

THE BUREAUCRACY

Many Americans have a negative view of the federal bureaucracy. The very mention of the word “bureaucracy” often conjures up a memory of an important document lost, or a scolding for some alleged misconduct of personal business. Bureaucratic power is felt in almost all areas of American life, and yet bureaucracies are barely mentioned in the Constitution. Bureaucratic agencies are created and funded by Congress, but most of them report to the president, who supervises them as he takes "care that the laws shall be faithfully executed" (Article II, Section 3 of the Constitution). This dual responsibility to Congress and to the president is an indication of the complex nature of the organization and functioning of federal government bureaucracies.

BUREAUCRACY IN MODERN GOVERNMENTS

A bureaucracy is a large, complex organization of appointed, not elected, officials. Bureaucracies exist in many countries in many areas of life, including corporations, universities, and local and state governments. The term actually comes from the French word “bureau,” a reference to the small desks that the king’s representatives set up in towns as they traveled across the country doing the king’s business. So “bureaucracy” literally means something like “government with small desks.”

THE AMERICAN FEDERAL BUREAUCRACY

The American federal bureaucracy shares common characteristics with other bureaucracies, but it has its own characteristics that distinguish it from others.

1. Divided supervision - Congress has the power to create, organize, and disband all federal agencies. Most of them are under the control of the president, although few of them actually have direct contact with him. So the bureaucracy has two masters: Congress and the president. Political authority over the bureaucracy is shared, then, according to the principles of separation of powers and federalism. On the national level, both Congress and officials in the executive branch have authority over the bureaucracy. This divided authority encourages bureaucrats to play one branch of government against the other. Also, to complicate things even more, many agencies have counterparts at the state and local level. Many federal agencies work with other organizations at state and local levels of government.
2. Close public scrutiny - Government agencies in this country operate under closer public scrutiny than they do in most other countries. The emphasis in American political culture on individual rights and their defense against abuse by government makes court challenges to agency actions more likely. About half of the cases that come to federal court involve the United States government as either defendant or plaintiff.
3. Regulation rather than public ownership - United States government agencies regulate privately owned enterprises, rather than operate publicly owned ones. In most Western European nations, the government owns and operates large parts of the economy; the U.S. government prefers regulation to ownership.

THE GROWTH OF THE FEDERAL BUREAUCRACY

The Constitution made little mention of a bureaucracy other than to make the president responsible for appointing (with the “advice and consent of the Senate”) public officials, including ambassadors, judges, and "all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law" (Article II, Section 3). No provisions mentioned departments or bureaus, but Congress created the first bureaucracy during George Washington’s presidency.

PATRONAGE

The bureaucracy began in 1789 when Congress created a Department of State to assist the new Secretary of State, Thomas Jefferson. From 1789 to about 1829, the bureaucracy was drawn from an upper-class, white male elite. In 1829, the new President Andrew Jackson employed a spoils system to reward party loyalists with key federal posts. Jackson believed that such rewards would not only provide greater participation by the middle and lower classes, but would insure effectiveness and responsiveness from those who owed their jobs to the president. The spoils system ensured that with each new president came a full turnover in the federal service.

THE PENDLETON ACT

Late in the nineteenth century the spoils system was severely criticized because it allowed people with little knowledge and background to be appointed to important government positions. Some accused presidents of "selling" the positions or using them as bribes to muster support for their election campaigns. After President James Garfield was assassinated in 1881 by a disappointed office seeker, Congress passed the Pendleton Act, which set up a limited merit system for appointing federal offices. Federal service was placed under the Civil Service Commission, which supervised a testing program to evaluate candidates. Federal employees were to be selected and retained according to merit, not party loyalty, but in the beginning the merit system only covered about 10 percent of all federal employees.

THE MODERN BUREAUCRACY

By the 1950s the merit system had grown to cover about 90 percent of all federal employees, and in 1978, the functions of the Civil Service Commission were split between two new agencies:

- The Office of Personnel Management administers civil service laws, rules, and regulations. The OPM administers written examinations for the competitive service, which includes about two-thirds of all appointed officials. The OPM is in charge of hiring for most agencies. When a position opens, the OPM sends three eligible names to the agency, and the agency must hire one of them, except under unusual circumstances. Once hired, a person is assigned a GS (General Schedule) Rating, ranging from GS 1 to GS 18, which determines salaries. At the top of the civil service system is the Senior Executive Service, executives with high salaries who may be moved from one agency to another.
- The Merit Systems Protection Board protects the integrity of the federal merit system and the rights of federal employees. The board hears charges of wrongdoing and employee appeals against agency actions and orders disciplinary actions against agency executives or employees.

