come clean and take your chances than to conceal something likely to be discovered anyway when the FBI checks you out.

It is important to make sure that all the i's are dotted and t's crossed on these forms. Not to sound alarmist, but it is a felony to knowingly falsify or conceal a material fact on the SF 86 questionnaire, which is used by the FBI as the basis for your background investigation and for granting your national security clearance. The penalty is a fine up to \$10,000, five years in prison or both.

A special prosecutor spent four years and nearly \$10 million investigating former Housing and Urban Development Secretary Henry G. Cisneros for lying about payments he gave a former mistress. The former San Antonio mayor had admitted giving the woman money, but he lied to an FBI agent about the scale (\$250,000). Cisneros pleaded guilty in September 1999 to a misdemeanor and paid a \$10,000 fine. He told Judge Stanley Sporkin at sentencing that he hoped others would learn "that truth and candor are important in the process of selecting people for governmental positions."

The Senate

Once you are through with the White House vetting process, you still face the hurdle of Senate confirmation. Diana Huffman, a former staff director of the Senate Judiciary Committee, says nominees need to realize that they must go through two separate and dramatically different confirmation proceedings: the official one that moves through White House and Senate channels, and the behind-the-scenes maneu-

verings that actually propel names forward. "People need to understand that this is a political process and that sometimes they are their own advocates. They can't assume that their sponsors on the Hill or in the White House are truly their advocates," says Huffman, who now teaches journalism at the University of Maryland.

Once a nomination goes up to the Senate, "you're competing against other people," she says. "Say you're in the business world. You know somebody who knows an Orrin Hatch on Judiciary or Phil Gramm on Banking. You want to get people saying good things about you to Gramm. It's a numbers game, and you can help yourself with any contacts that you have to get senators to hear about you and say, 'Let's put this guy on the hearing list.' People would be amazed to know how someone lands on a list for a hearing. It's bizarre, and it doesn't have a lot to do with merit."

Sarah Wilson, senior counsel to the president for nominations in the Clinton administration, says the worst thing a nominee can do is to be less than candid about troublesome issues in his or her background. But the second biggest mistake, she adds, is "being too timid" and not "making sure that you are getting yourself as close to the top of the White House or Senate agenda as you possibly can."

James Baker at the National Oceanic and Atmospheric Administration (NOAA), who worked on the Clinton transition team after the 1992 election, says, "It isn't merit alone that gets you a job. You have to do a campaign. You have to get all the interest groups that are involved in that subject to support you, or as many as you can, and as many important people whose names would be recognized. That is also critical. Other people will be pushing their names and you have to do that, too."

Others who have navigated these straits emphasize that it is wishful thinking to assume the White House will devote a lot of time and energy to get a second-tier nomination through. Kent McGuire, who waited eight months before winning confirmation in 1998 as assistant secretary for educational research and

improvement, advises, “Don’t underestimate your responsibility to get yourself confirmed. In my opinion, it was only when I realized that I probably had to do this that it started to happen.”

Bob Nash, the White House personnel director under Clinton, puts it this way: “Nominees need to take a lot of initiative. They can’t just sit back and say, ‘O.K., tell me which way to turn? How high do I jump?’”

5. Do I want to live in Washington?

Washington is one of the world’s great cities. But it is not the right place for everyone.

As you weigh whether to work for the administration, you need to consider how you feel about the prospect of moving to the District or its suburbs. Many of you have already made this choice. More than half the nominees in the Reagan, Bush and Clinton administrations surveyed for The Presidential Appointee Initiative were already in the Washington area when the White House called. But if you are working for a university or private organization outside the Beltway, or perhaps for a state government, it may be worth asking yourself — and your family — what it would be like living in the nation’s capital for a few years.

More than a half-million people live within the District of Columbia’s 69 square miles, and a million more commute there every day from the Virginia and Maryland suburbs. If you add Baltimore (45 miles away) and West Virginia (75 miles), as the Census Bureau does, you have the nation’s fourth largest metropolitan area. The region is one of the wealthiest and most expensive in the country, with a vibrant economy fueled by a high-tech boom in the suburbs. Yet Washington, like all large U.S. cities, is also troubled by poverty and crime.

The most beautiful city?

Washington tends to provoke sharply differing reactions. In a sly putdown, President John F. Kennedy famously referred to Washington as “a city of Southern efficiency and Northern charm.” But in the last year of his presidency, Bill Clinton said, “There is

no capital city in the world as beautiful as Washington. And there is no city now that is any more diverse.”

Washington is a showcase, a feast of museums and monuments, a mecca for tourists and politicians from around the world. Twenty million visitors come and go each year, and their numbers are rising. Culturally rich and ethnically diverse — African-Americans comprise a majority of the 520,000 residents, and there are large Hispanic and Asian-American communities as well — Washington is one of America’s most cosmopolitan cities, home to 3,600 trade, professional and philanthropic associations, 174 diplomatic missions, the World Bank, the International Monetary Fund and the Organization of American States. If you’re looking for a community of highly educated and committed policy experts from across the nation and around the world, then Washington is for you.

In terms of day-to-day living, Washington is a surprisingly manageable city. The Metro rail system is regarded as one of the best in the world, even if its long escalators do break down a lot. Parks and greenbelts stretch from the National Zoo (which, like many Washington attractions, is free) almost 200 miles to western Maryland. Restaurants, music venues and theaters abound. If you want to go away for a weekend, your choices are almost unlimited: mountains, beaches, historic towns and Civil War battlefields.

There are other advantages as well. Washington is a good place for the “trailing” spouse to find a job in government, public policy, business, real estate or virtually any calling you can think of. Its wealth of museums and historic sites will endow your children with a firsthand understanding of our nation’s history and culture. Finally, this is a place (for better or worse) that your relatives will love visiting, as you will no doubt discover if you have a spare bedroom or a pullout sofa in the living room.

But there are the typical big-city downsides as well: high housing costs, severe highway congestion, unreliable municipal services and inner-city crime. And many folks in Washington have jobs that leave little time for relaxation. Area residents spend more time

than most Americans in the office, and workweeks of 50 and 60 hours are routine.

The basics

It is possible to live within an hour's commute of Capitol Hill and reside in Virginia's horse country or the foothills of the Blue Ridge Mountains, or along a cove in the waterman's paradise of the Chesapeake Bay. Or, if you want to avoid the frustrations of daily commuting, you can live in Washington itself and walk to work or get there in comfort by Metro or even by riding on one of the convenient bike paths.

Housing costs in this area, as throughout much of the country, have risen sharply in recent years. Washington real estate is pricier than most Southern or Midwestern cities. But if you are coming from the likes of New York or San Francisco, you may be pleasantly surprised at the "bargains." For about \$250,000 to \$500,000, you can likely find a substantial (3-to-4 bedroom) house in the city or its suburbs. Costs are much higher for the most desirable addresses, and lower for more distant suburbs. If you are trying to save money, you may want to consider shopping for a condo or renting a townhouse or apartment.

If you have children and plan to send them to public school, you will have to scout schools in the District as thoroughly as you look for a house. Most families with school-age children gravitate to the suburbs. Fairfax County, with more than 150,000 students, is known for the strength of its programs for students with serious disabilities as well as programs for the gifted. Suburbs on both sides of the Potomac River boast math and science magnet high schools with national reputations: Thomas Jefferson in Alexandria, Va., and Montgomery Blair in Chevy Chase, Md.

When to move

Those who want to join the new administration at the start must be prepared to spend several months in limbo, waiting for the White House to make up its mind, then waiting to pass clearance and waiting again to be confirmed. This poses special difficulties for those who are not already gainfully employed inside the Beltway.

After you are formally nominated, but usually not before, you may be able to join your future department as a full-time adviser or consultant. (See Chapter 5 for more details about such positions.) But you will have to decide when to move your family to Washington, where to live and whether to buy or rent here. These are problems that inside-the-Beltway rivals for the same job simply won't have to wrestle with. If you come on board as a full-time consultant or in some other capacity before you move to Washington, you may be able to get your department to pay for your eventual move. Otherwise, the move is on you.

6. Why do I need a fallback strategy?

Once you do make the decision to pursue a presidential appointment, you may want to consider preparing a fallback strategy. After all, it is possible that a nomination or confirmation will fall through. Bear in mind the unfortunate example of a veteran editor who severed her ties to *The Washington Post* and sold her company stock in 1979 when she signed on as acting assistant secretary for public affairs at the Department of Health and Human Services late in the Carter administration. Before the Senate acted on her nomination, her boss, Joseph Califano Jr., got fired. His replacement, Patricia Roberts Harris, brought in her own press secretary.

Even once you start your duties, there's little job security.

"These jobs are all at the pleasure of the president and you can get into a political situation where you might have to leave," notes NOAA's Baker. "There is no guarantee of a four-year term. You must know what you would do if it were clear that you are in an untenable situation."

Job disruptions, obviously, are less dislocating for the many candidates who have already put down roots in the Washington area, whether they work on the Hill, in the private sector or in the executive branch itself. In academia, where sabbaticals are common and interruptions for government service encouraged, it may be relatively easy to arrange to spend what

amounts to a few semesters in Washington. But everyone needs to be cautious about burning bridges — selling or buying a house, calling in the movers, quitting a job or unloading stocks — before being certain that this is a done deal.



Key Points

- Ask yourself whether you are sure that you want to face the demands and conflicts that come with a presidential appointment. If you are ambivalent, you may not be able to do a good job in office.
- Evaluate your strengths and weaknesses to ensure that the proposed job is a good fit for you. Some positions demand specific skills; others can be filled by generalists.
- Analyze the effect that the appointment will have on your salary and other finances. You may have to divest stocks, and you may face post-government employment restrictions.
- Consider whether you want to subject yourself and your family to an FBI background investigation.
- Think about the benefits and drawbacks of moving to the Washington area.
- Prepare a fallback strategy in case things don't work out.

*“Get your part done.
There should never be a
question about whether
the nominee is eager
for the job or ready to do
whatever it takes to get
confirmed quickly.”*

2 People and Places Along the Way

This chapter provides a step-by-step introduction to the offices and officials you will be dealing with on your nomination and confirmation journey. Some will help you navigate a course; others will delve into your personal background, including your taxes, credit record and legal history. They include the:

- President-elect's transition team
- White House Office of Presidential Personnel
- Office of the Counsel to the President
- White House chief of staff
- Federal Bureau of Investigation
- Internal Revenue Service
- U.S. Office of Government Ethics
- U.S. Office of Personnel Management
- Officials of the designated department, agency, board or commission
- White House Office of Legislative Affairs
- Designated department office of legislative affairs
- Interest groups, trade associations and lobbyists
- Senate Executive Clerk
- Senate committee of jurisdiction
- Members of Congress
- White House Executive Clerk

This chapter will look at the key gatekeepers in the appointments process at length and share past presidential appointees' thoughts on which were most helpful to their cause. But first, it will break down the process into four stages: selection, clearance, nomination and confirmation.

Stages of the Appointments Process

Stage One: Selection

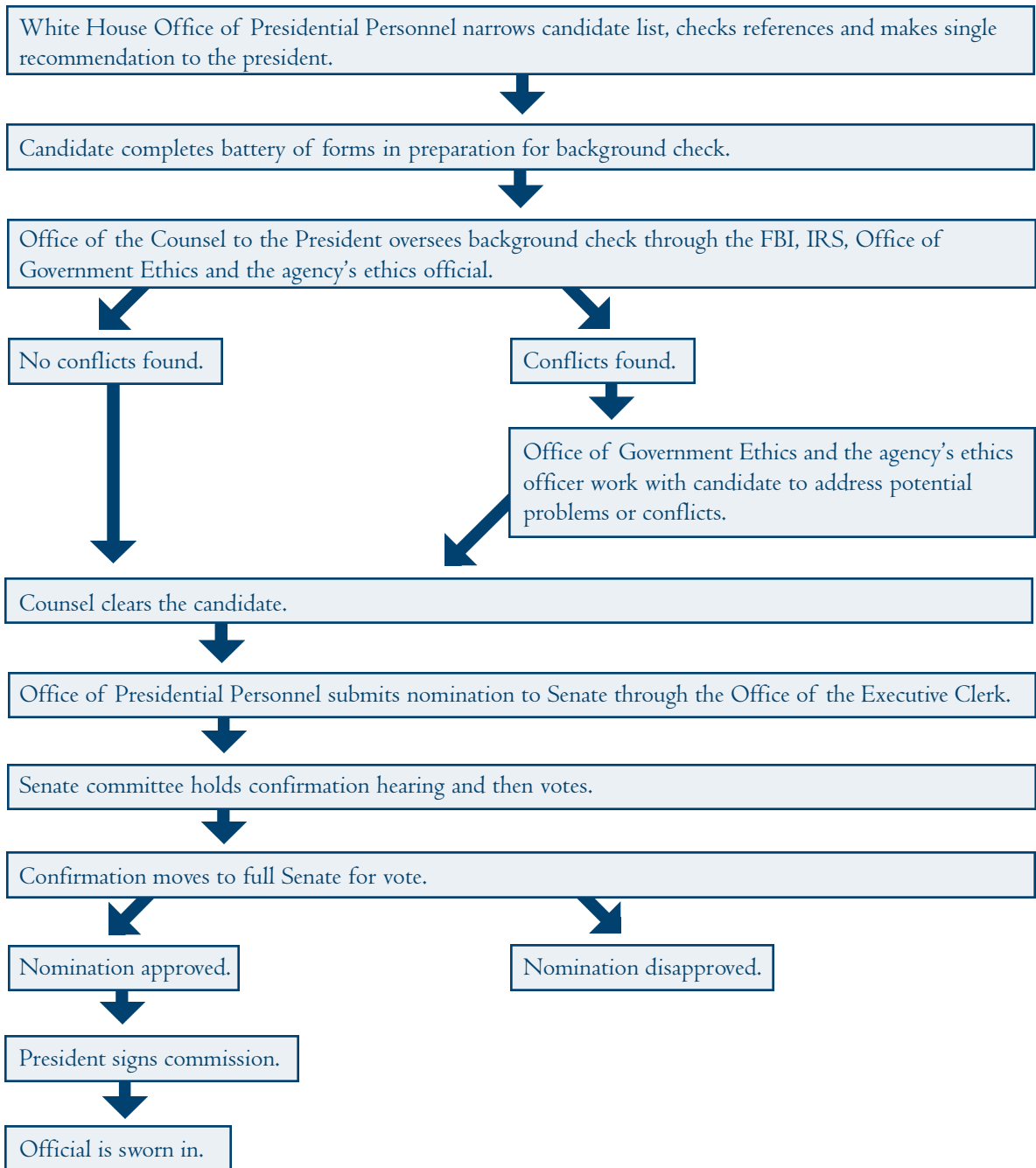
This entails the recruitment and screening of candidates by the White House. The Office of Presidential Personnel plays the lead by preparing a list of potential candidates for each vacancy, then selecting several finalists, often working closely with the Cabinet secretary and his or her chief of staff. Both the personnel office and the Cabinet secretary will interview the finalists before the director of presidential personnel recommends the top choice to the president. The candidate customarily makes a verbal agreement to accept the job before the president offers it — that way no one can say they turned down a presidential appointment.

Bob Nash, director of presidential personnel for the last six years of the Clinton administration, offers this overview of the typical selection process:

We get recommendations from everywhere — senators, congressmen, White House staff, interest groups, associations, all these different sources — when we have a vacancy. We do some preliminary checking of references. We check geography. If you have a board with one vacancy and the other four members are all from out West, you say, "We ought to get somebody from the East or somewhere else."

You narrow that list down to three people. They haven't filled out any government forms yet. We have resumes, we have support letters, we have called the places where they formerly worked. If they

Overview of the Appointments Process



listed that they were the chair of an association, we might call and ask what kind of chair was he or she? [When making such calls, the White House does not divulge the position that the candidate is being considered for.]

When we get to a short list, we [might] do a Lexis-Nexis search, depending on how important the nomination is, because you want to see what they have written and said in major publications. We take all that information, and then I make a recommendation to the president through the chief of staff's office; usually we are of one accord. It says: "Mr. President, I recommend this person for this position...." I send the president no more than a two-page description of the position, the person's background and why I recommended him or her.

Ninety-nine times out of 100, the president concurs and the choice is made.

For most candidates, this completes what is likely to be one of the longest and most anxious periods in the process.

Stage Two: Clearance

With the White House settled on a choice, the focus now shifts to the Office of the Counsel to the President, which oversees the clearance process. The office will closely scrutinize your background to make sure that there is nothing in your past that disqualifies you from the position. If there are potential conflicts of interest, arrangements are made to address them.

Many officials remember this as a trying time, even though their names were moving forward. It routinely takes weeks, and it can stretch into months if your financial holdings are extensive and complicated, or if you held a position that made you a target of lawsuits. One question asks if you have any lawsuits pending against you. This has slowed down the process for some nominees, including Mary Jo Bane, who had been New York State's social services commissioner for a year before coming to Washington to become an assistant secretary of Health and Human Services in 1993. In her New York position, Bane was

the named defendant in more than 500 lawsuits filed by disgruntled Medicaid and welfare recipients. It was nothing personal or disqualifying, but it was more for the FBI to sort through during her background check. "It took a really long time," Bane recalls.

The frustration may be even greater for the also-rans, who are told nothing officially and may not even get unofficial word during this vetting process that the White House is going with someone else. The administration customarily waits until the favored candidate has cleared the background checks before notifying the No. 2 and No. 3 choices. This can be hard on the nerves of both the top pick — who isn't certain when, or if, the job is actually going to come through — and the also-rans, who may hope to the end that things will tilt back their way (as it sometimes does).

"You're in limbo," says Louis Caldera, a graduate of West Point and Harvard Law School who served in the California Assembly before becoming secretary of the Army in 1998. "You can't go ask people for business. You can't develop new business in good conscience when in fact you're thinking about leaving. So your whole life is in limbo; your kid's life is in limbo, your wife's life is in limbo."

"After a while, you say to yourself, 'I'm setting a deadline, and if they cannot tell me by this date that I am either the nominee or not the nominee ... I'm going to have to tell them I can't take the job anymore,'" Caldera says. "And then the administration does stupid things. They've got two good candidates for a job and they don't want to anger either of them or their supporters; they can't make a decision. They wait until one of them throws their arms up in frustration and says, 'The hell with it.' And then they give it to the candidate that's left standing."

If you are the intended nominee for a Senate-confirmed post, you will receive a packet of forms from the White House that require you to lay bare your personal and financial history. The forms include:

- The White House's "Personal Data Statement Questionnaire," a confidential, 43-question docu-

ment that you will be asked to fill out within 24 hours. The questions run the gamut from your medical condition to whether you ever hired a nanny, had a traffic ticket of \$100 or more, or did anything that could embarrass “you, your family or the president.” (See sidebar in Chapter 3 for a complete list of these questions.)

- The U.S. Office of Personnel Management’s Standard Form (SF) 86, “Questionnaire for National Security Positions.” (See Chapter 3 for details.) This form is needed for your security clearance and is the springboard for the FBI’s full-field background investigation. It generally is not made public, but it will be forwarded later to the Senate. Some Senate committees may publish some or all of your answers with the hearing record, which is a public document. Among other things, SF 86 asks where you lived, worked and went to school; about all foreign trips you have taken; and whether you ever consulted a mental health professional, had a criminal record, used controlled substances illegally, received treatment for alcohol abuse or filed for bankruptcy. The White House asks candidates to fill out SF 86 within two weeks. (Under an executive order issued by President Clinton in 1995, no one can be denied a security clearance because of sexual orientation.)
- The Office of Government Ethics’ Standard Form 278, “Public Financial Disclosure Report” for executive branch personnel, which requires an exhaustive listing of all assets, liabilities, jobs and board memberships. This form will be made public in its entirety upon request. You will have to update it each year you work for the government and when you leave the government’s employ. Miss the May 15 deadline by 30 days and you’ll have to pay a \$200 fine.
- A consent form for the FBI investigation of your background.
- A separate form allowing a check of your credit record.
- An authorization for release of medical information.
- A “tax check waiver” allowing the IRS to check your tax returns for the last three years and tell the White House whether you paid your taxes on time.

You will also be fingerprinted after the clearances and before the nomination.

Once you have completed these forms, White House lawyers will comb through them. The counsel’s office will send the original financial disclosure form (SF 278) to the ethics office of your future department and a copy to the U.S. Office of Government Ethics (OGE). Lawyers from all three offices will confer on whether any of your holdings or activities pose potential conflicts of interest. If necessary, they will negotiate with you over steps to take to avoid conflicts if confirmed (which may include divesting stock, putting assets into a blind trust or signing a recusal not to take part in certain matters). Many agencies ask the nominee to sign an ethics agreement that is forwarded to the Senate along with a letter from the Office of Government Ethics stating that the nominee is in compliance with the conflict-of-interest laws and regulations. The White House probably will ask you to tell no one other than your spouse and closest business associates where you stand until this vetting process is complete.

Stage Three: Nomination

With the paperwork complete, the FBI background investigation finished, the financial forms scrubbed and any potential problems addressed, the Office of the Counsel will send an e-mail to the director of presidential personnel stating that you have been cleared. In most cases, that is all the e-mail states. It does not elaborate on anything else that was discovered in your background investigation. The director of presidential personnel sends a memorandum to the president through the Office of the Executive Clerk, which prepares a small nomination parchment with your name, home state and job. Here’s an example from the Clinton administration:

The White House, January 27, 1998

To the Senate of the United States:

I nominate —

Togo Dennis West, Jr., of the District of Columbia, to be Secretary of Veterans Affairs, vice Jesse Brown, resigned.

William J. Clinton

(The word “vice” is a Latin prefix meaning one who takes the place of, as in vice president.)

This document is placed in a special envelope, sealed with wax and hand-delivered to the Senate at an hour it is in session. You are now nominated.

If you have been selected for a high-profile job, or a job that has been vacant for a while and prompted stories about internal disarray within the administration, the White House may have already announced the president’s intention to nominate you. The more typical course is for the announcement to come after you have cleared background checks and that nomination parchment is in the sealed envelope and ready to be delivered to the Senate. The White House press office will put out a three- or four-paragraph news release announcing the president’s intention to nominate you and detailing your work history, where you went to college and what the position entails. It will not include any quotes from the president or from you.

Stage Four: Confirmation

The executive clerk of the Senate enrolls your nomination in the Senate’s records by entering your name in a log in the Senate computer system and assigning a number to the nomination. For instance, when President Clinton nominated Alan Greenspan of New York to a fourth four-year term as chairman of the Federal Reserve System’s Board of Governors on Jan. 24, 2000, Executive Clerk Michelle Haines wrote “BK PN729” by hand on the upper right corner of the nomination parchment. This meant that Greenspan was the 729th presidential nominee (PN) of the 106th Congress, and it fell to the Senate Banking, Housing and Urban Affairs Committee (BK, in Haines’s shorthand) to confirm him (which it quickly did).

If there is any doubt about which of the 16 Senate committees that handle nominations has jurisdiction over yours, the executive clerk confers with Senate leaders before farming it out. Usually, however, there is no doubt. The committee of jurisdiction will get copies of your SF 278 financial disclosure form, any ethics agreement you made and the SF 86 questionnaire for sensitive positions. Then the committee

sends you its own battery of questions asking you to recap your schooling, career and accomplishments all over again.

Either now or before your confirmation hearing, the committee may also pose a raft of detailed policy questions, drafted with help from experts at the General Accounting Office. It will not schedule a hearing without the letter from the Office of Government Ethics attesting that you are in compliance with the conflict-of-interest laws.

Depending on how sensitive the position is, Senate committee staffers may conduct their own investigations into your background. If the committee asks to see your FBI background report, someone from the White House Office of the Counsel will hand deliver the full FBI background report for the committee chairman and ranking minority member to examine in private, usually with no staff members present and nothing copied. After they are done perusing it, the counsel’s emissary will bring the file back to the Old Executive Office Building, where it is kept under lock and key in the counsel’s office. (The FBI, incidentally, has tightened its procedures since 1993, when the Clinton administration received confidential FBI files on White House staffers who served in the Bush and Reagan administrations.)

In the weeks or months before your confirmation hearing, you should seek to get to know the senators on the committee as well as key members of the committee staff. You should make courtesy calls on every member of the committee, regardless of party affiliation. You may get help from the congressional liaison’s office at your future department in arranging these meetings. If not, schedule them yourself.

Your nomination will be a topic of discussion at these meetings, but it may not be the only topic. A senator may use this time to explain his or her abiding interest in what the department does, regardless of whether it’s an area that you will be directly involved in. The senator may bend your ear to get a message back to the Cabinet secretary and, perhaps, to the president. And the senator will be sizing you up and judging how responsive you will be to the Senate’s

Foundations of the Appointments Process

The characteristics of the contemporary appointments process are rooted in five sources:

The Constitution

The appointments process is rooted in the Constitution. Article II, Section 2 declares that the president “shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law.” (See Appendix I for more on the constitutional underpinnings of the process.)

Statutes

All Senate-confirmed presidential appointments (PAS positions) are created by statute. The legislation that creates the positions may outline the basic qualifications necessary for individuals appointed to the posts. The secretary of Defense and the administrator of the Federal Aviation Administration, among others, must be civilians; the head of the Government Printing Office must be a “practical printer,” and the director of the Bureau of Mines must be equipped for the duties of office “by technical education and experience.” When such qualifications are imposed by statute, the president must follow them in choosing nominees or seek a statutory waiver from Congress for exceptions. Congress also is at liberty to decide whether or not a position requires Senate confirmation. When the Federal Bureau of Investigation was created, for example, the original legislation did not require Senate confirmation of the director. In the 1970s, Congress passed legislation imposing a confirmation requirement for FBI directors.

Executive Orders

Presidents have occasionally used executive orders to structure the appointments process or add elements to it. The FBI full-field investigations now routinely imposed on all PAS appointments were first ordered by President Dwight D. Eisenhower through Executive Order 10450 on April 27, 1953. Procedures established by executive order may be amended or terminated by executive order, or they may be overridden by statute or court decision.

Administrative Rules and Regulations

A few aspects of the appointments process, notably compliance with the Ethics in Government Act, are embedded in administrative rules issued by the Office of Government Ethics. Most of these aim to clarify how general statutes apply to specific circumstances. They can be altered by new rules or regulations, by statutory override or by court decision.

Practice

In the day-to-day management of the appointments process, participants develop procedures and routines that have no legal basis, but simply become standard practice. Presidential personnel staffs routinely check to see if potential nominees have paid their federal income taxes; checks are routinely made with the relevant committee chairs in Congress before announcing a nomination; departments and Senate committees conduct their own investigations and require nominees to complete information forms they have developed; Senators may impose a hold on a nomination after it’s been received for confirmation. All of these are practices with little or no legal foundation. What emerges as practice can be changed in practice without statute or executive order.

(as opposed to the White House's) concerns. These private meetings can be cordial and informal, or they can be a test of your mettle. Some senators may choose to grill you harder here than at your actual confirmation hearing; in fact, most of those you meet with probably won't even show up for your confirmation hearing — but they will vote on your confirmation. (For details on navigating the Senate, see Chapter 4.)

For the vast majority of nominees, the hearing itself passes swiftly and uneventfully. Often, it is an occasion for a public celebration with family and friends, including newfound friends on the Senate committee among the members and staff.

Each committee follows its own rules for handling nominations. Normally, there is a specified interval of days between the confirmation hearing and the actual vote to recommend a nomination favorably or, in rare instances, disapprove it. After the committee takes action, the nomination moves to the full Senate. The Senate considers nominations in executive sessions, which are public and can occur at any time the Senate is in session. Most nominations are approved by a voice vote without dissension, rather than by a roll call vote in which the yeas and nays are recorded.

When that vote is finally cast, the Senate clerk sends her counterpart at the White House a confirmation resolution stating that the Senate has advised and consented to the nomination. The White House executive clerk already will have ordered from the Department of State or elsewhere a formal, 18-by-24-inch appointment document with your name and title written in calligraphy. The executive clerk now sends the commission to the president for his signature — the last step required to make the appointment official.

The commission is then returned to the clerk's office, which pencils in the date and sends it off to State. The secretary of State countersigns it, calligraphers finish their work and the Great Seal of the United States is affixed. A family heirloom has just been created. (Five departments — Treasury, Defense, Justice,

Commerce and Interior — use their own documents and seals for commissioning presidential appointees. But everyone else's commission comes stamped with the Great Seal of the Department of State.)

Congratulations. You are now ready to be sworn in, placed on the payroll and put to work.

Key Gatekeepers

Now let's go back and revisit the key gatekeepers along this route: the president-elect's transition team; the Office of Presidential Personnel; the Office of the Counsel to the President; the U.S. Office of Government Ethics and the Senate committees.

The Transition Team

The next president will appoint a transition personnel director immediately after (and, in reality, probably long before) the results are in from the election. Former South Carolina Gov. Richard Riley fulfilled this role for President-elect Clinton in 1992, but soon went off to prepare for his own nomination as secretary of Education. The Clinton team's start was notoriously slow, and it wasn't helped by the new president's decision to cut the White House staff by 25 percent. In contrast, President Reagan in 1980 turned to E. Pendleton James, an experienced executive recruiter who started preparations months before Election Day and became the director of presidential personnel in a White House that got fast off the mark.

Squads of campaign officials, insiders and trusted confidantes will be given the task of heading teams to prepare for the takeover of various departments, from State and Justice to Transportation and Veterans Affairs. Thousands of resumes will pour into their offices by fax, mail, courier and every conceivable method short of carrier pigeon (and some hopefuls wouldn't hesitate to pin their names to a bird's collar if they thought it would work). Applicants have been known to be overeager. James Pfiffner, the George Mason University scholar, told a May 2000 Heritage Foundation symposium on staffing a new administration about finding a letter in the files at the Lyndon

Baines Johnson Presidential Library at the University of Texas at Austin dated Nov. 22, 1963. Someone had written Johnson in the hours after the Kennedy assassination, before Johnson was sworn in, urging him to hire a friend for personal secretary.

There are numerous avenues to get your name before key people on the transition team, including senators and members of Congress with ties to the new administration, interest groups aligned with its causes, party officials and colleagues of the key people surrounding the president-elect. You can try them all. But be careful not to make a complete nuisance of yourself.

And remember: All is not lost if you do not get a call in those 74 days between Nov. 7, 2000, and Jan. 20, 2001. The new president will have chosen his Cabinet before Inauguration Day; dozens of other important positions will be spoken for as well. But even in the best of circumstances, it will take months for the new chief executive and Cabinet to fill the hundreds of senior posts. Candidates' fortunes will rise and fall as certain jobs are filled and others open up when a first choice withdraws or accepts an alternative.

Behind the scenes, campaign (and later White House) officials will wrestle with Cabinet secretaries over who the deputy and assistant secretaries should be, on the basis of many political calculations. The new president and his political and legislative teams must decide who is worth fighting for. If the White House discovers belatedly that you're persona non grata to a Senate committee chairman, it may rethink whether you are the right choice for the job. It can happen alike to conservatives (such as Ernest Lefever, whose nomination to be Reagan's assistant secretary of State for human rights was rejected by the Senate Foreign Relations Committee in 1981, largely because of his past criticisms of President Carter's human rights policy) and liberals (such as Lani Guinier, whose 1993 nomination for assistant attorney general for civil rights was withdrawn by President Clinton amid an uproar over her belief that U.S. minorities are oppressed by "the tyranny of the majority"). Former Clinton aide George Stephanopoulos, in his book *All Too Human*, blamed

that one on "sloppy staff work coupled with an over-active desire to appease our liberal base with appointments because we couldn't deliver on policy."

White House Office of Presidential Personnel

Unless you have an extraordinarily close tie to the president or someone in the inner circle, the first and most important starting point to land a nomination after the inauguration is the White House Office of Presidential Personnel.

A president enters office with 1,000-plus executive branch appointments to fill that require Senate confirmation (such as Cabinet secretaries, assistant secretaries, ambassadorships, U.S. attorneys and federal marshals) and more than 2,000 other political appointments that do not require Senate approval. The director of presidential personnel helps find candidates, narrows the field and makes the final recommendations to the president (through the chief of staff) for who should get the jobs. The Office of the Counsel to the President does the honors for candidates for judgeships.

Your credentials, experience, political and party connections, gender, ethnicity and geographic background are all factors that will affect your chances of getting a job. Pendleton James, the Reagan head hunter, told the May 2000 Heritage Foundation symposium that he used five criteria back in 1981: philosophical commitment to Ronald Reagan and his agenda, integrity, toughness, competence and being a team player. Veronica Biggins, a former director of presidential personnel for Clinton, said that she sought to fulfill President Clinton's promise to assemble a team "that looked like America." She told the Heritage symposium, "We spent a lot of time on the issue of diversity ... so some things took a little longer."

125,000 resumes

There were an estimated 40,000 resumes in the bin when George Bush took the oath of office on Jan. 20, 1989. Four years later, when Bill Clinton became the first Democrat in a dozen years to occupy the Oval Office, there were 125,000. Pfiffner, the George

Mason University political scientist and presidential expert, put this chore in a historical perspective at the Heritage Foundation forum:

It's really a huge burden facing each new administration. Harry Truman had one person in charge of political personnel. John Kennedy had three people on his talent hunt in 1961. Richard Nixon had about 35 to 40 people working for Fred Malek in the White House. Pendleton James had 100 people working for him at the beginning of the Reagan administration. And in the beginning, Bill Clinton had more than 200 people working for him, some volunteers of course.

The White House Office of Presidential Personnel officially does not employ all of those people. Its modus operandi is to borrow staff from agencies throughout the government to help accomplish the crush of work at the outset of an administration or a second term. The Office of the Counsel does the same, pulling in junior lawyers from across the executive branch to vet the financial disclosure forms and other paperwork that nominees must fill out. The lawyers may stay a month, three months, six months or a year on the White House detail.

In the final year of the Clinton administration, Nash had 27 people working for him: a deputy, three associate directors, a director of information systems and 22 support staffers. Each associate personnel director had specialties and a portfolio of Cabinet and agency presidential appointments to manage.

Nash explains his job as director of presidential personnel this way:

I find people. I check for capability. I check for competence. I check references. I check their political backgrounds. I check their sponsors. But I don't clear people. I don't check their tax histories or their criminal histories. The people upstairs in the White House Counsel's office do that, along with the FBI and the IRS.

For some jobs, there might be 25 names on the list at first, and the White House personnel office may whittle it to between five and 10 before sending a list of candidates to the relevant department. Nash

says he always sought to interview a candidate in person just to look them in the eye and make sure that they were in tune with the administration's views. A former director of presidential personnel says he always wound up interviews by asking if there was anything that would embarrass the nominee or the president if it appeared on the front page of *The Washington Post*.

Chase Untermeyer, Bush's former personnel chief and also the former head of the U.S. Information Agency, says, "The greatest onslaught of names is right after the election. It's only after that wave washes out that the presidential personnel office is able to do something more akin to corporate recruiting and actually go looking for people rather than having to pick and choose amongst the many whose names are flying in through the transom."

"Where am I?"

Candidates may have a tough time pulling information out of the White House at this stage, and the White House itself may not know where things stand on the FBI investigation and other checks. "People call all the time and say, 'Where am I? Where am I?'" says Nash. "Well, when you send something to the Internal Revenue Service and to the FBI, they don't call you and say, 'Oh, we're a third of the way through' or 'We're halfway through.' When they finish, they tell you." A candidate may have more success getting information from a well-placed patron on the Hill or the chief of staff at the department where the nominee is eventually headed.

The Bush administration took almost as long as the Clinton administration to get its presidential nominees confirmed — more than eight months after inauguration day on average. Untermeyer contends that this was not as bad a problem as it sounds: "When people were saying, 'You didn't get so many assistant secretaries confirmed this month,' I said, 'The importance of most of those jobs is to execute policy. You can formulate policy at the start of an administration with staff or consultants.'"

As a rule, the Bush administration brought the future appointees on as consultants only after the White

House submitted their nominations to the Senate. The Clinton administration generally followed that course as well. At least one Senate committee, Armed Services, has frowned on putting nominees on the payroll as consultants. Other committees take a more relaxed attitude about that practice, but nominees generally are not allowed to act in the job they are destined for. They may be given a perch in the department or duties that give them the benefit of some on-the-job training before they move into their full-time posts, but the Senate takes a dim view of people assuming their duties before their nominations are confirmed.

The waiting period can be stressful for all involved. While a candidate was undergoing final clearance, Nash says he would sometimes get calls from another finalist wanting to know where things stood so he or she could move on with other opportunities. In those cases, Nash would tell them that the White House was going with someone else (but not say whom).

As a prospective nominee, you may check in regularly with your contact in the Office of Presidential Personnel. But some candidates are disappointed to find that the Office of Presidential Personnel's direct role ends when their nominations are sent to the Senate. You should look instead to the legislative affairs office of your future department, to the White House Legislative Affairs Office and to your own devices to get through confirmation. Even though you are not yet part of the administration, as a nominee you are fully entitled to your department's support.

Office of the Counsel to the President

When your file is sent from the Office of Presidential Personnel to the Office of the Counsel, the lawyers and paralegals there immediately begin the task of assembling a dossier on your life. They sift all the information through filters to make sure that nothing you have done could prove an embarrassment to the president and that there are no ethical or legal barriers to your taking on the proposed duties.

The Office of the Counsel to the President is a small, in-house law firm that operates out of the Old

Executive Office Building with eight or more attorneys. It serves as the main gatekeeper in the presidential nomination process. The president will not submit a name to the Senate before his lawyer informs the director of presidential personnel that a candidate has cleared all the background checks.

White House counsels may live for those times when they get to advise the president on the constitutionality of the War Powers Act or shape strategy for a case before the Supreme Court, but much of their bread-and-butter work is helping the president get his nominees on board. They ensure that everyone complies with the federal laws and regulations that impose strict ethical standards on federal officeholders and require them to bare their finances and avoid personal and family conflicts of interest. The counsel's office also plays the lead role in finding and screening candidates for the hundreds of judgeships that a president customarily gets to fill.

A thick packet of forms

First of all, the counsel's office will send you a thick packet of forms to fill out, with the White House Personal Data Statement Questionnaire on top of the heap and instructions to return that particular questionnaire within 24 hours — a turnaround time that is very difficult to meet. If at all possible, you should try to gather much of the information in advance. (See Chapter 3 for details.)

Everyone we consulted with offered the same advice: tell the absolute, naked truth on these forms, hold nothing back, or risk having your nomination unravel. Joel Klein, drawing on his experience as deputy counsel in the Clinton White House before he moved to the Justice Department's antitrust division, sums it up this way:

As hard as it may be, it's absolutely critical in the vetting process to be thoroughly truthful. Whatever your indiscretion, whatever your mistakes in life, they are less of a problem for you if they are fully dealt with at the outset than if they are incompletely dealt with — even if that means ultimately you're not going to get the job. But the problems of being exposed and then having to be taken down on issues on which

you weren't thoroughly forthcoming and for which the administration therefore owes you no defense — that is a real tragedy.

As you will see from the actual questions from both the White House Personal Data Statement Questionnaire and the SF 86 Questionnaire for National Security Positions, these inquiries get very specific, asking about any divorces, drug use, alcohol treatment, brushes with the law or credit problems. When in doubt, put the incident in your past down on paper, even if you're not sure of its relevance. You can always ask whether something can be omitted from the final version as irrelevant. The lawyers who are vetting your paperwork have seen and heard it all. Some peccadillo in your past is probably not going to pose a major obstacle to your nomination and confirmation. But if you didn't pay your taxes, don't go looking for a job in the IRS — or anywhere else in government, for that matter.

The forms that you sign and send back to the counsel's office give the FBI permission to run a criminal and credit check on you; set the ball rolling for FBI agents to go off and find all your ex-bosses, ex-spouses, friends, foes and neighbors; and allow the IRS to check your tax returns for the last three years and tell the White House if you were ever late paying your taxes. These checks are run not only on the candidates for full-time executive positions, but also on those people whom the president intends to nominate to part-time boards and commissions that require Senate confirmation. These range from national security advisory panels to boards that oversee the Kennedy Center and military academies.

While the questions on paper probe deeply into the person's life, the White House lawyers may probe even deeper in personal interviews, inquiring about messy divorces and other matters that could complicate a confirmation.

“Get your part done”

It will take you some time to fill out the SF 86 questionnaire and especially the SF 278, the financial disclosure form. Both of these documents are posted on government Web sites, and you can find the address-

es in the next chapter. Just make up your mind to get them done as quickly as possible. As Jacob Lew, Clinton's director of the Office of Management and Budget, says:

First of all, you have to understand that there's a lot of work to get from the starting gate to the finish line. If you do everything — all the paperwork — quickly, and don't let it become a long, drawn-out process, it ultimately will help shorten the process. Get your part done. There should never be a question about whether the nominee is eager for the job or ready to do what it takes to get confirmed quickly.

But the forms can be exhausting to tackle. One unhappy Pentagon official, exaggerating only slightly for emphasis, says:

Be prepared to spend two months to fill out the forms. The forms are unbelievable and they're redundant and annoying. They ask the same question three different ways to see if they can catch you. And then you go through this with three different organizations.

Clinton's assistant secretary of Commerce for trade development, Michael Copps, expresses surprise at how much time it takes. “The information demanded is very broad and very deep,” he warns. And the White House forms are only the first step. “When you got the administration papers done, then the Banking committee said, ‘Here are our forms,’” Copps recalls. “Much of the information they demanded was similar, but it had to be expressed differently, in different formats, so you had to go back and start all over.”

But the screening comes with the territory. It was President Dwight D. Eisenhower who made national security clearances mandatory for presidential appointees in 1953, and that executive order is unlikely to change.

