

UNDERSTANDING THE FEDERAL BUREAUCRACY: CONSTITUTIONAL ORIGINS AND ORGANIZATIONS

The Framers clearly understood that the new national government would need an administrative system to protect the young Republic from foreign and domestic threats. They also understood that the new departments of government would need talented employees if they were to succeed. The words bureaucracy and bureaucrats are used to describe the federal government's organizations and employees. Although these words are often used as a way to criticize government, a bureaucracy is simply a form of organization that delivers goods and services at the lowest cost through specialization of jobs, close supervision of employees, and clear rules for making decisions. Therefore, we will use the word *bureaucracy* as a familiar way to describe the federal government's administrative organizations and employees, but will also refer to government departments and agencies and federal employees whenever possible to make clear that many federal employees and their departments and agencies work hard to meet public expectations for efficient, effective government.

Building the Federal Bureaucracy

Under the Constitution, the federal bureaucracy is responsible for faithfully executing the laws on behalf of the president, Congress, and the judiciary. The Framers gave the president the authority to determine how the bureaucracy would look, although Congress had to approve the actual structure of the departments and agencies through laws. The Framers believed that federal departments and agencies would be relatively small, and they expected Congress to establish the same departments that had existed under the Articles of Confederation, including the departments of war, state, and treasury, and the postal service. Nevertheless, the Framers made three key decisions about executing the laws that continue to shape federal administration to this day.

First, they prohibited members of the House and Senate from holding executive branch positions in Article I, Section 6, of the Constitution: Under this provision, Congress cannot create executive branch jobs for its members.

Second, the Framers decided to give the president authority to nominate the senior officers of government. At the same time, they gave the Senate authority to confirm or reject the president's appointees under the Constitution's "advice and consent" function. They also gave Congress the power to create new departments and agencies through legislation signed by the president, and the power to determine the number of federal employees, the budgets they administer, and the taxes they collect. Nevertheless, the Constitution clearly designates the president as the federal government's *administrator in chief*. Once the laws are passed, employees are hired, and budgets and taxes set, the president is responsible for making sure the laws are implemented and obeyed.

As the federal government's mission grew, so did its bureaucracy. By 2012, the federal bureaucracy was composed of 15 departments, 50 lesser agencies, the U.S. Postal Service, and the three branches of the armed services (Air Force, Army, and Navy). It also employs one of the largest workforces in the world. Nearly 4.5 million people worked for the federal government in 2012, including 700,000 postal workers, more than 2.2 million full-time federal employees, and 1.4 million military personnel. In addition, by the mid-2000s an estimated 7.6 million employees worked indirectly for the bureaucracy under contracts to private firms such as Lockheed Martin and Boeing, while another 3 million also worked indirectly under federal grants to colleges, universities, and state and local governments.

Types of Federal Organizations

Federal employees work for departments and agencies, which are classified into four broad types: (1) *departments*, (2) *independent stand-alone agencies*, (3) *independent regulatory commissions*, and (4) *government corporations*.

Departments tend to be the most familiar and largest federal organizations. They also generally have the most extensive missions and biggest budgets.

Independent stand-alone agencies are also under the president's control but tend to have fewer federal employees and may have more focused missions than departments. In general, the word "independent" is used to distinguish

agencies that exist outside a department from those that operate within a department. Independent regulatory commissions are a special kind of independent agency. They are created to insulate the agency from congressional and presidential control through the appointment of a board of commissioners who serve for a fixed term of office. Finally, government corporations are designed to operate much like private businesses and have special authority to set the prices of their services. They are supposed to make money.

DEPARTMENTS

Departments are the most visible organizations in the federal bureaucracy. Today's 15 departments employ more than 70 percent of all federal civil servants and spend 93 percent of all federal dollars. Secretaries head 14 of the departments, while the attorney general heads the Department of Justice.

Measured by the total number of employees, the five largest departments are the Defense Department, which governs the armed services; the Department of Veterans Affairs, which helps veterans return to civilian life after military service; the Department of Homeland Security, which helps protect the nation from terrorism, runs the airport screening lines, and manages the response to natural disasters such as hurricanes; the Department of the Treasury, which oversees expenditures and raises revenues through the Internal Revenue Service; and the Department of Justice, which enforces the laws by representing the nation in court cases and investigates crime through the Federal Bureau of Investigation.