The federal bureaucracy grew tremendously as a result of Roosevelt's New Deal programs and World War II, but the number of federal bureaucrats has leveled off in the years since then. Whereas the number of employees of state and local governments has grown tremendously in the past fifty years, the number of federal employees has remained a relatively constant three percent of all civilian jobs. One reason for the growth on the state and local levels is that many recently created federal programs are administered at the lower levels of government, not by federal employees.

WHO ARE THE BUREAUCRATS?

Bureaucrats work in the executive branch in the fourteen cabinet-level departments and in the more than fifty independent agencies, including about 2,000 bureaus, offices, services, and other subdivisions of the government. The five biggest employers are the Departments of Army, Navy, and Air Force, the Department of

Veterans Affairs, and the U.S. Postal Service. A total of about 3.2 million civilians and 1.8 million military are employed by the executive branch of the federal government.

Most people still think of a bureaucrat as being a white, middle-aged man, but the permanent bureaucracy today is more representative of the American people than are members of Congress, judges, or presidential appointees in the executive branch.

Consider the following statistics for federal civilian employees:

- About 57% are male, 43% are female.
- About 73% are white, 27% are minority (includes blacks, Asians, native Americans, and Hispanics).
- About 33% are hired by the Defense Department, 26% by the Postal Service, and 41% in other agencies.
- Only about 10% work in the Washington area, 90% work in other parts of the United States.
- The average age is about 42.
- The number of federal employees per 1,000 people in the U.S. population has decreased from over 14 in the early 1970s to a little over 10 by the late 1990s.
- Bureaucrats hold a huge variety of jobs, but most federal employees are white-collar workers, such as secretaries, clerks, lawyers, inspectors, and engineers.
- Nearly 20,000 federal civilian employees work in U.S. territories, and another 100,000 work in foreign nations.

THE ORGANIZATION OF THE BUREAUCRACY

Agencies of the executive branch may be organized into four basic types:

THE CABINET DEPARTMENTS

Each of the fifteen cabinet departments is headed by a secretary, except for the Department of Justice, which is headed by the attorney general. All of the heads are chosen by the President and approved by the Senate, and each manages a specific policy area. Responsibility is further divided among undersecretaries and assistant secretaries, who manage various agencies. **(You will receive a separate handout on the fifteen cabinet departments with their purpose and the year they were founded.)**

Each department is organized somewhat differently, but the real work of a department usually is done in the bureaus (sometimes called services, offices, or administrations). Until the 1970s, the largest department was the Department of Defense, but today the Department of Health and Human Services spends more money, although the Department of Defense still has more employees.

THE 2004 INTELLIGENCE BILL

In late 2004 President George W. Bush signed the Intelligence Reform and Terrorism Prevention Act that called for the most sweeping overhaul of the nation's intelligence-gathering apparatus in a half-century. The legislation created a position for a Director of National Intelligence, a move recommended by a special commission that spent 20 months investigating the pre-September 11, 2002 intelligence failures. The

legislation put 15 intelligence agencies under the control of the director, including the CIA and the FBI, and it created a National Counterterrorism Center to serve as the primary organization that processes all terrorism-related intelligence. The reorganization had an impact on many of the cabinet departments, as well as the operation of several independent agencies.

THE INDEPENDENT REGULATORY AGENCIES

These agencies regulate important parts of the economy, making rules for large industries and businesses that affect the interests of the public. Because regulatory commissions are “watchdogs” that by their very nature need to operate independently, they are not part of a department, and most are not directly controlled by the President. Some examples are:

- The Interstate Commerce Commission (ICC) - Founded in 1887, it first regulated railroads, but later regulated trucking as well. It was abolished in 1995, and its responsibilities and functions were transferred to the Surface Transportation Board.
- The Federal Trade Commission (FTC) - The FTC regulates business practices and controls monopolies
- The National Labor Relations Board (NLRB) - The NLRB regulates labor-management relations.
- The Federal Reserve Board (FRB) - The FRB governs banks and regulates the supply of money.
- The Securities and Exchange Commission (SEC) - The SEC polices the stock market.