Filling out the forms is difficult even for those already working for the government. Catherine Woteki, who was a senior researcher at the U.S. Department of Agriculture when she was tapped to become its top

food safety regulator in 1997, says, “The financial disclosure forms are absolutely impenetrable. I kept asking our ethics office: ‘Isn’t there some way that this form can be simplified?’” But she offers this counsel:

Be patient and be painfully truthful on all the forms you fill out. If there’s anything in your background that you don’t want known, don’t even apply for the job, because the background checks are very thorough and they will find problems. On the other hand, if you’ve done things you don’t think are disqualifying, put it down on the paper. It’s better to be up front about it. If you don’t, it could put a shadow over your potential appointment. And certainly for this kind of position, you need a top-secret security clearance. You have to be willing to put yourself through that type of review.

Raw data

The counsel’s office (not the personnel office) also gets the results of the FBI full-field background investigation on a nominee. (See sidebar, page 48.) This includes raw information gathered by FBI agents who canvass neighbors, relatives, business acquaintances, friends and foes of the nominee. A former Senate committee staffer said the FBI “just spits out whatever anybody says,” including unsubstantiated allegations. If there is another side to the story, the FBI will try to find it, but it may not be explained until much later in the report.

Since the data is raw, it is customarily held under tight safeguards. There have been abuses in the past. In the Bush administration, Republicans blamed Democrats for leaking to the news media word that a nominee to head the Office of Thrift Supervision had used cocaine two decades earlier. The Clinton White House, as mentioned earlier, underwent an investigation for getting the FBI files on some former Bush officials. And demands from Senate Republicans for wider Senate Intelligence Committee access to the FBI file on Anthony Lake was one of the things that led Clinton’s then-national security adviser to withdraw angrily from being considered for CIA director in 1997. “I have finally lost patience,” Lake wrote President Clinton. “To bend principle further

would even more discourage future nominees to this or other senior positions from entering public service.” (The Senate Intelligence Committee later amended its rules to specify that the chairman and vice chairman alone may review FBI background reports.)

U.S. Office of Government Ethics

The Office of Government Ethics has a prominent role to play in helping nominees and officeholders alike comply with the Ethics in Government Act of 1978, the Ethics Reform Act of 1989 and other statutes that hold public servants to high standards. The 1978 law imposed similar financial reporting requirements on top officials in all three branches of government, including the president, members of Congress and Supreme Court justices.

The OGE was originally a branch of the Office of Personnel Management, but the 1989 Ethics Reform Act made it independent. Two Bush executive orders expanded its mission of overseeing efforts to prevent and resolve conflicts of interest and potential conflicts throughout the executive branch. The OGE reviews and certifies the financial statements of approximately 1,000 presidential nominees who require Senate confirmation (the so-called PAS’s in Washington’s lexicon — Presidential Appointment with Senate confirmation). In fiscal 1999, it reviewed the finances of 271 new nominees and was able to certify 78 percent in two weeks or less. It also reviewed 621 annual and “termination” financial statements by senior officials still serving or leaving government. In 90 percent of those cases, it completed its initial review within 60 days.

OGE maintains a comprehensive, easy-to-navigate Web site at www.usoge.gov.

Both the OGE and the Office of the Counsel to the President enlist the help of department lawyers in reviewing each nominee’s financial disclosure form (the SF 278) and pinpointing stocks or other assets that might pose conflicts — nursing home stock owned by a prospective senior official at the Department of Health and Human Services, for example, or holdings in a defense contractor by a prospec-

tive Pentagon boss. Not all potential conflicts are obvious. For example, a postmaster general's holding of Coca-Cola stock became problematic only when the Postal Service began negotiating with the soft-drink maker to put soda machines in post office lobbies.

Stephen Potts, who directed the Office of Government Ethics for a decade under Presidents Bush and Clinton, says agency officials look not only for economic conflicts of interest but also for family conflicts that may raise questions about an official's impartiality. You must not be personally involved in handling any proposal, award or other matter in which you, an immediate family member, business partner or organization that you belong to has a financial interest. If your parents invest \$10,000 in the stock market for a grandchild's education and put the holding in the child's name, that stock is considered under your control. And new conflicts can arise at the end of an official's term during negotiations for a new position or while actually serving in the next job.

The OGE does not have prosecutorial powers itself, but it works closely with the Office of Legal Counsel and the Public Integrity Section of the Department of Justice, both of which deal with criminal conflict-of-interest cases. Routine administrative proceedings are handled by the departments and agencies themselves. Some of the criminal conflict-of-interest statutes (found in 18 U.S.C. Sections 201-209) date as far back as the Civil War when Congress enacted tough measures to prevent corruption and punish crooked Army suppliers. The 1989 ethics reforms stiffened the criminal penalties and added civil penalties. The OGE can issue waivers and exemptions from the prohibitions in limited circumstances.

Ethics agreements

Before certifying that a nominee is in compliance with the conflict-of-interest laws, the OGE and departmental lawyers often require a nominee to sign an ethics agreement that commits the official to take "remedial" measures to resolve the conflict within 90 days of being sworn in. These remedial measures include recusal agreements, waivers, qualified trusts and divestitures. Here is a brief description of each:

- **Recusal.** The nominee agrees to recuse or disqualify himself or herself from participating in any discussion or decision on a matter that could affect the person's financial interests.
- **Waivers.** Officials may grant an individual a waiver of the conflict-of-interest laws when the holding in question is not substantial. For example, OGE might grant a waiver if an official owned only a few shares of a particular stock.
- **Trusts.** A blind trust may be set up as a remedy for a potential conflict of interest. It must include certain provisions and have an independent trustee approved by the OGE. Blind trusts are complex and seldom resorted to, except for nominees with considerable wealth or complicated holdings.
- **Certificates of Divestiture.** The OGE, under the 1989 Ethics Reform Act, is empowered to issue certificates permitting federal officials to defer paying capital gains taxes on assets they must sell to comply with ethics program requirements. The certificate of divestiture must be obtained from OGE before the sale occurs.

"I advise my clients to take maximum advantage of it [certificates of divestiture] because life is too short to get into a financial conflict of interest, as we can see with Tony Lake, Sandy Berger, Marvin Runyon and others who have had Department of Justice inquiries," says A. B. Culvahouse, who served as counsel to President Reagan. (For more detail on these cases, see Chapter 5.)

The OGE granted 97 requests for certificates of divestiture in 1996 and 129 during 1997, mostly for nominees who agreed to divestiture during confirmation. It approves only a handful of blind trusts each year. Agency officials say blind trusts, which are voluntary, are not commonly used because they are expensive and may not solve the conflict quickly enough. There were only 19 blind trusts for the entire executive branch at the end of 1997, according to OGE's "Fifth Biennial Report to Congress," published in April 1998. In 1996, 30 percent of the 138 nominees whose financial disclosure agreements were cleared by the OGE agreed to divestitures or took other steps to avoid conflicts. In 1997, almost half the 323 nominees entered into ethics agreements.

Exemptions

OGE also has issued across-the-board exemptions from the conflict-of-interest laws for holdings that it considers “too small or insignificant to trouble the public about whether you can be objective in carrying out your government job.” These exemptions allow federal officials to:

- Participate in projects and assignments affecting companies in which they, their spouses and minor children own no more than \$5,000 in holdings. The stock, bonds or other securities must be listed on a stock exchange or NASDAQ, be issued by a registered investment company or be government or municipal bonds.
- Work on broad assignments that do not involve particular parties (like drafting a regulation) even if they own \$25,000 worth of stock in a company that is part of a class that may be affected by the matter. If they own stock in more than one such company, their holdings cannot exceed \$50,000.
- Participate in assignments or projects that affect the holdings of a diversified mutual fund, regardless of how many shares they hold or what they are worth.

President Bush’s Executive Order 12674 requires every federal agency to hold an ethics training session annually for senior officials and contracting staff, including a one-hour briefing on the criminal conflict-of-interest statutes. Participation is mandatory. While most presidential nominees must file SF 278 financial disclosure forms, there is another financial disclosure form — OGE Form 450, the “Confidential Financial Disclosure Report” — that lower officials must file if they are involved in procurement or other sensitive duties. The OGE Form 450, however, is kept confidential. Reporters can and do obtain copies of nominees’ SF 278s, which are public documents. Electronic versions of OGE Form 450 can be found at www.usoge.gov/usoge006.html#ogeforms.

The OGE has roughly 80 fulltime employees, one-fourth of whom are in the Office of General Counsel and Legal Policy. It convenes an annual conference for federal ethics officials and disseminates ethics materials, including a CD-ROM with all its regulations

and explanatory materials that can be ordered by calling the Government Printing Office at (202) 512-1800 or accessed online at bookstore.gpo.gov/cdrom/cdrom135.html.

The Senate

Your last stop before confirmation is the Senate.

For Chase Untermeyer, Bush’s personnel chief, a key to success for nominees in Washington is realizing that “once you’re in the precincts of Capitol Hill, they [lawmakers] are by far the supreme beings, not anybody from the executive branch.”

If you don’t understand that lesson yet, it is one that the senators and their staffs will gladly drive home to you, again and again.

This can be a strange new world, even for those who have spent their entire careers working for the government, but never before as supplicants for Senate confirmation. There often are delays for reasons beyond your control. When the White House sent up the nomination of NASA scientist Carolyn Huntoon to be assistant secretary of Energy, the Senate was preoccupied with the looming Clinton impeachment trial. “Most senators did not want to spend time meeting a potential person to head environmental management in the Department of Energy,” Huntoon recalls dryly. “I didn’t take any of it personally, but it seemed to drag on.”

Huntoon also was surprised by how many senators grilled her during her courtesy calls on Energy Department issues outside her area. “I was not fully prepared for the amount of departmental politics that my nomination would get caught in. I thought more people would care about environmental management,” says the former director of the Johnson Space Flight Center. “As one senator told me, ‘We’re trying to get the secretary’s attention. And I said, ‘Well, I’ll sure tell her what you said, Senator.’”

A talent bank

Most presidents turn to Capitol Hill as a talent bank for their new administrations. Almost every Cabinet

includes lawmakers who forsook their seats to jump to the executive branch. The president's talent scouts also recruit heavily for sub-Cabinet posts among congressional staffers, who are always eager when their party captures the White House to take on the challenge of running programs they helped oversee.

But a congressional background doesn't guarantee smooth sailing at confirmation time. Consider the bitter experience of the late John Tower when he was nominated to be Bush's secretary of Defense. Tower's nomination was defeated by a mostly party-line Senate vote in March 1989 amidst reports of extensive womanizing, heavy drinking and possible conflicts of interest stemming from Tower's previous work with defense contractors.

And keep in mind that it takes some adjustment to move from Capitol Hill to those sprawling Cabinet headquarters a few blocks away. Two House veterans whom Clinton recruited for his Cabinet — the late Les Aspin as Defense secretary and Michael Espy as Agriculture secretary — foundered in their executive positions. Aspin seemed over his head leading the military, and Espy quickly found himself under an ethical cloud. The former Mississippi congressman was later acquitted of taking gifts from companies he regulated.

It's hard, too, for some congressional staffers to make the transition from critic to manager. "The one thing you never learn on the Hill is management," says William Reinsch, who joined the Clinton administration as under secretary of Commerce for export administration in 1993 after 16 years as a Senate aide. "People from the Hill get these jobs either because they've got a connection or they've got a policy background. Very few get hired because they are good managers."

So keep your chin up if your nomination marks your first visit to the Senate since a field trip in high school. The Washington insiders may have certain advantages over you, but they also have shortcomings. Those fresh to Washington may be better positioned by virtue of their experiences outside the Beltway to deal with the management challenges of actually running a major program.

Fine art of lobbying

But whether a Washington lifer or a newcomer to town, you must master quickly the fine art of lobbying the Senate.

Many nominees are surprised at how much in the confirmation waiting game depends on their own get-up-and-go. To be sure, you can usually count on seasoned help from the legislative affairs office of the department you are heading to — including briefing books and tips on dealing with individual senators. But unless you are ticketed for a high-profile position, you're going to have to shoulder much of the burden yourself.

The Senate operates by its own lights, notes Christopher Cross, an education official in the Bush administration. "What you have to understand is that you're very much at the whim and personality and interest of the chair of the committee your name gets referred to," he says. "You need to cultivate some relationships with the staff of that committee and find somebody who will be your angel."

If you're fortunate, an experienced pro in your future department will be your sherpa on this journey. Raymond Kammer, director of the National Institute of Standards and Technology, recalls, "I had the good fortune to have my nomination being managed by a lady in the [Commerce Department's] congressional liaison office. And she definitely went the extra mile." Kammer says if he had called the Senate committee himself to nudge the process along, "they would have been annoyed with me. But when she did it ... they figured, 'Well, she's just doing her job.'"

Once nominated, you may also want to marshal key interest groups to be active on your behalf, or at least to make contact and let them know the door will be open. Whatever your political views and the views of the president you work for, there are lobbies in this town that will likely have the ear of key senators and staff on your confirmation committee. If you're up for an Education Department post and facing a Republican-controlled Senate Health, Education, Labor and Pensions Committee, it may help to have conservative school groups that favor vouchers on your side. If you're going before the same panel

when it's in Democrats' hands, it will probably help to have the National Education Association and the American Federation of Teachers in your corner. Don't be shy about asking for their help. Individuals and groups in this town thrive on their political connections. They like to be asked, and they like to be remembered. (Be careful, however, not to make any binding commitments. Once your nomination is official, you are representing the administration — not yourself — on public policy matters.)

The biggest challenge is to win over senators themselves, especially the 18 or more members of the committee with jurisdiction over your nomination. You should reach out first to your home state senators and ask them to do the introductions at the confirmation hearing, regardless of whether either one of them is on the committee. What if they don't know you? It doesn't matter, says Bob Nash:

Go see them and say, "I'm from your state. Here's who I am. I'm capable. I'm qualified. I want to do public service. You don't know me, but I've followed your career, and I need your help." They will help you. Senators always like to make friends. They don't like to make enemies. And to have an assistant secretary or an undersecretary or a deputy secretary somewhere, nine times out of 10, sometime during your term, that senator may need to call on you.

A former Clinton official who endured a testy confirmation herself advises, "During that period when they have complete power and control over your life, it's probably a good idea to be as nice to them as you can." Another veteran says, "It's a little political science lesson. The confirmation process is the Senate's way of telling you, 'You work for us.'" Several officials stressed the importance of nominees' keeping their sense of humor and remembering that it's nothing personal — just politics.

Commerce's Kammer offers three pieces of advice: "Say less, make no promises that you're not sure you can live with, and remember: It's not against the law to say 'I don't know.'"

Remember the House

And don't neglect to cultivate contacts with members of the House as well, especially with lawmakers who hold key positions on the committees that authorize legislation and appropriate the dollars for what your department does. Many senators have closer working relationships and more in common with the representatives in their state delegations than they do with the White House. The 435 members of the House individually do not have as large a voice as the 100 senators, and they have no constitutionally prescribed role in the confirmation process. But collectively, they are every bit as important as the Senate in the grand scheme of things in Washington. Many are keen politicians with instincts kept sharp by the necessity of having to seek re-election every two years instead of the six-year terms afforded senators. House committee staff often work closely with Senate committee staff, and they may know ways to nudge your nomination along that the White House hasn't thought of. Take care not to slight them.

The Pentagon is particularly adept at inculcating its nominees in the importance of working both sides of the Hill, because that is essential once you are on the job.

"If you're not from the Hill, there is no such thing as spending too much time getting to know the Congress," says Joshua Gotbaum, a former assistant secretary of Defense who went on to hold top positions at the Office of Management and Budget in the Clinton administration. "When I showed up at DOD, they said, 'You will do courtesy calls on Democrats and Republicans, House and Senate, authorizers and appropriators.' It was very good advice."

At that time, in 1994, the House was in Democratic hands, as it had been since the 1950s. "I had a very nice, leisurely, hour-long chat with the ranking Republican on the House authorizing committee. Six months later, he was chairman," Gotbaum recalls. "You need to have those relationships, and they need to be personal relationships."



Key Points

- The transition team handles the task of selecting nominees before the Jan. 20 inauguration. Afterward, the White House Office of Presidential Personnel takes over the job, working with Cabinet agencies.
- The Office of the Counsel to the President oversees the clearance process. You should fill out all of the forms it reviews thoroughly, honestly and quickly.
- You may need to work out an ethics agreement with your agency and the Office of Government Ethics in order to comply with conflict-of-interest laws.
- The actual nomination will occur only after White House lawyers have scrubbed your forms and the FBI has finished its background investigation. This process may take months.
- Each Senate committee has its own forms and may conduct an independent investigation.
- To win confirmation, you may need to lobby the Senate with help from your hometown senators, friendly House members and key interest groups.

FBI Full-Field Background Investigations

The FBI full-field background investigation (BI) is a thorough and comprehensive inquiry, consisting of personal interviews and a wide variety of record checks designed to verify background data provided by the subject of the investigation. The information gathered (favorable and unfavorable) assists the client entity (such as the White House or representatives of a Senate committee holding confirmation proceedings) in the decision-making process concerning the candidate's suitability for federal employment and/or access to classified/sensitive information. The requirement that all candidates for presidential appointment be subject to a full-field background investigation originated in 1953 with President Dwight D. Eisenhower's Executive Order I0450.

Before the BI is initiated, the candidate will be asked by the Office of the Counsel to the President (or prior to the president-elect taking office, the office of the president-elect) to complete a number of forms, e.g., (1) SF 86, "Questionnaire for National Security Positions," which provides information on the candidate's personal history; (2) "Supplement to SF 86," which provides additional personal history information not requested on the SF 86 and (3) various release forms that allow the FBI (or where applicable, the agency conducting the BI (the Department of State, and not the FBI, conducts the BI on an ambassadorship candidate) the authority to conduct interviews and record checks. After receiving the necessary completed forms from the candidate, the Office of the Counsel to the President will request that the BI be conducted.

Most of these investigations are the responsibility of a unit of the Administrative Services Division at FBI Headquarters in Washington, known as the Special Inquiry and General Background Investigations Unit (SIGBIU). The scope of the BI is dependant upon several factors, including the position for which the candidate is being considered, and whether or not the candidate has been the subject of a prior BI by the FBI or another federal government agency. An FBI full-field investigation is normally scheduled for completion in 35 calendar days from the date the BI request is received in the SIGBIU. However, shorter deadlines for completion may be set to meet the needs of the White House. Additionally, the BI may take longer than 35 calendar days for reasons that may be difficult to anticipate or predict (e.g., persons that need to be interviewed or records that need to be reviewed are not available, or follow-up inquiries are needed).

At the outset of the BI, the candidate is interviewed to assure that complete (current and accurate) information is available concerning the candidate to facilitate a thorough and comprehensive BI. It also seeks to identify any information known to the candidate that could have a bearing on the candidate's suitability for government employment and/or access to classified/sensitive information. Additional interviews of the candidate are conducted as needed.

Areas addressed and/or verified during a BI include education, residence, employment, military service and financial responsibility (including credit). Records checks are conducted at appropriate federal, state and local law enforcement and regulatory agencies and licensing authorities. Inquiries are also conducted to verify birth, naturalization and divorce information, and to address any information/circumstances — e.g., illegal drug use; alcohol/prescription drug abuse; counseling (investigative coverage is restricted to certain information/prohibited as to certain types of counseling); existence of any type of bias or prejudice; con-

tact with foreign nationals; foreign interests — that may develop during the BI that could have a bearing on the candidate's suitability for federal employment and/or access to classified/sensitive information.

In addressing these areas, agents interview people who know the candidate, including references, associates, superiors, supervisors, colleagues, co-workers and neighbors. The principal areas to be addressed — commonly referred to in FBI BI terminology as **CARL (A) B FAD** — include **character** (C), a person's general attitude and possession of characteristics such as trustworthiness, reliability and discretion or lack thereof; **associates** (A), types of persons, groups, or organizations with which a person has been associated, with particular concern as to whether any of these associations have been of a disreputable or disloyal nature; **reputation** (R), the individual's general standing in the community; and **loyalty** (L), the person's attitude and allegiance toward the United States. Certain BIs also address the candidate's substantive **ability** (A) in the area of the prospective appointment, e.g., judicial appointees and persons affiliated with the Department of Justice. Ability is an individual's capacity or competence to perform well in an occupation or field of employment. Other areas addressed are **bias/prejudice** (B), an irrational attitude directed against any class of citizen or any religious, racial, gender, or ethnic group or their supposed characteristics; **financial responsibility** (F), lifestyle or spending habits consistent with the candidate's means; **alcohol abuse** (A), excessive use of alcohol impacting upon the candidate's behavior; and **illegal drug use/prescription drug abuse** (D), any use of illegal drugs or abuse of prescription drugs.

If the background investigation develops information of alleged misconduct or any other type of unfavorable information or issues that may be pertinent to the candidate, all aspects of the allegation or issue are thoroughly explored. Inquiries will be conducted, within the parameters of the BI, in an effort to substantiate or refute the information, and both sides of the allegation or issue are fully reported to the client entity.

If unfavorable information developed is of a serious nature, the White House is promptly notified by the SIGBIU. If requested by the White House, the SIGBIU will provide the White House with an interim report while the remainder of the investigation is being completed. Occasionally, upon receipt of an interim report, the White House will discontinue the remaining investigation or request that it be held in abeyance pending further review of the unfavorable information. It should be noted that the FBI does not discontinue, hold in abeyance or reopen BIs unless specifically requested by the White House. Normally, the candidate is interviewed in an attempt to address and/or resolve any issues or allegations and the candidate's response is made part of the BI.

Once the BI is completed, the results are reviewed by the SIGBIU to ensure that all facets of the investigation have been completely addressed. The results are furnished to the White House only (unless otherwise instructed by the White House) in the form of actual investigative reports or summary memoranda. The FBI does not adjudicate, nor does it render opinions on, the BI results provided to the White House. Furthermore, the FBI does not assess the reliability or credibility of the source(s) of the information. The FBI's function is purely fact finding. It is the White House's responsibility to disseminate the results of the FBI background investigation to those involved in the decision-making process concerning the candidate, e.g., specific senators on the committee responsible for confirmation proceedings on the candidate, usually the chair and ranking minority member.

Source: FBI

*“It’s a tedious process
for many good reasons.*

*You really have to
keep a sense of humor and
optimism about it,
because it is
frustratingly long.”*

3 Forms and Financial Disclosure

Certain passages in life require us to go through the painful process of trying to capture on paper who we are and what we have accomplished. Applying to college is the first such ordeal for most. You probably have not forgotten the torture of writing those essays, whether the topic was fiendishly clever (*“Write page 287 of your autobiography...”*) or maddeningly banal (*“Tell us about an important turning point in your life”*). Unless you’re Norman Mailer, it’s not easy to write an advertisement for yourself, and almost impossible to turn it into literature. Even those who got into the college of their choice often remember this as a bruising experience.

Applying for the bar or membership on a board also requires introspection and a written summary of your life, deeds and self-worth. Then there are financial passages, such as applying for a mortgage, which require you to assemble and regurgitate every last detail about your income, assets, debts and expenses. And for many people, of course, the ritual of paying taxes each April 15 is preceded by hours of sifting through shoeboxes of crumpled receipts and cancelled checks in search of every last deduction or bit of information for Schedule C (even if software has made that particular exercise easier).

Going to work for the government in a senior position is another one of these passages. Indeed, for the sheer paperwork involved, it beats the others hands down. It requires you to recall minute details about your personal and professional life, down to embarrassments that not even a dean of admissions would dare ask about, and to assemble a cornucopia of financial information that nobody, not even your accountant, can put together without hours of work.

You *must* tell the truth here, under penalty of law. Falsifying or concealing a material fact is a felony punishable by fines up to \$10,000 or five years in prison — or both.

After the ethics lawyers get a look at what you and your family own, they may require you to divest some stock or holdings, sell property or, in very rare cases, put your investments in a blind trust.

What Do I Have to Fill Out?

The first two chapters previewed the thick stack of forms that the White House Counsel’s Office will require you to fill out once the president has decided to nominate you for a post requiring Senate confirmation and you enter the clearance process. This chapter will review the forms in detail and describe the information you will need to complete them. Here’s a summary of the three major forms:

■ White House Personal Data Statement

Questionnaire. A confidential battery of questions that the White House Counsel’s Office uses to vet your background. This form is not available publicly, either electronically or on paper, but we have included the 43 questions that were asked of Clinton appointees as a sidebar to this chapter.

■ **Standard Form 86.** The U.S. Office of Personnel Management’s “Questionnaire for National Security Positions” must be filled out by anyone seeking a security clearance, including all presidential nominees (even those nominated to part-time positions on boards and commissions). The information you provide is protected by the Privacy Act and is not directly made public. But bear in mind

that the White House forwards the SF 86 to the Senate, and some committees may print some or all of your information in the hearing record. They customarily will tell you what they plan to disclose.

- **Standard Form 278.** The executive branch's "Public Financial Disclosure Report" is a public document listing the income, assets and liabilities of senior federal officials; it is routinely released to the news media. (Members of Congress and judges must supply similar information using different forms.) Senior officials by law must file updates each May 15 and when they leave government employment.

Candidates for presidential appointments should note the following filing requirement: The instructions for filling out SF 278 state that nominees for positions requiring Senate confirmation "shall file with the Senate committee considering the nomination an amendment to the initial report, which shall update all items of earned income and honoraria through the period ending no earlier than 5 days before the scheduled date of the Senate committee hearing on the nomination." The instructions go on to say, "This update shall be provided in the manner requested by the Senate committee considering the nomination." Your designated agency ethics official (DAEO) will help you write a letter to the committee detailing any necessary changes to the form that you originally submitted.

Copies of blank SF 86 and SF 278 forms are shown as Appendices in the back of this guide.

You will face a fourth major questionnaire when your nomination is forwarded to the Senate. Each of the 16 committees that considers nominations has its own questionnaire, available on paper only. Committees vary on how much of this information they place into the public record. Some committees require nominees to submit a statement of net worth or copies of tax returns for the last three years; the White House does not ask for copies of your tax returns, but it does ask you to sign a waiver allowing the IRS to check to see whether you paid your taxes on time in the past three years.

Getting Prepared Now

If you're confident that the White House is going to submit your name to the Senate for confirmation, you can start preparing right now for this maze of paperwork. The faster you get your part completed, the faster the White House, the FBI and other agencies will be able to clear you. You can speed the process along by gathering in advance information required for the SF 86 or the separate White House questionnaire, including the following:

- The names of your high school, college and graduate schools, the degrees you obtained, the schools' full addresses and telephone numbers and the names of someone at each school who knew you.
- Citizenship papers if you were born outside the United States. Presidential nominees must fill out an immigration addendum to SF 86 if they, their spouses or any other close relatives were born outside the United States but reside here or are naturalized citizens.
- The address of every place you have lived for the past seven to 15 years — the level of the position for which you have been nominated dictates how far back you'll have to go — with the name, address and telephone number of someone who knew you there.
- Every job you held, including your title, the company street address and telephone number, and the name, address and phone number of your supervisor.
- Three people who know you well, such as good friends, colleagues or college roommates — but not your spouse, former spouses or other relatives.
- Information about your spouse and any former spouses, including where the divorce records may be found.
- The full name, date of birth, country of citizenship and address of your parents, children, siblings, in-laws and any foreign national relatives, dead or alive.
- Foreign countries you visited in the past seven to 15 years — again, the level of the position to which you have been nominated will dictate the time frame covered — with the dates and purpose of each trip. (It helps to have kept old passports, and hope that the immigration officers stamped them instead of waving you through at every port of entry.)

- Your police record, including any offenses related to alcohol or drugs. You can leave out traffic fines of less than \$150 unless the violation was alcohol or drug related. (The separate White House questionnaire requires you to list tickets of \$100 or more.)
- Your financial records, including whether you filed for bankruptcy, had wages garnished or failed to pay taxes or were delinquent for more than 180 days on debts.

This is not going to be as easy as doing your 1040 with Turbo Tax, and it may make even the hell of college applications seem like a walk in the park by comparison. You may need to scrounge up an old-fashioned typewriter (preferably one with a self-correcting ribbon) to get the SF 86 done. But you can get through this, as hundreds of other presidential nominees have done before you.

As explained in the last chapter, all the information you furnish to the White House will be carefully checked and the FBI will conduct a background investigation that can last from weeks to several months. The process moves faster for Cabinet nominees only because the FBI throws more agents on the job. It makes sense for you to call friends and associates when you put their names and phone numbers down on the SF 86 to let them know in advance that the FBI likely will be contacting them.

Richard McGahey, a former assistant secretary of Labor for pensions and welfare benefits, says he got this helpful advice from a knowledgeable friend when he had to fill out the SF 86: “Keep all your references in the same city, because if you don’t, it goes to some FBI agent in a remote location. They don’t like to do this work; they think it’s boring. It lands in their ‘in’ basket and it just sits there.”

McGahey adds:

And that happened with me. All my D.C. contacts got cleaned up very quickly, because they often assign rookie agents who are eager and hard workers. My out-of-Washington contacts took months to complete, even though I was aware of this problem and made calls in advance to the people they had to

contact. I wrote down specific phone numbers, extensions, people to ask for. It’s just a classic bureaucratic control problem. Nobody in the administration wants to lean on the FBI or tell them to speed up. But until those things are done, the paper can’t get processed.

The clearance process is the most frustrating period for many prospective nominees, especially if you’ve already served notice at work that you’ll soon be departing for new challenges in Washington — and immediately become a lame duck at your old job. Prospective nominees are always told how slowly these wheels move in Washington, but it is human nature to hope that your nomination is going to be the exception that zips right along. Instead, the usual course is that the clearance process drags on for months, with little or no word from the White House on where you stand. The FBI generally doesn’t tell the White House anything until a background investigation is complete. The FBI says its target for completing background investigations is 35 calendar days, but it may take much longer than that if records that need to be reviewed are not available or if follow-up inquiries are needed. (See sidebar in Chapter 2, page 48.)

The only regular progress reports you can expect are those inevitable phone calls from neighbors, college roommates, business partners and ex-spouses to say, “Guess what? An FBI agent knocked on my door asking about you.”

There is a famous line near the start of Virgil’s epic poem of ancient Romans, the *Aeneid*: “*Forsan et haec olim meminisse iuvabit.*” It can be translated loosely as: “Perhaps one day even these memories will bring a smile.” And that’s how it will be with your clearance and confirmation.

Let’s go over the forms, one by one.

Key Forms

White House Personal Data Statement Questionnaire

The personal data statement used by the Clinton administration asked 43 questions, in seven categories. They are shown in the sidebar on page 60. The next administration may change the questionnaire, but usually questions are added, not deleted.

Now perhaps this is someone's idea of a joke, but the cover sheet from the White House Counsel's Office instructs nominees to answer all the questions and send their replies back *within 24 hours*. There are no penalties for missing that deadline, but the reality is, the sooner you get it done, the better. That's because, for now, you are the one who determines when the background check and clearance process really start.

SF 86 Questionnaire for National Security Positions

In 1953, President Eisenhower issued Executive Order 10450, which instituted the practice of formal security investigations for senior federal positions. That executive order, which still stands, stated that "all persons privileged to be employed in the departments and agencies of the Government, shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States."

More than 3 million government employees and contractors hold security clearances, according to the bipartisan Commission on Protecting and Reducing Government Secrecy that was chaired by Sen. Daniel Patrick Moynihan (D-N.Y.). The government spent more than \$325 million on background investigations in 1993, with each one conducted by the Office of Personnel Management running more than \$3,400.

You can find a blank copy of the SF 86 as an appendix to this *Guide* or you can download a copy from the Office of Personnel Management's Web site www.opm.gov/forms/pdfimage/sf0086.pdf. Some

federal agencies have a version of this form in their computer systems that can be filled out electronically, but unless you are already working for the department in another capacity, you won't have access to its computers at this juncture. The instructions on the form say you can type or legibly print your answers, but the White House usually tells nominees to type this form and all attachments.

You should remember that the level of position to which you have been nominated will dictate the level of detail required in answering many of the questions on the SF 86. Under additional instructions provided by the White House Counsel's Office, nominees for Cabinet-level positions (Executive Level I) must extend their answers regarding police records and drug and alcohol usage all the way back to their 18th birthdays. They must answer all other time-specific questions regarding residence, employment, travel and so forth to cover the past 15 years, as must nominees for sub-Cabinet positions (Executive Levels II-V) and others requiring Senate confirmation. Other nominees must provide answers going back seven years.

Here in shortened form are all the SF 86 questions:

1. Full name
2. Date of birth
3. Place of birth
4. Social Security number
5. Other names used
6. Height, weight, hair and eye color
7. Telephone numbers (work and home)
8. Citizenship
9. Places where you have lived
10. Places where you went to school
11. Your current and past employers and employment record
12. Names and addresses of three people who know you well other than your spouse or other relatives
13. Information on your spouse and former spouse(s)
14. Information on your relatives and other foreign nationals "with whom you or your spouse are bound by affection, obligation, or close and continuing contact"
15. Citizenship of relatives and associates
16. Your military history

SF 278 Executive Branch Personnel Public Financial Disclosure Report

17. Your foreign business connections and financial interests
18. Foreign countries you have visited
19. Military discharge record
20. Selective Service registration (men)
21. Your medical record (actually this asks only about whether you have consulted a mental health specialist)
22. Your employment record, specifically whether you have been fired or left a job under unfavorable circumstances
23. Your police record (including traffic fines of \$150 or more, or lesser amounts if alcohol or drug related)
24. Your use of illegal drugs and drug activity
25. Your use of alcohol, specifically whether you underwent alcohol treatment or counseling
26. Your investigations record (whether you have ever received a security clearance)
27. Your financial record (bankruptcies, liens, failure to pay taxes)
28. Your financial delinquencies (debts)
29. Public record civil court actions
30. Your association record (have you ever belonged to an organization dedicated to the violent overthrow of the United States government)

Many of these 30 questions have subcategories. You must sign the form, certifying that your answers are complete and true under penalty of fine or imprisonment. You must sign a form authorizing the FBI to investigate your background, including your credit history and criminal record, and to ask three questions of any doctor, psychiatrist or other professional you have consulted about your health. Those three questions are:

- “Does this person have a condition or treatment that could impair his/her judgment or reliability, particularly in the context of safeguarding classified national security information?”
- “If so, please describe the nature of the condition and the extent and duration of the impairment or treatment.”
- “What is the prognosis?”

This is the financial disclosure form that all top executive branch officials and hopefuls must wrestle with, from the president on down.

The good news is that a number of government agencies offer online versions of SF 278 on their Web sites. It’s probably best to use the one that can be downloaded from the OGE site, www.usoge.gov/ogeforms/sf278_00.pdf, since this is the agency responsible for reviewing the completed forms. There’s a good chance that by the time this book is published, you’ll be able to both download the OGE version of the form and fill it out online.

As the name implies, public financial disclosure forms are public records. The news media or any other curious individual will be able to file a request to see a copy of your financial report. Anything you list — including the names of stocks, and how many clients paid you more than \$5,000 at the last place you worked — can appear in the news media. While major print and broadcast news organizations usually pay scant attention to the financial disclosure form of a sub-Cabinet presidential nominee, the trade press may share every last detail with its readers.

It is against the law (namely, the Ethics in Government Act of 1978) and punishable by fines up to \$10,000 for anyone to use the financial information on these forms for credit ratings, solicitations by charities or political causes or other commercial purposes. But it is fair game for the media to pick through and publish all this information about your finances.

The officials who must file public financial disclosure forms include:

- The president, vice president and candidates for those offices
- Presidential nominees to Senate-confirmed posts
- Every executive branch officer or employee above the pay grade of GS-15
- Senior military officials (brigadier generals, rear admirals and higher)

- Some Schedule C political appointees (about 50 percent of Schedule C positions are exempted)
- Administrative law judges
- Executive Office of the President appointees
- Postmaster general and deputy postmaster general
- OGE director and agency ethics officials

If you've ever read newspaper stories on the wealth and liabilities of the president, members of Congress or Cabinet officers, you may remember phrases such as: "The senator reported assets worth at least \$1 million and debts of \$100,000 or more." The *at least* is ubiquitous in these financial disclosure stories because the law requires officials to report their family wealth and holdings in broad ranges, not to the penny.

There is an irony to the level of financial detail that you must disclose on this form. From the government ethics watchdogs' point of view, if a nominee or official owns a certain amount of a particular stock, there is a conflict of interest. (See details on page 44.) In fact, the Office of Government Ethics once proposed to Congress that it streamline the reporting categories, since there was no need for it to know how high the person's holdings went. Congress deliberated and instead of reducing the categories, it added new layers of detail for millionaires.

The Lobbying Disclosure Act of 1995 amended the Ethics in Government Act to require nominees and officials who must file SF 278 to break down their personal assets and liabilities above \$1 million into four new categories: \$1 million to \$5 million; \$5 million to \$25 million; \$25 million to \$50 million; and over \$50 million. Some of the forms you can find online may not have caught up with this change, even though it has been in effect since Jan. 1, 1996. The Office of Government Ethics finally secured permission from the General Services Administration in June 2000 to revise the form with these new upper rungs.

Here is what you must report, and the categories you must list them in:

Schedule A: Assets and Income

You must identify each asset held by you, your spouse or your dependent children worth more than \$1,000, and you must list assets having generated more than \$200 in income and list their value and type by category (dividends, rent and royalties, interest, capital gains, excepted investment fund, excepted trust or qualified trust). A copy of Schedule A is included as part of Appendix IV, SF 278, in the back of the *Guide*.

As previously mentioned, since 1996, you also have had to disclose whether your income was:

- \$1,000,001 - \$5 million, or
- Over \$5 million.

If you are required to divest stock because of the position you are assuming, you can seek a Certificate of Divestiture from the Office of Government Ethics to defer paying capital gains tax. Be sure you get a certificate before you sell the stock. This cannot be done retroactively.

Schedule B: Transactions and Gifts and Travel Expenses

As a nominee, you need not complete Schedule B of this form, which requires disclosure of any sale, purchase or exchange of stocks, bonds, property, commodity futures and other securities that exceeded \$1,000. Nor do you have to fill out another part of Schedule B for reporting gifts and travel expenses of \$260 or more from a source. But once confirmed, you must report those transactions and gifts on subsequent forms. You will not have to disclose gifts from relatives, personal hospitality at someone's home or items worth \$104 or less.

Schedule C: Liabilities

Nominees must report all liabilities over \$10,000 that they, their spouses or children owe, excluding the mortgage on their homes (unless the house is rented out). Auto loans and personal loans owed to a spouse, parent, sibling or in-law need not be reported. Credit card debt over \$10,000 must be reported. You must list other loans by date, interest rate and term.

The size of each debt must be listed in these categories:

- \$10,001 – \$15,000
- \$15,001 – \$50,000
- \$50,001 – \$100,000
- \$100,001 – \$250,000
- \$250,001 – \$500,000
- \$500,001 – \$1 million
- Over \$1 million

And, although it is not shown on older versions of the form, since 1996 you must also provide this breakdown on personal debts over \$1 million:

- \$1,000,001 – \$5 million
- \$5,000,001 – \$25 million
- \$25,000,001 – \$50 million
- Over \$50 million

You also must report on Schedule C agreements or arrangements for:

- Ongoing participation in a pension, 401(k) or deferred compensation plan
- Severance payments
- Leaves of absence
- Arrangements for future employment

Schedule D: Outside Positions

You must report any positions outside government that you held at any point over the past two calendar years, paid or unpaid. These include:

- Officer
- Director
- Trustee
- General Partner
- Proprietor
- Representative
- Employee
- Consultant

You must report positions with any corporation, firm, partnership, business, non-profit organization or educational institution. But you do not have to report positions with religious, social, fraternal or

political entities “and those solely of an honorary nature.”

And the final box on Schedule D is a special treat for nominees only, not incumbent filers.

For the two prior calendar years, you must report the name of each client and customer for whom you personally performed more than \$5,000 worth of services. You must briefly describe these services, although you do not have to divulge the total amount paid. However, if the client paid you directly (as opposed to your firm) in the preceding calendar year, that amount would show up on Schedule A under last year’s income.

And now, at last, you and your accountant are finished with Form SF 278.

Coping With the Forms

We spoke with dozens of past nominees about their experiences with the forms. Some still felt almost violated by the prying questions. Perhaps none expresses more passion on this subject than Shirley Watkins, who ran school nutrition services in Memphis, Tenn., before coming to Washington in 1997 to be under secretary of Agriculture for food, nutrition and consumer services. Listen to her words:

You give all this very personal information, and you really are left in the dark as to who has it and what they are doing with it. You know that the FBI is going to investigate you, but you just don’t know how personal that really is...My life had never been so open as it was when I went through this process. You must be a saint — literally — to go through all of this. That’s what they expect you to be.

Other veterans emphasized the importance of not taking the delays as a personal affront and keeping your sense of humor intact as the clearance process inches along. This is easier, of course, if you’re already gainfully employed in one federal job and simply moving up to another that requires Senate confirmation.

When F. Whitten Peters left a Washington law practice to become a deputy general counsel at the Pentagon — a job that did not require Senate approval — it still took all summer for his papers to be cleared. “It just was awkward to deal with clients and others,” he recalls, “because you can’t stop functioning in your old life, but you don’t really know when the new life is going to start.”

Peters eventually was nominated to be under secretary of the Air Force and later secretary, and won confirmation twice. “There are lots of ups and downs, and it’s a tedious process for many good reasons,” he says. “You really have to keep a sense of humor and optimism about it, because it is frustratingly long. And any time you’re in limbo, it’s hard to feel really good about life.”

But as National Oceanic and Atmospheric Administration chief James Baker notes, “The presidential appointment jobs are things that come along only once in a lifetime for most people, and even if it takes a long time, it’s definitely worth it.”

Todd Dickinson, director of patents and trademarks under President Clinton, has a classic tale of under-going clearance. “You run into funny little road-blocks,” he says. “The FBI agent who came to interview me was pregnant. Afterward there was a long delay and I called the White House to find out what was going on. They said, ‘Well, she had the baby early and didn’t finish her report, so we had to start back at the beginning again.’”