Defense, Health and Human Services, Justice, State, and Treasury are considered part of the *inner cabinet* that is the most important, while the *outer cabinet* composed of the other ten departments is considered to be less important to the president. Presidents meet with the secretaries of the inner cabinet frequently, but rarely meet with the secretaries of the outer cabinet, and then only when an emergency arises or a key policy issue is under review by Congress or the judiciary.

The 15 federal departments were created using one of three different approaches.

- The first involves a merger of already-existing agencies into a new organization.
- In 2003, for example, the Congress merged 22 separate agencies and their 170,000 employees into the Department of Homeland Security.
- The second approach involves the break-up of an existing department into two or more new departments. In 1979, for example, Congress split the Department of Health, Education, and Welfare into the new departments of Education and Health and Human Services.
- The third approach involves the elevation of an independent stand-alone agency to department-level status. In 1988, for example, Congress elevated the Veterans Administration to cabinet status as the new Department of Veterans Affairs.

INDEPENDENT STAND-ALONE AGENCIES

The word *independent* means at least two things in the federal bureaucracy. Applied to a regulatory commission, it means the agency is outside the president's control. Applied to an agency of government, it merely means separate from a traditional department. Whereas independent regulatory commissions do not report to the president, independent agencies do.

As a general rule, independent stand-alone agencies work on specific problems. Becoming an agency is often the first step toward becoming a department. The Veterans Administration was created in 1930 as an agency, for example, and became a department in 1989. Independent stand-alone agencies are usually headed by an administrator or director, the second most senior title in the federal bureaucracy behind secretary or attorney general. There are more than 50 such agencies today.

The spread of independent stand-alone agencies can add to confusion about who is responsible for what in the federal government. For example, the federal government has more than 15 different intelligence agencies, which include the CIA, the Defense Intelligence Agency, the FBI, and the National Security Agency. These agencies had a history of keeping secrets not only from the people but also from each other, which contributed to the intelligence failures leading up to the war in Iraq. In late 2004, Congress created an Office of the Director of National Intelligence to oversee the intelligence community.

INDEPENDENT REGULATORY COMMISSIONS

Independent regulatory commissions have a measure of independence from both Congress and the president. By definition, these commissions are headed not by a single executive but by a small number of commissioners appointed by the president, with Senate confirmation, for fixed terms of office. Although the president appoints all independent regulatory commissioners and the Senate confirms each one separately, they have fixed terms of office and are sworn to uphold the Constitution. Unlike other presidential appointees, however, commissioners cannot be removed from office without cause, which is defined by law to mean inefficiency, neglect of duty, or unethical behavior. As a result, independent regulatory commissions are generally insulated from political pressure.

Congress has created dozens of independent regulatory commissions with the power to protect consumers (the Consumer Product Safety Commission), regulate stock markets (the Securities and Exchange Commission), oversee federal election laws (the Federal Election Commission), monitor television and radio (the Federal Communications Commission), regulate business (the Federal Trade Commission), control the supply of money (the Federal Reserve Board), and watch over nuclear power plants (the Nuclear Regulatory Commission). Independent regulatory commissions are not completely independent, however. The president and Congress must approve their annual budgets, and their decisions are subject to judicial review. Moreover, presidents often nominate commissioners on the basis of party loyalty, which means that commissions can be highly political.

Independent regulatory commissions tend to be much less visible than departments until a crisis occurs. The Securities and Exchange Commission (SEC) was on the front pages for three years, for example, as one corporation after another disclosed accounting fraud in their annual reports to investors. The SEC was created in the 1930s to restore investor confidence in the stock market after the Great Depression, but it was accused of being negligent in monitoring accounting practices at big companies such as Enron and WorldCom in the early 2000s, and not discovering the financial scandals that led to the 2008 financial collapse.

GOVERNMENT CORPORATIONS

Government corporations are the least understood organizations in the federal bureaucracy. Because they are intended to act more like businesses than like traditional government departments and agencies, they generally have more freedom from the internal regulations that control traditional agencies. They often have greater authority to hire and fire employees quickly and are allowed to make money through the sale of services such as train tickets, stamps, or home loans.

Government corporations cover a wide range of policy issues such as public radio and television (the Corporation for Public Broadcasting), mail delivery (the U.S. Postal Service), train travel (the National Railroad Passenger Corporation, which is better known as Amtrak), and national service (the Corporation for National and Community Service), and a host of financial enterprises that make loans to banks and other institutions (the Federal National Mortgage Association, or Fannie Mae).