The regulatory agencies are governed by small commissions - five to ten members appointed by the president and confirmed by the Senate. These commissioners are somewhat more "independent" than are the cabinet secretaries because they cannot be removed by the president during their terms of office.

THE GOVERNMENT CORPORATIONS

Government corporations are a blend of private corporation and government agency. They were created to allow more freedom and flexibility than exists in regular government agencies. They have more control over their budgets, and often have the right to decide how to use their own earnings. Since they still ultimately are controlled by the government, they do not operate like true private corporations.

Some examples are:

- The Corporation for Public Broadcasting - This controversial government corporation still operates public radio and television stations. Although largely funded by private donations, the government still provides policies and money to support their programs.
- The Tennessee Valley Authority - This corporation was created as one of Franklin Roosevelt's New Deal programs. Its mission is to harness the power of the Tennessee River to protect farmlands and provide cheap electricity.
- The U.S. Postal Service - The post office is a corporation that competes with private services.
- Amtrak - Congress created Amtrak to provide railroad passenger service that is heavily subsidized by the federal government. Part of the motivation for its creation was the lack of private companies providing the service, and Amtrak has suffered some huge financial losses. Recently, in an attempt to make the corporation more profitably, Congress has allowed Amtrak to drop some of its less popular routes.

INDEPENDENT EXECUTIVE AGENCIES

Other agencies that do not fall into the first three categories are called independent executive agencies. Independent agencies closely resemble Cabinet departments, but they are smaller and less complex. Generally, they have narrower areas of responsibility than do cabinet departments. Most of these agencies are subject to presidential control and are independent only in the sense that they are not part of a department. Their main function is not to regulate, but to fulfill a myriad of other administrative responsibilities.

Some well-known examples are

- The General Services Administration (GSA) - The GSA operates and maintains federal properties, handling buildings, supplies, and purchasing.
- The National Science Foundation (NSF) - The NSF supports scientific research.
- The National Aeronautics and Space Administration (NASA) - NASA administers the United States space program, financing ventures into space since 1958.

WHAT DO BUREAUCRATS DO?

Most people think that bureaucrats only follow orders. Of course, anyone who works in the executive branch is there to implement decisions, but the reality of their work is more complicated. The power of the bureaucracy depends on how much discretionary authority they have. Congress passes laws, but they cannot follow through on all the little decisions that have to be made as laws are translated into action. Bureaucrats, then, may make policies and choose actions that are not spelled out in advance by laws.

Their main function is to do the nuts and bolts of "executing" policies that are made by Congress, the president, and the Supreme Court.

IMPLEMENTATION

Most policies do not implement themselves. After the President signs a bill into law, the bureaucracy must implement it. Bureaucrats develop procedures and rules for implementing policy goals, and they manage the routines of government, such as delivering mail and collecting taxes.

Usually Congress announces the goals of a policy, sets up a broad administrative apparatus, and leaves the task of working out details to the bureaucracy. The implementers take a policy handed down to them from Congress, the president, or the Court, and actually put it into effect, with real consequences for real people.

Implementation involves more power in the policymaking process than is readily apparent. During this stage, many key decisions are made. Congress often passes ambiguous legislation, or the supporters of a bill that is passed into law get involved with other bills and lose contact with laws passed on to the executive branch. By the very nature of the compromise that passed the bill into law in Congress, it often sets general goals and passes the responsibility for interpretation on to the bureaucrats. As a result, the bureaucracy is given latitude in translating general guidelines into specific directives.

REGULATION

The function of regulation of private sector activities has developed over the course of the twentieth century. The earlier function of service (the Post Office, benefits to veterans, agriculture) dominated the bureaucracy until the early twentieth century Progressive Movement, when the government began to regulate businesses.

As early as 1877 the Supreme Court upheld the right of government to regulate business in *Munn v. Ohio*, a case that upheld the rights of the state of Illinois to regulate the charges and services of a Chicago warehouse. The New Deal legislation of the 1930s created more regulatory agencies, and World War II allowed government a great deal more regulation than ever before.

Today all sorts of activities are subject to federal regulation from automobile production to buying and selling stock to the production and distribution of meat and poultry. Hundreds of agencies supervise and enforce a vast array of regulations.