Another official had this to say about the background investigation:

The FBI runs around and contacts all of your friends and everybody who lives near you or in a place you lived recently and they ask questions like, “Well, did you ever see him hit his wife?” “When he’s doing yard work, does he always have a beer in his hand?” “Have you ever heard him make a racially hostile statement?” or “Has he ever shown religious intolerance?” And then, assuming the answers to those questions are tolerable, the FBI meets with you toward the end and says, “Here’s what we’ve found. Can you shed any light on this?”

“We suspect you’re a crook”

Richard Meserve, who was confirmed to a five-year term as chairman of the Nuclear Regulatory Commission in 1999, found “the whole process intrusive [and] insulting.” When asked if he had any domestic help, he mentioned that he looked after some property on Maryland’s Eastern Shore for a friend, and paid a neighbor’s teenage son to mow the lawn.

That led to the production of another form “to verify that this was not an illegal alien hired to do agricultural work,” he recalls. “I mean, I hired a 16-year-old kid to mow a lawn and the next thing I know, I’m inundated with forms. I satisfied them that what I had been doing was legal in all respects, but it was silly.”

Pentagon scientist Hans Mark found the scrutiny of his finances “bizarre. They start off by saying, ‘We suspect you’re a crook and our process is going to make sure that you aren’t.’ Well, that’s nonsense.”

Prospective nominees would be well advised to “not make too much money ... and don’t write books,” Mark adds, tongue-in-cheek. “You have to reconstruct financial dealings you had 10 or 15 years ago. It’s just absurd that people who have been successful and made money actually have a harder time getting through than people who haven’t.”

The exposure of personal finances for all to see was “a bit painful” for James Anderson, a lawyer who had worked in East Africa with the Wycliffe Bible Translators, then served as ambassador to Tanzania before becoming head of the U.S. Agency for International Development in 1999. He elaborates:

You think, what business is this of anybody’s? They can print it in the newspaper. Every stock my wife and I own, every business we’ve got any interest in. That’s a very unpleasant part of it. It’s really invasive. Some people just won’t want to reveal that much about themselves.

An overrated problem?

A third of the Reagan, Bush and Clinton appointees surveyed for The Presidential Appointee Initiative complained that filling out the financial disclosure and other personal information forms took longer than necessary. But not everybody pulls their hair out over these forms.

"I found [the forms] an overrated problem. Maybe I'm in the minority, but I just didn't think it was that big a deal," says Gregory Baer, who became assistant secretary of the Treasury for financial institutions in 1999. "I'm a lawyer, so you do that for bar exams. I've done it for security clearances."

When Carolyn Huntoon ran NASA's Johnson Space Flight Center in Houston, she and her husband made regular scuba-diving vacation trips to the Cayman Islands. While she was being cleared for a top Energy Department post, a White House lawyer told her that all those trips abroad "raised a red flag." She told him he'd been reading too many John Grisham novels or watching too many movies.

And so it goes. Remember: the vast majority of those who enter the clearance process come out the other end with a clean bill of health. Their names are sent up to the Senate and they win confirmation.

"It's character-building," quips Huntoon. "Everyone needs to do that."

Key Points:

- Start preparing now to fill out the White House forms — the sooner you fill them out, the sooner you can make it through the clearance process.
- Don't prevaricate, don't equivocate and don't hold back embarrassing details.
- Be prepared for frustrating delays, especially when the FBI is conducting its background investigation.
- Try to keep a sense of humor about it and avoid taking the delays as a personal insult.

Questions from the White House Personal Data Statement Questionnaire

Here are the 43 questions, in seven categories, that the Clinton administration asked prospective nominees. The next administration may change the questionnaire, but usually questions are added, not deleted.

Personal and Family Background

1. Please list your full name; home address and telephone number; office address and telephone number; date and place of birth; citizenship; and social security number.
2. Please identify your current marital status; spouse's name, citizenship, occupation, and current employer; and the names and ages of your children.
3. Do you have any medical conditions that could interfere with your ability to fulfill your duties? Please explain.

Professional and Educational Background

4. Please list each high school, college, and graduate school you attended; the dates of your attendance; and degrees awarded.
5. Please furnish a copy of your resume and a brief biographical statement.
6. Please chronologically list activities, other than those listed on your resume, from which you have derived earned income (e.g., self-employment, consulting activities, writing, speaking, royalties, and honoraria) since age 21.
7. Please list each book, article, column or publication you have authored, individually or with others.
8. Identify each instance in which you have testified before Congress in a non-governmental capacity and specify the subject matter of each testimony.
9. Please list all corporations, partnerships, trusts or other business entities with which you have ever been affiliated as an officer, director, trustee, partner, or holder of a significant equity or financial interest (i.e., any ownership interest of more than 5 percent), or whose decisions you had the ability to influence. Please identify the entity, your relationship to the entity, and dates of service and/or affiliation.
10. Please provide the names of all corporations, firms, partnerships, trusts, or other business enterprises, and all non-profit organizations and other institutions with which you are now, or during the past five years have been, affiliated as an advisor, attorney or consultant. It is only necessary to provide the names of major clients and any client matter in which you and your firm are involved that might present a potential conflict of interest with your proposed assignment. Please include dates of service.
11. With regard to each of the entities identified in the preceding question, please identify your relationship or duty with regard to each. Please include dates of service.
12. Other than the entities identified in question number 10 above, please provide the names of any organizations with which you were associated which might present a potential conflict of interest with your proposed assignment. For each entity you identified in your response to this question please provide your relationship or duty with regard to each. Please include dates of service.

13. Please describe any contractual or informal arrangement you may have made with any person or any business enterprise in regard to future employment or termination payments or financial benefits that will be provided you if you enter government employment.
14. If you are a member of any licensed profession or occupation (such as lawyer, doctor, accountant, insurance or real estate broker, etc.) please specify: the present status of each license; and whether any such license has ever been withdrawn, suspended, or revoked, and the reason therefore.
15. Do you have a significant interest in any relationship with the government through contracts, consulting services, grants, loans or guarantees? If yes, please provide details.
16. Does your spouse or any family member or business in which you, your spouse or any family members have a significant interest have any relationship with the federal government through contracts, consulting services, grants, loans or guarantees? If yes, please provide details.
17. If you have performed any work for and/or received any payments from any foreign government, business, or individual in the past 10 years, please describe the circumstances, and identify the source, and dates of services and/or payments.
18. Please list any registration as an agent for a foreign principal, or any exemption from such registration. Please provide the status of any and all such registration and/or exemptions (i.e., whether active and whether personally registered).
19. Have you ever registered as a lobbyist or other legislative agent to influence federal or state legislation or administrative acts? If yes, please supply details including the status of each registration.

Tax and Financial Information

20. As of the date of this questionnaire, please list all assets with a fair market value in excess of \$1,000 for you and your spouse and provide a good faith estimate of value.
21. As of the date of this questionnaire, please list all liabilities in excess of \$10,000 for you and your spouse. Please list the name and address of the creditor, the amount owed to the nearest thousand dollar, a brief description of the nature of the obligation, the interest rate (if any), the date on which due, and the present status (i.e., is the obligation current or past due).
22. Please describe all real estate held in your name or in your spouse's name during the last six years. Please include real estate held in combination with others, held in trust, held by a nominee, or held by or through any other third person or title-holding entity. Please also include dates held.
23. Have you and your spouse filed all federal, state and local income tax returns?
24. Have you or your spouse ever filed a late income tax return without a valid extension? If so, describe the circumstances and the resolution of the matter.
25. Have you or your spouse ever paid any tax penalties? If so, describe the circumstances and the resolution of the matter.
26. Has a tax lien or other collection procedure ever been instituted against you or your spouse by federal, state or local authorities? If so, describe the circumstances and the resolution of the matter.

Domestic Help Issue

27. Do you presently have or have you in the past had domestic help (i.e., a housekeeper, babysitter, nanny, or gardener)? If yes, please indicate years of service for each individual and also give a brief description of the services rendered.

Public and Organizational Activities

28. Please list current and past political party affiliations.

29. Have you ever run for public office? If yes, does your campaign have any outstanding campaign debt? If so, are you personally liable? Please also provide complete information as to amount of debt and creditors.

30. Please list each membership you have had with any civic, social, charitable, educational, professional, fraternal, benevolent or religious organization, private club, or other membership organization (including any tax-exempt organization) during the past 10 years. Please include dates of membership and any positions you may have had with the organization.

31. Have you or your spouse at any time belonged to any membership organization, including but not limited to those described in the preceding paragraph, that as a matter of policy or practice denied or restricted affiliation (as a matter of either policy or practice) based on race, sex, ethnic background, religious or sexual preference?

Legal and Administrative Proceedings and Filings

32. Please list any lawsuits you have brought as a plaintiff or which were brought against you as a defendant or third party. Include in this response any contested divorce proceedings or other domestic relations matters.

33. Please list and describe any administrative agency proceeding in which you have been involved as a party.

34. Please list any bankruptcy proceeding in which you or your spouse have been involved as a debtor.

35. Have you or your spouse ever been investigated by any federal, state, military or local law enforcement agency? If so, please identify each such instance and supply details, including: date; place; law enforcement agency; and court.

36. Have you or your spouse ever been arrested for or charged with, or convicted of violating any federal, state or local law, regulation or ordinance (excluding traffic offenses for which the fine was less than \$100)? If so, please identify each such instance and supply details, including: date; place; law enforcement agency; and court.

37. Have you or your spouse ever been accused of or found guilty of any violations of government or agency procedure (specifically including security violations and/or any application, or appeal process)?

38. Please list any complaint ever made against you or by an administrative agency, professional association or organization, or federal, state or local ethics agency, committee, or official.

39. Please list any and all judgments rendered against you including the date, amount, the name of the case and subject matter of the case, and the date of satisfaction. Please include obligations of child support and provide the status of each judgement and/or obligation.

40. With regard to each obligation of child support and/or alimony, please state the following: Have any payments been made late or have there been any lapses in payment? Have any motions or court actions for modification of child support or alimony been filed or instituted? Have any actions or motions to compel payment or initiate collection of late payments and/or past due amounts been filed or threatened? Have any writs of garnishment been issued? If your response was yes to any of the above questions, please provide details.

Miscellaneous

41. Have you ever had any association with any person, group or business venture that could be used, even unfairly, to impugn or attack your character and qualifications for a government position?
42. Do you know anyone or any organization that might take any steps, overtly or covertly, fairly or unfairly, to criticize your appointment, including any news organization? If so, please identify and explain the basis for the potential criticism.
43. Please provide any other information, including information about other members of your family, that could suggest a conflict of interest or be a possible source of embarrassment to you, your family or the president.

*“You might be the
perfect candidate for the
position that you are seeking,
but it’s very difficult
to predict how your
nomination is going
to fly in the Senate . . .”*

4 Navigating the Senate

For the vast majority of presidential nominees, confirmation by the Senate turns out to be the easier part of the journey.

Despite the new battery of forms to fill out, meddlesome questions to answer and a significant wait for your hearing and subsequent votes by the committee and full Senate, reaching this stage usually means the finish line is in sight.

And the odds now are heavily in your favor. Over the past 212 years, the Senate has rejected only nine of the more than 500 nominees to Cabinet offices — fewer than 1 in 50. The track record for Supreme Court nominees is not nearly as good, though. The Senate has turned back 27 of the 148 candidates nominated to the high court — almost 1 in 5. In the 19th century, it rejected more than a third.

That's the good news. The bad news is that the Senate remains a graveyard for some nominations and a battlefield for others. For every nomination rejected on the Senate floor, dozens more die in committee or are withdrawn by the White House — or by the candidates themselves when they tire of waiting or wish to avoid further humiliation. From 1981 to 1992, the Senate did not confirm about 10 percent of all nominations to full-time positions in the executive branch, according to a 1993 Congressional Research Service analysis.

If a group of senators (or even a single senator) decides to block your nomination for whatever reason — politics, personality, pique, or a serious problem in your portfolio — you are in for an ordeal that Anthony Lake, paraphrasing Thomas Hobbes, once

described as “nasty and brutish without being short.” It is these rare but unforgettable confirmation battles that give this process its harrowing reputation. The roll call of the few who did not make it through, from John Rutledge to John Tower, evokes more interest and looms larger in the history books than the roles played by many others who were confirmed and never enmeshed in subsequent controversy. (See Appendix II on Advice and Consent — and Rejections.)

No Way To Tell

The difficulty with the Senate process is that no one has a crystal ball to see which nominations will be confirmed routinely and which will run into trouble. The problem of not paying payroll taxes for a nanny and other household help was on no one's radar screen at the outset of the Clinton administration, and Zoë Baird and her husband were hardly the only working couple who ran afoul of this rule. Congress subsequently relaxed the law to free people from the obligation to pay Social Security taxes for any household employee paid less than \$1,000 a year. There may be an entirely new issue that bedevils nominees in 2001, but what it will be we do not know.

Marie Therese Dominguez, a former associate director of the White House Office of Presidential Personnel, says, “It's very difficult to figure out what the odds are, because the odds are constantly changing. You might be the perfect candidate for the position that you are seeking, but it's very difficult to predict how your nomination is going to fly in the Senate six months down the road.”

The best advice, and really the only prudent course to take, is to hope for the best, but prepare for the worst. You need to be ready for the possibility that a senator will decide that stopping your nomination will achieve some higher good — or perhaps help his favorite land the post, or wrench some other concession out of the White House.

One of the problems with handicapping the confirmation process is that the Senate's very structure defies predictability. The Senate is a very different institution than the House, or than most state legislative bodies. To begin with, each committee operates under its own set of rules and enjoys a considerable degree of autonomy. The Senate's own rules are so complex that senators typically have to suspend them to get routine business done. A single senator can bring Senate business to a halt, at least for a while, and a cabal can tie things up indefinitely. This makes it all the more imperative for nominees to tread carefully when it comes to senatorial egos.

Waves of approval

During each two-year session of Congress, the president typically submits 4,000 civilian and 65,000 military nominations to the Senate, and the senators routinely approve waves of them without debate. A guide to the nomination process prepared by the U.S. Senate Historical Office explains:

The vast majority are routinely confirmed, while a very small but sometimes highly visible number fail to receive action. The importance of the position, the qualifications of the nominee, and the prevailing political climate influence the character of the Senate's response to each nomination. Views of the Senate's 'proper role' range from a narrow construction that the Senate is obligated to confirm unless the nominee is manifestly lacking in character and competence, to a broad interpretation that accords the Senate power to reject for any reason a majority of its members deems appropriate. Just as the president is not required to explain why he selected a particular nominee, neither is the Senate obligated to give reasons for rejecting a nominee.

The Senate Web site contains useful information about the nomination process at www.senate.gov/legislative/legis_act_nominations.html. It features lists of nominations submitted by the president and pending before committees, nominations on the Senate's executive calendar awaiting a vote, and all the nominations approved for the year.

The April 1993 Congressional Research Service (CRS) study by specialist Rogelio Garcia found that during the Reagan and Bush administrations (1981-92), the Senate confirmed nearly 90 percent of nominations to full-time policy-making positions in executive departments, independent agencies and boards and commissions. Although the Senate confirms most nominations, no president can safely assume that all of his nominees will be approved routinely. Rarely does a rejection occur on the Senate floor. "Usually," Garcia noted, "pre-nomination clearance procedures, including background investigations by the [FBI] and financial disclosure statements, enable the White House to avoid submitting nominations likely to be rejected. Normally rejections occur in committee, occasionally by committee vote ... but more often by committee inaction."

The Senate took 86.8 days on average to confirm nominations to full-time positions requiring Senate confirmation during the first session of the 106th Congress, according to a report published by CRS in April 2000. The length of time for confirmation of individual nominations varied considerably; two nominations were confirmed in 14 days each, and three took 240 or more days, according to Garcia. Nominations during that period moved fastest for the Department of Interior (14 days) and slowest for the Department of Labor (175.6 days).

Distant events

It took the Senate just 17 days to confirm former congressman Bill Richardson as secretary of Energy in 1998. But the post that Richardson vacated, ambassador to the United Nations, sat empty for more than a year before the Senate finally approved the nomination of investment banker and former diplomat Richard C. Holbrooke to the Cabinet-rank post. Clinton delayed submitting the nomination for eight

months while investigators at State and the Justice Department probed anonymous allegations that Holbrooke, who helped broker peace in the Balkans, had violated ethics laws by soliciting help from U.S. ambassadors for his investment firm after stepping down as assistant secretary of State. (See Chapter 5 for details on Holbrooke's difficulties.)

Distant events may play a role in your selection and confirmation. When Richard Meserve was recruited by the Clinton administration in 1999 to be chairman of the Nuclear Regulatory Commission, he was warned that the nomination could face delays. It did not matter that his credentials appeared impeccable: law degree from Harvard, Ph.D. in physics from Stanford, counsel to the White House science adviser in the Carter administration and chairman of a National Academy of Sciences panel that devised ways to bolster the safety of Russia's nuclear weapons-grade material. "I was told that it was likely for reasons unrelated to me that everything would be hung up for a while, because that is the nature of the nomination process," says Meserve. "But that wasn't the case at all."

The administration sent the nomination to the Senate in August. Seven weeks later, the Environment and Public Works Committee held a confirmation hearing for Meserve and nominees to the Mississippi River Commission as well as the chairman of the Chemical Safety and Hazard Investigation Board. The committee reported all the nominations out favorably on Sept. 29, 1999.

The next morning, Washington awoke to news from Japan about an accident at a nuclear processing facility that exposed several workers to radiation. It might have been coincidence, but the Senate wasted no time the next day in approving the new chairman of the NRC, who would be in charge should a similar accident occur in the United States.

The moral of Meserve's speedy confirmation? Sometimes, for better or worse, events outside your control affect the handling of your nomination. Just as "the Supreme Court follows the election returns," as Mister Dooley (Finley Peter Dunne's fictional bar-

tender-philosopher) told us, the Senate keeps its eye on the front pages.

Courting the Senate

When the president formally makes a nomination, the executive clerk of the Senate will assign it to the appropriate committee. If there is any doubt, the clerk will confer with Senate leaders before making the committee assignment. A few nominations are referred jointly to two committees, such as the under secretary of Commerce for international trade, who goes before both the Banking, Housing and Urban Affairs Committee and the Finance Committee. A half-dozen committees handle different Commerce nominees, and five scrutinize one or more of the nine presidential appointees to the Federal Emergency Management Agency.

There are 16 Senate committees that consider nominations. By sheer numbers, the heaviest loads fall to the Senate Armed Services Committee, with its purview of the Pentagon; Foreign Relations, with all the plenipotentiaries and ambassadors of the State Department; and the Judiciary Committee, which operates the gate through which all future judges, federal prosecutors and marshals must pass.

Regardless of which committee your nomination is assigned to, your first hurdle is to get on the committee's radar screen without ruffling any senatorial feathers so the panel will schedule a confirmation hearing. This means engaging in one-on-one meetings with the senators. You will have to fill out a new questionnaire for the Senate committee, and possibly undergo another investigation, although that is the exception, not the rule.

Meeting the senators

Once you are nominated, you have a right to expect that the congressional liaison's office in your future department will take you under its wing, brief you on individual senators and the Senate committee considering your nomination, and help you arrange visits beforehand. Unless this is a high-profile position, the White House congressional liaisons will leave most of this to their counterparts at the department.

But don't assume all the arrangements will be made for you. If necessary, pick up the phone and call the Senate committee, introduce yourself to the staff director and find out when you can see the chairman and ranking minority member. The staff director of the committee can play a decisive role in the nomination. You should also touch base with the committee's minority staff members and, perhaps, with the staff directors in the personal offices of senior committee members. (Senators rely on both committee staff and on their personal aides for information about issues.)

Your home state senators are the first place to turn. If you don't already know them, but are friends with a House member in the state delegation, call him or her and ask to be introduced to the senators. Or simply call the senator's office. "You can figure out some friends to call who you might know through a professional association, such as a bar association or your medical society. Look at what states are represented on the committee. You can usually find some connection," says a veteran Hill operative. "Maybe your best friend lives in Oklahoma and the chairman of your committee is from Oklahoma. You have to set up your own information network without depending on the White House or your Cabinet department's congressional affairs people. It just takes a little more creativity."

You may not be accustomed to lobbying or making sales pitches. But you've got a good reason and, presumably, a good product to sell as you make the rounds in the Senate office buildings.

Bob Nash from the White House Office of Presidential Personnel counsels that it is important for a nominee "to visit each and every senator on the committee, to look at them face to face *before* the hearing. It just makes sense for the senator to look you in the eye beforehand and size you up, not just see you there with a group of other nominees for the first time at the hearing."

Diplomat Thomas Pickering, President Clinton's under secretary of State for political affairs, has gone through Senate confirmation 13 or 14 times — he wasn't cer-

tain which — in a distinguished career in the Foreign Service. Like Nash, he says, "Make sure you go out of your way to have discussions with senators before you go to the hearings. It's also important to have close coordination with senatorial staffs on [public policy] issues so that if they or their members have problems, you can work them out ahead of time."

More often than not in recent years, the Senate and the White House have been controlled by different parties. Don't let this deter you. Even in times of divided government, "people on the Hill don't want to stop all of the president's choices. They've got to let some go through," says Diana Huffman, the former staff director of the Senate Judiciary Committee. "So the game is to get yourself with a bunch of people — 'Yeah, this is a good guy, a good person'—that they are going to sail through. Somebody's going to get caught and you don't want to be the one."

Conversely, if you have been a political opponent of a senator on the confirmation committee, or contributed to someone who ran against that senator, "that is going to be a problem," Nash warns. "You should think twice about going for a job where someone on the committee that has to confirm you considers you a specific political or financial opponent. It's just human nature."

Political contributions can become a significant stumbling block. Some Senate forms ask nominees about their contributions. If you are in doubt over how your nomination will be received, you should compare your contributions and the political makeup of the committee. Have you made substantial contributions to groups that have often attacked the chairman or clashed with members of the committee? If the answer is yes, you or a surrogate may want to inquire with that senator or staff to find out just how far he or she is willing to go to stop your nomination. The prudent course, as Nash explains, is not to put yourself in that position. There are lots of other jobs you can seek that would not require you to go before that particular senator's committee.

Keep two things in mind at this stage. First, limit your talking to private one-on-one meetings with the sen-

ators on your confirmation committee and their staffs. And even at your confirmation hearing, it's best to let the senators themselves do most of the talking. Second, recognize from the start that there are limits on your candor. From now on, you are speaking not just for yourself but for the administration.

Walter Broadnax, a former deputy secretary in the Department of Health and Human Services who is now dean of the School of Public Affairs at American University, puts it bluntly:

Staffers are going to craft answers and give them to you and, in some instances, if you want to get confirmed, you'll memorize those answers and you will give them back to the appropriate committee. People tell you how to talk. ... It's not very flattering, but that's the game you're going to have to play for a while — even after confirmation sometimes.

Common sense and tact

Courtship of the Senate will require you to exhibit tact and keep a low profile. This means avoiding publicity and steering clear of the media (see Chapter 6 for more details). Even if he had proceeded skillfully, then-Massachusetts Governor William Weld probably never was going to convince Senator Jesse Helms (R-N.C.) that he should be confirmed as President Clinton's ambassador to Mexico. But everyone agreed that Weld went about it in the wrong way, calling news conferences and trying to defeat Helms in a publicity war. Nominees, clearly, should refrain from engaging in shouting matches with senators while they are up for confirmation.

Common sense, as well as tact, is indispensable in dealing with senators and their staffs. A Department of Defense nominee may have sealed his fate in a tete-a-tete with the chairman of the Senate Armed Services Committee when the hopeful — a state senator — began talking about himself in the third person as Senator So-and-so. As a Pentagon official tells the story, "The chairman leaned over and said, 'You mean STATE Senator So-and-so. I am a senator; you are not. Don't refer to yourself as a senator.'"

Senators are accustomed to hearing nominees stroke their egos and utter sentences like, "Senator, I look forward to working with you on that" or "Senator, that's a good point" or "Senator, that's one of the most important issues facing our country." Nominees should not pretend they are on an equal footing. They aren't. Tone deafness like that "can really hurt you," observes the Pentagon official.

Another veteran says that the Senate likes to teach "a little political science lesson" to the newcomers. "The confirmation process is the Senate's way of saying, 'The president is sending your name up here, but by George, if we confirm you, you work for us.'"

At the same time, nominees need to "show enough backbone, enough knowledge, enough independence that you're not going to be just a yes-man for the administration," says Louis Caldera, a Clinton-appointed secretary of the Army. Nominees should demonstrate "that you're going to take the job seriously, and also show enough understanding of what their [the senators'] role is."

The Senate's Forms

As soon as your nomination is assigned to a Senate committee, you will get a questionnaire from that panel to fill out. Unfortunately, they usually pose the questions in slightly different ways than the White House did, so you cannot just cut and paste your answers. One of the enduring frustrations of the confirmation process is that the White House, the Office of Government Ethics and the Senate committees cannot agree on common forms, or at least on asking the same questions in the same way, so that a beleaguered nominee could import answers from one form to the next. Even Harvard University, one of the most selective colleges in the land, allows high school seniors to apply on the same form that 200 other colleges use.

Each Senate committee operates by its own rules and procedures for hearings, votes and possible investigations of nominees. Rule XXVI of the Standing Rules of the Senate dictates that the committee rules must not be "inconsistent with the Rules of the Senate." It

also requires that the committee rules be published in the Congressional Record at the beginning of each Congress.

The committee rules are reprinted in a red manual, *Authority and Rules of Senate Committees, 1999-2000*, published biennially by the Senate Committee on Rules and Administration. Most committees provide at least basic information in the manual on how they handle nominations.

Unlike the SF 86 questionnaire for national security positions and the SF 278 financial disclosure form, the forms of the Senate committees are not posted on a Web site for you to peruse beforehand. However, several committees did furnish printed copies of their actual questionnaires for this *Guide*, and others have revealed their questions in printed reports on past confirmation hearings. Many committees pose similar, if not identical, questions. See Appendix III at the back of the *Guide*.

As frustrating as these questionnaires may be, you must take care when filling them out. The chairman of the Senate Commerce Committee, Senator John McCain (R-Ariz.), was not amused when he saw that two Clinton nominees to the Commerce Department had submitted identical typewritten responses to policy questions posed by the committee in advance. They had been told erroneously by a staff aide that this would not be a problem. The chairman didn't view it that way. "He met with them for about half a minute, just long enough to tell them what fools he thought they were, and sent them away," said another Clinton nominee, who made sure to devise his own answers and even write them out by hand when he went before McCain's committee. As for the other two, it was only after Commerce Secretary William Daley intervened that McCain agreed to allow them to resubmit separate, original answers.

The Confirmation Hearing

Once you have met the senators and filled out the forms, your next step is the confirmation hearing.

The hearings usually fall into two categories, says Joshua Gotbaum, who held posts at the Pentagon, the Treasury Department and the Office of Management and Budget in the Clinton administration. "They are either short and incredibly pleasant — in other words, 'We like you, we're going to confirm you, we just want to make sure that you show up and take the oath' — or they are long and nasty and the committee interrogates you on everything you've ever done because they are opposed to you and are looking for grounds [to defeat you]," he says.

If the thought of a hearing makes you nervous, you're in good company. No less an eminence than George P. Shultz, who had gone through the confirmation process twice in the Nixon administration as secretary of Labor and secretary of the Treasury, confessed to feeling the strain when he went before the Senate Foreign Relations Committee in 1982 as the nominee to be President Reagan's second secretary of State and Al Haig's successor. Shultz wrote in his 1993 memoir, *Turmoil and Triumph: My Years as Secretary of State*:

I remember thinking to myself after completing my final exam for a Ph.D. degree in economics at MIT that it would be my last. From now on, as a faculty member, I'd be giving the exams, not taking them. How wrong could I be? No exam I had taken before compared with the demands and the tension that surrounded my confirmation hearing for the post of secretary of State.

The personal side of my life would be open for inspection, including my finances, prior affiliations, and any potential conflict of interest. Not just individual acts would be in question; everything would be scrutinized — my whole life record: my reputation, my demeanor under pressure, as well as my thoughts, plans, and hopes for the future.

Despite his worries, Shultz aced the hearing and easily won confirmation.

If you are like most nominees, your hearing will probably be swift and uneventful. It may be an event for celebration. Nominees customarily bring their spouses-

es, parents and children along. You will also be accompanied by several stalwarts from your future department, who may themselves be walking encyclopedias of information. However, it is what is in your head that the senators will be after, and you will face the microphone alone. (See sidebar on Robert Reich, page 72.)

Hearings are formal events. You will be sworn in, although the rules of evidence will not apply — senators can ask whatever they want. Be deferential at all times. Always refer to your interlocutors as “Senator.” Don’t be surprised or disheartened if senators drift in and out on the way to other meetings, or if just one or two senators turn out to hear your opening statement and pose questions.

Generally speaking, the less you talk, the better your prospects. That doesn’t mean you should be curt or give cryptic answers. But if you can engage the senators in a friendly dialogue — well, like most politicians, they like to hear themselves talk. Ideally, some experts say, the nominee will talk 20 percent of the time while senators talk 80 percent of the time.

Senate committees often hold confirmation hearings for batches of nominees. That can work to your advantage. When Catherine Woteki was up to become the food safety chief for the Department of Agriculture, the committee was also considering three other USDA nominees. One, August Schumacher Jr., was up for promotion to under secretary for farm and foreign programs — a position of more than passing interest to farm state senators on the Agriculture Committee. “We all made it, and he took all the bullets,” says Woteki.

After the hearing, a committee will wait a designated number of days before voting to recommend a nomination favorably (or, in rare instances, disapprove it). The nomination then moves to the full Senate, which may take it up at any time it chooses in executive session. Sometimes it passes a resolution beforehand agreeing to take up a nomination on a certain date. Often it lets nominations sit there for weeks or months even after a committee has reported them out favorably. But sooner or later, when the stars are in the

right alignment, the Senate likely will approve your nomination, usually by voice vote without dissent.

Holding Patterns

Of course, it doesn’t always work out that way. One of the most frustrating aspects of the nomination process is the Senate’s use of secretive legislative “holds.” A hold occurs when a single senator asks Senate leaders not to take up a particular measure. In most cases, the leaders will oblige. Otherwise, the lone senator can tie up the legislative body by refusing to accede to the routine unanimous consent agreements that are needed to keep the Senate running smoothly.

Quite often, a senator uses a nominee as a sort of hostage, placing a hold to extract some sort of concession by the administration. The issue may have nothing to do with the nomination, and this can happen to small fry and large fry alike.

Holds are a growing and worrisome phenomenon that is “profoundly undemocratic,” according to G. Calvin Mackenzie, a Colby College political scientist and an adviser to The Presidential Appointee Initiative. In a white paper entitled *Starting Over: The Presidential Appointment Process in 1997*, Mackenzie found that there were an unprecedented 42 holds tying up nominations in late 1997. (The paper can be found at www.tcf.org/Task_Forces/Nominations/Mackenzie/Starting_Over.html.)

Holds “permit a single senator to thwart the will of the Senate and to deter the staffing of an administration,” Mackenzie contends. “They induce enormous frustration among nominees, who often sit for months while their nomination is held hostage to some political struggle to which they are innocent bystanders.”

Some lawmakers — not to mention some nominees — find this distasteful. Senators Ron Wyden (D-Oregon) and Charles Grassley (R-Iowa) convinced the Senate to pass a bill in 1998 to lift the veil on holds. But the measure never became law because the House failed to take it up.

‘Like a Prizefighter Getting Ready for the Big One’

Robert Reich, Bill Clinton’s secretary of Labor and friend from their days as Rhodes Scholars at Oxford University in the 1960s, offered this classic account of preparations for his 1993 confirmation hearing in his memoir, *Locked in the Cabinet* (Alfred A. Knopf: New York, 1997):

January 5 Washington

I’m cramming for my Senate confirmation hearing on Thursday, helped by several coaches including the lawyers who investigated me and several Democratic staffers from the Hill. I feel like a prizefighter getting ready for the big one.

This evening we do a mock run at the home of one of the lawyers. . . . They try to be as difficult and nasty as possible.

“Mr. Reich, you have absolutely no experience managing a big organization, have you?”

“Mr. Reich, what will you do to end silly nitpicking regulations, like the OSHA rule that prohibits painted ladders at the workplace?”

“Mr. Reich, are you a socialist?”

I grope for words. I babble. On the rare occasion when I actually have something intelligent to say, I give long and complicated answers.

“Time out,” says my chief interrogator. . . . “Let’s stop here and critique your performance so far.” I wish he wouldn’t.

“Look,” he says . . . “This hearing isn’t designed to test your knowledge. Its purpose is to test your respect for *them*.”

I’m confused and hurt. I feel as though I’ve failed an exam. He senses it.

“You *don’t* have to come up with the right *answer*,” he continues, pacing around the room. “You’ve got a big handicap. Your whole life you’ve been trying to show people how smart you are. That’s *not* what you should do on Thursday. You try to show them how smart you are, you’re in trouble.”

“But I have to answer their questions, don’t I?”

“Yes and no,” he says. “You have to *respond* to their questions. But you don’t have to answer them. You *shouldn’t* answer them. You’re not *expected* to answer them.” The others laugh. I’m bewildered. “What’s the difference between answering and responding?” I ask.

“Respect! *Respect!*” my chief interrogator shouts . . . “This is all about respect,” he says. “*Your* respect for them. The *president’s* respect for them. The executive branch’s respect for the legislative branch. Look: The president has nominated you to be a Cabinet secretary. They have to consent to the nomination. Barring an unforeseen scandal. But first you have to *genuflect*.” He gets on his knees, grabs my hand, and kisses it. The others roar. “You let them know you respect their power and you’ll continue to do so for as long as you hold the office.”

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In 1999, Senate Majority Leader Trent Lott (R-Miss.) and Minority Leader Tom Daschle (D-S.D.) took a small step toward lifting the veil. They issued a letter requiring senators imposing holds to notify one of them in writing. However, there is still no requirement that the press and public be told who placed the hold and why.

As a result, the holds remain a mystery.

The Nomination Battles

It doesn't happen often, but a few recent confirmation battles have turned particularly ugly. The debate over President Reagan's 1987 nomination of Robert Bork to the U.S. Supreme Court, for example, escalated into a searing ideological and partisan struggle.

Bork was a conservative intellectual who had been confirmed twice without incident as solicitor general in the Justice Department and federal appeals court judge. But as soon as Reagan nominated him to the Supreme Court, Senate liberals depicted him as a right-wing ideologue and eventually voted down his nomination. The word "bork" is now a verb in slang dictionaries, meaning to attack mercilessly.

But even the most bruising confirmation fights don't necessarily leave permanent injuries. Bork went on to write two best-selling books about the law, liberalism and declining American values after losing his bid for a seat on the nation's highest court in 1987. He remains a widely quoted scholar at the American Enterprise Institute, calls his Senate ordeal "a character building experience" and says he is probably happier off the court than he would have been on it. Asked his advice for anyone considering a position that requires Senate confirmation, Bork replies, "It depends upon whether there's anything in their backgrounds that would prove embarrassing if it came out. Because it will come out if it's there. Beyond that, it depends on whether you can expect a nasty ideological battle. Sometimes that happens and sometimes it doesn't." Keep in mind, however, that the dynamics of judicial nominations are different than those of executive nominations.

Some controversial nominees make it through the Senate, but are vulnerable to an early precipitous departure from public office if they make a misstep or two on the job. James Watt, Reagan's controversial secretary of the Interior, had enemies on the left and among environmentalists who pounced on his mistakes. Clinton's controversial surgeon general, Joycelyn Elders, an outspoken liberal, was forced to resign after making a controversial remark about sex education and masturbation. It took Clinton three more years before he found another surgeon general nominee the Senate was willing to confirm.

Sometimes, however, nominees will win over the opposition. C. Everett Koop was vilified by liberals for his anti-abortion activities when Reagan nominated him to the surgeon general post in 1981. The stern, strong-minded Koop emerged as one of the nation's most respected surgeon generals for his efforts to educate the public about AIDS and for taking on the tobacco industry.

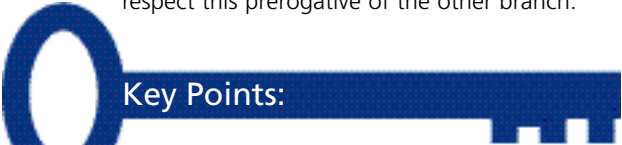
In other cases, nominees who win confirmation once face rougher sledding the second time around. John Holum was confirmed uneventfully in the first year of the Clinton administration to head the independent Arms Control and Disarmament Agency. But when that agency was folded into the State Department in a reorganization and Holum was nominated to a new post as under secretary of State for arms control and international security, he failed to win confirmation, a casualty of Senate differences with the White House over arms control and the weakened hand of a lame duck president. President Clinton gave Holum a recess appointment on Aug. 4, 2000.

Interviewed before his recess appointment, Holum expressed hope that the Senate and White House will do things differently in the future:

I hope both sides will learn this isn't any way to run a government and basically go back to approving executive appointments if a nominee is qualified and doesn't have any sordid aspects of past conduct. We need to turn down the heat on political differences. The president was elected with a certain set of beliefs. He deserves to have the people he wants

supporting his positions. If they are qualified in terms of technical background or substantive knowledge, and don't have disqualifying personal histories, then they should be confirmed. And that ought to be understood as the rule.

Many senators concur with this sentiment. Senator Daniel Patrick Moynihan, the retiring New York Democrat who served with distinction in both Democratic and Republican administrations, sounded the same theme on the Senate floor in July 1999. Arguing for the confirmation of Richard Holbrooke to a job Moynihan himself once held — ambassador to the United Nations — the senator reminded his colleagues, “It is one of the oldest traditions of this body that a president is entitled to and must have his own counselors. Be they right-minded or wrong-minded, they are the president’s judgment and they are his responsibility ... I plead with the Senate to respect this prerogative of the other branch.”



Key Points:

- The overwhelming majority of nominees make it through the Senate without any problems. However, it’s hard to predict which nominations will run into trouble, so you must be prepared for possible opposition.
- After your name is formally sent to the Senate, make sure you meet with every senator on the committee that is considering your nomination.
- Be polite and deferential in all your dealings with senators. Remember that you are speaking not just for yourself, but also for the administration.
- Fill out the committee’s forms honestly and completely. Senate questionnaires tend to differ somewhat from administration questionnaires, so you won’t be able to cut and paste your earlier answers.
- It’s normal to be nervous before your confirmation hearing. Most hearings, however, turn out to be painless events in which the senators, rather than the nominee, do most of the talking.

Korologos's Commandments

Perhaps no person has shepherded more people through the Senate confirmation process than Tom C. Korologos.

It's almost a hobby for Korologos, president of the Washington government relations firm of Timmons and Company Inc. and the former top Senate lobbyist for President Richard M. Nixon.

Those who have profited from attending the Tom Korologos cram school on how to be confirmed include Gerald R. Ford (en route to the vice presidency), Nelson Rockefeller (up to replace Ford), Henry Kissinger and Alexander Haig on their ways to becoming secretaries of State, and William Rehnquist and Antonin Scalia on their paths to becoming chief justice and associate justice, respectively, of the Supreme Court.

Korologos by his count has helped somewhere between 300 and 400 nominees win confirmation, including a score of Cabinet officers and more than 100 U.S. ambassadors. He does this pro bono. Here is some of that free advice:

1. Model yourself after a bridegroom at a wedding. Be on time, stay out of the way and keep your mouth shut.
2. Between the day of nomination and the day of confirmation, give no speeches, write no letters, make no public appearances. Senators do not like to read about grand plans of an unconfirmed nominee.
3. You may have been a brilliant success in the corporate world or some other field of endeavor, but the Senate expects you to be suitably humble and deferential, not cocky.
4. There is no subject on this Earth that the Senate is not free to probe. Be ready with polite and persuasive answers.
5. The purpose of the hearing is to get in and get out. Follow the 80-20 rule. If the senators are talking 80 percent of the time and you are talking 20, you are winning. If it's 60 for them and 40 for you, you've got a problem. If it's 50-50, you're losing and the confirmation is in trouble.
6. The Constitution stops at the hearing room door. There are no rules of evidence like in a trial. It's not going to be fair or fun. There will be hearsay questions, irrelevant questions and even some stupid questions. Be ready for all of them.

*“Complying with the
ethics laws
has really nothing to do
with ethics or morality
as one might learn it
in church.
It’s more like math.”*

5 Before and After You're Confirmed — Ethical and Legal Considerations

Once you are officially nominated, you must take steps before you go before the Senate for confirmation to resolve any potential or actual conflicts of interest that you will face from taking this particular position. If you are new to government, there is a great deal for you to learn about the Ethics in Government Act and the conflict-of-interest statutes that spell out what you can and cannot do while holding federal office, and for a spell afterward. These laws are both very particular and very broad. If you run afoul of them, even inadvertently, you will create headaches and embarrassment for yourself, your department and the president.

The laws in this area are blunt instruments that often seem incapable of distinguishing between mountains and molehills. Don't take them as an insult to your integrity. They were put on the books to protect taxpayers from being cheated by the people who work for them or by the companies that do business with the government. Indeed, the False Claims Act — still the centerpiece of the government's efforts to prevent fraud by contractors — was passed at President Abraham Lincoln's urging during the Civil War to deal with crooked suppliers who were fleecing the Union Army. But the Ethics in Government Act and the conflict-of-interest laws also exist to protect federal officials from pressures to favor special interests. They provide rules that serve as a guide to good conduct in government, and they seek to let you know in advance what situations to avoid.

These laws apply to every federal official, from the president and the Cabinet secretaries down the line to the clerical and support staff. Those who receive a presidential appointment while already serving in a

lower federal post will be familiar with the basic requirements. But those who come to government from private business, a university or the nonprofit sector must pay special heed to these new requirements, because most are not matters that you will know intuitively.

The U.S. Office of Government Ethics has published an overview of the rules of ethical conduct that all federal employees should know and follow. The April 2000 publication is called "A Brief Wrap on Ethics: An Ethics Pamphlet for Executive Branch Employees," and it's available online at www.usoge.gov/pubs/brfwrap.pdf. The rules may apply differently to government employees involved with procurement, senior officials or non-career political appointees. Those who fall within one of these categories should ask their agency ethics officials for information on the ethics rules that are specific to them. Some of the exemptions from the conflict-of-interest laws are covered in a March 1997 OGE pamphlet, "Conflicts of Interest and Government Employment," available at www.usoge.gov/pubs/conflict.pdf.

This chapter will first consider a special situation that you may be thrust into: working for your future department prior to Senate confirmation. This is an area where you need to tread with extreme caution for both legal and political reasons. If you are coming to Washington from outside the government's employ, it may be best to keep your old job until the Senate has confirmed you for the new one. This not only relieves you of financial pressures while awaiting confirmation, but it spares you from being put into the awkward position of supervising agency employees before you legally can start serving as their boss.

However, waiting to change jobs is not always possible or practical for nominees, and there can be advantages to learning the ropes in a department as a high-level consultant or adviser.

The second half of the chapter discusses steps you must take to avoid financial conflicts of interest. It looks at four prominent officials who encountered difficulties in recent years when they ran afoul of the ethics or conflict-of-interest laws, mostly from inadvertence or simple carelessness, not from venality.

Coming Aboard Before Senate Confirmation

Some nominees, especially in a new administration, will be asked or will volunteer to come to work in a consulting or acting capacity in the departments where they will later serve if confirmed by the Senate. Those coming from the private sector or academia may be brought in as paid consultants to learn the ropes and help prepare for their new responsibilities. A nominee already serving as the No. 2 official in that program may be thrust into the top spot in an acting capacity. (However, this latter scenario is an unusual occurrence. Allowing someone to serve in an acting capacity in the same position he or she will be nominated to amounts to waving a red flag at the Senate, forcing the nominee to defend not only a prior record but also actual decisions made while in an acting capacity.)

Either scenario is problematic for both political and legal reasons. The main political problem is that you may find yourself thrust in the middle of controversial policy debates with political implications, potentially giving the administration's opponents on the Hill ammunition to stop your nomination. Also, you risk alienating even friendly senators if you assume a high profile in the department, because senators take their constitutional advise-and-consent duties seriously and resent anyone who begins work before being confirmed.

The main legal problem is that you are barred from making decisions or even occupying the office where you will work while awaiting confirmation. The line

between acting as a consultant and taking over the duties of the actual job can become very thin indeed.

Financial considerations also may enter into this. If you have left your old job and moved to Washington, you may need to land a spot on the federal payroll as a consultant while you wait for your papers to move through the confirmation mill. Like it or not, once you have told your firm or company or university you are leaving, you're a lame duck and you may be asked to leave to make way for your successor or temporary replacement. If you are entirely new to government or to a particular Cabinet department or program, this can be a valuable time for you to immerse yourself in its affairs.

But again you must be very careful.

Controversial decisions

Consider the advice of Joel Klein. He was deputy counsel at the White House in the first Clinton term, then moved to the Justice Department as a deputy assistant attorney general in the antitrust division in 1995. When the assistant attorney general heading the division resigned, Klein became the acting head of the office. That position, always highly visible and often controversial, is not a job that an administration can comfortably leave vacant for months on end.

"Generally speaking, it was a mistake that had to be made under the circumstances," Klein says. "I would not recommend to anybody that you take a position as acting, because inevitably you have to make some tough decisions that are going to make people unhappy with you."

Klein warns that a nominee serving in an acting capacity always runs the danger of having to make controversial decisions that cannot be avoided but which can antagonize the lawmakers who will vote on confirmation. "There are a lot of senators, and any one or two of them can make problems for you," he says.

As it worked out, Klein was fortunate. He was eventually nominated to the job in his own right, and was confirmed without incident four months later. He

found the lawmakers “to be uniformly cordial, professional.” Some senators were “intensely interested in the subject matter,” and virtually all members of the Senate Judiciary Committee “got to know me personally,” Klein says.

Some officials make the case for coming aboard as quickly as possible, especially in a new administration or under a new Cabinet secretary where the top players are still learning how to deal with their responsibilities and with one another. William Apgar, who left Harvard University to become assistant secretary for housing and federal housing commissioner, says faculty colleagues who had served in Washington uniformly told him to stay in Cambridge until he was confirmed. “Fortunately, I rejected that advice,” says Apgar. He explains:

They said you shouldn't pick up your family and move until you've been confirmed. But that would have been a mistake. My sense is: just jump in the pond. It was six months into the second year of a second presidential term when I got the call. It was going to take six or eight months before I got confirmed. My success depended on whether I could work well with Andrew Cuomo [the new Housing and Urban Development secretary]. I literally didn't know him, and he didn't know me. The only way to figure out if I could work with him was to be here, so I came down, was an adviser, and all the things I'd heard about him turned out to be true: a really amazing fellow. And I'd have missed all that sitting up at Harvard waiting for the nomination process to take its course.

Todd Dickinson, under secretary of Commerce for intellectual property and director of patents and trademarks, left a law practice in Philadelphia to come to Commerce as a consultant and senior adviser while still being cleared for a presidential appointment as an assistant secretary. Serving in a political Senior Executive Service job, he says, “gave me the opportunity to learn the system from the inside and begin to work on some of the issues that were important to me and important to the patent commissioner at the time, who wanted to delegate them to me. But I didn't have any formal responsibility.”

During this period, Dickinson made no speeches or decisions, and he took pains not to stray over the line between adviser and official. “Resist the temptation to act like you were in that job at all costs,” he stresses. “There are eyes on you all the time. And while most people wish you well, there are those who may not, and you have to be extremely prudent how you operate in that kind of situation.”

Nevertheless, “it was a very valuable time,” he says. “I don't think it's universally done, and in more sensitive jobs it has a political ramification. But it allowed me, coming from the private sector, to get my feet wet. There's a lot to learn about the federal government that you don't really know — how it's organized, and how it's managed.” In fact, he later missed the time and freedom he had as a consultant and adviser to “go far and wide in the agency and meet people, talk to people and get input from them.”

Dangers of coming aboard

Others are more wary. “I do not advise acting in the job. It raises potential issues even if you're as careful as you can possibly be,” says Raymond Kammer, director of the National Institute of Standards and Technology at Commerce. He had twice been deputy director of the institute for a combined 15 years before being nominated to the top job. “Once a senator realizes that you are the acting director, they might put a hold on your nomination just to pressure you to take some desired action,” he explains.

Christopher Cross, former assistant secretary of Education in the Bush administration, also counsels job candidates and nominees to resist coming aboard early as consultants. “You end up being in a very compromised situation,” says Cross. “Inevitably you will get into conversations and even appear to be involved in policy decisions — which is illegal. Word will get back to the Hill that this is going on, and it will be used against you when you do finally get a hearing, if you get one. In every agency, there are people who are connected to various folks on the Hill who are looking for ammunition.”

Another skeptic of serving in an acting capacity or as a consultant is Mary Jo Bane, who quit her job as

New York social services commissioner to join the new Clinton administration to work on welfare reform. “Don’t go down there until you’re formally nominated,” she advises. “It’s a very difficult period.”

Bane showed up for work early in the Clinton administration as a consultant on welfare reform to the secretary of Health and Human Services, months before the White House nominated her to be an assistant secretary at the department. Welfare reform was one of the issues that Bill Clinton had campaigned on, and he quickly formed a task force to carry out his promise to “end welfare as we know it.”

“Officially I wasn’t supposed to be making any official decisions or official statements or anything of that sort,” says Bane, a professor at Harvard University’s Kennedy School of Government. “That was a little tricky, and I probably pushed the rules a little more than I should have by participating actively in the welfare reform task force.”

Daniel Patrick Moynihan of New York, then chairman of the Senate Finance Committee, held up Bane’s nomination for several months in a spat with the new administration over the direction of its welfare policies. But Bane eventually was confirmed.

Joshua Gotbaum had an especially difficult time. He was working as an investment banker with Lazard Frères & Co. in New York when President Clinton nominated him to a new post at the Pentagon: assistant secretary for economic security. “My personal situation was complicated,” Gotbaum recalls. “For a while I was able to remain as a partner of the firm, but I couldn’t take on new business. I dealt with other people’s business and worked for my existing clients. The firm really just carried me for a time as a public service.” He spent weeks at the Pentagon as an unpaid consultant learning the ropes, but “finally, both the firm and I said ‘enough is enough.’ I resigned as a partner and for four months I was unemployed.”

The Defense Department had promised the Senate Armed Services Committee that it would not put nominees on the payroll as paid consultants. After a

spell as an unpaid consultant, Gotbaum told the Clinton team at the Pentagon, “Sorry, guys, I come from a labor union background — no contract, no work.” Then, having moved his family down to Washington, he was a house father for a couple of months. Eventually, he was confirmed with no further ado. Gotbaum later was confirmed without fuss as an assistant secretary of the Treasury and, still later, as controller in the Office of Management and Budget, where he is also executive associate director.

‘Plausible deniability’

Another Washington veteran says some nominees would be well advised to pass up opportunities to work as paid consultants inside their intended departments. The former official says:

Forgive the term, but there’s an advantage to having some plausible deniability about knowing what’s going on in an agency. You don’t want to know too much and you don’t want to know too little. The more honest ignorance you have of the details, the better off you are when they are trying to pin you down at a hearing ... You have to walk a fine line between knowing enough to sound reasonable and be cogent in terms of your answers, and not knowing [so much] that you get trapped.

Jacques Gansler needed no introduction to the Pentagon when the Clinton administration sought him out in 1997 to be under secretary of Defense for acquisition and technology. A scholar and defense industry expert on technology, he was vice chairman of the Defense Science Board at the time as well as executive vice president of an information technology company, TASC, Inc. Gansler anticipated smooth sailing and was eager to join the team of the new secretary of Defense, William Cohen. Instead, it took seven months for the White House to clear his nomination and two more months for the Senate to confirm him. During this period some senators held up all Defense Department nominees in a dispute over President Clinton’s plan to close some depots.

As vice chairman of the Defense Science Board, an advisory panel, Gansler says, “I was kind of lucky. I had, if you will, a cover for being able to get myself

fully briefed and up to speed.” But he took pains to avoid taking on the under secretary’s duties prematurely — and got pointed reminders from Capitol Hill that taking on the responsibilities of the office would not be a smart move. “They kept calling from the Senate saying they’d heard I was sitting around in the Pentagon,” Gansler recalls. “I was told they wanted to make sure I wasn’t making any decisions and [told] that I shouldn’t appear at meetings. I was getting conscious warnings from the Senate, even after my confirmation hearing and while I was a hostage, not to do anything that would make it appear as though I was presuming confirmation.”

Gansler says his employer “was nice enough to let me stay in the job during that period or I would have had no income. I know people who have quit and come to work without any income.”

His advice: “Don’t give up your [old] job if you have one during this time.”

Cabinet pressures

After 16 years on Capitol Hill as a legislative aide, William Reinsch signed on with the Clinton administration in late 1993 as under secretary of Commerce for export administration. He arrived “as a sort of temporary” while Commerce Secretary Ron Brown pressured the White House to nominate Reinsch for the job.

This is a typical situation in every administration, and one that you could face. White House officials and Cabinet secretaries engage in a tug-of-war over who will fill the second tier of positions. Former Bush personnel director Chase Untermeyer was only half joking when he said at a May 2000 Heritage Foundation symposium on staffing a new administration that the Cabinet officer is “the natural enemy of the [White House] Personnel Office ... Cabinet officers are very politically sophisticated and often have held important positions as governors or panjandrums on Capitol Hill. They have coterie and teams of their own who they very much want to see with them in those departments and agencies.”

President Carter allowed his Cabinet to select their own under secretaries and assistant secretaries in

1977, and he lived to regret it. Thirty months into his term, he fired several formidable non-team players in his Cabinet. Ronald Reagan profited from Carter’s example. Pendleton James, Reagan’s personnel director, said that the Reagan Cabinet choices were called in one by one in late 1980 and told by the president-elect himself, “We are going to control the appointments here at the White House ... Now we want your input on who you want for your deputy, assistant secretary and such, because it’s your team and you have a part, but we are going to control it here at the Oval Office, and do you agree with us?” They all assented, of course, as James noted at the May 2000 Heritage Foundation symposium.

No matter how loyal the Cabinet secretary, some friction with the White House talent scouts is inevitable, especially as more time passes after the fraternal rush of the election victory and inauguration. For six months, Reinsch found himself in the middle of a battle of wills between the Clinton White House and the Commerce Department.

Once the White House gave in and forwarded his nomination to the Senate, Reinsch’s job description changed from consultant to under secretary-designate. But he didn’t occupy the under secretary’s office or make any attempt to discharge those duties. “That was regarded as presumptuous” before confirmation, he recalls. A career deputy filled in as the under secretary.

Reinsch thought it was strange at the time, but looking back, he understands why the Commerce career people emphatically told him not to move into the under secretary’s office. He explains:

You can’t sign anything. You don’t want to be in the press. You don’t want to be doing anything in public. You don’t want to be representing the bureau. You need to be very sensitive to this. There are people up there in the other party — whichever party it is — who watch for missteps. I got a phone call from somebody, who actually thought he was being a friend, who told me he had heard I was briefing people. “You haven’t been confirmed,” he said. “Are you sure you want to be briefing people?”

The Ethical and Legal Minefields

Ethical issues, of course, are hardly limited to people who work in an acting or unofficial capacity. All nominees and confirmed officials need to be cognizant of potential conflicts of interest, especially in financial matters.

In theory, anyone should be able, without help, to complete the financial disclosure forms that nominees and top managers in government must fill out. If your job history is uncomplicated and your financial holdings modest, you may actually be able to do this at your kitchen table. And if you do your own taxes, you may well try.

But take fair warning: You have to provide a complete picture of your financial holdings, and you must be diligent about following through on the steps that may be required to avoid real or potential conflicts of interest. Otherwise, you risk delaying or even jeopardizing your confirmation. Once you're on the job, you could find yourself under a criminal investigation if you failed to get rid of stocks you promised to divest. Exactly which nominees need expert help with these matters? The answer is: many of them. Certainly, if you are among the Nicholas Bradys, Arthur Levitts or Robert Rubins of the world (Wall Street executives who became, respectively, secretary of the Treasury under President Bush, chairman of the Security and Exchange Commission under Clinton and secretary of the Treasury under Clinton) there is no doubt that you will need paid professional legal and accounting advice to sort out your finances and avoid any conflicts.

If you are a few rungs down the financial ladder, you may be tempted to do it all yourself. But please take note: Most of the officials we spoke with for this *Guide* agreed that the money they spent on outside help was well worth the cost. Klein says that anyone stepping into the antitrust chief's job at Justice will "absolutely need legal [help] and probably additional assistance. My own view is nobody can do this job without either having your money truly in a blind trust or in mutual funds. You need professional help to get all that ready and clarified."

Dan Tate Jr., a vice president with Cassidy & Associates who worked with nominees going through Senate confirmation as a special assistant to President Clinton for legislative affairs from 1995 to 1997, recalls, "We had some people who could go through without any professional help because, believe it or not, they filled out Form 278 and had no assets and no liabilities. We went back and said that can't be possible. In some cases, it was true — but that's unusual. Ninety-nine percent of the time it's good advice to have some professional help."

Keep in mind that, if confirmed, you will need to update your SF 278 every year. Consider hiring an accountant who can help you with this throughout your service in government, advises American University's Walter Broadnax, the former deputy secretary of Health and Human Services. "I used the same firm all the way through, because it's good each year to have somebody who knows these things," he says. "There are all kinds of people out there who, as soon as these forms are released each year, pick them up and put them through their own scrub."

He was referring to the news media and watchdog groups that customarily go over officials' financial disclosure forms with a fine-tooth comb. Members of Congress know well that the media — not to mention political opponents — are going to scour their forms looking for inconsistencies or unusual financial activities from one year to the next. So it's surprising that even some prominent lawmakers have had to confess to making mistakes and filing amended disclosure forms. It is worth being careful, even if you have to pay for outside advice.

Complying with the ethics laws "has really nothing to do with ethics or morality as one might learn it in church. It's more like math," says A.B. Culvahouse, White House counsel during the final two years of the Reagan administration, who has advised several prominent officials with complicated financial holdings. As experienced as Culvahouse is, he cannot always tell for certain what the federal ethics officials will deem as troublesome. He has had clients with assets he thought might prove problematic, but "no

one raised an eyebrow.” At other times, situations that Culvahouse thought were innocuous or inconsequential were singled out as unacceptable by the ethics monitors. “If you have a family business that you’ve inherited, or that you and your siblings own, and it is not easily disposed of, or if you have a spouse with a career of his or her own, those can become pretty problematic,” he warns.

Richard McGahey, a former assistant secretary of Labor in the Clinton administration, says nominees should not be shy about calling their future department’s lawyers for personal advice about the ethics laws. If a problem comes up, “call your counsel’s office and get them to rule on it, and do that a lot,” he says.

“The people at the Labor Department were very good about answering questions,” adds McGahey, a former executive director of the Joint Economic Committee of Congress. “It wasn’t that the statutes and the rules were clear — they’re not; they’re a mess like the confirmation process is a mess. But there are good people who will answer questions for you.”

A lawyer and former federal official offers this advice:

The primary way you can prevent getting into trouble with [conflicts of interest] is to be sure you keep on top of what your assets actually are. It’s very easy to get engaged and preoccupied with your work and your public responsibility and forget there’s a portfolio sitting someplace that has your name or your wife’s name on it. If you ever do anything in government that somebody else can say will benefit you, there is no one who will believe that you weren’t thinking about it at the time you made your decision.

A puritanical village

Washington, for all its cosmopolitan airs, at times can seem like an unforgiving, puritanical village. There are no public stocks or pillories, but the residents here know how to inflict their wounds with words. Consider Bill Richardson — the former congressman and United Nations ambassador turned secretary of Energy — who within a month went from being on everyone’s short list of Democratic vice presidential

candidates to being pilloried by senators and editorial writers for continued security lapses at a nuclear lab. Sen. Robert Byrd (D-WV) told him point blank that he would never again be confirmed by the Senate to an appointive position.

Richardson’s problems were political and managerial, not ethical. But the beleaguered secretary’s experience underscores this lesson: It’s a tough town and a tough business. The last thing you want to do here is complicate your life by coming under an ethical cloud — especially one that you seeded yourself.

Webb Hubbell brought his own cloud from Little Rock, Ark., where he had been cheating law partners and clients on expenses to cover personal credit card bills. He accompanied Bill Clinton to Washington and became associate attorney general before his past caught up with him and he went to prison. In a 1997 memoir, *Friends in High Places*, Hubbell wrote:

I hadn’t told anyone about it, and that was my mistake. At that moment, I committed the ultimate act of disloyalty to my friends — especially Bill, Hillary and Vince [Foster]. I knew that what I had done at the firm was wrong. I knew it at the time I was doing it, and I knew it as I sat before the Senate Judiciary Committee answering questions about my past. By being there I was compounding the wrong, and I knew that, too ... But I couldn’t bring myself to face the consequences of my wrongdoing. I still thought I could escape.

Hubbell was tripped up by hubris. He might never have caught the independent prosecutor’s eye had he not been a close friend and associate of the president. But he brought on his own downfall.

The vast majority of presidential appointees need not worry about sharing Hubbell’s fate. But if you are new to government, you must remember that the rules here are stricter, from not making personal long distance phone calls to not copying your child’s science project on the office’s color printer.

“You have to realize that this is going to be almost like your period of monkhood devotion,” says Eugene

A. Ludwig, former comptroller of the currency. “And if you’re not really prepared to put that intensity into it, you really won’t fulfill your job.”

The second edition of *The Presidential Appointee’s Handbook*, published by the National Academy of Public Administration in 1988, offers sage advice on the importance of avoiding not just conflicts of interest, but even the appearance of a conflict:

Relatively few presidential appointees have engaged in activities that involve conflicts of interest. Those who did have earned spectacular headlines, but those headlines mask the much more common reality of strict adherence to conflict-of-interest laws ... The best insurance for presidential appointees anxious to avoid conflict-of-interest controversies is to be aware that the appearance of conflict of interest is as important as the reality, to take the time to become familiar with the relevant conflict-of-interest regulations, to complete the financial disclosure forms carefully and comprehensively, and to consult whenever in doubt with appropriate government ethics officials.

To illustrate the dangers, let’s look at the difficulties that former Postmaster General Marvin Runyon and three Clinton appointees — national security advisers Anthony Lake and Samuel R. Berger and Ambassador to the United Nations Richard Holbrooke — had with the conflict of interest statute.

Runyon: Things didn’t go better with Coca-Cola

Marvin Runyon did something that many said couldn’t be done as postmaster general of the United States. The former auto executive took the U.S. Postal Service, a perennial money-loser, and turned a profit of almost \$5 billion in his final three years. But Runyon’s tenure in government service was marred by an embarrassment over some Coca-Cola Co. stock that he owned and failed to get rid of — even when he took part in discussions to put Coke machines in the lobbies of thousands of post offices.

Earlier, as the cost-cutting chairman of the Tennessee Valley Authority, Runyon had put his assets, including some Coca-Cola stock, in a blind trust in 1989. The

stock stayed there when he became the 70th postmaster general in 1992. Two years later, Postal Service marketing personnel began exploring a possible strategic alliance with Coke as a way of boosting postal revenues. (Pepsi Cola was also interested.) Runyon’s blind trust expired in 1994, and in his 1995 financial disclosure statement he listed among his assets \$50,000 to \$100,000 of Coca-Cola stock — a small share of his personal wealth. The following year, he took part in a half-dozen meetings where the Coke-machines-in-the-lobby idea was discussed.

According to the U.S. Office of Government Ethics, Runyon did not recuse himself and sell the stock until after a postal service attorney told him that his participation in the talks was improper.

In January 1997, *The Washington Post* reported that a federal grand jury was investigating whether Runyon’s actions violated the conflict-of-interest statutes. Nine months later, the Justice Department’s Public Integrity Section and Runyon reached a civil settlement. Runyon admitted no wrongdoing but agreed to make a voluntary \$27,550 payment. According to the Department of Justice, the money represented “the increase in the value of Runyon’s Coca-Cola stock between a time when he should have recognized the conflict (i.e., when he signed his 1995 financial disclosure report) and the time he actually disqualified himself from involvement in the alliance.”

Runyon later defended his ethics before the House Government Reform Subcommittee on the Postal Service, saying, “I didn’t come here to make money...This is really a traumatic thing [for] me. It is something that I would never have expected.” The subcommittee chairman and other lawmakers offered Runyon their sympathy and had nothing but good things to say about Runyon when he subsequently retired. And the Postal Service deal to put Coke machines in the lobby? That went down the drain.

Lake and Berger: Failing to act on good advice

Anthony Lake can hardly be described as a Washington novice. As special assistant to Henry Kissinger, President Nixon’s national security adviser,

he had made headlines when he quit to protest the invasion of Cambodia in 1970. He bounced back as a top aide to the secretary of State in the Carter administration and in 1993 returned to the White House as President Clinton's national security adviser. But when Clinton nominated him at the end of 1996 as director of central intelligence, Lake was dogged by controversy not only over foreign policy misadventures in the president's first term but also by a far more mundane matter: a Department of Justice probe into whether he broke the law by failing to sell four energy stocks when White House lawyers told him to do so back in 1993. Energy stocks are considered a possible conflict for a national security adviser because many security issues could affect the price of oil.

In February 1997, with Republican senators' dragging their heels over his confirmation, Lake agreed to pay the government \$5,000 and acknowledged that he should have sold the stocks sooner. The Justice Department said there was no evidence that Lake ever tried to conceal or misrepresent his or his wife's financial holdings. White House Press Secretary Mike McCurry said that \$5,000 was "the minimum amount that the Justice Department has accepted in the past in settling cases like this." He added that a lot of other folks in Washington would be hit with a similar penalty if subjected to "the kind of scrutiny that a nomination for this type of office goes through."

Five weeks later, with the Senate Select Committee on Intelligence still investigating his background, Lake withdrew his name for the CIA job. He said the protracted nomination fight was hurting both the spy agency and the National Security Council. His nomination, Lake told President Clinton in his letter of withdrawal, had become "a political football in a game with constantly moving goal posts." He added: "If this were a game, I would persist until we won...But this is not a game. And this process is not primarily about me...the longer this goes on, the worse the damage."

In November 1997, Samuel Berger, Lake's former deputy and his successor as national security adviser, got a slap on the wrist for his own failure to heed White House lawyers' advice about getting rid of oil

stocks that posed a potential conflict of interest. The circumstances were almost identical to the problem that vexed Lake during his nomination battle.

As deputy national security adviser, Berger had been advised by White House lawyers and National Security Council attorneys in 1994 that he had to divest 1,300 shares of Amoco stock held in trusts for his wife and three children. He assured them he would and then, by his account, simply forgot about it. When the White House counsel discovered the following year that the Amoco stock was still in Berger's portfolio, he did what he felt was the only course open to him: He referred the case to the Public Integrity Section of the Criminal Division at Justice to see whether Berger had violated conflict-of-interest rules.

Berger settled the civil case in November 1997 by paying the government \$23,043 — representing the increase in the Amoco stock price and dividends in the intervening 15 months. "I should have sold the stock in 1994 when I was first told to do so," Berger said in a statement. "I forgot to do this until I was reminded in June 1995. This was a mistake."

The settlement attracted little attention in the press. The United States was involved in a standoff with Baghdad over nuclear arms inspectors in Iraq, and mention of the Berger episode disappeared from the newspapers and talk shows.

Holbrooke: A circuitous route to the U.N .

Perhaps no one in the Clinton administration endured a longer or more difficult confirmation than Richard Holbrooke, the envoy who helped bring warring factions in Bosnia to the bargaining table. Easily confirmed in Clinton's first term as ambassador to Germany and then as an assistant secretary of State, Holbrooke resumed a career as an investment banker after brokering the Dayton peace accords. He also continued occasional work as an unpaid special emissary to the Balkans and Cyprus.

But when Clinton sought to bring back Holbrooke as ambassador to the United Nations in mid-1998, the nomination quickly ran into an unusual obstacle. The State Department's inspector general received an

anonymous letter alleging that Holbrooke had violated the conflict-of-interest statutes before and after he last left the federal payroll. According to an account later released by the State Department's inspector general, the first accusation charged that while serving as assistant secretary for European and Canadian affairs, Holbrooke intervened with the U.S. ambassador to Hungary to help win a large consulting contract for Credit Suisse First Boston, the investment banking firm he later joined in New York. The tipster further alleged that during his one-year, post-government "cooling off" period, Holbrooke asked U.S. ambassadors to arrange meetings for him with foreign leaders on Credit Suisse's behalf.

The inspector general found that, although Holbrooke had intervened with the ambassador in Budapest on behalf of the investment firm, he had done so two months before talking with Credit Suisse about possible employment. The two events were not related, and therefore Holbrooke had not violated any rules. Regarding the second allegation, the inspector general report found that Holbrooke, during his one-year cooling off period, made trips for Credit Suisse to three countries where "he requested U.S. ambassadors take some kind of official action" to help arrange meetings for him with foreign leaders. Credit Suisse also reimbursed Holbrooke for hundreds of dollars in meals he bought for senior Department of State officials on six occasions. But all the participants said no bank business was discussed and Holbrooke had not asked them to do anything on the bank's behalf. He did ask the U.S. ambassador to South Korea to arrange a meeting for him with South Korea's president, but it never took place. Holbrooke was also serving as an unpaid special envoy dealing with Bosnia and Cyprus, so he had an ongoing relationship with the State Department and official reasons to meet with foreign leaders. The Department of Justice acknowledged that there was no willful violation and that it may have been in the U.S. national interest for Holbrooke to meet with top Korean officials. Still, while not acknowledging any wrongdoing, Holbrooke agreed in February 1999 to pay \$5,000 in a civil settlement ending the investigation of whether he violated his one-year cooling off period.

A second State Department investigation explored allegations that Holbrooke, while serving as assistant secretary of State, had lived rent-free for 17 months in the Georgetown townhouse of the U.S. ambassador to Switzerland but failed to report this in his financial disclosure report. Holbrooke, noting that his accountant prepared his financial disclosure reports, said he was unaware that he should have included the imputed value of the free lodging. He amended his 1995 and 1996 financial disclosure forms to include the value of the lodging. State turned the matter over to the Justice Department's Public Integrity Section, where prosecutors decided no criminal prosecution was warranted.

These probes delayed submission of Holbrooke's nomination to the Senate for eight months. Senate Foreign Relations Chairman Jesse Helms (R-N.C.) had his own investigators dig into Holbrooke's background.

Helms finally convened a confirmation hearing on June 17, 1999, almost a year to the day after Clinton announced his choice of Holbrooke. Helms opened the hearing with harsh words for the nominee:

U.S. ethics in government laws are based on a simple premise, that government service must not be a means to advance private interests. ... I can understand that some of these laws may be difficult to interpret for the average government employee, but Mr. Holbrooke [can] scarcely be regarded as an average government employee. He had the entire Credit Suisse legal team at his disposal, not to mention the counsel of the State Department's Legal Advisor's Office to help him walk whatever ethical minefields may have existed, if any. But time and time again, the evidence shows Mr. Holbrooke either chose not to seek ethics advice or to ignore it when it was given.

The ranking Democrat on the Foreign Relations Committee, Joseph Biden of Delaware, said, "I do not dismiss the ethics charges lightly ... The laws were written for a good reason. But I do not believe for one minute that Richard Holbrooke is an unethical person." Holbrooke addressed the ethics issues head-on at the close of his own opening statement, acknowledging that it was his own fault, not the

Foreign Relation Committee's, that it had taken so long for him to come before the Senate for confirmation. He went on:

I knew the law and I was careful to follow it, but I think I did not realize how complicated it would be to avoid misperceptions in some areas at some times because of the two roles which were different [unpaid government adviser and Credit Suisse investment banker]. With regret, I must say that carelessness on occasion on my part contributed to these misperceptions. I recognize further that my record-keeping and bookkeeping were inadequate at times. ... Finally, I wish to assure [you] that I will pay even closer attention to these matters going forward in the future.... I appear before you today with gratitude for your patience and your understanding and the fairness [with] which you [have] treated me, and a continued belief that there's no higher calling for an American than public service.

To which Helms replied, "Thank you for your statement, and I believe we're getting somewhere, Mr. Holbrooke."

The committee held two further days of hearings to discuss foreign policy issues, then cleared Holbrooke's nomination for floor action. Other senators with unrelated policy disputes with the Clinton administration briefly held it up. Finally, on Aug. 5, 1999, the Senate voted 81 to 16 to confirm Holbrooke as U.S. ambassador to the United Nations. Among those still opposed was Majority Leader Trent Lott of Mississippi, who cited Holbrooke's "apparent ethical lapses." Holbrooke could take some solace in a *Washington Post* editorial that bewailed both the "empty ethics charges" and Senate holds that had delayed the confirmation. Yet, even if the ethics charges had been completely groundless, one of the lessons of this episode is that it was the nominee's own "carelessness" that brought on this long delay.

Runyon, Lake, Berger, and Holbrooke each endured the discomfort and expense of prolonged probes into whether they behaved properly and complied with the federal rules and procedures designed to avert conflicts of interest. They incurred large legal bills and

paid a price in several ways for their oversights. For Lake and Berger, in particular, the incidents were all the more inexplicable because they got straightforward advice from lawyers inside the White House about what they should do — and then simply failed to do it.

Key Points:

- Carefully weigh the benefits and potential pitfalls before deciding whether to join the administration in an unofficial capacity. You may learn about your prospective department, but you could get caught in policy disputes and undermine your support in the Senate. Find out if there are other ways for you to learn the ropes without going on the payroll.
- If you sign on in an acting capacity or as a consultant, stay away from engaging in official actions before the Senate confirms you. Such actions would be illegal.
- Even if a Cabinet secretary personally recruits you for a position in his or her department, remember it is the president and officials at the White House who will decide whether to offer you the job.
- As a nominee and throughout your career in government, be careful to fill out financial disclosure forms completely and honestly.
- Take care to avoid going into office still holding any stock that could pose a conflict of interest. Typically, federal ethics officials will give you 90 days from when you take office to carry out the divestiture.
- Take advantage, if you can, of the certificates of divestiture that are issued by the U.S. Office of Government Ethics, which allow nominees and office-holders to sell such stocks, invest the proceeds into diversified mutual funds and delay paying any capital gains tax that is due.
- If the lawyers in your agency advise you to dispose of a financial asset, take their advice — promptly. Otherwise, you run the risk of forgetting about it and triggering a criminal investigation.

*“The first rule
of survival in Washington
is never do or
say anything that you don’t
want to read about
on the front page of
The Washington Post.”*

6 Dealing with the Media

If you've always hankered for closer attention from the news media, you've come to the right town. Washington is crawling with reporters — nearly 5,000 are accredited by the House and Senate press and broadcast galleries — and hardly a nook or cranny of the government goes unexplored by some branch of the media, from the national newspapers and networks to pricey newsletters and trade publications that are the bibles of their industries. Washington is a fish bowl, and if you want to make a name for yourself, this is the place to do it.

But it may not be quite the name you had in mind. The Washington media are known more for the reputations they tear down than the ones they build up.

Many prospective nominees have dealt with reporters before in state houses, the business world, the military or on Capitol Hill itself, where legions of assistants make a living trying to figure out how to get or keep their bosses in the spotlight. But now you're in a different situation. Be forewarned: No matter how much or how little you dealt with the media before coming to Washington, it's usually a surprise when you stand in the batter's box here for the first time to discover how fast they throw and how much those sliders break.

For that reason, keep in mind three basic pieces of advice. First, be very careful what you say to reporters while yours is just one of several names the White House is considering. Second, don't say anything at all to the press, on the record or off, while the Senate is considering your nomination. And third, never lie to the media — it will come back to haunt you.

In this chapter, we'll look at the role that journalists play in the nation's capital and its political process. Then we'll get practical advice from those who have gone through the nomination and confirmation process, as well as from those in the media who have watched and covered hundreds of important nominations.

The Capital of the News World

The capital of the country is also the capital of the news world. New York can still lay claim to being the headquarters of the three original television networks, two news magazines, the major news service and two of the nation's finest newspapers (*The New York Times* and *The Wall Street Journal*), but the news organizations' Washington bureaus are the crown jewels of their news operations.

Two nationally recognized papers, *The Washington Post* and *USA Today*, are produced inside the Beltway. CNN's home may be in Atlanta, but much of its hard news originates from its bureau next to Washington's Union Station. National Public Radio has its studios and nerve center here, and the Public Broadcasting System is across the river in Alexandria, Va.

Reporters who ply their craft in Washington may be no more talented than their colleagues in state capitals and other major cities, but they have a singular advantage: More news happens here than in any other single city on the planet and the local scribes get to cover it. They get to see the world with the president from Air Force One and trudge through the snows of New Hampshire with the candidates. When they hold a banquet to salute (or laugh at) them-

selves, the guest of honor is not the mayor or the governor, but the president of the United States. Love them or loathe them, they are the public's eyes and ears. Your deeds and reputation in office will pass through the media's filters before they become known to the public at large.

As frustrating as the media can be, Washington insiders keep close tabs on the news. Many officials read several major newspapers religiously, making sure to check the Federal Page in *The Washington Post* and the Inside the Beltway column in *The Washington Times*, among other regular features. If you want to prepare for a rigorous questioning, watch journalists pepper a White House official on one of the week-end talk shows.

The latest scandals

In recent years, the line between the tabloids and the mainstream press has blurred as news organizations rush to mine the latest political sex scandals, from John F. Kennedy's Hollywood conquests to Gary Hart's escapades on a yacht to Bill Clinton's trysts with an eager intern. What once was fodder only for the *Drudge Report* is front-page news in the broadsheets — especially since Matt Drudge's most sensational morsels proved largely on target. The airwaves and Internet are saturated with news, but readership and viewership are flagging. Reporters can live without respect — they almost relish being regarded as a royal pain — but losing credibility *and* audience pains them deeply.

Reporters take themselves seriously — too seriously for some of their subjects' taste. The quicker a newspaper or news broadcast is to expose a public servant's failings and foibles, the thinner its own hide. Newspapers have gotten better in recent years about publishing corrections, but they are still quicker to confess error about dates or the spelling of names or identities in a picture than to own up to getting the whole thing wrong or lopsided. Reporters and editors also pride themselves on breaking news, even if their scoop remains exclusive only for hours or even minutes. A newspaper may devote 10 inches of space to an appointment if it is given the details exclusively, or pries them loose, one day in advance. Announce the

appointment at the same time for all the media to see, and it may not rate so much as a paragraph.

Many public officials today would subscribe to the sentiments that a character in a Tom Stoppard play expressed: "I'm with you on the free press. It's the newspapers I can't stand." Reporters respond with their highest authority on these matters: Thomas Jefferson. The author of the Declaration of Independence observed in a 1787 letter:

The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter. But I should mean that every man should receive those papers and be capable of reading them.

The papers of Jefferson's day boiled with shamelessly partisan rhetoric, barb and propaganda and were hardly deserving "of such high praise as agencies of public enlightenment," as Jefferson biographer Dumas Malone put it. But Jefferson's point stands: The press has an important role to play in a democracy. And when news erupts, those obstreperous reporters camped outside your office and sometimes on your lawn won't let you forget it.

Although the press plays a critical role in our democracy, even some reporters admit misgivings about their techniques. Janet Malcolm, the author and contributor to *The New Yorker*, offered this ominous warning to the unwary in her 1990 book, *The Journalist and the Murderer*: "Every journalist who is not too stupid or full of himself to notice what is going on knows that what he does is morally indefensible. He is a kind of confidence man, preying on people's vanity, ignorance or loneliness, gaining their trust and betraying them without remorse." That may be a gross exaggeration, but it has a kernel of truth. Journalists do want to gain your confidence and it's not because they want to be your friends.

"Reporters are professionals whose loyalty is to their media outlets or their profession, not to you," says

Wayne Pines, former spokesman for the Food and Drug Administration and now a public relations counselor with APCO Associates. “Knowing them personally means you may get the benefit of the doubt in a difficult situation, and you may also get to go on background and influence a story anonymously — but only after you have established a trusting relationship. In Washington, never lie to the media, don’t mislead them, don’t get angry with them and don’t underestimate their influence. They will influence what most of the world, including your own employees, think of you.”

Get it first — and right

From the journalists’ perspective, there is one cardinal rule: Get it first, but first get it right. Early in the Clinton administration, Tim Russert of NBC’s “Meet the Press” jumped on the air in advance of a presidential news conference to announce the name of the president’s new puppy. Unfortunately, his sources had led him astray and he got it wrong.

Why risk being wrong on the name of a dog, much less the name of a nominee? Journalists generally won’t take that risk unless they are certain of the story. They always want to show up the competition. Keep in mind that, even if the new administration is trying to keep the names of potential nominees under wraps, reporters by nature are extremely competitive and very clever. When Thurgood Marshall retired from the Supreme Court, reporters quickly found out who was on George Bush’s short list. The White House managed to spirit Clarence Thomas up to Walker’s Point, the president’s summer compound in Kennebunkport, Maine, for the July 1, 1991, announcement without anyone’s spotting the future justice or breaking the news of his selection. But Associated Press reporter Rita Beamish found out ahead of time who it wasn’t. She called the other candidates at home — where they were sitting by the phone awaiting a call from the White House — and correctly deduced that “those who were still home with no flight plans were not the chosen ones.” Barbara Bush, in her memoir, tipped her hat to Beamish for this “great ingenuity.”

Reporters have a knack for unearthing conflict, even within organizations that are paragons of harmony. The many things on which you and a Cabinet secretary or the president see eye-to-eye may be of little or no interest, but where you disagree is news. Reporters will mine the new administration for evidence of disputes between a president and the Cabinet, between the Cabinet and the Office of Management and Budget and, naturally, between the administration and Congress. Sources in Congress — generally the most accessible and open-mouthed branch of the government — often are eager to help reporters root around. Interest groups with ties deep into the bureaucracy will throw logs onto the fire as well.

Puncturing a new enterprise

When reporters are covering a new enterprise, including the start of an administration, they are like small children playing with balloons at a birthday party. It’s great fun to fill them up with air, but even greater fun to puncture them. If you are new to Washington and public life, expect such treatment. Reporters will write introductory accounts that extol your talents and recite your exploits in ways so flattering that no one save your mother could possibly believe them. And later, if something goes wrong on your watch, you quickly may find yourself the almost unrecognizable villain of a piece written by the same hand that produced your hagiography. Lani Guinier, President Clinton’s unsuccessful nominee for civil rights enforcer in 1993, lamented afterward to National Public Radio, “Even my own mother couldn’t recognize me in the press coverage that I received.”

The media are avid for news. Whether by friendly takeover (as when George Bush succeeded Ronald Reagan in 1989) or a hostile one (as when Bill Clinton ousted Bush in 1993), a change of administrations affords an ample supply of headlines for news-hungry reporters and editors. Newspapers will run stories by the score on who will get what post, devoting yards of space to programs and positions that won’t rate a mention in the years that follow. The political masterminds of the victorious campaign, flush with success, will keep the press corps spinning with announcements and trial balloons, even as the new president’s team works frantically behind closed doors to get at

least some of its act together by noon on Jan. 20. They will trade in names — perhaps your name among them — because journalists are hungry for scoops, and these are “secrets” that cost little to give away. Sometimes that is all you will actually get: your name mentioned on the insiders’ short list, a consolation prize if you are denied the actual nomination. The erstwhile campaigners may also run your name up the pole to see who salutes — or shoots.

Unless an administration comes in on the run — as Ronald Reagan and his team did in 1981 — the press soon will turn its attention to the disarray and vacancies throughout the government, as was conspicuously the case in 1993 for Bill Clinton and the gang from the war room in Little Rock. As political scientist James Pfiffner of George Mason University recounted in a 1996 update to his book, *The Strategic Presidency*, it took Clinton 8.5 months on average to get his executive branch appointees confirmed after the inauguration. That was six months longer than Kennedy, and probably “the slowest in history,” Pfiffner found. It was easy pickings for a press corps always eager to unearth early signs of confusion.