As regulators, agencies first receive a grant of power from Congress to sketch out the means of executing broad policy decisions. Next, the agency develops a set of guidelines to govern an industry, usually in consultation with people who work in those industries. Next, the agency must apply and enforce its rules and guidelines, often through its own administrative procedures, but sometimes in court. Sometimes it reacts to complaints, and other times it sends inspectors out to the field. Regulation may be executed by requiring applicants to acquire a permit or license to operate under their guidelines and Congressional policies.

ACCOUNTABILITY

The biggest difference between a government agency and a private organization is the number of constraints placed on agencies from other parts of government and by law. A government bureau cannot hire, fire, build, or sell without going through procedures set by Congress, often through law. Presidents also exert considerable power over the bureaucracies.

CONGRESS

Congress often acts as the problem-solving branch of government, setting the agenda and then letting the agencies decide how to implement them. On the other hand, Congress serves as a check on the activities of the bureaucracy. Congress oversees the bureaucracy in a number of ways.

1) Duplication - Congress rarely gives any one job to a single agency. For example, drug trafficking is the task of the Customs Services, the FBI, the Drug Enforcement Administration, the Border Patrol, and the Defense Department. Although this spreading out of the responsibility often leads to contradictions among agencies and sometimes inhibits the responsiveness of government, it also keeps any one agency from becoming all powerful.

2) Authorization - No agency may spend money unless it has first been authorized by Congress. Authorization legislation originates in a legislative committee, and states the maximum amount of money that an agency may spend on a given program. Furthermore, even if funds have been authorized, Congress must also appropriate the money. An appropriation is money formally set aside for a specific use, and it usually is less than the amount authorized. The Appropriations Committees in both houses of Congress must divide all available money among the agencies, and almost always they cut agency budgets from the levels authorized.

3) Hearings - Congressional committees may hold hearings as part of their oversight responsibilities. Agency abuses may be questioned publicly, although the committee holding the hearings typically has the oversight responsibility, so a weak agency may reflect weak oversight.

4) Rewriting legislation - If they wish to restrict the power of an agency, Congress may rewrite legislation or make it more detailed. Every statute is filled with instructions to its administrators, the more detailed the instructions, the better able Congress is to restrict the agency's power. Still, an agency usually finds a way to influence the policy, no matter how detailed the orders of Congress.

THE PRESIDENT

Agencies are also accountable to the chief administrator of the U.S. government: the president. Presidents use a number of methods to impress their policy preferences on the bureaucracy.

- Appointments - The most obvious control the president has over the executive branch is his power to appoint the senior bureaucrats, including agency heads and subheads. If a president disagrees with the policies of an agency, he can appoint a head that agrees with him. This strategy may lead to problems because the agency can work against the new head, possibly seeking support in Congress. Also, because agencies tend to have strong points of view, a new head may sometimes be swayed to their beliefs.
- Executive Orders - A president may issue executive orders to agencies that they must obey. More typically, aides may pass the word informally to agencies as to the president's wishes. Even though agencies may resist, they usually pay attention to the president's preferences.
- Economic powers - The president may exercise authority through the Office of Management and the Budget, which is the president's own final authority on any agency's budget. The OMB may cut or add to an agency's budget, although Congress ultimately does the appropriating.
- Reorganization - The president may reorganize or combine agencies to reward or punish them. This power is limited, however, because entrenched bureaucracies, Congress, and supporting interest groups may keep a president from acting as he might like.

THE BUREAUCRACY AND INTEREST GROUPS

Although interest groups have no formal control over agencies, the informal ties between them may greatly influence the implementation of policy. Interest groups may provide agencies with valuable information they need to execute a policy. Interest groups may pressure agency bureaucrats to interpret policy in ways that are favorable to the interests they represent. Bureau chiefs may also recruit interest groups as allies in pursuing common goals. They often share with them a common view that more money should be spent on federal programs run by the bureau in question.