When in Doubt, Don’t Talk

You won’t be surprised to hear that savvy confirmation hands such as lobbyist and former Nixon White House official Tom Korologos, former presidential appointees and those who work on Capitol Hill all agree: be very circumspect in talking with reporters before your nomination and even more so before your confirmation. But it might surprise you to hear prominent reporters echo the same advice.

Broadcast journalist Brit Hume, who has watched administrations come and go for three decades, minces no words: “If they haven’t been named, and they haven’t been picked, and they haven’t been talked to, they really have no reason to talk to the press. When in doubt, don’t talk to the press.”

Still, “you want to be pleasant to reporters, polite to them,” says Hume, managing editor and chief Washington correspondent for Fox News and a former ABC White House correspondent. He adds:

Treat them as if you know they’ve got a job to do, that you understand and you sympathize, and if you can’t comment, just say, “Look, I know you’ve got work to do, and I’m sorry. I can’t comment about this stuff at this time. I apologize. I just can’t.” And then don’t.

The right to remain silent

Freedom of the press is a cherished right under the First Amendment. While there is no concomitant freedom *from* the press in the Constitution, you do have a right to remain silent or, better yet, to refrain politely from answering reporters’ questions. But many people fail to exercise that right. They often let their egos override their common sense. It is, as Samuel Johnson said of second marriages, the triumph of hope over experience. People beguile themselves into believing that for once a news report is going to spotlight their innocence, brilliance or cleverness instead of reminding us how adroit a questioner the reporter is.

Don’t make the mistake of thinking that you can enhance your chances of being appointed by talking openly and frankly with the press. As Hume observes, “the chances of your saying just the right thing and having it come out sounding just the right way are sufficiently remote that it’s not worth risking.”

Another White House press corps veteran, Gene Gibbons, says, “My two rules of life for people who find themselves in the media spotlight are: never lie, and don’t be afraid to tell the media to take a hike.” Gibbons, former White House correspondent for Reuters and now the managing editor of *Stateline.org*, the Web site for state house reporters, says, “The first rule of survival in Washington is never do or say anything that you don’t want to read about on the front page of *The Washington Post*.” He believes that a candidate who has been asked by the White House not to discuss an overture has only two choices in handling questions from the media: “Either say ‘no comment’ or screen your calls.”

Diana Huffman, who observed the nominations process from the very different perspectives of managing editor of the *National Journal* and staff director

of the Senate Judiciary Committee, says, “You’re ahead in the game if the first publicity comes when the White House actually announces its intention to nominate you.”

Others agree. Pines, the former Food and Drug Administration spokesman who specializes in crisis communication, says, “The only people who speak with the media in advance of being nominated are those who feel their nominations are on the ropes and they have nothing to lose, or who are not going to take the job and want the visibility that goes with having been considered. If I asked someone I was considering for a job not to speak with the media, and he or she did, I would cross that person off my list.”

Cheryl Arvidson, a longtime Washington political reporter, counsels, “It is extremely important for a potential nominee not to play favorites and not to engage in cat-and-mouse with reporters.” If a reporter asks to talk with you off the record or on background, “caution should be the watchword,” says Arvidson, now senior writer for the Freedom Forum, the free press and free speech foundation that operates the Newseum in Arlington, Va. If a reporter calls looking for background information, it may be possible for the prospect (or a surrogate) to point out things in the public record, but usually that isn’t necessary, Arvidson says. “The good reporters will find those things on their own, and they will also find people who know the would-be nominee.”

The LBJ rule

Stephen Potts, the director of the U.S. Office of Government Ethics in the Bush and Clinton administrations, subscribes to the view that prospective nominees — those not yet officially announced by the White House — should talk to few people outside a tight circle of family and colleagues about an impending and still uncertain career switch.

“In the Lyndon Johnson years, LBJ had a general rule that if it leaked to the press that you were going to be nominated by him, you therefore were not going to be nominated,” he says. “It was that straightforward. So people in those years had a very powerful incentive to keep their mouths shut.” That may

sound imperious, but if the White House can’t trust someone to keep a confidence before taking the job, how can it expect that person to be a team player once confirmed?

The rules may not be so ironclad anymore. But presidential transitions inspire a lot of self-promotion, and much of that backfires. The hordes of reporters camped out in Little Rock with President-elect Clinton and his team during the 1992 transition were hungry for word of who was in the running for Cabinet posts. But they guffawed when one Democratic lawmaker and his staff let it be known that he was a candidate for everything from secretary of Defense to CIA director. “It didn’t take reporters long to get Clinton insiders laughing about his audacity over drinks in various Little Rock watering spots,” a scribe recalls. “And before he knew it, the congressman was a laughing stock.”

The congressman never got any of the jobs that he and his press agents talked about.

Telling the Truth

Agreement is universal on another rule of behavior for dealing with reporters: never lie.

“Don’t ever be in a situation of denying it if you actually know anything. You can’t compromise your own integrity,” says a Bush administration official, who adds with a laugh, “Of course, it’s possible that the press has heard about it before you have.”

Donald C. Alexander recalled that when word leaked out of the Nixon White House about his appointment as IRS commissioner, he followed the advice of George P. Shultz, then secretary of the Treasury, and “did the neither confirm nor deny bit.” Alexander added: “George told me, ‘You don’t want to lose your credibility even before you get here — wait to lose it when you get here.’”

Alexander helped insulate the IRS from Nixon White House excesses during the aftermath of Watergate. He twice had to testify before grand juries, but the ordeal he remembered most is going before congress-

sional oversight committees, where Democrats gave him a tough going-over:

You could always tell if the hearing was going to be a total disaster if there were four or more stand-up cameras in the room. That meant the committee had told the press they were really going to go for the jugular. If there were no cameras, the press didn't care for the hearing, and that meant the hearing was likely to be constructive... You could just tell as you were walking down the halls in Rayburn [House Office Building]. If the light coming out of the hearing room was very bright, it was "Oh, God, here we go again!"



Key Points:

- When in doubt, don't talk with reporters. It could cost you an administration post. Regardless of the situation, you're under no obligation to answer reporters' questions.
- When you do talk with reporters, don't lie or mislead them.
- Don't expect them to report everything you say. Print and broadcast reporters alike will cull what they consider your most interesting or salient comments.
- Don't be rude or peremptory. Reporters have an important job to do.
- Stay abreast of the news.

*“Everyone in the family
needs to be sold
on Washington
as a wonderful place
to work and live,
and to understand that
it’s not all politics.”*

7 Moving to Washington

Presidents often look for individuals with Washington experience when they fill Cabinet and sub-Cabinet positions. Although they may talk about bringing in people who are not beholden to the political status quo, they tend to feel comfortable turning to experienced Washington hands. In fact, half of the Reagan, Bush and Clinton officials surveyed in late 1999 and early 2000 for The Presidential Appointee Initiative were already living and working in the Washington area when the White House called. More than a third were already working for Uncle Sam.

For those of you who are local residents, the confirmation process will be easier. Accepting a president's offer will not require you to pick up your family, sell your house and move to Washington. You may be able to keep your old job right up until the time the Senate confirms you and still devote a significant amount of time to preparing for your new responsibilities. Those who are coming from another city, however, should not feel daunted. Washington is an easy place to visit and an exciting place to live.

You may get only limited relocation advice. Consider the case of Shirley Watkins, a Memphis, Tenn., resident who served as under secretary of Agriculture for food safety and nutrition in the Clinton administration. She mistakenly thought that she had to relinquish her Tennessee driver's license when she moved to Maryland, even though her legal residence remained in Tennessee. She says it would have been helpful to have had more information about the advantages of living in the District versus living in Maryland or Virginia. "You weren't given any kind of orientation," she recalls.

This chapter will provide practical advice about Washington and the surrounding Virginia and Maryland suburbs. The information about Washington's neighborhoods, schools, geography, transportation and other quality-of-life matters will be most useful to the beyond-the-Beltway group, including those who lived here years ago during college or a stint working on the Hill. Much has changed in Washington in recent times — most of it for the better.

An Area Overview

With 69 square miles, the nation's capital is three times the size of Manhattan. The District of Columbia itself has a population of about 522,000, but the metropolitan area is the nation's fourth largest, with 7.3 million people in an area that stretches north to Baltimore and west to West Virginia, according to the Census Bureau.

Business is booming throughout the area. Washington, a planned city designed for the single purpose of hosting the federal government, is no longer a company town. Once bucolic suburbs now host scores of high tech and telecommunications companies. Washington is also home to 3,600 trade, professional and philanthropic associations, 174 diplomatic missions, the World Bank, the International Monetary Fund and the Organization of American States.

Although it continues to lag behind the suburbs, the District is experiencing an economic renaissance just five years after hovering near bankruptcy following a long spell of municipal mismanagement. Construction cranes are sprouting on every horizon. With a well-

regarded mayor, Anthony Williams, and with the federal government picking up a large share of the District's court, prison, pension and Medicaid costs, the city is now looking to regain more control over local affairs, which lawmakers wrested away during the budget crisis.

A curious feature of the District is that its residents lack full voting rights. A constitutional amendment in 1961 gave District residents the right to vote for president, and they are represented by a non-voting delegate in the House of Representatives. But Washingtonians have no voting representation in either house of Congress. Unless you keep your legal residence outside the District, be prepared to relinquish some of your voting rights if you move into the nation's capital.

This is a bustling and prosperous area. More than a million commuters ride into the District each week-day by car, train and Metro, the rapid transit system that stretches over nearly 100 miles of track and operates the District's bus service. Three airports serve Washington, ensuring relatively inexpensive flights to almost any destination in the world. Reagan National Airport, on the Virginia side of the Potomac River, is the closest and is conveniently served by Metro. Dulles International Airport, in the Virginia suburbs, and Baltimore-Washington International Airport, in Maryland, are more difficult to get to from the city, but they often offer much lower fares.

The Washington area boasts more theater and arts offerings than almost any other city this side of the Hudson River. It also has world famous tourist attractions, including the Smithsonian's 16 museums and the National Zoo (all admission free). Both the city and the suburbs contain an astonishing array of ethnic restaurants. The area is among the most diverse in the country, drawing immigrants from around the globe. In the city itself, African-Americans comprise a majority of the residents, and suburban Prince George's County, Md., is the wealthiest majority black county in the country. Virginia's Fairfax County is the wealthiest of all, with average household income exceeding \$90,000.

None of the full-time presidential appointments to positions that require Senate confirmation paid less than \$114,500 in 2000. More than 70 percent of the past and current officials surveyed for The Presidential Appointee Initiative said their federal salaries were the same or better than what they had been earning previously. But a majority of the newcomers found the housing costs, property taxes and other living expenses in the Washington area steeper than what they were accustomed to.

Washington is a great place for the spouses of presidential appointees to find jobs. There is no rule against both spouses working in the same administration or even in the same department, so long as one spouse does not supervise the other. "There are rich resources for the 'trailing' spouse," says Nancy Benson of Our Town, Inc., a local firm that advises government agencies, corporations and individuals about relocating. "This is an area where just about anybody can find a job."

There are lots of jobs, including jobs for those who only expect to be in the region a few years or who want to work from home or part-time. The regional unemployment rate was 2.2 percent in the spring of 2000.

What to do When Waiting for Confirmation

Wherever you hail from, you're going to need to spend a fair amount of time in Washington while your nomination is pending. In line with Woody Allen's maxim that 80 percent of success is showing up, it pays for you to be here when your fate is in the Senate's hands, so you can plead your own case. Obviously, this is a lot easier to do if you are a cab ride from the Capitol, not a plane or Metroliner trip away.

You can also use this time to prepare for your new duties. As discussed in Chapter 5, there are pros and cons to going to work for the administration as a consultant before you are confirmed in your permanent job. If you are hired first for a temporary post and you live out of town, the department may be able to pick up some of the costs of your move. Normally, however, the government does not pay moving or relocation expenses for presidential appointees.

But first, please consider a strong word of caution: Almost everyone who has traveled this path says it is a mistake to sell your home, sever ties at work or put yourself and your family out on a financial limb until you are certain that this federal job is going to come through.

Lee Sachs was a senior managing director with the New York investment banking firm of Bear, Stearns & Co. when he got the opportunity in 1998 to become deputy assistant secretary for government financial policy at the Treasury. At first he left his wife and 4-year-old twin daughters in Connecticut and commuted home on weekends. His family joined him after he was nominated and confirmed as assistant Treasury secretary for financial markets in 1999. "I wouldn't sell my house until the process was over," Sachs advises. "I've seen and heard of enough people who didn't get through the process that you just don't want to take that kind of risk, unless you've decided you want to live in Washington one way or another."

The relocation process becomes more difficult if you don't know when, or if, you will get appointed. Charles Jeffress was the top safety official in North Carolina when he decided to pursue the top job at the Occupational Safety and Health Administration (OSHA) in Washington, which came open at the end of President Clinton's first term. It took the White House eight months to settle on him.

"I was very fortunate that I had a supportive boss who was satisfied that I could focus on my job and on campaigning for another job at the same time," Jeffress recalls. "A lot of other people don't have that luxury, a lot of private business folks in particular. If they had let it be known that they were seeking this job, their company would have said, 'Well, your mind's not on your work, so goodbye.'" (To Jeffress, that's one more reason for the White House and the Senate to work together to speed up the process of selecting, nominating and confirming presidential appointees.)

The distractions increased after Jeffress was nominated and, eventually, confirmed. "I came up once a week to talk to people on Capitol Hill and get some

background briefings here," he explains. "I kept my home in Raleigh, and still own my home there; I've got my condo up here. There wasn't much help in relocating. It was, 'O.K., you're confirmed. We want you here tomorrow. Do the best you can — but we want you here tomorrow.'"

The federal post pays about 20 percent more than he had been making as a deputy state commissioner in North Carolina, but this is a more expensive area. "The cost to me, because I kept my home in North Carolina, has been huge. It's a net loss to me to do this job," Jeffress says. His predecessor at OSHA, Joseph Dear, had sold a home and moved his family to the nation's capital, only to move back again after he quit the Clinton administration to become chief of staff to the governor in his home state of Washington. Dear's predecessor "also kept a home someplace else. You know, if the tenure's only 18 months, you don't have a lot of incentive to sell your home," says Jeffress.

Judith Johnson, a White Plains, N.Y., educator, kept her house in New York after becoming deputy assistant secretary for elementary and secondary education in April 1997. "I didn't rent it out because I want my house when I go back once a month," she says. "But I do have a house sitter, and my son goes back in every so often, so the house is pretty well cared for. It's a big house. I couldn't imagine, having lived in it for 24 years, selling it for a job that was temporary."

Some officials do that, "but lots of people hold onto their homes for a while until they make some decisions about what they're going to do next. I knew very few people who sold immediately upon moving down here. You have no idea what you're walking into," notes Johnson, who expects to return to the New York area. Some people take two or three years to decide before "moving everything, body and soul, to the Beltway area."

Where to Live?

Real estate in the Washington area is expensive, with the average price of a house in the District around \$200,000 (a deceptively low figure that includes houses in high-crime areas) and typically \$40,000 to \$50,000 higher in the Virginia and Maryland suburbs. Townhouses are common throughout the suburbs, at prices that start in the low six figures. The average sale price of homes sold in Northern Virginia in April 2000 was \$236,753; the average price in Montgomery County, Md., was \$245,556, while houses in Prince George's County, Md., sold for \$139,555 last winter. In the priciest suburbs, from Great Falls and McLean, Va., to Potomac, Md., even modest homes can fetch a half-million dollars and larger homes cost upward of \$1 million.

Housing prices, of course, are just one factor when deciding where to live. You'll also want to consider practical issues such as where you work (some top government posts are in the suburbs), taxes and schools, as well as the activities that you enjoy in your free time.

If you are single and into big-city life, the District has plenty of neighborhoods to lure you. The same holds true for couples whose children are grown or too young for school. However, if you have children in public school and you want to live in the District, you will have to scout schools as thoroughly as you look for a house. Those who intend to enroll their children in private schools will have a wider array of choices. Most families with school-age children gravitate to the suburbs. If you need to live in the suburbs for practical reasons but prefer the excitement of the city, you could consider settling in an older, densely developed town such as Bethesda, Md., or Alexandria, Va., with shops, restaurants and cafes within easy walking distance.

The city's Northwest quadrant, especially west of 16th Street, tends to be the more upscale part of the District. There are a number of neighborhoods around the city — Adams Morgan, Capitol Hill, Cleveland Park, Dupont Circle, Foggy Bottom — favored by many young professionals and couples

without children. Crime in Washington, like urban crime elsewhere, is concentrated in the poorer neighborhoods.

For those who enjoy the outdoors, the area also offers housing options from the Chesapeake Bay to the Blue Ridge Mountains. Although this may entail a long commute, there are alternatives to driving. The Maryland Rail Commuter Service (MARC) runs trains from Union Station north to Baltimore and beyond, and west to Harper's Ferry and Martinsburg, W.Va. The Virginia Railway Express brings in people from Fredericksburg and Manassas. If you want to drive to work, you may face some frustrations. Employees at Cabinet departments like Agriculture and Defense have a tradition of starting the workday as early as 7 a.m. and calling it quits as early as 3:30 p.m., which makes for rush hours that start early and end late. In other departments, presidential appointees may come in early and work late most days, missing the worst of the traffic. But if you hit the Beltway or Interstates 95, 66 or 270 in rush hour, be prepared to sit in traffic unless you are in a ridesharing situation and can take advantage of carpool lanes.

Taxes also may be worth considering. The Tax Foundation, a private nonprofit organization that educates the public about who and what is being taxed, calculates that a family with two children earning \$150,000 a year pays \$65,000 a year in taxes living in the District, compared with \$55,000 in Maryland and \$54,000 in Virginia. The District remains largely dependent on the taxes that city residents and businesses pay, since Congress prohibits it from imposing a commuter tax on the many people who work in the city but go home to the Virginia and Maryland suburbs. In fact, some of the 20 million-plus visitors who come to Washington yearly pay more in sales and hospitality taxes on their souvenirs and hotel rooms than commuters who toil here every workday.

If you're looking for a house, here are some places that can help you find area realtors:

- Greater Capital Area Association of Realtors, www.gcaar.com; (301) 590-2000

- Northern Virginia Association of Realtors, www.nvar.com; (703)-207-3200
- Virginia Association of Realtors, www.varealtor.com; (800) 755-8271 or (804) 264-5033
- Maryland Association of Realtors, www.mdrealtor.org; (800) 638-6425

For those who don't want to buy a house in the area, there is a healthy market in rentals, with spring and summer the best times to be on the lookout. State Department and military families who buy homes during tours here often rent them while stationed overseas or elsewhere, and many other long-time residents own homes that they rent. Washington and the close-in suburbs also offer numerous choices of apartments. Stately apartment buildings line Connecticut Avenue up to the National Zoo and beyond, and there are well-appointed apartment complexes in the Virginia and Maryland suburbs.

Whether buying or renting, consider staying as close to a Metrorail line as possible, even if you plan to drive to work. Living near the Metro gives you options for travel in foul weather and makes it easier to hop into town for shows and social events without the hassle of traffic or locating a parking space. The Metro runs until midnight on weekdays, 2 a.m. on Fridays and Saturdays, and is safe and well-patrolled at all hours.

More than 100,000 people move in and out of the Washington area each year, so there are numerous real estate companies, movers and others eager to latch onto your business. There is a wealth of information available online, including a special section of *The Washington Post's* Web site, www.washingtonpost.com, devoted to newcomers. The *Post's* Web site also features school and community profiles, crime statistics and a wealth of other local information. The *Post's* advertising staff publishes a magazine called *Metrolife* targeted at Washington's newcomers that can be perused online and ordered for \$3.50. You can find it at www.washingtonpost.com/metrolife.

The *Washington City Paper* — www.washingtoncitypaper.com — is also an excellent resource. So is

Washingtonian magazine, a glossy city monthly that specializes in lists of best doctors, weekend getaways and the like, leavened with serious articles and interviews on politics, culture and commerce. You can visit it online at www.washingtonian.com.

Schools

Although many of the District's public schools still are not up to par with those in the suburbs, good public elementary schools are available in many parts of the city. The suburbs boast some of the finest schools in the country. Fairfax County's Thomas Jefferson High School for Science and Technology in Annandale, Va., had 127 National Merit finalists among the 414 seniors in the Class of 2000, and its *average* SAT score topped 1450. The magnet program at Montgomery Blair High School in Silver Spring, Md., once landed six students among the 40 finalists in the prestigious Intel Science Talent Search, the Olympics of U.S. science fairs. Fairfax County, which has more than 150,000 students, is known for the strength of its programs for students with serious disabilities as well as programs for gifted students. Montgomery County also has an exceptional school system, and there are pockets of excellence in other counties as well.

The private schools are first-rate, if expensive. Both Presidents Carter and Clinton sent their daughters to Sidwell Friends School (pre-K to 12). Former Education Secretary William Bennett and persistent presidential candidate Patrick Buchanan honed their rhetorical skills at all-boy Gonzaga College High School (9-12). At the all-girl Madeira School (9-12, boarding and day), future *Washington Post* publisher Katharine Meyer Graham was president of the Class of '34 and future Federal Reserve vice chair Alice M. Rivlin graduated with the Class of '48. There are consultants in the area who advise parents on which private schools are the best match for their children's aptitudes and interests.

The city is home to several universities that rank among the country's leading institutions, including Georgetown University, George Washington University and American University. Howard University, founded after the Civil War for freed

slaves, has an international reputation as a center for African-American students. Other notable Washington institutions include The Catholic University of America, with a celebrated music and theater arts program, and Gallaudet University for deaf and hearing-impaired students. The suburbs are home to George Mason University, Virginia's fastest growing public university, and the University of Maryland at College Park, the flagship of the Maryland state system. Among the other colleges are Marymount University in Arlington, Va., and the Northern Virginia Community College, one of the largest and most successful two-year institutions in the country.

For those seeking a higher-level degree, the area offers top-flight medical and law schools. In addition, several prominent universities operate satellite campuses offering graduate degrees in the area, including a University of Virginia-Virginia Tech center in Falls Church, Va., and the Johns Hopkins University Nitze School of Advanced International Studies in the District. There are more than a half-dozen seminaries and theology schools, including Washington Theological Union in the District and the Virginia Theological Seminary in Alexandria, the country's largest Episcopal seminary.

Thanks to Congress and District Delegate Eleanor Holmes Norton, the graduates of every high school in the District — public or private — are eligible for in-state tuition rates at any public college or university in the country, with a federal subsidy picking up the balance of the out-of-state rates.

Big-City Problems

If you're worried about crime or safety in Washington, the reality is much better than the image.

Washington is one of the most heavily policed cities in the world. In addition to the Metropolitan Police Department, the federal government fields several large police forces, including the 3,600-member U.S. Capitol Police, the 450-member U.S. Park Police and the 1,200-member uniformed Secret Service police, who guard the White House, the Treasury

Department and the city's many embassies. The Metro is patrolled by a separate transit police force.

As a result, the streets of the business district and areas surrounding the monuments are generally safe, night or day. However, crime and drug problems remain endemic in the city's poorest neighborhoods, including Anacostia. In the late 1980s and early 1990s, the District recorded more homicides per capita than any other city in the U.S. But the bloodshed has decreased in recent years.

As the city becomes more prosperous, new hotels, businesses and restaurants are taking root around the downtown MCI Center (home of the Washington Capitals of the National Hockey League and Washington Wizards of the National Basketball Association). A huge new convention center is on the rise, and U Street — which burned in the 1968 riots — has been reborn as a mecca for music, nightlife and shopping.

Road congestion is another major issue. Washington is stuck with the second worst traffic in the nation, trailing only Los Angeles. Bottlenecks on the Capital Beltway are a daily occurrence, and major accidents can dam up the road for hours. Traffic backs up regularly around the two main Potomac River crossings, the American Legion Bridge below Great Falls and the Woodrow Wilson Bridge in Alexandria (the latter, a drawbridge, is supposed to be replaced by a higher, wider span in 2006). Motorists must navigate strange curves in the Maryland suburbs, where Beltway builders contorted the highway to follow Rock Creek parkland instead of bulldozing choice neighborhoods.

Other highways make their own contributions to the region's traffic nightmares. South of the city, perpetual construction on Interstates 395 and 95 causes horrendous delays, especially around the infamous Springfield mixing bowl, where the Beltway and 95 meet. There are special carpool lanes on most major highways, although even they do not guarantee a swift commute. The traffic spills over to secondary routes, such as New York Avenue and Route 50 to Annapolis. Many drivers commute between suburbs and from the city to suburbs, jamming traffic in both

directions during rush hours. Traffic on downtown streets is often delayed by construction or road work.

The good news is that Washingtonians who live downtown or ride Metro can avoid most of these delays. However, keep in mind that you are likely to work hours that run longer than the typical civil servant's day — and the later the day stretches on, the less convenient public transportation gets. Also, one of the perks of federal office is usually free parking. For those reasons, unless you are a public transportation diehard, you will likely find yourself driving solo to work.

When driving around on your days off, don't underestimate the potential for getting lost. Like many Americans, the Education Department's Judith Johnson had visited Washington many times as a parent to show her children the museums and other attractions. "That means you are confined to a very immediate area: the Mall and all the museums. And you don't know much beyond the Mall, the museums and the hotel. I had not a clue what the city was like, although I liked it a lot."

Johnson offers this advice:

People need to know that you can get really lost in this city, particularly if you drive. I mean, I ended up in Virginia so many times in the first couple of months, it got to be hilarious. I'd say, "Well, here I am again. How did I do that?" ... Looking for an apartment was very much like looking for a needle in a haystack. I had no idea where to look. I went to one of these commercial apartment-finder places and found a lovely apartment up on Porter and Connecticut. It's much too expensive, but I didn't know how to look, so I just took it. If I'd had the opportunity and some guidance, I would have looked for something somewhat less expensive [elsewhere]. People here said, "Look in this part of town or that part of town." That didn't mean anything to me. I didn't even know the town was divided into quarters. You don't know that if you spend your life on the Mall.

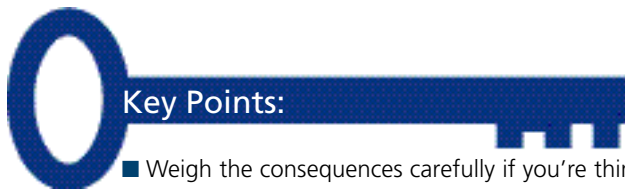
Big-City Advantages

Although Washington has problems, it also has myriad advantages. Its attractions are unequalled by almost any other city in the country, and they come without the hassles or higher price tags of a New York or San Francisco. They include the fantastic assortment of museums, nationally acclaimed theaters, numerous live music venues and festivals that take place almost every weekend.

Once she got her bearings and learned how to deal with streets that change names unexpectedly, Johnson learned to love Washington and the opportunities that beckoned during her three-plus years here:

It's a lot of fun. Metro is really great for getting around. This is a wonderful place to spend time in. The other night a couple of us went over to the Portrait Gallery and saw a one-person show on the life of Sammy Davis Jr. There was a pianist, a narrator and the performer, and for an hour and 45 minutes, this man with this marvelous voice recreated the life of Sammy Davis Jr. The gallery was full of people and it was free. It's \$75 in New York to do something like this. This is an incredible city when it comes to those kinds of experiences. People don't know the richness of having the Smithsonian. I had a goal of getting to every museum before I left. I'm not nearly going to pull that off.

Washington, says Our Town's Scott Stafford, is "a fun place to be and a fun place to entertain your relatives when they travel." That's something he stresses to corporate clients who are considering a move here. "Everybody else in that family — the wife or husband and the children — needs to be sold on Washington as a wonderful place to work and live, and to understand that it's not all politics."



Key Points:

- Weigh the consequences carefully if you're thinking of moving here before your appointment is confirmed. Your nomination could run into unexpected trouble, leaving you far from your hometown and without a job.
- Be prepared for the expense of moving to Washington. Housing here is pricier than in many places. If you're not sure about buying a house, there are many possibilities for renting houses or apartments.
- If you want your kids to go to public school, hunt for a school in the District as carefully as you look for a home. There are some excellent public schools in the city, but most families with children choose the suburbs, where the schools in general are better.
- Before choosing a place to live, consider the commute to work. Unless you will be commuting off-hours or have a high tolerance for sitting in traffic, you don't want to go near the Beltway or other highways in rush hour.

*“This is service, after all.
And both during
the enterprise and after,
you have responsibilities . . .
to uphold
the highest standard
of which you’re capable.”*

8 Life After Government

Donald Alexander was a tax lawyer in Cincinnati when he accepted a call to move to Washington and become commissioner of the Internal Revenue Service in 1973. Four tough years later, after stepping down from the IRS post, Alexander wanted to remain on the East Coast, but he didn't think he should work in Washington because he didn't want to be viewed as trading on his influence as the ex-tax-collector-in-chief. "So I moved to New York and served out my purgatory period for two years. I had a personal rule," he says. "I just plain went to New York and did wills and things like that."

Alexander's solution to avoiding the appearance of a conflict of interest — self-imposed exile for a spell before returning to practice law in Washington — was much more than the restrictions on post-government employment required. But it was his way of going the extra mile — or the extra 240 miles — to ensure that no one could accuse him of cashing in on his government service.

There is certainly no requirement to leave town after you finish working for the government. In fact, you are generally free to work for anyone you choose, but there may be some strings attached to any future work you do involving the federal government. It is only prudent to carefully weigh the ramifications before accepting a presidential appointment. And long before you vacate a federal post, you should understand how these legal restrictions may affect you when you return to your old line of work or launch a new enterprise.

Some appointees will barely notice the strings. If you are returning to a college faculty, the news media or

a company that is not a government contractor, the restrictions may be imperceptible and have no impact on your ability to earn a living. But if you are returning to a job that deals with the same federal agency that you worked for, you may find the restrictions a significant encumbrance, at least for a few years.

Some restrictions apply to all federal employees. The rules are stricter for those who hold senior positions, and especially strict for those in very senior positions, such as Cabinet officers. Special restrictions may apply if your government work involves procurement or the administration of a contract. There also are rules and regulations governing what executive branch employees can do when they start looking for a job. Most of them are just common sense: Don't ask your assistant to type or photocopy your resume, for example, or conduct your job search on official time. You may have to avoid working on certain assignments while you are pursuing other employment options. And if your work involves procurement, you may have to file a written report about any job overtures you make or offers you receive — even if you have no intention of accepting them.

For some candidates considering whether to accept a presidential appointment, these post-government employment restrictions may make it difficult to say yes. As frustrating as the rules may seem, however, they play an important role in a political system that relies heavily on private citizens, rather than career bureaucrats, to oversee the government.

The best place to turn for advice on post-government employment issues is your department or agency ethics official. A listing of designated

agency ethics officials (DAEOs) is provided by the Office of Government Ethics at www.usoge.gov/misc/dlist0100.pdf. Many of the things you need to know are spelled out in two OGE pamphlets, “Rules for the Road” and “Understanding the Revolving Door,” which you can access at www.usoge.gov/pubs/rules4rd.pdf and www.usoge.gov/pubs/revodoor.pdf.

Key Employment Restrictions

This chapter will zero in on the key statutory employment restrictions, as well as related executive orders issued by Presidents Bush and Clinton. For those considering whether to accept a presidential appointment, an executive order issued by President Clinton shortly after he took office is especially important, since it imposed even stricter and longer post-government employment restrictions on senior appointees. Bush’s executive orders enunciated principles of ethical conduct for all federal workers and expanded the role of the Office of Government Ethics in overseeing compliance.

President Bush laid down 14 principles of ethical conduct for government officers in Executive Order 12674 (www.usoge.gov/exorders/eo12674.html), which was issued in 1989 and amended by Executive Order 12731 (www.usoge.gov/exorders/eo12731.html) in 1990. Those principles, which cover every executive branch employee, are mostly relevant to active employees. They state that employees must place loyalty to the Constitution, the laws and ethical principles above private gain. Cabinet-level officers and others who are directly appointed by the president are barred from receiving any earned income from outside employment or other activities performed during their appointments. Those in positions that are not directly appointed by the president are subject to other restrictions on outside earned income. A consultation with an agency ethics official is the best way to determine what restrictions apply.

On the campaign trail in 1992, candidate Clinton castigated some Bush administration appointees for ethical lapses and vowed that his would be “the most ethical administration in the history of the

Republic.” That was the backdrop for the executive order he signed just hours after taking the oath of office that added new restrictions on post-government employment for the most senior officials.

At his first meeting with senior staff on the morning after his inauguration, Clinton said, “The ethics rules that we have put forward will guarantee that the members of this administration will be looking out for the American people and not for themselves.” His executive order will remain in effect for senior executives in future administrations unless a new president rescinds or supersedes it.

Statutory Restrictions

In the chapter of the U.S. criminal code dealing with bribery, graft and conflicts of interest, 18 U.S.C. Section 207 spells out the restrictions on former officers, employees and elected officials of the executive and legislative branches after they leave government. Section 207 prohibits a former federal official from “switching sides” after leaving the government. It has been on the books since 1962 and has been amended several times, most notably by the Ethics Reform Act of 1989. There are also criminal bribery, graft and conflict of interest provisions that apply to all employees under 18 U.S.C. Sections 201, 203, 205, 208 and 209. (The full text of these regulations can be found at www.usoge.gov/usoge006.html#statutes.)

These are the heart of the statutory restrictions on post-government employment:

- **Lifetime Ban** – You are permanently banned from representing anyone else before the government on any matter in which you were personally and substantially involved while in government.
- **Two-Year Ban** – You are prohibited for two years from representing another person or entity on a matter that you supervised or had responsibility for during your last year of government service.
- **One-Year Ban** – If you served in a “senior employee” position during your last year of government service, you may not contact your former agency or department to seek official action on any matter for one year after you leave government. This prohibition applies even if you were not

personally involved in the matter as a government employee. Senior employees include people serving at Levels II-V of the Executive Schedule, those paid above the rate for Level IV of the Senior Executive Service and some White House appointees.

■ **One-Year Ban for Very Senior Employees** – If you served as a “very senior employee,” such as Cabinet officer, you are subject to a similar one-year ban prohibiting you from contacting your former agency or department to seek official action on any matter. You also cannot try to influence officials or employees at any other department or agency. Very senior employees include people serving at Level I of the Executive Schedule, those at Level II of the Executive Schedule serving in the Executive Office of the President and certain other White House appointees.

Senior and very senior employees also are prohibited for one year from assisting a foreign government or foreign political party that is trying to influence any department or agency. Special restrictions apply if you worked on certain trade or treaty negotiations during your final year of government service.

Clinton-Era Restrictions

An executive order issued by President Clinton on Jan. 20, 1993, expanded the restrictions on post-government employment. Clinton’s Executive Order 12834 (www.usoge.gov/exorders/eo12834.html) requires senior appointees to sign a pledge: (1) not to lobby any officer or employee of the executive agencies in which they worked for five years following the termination of their government employment; and (2) never to engage in any activity on behalf of any foreign government or foreign political party that would require them to register under the Foreign Registration Act. A copy of the pledge can be found at www.usoge.gov/ogeforms/203form.pdf.

The executive order defined senior appointees as “every full-time, non-career, presidential, vice-presidential or agency head appointee in an executive agency whose rate of basic pay is not less than the rate for level V of the Executive Schedule,” except foreign service officers. That definition includes all presidential appointees who require Senate confirma-

tion, down to the level of commissioners, administrators and associate deputy secretaries.

Senior appointees in the Executive Office of the President (EOP) must pledge not to lobby any officer or employee of any other executive agency for which they had a “personal and substantial responsibility” within five years of leaving their jobs at EOP. Those who participated in trade negotiations must pledge not to represent, aid or advise any foreign government, political party or business in an effort to influence a U.S. government agency for five years after leaving the government.

Procurement Integrity Restrictions

Most presidential appointees rank above their department’s procurement officers. But it should be mentioned that federal procurement officers face an extra layer of restrictions when they leave government to guard against on-the-job temptations in the awarding of contracts. It is possible that a senior official may fall under these restrictions by virtue of having made the final decision on which company should get a major government contract. For example, if you supervised someone who dealt with a contract or dispute and you went to work for one of the parties involved, you would face a one- or two-year cooling off period before you could represent your new employer in dealings with the government.

A Bar to Public Service?

Some people inside and outside government worry that the laws and rules on post-government employment have raised an already high bar to public service even higher. Clearly, they pose difficulties for people in mid-career. The government and the people are the losers in such cases, argues Hans Mark, the former chancellor of the University of Texas System who signed on as Pentagon director of defense research and engineering in the Clinton administration. He offers this observation:

If I weren’t 70 years old, I wouldn’t have taken this job because it would have restricted me from doing things in the future that I wanted to do. Twenty years ago, when I was Secretary of the Air Force, those

restrictions weren't there, so I could go back out and do things, and I didn't lose anything. But today, the only people who can get through without a problem are members of the congressional staffs. That's why you have a preponderance of them in these executive positions. And I don't think that's a good thing. Many have never managed a project or run a large organization. There are now lifetime prohibitions against taking certain jobs. That's nuts.

Richard Meserve, appointed by Clinton to chair the Nuclear Regulatory Commission, believes that the executive orders, statutes and other restrictions are discouraging qualified people from taking high government positions. "There must be some better way to do this," he says.

The regulations on post-employment restrictions are complicated, but they are also filled with detailed examples on how to stay on the safe side of the law after leaving the government payroll. It may come as a surprise how much latitude these rules give ex-officials in working for private companies that are government contractors. The best way to avoid problems is to contact the ethics official at your former agency or department, no matter how long it's been since you left government employment.

The post-employment restrictions and regulations are spelled out at www.usoge.gov/ogeregs/5cfr2637.html. Summaries of the rules can be found in the OGE pamphlets "Rules for the Road" and "Understanding the Revolving Door." As the regulations make clear, "The statutory provisions are not intended to discourage the movement of skilled professionals in Government, to and from positions in industry, research institutions, law and accounting firms, universities and other major sources of expertise. Such a flow of skills can promote efficiency and communication between the Government and private activities, and it is essential to the success of many Government programs. Instead, only certain acts which are detrimental to public confidence in the Government are prohibited."

Ethical Examples

While the primary responsibility for administrative enforcement of the restrictions is left to the departments and agencies where the officials worked, the rules warn, "The Department of Justice may initiate criminal enforcement in cases involving aggravated circumstances; agency heads are required to report substantiated allegations of violations of 18 U.S.C. 207 to the Department of Justice and the director of OGE." Take a look at some concrete examples the government offers on how these post-employment restrictions actually apply to federal executives in their next line of work. Most cover any federal employee, not just those who received presidential appointments:

- Someone who administered a federal contract can go to work for the company that won the contract and write a paper briefing executives on whom to contact at his or her former agency and what arguments to make to try to get increased funds or resolve a contract dispute. But the ex-official may not argue the company's case in person, on the phone or by letter.
- A restricted former employee cannot make even a silent appearance on another person's behalf at a proceeding when the circumstances make it clear that his or her attendance is intended to influence the government's decision.
- The basic restrictions on trying to influence government decisions do not apply to purely social contacts.
- A former official may ask his or her old agency for publicly available documents or purely factual information.
- A Department of Justice lawyer who personally worked on an antitrust case involving Q Company may not represent Q Company on that case after he or she leaves the government.
- Former managers or technicians may not act as a manufacturer's representative to the government on a particular matter in which they participated, nor can they appear as an expert witness against the government.
- A federal employee who helped write the specifications of a contract awarded to Q Company and

who later went to work for that firm could accompany its vice president to a government meeting to explain the results of trial tests. But if a dispute arose about the contract terms, the ex-official could not join in the discussion and should not have gone to the meeting if he or she knew that issue would come up.

- An official who formulated policy for a federal energy conservation program is not restricted from representing a university seeking a grant or contract under the program.
- A federal employee who reviewed and approved a city's application for urban renewal aid may go off to work for that city, but cannot represent the city on that project.
- An Office of Management and Budget official who played a role in reducing funding for youth work programs could become a lobbyist for a city seeking some of those funds, since his or her participation did not extend to matters involving specific parties.
- An agency attorney who drafted standard language in a government contract form could represent someone in a dispute over what the "standard term or clause" language in a particular contract means.
- A government employee helped design plans for a satellite communications system. When the government solicits proposals to construct the new system, that same ex-employee is allowed to represent Company C in bidding on the work.
- An attorney who helped prepare a federal antitrust action against Z Company may not represent Z Company in a related private antitrust action brought against it by X Company, nor may he or she represent X company. However, if the government closes its antitrust investigation or case, the lawyer is free to work for either side because the United States no longer has a direct and substantial interest in the case.
- A government attorney who was frequently consulted about filings, discovery and strategy in a case would have participated "personally and substantially" in a matter even though he or she was not in charge.
- A senior Defense Department official who took part in awarding a fighter plane contract to Company F could go to work for Company F

immediately and advise it on trying to renegotiate prices, but could not attend any contract negotiations or meetings with Pentagon officials.

- A former Federal Highway Administration official appointed to run a state transportation department would not be prohibited from transacting business with his or her former agency concerning new matters.
- However, a former senior HUD official who established a consulting firm and was hired by a city to help procure a HUD grant could not represent that city before HUD for one year after leaving government.
- A former senior HHS official may not call a former associate at HHS urging that the department adopt new limits on hospital costs. But the ex-official can express those same views to Congress, other agencies outside HHS, the public or the press.
- A former top IRS official may prepare and mail tax returns for a client, but if a controversy arose over the return, he or she could not go before the tax agency to represent the client in an audit.
- A former top Securities and Exchange Commission employee may prepare and file a client's annual 10-K disclosure report. This is not a violation because that form is not used to obtain a benefit or ruling from the government.
- Former senior officials may represent political candidates for state or federal office or political parties or campaign committees before government agencies.
- Ex-officials are not restricted from representing or assisting international organizations to which the United States belongs.

The Strength of America's System

If you feel frustrated by all the rules, remember this: The revolving door between high government office and the worlds of commerce and academe is one of the strengths of America's system of government, not one of its liabilities. It brings fresh blood and fresh ideas into the highest echelons of federal management. The Founding Fathers envisioned such a system, with private citizens taking time away from their duties back home to lead the nation.

“One of the strengths of America is the ability, and indeed the encouragement, for people in the private sector to come into government and then leave,” says Eugene Ludwig, former comptroller of the currency. “George Washington’s great gift to America is that after two terms, he decided, ‘Well, it’s time. I’ve had enough, it’s time to go home.’ He set a standard for everybody. And even people who are a bazillion levels below that august status — like comptroller of the currency — ought to know when it’s time to go home. But keeping that revolving door going is very, very important.”

Ludwig doesn’t agree with all the rules — for example, he thinks the five-year recusal for dealing with your former agency is too long. But, he emphasizes, strict attention to ethical standards “just comes with the territory.” He adds:

This is service, after all. And both during the enterprise and after, you have responsibilities, ethical responsibilities. You have to uphold the highest standard of which you’re capable. I must say, during the entire zinging ‘90s, from ‘92 to ‘98, I did not invest in any stock, which was disastrous from a financial perspective personally. But [those are] the rules of the road. ... And you just abide by them, that’s all.

Still worried? Remember that people take on these positions — despite the hassles — because they feel, in many cases, that it’s the best job and most exciting opportunity they will ever have. “There’s no experience that quite matches these,” says Jane Garvey, administrator of the Federal Aviation Administration in the Clinton administration. “They are just wonderful opportunities and wonderful ways to shape an agenda to a degree that you never can in the private sector.”



Key Points:

- Your actions after leaving the federal government are dictated by several overlapping layers of ethics rules, statutes and presidential executive orders.
- The standards are complex and often subtle. Make it a point from the start to gain a good grasp of the rules.
- You may have more latitude than you expect when you leave the federal government. When in doubt, ask your department or agency ethics official or general counsel for advice. If you feel it’s necessary, check with the Office of Government Ethics for examples of what is, and is not, allowable.
- If you’re frustrated, remember that the concern about conflicts of interest is part of the price we pay for our successful system of relying on private citizens to run the government.

*“I’d do an awful lot
of research
[before entering the
appointments process],
because this is a
very rough and
tumble environment.”*

9 Resources

If you have access to good bookstores, a library and the Internet, you can find a wealth of information about the presidential appointments process. Congress, foundations, news organizations and other groups interested in public administration and good government have produced books, reports and articles about the subject. This chapter provides a listing of some of the best places to find this information.

The Council for Excellence in Government (www.excelgov.org) and The Presidential Appointee Initiative (www.appointee.brookings.org) are the first places to go for information. A wealth of information on more general subjects can be found through the Brookings Institution (www.brookings.edu) and The Pew Charitable Trusts (www.pewtrusts.com).

Access to the Internet is particularly helpful in researching the government. Not only does each federal department have a Web site, but almost every agency and program has its own Web site with detailed (if not necessarily objective) information. If you go to www.lib.lsu.edu/gov/exec.html, you can find links to about 1,000 Web sites in the executive branch alone. You can explore hundreds of judicial, legislative, independent agency, quasi-official, board and commission Web sites there as well.

Resources on Appointed Positions

If your first step is to find out about the thousands of top government positions, these books contain invaluable information:

Plum Book. A congressional committee, with the assistance of the U.S. Office of Personnel

Management, publishes the Plum Book every four years immediately after the presidential election. Its formal title is *United States Government Policy and Supporting Positions*, but it is universally called the Plum Book. It is published alternately by the House Committee on Government Reform and Oversight and the Senate Committee on Governmental Affairs; the Senate committee will publish the November 2000 edition. The last edition (containing data as of Sept. 1, 1996) listed over 7,300 leadership and support positions in the executive branch, including hundreds requiring Senate confirmation, that can be filled by non-competitive appointment; e.g., positions such as agency heads and their immediate subordinates, policy executives and advisers, and aides who report to these officials.

A catalogue, not a narrative, the Plum Book lists by name and title the political appointments in each department and program, and where each job stands on the executive pay scales. The Plum Book also shows where each appointee works. Most of the presidential appointees who require Senate confirmation work in Washington and the vicinity. But there are some exceptions, such as the director of the Centers for Disease Control and Prevention in Atlanta.

You can obtain the Plum Book at no cost from the Senate Governmental Affairs Committee or read its entire contents online at a Government Printing Office Web page, www.access.gpo.gov/plumbk/toc.html. The GPO Web site conveniently breaks the book down into small chapters so the relevant positions can be downloaded quickly. It also provides useful appendices of positions subject to noncompetitive appointment, Senior Executive Service positions,

Schedule C positions and federal salary schedules. If you have questions, call the GPO at (202) 708-0490.

The U.S. Government Manual. You can learn more about each government department and program by looking them up in *The U.S. Government Manual*, also available through the same GPO Web site at www.access.gpo.gov/nara/browse-gm-00.html and conveniently displayed in text and PDF formats by the National Archives and Records Administration (the same folks who keep the original Declaration of Independence and other historic documents on display at the National Archives building).

The manual is the official handbook of the federal government. It provides information on legislative, judicial and executive offices, as well as on quasi-official agencies, boards, commissions and international organizations in which the United States participates. A typical agency description includes a brief history, a list of principal officials, a summary statement of its role, a description of its programs and activities and a "Sources of Information" section that reviews consumer activities, contracts and grants, employment, publications and other areas of public interest.

If you're researching a possible opening in a corner of the government you know little about, *The U.S. Government Manual* should be among the first places to look. If for some reason you can't find all you need to know about the manual online, you can get information about it by writing to:

Office of the Federal Register
National Archives and Records Administration
700 Pennsylvania Ave., NW
Washington, DC 20408-0001

Or you can call (202) 523-5227, send a fax to (202) 523-6866 or send an email to info@fedreg.nara.gov.

The Prune Book. *The 2000 Prune Book: How to Succeed in Washington's Top Jobs* explains what dozens of the top appointed jobs actually entail. The latest edition is the sixth in a series (begun in 1988)

conceived and written by John Trattner of the Council for Excellence in Government.

The 2000 Prune Book profiles five dozen of the most demanding leadership positions, from the head of the Federal Aviation Administration to the director of the Office of Management and Budget. It offers practical advice and personal anecdotes from incumbents about the responsibilities of these jobs, the issues they deal with and the professional and personal experiences and skills that they require. It also discusses the leadership challenges for presidential appointees and the issues involved in filling senior White House staff jobs and Cabinet positions.

Earlier books in the series, in addition to hundreds of job profiles, looked at the appointments process in detail and offered the advice of experts on surviving in appointed positions. You can read *The 1997 Prune Book: Making the Right Appointments to Manage Washington's Toughest Jobs* in its entirety on the Council's Web site, www.excelgov.org. The 2000 edition will be on the Web site, as well. Contact the Council for copies of the earlier *Prune Books*. Many libraries also stock the series.

Congressional Information Sources

Executive branch agencies issue voluminous reports and maintain Web sites about virtually every program. The quality of the information, however, can vary widely. Some reports are highly technical; others are designed for general readers. Some are objective; others promote a certain point of view.

For that reason, the following congressional agencies are often the best sources of information about government programs:

General Accounting Office. The GAO issues investigative reports on federal programs. These reports provide excellent background and statistics, although their recommendations for making a program operate more efficiently are often controversial. The Congress relies heavily on the GAO for expert advice on problems and for its assessments of how the executive branch is implementing congressional man-

dates. To obtain reports, go to the GAO Web site, www.gao.gov, or call the agency at (202) 512-3000 for more information.

Congressional Research Service. The CRS issues highly detailed, nonpartisan analyses of federal programs. Typically, it focuses on issues that provoke congressional debate. The CRS does not maintain a Web site and it can be difficult to obtain its reports. You can find some through the Senate Web site, www.senate.gov/~dpc/crs/reports/reptsubj.html, or by conducting a general Web search. (Try going to a search engine like www.google.com and typing in Congressional Research Service and the name of the relevant program. If you're lucky, you'll get some hits.) Other options include going to federal depository libraries and university libraries, or requesting a report through your member of Congress. A commercial publisher in Bethesda, Md., Penny Hill Press, also sells many CRS reports. Its Web site is www.pennyhill.com and its phone number is (301) 229-8229.

Congressional Budget Office. The CBO is well known for its nonpartisan projections of program costs. It was created in 1975 to help Congress grapple with the budget and economic forecasts, and its past directors include such distinguished economists as Alice Rivlin, Rudolph Penner and Robert Reischauer. For more information, go to www.cbo.gov or call the agency at (202) 226-2600.

Library of Congress. The library is a cornucopia of legislative information. Its all-purpose Thomas (for Thomas Jefferson) Web site, thomas.loc.gov, lets you search for bills and the text of debates. For more information, go to the library's main Web site, www.loc.gov, or call the main number, (202) 707-5000.

U.S. Senate. Last, but not least, the U.S. Senate itself offers an excellent Web site at www.senate.gov. The site includes links to senators and committees, as well as ample information on nominations, including which nominations are still in committee and which are awaiting action on the floor, at www.senate.gov/legislative/legis_act_nominations.html. It also features background information on the Senate's

role in the nomination and confirmation process, including several fascinating essays on past nominations at www.senate.gov/learning/brief_3.html. The Government Printing Office Web site has a page of Senate publications which also has links to the committees at www.access.gpo.gov/congress/senate/index.html. The rooms and phone numbers for the 16 Senate committees that handle nominations are:

- Agriculture, Nutrition, and Forestry
Russell 328A (202) 224-2035; 224-1725 fax
- Armed Services
Russell 228 (202) 224-3871; 228-1160 fax
- Banking, Housing and Urban Affairs
Dirksen 534 (202) 224-7391; 224-5137 fax
- Commerce, Science and Transportation
Dirksen 508 (202) 224-5115; 224-1259 fax
- Energy and Natural Resources
Dirksen 304 (202) 224-4971; 224-6163 fax
- Environment and Public Works
Dirksen 410 (202) 224-6176; 224-5167 fax
- Finance
Dirksen 219 (202) 224-4515; 224-5920 fax
- Foreign Relations
Dirksen 450 (202) 224-4651; 224-0836 fax
- Governmental Affairs
Dirksen 340 (202) 224-4751; 224-9603 fax
- Health, Education, Labor and Pensions
Dirksen 428 (202) 224-5375; 228-5044 fax
- Indian Affairs
Hart 838 (202) 224-2251; 224-5429 fax
- Judiciary
Dirksen 224 (202) 224-5225; 224-9102 fax
- Rules and Administration
Russell 305 (202) 224-6352; 224-3036 fax
- Small Business
Russell 428A (202) 224-5175; 224-4885 fax
- Veterans Affairs
Russell 412 (202) 224-9126; 224-8908 fax
- Select Committee on Intelligence
Hart 211 (202) 224-1700; 224-1772 fax

The Capitol directories refer to the Senate office buildings as SR (Russell), SD (Dirksen) and SH (Hart). Senate committees customarily have staff directors for the majority and minority. On senators' personal staffs, the top staff person is usually the administra-

tive assistant. You may also deal with senators' legislative directors and appointment secretaries or schedulers.

The number of the House switchboard is (202) 225-3121, and the Web site is www.house.gov.

Ethics and Rules

The U.S. Office of Government Ethics Web site — www.usoge.gov — has pulled together an Ethics Resource Library. It includes all the federal conflict-of-interest laws, the regulations for the Ethics in Government Act, requirements for financial disclosure and the various presidential executive orders that dictate how senior officials and their subordinates must comport themselves, both in office and after. The Web site has pamphlets in plain English explaining conflict-of-interest issues and other ethics topics.

It also has the following key documents:

- Executive Order 12674 (April 12, 1989, by President Bush) contained 14 standards for all officers and employees, at www.usoge.gov/exorders/eo12674.html.
- Executive Order 12731 (October 17, 1990, by Bush) slightly amended the earlier executive order, at www.usoge.gov/exorders/eo12731.html.
- Executive Order 12834 (January 20, 1993, by President Clinton) extended from one year to five years the period that senior officials are barred from lobbying their former departments, at www.usoge.gov/exorders/eo12834.html.
- Senior Appointee Pledge banned lobbying for five years as required by Executive Order 12834 at www.usoge.gov/ogeforms/203form.pdf.
- Ethics in Government Act of 1978, P.L. 95-52, made senior officials' financial disclosure reports public and created the U.S. Office of Government Ethics.
- Ethics Reform Act of 1989, P.L. 101-194, raised top government salaries, tightened criminal conflict-of-interest provisions, established lobbying prohibitions and revised the rules on financial disclosure and outside income.

All of the statutory provisions dealing with conflicts of interest are found in Chapter 11 (bribery, graft and conflicts of interest) of Title 18 of the U. S. Code, usually referred to as the Federal Criminal Code, at www.usoge.gov/usoge006.html#statutes.

There are also rules in the Code of Federal Regulations that specify what you must do to avoid or resolve conflicts of interest, at www.usoge.gov/usoge006.html#regs. They include:

- 5 C.F.R. Part 2637 Post-Employment Conflict-of-Interest at www.usoge.gov/ogeregs/5cfr2637.html
- 5 C.F.R. Part 2640 Interpretation, Exemptions and Waiver Guidance Concerning 18 U.S.C. 208 at www.usoge.gov/ogeregs/5cfr2640.html
- 5 C.F.R. Part 2641 Post-Employment Conflict-of-Interest Restrictions at www.usoge.gov/ogeregs/5cfr2641.html

There are a number of helpful pamphlets that provide information on the rules of ethical conduct and conflict-of-interest matters. They include:

- "A Brief Wrap on Ethics: An Ethics Pamphlet for Executive Branch Employees" at www.usoge.gov/pubs/brfwrap.pdf
- "Conflicts of Interest and Government Employment" at www.usoge.gov/pubs/conflict.pdf
- "Rules for the Road" at www.usoge.gov/pubs/rules4rd.pdf
- "Understanding the Revolving Door" at www.usoge.gov/pubs/revodoor.pdf

For more information, call the OGE at (202) 208-8000 or the designated agency ethics official (DAEO) in your department. A list of DAEOs can be found at www.usoge.gov/misc/dlst1000.pdf.

Forms

Some of the forms that you will need to fill out are available online at the following locations:

- SF86 Questionnaire for National Security positions from the Office of Personnel Management's Web

site at www.opm.gov/forms/pdfimage/sf0086.pdf

- SF278 Executive Branch Personnel Public Financial Disclosure Report from the U.S. Office of Government Ethics Web site at www.usoge.gov/ogeforms/sf278_00.pdf

Key Executive Branch Offices

Let's start at the top. The number of the White House switchboard is (202) 456-1414. You can ask to be connected to the Office of Presidential Personnel, the Office of the Counsel or others on the president's staff you've been dealing with.

The White House Web site, www.whitehouse.gov, is a portal to information about the entire executive branch.

Key White House phone numbers include:

- Office of Presidential Personnel, (202) 456-6676
- Legislative Affairs, (202) 456-2230
- Office of the Vice President, (202) 456-2326
- Office of the Chief of Staff, (202) 456-6798
- Office of the Counsel, (202) 456-2632
- Office of the First Lady, (202) 456-6266
- Press Secretary, (202) 456-2673
- Cabinet Secretary, (202) 456-2572

Links to all executive branch Web sites can be found at lcweb.loc.gov/global/executive/fed.html

Office of Personnel Management. The Office of Personnel Management is the government's human resource agency and administrator of its vaunted Federal Employees Health Benefits Program, which offers all federal workers, including full-time presidential appointees, a wide choice of private health plans. The OPM is also the rule-keeper for the entire civilian federal work force. You can call them at (202) 606-1000, fax them at (202) 606-2573, or visit their Web site, www.opm.gov

In August 2000, OPM released an employment guide to help federal agencies facilitate the transition to a new presidential administration. The guide contains helpful information for all federal employees, including newly-appointed employees, and facts on pay,

leave and benefits. The guide can be accessed at www.opm.gov/transition.

General Services Administration. The General Services Administration is one of the government's central management agencies, charged with furnishing workspace, equipment, supplies, transportation and other services to federal employees. GSA also provides logistical support to presidential transitions to assure a smooth changeover of administrations. You can visit its Web site at www.gsa.gov.

Cabinet Departments. Here are the addresses, switchboard and other key phone numbers and Web sites for the Cabinet departments:

Department of Agriculture

14th St. and Independence Ave. SW
Washington, DC 20250
Phone, (202) 720-8732
Secretary's office, (202) 720-3631
Public affairs, (202) 720-4623
www.usda.gov

Department of Commerce

14th St. and Constitution Ave. NW
Washington, DC 20230
Phone, (202) 482-2000
Secretary's office, (202) 482-2112
Public affairs, (202) 482-4883
www.doc.gov

Department of Defense

The Pentagon
Washington, DC 20301
Phone, (703) 545-6700
Secretary's office, (703) 695-5261
Public affairs, (703) 697-9312
www.defenselink.mil

Department of Education

400 Maryland Ave. SW
Washington, DC 20202
Phone, (202) 401-2000
Secretary's office, (202) 401-3000
Public affairs, (202) 401-3026
www.ed.gov

Department of Energy

1000 Independence Ave. SW
Washington, DC 20585
Phone, (202) 586-5000
Secretary's office, (202) 586-6210
Public affairs, (202) 586-4940
www.doe.gov

Department of Health and Human Services

200 Independence Ave. SW
Washington, DC 20201
Phone, (202) 619-0257
Secretary's office, (202) 690-7000
Public affairs, (202) 690-7850
www.dhhs.gov

Department of Housing and Urban Development

451 7th St. SW
Washington, DC 20410
Phone, (202) 708-1112
Secretary's office, (202) 708-0417
Public affairs, (202) 708-0980
www.hud.gov

Department of the Interior

1849 C St. NW
Washington, DC 20240
Phone, (202) 208-3100
Secretary's office, (202) 208-7351
Public affairs, (202) 208-6416
www.doi.gov

Department of Justice

950 Pennsylvania Ave. NW
Washington, DC 20530
Phone, (202) 514-2000
Secretary's office, (202) 514-2001
Public affairs (202) 616-2777
www.usdoj.gov

Department of Labor

200 Constitution Ave. NW
Washington, DC 20210
Phone, (202) 219-5000
Secretary's office, (202) 219-8271
Public affairs, (202) 219-8211
www.dol.gov

Department of State

2201 C St. NW
Washington, DC 20520
Phone, (202) 647-4000
Secretary's office, (202) 647-4000
Public affairs, (202) 647-6607
www.state.gov

Department of Transportation

400 7th St. SW
Washington, DC 20590
Phone, (202) 366-4000
Secretary's office, (202) 366-1111
Public affairs, (202) 366-4570
www.dot.gov

Department of the Treasury

1500 Pennsylvania Ave. NW
Washington, DC 20220
Phone, (202) 622-2000
Secretary's office, (202) 622-5300
Public affairs, (202) 622-2910
www.ustreas.gov

Department of Veteran's Affairs

810 Vermont Ave. NW
Washington, DC 20420
Phone, (202) 273-5400
Secretary's office, (202) 273-4800
public affairs (202) 273-5712
www.va.gov

Media Sources

If you want to know more about the senators who will pass judgment on your nomination, the best and handiest sources of information are two rival books: *Politics in America*, published by Congressional Quarterly Inc., and *Almanac of American Politics*, published by National Journal Group Inc.

Congressional Quarterly, best known for its publications *CQ Weekly*, *CQ Researcher* and *CQ Daily Monitor*, also is a prolific book and electronic publisher. Its most comprehensive text on the executive branch is its two-volume *Guide to the Presidency* (second edition, 1996). *Cabinets and Counselors: The*

President and the Executive Branch (second edition, 1997) details the history, structure and functions of the White House staff, supporting executive branch organizations and the Cabinet. CQ's *Washington Information Directory*, organized by subject area, provides useful contact information for federal agencies and departments, congressional offices and committees, nonprofits, policy groups and other Washington organizations. You can order these books or browse other books on CQ's Web site, www.cq.com, or call (800) 638-1710.

National Journal, nationaljournal.com, publishes a host of publications on government and politics. Its weekly magazine, *National Journal*, features in-depth coverage of all three branches of government as well as tidbits on who's working for whom and the revolving door inside the Beltway. The annual subscription fee includes *The Capital Source*, a highly useful, approximately 150-page directory of names, phone numbers and addresses for Washington's entire power structure: government, think tanks, trade and professional associations, lobbyists and the media. You can purchase a single copy of *The Capital Source*, updated each spring and fall, by calling (800) 356-4838.

National Journal also publishes *Government Executive*, a monthly magazine for federal managers, and *The Hotline*, a daily roundup of political news from newspapers and the television networks that is essential reading for political junkies. A subscription costs several thousand dollars, but a free "light" version of the Hotline is available online at hotlinescoop.com.

You can find links to 5,400 newspapers around the United States and around the world at the *American Journalism Review*: ajr.newslink.org/news.html. That site also includes magazines links. Publications with wide readership and currency in Washington include:

- **The Washington Post** www.washingtonpost.com
- **The Washington Times** www.washtimes.com
- **Washingtonian** www.washingtonian.com
- **Roll Call** www.rollcall.com
- **The Hill** www.hillnews.com

Dozens of other media companies in the Washington area publish highly specialized newsletters and reports about federal agencies and programs. Two of the most respected are the Bureau of National Affairs, www.bna.com, and Inside Washington Publishers, www.iwpextra.com. CCH Inc. (formerly Commerce Clearing House) also publishes a raft of newsletters on business and tax issues, the courts, Medicare and other federal matters at www.cch.com. Your department (or future department) likely subscribes to these trade publications.

Books/Papers

Here is a brief sampling of books and papers that are pertinent for those needing an immersion course in how the appointments process works:

- *Obstacle Course* (Twentieth Century Fund Press, New York, 1996). This report by the Twentieth Century Fund Task Force on the Presidential Appointment Process (a blue ribbon group that was chaired by former senators John C. Culver of Iowa and Charles McC. Mathias of Maryland) fleshes out the difficulties of the presidential appointments process. Information on the report may be found at www.tcf.org.
- *The Confirmation Mess: Cleaning Up the Federal Appointments Process*, by Stephen L. Carter (Basic Books, 1994). A Yale law professor's take on what has gone wrong with the appointments process.
- *The In-and-Outers: Presidential Appointees and Transient Government in Washington*, edited by G. Calvin Mackenzie (Johns Hopkins University Press, 1987). Although published more than a decade ago, this well-regarded work provides useful insights into the appointments process and the backgrounds and experiences of appointees themselves.
- *Starting Over: The Presidential Appointment Process in 1997*, by G. Calvin Mackenzie (The Century Foundation, 1997). An update on developments in the appointments process in the year following the publication of *Obstacle Course* can be found at: www.tcf.org/Task_Forces/Nominations/Mackenzie/Starting_Over.html

The Owner's Manual: A Brief Look at the Constitution

Presidential appointees occupy a special place in our often fractious political history. Almost from the start, they have served as the rope in a tug of war between the executive and legislative branches. Disputes over appointments spurred the pivotal case of *Marbury v. Madison*, which helped define the powers of the Supreme Court, as well as the impeachment of President Andrew Johnson after the Civil War.

To understand why to this day there is so much controversy over presidential appointments, look first in the owner's manual for our system of government: the U.S. Constitution.

The president's appointment powers and the Senate's separate role are addressed in Article II, Section 2:

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The 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.

Article II, Section 3, adds that the president "shall commission all the officers of the United States" — a separate step that figured in the Supreme Court's celebrated ruling in *Marbury v. Madison* in 1803.

A brief refresher in constitutional law is an apt way to begin learning how to navigate the political shoals around Washington. It can help you understand the importance that the legislative branch will play in your life, both during the nomination process and after the president has signed your commission. As political scientist James Q. Wilson wrote in his 1989 book, *Bureaucracy: What Government Agencies Do and Why They Do It*, the framers of the Constitution intentionally divided the authority:

That document makes the president and Congress rivals for control of the American administrative system. The rivalry leads to struggle and the struggle breeds frustration. Those agencies that Congress regards as responsive the president views as unaccountable; those bureaus that from Capitol Hill seem to be runaway rogues appear from the White House to be insolent sloths.

While the Constitution set up the framework for the appointments system, George Washington established precedents that extend to this day. He espoused the view that it was the president's prerogative alone to choose a nominee. The Senate's role in the matter was limited to advise and consent (or reject) — not to make choices of its own. As Alexander Hamilton explained in *Federalist Paper 66*:

It will be the office of the President to NOMINATE, and, with the advice and consent of the Senate, to

APPOINT. There will, of course, be no exertion of CHOICE on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves CHOOSE, they can only ratify or reject the choice of the President.

The first rejections

The Senate approved Washington's first nominee, William Short, by secret ballot in June 1789 to be minister to France (although it would reject the same envoy years later when Thomas Jefferson wanted to send him to Moscow). But that same summer, the Senate surprised Washington by rejecting the nomination of Benjamin Fishbourn to run the port of Savannah, Georgia. Fishbourn was singled out for disapproval from a list of 102 prospective port collectors, naval officers and surveyors.

Fishbourn's offense was that he had aroused the enmity of James Gunn, one of Georgia's first senators. By blocking the nomination, Gunn established the precedent of "senatorial courtesy." To this day, senators are consulted on who should fill presidential appointments to serve in their home states, such as district judges and marshals.

Washington responded with "a replacement and a tactful letter of protest," according to Richard Allan Baker, the U.S. Senate historian. The president also urged senators to check with him first if they needed to know more about future nominees' qualifications. Washington "considered the appointment process 'one of the most difficult parts of the duty of his office,'" Senator Robert Byrd (D-W.Va.) wrote in his three-volume history, *The Senate: 1789-1989*. "He fretted over pressures from unqualified office-seekers and turned away relatives who wanted federal jobs." Establishing a precedent that has endured ever since, Washington looked for geographic diversity as well as ability when making Cabinet and Supreme Court appointments.

Washington's biggest appointment setback occurred in 1795 over his nominee for chief justice on the Supreme Court, John Rutledge. Rutledge had impressive credentials: He had previously served on the Supreme Court in 1789 before quitting to become South Carolina's top justice. But Federalists in the

Senate charged the jurist was insane; why else would he have spoken out against the Jay Treaty with England while his nomination was pending in 1795? Rutledge served briefly as chief justice as a recess appointee in 1795 before the Senate sent him packing. Since then, almost one in five of all nominees to the Supreme Court have been defeated.

In the view of Senate historian Baker, the rejection of Rutledge "made it clear that [the Senate's] examination of a nominee's qualifications would extend beyond his personal qualifications to his political views."

Midnight appointments

In those early days, appointees often served indefinitely from one administration to another. "How are vacancies to be obtained?" Thomas Jefferson lamented. "Those by death are few; by resignation, none." Jefferson was piqued when his rival and White House predecessor, John Adams, made "midnight appointments" of judges and justices of the peace just before he and the Senate's lame duck Federalists left office in March 1801. Adams and his allies rushed through legislation creating new judgeships, allowing Adams to appoint 42 justices of the peace. Seventeen of those commissions were still sitting undelivered in the Department of State when Jefferson was inaugurated.

The new president resubmitted to the Senate the names of most of the justices of the peace, but omitted several of the most partisan Federalists, including William Marbury. Marbury and three others in the same boat got former attorney general Charles Lee to file a lawsuit demanding that James Madison, Jefferson's secretary of state, hand over their commissions.

When the case reached the Supreme Court, Chief Justice John Marshall — who had been Adam's secretary of state and actually signed the commissions in question — faced a quandary. He knew that Jefferson, his second cousin, was unlikely to obey a court order to deliver the commissions. The crafty Marshall devised another solution that lawyers still delight to read two centuries later. To establish the authority of the Supreme Court without facing a showdown with the executive branch, Marshall

wrote that Marbury and his colleagues were indeed entitled to their commissions, but, significantly, he went on to say that the 1789 law that gave the Supreme Court the authority to issue a writ of mandamus (an order directing an official or a lower court to perform a specific act) against the secretary of state was unconstitutional. As Dumas Malone wrote in the 1970 biography, *Jefferson The President*, “Marshall denied Marbury’s petition after having elaborately argued for its rightfulness, thus managing both to have his cake and eat it.”

Later battles

It was not until Andrew Jackson’s tenure in the 1830s that presidents began forcing out prior political appointees to put in their own. Although the Jackson era is remembered for a supporter’s invocation of the old Latin phrase, “to the victor belongs the spoils,” Jackson himself roused only a minority of the incumbent officials he inherited from John Quincy Adams.

And for decades, senators and presidents kept wrestling over whether the Senate could block a president from removing a Cabinet officer once confirmed. In a historic showdown, President Andrew Johnson upheld the power of the presidency when he barely survived impeachment in 1868 for ousting Edwin M. Stanton as secretary of War in defiance of the 1867 Tenure of Office Act. Stanton’s sympathies lay with the “Radical Republicans” who wanted to impose strict terms on the defeated South. Johnson, a Tennessean, opposed those policies, and he insisted that the president had the authority to remove a cabinet officer.

The presidents who followed Johnson also tussled with the Senate over appointments. President James Garfield, early in his 1881 term, won an important showdown with the Senate over his appointment of a collector of customs for the port of New York against the wishes of New York Senator Roscoe Conkling. Shortly after, Garfield was assassinated by a disgruntled, demented office-seeker. Two years later, Congress passed the Civil Service Act restricting patronage. Congress also got around in the 1880s to repealing the Tenure of Office Act, and in 1925 the Supreme Court belatedly ruled that it had been unconstitutional in the first place.

II Advice and Consent — and Rejections

Senate confirmation battles over presidential nominees are hardly a modern phenomenon. The tug of war between chief executives and senators over who should serve in the Cabinet or on the Supreme Court has lasted more than two centuries. Here, in chronological order, is a sampling:

- **1789:** The Senate rejected Benjamin Fishbourn of Georgia, one of 102 people appointed by President Washington as collectors, naval officers and surveyors. Fishbourn had run afoul of Georgia Senator James Gunn, who exercised what became the tradition of “senatorial courtesy” to block appointees to certain positions in a senator’s home state.
- **1795:** The Senate rejected the recess appointment of John Rutledge to be chief justice of the Supreme Court. Rutledge, chief justice of the South Carolina supreme court and former associate justice of the U.S. Supreme Court, angered Federalists by opposing the Jay Treaty with England. Critics questioned his sanity, and Rutledge later tried to take his own life.
- **1809:** President James Madison dropped plans to appoint the Swiss-born Albert Gallatin, Thomas Jefferson’s secretary of the Treasury, as his secretary of State in the face of Senate opposition. Madison kept Gallatin at Treasury and gave the State Department job to a senator’s brother, Robert Smith, who some blame for getting the United States into the War of 1812. Gallatin ended his long, successful run at Treasury in 1814 and helped negotiate the Treaty of Ghent ending that war.
- **1811:** The Senate rejected Alexander Wolcott, a Madison nominee to the Supreme Court and customs collector from Connecticut, on the grounds that he lacked the experience and temperament for the job.
- **1815:** Madison nominated Henry Dearborn, a former secretary of War under Jefferson and general during the War of 1812, to run the War Department again. Madison sought to withdraw the nomination the next day after quickly realizing how little support there was for Dearborn. The Senate had already voted to reject Dearborn, but had the vote erased from its journal.
- **1829-1837:** President Andrew Jackson clashed with the Senate over numerous appointments. Among the rejections: Attorney General Roger B. Taney, who was denied the post of Treasury secretary, but later confirmed as chief justice of the Supreme Court. His otherwise distinguished 28-year tenure on the Court was marred by the infamous 1857 ruling in *Dred Scott v. Sandford*, which opened the Western territories to slavery and intensified the divisions between the North and South.
- **1843:** After President John Tyler broke with the Whig majority, the Senate showed Tyler who wielded the upper hand. On the final night of its session, the Whigs rejected Caleb Cushing as secretary of Treasury three times in succession as Tyler stubbornly kept resubmitting his name. The Senate also rejected several Tyler diplomatic appointees, a secretary of the Navy, secretary of War and four Supreme Court nominees, “a record of rejection unmatched by any other president,” according to Senator Robert Byrd (D-W.Va.). “Nominations and

rejections flew backwards and forwards as in a game of shuttlecock,” Senator Thomas Hart Benton reported.

- **1869:** The Senate rejected President Ulysses S. Grant’s nomination to the Supreme Court of Ebenezer Hoar, who as attorney general had sought to elevate the standards for judicial appointments and end senators’ say in who was nominated to court vacancies in their states.
- **1873:** Former Senator George H. Williams, widely viewed as unqualified, withdrew as President Ulysses S. Grant’s nominee to be chief justice. Grant nominated Caleb Cushing, the same man who had been rejected three times 30 years before as Tyler’s Treasury secretary. “Radical Republicans forced his withdrawal on the overblown charge that he had corresponded with Confederate president Jefferson Davis in the early days of the Civil War,” according to Senate historian Richard Allan Baker.
- **1877-1881:** Senate Democrats and disgruntled Republicans defeated 51 nominees of President Rutherford B. Hayes, a Republican who came to office in the disputed election of 1876, withdrew occupying troops from the South and tried to curb patronage.
- **1881:** President James A. Garfield fought with Senator Roscoe Conkling of New York over who should be collector for the port of New York. Garfield demanded to know whether he was the chief executive or the Senate’s clerk. Conkling and fellow Senator Thomas Platt resigned to protest the assault on senatorial courtesies. Later that year, Garfield was shot by a deranged office seeker, an act that spurred passage of the Civil Service Act of 1883 curbing patronage.
- **1916:** The progressive Louis D. Brandeis, Harvard law professor and “people’s lawyer,” was denounced by the American Bar Association and business interests when President Woodrow Wilson nominated him to the Supreme Court. But he eventually won confirmation, 47-22, and began a storied 23-year career on the bench.
- **1926:** The Senate twice in six days rejected President Calvin Coolidge’s nomination of conservative lawyer Charles Warren to be attorney general. Warren was deemed too close to the sugar industry.
- **1930:** Conservative North Carolina jurist John J. Parker, opposed by labor unions and the NAACP, was rejected for a seat on the Supreme Court.
- **1937:** Senator Hugo Black, an ardent New Dealer, won confirmation to the Supreme Court, despite rumors (later confirmed) that he had briefly belonged to the Ku Klux Klan. During his 34 years on the Court, Black championed civil rights and wrote the landmark 1963 *Gideon v. Wainwright* decision guaranteeing criminal defendants’ right to an attorney.
- **1948:** Senate Republicans, wrongly presuming that Thomas E. Dewey would be president the following year, delayed acting on 11,122 military and civilian nominations sent up by Democratic President Harry Truman.
- **1949:** The Senate, now under Democratic control, rejected Truman’s nomination of Leland Olds to a third term on the Federal Power Commission. Olds’ support for federal regulation of oil and gas riled industry. Lyndon Johnson, a freshman senator from Texas, led the attack.
- **1959:** A heavily Democratic Senate narrowly rejected President Dwight D. Eisenhower’s nomination of Lewis Strauss, a crusty former admiral, to be secretary of Commerce. Strauss had antagonized senators as head of the Atomic Energy Commission and “fueled the [Senate Commerce] committee’s antagonism by his evasive responses ... and his demand to cross-examine hostile witnesses — including senators,” according to Baker.
- **1969:** The Senate rejected two of Richard Nixon’s nominees to the Supreme Court: Clement F. Haynsworth, Jr. and G. Harrold Carswell. The conservative nominees, both appeals court judges, faced strong opposition from civil rights groups. Carswell was much the weaker candidate. Senator Roman Hruska, a Nebraska Republican, did him no

good when he said of Carswell: “Even if he is mediocre there are a lot of mediocre judges and people and lawyers. They are entitled to a little representation, aren’t they, and a little chance? We can’t have all Brandeises, Cardozos, and Frankfurters and stuff like that there.”

- **1977:** Paul Warnke won confirmation as President Carter’s chief arms negotiator, but the 40 votes against him weakened Carter’s hands in treaty talks with the Soviets. His Senate critics regarded Warnke as too liberal.
- **1981:** Ernest W. Lefever, a critic of Carter’s human rights policies, withdrew as President Reagan’s choice for assistant secretary of State for human rights after the Senate Foreign Relations Committee, led by liberal Republican Senator Charles Percy of Illinois, urged the full Senate to defeat him.
- **1985:** Edwin Meese, Reagan’s chief of staff, won confirmation as attorney general, 63-31, despite opposition from liberals and civil rights groups. But the Senate Judiciary Committee voted not to send to the floor the nomination of Justice civil rights official William Bradford Reynolds to be associate attorney general.
- **1986:** The Senate voted, 65-33, to confirm William H. Rehnquist as Warren Burger’s successor as chief justice of the Supreme Court, despite opposition from liberals who also had opposed his initial appointment to the court in 1971.
- **1987:** By a vote of 58-42 the Senate rejected Reagan’s nomination of conservative scholar and judge Robert Bork to the Supreme Court after a hearing where Senator Edward Kennedy (D-Mass.) accused Bork of wanting to roll back the clock on desegregation and abortion rights.
- **1989:** The Democratic Senate rejected former Texas Senator John Tower’s nomination to be President Bush’s secretary of Defense after questions were raised about his personal behavior. Tower was the first Cabinet nominee of a new president ever to be rejected.
- **1991:** The Senate confirmed Clarence Thomas to succeed Thurgood Marshall after a bitter confirmation dispute over allegations that Thomas had sexually harassed Anita Hill a decade earlier as chairman of the Equal Employment Opportunity Commission.
- **1993:** President Clinton’s choice for attorney general, Aetna Inc. general counsel Zoë Baird, withdrew one day into her confirmation hearings after a furor over her failure to pay Social Security taxes for a nanny and chauffeur who lacked work papers.
- **1993:** President Clinton withdrew his nomination of voting rights attorney and law professor Lani Guinier for assistant attorney general for civil rights, saying he had been unaware of her controversial views on how to redress wrongs against minorities.
- **1994:** Former admiral Bobby Ray Inman, stung by press and Senate criticisms of his record, asked President Clinton to withdraw his nomination as secretary of Defense. A Clinton aide, George Stephanopoulos, later wrote that Inman had held back information during his White House background check.
- **1997:** Anthony Lake, Clinton’s national security adviser, dropped his bid to become CIA director, torpedoed by opponents who viewed Lake as too dovish for the job. “Washington has gone haywire,” Lake lamented.
- **1999:** Richard C. Holbrooke was confirmed as ambassador to the United Nations, 14 months after Clinton announced his nomination. The long-time diplomat agreed to pay \$5,000 to settle an eight-month Department of Justice probe into whether he violated the one-year “cooling off” period after he left the State Department in 1995 to become an investment banker.

Sources: *The Senate 1789-1989: Addresses on the History of the United States Senate*, Volume Two, by Senator Robert C. Byrd; “Legislative Power Over Appointments and Confirmations” by Richard Allan Baker in *Encyclopedia of the American Legislative System*, Volume III, Joel H. Silbey, editor in chief; *All Too Human*, George Stephanopoulos.

III Sample Questions Asked by Senate Committees

Each of the 16 Senate committees that handles nominations has its own questionnaire for nominees. Many committees pose similar, if not identical, questions. The questions also are similar, but not identical, to the ones asked of nominees on other forms. Here's a selection of questions committees have posed in the past. Different questions may be asked of future nominees.

Agriculture, Nutrition and Forestry

- What is the present state of your health?
- Have you severed all connections with your immediate past private sector employers, business firms, associations, and/or organizations?
- List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, incompleting contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers.
- Do you, or does any partnership or closely held corporation in which you have an interest, own or operate a farm or ranch?
- Have you ever participated in federal commodity price support programs? Provide all details for the past five years.
- Have you ever received payments for crop losses from the Federal Crop Insurance program?
- If confirmed, do you have any plans, commitments, or agreements to pursue outside employment or engage in any business or vocation, with or without compensation, during your service with the government? If so, explain.
- Do you have any plans to resume employment, affiliation, or practice with your previous employers, business firms, associations, or organizations after completing government service?
- Has anyone made a commitment to employ you or retain your services in any capacity after you leave government service?
- Identify all investments, obligations, liabilities, or other relationships which involve potential conflicts of interest in the position to which you have been nominated.
- Have you ever received a government guaranteed student loan? If so, has it been repaid?
- If confirmed, explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

Armed Services

- List all jobs held since college or in the last 10 years, whichever is less.
- List all offices with a political party you held or any public office for which you were a candidate.
- Itemize all political contributions of \$100 or more for the past five years to any individual, campaign organization, political party or political action committee.
- Provide two copies of any formal speeches you delivered during the last five years on topics relevant to the position for which you have been nominated.
- Do you agree, if confirmed, to appear and testify upon request before any duly constituted committee of the Senate?
- Will you sever all business connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

- Is your spouse employed and, if so, where?
- If confirmed, do you expect to serve out your full term or until the next presidential election?
- Describe any activity during the past 10 years in which you sought to influence the passage, defeat or modification of any legislation or affect the administration and execution of law or public policy.
- Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by any court, administrative agency, professional association or disciplinary committee?
- Have you ever been investigated, arrested, charged or held by any federal, state, or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance, other than a minor traffic offense?
- Have you or any business of which you are or were an officer ever been involved in any administrative agency proceeding or civil litigation?
- Have you ever been convicted (including a plea of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?
- Please advise the committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.
- Have you or your spouse ever represented in any capacity, with or without compensation, a foreign government or an entity controlled by a foreign government?
- If you or your spouse has ever been formally associated with a law, accounting, public relations firm or other service organization, have any of your or your spouse's associates represented, in any capacity, with or without compensation, a foreign government or an entity controlled by a foreign government?
- During the past 10 years have you or your spouse received any compensation from, or been involved in any financial or business transactions with, a foreign government or an entity controlled by a foreign government?
- Have you filed a federal income tax return for each of the past 10 years? If not, please explain.
- Have your taxes always been paid on time?
- Were all your taxes, federal, state and local, current (filed and paid) as of the date of your nomination?