IRON TRIANGLES

Alliances among bureaucrats, interest groups, and congressional subcommittee members and staff sometimes form to promote their common causes. Such an alliance is sometimes described as an iron triangle. These triangles are sometimes so strong that they are referred to as subgovernments - the place where the real decisions are made. For example, an important issue that government has recently addressed is the effect of tobacco on health and the government's role in regulating it. The tobacco farmers and industry have numerous interest groups, a "tobacco lobby" that provide information to the tobacco division of the Department of

Agriculture and to subcommittees of the House and Senate agricultural committees. They support the agency's budget requests and make contributions to the election campaigns of the subcommittee members. The subcommittees pass legislation affecting tobacco farmers and other members of the industry and approval higher budget requests from the agency. The agency gives the subcommittees information, help with constituents' complaints, and develop rules on tobacco production and prices. They all have a common interest - the promotion of tobacco farming and industry, and they can help one another achieve their goals. As a result, the president and Congress beyond the subcommittee have little decision-making power.

ISSUE NETWORKS

The iron triangle may be criticized because interest groups today are so prolific that they are bound to create cross-demands on subcommittees and the bureaucracy. In the tobacco issue discussed above, interest groups have formed demanding that tobacco products be banned or heavily restricted by the federal government. With these counter-demands, the policymaking process would not run so smoothly and would broaden the number of people involved in the system. The issue is discussed on many levels, both inside and outside government. An agency, then, can be described as being embedded, not in an iron triangle, but in an issue network. These issue networks consist of people in interest groups, on congressional staffs, in universities, and in the mass media who regularly debate an issue. The networks are contentious, with arguments and disagreements occurring along partisan, ideological, and economic lines. When a president appoints a new agency head, he will often choose someone from the issue network who agrees with his views.

REFORMING THE BUREAUCRACY

Throughout American history, presidents and Congress have attempted to reform the bureaucracy to make it work better and cost less. The Intelligence Reform and Terrorism Prevention Act of 2004 is a recent example. Many other reforms have been suggested for the future.

THE MERIT SYSTEM AND THE HATCH ACT

The merit system tries to ensure that the best-qualified people get government jobs and that party politics (patronage) has nothing to do with the hiring process. In 1939 Congress passed the Hatch Act, which required employees, once they were hired, to have as little to do with political parties as possible. The Hatch Act forbids employees from engaging in many party activities. For example, they could not run for public office or raise funds for a party or candidate, nor could they become officers in a political organization or a delegate to a party convention.

In the early 1970s some bureaucrats complained that their 1st amendment rights were being violated. The issue made its way to the Supreme Court, where the justices ruled that the Hatch Act did not put unreasonable restrictions on employees' rights. However, in 1993 Congress softened the Hatch Act by making many forms of participation in politics permissible. Federal bureaucrats still cannot run as candidates in elections, but they may be active in party politics.

CRITICISMS OF THE BUREAUCRACY

Americans criticize their political bureaucracies in many ways, but some frequently mentioned ones are:

- “red tape” – the maze of government rules, regulations, and paperwork – makes government so overwhelming to citizens that many people try to avoid any contact.

- conflict – agencies that often work at cross purposes with one another
- duplication – a situation in which two agencies appear to be doing the same thing
- unchecked growth – the tendency of agencies to grow unnecessarily and for costs to escalate proportionately.
- waste – spending more on products and/or services than is necessary.
- lack of accountability – the difficulty in firing or demoting an incompetent bureaucrat

SUGGESTIONS FOR REFORM

Some suggestions for reforming the bureaucracy are:

- Limiting appointments to 6-12 years. After the appointment expires, the bureaucrat would then have to go through reexamination and their performance would be reviewed for possible rehire.
- Making it easier to fire a bureaucrat. Civil service rules that are meant to protect workers from partisan politics have made it difficult to fire anyone for poor performance. Reformers want to remove those rules.
- Rotating professionals between agencies and from outside. Reformers believe that this practice would bring new blood to agencies and encourage workers to get a broader view of government service.
- Rewarding employee initiatives and fewer rules. The bureaucracy is criticized for having rigid rules that restrict new ideas and individual initiatives. Reformers suggests that rules be streamlined and modernized, and that suggestions from employees should be encouraged and rewarded.
- Emphasizing customer satisfaction. Government bureaucrats are often criticized for not caring about their customers. Unlike private businesses, government agencies do not have to compete for customers, so their clients are not given the attention they deserve.

Finding the practical solutions that everyone can agree on is a difficult process in our government, largely because our system of checks and balances is not particularly efficient. But that doesn't stop presidents and many others from suggesting and implementing reform of the bureaucracy.