- Has the Internal Revenue Service ever audited your federal tax return? If so, what resulted from the audit?
- Have any tax liens been filed against you or against any property you own?

Energy and Natural Resources

- If you are a partner in a law firm or other organization, provide the committee with a list of all clients whom you have personally represented, and all clients the firm has represented within the past five years and a brief description of the nature of the representation. If you wish the list to be kept confidential, so indicate.

Finance

- Itemize all political contributions of \$50 or more for the past 10 years.
- State what, in your opinion, qualifies you to serve in the position to which you have been nominated.
- Provide a complete and current financial net worth statement that itemizes in detail the identity and value of all assets held, directly or indirectly, with a value in excess of \$1,000. Household furnishings, personal effects, clothing, and automobiles need not be reported. Also, identify each liability in excess of \$1,000.
- Provide a list of all transactions in securities, commodities futures, real estate, or other investments, valued at \$10,000 or more, in the last 12 months.
- Have you ever been late in paying court-ordered child support? If so, provide details.
- Provide two copies of your federal income tax returns for the past three years.

Foreign Relations

- List all foreign languages spoken and provide a self-assessment of your ability to speak, write and understand each language.
- Are you or your spouse now in default on any loan, debt or other financial obligation? Have you or your spouse been in default on any loan, debt or other obligation in the past five years?
- Have you ever declared bankruptcy? If so, describe

the circumstances and the status and disposition of the case.

- Have you, your spouse or your dependents received gift(s) exceeding \$1,000 per annum from anyone other than family members within the last three years?
- List all political contributions during this calendar year and the four preceding years.
- Have you ever run for political office at any level? Did your campaign committee file all required campaign contribution and expenditure reports on time?
- Have you read and do you understand Section 208 of Title 18 of the United States Code? [Section 208 is the conflict of interest statute for federal employees.]
- Have you been interviewed or asked to supply any information for a congressional or grand jury investigation with the past five years, except routine congressional testimony? If so, provide details.
- Have you ever been discharged from employment, resigned after being informed that your employer intended to discharge you or resigned after allegations of misconduct?
- Are there any issues regarding your personal integrity that may be an issue in the committee's consideration of your nomination?
- Please advise the committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Governmental Affairs

- Are these answers your own? Have you consulted with [the department] or any other interested parties? If so, please indicate which entities.

Judiciary

- Describe chronologically your law practice and experience after graduation from law school including: whether you served as clerk to a judge; whether you practice alone; firms, companies or agencies with which you have been connected and the nature of your connection; what the general character of your law practice has been; your typical former clients; whether you appeared in court frequently, occasionally, or not at all.
- Describe the most significant legal activities you have pursued.... Omit any information protected by the attorney-client privilege (unless the privilege has been waived).
- The American Bar Association's Code of Professional Responsibility calls for "every lawyer...to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities.
- Do you belong or have you belonged to any organization which discriminates on the basis of race, sex, or religion — through either formal membership requirements or the practical implementation of membership policies? What have you done to try to change these policies?
- Advise the committee of any unfavorable information that may affect your nomination.

IV Standard Form 278: Executive Branch Personnel Public Financial Disclosure Report

Standard Form 278
Executive Branch Nominees
PUBLIC FINANCIAL
DISCLOSURE REPORT

Instructions for Completing SF 278

I. Introduction

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year, except Part II of Schedule C and Part I of Schedule D where you must also include any positions held and agreements or arrangements made from the beginning of the filing year until the date you file. Schedule B need not include transactions made, or gifts or reimbursements received, during a period when another person acted as your employee.

Transitions: Where Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination of Government employment in the year filed.

New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D (candidates do not file Part II of Schedule D), as follows:

Schedule A - The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is less than 31 days before the date of filing.

Schedule C, Part III (Liabilities) - The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is less than 31 days before the date of filing.

Schedule C, Part II (Agreements or Arrangements) - Show any agreements or arrangements as of the date of filing.

Schedule D - The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Scope of Disclosure

The extent of the reporting requirement is stated in each schedule. The various schedules of this form require reporting of your financial interests and activities, both in the U.S. and abroad, except as otherwise noted. In addition to your individual financial information, you are required to report information concerning your spouse and dependent children in several schedules of this form. However, no report is required with respect to your spouse if he or she is living separate and apart from you with the intention of terminating the marriage or providing for permanent separation. In addition, no report is required with respect to any income or obligations of an individual arising from the termination of marriage or permanent separation from a spouse. There are other exceptions to the reporting of assets and income, transactions, and liabilities of a spouse or dependent child which are discussed in the instructions applicable to those subjects.

A basic premise of the statutory financial disclosure requirements is that those having responsibility for review of reports filed pursuant to the Ethics in Government Act or pursuant public access to reports must be given sufficient information by reporting individuals concerning the matters which comprise interests and activities so that an informed judgment can be made with respect to compliance with applicable conflict of interest laws and standards of conduct regulations. Therefore, it is important that you carefully complete the attached form. This report is a safeguard for you as well as the Government. In that it provides a mechanism for detecting actual or potential conflicts between your public responsibilities and your private interests and activities and allows you and your agency to fulfill appropriate protections against such conflicts when they first appear.

All Presidential nominees to positions requiring the advice and consent of the Senate shall file with the Senate committee considering the nomination an memorandum in the initial report, which shall update all items of interest, income and business through the period ending 60 days before the date of the nomination. This update shall be provided in the manner requested by the Senate committee considering the nomination. Copies shall be provided to OIGB and your agency office official.

Classification of Terms

Category of Asset

Reportable financial interests are disclosed either by actual amount or by category of amount, depending on the interest, as specified by this form. You may, but you are not required to, indicate an actual amount when the form provides for a category of amount or value.

Dependent Child

The term "dependent child" means your son, daughter, stepson, or stepdaughter if such person is either: (1) unmarried, under age 21, and living in your household; or (2) a "dependent" of yours within the meaning of section 152 of the Internal Revenue Code of 1986.

Exempted Investment Fund

An exempted investment fund is a mutual fund, common trust fund of a bank, pension or deferred compensation plan, or any other investment fund, which is widely held, publicly traded (or available) or widely diversified; and under circumstances where you neither exercise control over nor have the ability to exercise control over the fund's investments held by the fund. A fund is widely diversified when it holds more than 2% of the value of its portfolio in the securities of any one issuer (other than the U.S. Government) and no more than 20% in any particular economic or geographic sector.

• **Gifts**

See instructions for Individuals B, Part I.L.B.

• **Expenses**

The term "expenses" means payments of money or anything of value to you or your spouse for an expense, such as, speech, or article, including necessary travel expenses. See 5 U.S.C. app. § 501(2).

• **Personal Savings Account**

The term "personal savings account" includes a certificate of deposit, a money market account, or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

• **Treaties ("Quinn-Tamm" and "Taft-Hartley")**

See instructions for Schedule A, Part I.L.B., and 3 C.F.R. Part 2634, Subpart D.

• **Value**

You may use any one of the methods described below, in determining fair market value:

Option 1 - any good faith estimate of the value of the property if the exact value is unknown or not easily determinable;

Option 2 - value based upon a recent appraisal of the property interest;

Option 3 - the purchase price of your property interest, or estimated retail price of a gift;

Option 4 - the assessed value of the property for tax purposes, adjusted to reflect current market value if the tax assessment is computed at less than 100% of current value;

Option 5 - the year-end book value of non-pledged traded stock, or the year-end average value of corporate stocks, or the fair value of corporate bonds or convertible securities;

Option 6 - the net worth of your interest (as in a business partnership or other jointly held business interest);

Option 7 - the equity value of your interest (as in a solely owned business or commercial enterprise); or

Option 8 - exact value (e.g., personal savings accounts) or any other recognized indication of value (such as list value on a stock exchange).

II. Who Must File

1. Candidates for nomination or election to the office of President or Vice President.

2. Presidential nominees to positions requiring the advice and consent of the Senate, other than those nominated for judicial offices or as a Foreign Service Officer or an appointment to a rank in the uniformed services at a pay grade of O-5, or below.

3. The following newly elected or appointed officials:

• The President;

• The Vice President;

• Officers and employees (including special Government employees, as defined in 5 U.S.C. § 202) whose positions are classified above GS-15 of the General Schedule, or the rate of pay they are to be paid, other than under the General Schedule, at a rate equal to or greater than 120% of the minimum rate of basic pay for GS-15 of the General Schedule.

• Members of the uniformed services at pay grade O-7 or above;

• Officers or employees in any other positions determined by the Director of the Office of Government Ethics to be of equal classification to those GS-15;

• Administrative law judges;

• Employees in the accepted service in positions which are of a confidential or policy-making character, unless by regulation their positions have been excluded by the Director of the Office of Government Ethics;

• The Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the U.S. Postal Service and officers or employees of the U.S. Postal Service or Postal Rate Commission in positions for which the rate of basic pay is equal to or greater than 120% of the minimum rate of basic pay for GS-15 of the General Schedule;

• The Director of the Office of Government Ethics and each designated agency ethics official; and

• Civilian employees in the Executive Office of the President (other than special Government employees) who hold commissions of appointment from the President.

4. Incumbent officials holding positions referred to in section II.c. of these instructions if they have served 61 days or more in the position during the preceding calendar year.

5. Officials who have terminated employment after having served 61 days or more in a calendar year in a position referred to in section II.c. and have not accepted another such position within 30 days thereafter.

III. When to File

6. Within 30 days after becoming a candidate for nomination or election to the office of President or Vice

President, or by May 15 either outside year, whichever is later, but at least 30 days before the election, and on or before May 15 of each succeeding year an individual continues to be a candidate.

b. At any time after the President or President-elect has publicly announced an intention to nominate an individual referred to in section II.a, officers, contractors, but no later than 5 days after the President transmits the nomination to the Senate.

c. Within 30 days after assuming a position described in section II.c, unless such an individual has left another such position within 30 days prior to assuming the new position, or has already filed a report with respect to nomination for the new position (section II.b.) or as a candidate for the position (section II.a.).

d. No later than May 15th annually, in the case of those in a position described in section II.d.

e. In the event an individual terminates employment in the position and does not accept another position described in section II.c. within 30 days, the report must be filed no later than the 30th day after termination.

f. Extensions. An employing agency may grant an extension of time of up to 45 days to a filer to file any report under sections III. c.-e. above (the FEC) for any report under section III. a. above). OGE may grant an additional extension of time up to 45 days to the way such report.

g. Fee Inclusion Filing. Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed or, if an extension is granted, more than 30 days after the last day of the filing extension period, shall be subject to a \$200 late filing fee. A report is considered to be filed when it is received by the agency. Unless waived by OGE, such fee will be collected by the filer's agency, for deposit with the U.S. Treasury.

IV. Where to File

a. Candidates for President and Vice President, with the Federal Election Commission.

b. The President and Vice President, with the Office of Government Ethics.

c. Members of a self-funded service, with the Service Secretary concerned.

d. All others, with the designated agency ethics official or that official's delegate, at the agency in which the individual serves, will serve or has served.

e. In the case of individuals nominated by or to be nominated by the President to positions requiring confidential procedures and filing together.

V. General Instructions

a. This form consists of the front page and four Schedules. If possible, use a blank set you or typewriter to fill out your report. You must complete each Part of all Schedules as required. If you have no information to report in any Part of a Schedule, you should indicate "None." If you are not required to complete Schedule B or Part II of Schedule D, you should leave it blank. Schedule A requires a report of income items with the disclosure of certain property interests. Schedule B deals with competitors in real property or certain other assets, as well as gifts and reimbursements. Schedules C and D relate to liabilities and employment relationships. After completing the first page and each Part of the Schedules (including extra sheets of any Schedule where continuation pages are required for any Part), consecutively number all pages.

b. The information to be disclosed is only that which the Ethics in Government Act of 1978, as amended (the Act) and 5 C.F.R. Part 2634 specifically require. You may, however, include any additional information beyond those requirements, that you wish to disclose for purposes of clarification. Disclosure of information does not authorize any holdings, actions, revenues, inhibition, transactions, gifts, reimbursements, affiliations or positions otherwise prohibited by law, Executive order, rule or regulation.

c. Combine on one form the information applicable to yourself, your spouse and dependent children; or if more convenient, use separate schedules to report the required information applicable to family members. You may, if you desire, designate any entry for a family member by preceding the entry with an (B) if it is for a spouse or a (DC) if it pertains to a dependent child. Joint assets may be indicated by a (J). See 5 C.F.R. Part 2634, Subpart C, for instructions in the case of separation or divorce.

d. Definitions of the various terms used in these instructions should be obtained from the sources to which is referred to be disclosed are contained in 5 C.F.R. Part 2634.

e. In the case of references to entities which are operating entities or businesses which do not have fiscal year-end, you must provide sufficient information about those entities to give the reviewers of your disclosure report an adequate basis for the complete analysis required by the Act. Thus, you must disclose the location and primary trade or business of private entities, as well as disclosed interests and activities not solely incidental to such primary trade or business. For instance, if your family performing pool services corporation bears a liability to purchase an apartment house for investment in addition to its pool services business, you will have to report the apartment house investment as part of the nature of the business of the family corporation.

c. In the case of references to entities which are investment funds such as mutual or pension funds (whether public or private), you must disclose the portfolio holdings and all other items such as transactions and liabilities to the extent otherwise required for reportable interests, unless the entity is an "excepted investment fund." See Definition of Terms above.

d. If you used assistance in completing this form, contact the designated agency sales official of the agency in which you serve, will serve, or have served.

Block A

I. General Instructions

Two of the general disclosure requirements of the Act concern certain interests in property (generally referred to here as assets) and items of income. Schedule A is designed to enable you to meet both of these reporting requirements. Generally a description of your, your spouse's, and your dependent child's assets and sources of income is required to be filed in BLOCK A of the Schedule. Reading from left to right across the page from each description of the asset or income source, you will be able to report in BLOCK B the value of such asset, and in BLOCK C the type and amount of income generated by that asset or received from the non-asset source.

On Schedule A are four examples which are representative of the reporting scheme of this Schedule. The first example represents the proper method of reporting stock of Central Airlines Company held at the end of the reporting period which has a value of \$75,000. The individual had also received dividends of \$1,500, reported in BLOCK C. If the Central Airlines stock had been sold, there would be a check in the "Done" (or less than \$1,000) column in BLOCK B if the individual no longer owned any of the stock at the end of the reporting period, and there would be an entry for capital gains as well as dividends in BLOCK C if they were realized.

during the period. The second example represents the proper method of reporting the source of \$130,000 of earned income from private law practice, as well as \$18,500 the reporting individual contributed to the capital account in the law firm at the end of the reporting period.

The third example represents acceptable reporting of an investment fund which is widely held, widely diversified (or publicly traded) and independently managed. Because it meets these requirements, no individual assets of the fund need to be reported, and the type of income does not need to be broken into dividends, interest, or capital gains as long as the returns for "excepted investment fund" is marked. The fourth example reports a mutual fund held in an IRA from which the filer has received dividends of \$10,000.

Normally you will have to list an item only once in BLOCK A with all other value and income information associated with that item shown on the same line to the right. However, when you have a number of different kinds of financial arrangements and income involving one entity, a full disclosure of all the required information for that entity may require more than one line. You may always use more than one line for derivatives if you choose.

II. Property Interests and Assets

(BLOCKS A and B)

A. Items to Report

Report the identity and category of valuation of any interest in property (real or personal) held by you, your spouse or dependent child in a trust or business, or for investment or the production of income which has a fair market value which exceeds \$1,000 as of the close of the reporting period. These interests include, but are not limited to, stocks, bonds, private interests and securities, interest accounts, mutual funds, IRA assets, tax shelters, beneficial interests in trusts, personal savings or other

bank accounts, real estate, commercial notes, investment accounts or other funds investible, and collectible items held for resale or investment. Knowledgeable Examples: your personal residence (unless rented out) and any personal liability owed to you, your spouse or dependent child by spouse or dependent child, only apartment, hotel, club, share or child of you, your spouse, or dependent child. Exclude any retirement benefits (including the Thrift Savings Plan) from Federal Government employment and any social security benefits. Exclude also any deposits aggregating \$5,000 or less in personal savings accounts in a single financial institution.

With respect to assets of a spouse or a dependent child, do not report items:

- (1) which represent your spouse's or dependent child's sole financial interest or responsibility and of which you have no knowledge;
- (2) which are not in any way, past or present, derived from your business, assets, or activities; and
- (3) from which you neither derive, nor expect to derive, any financial or economic benefit.

Notes: It is very difficult for most individuals to meet all three parts of this test, especially (3). For instance, if you file a joint tax return with your spouse, you derive a financial or economic benefit from the items involved and you are charged with knowledge of those items. A trust for the education of your minor child would also convey a financial benefit to you. Therefore, those trust and income items do not fit the test.

A spouse's residence held for investment or production of income, such as a summer home rented during part of the year, must be reported.

Investment sales from personal property such as collections of art, stamps or art holdings demonstrate that the items are held for investment or the production of income and should therefore be reported.

B. What to Show on the Form

Enter the identity of the trust in BLOCK A, and then show the value in BLOCK B. Only the category of value, rather than the actual value of the property interest or trust, must be shown. You need not describe which valuation method you used.

For trusts such as trusts, bonds, and securities, report any holding directly held or attributable to you, your spouse or dependent child from one source holding more than \$1,000 in value. Identify the holding and show the category of value. If you hold different types of securities of the same corporation (e.g., bonds and shares of "X" Corporation), these holdings should be reported as being from the same source for purposes of determining whether the aggregate value of the interest is below or above the \$1,000 threshold value. Report personal savings accounts only if they aggregate more than \$5,000 in a single financial institution.

If you have an interest in an investment fund or pool which is an "excepted investment fund" (see Definition of Term above), you need only identify the interest by giving the complete name of the fund, rather than identifying the underlying assets as well.

To report interests of you, your spouse, or dependent child in a business, a partnership, or joint venture, or the ownership of property held for investment or the production of income, identify the character of the ownership interest, and the nature and location of the business or interest, unless it is a publicly traded security. For example, the entry for a holding of firm land might show, under BLOCK A, "sole ownership of 100 acres of undeveloped dairy farmland on Rural Route #1 at Pine Bluff, Madison County, Wisconsin."

You must disclose the primary trade or business of non-profit entities, as well as interests and activities not solely incidental to such a trade or business. For

example, if your family is involved in a private real estate investment business but as a side interest buys stock through the business in a bank, you must disclose that in addition to real estate (by type and general location), the family business holds an interest in a bank.

For an IRA (Individual Retirement Account), indicate the value of each underlying asset, as well as the income derived therefrom (from through defined for Federal tax purposes) in accordance with section IV below, to enable the reviewer to evaluate compliance with applicable laws and regulations. If the IRA were invested solely in mutual fund such as "Thompson World Fund, Inc." and the investment properly disclosed in Schedule A, that would be sufficient identification of the asset, since the most reporting individuals that fund would be in an "excepted investment fund." If, however, the IRA had an individual or privately managed portfolio, detailed disclosure of the portfolio would be required on Schedule A in the same amount of detail as if each investment were directly held.

With respect to trusts in which a vested beneficiary interest is principal or income is paid, or in which you serve as trustee, report trust interests and report assets which had a value in excess of \$1,000. See 5 C.F.R. Part 2684 for more information about vested interests.

You need not report the identity of assets of a trust of which you, your spouse or dependent children are the beneficiaries if the interest is:

1. a "qualified blind trust" or "qualified diversified trust," which has been certified by the Office of Government Ethics, in accordance with 5 C.F.R. Part 2634, Subpart D, or
2. an "excepted trust," that is, one which

A. was not created by you or your spouse or dependent children, and

B. has holdings or sources of income of which you, your spouse and dependent children have no knowledge.

In the case of those special types of trusts, you should show in BLOCK A the identity of the trust, including the date of creation, and next to BLOCK C, the classification of the trust as a "qualified trust" or an "excepted trust." You should also report in BLOCK B the category of the total cash value of the interest to a qualified blind or qualified-diversified trust, unless the trust instrument was examined prior to July 24, 1995, and provides the beneficiary from receiving information on the total cash value of any interest therein. (The category of amount of the trust income, if it exceeded \$200, must also be reported in BLOCK C, in accordance with section IV below.)

NOTE: You are not permitted by the statute to "create" an excepted trust by instructing a trustee not to divulge information or otherwise violating previous sources of knowledge upon selecting Government service.

Do not report a trust of which your spouse or dependent child is a beneficiary that meets the three-part test found in the second paragraph under II.A. A trust that does not fit that exception may still be an excepted trust under this section; in such cases, it must be reported, but the assets need not be identified.

Except for the special trusts or funds referred to above, you must identify each individual investment held by a trust or fund, which had a value in excess of \$1,000. For example, in BLOCK A, an entry such as "trust held by First National Bank (Boston, MA) consisting of 100 shares of U.S. Treasury certificates, and Dallas Municipal Bonds" might be made. In BLOCK B the applicable value of each trust asset would be entered. (As described under IV.B.6. Trust Income, below, the income from each asset would be entered in BLOCK C as well as income from assets of the trust sold during the reporting period.)

III. Earned and Other Non-Investment Income

(BLOCKS A and C)

A. Items to Report

For yourself, report the identity of the source in BLOCK A and the type and actual amount in BLOCK C of non-investment income exceeding \$100 from any one source. Such income includes fee, salaries, honoraria, compensation for personal services, retirement benefits, and honoraria. Report these items on the same line as related income in property, if any.

For your spouse, report these items, but within names, of non-investment income exceeding \$1,000 and the source, amount and date of honoraria exceeding \$200 from any one source. No report of the source or other non-investment income of your dependent children is required.

Exclude for yourself and spouse income from employment by the United States Government and from any retirement system of the United States (including the Thrift Savings Plan) or from social security.

B. What to Show on the Form

1. HONORARIA - For you or your spouse, show honoraria aggregating more than \$100 from any one source. Report the identity of the source in BLOCK A, and the date of the services performed and actual amount in BLOCK C. List each honorarium separately. For example, if prior to your Government service, you received \$1,200 for a speech before the Chicago Cubs Club on March 19, 1959 of which \$200 was actually spent for travel-exp. costs, and \$200 went to the agent who made the speaking arrangement, do you now or had you report you would enter in BLOCK A, "Chicago Cubs Club, 181 Lakeshore Dr., Chicago, Ill.," in BLOCK C under OTHER (spouse type) - "Honorarium"; for

ACTUAL AMOUNT... "\$1,100," and under DATE... "3/19/59." Honoraria received and desired to charity must be reported, but a notation explaining that they are to be included in reporting such items. The source, date and amount of payments made or to be made directly to a charitable organization in lieu of honoraria must also be disclosed.

2. EARNED AND OTHER NON-INVESTMENT INCOME - Include all income, exclusive of honoraria, from non-investment sources including fee, commissions, salaries, and income from personal services or retirement. Report the identity of the source and give the actual amount of such income exceeding \$200 from any one source. For example, if you earned \$450 teaching at a law school, enter in BLOCK A... "John Jones Law School, Rockville, MD"; in BLOCK C under OTHER... "Salary"; and under ACTUAL AMOUNT... "\$450." If you earned \$75 for teaching in one law school and \$250 from teaching at another school, report only the \$250 amount. Report employee benefits and retirement payments which meet the reporting requirements separately from salary.

If your spouse has earned income in excess of \$1,000 (other than honoraria) from any one source, identify the source but show nothing under amount. If your spouse is self-employed in a business or profession, for example as a practicing psychologist who earned \$10,500 during the year, you need only show under BLOCK A... "practicing psychologist."

IV. Investment Income

(BLOCKS A and C)

Report items of investment income on the same line of Schedule A as the related property interest or other asset from which income is derived. Note that some property interests or other assets will not have a related item of income. In such a case, check "None for less than \$200" in BLOCK C under category of source.

A. Items to Report

Report the identity in BLOCK A and the type and value in BLOCK C of any investment income over \$200 from any one source received by or accrued to the benefit of you, your spouse or dependent child during the reporting period. For purposes of determining whether you meet the over-\$200 threshold from any one source, you must aggregate all types of investment income from that same source. For your spouse or dependent child such income is only required to be reported if the asset source meets the reporting threshold in section II above.

Investment income includes, but is not limited to, income derived from dealings in property, interest, rents, royalties, dividends, capital gains, income from annuities, the investment portion of life insurance contracts, or endowment contracts; your distributive share of partnership or joint venture income, gross business income, and income from an interest in an estate or trust. You need not show the actual dollar amount of dividends, rents and royalties, interest, capital gains, or income from qualified trusts, excepted trusts, or excepted investment funds. For those specific types of income, you need only check the category of income of the item reported. For all "other investment income" as described in Item 7 below, you will have to report the actual dollar amount of income from each source, and indicate the type in the space marked "Other Income (Specify Type & Actual Amount)" in BLOCK C.

B. What to Show on the Form

Check all applicable classifications of income and corresponding categories of sources. If more than one type of income is derived from the same asset, check all relevant types (unless an excepted investment fund) and categories of source. Categories of source may be distinguished by using the abbreviations D, R, I and CE. In the boxes, in lieu of checkmarks, to represent dividends, rents/royalties, interest or capital gains.

1. DIVIDENDS - Show in BLOCK C the amount, year, your spouse or dependent child received or received as dividends from investment sources including common and preferred securities and underlying assets of partnerships and capital funds (table in exempted investment fund). Identify the source of such incomes and check the category of income. For example, if cash dividends of \$500 were received for shares of common stock of IBM, enter in BLOCK A... "IBM common" and in BLOCK C check that dividend income was received and check the appropriate category of exempt.

2. RENTS AND RYALTIES - Show amounts earned or received by you, your spouse or dependent child or trust or trust beneficiary the company or trust received or real property in which you own an interest. In addition, show payments received or received from such interests as royalties, royalties, licenses, patents, and cultural loans or other interests. Identify the source of such income and check the category of income. For example, if you received \$2,000 as rental income from an apartment building in Miami, Florida, enter in BLOCK A... "apartment building rental" and in BLOCK C check that rental income was received and check the appropriate category of exempt.

3. INTEREST - Identify the source and the category of amount of any interest earned or received by you, your spouse or dependent child as income from investment holdings including: bills and notes, bonds, personal savings accounts, money funds, bonds, and other securities. For example, if you earned \$500 in interest during the calendar year on a Savings Certificate with Federal Savings and Loan, enter in BLOCK A... "Federal Savings and Loan (Baltimore, MD) Savings Certificate," and in BLOCK C check that interest income was received and check the appropriate category of exempt.

4. CAPITAL GAINS - Report income from capital gains realized by you, your spouse or dependent child from sales or exchanges of property, business interests, partnership interests or securities. Identify the source

and check the category of amount of the gain. An example of an entry in BLOCK A might be "sales of mutual fund interest in 100-share lots in Hamilton County, Iowa" and in BLOCK C check that capital gains were received and check the appropriate category of exempt.

5. INVESTMENT FUND INCOME - Identify the fund and the category of amount and the type(s) of income from investment funds such as mutual corporations, funds for you, your spouse or dependent child. This may include dividends, capital gains and interest for a slight fund or income from an exempt investment fund. Income from each individual asset of the fund must also be listed, unless it is an exempt investment fund, in which case income from individual assets is not required to be listed. See Definition of Terms above for discussion of exempt investment funds.

6. TRUST INCOME - Report the category of interest and the type of income earned or received from any trust. Where you are required to identify the source of trust income, either for yourself or for a spouse or dependent child, it is not enough simply to say "John Jones Trust." Generally, the investment holdings of the trust, discussed above under "Property Interests and Assets," and the income derived from each holding must be identified to the same extent as if held directly. However, if the trust is a qualified trust or an exempt trust, in BLOCK A show only the identity of the trust including the date of creation, in BLOCK B the category of the total cash value of your interest (if a qualified trust), and in BLOCK C check the classification of the trust interest as a "qualified trust" or "exempt trust," and in BLOCK C show the category of interest income attributable to you, your spouse or dependent child.

7. OTHER INVESTMENT INCOME - Report any other items of investment income exceeding \$200 and not described above, along with the specific type and actual amount, such as gross income from business interests, endowment or annuity contract payments, net income, or a distributive share of a partnership or joint business venture income. To identify the source of

other investments, show for each year, year spouse, or dependent child, briefly characterize in BLOCK A the nature of the business or investment interest and, where applicable, the location for example... "one-third ownership in a retail furniture store at 1010 Grand Ave., Chicago, IL." In BLOCK C under OTHER, specify the applicable type of income, for example... "distributive share" from a partnership or "gross income" from a partnership, and under ACTUAL AMOUNT the total amount of such income which was received during the reporting period. Where the asset is listed because of a value of greater than \$1,000 in BLOCK B, but it does not produce more than \$200 in income for the reporting period, check "None (or less than \$200)" instead of listing the actual amount.

Schedule B

L Part I - Transactions

A. General Instructions and Items to Report

This part is to be completed by beneficiaries and beneficiaries files only. Give a description, the date, and the category of amount of any purchase, sale, or exchange of any real property, stocks, bonds, securities, futures, exempt investment fund shares, and other securities for you, your spouse or dependent child when the amount involved in the transaction exceeded \$1,000. Also, indicate whether sales were made pursuant to a certificate of distribution previously issued by OGBE to permit delayed recognition of capital gain. (See instructions on certification of distributions, see 5 C.F.R. Part 2404, Subpart I.) This includes reporting any sale or exchange of an asset involving an amount exceeding \$1,000 when the sale or exchanged asset did not yield income of more than \$200 (and therefore was not reported on Schedule A), or reporting the purchase of an asset involving an amount exceeding \$1,000 but at the end of the reporting period having a value of \$1,000 or less and earning income of \$200 or less during the reporting period (and therefore not appearing on

Schedule A.) The example on this form shows the proper way to discuss Central Airlines because that is the reporting individual purchased for \$75,000 on 2/1/69. Note that on Schedule A there is an entry for the stock as well since it was still held at the end of the reporting period.

You need not report a transaction involving (1) your personal residence (unless rented out); (2) a money market account or personal savings account; (3) an asset of your spouse or dependent child, if the asset meets the three-year test set forth under the instructions for Schedule A, on I.L.A.; (4) a holding of a "qualified blind trust," a "qualified dividend trust," or a "unaccepted trust"; (5) U.S. Treasury bills, notes, and bonds; (6) transactions which occurred prior to your Federal Government employment; or (7) transactions solely by and between the reporting individual, spouse, or dependent child.

You will need to report any transactions made by a non-eligible business or commercial enterprise, investment pool, or other entity in which you, your spouse or dependent child have a direct proprietary, general partnership or other interest unless (1) the entity is an "unaccepted investment fund," or (2) the transaction is incidental to the primary business of the entity as indicated by you in Schedule A. (See also sections V.a. and I. of the General Instructions preceding Form 278, Schedule A.)

B. What to Show on the Form

Under identification of assets, identify the property or securities involved in the purchase, sale or exchange, and give the date of the transaction. For example, under IDENTIFICATION OF ASSETS, "VBCI common stock"; under TYPES OF TRANSACTIONS, "stock type"; under DATE, "enter date transaction occurred, under AMOUNT OF TRANSACTION, check the category of value of the sale price, purchase price, or exchange value of the property involved in the transaction. You must also indicate whether or how was sold pursuant

to a certificate of directors issued by the Office of Government Ethics under 5 C.F.R. Part 2634, Subpart 1, to permit delayed recognition of capital gain.

When multiple transactions have occurred which involve the same asset, you may list the item once, check purchase date/s, and indicate... "intervally," "throughout year," or other appropriate frequency, and the aggregate amount of the sales and purchases. Reporting an exchange generally requires reporting two items since one item is exchanged for another.

II. Part II - Gifts, Substantive, and Travel Expenses

A. General Instructions

This Part is to be completed by Incumbents and Candidates there only. The Act requires you to disclose the receipt of certain gifts, in-kind travel expenses, and travel-related cash reimbursements by you, your spouse or dependent child from any one source other than the U.S. Government. This reporting requirement applies to gifts and reimbursements received by your spouse or dependent child to the extent the gift was not given to him or her totally independent of the relationship to you.

B. Items to Report

Report gifts received by you, your spouse or dependent child from any one source during the reporting period aggregating more than \$250, such as tangible items, or food, lodging, transportation, or entertainment, and travel-related cash reimbursements aggregating more than \$250 from any one source. A "gift" means any payment, bribe, kickback, advance, tendering or deposit of money, or anything of value, unless consideration of equal or greater value is received by the donor. In determining which gifts and reimbursements must be reported or aggregated, estimate these items:

1. Anything having a value of \$104 or less;

2. Anything received from "relatives." The term "relatives" means an individual who is your father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandchild, grandnephew, grandniece, grandchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepniece, stepnephew, stepgrandchild, stephalf sister, your spouse's grandchild or grandnephew, or your spouse or fiancée;

3. Requests and other forms of inducement;
4. Substantive services of a function bearing the reporting individual;
5. Food, lodging, transportation, and entertainment or other benefits provided by a foreign government within a foreign country or by the United States Government, or D.C., State or local governments;
6. Food and beverage consumed in connection with a gift of overnight lodging;
7. Anything given to a spouse or dependent child totally independent of the relationship to you;
8. Gift items in the nature of contributions to your office, such as subscriptions to newspapers and periodicals;
9. Gifts of hospitality (food, lodging, entertainment) on the donor's personal or family premises, as defined in 5 C.F.R. Part 2634;
10. Gifts and reimbursements received during non-Federal employment periods; and
11. Reimbursements you received for political trips which were required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. § 604).

C. What to Show on the Form

1. GIFTS - Report the identity of the source, a brief description, and the value of gifts aggregating more than \$260 from any one source which were received by you, your spouse or dependent child and which do not fall within any of the categories of exclusion enumerated above.

a. Food, Lodging, Transportation, Reimbursement. Include travel itinerary, date, and return of expenses provided. To reach a limit less than \$260 aggregation, you determine whether any one or combination of the categories within this gift category received from one source amounts to more than \$260 in value. For example, if you spent a weekend at a hunting lodge owned by AmCoal Corporation, and you received lodging fairly valued at \$150, food valued at \$114, and reimbursement valued at \$125, the aggregate value of the gift is \$389. A gift of this nature - hospitality at a lodge owned by a corporation rather than an individual - would not qualify as a "personal liability" exclusion. To report this gift you would show, under SOURCE, "AmCoal Corp., 1210 North St., Chicago, IL," under BRUIEF DESCRIPTION, "lodging, food, reimbursement used as a guest at hunting lodge owned by AmCoal, 1/25-2/1/99," and under VALUE, "\$389."

b. Other Gifts - If you and your spouse each receive a \$175 gift of shares from the same donor (source), the gifts have a value of more than \$260 and must be reported. To report a gift, identify the source, briefly describe the item(s), and show the value. In the case of the signature, report on the form under SOURCE, "Arthur C., 153 Utah St., Omaha, NE"; and under BRUIEF DESCRIPTION, "two porcelain figurines." Under VALUE, "250" would be shown.

2. REIMBURSEMENTS - Report the source, a brief description (including a travel itinerary, date, and the nature of expenses provided), and the value of any such reimbursements (except those from the United States Government or otherwise excluded) aggregating more than \$260 which you, your spouse or dependent

child received from any one source. For example, if you were reimbursed \$400 for travel and lodging expenses in connection with a speech you made for the Denver Realtors Association, you would report this item on the form by showing under SOURCE, "Denver Realtors Assn., 43 Bridge St., Denver, CO"; under BRUIEF DESCRIPTION, "travel expenses for speech made in Denver; United Airlines round trip from Washington, D.C. 1/22-2/4/00, \$275; Denver Airport Marriott, \$175"; and under VALUE, "\$400" would be shown. If your spouse made this speech and received the reimbursement totally independent of his or her relationship to you, no information for this item need be reported.

Note: If you receive food, transportation, lodging, and reimbursement or a reimbursement of official travel expenses from a non-profit tax-exempt institution organized by the IRS as one falling within the terms of 26 U.S.C. § 501(c)(3), you must report the nature of the organization, a brief description of the in-kind service or the reimbursement and the value. If known, you may also wish to state the date you received the required written approval from your agency to accept such items. See 5 U.S.C. § 4111 and 5 C.F.R. Part 410, Subpart B. You do not have to report an official reimbursement received by the agency since it will not be received by you in your personal capacity (see by your spouse or dependent child). See 31 U.S.C. § 1359 (or other agency statute) and 41 C.F.R. Chapter 304.

Schedule C

I. Part I - Location

A. General Instructions

The Act requires you to disclose certain of your financial liabilities. The examples on the form show how to report a mortgage on real estate the reporting individual held for the purchase of a house and a personal loan. Note that you will need to disclose the date, interest rate and term (if applicable) of each liability. Also note you must disclose the highest amount owed to

any liability held during the reporting period, not just at the end of the period. If the liability was completely paid during the period, you may also note that on the form if you wish.

B. Items to Report

Identify and give the category of amount of the liabilities which you, your spouse or dependent child owed to any creditor which exceeded \$10,000 at any time during the reporting period, except:

1. a personal liability owed to a spouse or dependent child, or to a parent, brother, sister, or child of you, your spouse or dependent child;
2. a mortgage or home equity loan secured by real property which is the personal residence (or a second residence not used for producing income) of you or your spouse;
3. a loan secured by a personal motor vehicle, household furniture, or appliances, when the loan does not exceed the purchase price of the item;
4. a revolving charge account where the outstanding liability did not exceed \$10,000 as of the close of the reporting period; and
5. any liability of your spouse or dependent child which represents the sole financial interest or responsibility of the spouse or child, and about which you have no knowledge, and which is not derived from your income, assets, or activities, and concerning which you neither derive nor expect to derive any financial or economic benefit.

You are required to report any liability of any non-profit company, investment pool, or other entity, in which you, your spouse or dependent child have an interest, unless (1) the liability is incidental to the primary trade or business of the entity as indicated by you on Schedule A, or (2) the entity is an accepted investment fund. (See also

section V, and I, of the General Instructions preceding Form 278 (Schedule A).

C. What to Show on the Form

Under CREDITORS (NAME AND ADDRESS), show the name and address of the actual creditor unless the reporting individual is only able to identify a fiduciary and certifies in the report that he has made a good faith effort to determine who the actual creditor is and was unable to do so, or upon his certification that such determination is otherwise impracticable. Under TYPE OF LIABILITY, briefly indicate the nature of the liability. Under DATE, enter date loan incurred; under INTEREST RATE, enter the rate of the liability. The formula used to vary the rate, i.e., prime +2%, and under TERM, show the duration of the loan. Check the category of value for the highest amount owed during the reporting period.

II. Part II - Agreements or Arrangements

A. General Instructions and Items to Report

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits. This includes any agreements or arrangements with a future employer entered into by a termination date. The example on the form shows the agreement under which the reporting individual reports to receive a lump sum payment from the law firm he has left in order to enter the Government. (Also note the related asset and income reported in the second example on Schedule A of the form.)

For purposes of public disclosure, you must disclose any negotiations for future employment from the point you quit a potential non-Federal employer have agreed to your future employment by that employer whether or not you have actual all of the terms, such as salary, title, benefits, and date employment is to begin. Your agency may require internal disclosure of negotiations open earlier and you should seek guidance before conducting any negotiations with persons with whom you do business. A criminal statute, 18 U.S.C. § 208, applies to official actions you may take while negotiating future employment.

B. What to Show on the Form

Under STATUS AND TERMS, describe the agreement or arrangement with appropriate specificity. Under PARTIES, show business of the organization, or entity, and (if applicable) the name and title of the official, corporate officer, or principal person responsible for carrying out the terms of the agreement or arrangement. Under DATE, show the date of any such agreement. No report is required regarding any agreement or arrangement entered into by a spouse or dependent child.

Schedule D

I. Part I - Outside Positions

A. Items to Report

Report all outside positions held at any time during the reporting period, as well as those positions you currently hold as an officer, director, trustee, financial partner, proprietor, representative, employee or consultant of (1) any corporation, company, firm, partnership, trust, or other business enterprise; (2) any non-profit organization; (3) any labor organization; (4) any educational institution; or (5) any organization other than the United States Government. Exclude positions held in any

religious, social, fraternal, or political entity, and any position solely of an honorary nature. Be sure to report on Schedule A any income over \$200 that you received from acting in any of these positions. No report is required regarding any positions held by your spouse or dependent child.

B. What to Show on the Form

Under Name, address and identification (type) of the organization, the title or other brief functional description of the position, and the dates you held the position. If you currently hold the position, in the entry block under TD, note "Present."

II. Part II - Compensation in Excess of \$5,000 Paid by One Source

A. General Instructions

This Part is to be completed by individuals and law firms only. You must disclose year amounts of compensation in excess of \$5,000 and the nature of the duties you provided. This includes not only the source of your salary or other fees, but the disclosure of items for which you received payments more than \$5,000 in services from the client through the client's payments were made to your employer, firm or other business affiliation. This example on the form shows the proper way to disclose the business affiliation which paid the reporting individual's compensation, in this case a law firm, and a client of the firm for which the reporting individual personally provided over \$5,000 worth of services. This Part does not require you to disclose the value of the compensation for these services; it does require a brief description of the services you provided. When a source has paid you directly, you should have a corresponding entry on Schedule A. If the payment was within the reporting period for Schedule A, a client who paid your business affiliation more than \$5,000 for your services will appear only in this Part.

B. Items to Report

Report the nature of the duties performed or services rendered for any person (other than the United States Government) from which compensation in excess of \$5,000 in either of the two preceding calendar years or dependent calendar years was received by you or actually which billed for your services (business affiliation). Exclude: (1) information to the extent that it is considered confidential as a result of a privileged relationship established by law, or (2) information about persons for whom services were provided by a business affiliation of which you were a member, partner or employee unless you were directly involved in the provision of the services. The name of a client of a law firm is not generally considered confidential. No report is required regarding compensation paid to your spouse or a dependent child.

C. What to Show on the Form

Under SOURCE, give the name and address of the party to whom services were provided, for example, "Newark Real Estate Co. (Newark, NJ)" and under REPLY DESCRIPTION, the title or other brief formal description of the services rendered, for example "as trustee (appointed) for share from whole ownership with Quinn and Company."

Privacy Act Statement

Title I of the Ethics in Government Act of 1978, as amended (the Act), 5 U.S.C. §§ 4, 101 et seq., and 5 C.F.R. Part 2634 of the Office of Government Ethics regulations require the reporting of this information. The primary use of this information on this report is for review by Government officials to determine compliance with applicable Federal laws and regulations. This report may

also be disclosed upon request to any requesting person pursuant to section 105 of the Act or as otherwise authorized by law. You may inspect applications for public access of your own files upon request. Additional disclosure of the information on this report may be made: (1) to a Federal, State, or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulations; (2) to a court or party to a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration to receive management information; (5) to the Office of Management and Budget (OMB) during legislative coordination on proposed legislation; and (6) in response to a request for discovery or for the appearance of a witness in a pending judicial or administrative proceeding. If the information is relevant to the subject matter, see also the OMB/GOV-T, executive branchwide Privacy Act system of records. Knowing and willful falsification of information, or failure to file or report information required to be reported by section 102 of the Act, may subject you to a civil monetary penalty and to disciplinary action by your employing agency or other appropriate authority under section 104 of the Act. Knowing and willful falsification of information required to be filed by section 102 of the Act may also subject you to criminal prosecution.

Public Burden Information

This collection of information is estimated to take an average of three hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Associate Director for Administration,

U.S. Office of Government Ethics (OGE), Suite 500, 1201 New York Avenue, NW, Washington, DC 20005-3917. Do not file financial disclosure reports at this address; submit them as indicated in "where to file" on page 3.

Pursuant to the Paperwork Reduction Act, we encourage an agency not to collect or require, and no person is required to respond to, a collection of information unless it displays a currently valid OMB control number (that number, 3209-0001, is displayed here and in the upper right-hand corner of the first page of this Standard Form 278).

Important Note on Reporting of Higher-Value Category Items on Schedules A, B, and C

For assets, income, transactions and liabilities of over \$1,000,000 in value that are held solely by your spouse or dependent children, just mark the over \$1,000,000 column. Records items which you or the filer hold, either singly or jointly with your spouse or dependent children, you must mark the other higher categories of value, as appropriate. For assets, transactions and liabilities, the higher categories are \$1,000,001 to \$5,000,000; \$5,000,001 to \$25,000,000; \$25,000,001 to \$50,000,000; and over \$50,000,000. For income, the higher categories are \$1,000,001 to \$5,000,000; and over \$5,000,000. A detailed notice on Schedules A, B, and C explains these higher-value category reporting requirements.

Reporting Individual's Name

SCHEDULE A continued
 (Use only if needed)

Page Number

Income: type and amount. If "None" (or less than \$201)* is checked, no other entry is needed in Block C for that item.

Valuation of Assets at close of reporting period

Assets and Income

BLOCK A	BLOCK B				BLOCK C				Other Income (See, 1201, Type & Amount)	Date (Mo, Day, Yr)			
	Valuation of Assets at close of reporting period				Type	Amount							
	\$1,001 - \$15,000	\$15,001 - \$100,000	\$100,001 - \$500,000	Over \$500,000	Dividends	None (or less than \$201)	\$1,001 - \$1,500	\$5,001 - \$15,000	\$50,001 - \$100,000	Over \$1,000,000	Over \$5,000,000		
1													
2													
3													
4													
5													
6													
7													
8													
9													

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or family held by the filer with the spouse or dependent children, mark the other highest category of value, as appropriate.

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Do not complete Schedule B if you are a non-entrant nominee, or Vice Presidential or Presidential Candidate

Reporting Individual's Name

SCHEDULE B continued
 (Use only if needed)

Page Number

Part I: Transactions

Line Number	Identification of Assets	Date Acq. (MM/YY)	Amount of Transactions (A)						Certificate of Ownership
			12/00	03/01	06/01	09/01	12/01	03/02	
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
16									
17									
18									
19									
20									

*This category applies only if the reporting asset is solely that of the filer's spouse or dependent children. If the reporting asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher category of value, as appropriate.

SCHEDULE C

Part I: Liabilities
 Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is placed out loans secured by subordinate, tax-exempt, first-lien mortgages or mortgages and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

Deception	Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if Applicable	Priority of Payment of this Deb					
						1	2	3	4	5	
1	First National Bank, Washington, DC John Jones, 1234, Washington, DC	Mortgage on second property, Baltimore Precedence rate	1991	6%	35 yrs. (see attached)	000'000'000 - 100'000'000	000'000'000 - 100'000'000	000'000'000 - 100'000'000	000'000'000 - 100'000'000	000'000'000 - 100'000'000	000'000'000 - 100'000'000
2											
3											
4											
5											

*This category reports only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher category, as appropriate.

Part II: Agreements or Arrangements
 Report your agreements or arrangements for: (1) continuing participation in an employer benefit plan (401-k, pension, 401a, deferred compensation); (2) continuing of payment by a former employer (including severance payments); (3) leases of vehicles and terms of any agreements or arrangements of theories and (4) future employment. See instructions regarding the reporting of liabilities for any of these arrangements or benefits.

Deception	Parties and Terms of any Agreements or Arrangements	Priority	Date
1	Payment by partnership guaranteed, will receive 50% of payment of unpaid income tax liability if partner is service participant through 1/91	Deb from health insurance, debt	1/96
2			
3			
4			
5			
6			

SCHEDULE D

Page Number

Part I: Positions Held Outside U.S. Government
 Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization (church and religious, fraternal, or political entities and those solely of an honorary nature). None

Sequence	Organization (Name and Address)		Type of Compensation	Position Held	From (MM, Y.Y.) To (MM, Y.Y.)
	Street, P.O. Box, City, State, Zip	City, State, Zip			
1					
2					
3					
4					
5					
6					

Part II: Compensation In Excess of \$5,000 Paid by One Source
 Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of donors and recipients of any contributions, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source. None

Sequence	Source (Name and Address)		Brief Description of Duties
	City, State, Zip	City, State, Zip	
1			
2			
3			
4			
5			
6			

V Standard Form 86: Questionnaire for National Security Positions

Questionnaire for National Security Positions

Follow instructions fully or we cannot process your form. Be sure to sign and date the certification statement on Page 9 and the release on Page 10. *If you have any questions, call the office that gave you the form.*

Purpose of this Form

The U.S. Government conducts background investigations and reinvestigations to establish that military personnel, applicants for or incumbents in national security positions, either employed by the Government or working for Government contractors, licensees, certificate holders, and grantees, are eligible for a required security clearance. Information from this form is used primarily as the basis for investigation for access to classified information or special nuclear information or material. Complete this form only after a conditional offer of employment has been made for a position requiring a security clearance.

Giving us the information we ask for is voluntary. However, we may not be able to complete your investigation, or complete it in a timely manner, if you don't give us each item of information we request. This may affect your placement or security clearance prospects.

Authority to Request this Information

Depending upon the purpose of your investigation, the U.S. Government is authorized to ask for this information under Executive Orders 10450, 10865, 12333, and 12356; sections 3301 and 9101 of title 5, U.S. Code; sections 2165 and 2201 of title 42, U.S. Code; sections 781 to 887 of title 50, U.S. Code; and parts 5, 732, and 736 of Title 5, Code of Federal Regulations.

Your Social Security number is needed to keep records accurate, because other people may have the same name and birth date. Executive Order 9397 also asks Federal agencies to use this number to help identify individuals in agency records.

The Investigative Process

Background investigations for national security positions are conducted to develop information to show whether you are reliable, trustworthy, of good conduct and character, and loyal to the United States. The information that you provide on this form is confirmed during the investigation. Investigation may extend beyond the time covered by this form when necessary to resolve issues. Your current employer must be contacted as part of the investigation, even if you have previously indicated on applications or other forms that you do not want this.

In addition to the questions on this form, inquiry also is made about a person's adherence to security requirements, honesty and integrity, vulnerability to exploitation or coercion, falsification, misrepresentation, and any other behavior, activities, or associations that tend to show the person is not reliable, trustworthy, or loyal.

Your Personal Interview

Some investigations will include an interview with you as a normal part of the investigative process. This provides you the opportunity to update, clarify, and explain information on your form more completely, which often helps to complete your investigation faster. It is important that the interview be conducted as soon as possible after you are contacted. Postponements will delay the processing of your investigation, and declining to be interviewed may result in your investigation being delayed or canceled.

You will be asked to bring identification with your picture on it, such as a valid State driver's license, to the interview. There are other documents you may be asked to bring to verify your identity as well. These include documentation of any legal name change, Social Security card, and/or birth certificate.

You may also be asked to bring documents about information you provided on the form or other matters requiring specific attention. These matters include alien registration, delinquent loans or taxes, bankruptcy, judgments, liens, or other financial obligations, agreements involving child custody or support, alimony or property settlements, arrests, convictions, probation, and/or parole.

Organization of this Form

This form has two parts. Part 1 asks for background information, including where you have lived, gone to school, and worked. Part 2 asks about your activities and such matters as firings from a job, criminal history record, use of illegal drugs, and abuse of alcohol.

In answering all questions on this form, keep in mind that your answers are considered together with the information obtained in the investigation to reach an appropriate adjudication.

Instructions for Completing this Form

1. Follow the instructions given to you by the person who gave you the form and any other clarifying instructions furnished by that person to assist you in completion of the form. Find out how many copies of the form you are to turn in. You must sign and date, in black ink, the original and each copy you submit. You should retain a copy of the completed form for your records.
2. Type or legibly print your answers in black ink (if your form is not legible, it will not be accepted). You may also be asked to submit your form in an approved electronic format.
3. All questions on this form must be answered. If no response is necessary or applicable, indicate this on the form (for example, enter "None" or "N/A"). If you find that you cannot report an exact date, approximate or estimate the date to the best of your ability and indicate this by marking "APPROX." or "EST."
4. Any changes that you make to this form after you sign it must be initialed and dated by you. Under certain limited circumstances, agencies may modify the form consistent with your intent.
5. You must use the State codes (abbreviations) listed on the back of this page when you fill out this form. Do not abbreviate the names of cities or foreign countries.
6. The 5-digit postal ZIP codes are needed to speed the processing of your investigation. The office that provided the form will assist you in completing the ZIP codes.
7. All telephone numbers must include area codes.
8. All dates provided on this form must be in Month/Day/Year or Month/Year format. Use numbers (1-12) to indicate months. For example, June 8, 1978, should be shown as 6/8/78.
9. Whenever "City (Country)" is shown in an address block, also provide in that block the name of the country when the address is outside the United States.
10. If you need additional space to list your residences or employments/self-employments/unemployments or education, you should use a continuation sheet, SF 86A. If additional space is needed to answer other items, use a blank piece of paper. Each blank piece of paper you use must contain **your name and Social Security Number at the top of the page.**

Final Determination on Your Eligibility

Final determination on your eligibility for access to classified information is the responsibility of the Federal agency that requested your investigation. You may be provided the opportunity personally to explain, refute, or clarify any information before a final decision is made.

Penalties for Inaccurate or False Statements

The U.S. Criminal Code (title 18, section 1001) provides that knowingly falsifying or concealing a material fact is a felony which may result in fines of up to \$10,000, and/or 5 years imprisonment, or both. In addition, Federal agencies generally fire, do not grant a security clearance, or disqualify individuals who have materially and deliberately falsified these forms, and this remains a part of the permanent record for future placements. Because the position for which you are being considered is a sensitive one, your trustworthiness is a very important consideration in deciding your eligibility for a security clearance.

Your prospects of placement or security clearance are better if you answer all questions truthfully and completely. You will have adequate opportunity to explain any information you give us on the form and to make your comments part of the record.

Disclosure of Information

The information you give us is for the purpose of investigating you for a national security position; we will protect it from unauthorized disclosure. The collection, maintenance, and disclosure of background investigative information is governed by the Privacy Act. The agency which requested the investigation and the agency which conducted the investigation have published notices in the Federal Register describing the systems of records in which your records will be maintained. You may obtain copies of the relevant notices from the person who gave you this form. The information on this form, and information we collect during an investigation may be disclosed without your consent as permitted by the Privacy Act (5 USC 552a(b)) and as follows:

PRIVACY ACT ROUTINE USES

- To the Department of Justice when: (a) the agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.
- To a court or adjudicative body in a proceeding when: (a) the agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.
- Except as noted in Question 24, when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, particular program statute, regulation, rule, or order issued pursuant thereto, the relevant records may be disclosed to the appropriate Federal, foreign, State, local, tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order.
- To any source or potential source from which information is requested in the course of an investigation concerning the hiring or retention of an employee or other personnel action, or the issuing or retention of a security clearance, contract, grant, license, or other benefit, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.
- To a Federal, State, local, foreign, tribal, or other public authority the fact that this system of records contains information relevant to the retention of an employee, or the retention of a security clearance, contract, license, grant, or other benefit. The other agency or licensing organization may then make a request supported by written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.
- To contractors, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this record for which they have been engaged. Such recipients shall be required to comply with the Privacy Act of 1974, as amended.
- To the news media or the general public, factual information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy.
- To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.
- To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.
- To the National Archives and Records Administration for records management inspections conducted under 44 USC 2904 and 2906.
- To the Office of Management and Budget when necessary to the review of private relief legislation.

STATE CODES (ABBREVIATIONS)

Alabama	AL	Hawaii	HI	Massachusetts	MA	New Mexico	NM	South Dakota	SD
Alaska	AK	Idaho	ID	Michigan	MI	New York	NY	Tennessee	TN
Arizona	AZ	Illinois	IL	Minnesota	MN	North Carolina	NC	Texas	TX
Arkansas	AR	Indiana	IN	Mississippi	MS	North Dakota	ND	Utah	UT
California	CA	Iowa	IA	Missouri	MO	Ohio	OH	Vermont	VT
Colorado	CQ	Kansas	KS	Montana	MT	Oklahoma	OK	Virginia	VA
Connecticut	CT	Kentucky	KY	Nebraska	NE	Oregon	OR	Washington	WA
Delaware	DE	Louisiana	LA	Nevada	NV	Pennsylvania	PA	West Virginia	WV
Florida	FL	Maine	ME	New Hampshire	NH	Rhode Island	RI	Wisconsin	WI
Georgia	GA	Maryland	MD	New Jersey	NJ	South Carolina	SC	Wyoming	WY
American Samoa	AS	Dist. of Columbia	DC	Guam	GU	Northern Marianas	CM	Puerto Rico	PR
Trust Territory	TT	Virgin Islands	VI						

PUBLIC BURDEN INFORMATION

Public burden reporting for this collection of information is estimated to average 90 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street, N.W., Room CHP-500, Washington, D.C. 20415. Do not send your completed form to this address.

**QUESTIONNAIRE FOR
 NATIONAL SECURITY POSITIONS**

Part 1	Investigating Agency Use Only	Codes	Case Number
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Agency Use Only (Complete items A through P using instructions provided by the Investigating agency).

A Type of Investigation	B Extra Coverage	C Sensitivity Level	D Access	E Nature of Action Code	F Date of Action					
G Geographic Location	H Position Code		I Position Title							
J SON	K Location of Official Personnel Folder	None		Other Address					ZIP Code	
		NPRC								
	At SON									
L SOI	M Location of Security Folder	None		Other Address					ZIP Code	
		At SOI								
	NPI									
N OPAC-ALC Number	O Accounting Data and/or Agency Case Number									
P Requesting Name and Title Official			Signature			Telephone Number		Date		

Persons completing this form should begin with the questions below.

1 FULL NAME *If you have only initials in your name, use them and state (IO). *If you have no middle name, enter "NMN".	2 DATE OF BIRTH					
*If you are a "Jr.," "Sr.," "II," etc., enter this in the box after your middle name.						
Last Name	First Name	Middle Name	Jr., II, etc.	Month	Day	Year

3 PLACE OF BIRTH - Use the two letter code for the State.	4 SOCIAL SECURITY		
City	County	State	Country (if not in the United States)

5 OTHER NAMES USED
 Give other names you used and the period of time you used them (for example: your maiden name, name(s) by a former marriage, former name(s), alias(es), or nickname(s)). If the other name is your maiden name, put "nee" in front of it.

Name	Month/Year	Month/Year	Name	Month/Year	Month/Year
#1	To		#3	To	
Name	Month/Year	Month/Year	Name	Month/Year	Month/Year
#2	To		#4	To	

6 OTHER IDENTIFYING INFORMATION	Height (feet and inches)	Weight (pounds)	Hair Color	Eye Color	Sex (Mark one box)
					<input type="checkbox"/> Female <input type="checkbox"/> Male

7 TELEPHONE NUMBERS	Work (Include Area Code and extension)	Home (Include Area Code)
	Day () Night ()	Day () Night ()

8 CITIZENSHIP	9 Your Mother's Maiden Name
a Mark the box at the right that reflects your current citizenship status, and follow its instructions.	<input type="checkbox"/> I am a U.S. citizen or national by birth in the U.S. or U.S. territory/possession. (Answer items b and d)
	<input type="checkbox"/> I am a U.S. citizen, but I was NOT born in the U.S. (Answer items b, c and d)
	<input type="checkbox"/> I am not a U.S. citizen. (Answer items b and e)

c UNITED STATES CITIZENSHIP If you are a U.S. citizen, but were not born in the U.S., provide information about one or more of the following proofs of your citizenship.

Naturalization Certificate (Where were you naturalized?)

Court	City	State	Certificate Number	Month/Day/Year Issued
Citizenship Certificate (Where was the certificate issued?)				
City	State	Certificate Number	Month/Day/Year issued	

State Department Form 240 - Report of Birth Abroad of a Citizen of the United States

Give the date the form was prepared and give an explanation if needed.

U.S. Passport	Month/Day/Year	Explanation	
This may be either a current or previous U.S. Passport.		Passport Number	Month/Day/Year Issued

d DUAL CITIZENSHIP If you are (or were) a dual citizen of the United States and another country, provide the name of that country in the space to the right.

	Country
--	---------

e ALIEN If you are an alien, provide the following information:

Place You Entered the United States:	City	State	Date You Entered U.S.	Alien Registration Number	Country(ies) of Citizenship
			Month Day Year		

9 WHERE YOU HAVE LIVED

List the places where you have lived, beginning with the most recent (#1) and working back 7 years. All periods must be accounted for in your list. Be sure to indicate the actual physical location of your residence: do not use a post office box as an address, do not list a permanent address when you were actually living at a school address, etc. Be sure to specify your location as closely as possible: for example, do not list only your base or ship, list your barracks number or home port. You may omit temporary military duty locations under 90 days (list your permanent address instead), and you should use your APO/FPO address if you lived overseas.

For any address in the last 5 years, list a person who knew you at that address, and who preferably still lives in that area (do not list people for residences completely outside this 5-year period, and do not list your spouse, former spouses, or other relatives). Also for addresses in the last five years, if the address is "General Delivery," a Rural or Star Route, or may be difficult to locate, provide directions for locating the residence on an attached continuation sheet.

#1	Month/Year To	Month/Year Present	Street Address	Apt. #	City (Country)	State	ZIP Code
Name of Person Who Knows You		Street Address		Apt. #	City (Country)	State	ZIP Code
						Telephone Number ()	
#2	Month/Year To	Month/Year	Street Address	Apt. #	City (Country)	State	ZIP Code
Name of Person Who Knew You		Street Address		Apt. #	City (Country)	State	ZIP Code
						Telephone Number ()	
#3	Month/Year To	Month/Year	Street Address	Apt. #	City (Country)	State	ZIP Code
Name of Person Who Knew You		Street Address		Apt. #	City (Country)	State	ZIP Code
						Telephone Number ()	
#4	Month/Year To	Month/Year	Street Address	Apt. #	City (Country)	State	ZIP Code
Name of Person Who Knew You		Street Address		Apt. #	City (Country)	State	ZIP Code
						Telephone Number ()	
#5	Month/Year To	Month/Year	Street Address	Apt. #	City (Country)	State	ZIP Code
Name of Person Who Knew You		Street Address		Apt. #	City (Country)	State	ZIP Code
						Telephone Number ()	

10 WHERE YOU WENT TO SCHOOL

List the schools you have attended, beyond Junior High School, beginning with the most recent (#1) and working back 7 years. List College or University degrees and the dates they were received. If all of your education occurred more than 7 years ago, list your most recent education beyond high school, no matter when that education occurred.

Use one of the following codes in the "Code" block:

- 1 - High School
- 2 - College/University/Military College
- 3 - Vocational/Technical/Trade School

For schools you attended in the past 3 years, list a person who knew you at school (an instructor, student, etc.). Do not list people for education completely outside this 3-year period.

For correspondence schools and extension classes, provide the address where the records are maintained.

#1	Month/Year To	Month/Year	Code	Name of School	Degree/Diploma/Other	Month/Year Awarded
Street Address and City (Country) of School					State	ZIP Code
Name of Person Who Knew You		Street Address		Apt. #	City (Country)	State
						ZIP Code
						Telephone Number ()
#2	Month/Year To	Month/Year	Code	Name of School	Degree/Diploma/Other	Month/Year Awarded
Street Address and City (Country) of School					State	ZIP Code
Name of Person Who Knew You		Street Address		Apt. #	City (Country)	State
						ZIP Code
						Telephone Number ()
#3	Month/Year To	Month/Year	Code	Name of School	Degree/Diploma/Other	Month/Year Awarded
Street Address and City (Country) of School					State	ZIP Code
Name of Person Who Knew You		Street Address		Apt. #	City (Country)	State
						ZIP Code
						Telephone Number ()

Enter your Social Security Number before going to the next page →

11

YOUR EMPLOYMENT ACTIVITIES

List your employment activities, beginning with the present (#1) and working back 7 years. You should list all full-time work, part-time work, military service, temporary military duty locations over 90 days, self-employment, other paid work, and all periods of unemployment. The entire 7-year period must be accounted for without breaks, but you need not list employments before your 16th birthday. **EXCEPTION:** Show all Federal civilian service, whether it occurred within the last 7 years or not.

• **Code.** Use one of the codes listed below to identify the type of employment:

- | | | | |
|-----------------------------------|--|--|-----------|
| 1 - Active military duty stations | 5 - State Government (Non-Federal employment) | 7 - Unemployment (Include name of person who can verify) | 9 - Other |
| 2 - National Guard/Reserve | 6 - Self-employment (Include business name and/or name of person who can verify) | 8 - Federal Contractor (List Contractor, not Federal agency) | |
| 3 - U.S.P.H.S. Commissioned Corps | | | |
| 4 - Other Federal employment | | | |

• **Employer/Verifier Name.** List the business name of your employer or the name of the person who can verify your self-employment or unemployment in this block. If military service is being listed, include your duty location or home port here as well as your branch of service. You should provide separate listings to reflect changes in your military duty locations or home ports.

• **Previous Periods of Activity.** Complete these lines if you worked for an employer on more than one occasion at the same location. After entering the most recent period of employment in the initial numbered block, provide previous periods of employment at the same location on the additional lines provided. For example, if you worked at XY Plumbing in Denver, CO, during 3 separate periods of time, you would enter dates and information concerning the most recent period of employment first, and provide dates, position titles, and supervisors for the two previous periods of employment on the lines below that information.

#1	Month/Year	Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank			
	To	Present						
	Employer's/Verifier's Street Address				City (Country)	State	ZIP Code	Telephone Number ()
	Street Address of Job Location (if different than Employer's Address)				City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)				City (Country)	State	ZIP Code	Telephone Number ()	
PREVIOUS PERIODS OF ACTIVITY (Block #1)	Month/Year	Month/Year		Position Title	Supervisor			
	To							
	Month/Year	Month/Year		Position Title	Supervisor			
	To							
	Month/Year	Month/Year		Position Title	Supervisor			
	To							
#2	Month/Year	Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank			
	To							
	Employer's/Verifier's Street Address				City (Country)	State	ZIP Code	Telephone Number ()
	Street Address of Job Location (if different than Employer's Address)				City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)				City (Country)	State	ZIP Code	Telephone Number ()	
PREVIOUS PERIODS OF ACTIVITY (Block #2)	Month/Year	Month/Year		Position Title	Supervisor			
	To							
	Month/Year	Month/Year		Position Title	Supervisor			
	To							
	Month/Year	Month/Year		Position Title	Supervisor			
	To							
#3	Month/Year	Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank			
	To							
	Employer's/Verifier's Street Address				City (Country)	State	ZIP Code	Telephone Number ()
	Street Address of Job Location (if different than Employer's Address)				City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)				City (Country)	State	ZIP Code	Telephone Number ()	
PREVIOUS PERIODS OF ACTIVITY (Block #3)	Month/Year	Month/Year		Position Title	Supervisor			
	To							
	Month/Year	Month/Year		Position Title	Supervisor			
	To							
	Month/Year	Month/Year		Position Title	Supervisor			
	To							

Enter your Social Security Number before going to the next page

YOUR EMPLOYMENT ACTIVITIES (CONTINUED)

#4	Month/Year	Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank			
	To							
	Employer's/Verifier's Street Address				City (Country)	State	ZIP Code	Telephone Number ()
	Street Address of Job Location (if different than Employer's Address)				City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)				City (Country)	State	ZIP Code	Telephone Number ()	
PREVIOUS PERIODS OF ACTIVITY (Block #4)	Month/Year	Month/Year	Position Title		Supervisor			
	To							
	Month/Year	Month/Year	Position Title		Supervisor			
To								
Month/Year	Month/Year	Position Title		Supervisor				
To								
#5	Month/Year	Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank			
	To							
	Employer's/Verifier's Street Address				City (Country)	State	ZIP Code	Telephone Number ()
	Street Address of Job Location (if different than Employer's Address)				City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)				City (Country)	State	ZIP Code	Telephone Number ()	
PREVIOUS PERIODS OF ACTIVITY (Block #5)	Month/Year	Month/Year	Position Title		Supervisor			
	To							
	Month/Year	Month/Year	Position Title		Supervisor			
To								
Month/Year	Month/Year	Position Title		Supervisor				
To								
#6	Month/Year	Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank			
	To							
	Employer's/Verifier's Street Address				City (Country)	State	ZIP Code	Telephone Number ()
	Street Address of Job Location (if different than Employer's Address)				City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)				City (Country)	State	ZIP Code	Telephone Number ()	
PREVIOUS PERIODS OF ACTIVITY (Block #6)	Month/Year	Month/Year	Position Title		Supervisor			
	To							
	Month/Year	Month/Year	Position Title		Supervisor			
To								
Month/Year	Month/Year	Position Title		Supervisor				
To								

12 PEOPLE WHO KNOW YOU WELL

List three people who know you well and live in the United States. They should be good friends, peers, colleagues, college roommates, etc., whose combined association with you covers as well as possible the last 7 years. Do not list your spouse, former spouses, or other relatives, and try not to list anyone who is listed elsewhere on this form.

#1	Name	Dates Known Month/Year	Month/Year	To	Telephone Number Day Night ()
Home or Work Address		City (Country)		State	ZIP Code
#2	Name	Dates Known Month/Year	Month/Year	To	Telephone Number Day Night ()
Home or Work Address		City (Country)		State	ZIP Code
#3	Name	Dates Known Month/Year	Month/Year	To	Telephone Number Day Night ()
Home or Work Address		City (Country)		State	ZIP Code

Enter your Social Security Number before going to the next page

15 CITIZENSHIP OF YOUR RELATIVES AND ASSOCIATES

If your mother, father, sister, brother, child, or current spouse or person with whom you have a spouse-like relationship is a U.S. citizen by other than birth, or an alien residing in the U.S., provide the nature of the individual's relationship to you (Spouse, Spouse-like, Mother, etc.), and the individual's name and date of birth on the first line (this information is needed to pair it accurately with information in items 13 and 14).

On the second line, provide the individual's naturalization certificate or alien registration number and use one of the document codes below to identify proof of citizenship status. Provide additional information on that line as requested.

- 1 - Naturalization Certificate: Provide the date issued and the location where the person was naturalized (Court, City and State).
- 2 - Citizenship Certificate: Provide the date and location issued (City and State).
- 3 - Alien Registration: Provide the date and place where the person entered the U.S. (City and State).
- 4 - Other: Provide an explanation in the "Additional Information" block.

#1	Association Name	Date of Birth (Month/Day/Year)
Certificate/Registration #	Document Code	Additional Information
#2	Association Name	Date of Birth (Month/Day/Year)
Certificate/Registration #	Document Code	Additional Information

16 YOUR MILITARY HISTORY

a Have you served in the United States military?	Yes	No
b Have you served in the United States Merchant Marine?		

List all of your military service below, including service in Reserve, National Guard, and U.S. Merchant Marine. Start with the most recent period of service (#1) and work backward. If you had a break in service, each separate period should be listed.

- Code. Use one of the codes listed below to identify your branch of service:
1 - Air Force 2 - Army 3 - Navy 4 - Marine Corps 5 - Coast Guard 6 - Merchant Marine 7 - National Guard

- O/E. Mark "O" block for Officer or "E" block for Enlisted.
- Status. "X" the appropriate block for the status of your service during the time that you served. If your service was in the National Guard, do not use an "X"; use the two-letter code for the state to mark the block.
- Country. If your service was with other than the U.S. Armed Forces, identify the country for which you served.

Month/Year	Month/Year	Code	Service/Certificate #	Status				Country
				O	E	Active	Reserve	
To								
To								

17 YOUR FOREIGN ACTIVITIES

a Do you have any foreign property, business connections, or financial interests?	Yes	No
b Are you now or have you ever been employed by or acted as a consultant for a foreign government, firm, or agency?		
c Have you ever had any contact with a foreign government, its establishments (embassies or consulates), or its representatives, whether inside or outside the U.S., other than on official U.S. Government business? (Does not include routine visa applications and border crossing contacts.)		
d In the last 7 years, have you had an active passport that was issued by a foreign government?		

If you answered "Yes" to a, b, c, or d above, explain in the space below: provide inclusive dates, names of firms and/or governments involved, and an explanation of your involvement.

Month/Year	Month/Year	Firm and/or Government	Explanation
To			
To			

18 FOREIGN COUNTRIES YOU HAVE VISITED

List foreign countries you have visited, except on travel under official Government orders, beginning with the most current (#1) and working back 7 years. (Travel as a dependent or contractor must be listed.)

- Use one of these codes to indicate the purpose of your visit: 1 - Business 2 - Pleasure 3 - Education 4 - Other
- Include short trips to Canada or Mexico. If you have lived near a border and have made short (one day or less) trips to the neighboring country, you do not need to list each trip. Instead, provide the time period, the code, the country, and a note ("Many Short Trips").
- Do not repeat travel covered in items 9, 10, or 11.

Month/Year	Month/Year	Code	Country	Month/Year	Month/Year	Code	Country
#1	To			#3	To		
#2	To			#4	To		

This concludes Part 1 of this form. If you have used Page 9, continuation sheets, or blank sheets to complete any of the questions in Part 1, give the number for those questions in the space to the right:

Enter your Social Security Number before going to the next page

**QUESTIONNAIRE FOR
 NATIONAL SECURITY POSITIONS**

Part 2

OFFICIAL
 USE
 ONLY

19 YOUR MILITARY RECORD Yes No

Have you ever received other than an honorable discharge from the military? If "Yes," provide the date of discharge and type of discharge below.

Month/Year	Type of Discharge
------------	-------------------

20 YOUR SELECTIVE SERVICE RECORD Yes No

a Are you a male born after December 31, 1959? If "No," go to 21. If "Yes," go to b.

b Have you registered with the Selective Service System? If "Yes," provide your registration number. If "No," show the reason for your legal exemption below.

Registration Number	Legal Exemption Explanation
---------------------	-----------------------------

21 YOUR MEDICAL RECORD Yes No

In the last 7 years, have you consulted with a mental health professional (psychiatrist, psychologist, counselor, etc.) or have you consulted with another health care provider about a mental health related condition?

If you answered "Yes," provide the dates of treatment and the name and address of the therapist or doctor below, unless the consultation(s) involved only marital, family, or grief counseling, not related to violence by you.

Month/Year	Month/Year	Name/Address of Therapist or Doctor	State	ZIP Code
To				
To				

22 YOUR EMPLOYMENT RECORD Yes No

Has any of the following happened to you in the last 7 years? If "Yes," begin with the most recent occurrence and go backward, providing date fired, quit, or left, and other information requested.

- Use the following codes and explain the reason your employment was ended:
- | | | |
|--|--|----------------------------------|
| 1 - Fired from a job | 3 - Left a job by mutual agreement following allegations of misconduct | 5 - Left a job for other reasons |
| 2 - Quit a job after being told you'd be fired | 4 - Left a job by mutual agreement following allegations of unsatisfactory performance | under unfavorable circumstances |

Month/Year	Code	Specify Reason	Employer's Name and Address (Include city/Country if outside U.S.)	State	ZIP Code

23 YOUR POLICE RECORD Yes No

For this item, report information regardless of whether the record in your case has been "sealed" or otherwise stricken from the court record. The single exception to this requirement is for certain convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S.C. 844 or 18 U.S.C. 3607.

- a** Have you ever been charged with or convicted of any felony offense? (Include those under Uniform Code of Military Justice)
- b** Have you ever been charged with or convicted of a firearms or explosives offense?
- c** Are there currently any charges pending against you for any criminal offense?
- d** Have you ever been charged with or convicted of any offense(s) related to alcohol or drugs?
- e** In the last 7 years, have you been subject to court martial or other disciplinary proceedings under the Uniform Code of Military Justice? (Include non-judicial, Captain's mast, etc.)
- f** In the last 7 years, have you been arrested for, charged with, or convicted of any offense(s) not listed in response to a, b, c, d, or e above? (Leave out traffic fines of less than \$150 unless the violation was alcohol or drug related.)

If you answered "Yes" to a, b, c, d, e, or f above, explain below. Under "Offense," do not list specific penalty codes, list the actual offense or violation (for example, arson, theft, etc.).

Month/Year	Offense	Action Taken	Law Enforcement Authority/Court (Include City and county/country if outside U.S.)	State	ZIP Code

Enter your Social Security Number before going to the next page →

24 YOUR USE OF ILLEGAL DRUGS AND DRUG ACTIVITY		Yes	No
The following questions pertain to the illegal use of drugs or drug activity. You are required to answer the questions fully and truthfully, and your failure to do so could be grounds for an adverse employment decision or action against you, but neither your truthful responses nor information derived from your responses will be used as evidence against you in any subsequent criminal proceeding.			
a	Since the age of 16 or in the last 7 years, whichever is shorter, have you <u>illegally</u> used any controlled substance, for example, marijuana, cocaine, crack cocaine, hashish, narcotics (opium, morphine, codeine, heroin, etc.), amphetamines, depressants (barbiturates, methaqualone, tranquilizers, etc.), hallucinogenics (LSD, PCP, etc.), or prescription drugs?		
b	Have you <u>ever</u> illegally used a controlled substance while employed as a law enforcement officer, prosecutor, or courtroom official; while possessing a security clearance; or while in a position directly and immediately affecting the public safety?		
c	In the last 7 years, have you been involved in the illegal purchase, manufacture, trafficking, production, transfer, shipping, receiving, or sale of any narcotic, depressant, stimulant, hallucinogen, or cannabis for your own intended profit or that of another?		

If you answered "Yes" to a or b above, provide the date(s), identify the controlled substance(s) and/or prescription drugs used, and the number of times each was used.

Month/Year	Month/Year	Controlled Substance/Prescription Drug Used	Number of Times Used
To			
To			

25 YOUR USE OF ALCOHOL		Yes	No
In the last 7 years, has your use of alcoholic beverages (such as liquor, beer, wine) resulted in any alcohol-related treatment or counseling (such as for alcohol abuse or alcoholism)?			

If you answered "Yes," provide the dates of treatment and the name and address of the counselor or doctor below. Do not repeat information reported in response to item 21 above.

Month/Year	Month/Year	Name/Address of Counselor or Doctor	State	ZIP Code
To				
To				

26 YOUR INVESTIGATIONS RECORD		Yes	No
a	Has the United States Government ever investigated your background and/or granted you a security clearance? If "Yes," use the codes that follow to provide the requested information below. If "Yes," but you can't recall the investigating agency and/or the security clearance received, enter "Other" agency code or clearance code, as appropriate, and "Don't know" or "Don't recall" under the "Other Agency" heading, below. If your response is "No," or you don't know or can't recall if you were investigated and cleared, check the "No" box.		

Codes for Investigating Agency 1 - Defense Department 2 - State Department 3 - Office of Personnel Management 4 - FBI 5 - Treasury Department 6 - Other (Specify)	Codes for Security Clearance Received 0 - Not Required 1 - Confidential 2 - Secret 3 - Top Secret 4 - Sensitive Compartmented Information 5 - Q 6 - L 7 - Other
--	--

Month/Year	Agency Code	Other Agency	Clearance Code	Month/Year	Agency Code	Other Agency	Clearance Code

b	To your knowledge, have you ever had a clearance or access authorization denied, suspended, or revoked, or have you ever been debarred from government employment? If "Yes," give date of action and agency. Note: An administrative downgrade or termination of a security clearance is not a revocation.	Yes	No
----------	--	------------	-----------

Month/Year	Department or Agency Taking Action	Month/Year	Department or Agency Taking Action

27 YOUR FINANCIAL RECORD		Yes	No
a	In the last 7 years, have you filed a petition under any chapter of the bankruptcy code (to include Chapter 13)?		
b	In the last 7 years, have you had your wages garnished or had any property repossessed for any reason?		
c	In the last 7 years, have you had a lien placed against your property for failing to pay taxes or other debts?		
d	In the last 7 years, have you had any judgments against you that have not been paid?		

If you answered "Yes" to a, b, c, or d, provide the information requested below:

Month/Year	Type of Action	Amount	Name Action Occurred Under	Name/Address of Court or Agency Handling Case	State	ZIP Code

Enter your Social Security Number before going to the next page

UNITED STATES OF AMERICA

AUTHORIZATION FOR RELEASE OF INFORMATION

Carefully read this authorization to release information about you, then sign and date it in ink.

I Authorize any investigator, special agent, or other duly accredited representative of the authorized Federal agency conducting my background investigation, to obtain any information relating to my activities from individuals, schools, residential management agents, employers, criminal justice agencies, credit bureaus, consumer reporting agencies, collection agencies, retail business establishments, or other sources of information. This information may include, but is not limited to, my academic, residential, achievement, performance, attendance, disciplinary, employment history, criminal history record information, and financial and credit information. I authorize the Federal agency conducting my investigation to disclose the record of my background investigation to the requesting agency for the purpose of making a determination of suitability or eligibility for a security clearance.

I Understand that, for financial or lending institutions, medical institutions, hospitals, health care professionals, and other sources of information, a separate specific release will be needed, and I may be contacted for such a release at a later date. Where a separate release is requested for information relating to mental health treatment or counseling, the release will contain a list of the specific questions, relevant to the job description, which the doctor or therapist will be asked.

I Further Authorize any investigator, special agent, or other duly accredited representative of the U.S. Office of Personnel Management, the Federal Bureau of Investigation, the Department of Defense, the Defense Investigative Service, and any other authorized Federal agency, to request criminal record information about me from criminal justice agencies for the purpose of determining my eligibility for access to classified information and/or for assignment to, or retention in a sensitive National Security position, in accordance with 5 U.S.C. 9101. I understand that I may request a copy of such records as may be available to me under the law.

I Authorize custodians of records and sources of information pertaining to me to release such information upon request of the investigator, special agent, or other duly accredited representative of any Federal agency authorized above regardless of any previous agreement to the contrary.

I Understand that the information released by records custodians and sources of information is for official use by the Federal Government only for the purposes provided in this Standard Form 86, and that it may be redisclosed by the Government only as authorized by law.

Copies of this authorization that show my signature are as valid as the original release signed by me. This authorization is valid for five (5) years from the date signed or upon the termination of my affiliation with the Federal Government, whichever is sooner. Read, sign and date the release on the next page if you answered "Yes" to question 21.

Signature (<i>Sign in Ink</i>)	Full Name (<i>Type or Print Legibly</i>)	Date Signed
Other Names Used		Social Security Number
Current Address (<i>Street, City</i>)	State	ZIP Code
Home Telephone Number (<i>Include Area Code</i>) ()		

UNITED STATES OF AMERICA

AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION

Carefully read this authorization to release information about you, then sign and date it in ink.

Instructions for Completing this Release

This is a release for the investigator to ask your health practitioner(s) the three questions below concerning your mental health consultations. Your signature will allow the practitioner(s) to answer only these questions.

I am seeking assignment to or retention in a position with the Federal government which requires access to classified national security information or special nuclear information or material. As part of the clearance process, I hereby authorize the investigator, special agent, or duly accredited representative of the authorized Federal agency conducting my background investigation, to obtain the following information relating to my mental health consultations:

Does the person under investigation have a condition or treatment that could impair his/her judgment or reliability, particularly in the context of safeguarding classified national security information or special nuclear information or material?

If so, please describe the nature of the condition and the extent and duration of the impairment or treatment.

What is the prognosis?

I understand the information released pursuant to this release is for use by the Federal Government only for purposes provided in the Standard Form 86 and that it may be redisclosed by the Government only as authorized by law.

Copies of this authorization that show my signature are as valid as the original release signed by me. This authorization is valid for 1 year from the date signed or upon termination of my affiliation with the Federal Government, whichever is sooner.

Signature (<i>Sign in ink</i>)		Full Name (<i>Type or Print Legibly</i>)		Date Signed
Other Names Used				Social Security Number
Current Address (<i>Street, City</i>)		State	ZIP Code	Home Telephone Number (<i>Include Area Code</i>) ()

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