



DEPARTMENT OF
HOMELAND SECURITY
U.S. Customs and Border Protection
Laredo Port of Entry

CHAPTER 15

The Bureaucracy

LEARNING OBJECTIVES

- 15-1** Discuss the unique features of the American federal bureaucracy.
- 15-2** Explain the evolution of the federal bureaucracy.
- 15-3** Summarize how the federal bureaucracy functions today.
- 15-4** Discuss checks on and problems with the federal bureaucracy, and possibilities for reform.

bureaucracy A large, complex organization composed of appointed officials.

There is probably not a man or woman in the United States who has not, at some time or other, complained about “the bureaucracy.” Your

letter was slow in getting to Aunt Minnie? The Internal Revenue Service took months to send you your tax refund? The Defense Department paid \$400 for a hammer? The Occupational Safety and Health Administration told you that you installed the wrong kind of portable toilet for your farm workers? The “bureaucracy” is to blame.

For most people and politicians, *bureaucracy* is a pejorative word implying waste, confusion, red tape, and rigidity. But for scholars—and for bureaucrats themselves—*bureaucracy* is a word with a neutral, technical meaning. A **bureaucracy** is a large, complex organization composed of appointed officials. By *complex*, we mean that authority is divided among several managers; no one person is able to make all the decisions. A large corporation is a bureaucracy; so also are a big university and a government agency. With its sizable staff, even Congress has become, to some degree, a bureaucracy.

What is it about complex organizations in general, and government agencies in particular, that leads so many people to complain about them? In part, the answer is to be found in their very size and complexity. But in large measure the answer is to be found in the political context within which such agencies must operate. If we examine that context carefully, we will discover that many of the problems that we blame on “the bureaucracy” are in fact the result of what Congress, the courts, and the president do. And, if we dig just a bit deeper, we will also discover that behind just about every government bureaucracy is some set of new or old public demands. Consider, for example, Washington bureaucracies’ roles with respect to keeping us safe from street criminals, cleaning up toxic waste sites, and making sure that all children have nutritious school lunches.

THEN

The U.S. Department of Justice (USDOJ—this is bureaucracy, so enjoy all the alphabet soup) was established in 1789, but until a series of federal “crime bills” was enacted beginning in the 1960s, it had only an incidental role in crime control. For the most part, it neither funded nor worked at all closely with state and local criminal justice agencies. A USDOJ subunit, the Federal Bureau of Prisons (FBOP), was a tiny agency that held fewer inmates than many small state prison systems did.

NOW

With public support for successive federal “wars on crime” and “wars on drugs,” the USDOJ and other federal agencies now spend billions of dollars each year to

fund federal, state, and local agencies engaged in combating street crime, and the FBOP now runs one of the largest prison systems in the world.

THEN

Before the Environmental Protection Agency (EPA) was launched in 1970, the federal government’s environmental protection activities were virtually nonexistent.

NOW

The media stories and public outcries that accompanied the discovery of lethal toxic waste sites in and around New York’s Love Canal area led in 1978 to the creation of the so-called Superfund program. To administer Superfund, in 1980, the EPA expanded, and there has been an expansion in federal environmental protection efforts, and in federally directed state and local efforts as well, in most years ever since.

THEN

The first federal law providing for subsidized school lunches was passed in 1946, but it was not until the 1960s that Washington began expanding its programs in this area to include ever greater numbers of children eligible for both free (or reduced-price) breakfasts and lunches.

NOW

It was only in 2010 that the U.S. Department of Agriculture (USDA)—created in 1862, made into a cabinet department in 1889, and long concerned mainly with the nation’s farms and agri-businesses—was mandated by law to work with local school districts and other organizations so as to make nutritious meals (breakfasts, lunches, and snacks) available to children in low-income households year-round, including in the summer months when school is out.

15-1 Distinctiveness of the American Bureaucracy

Whatever else it may be, bureaucracy is an outgrowth of representative democracy. If people demanded that government do less or do nothing, in due course public laws would change and the agencies that exist to translate those laws into administrative action would dissolve. But that has rarely happened in the United States. Instead, six of the federal government’s 15 cabinet agencies, including (next to the U.S. Department of Defense) its two largest and newest (the U.S. Department of Veterans Affairs, created in 1989, and the U.S. Department of Homeland Security, created in 2002), were created after 1964.

As you might expect, much the same can be said for the growth of bureaucracy in other democratic nations. Indeed, bureaucratic government has become an obvious feature of all modern societies, democratic and non-democratic alike.

American Constitutionalism and the Federal Bureaucracy

In the United States, however, three aspects of our constitutional system and political traditions give to the bureaucracy a distinctive character. First, political authority over the bureaucracy is not in one set of hands but is shared among several institutions. In a parliamentary regime, such as in the United Kingdom, the appointed officials of the national government work for the cabinet ministers, who are in turn dominated by the prime minister. In theory, and to a considerable extent in practice, British bureaucrats report to and take orders from the ministers in charge of their departments, do not deal directly with Parliament, and rarely give interviews to the press. In the United States, the Constitution permits both the president and Congress to exercise authority over the bureaucracy. Every senior appointed official has at least two masters: one in the executive branch and the other in the legislative branch. Often there are many more than two: Congress, after all, is not a single organization but a collection of committees, subcommittees, and individuals. This divided authority encourages bureaucrats to play one branch of government against the other and to make heavy use of the media.

Second, most of the agencies of the federal government share their functions with related agencies in state and local government. Though some federal agencies deal directly with American citizens—the Internal Revenue Service collects taxes from them, the Federal Bureau of Investigation looks into crimes for them, the Postal Service delivers mail to them—many agencies work with other organizations at other levels of government. For example, the Department of Education gives money to local school systems; the Centers for Medicare and Medicaid Services in the Department of Health and Human Services reimburse states for money spent on health care for the poor through Medicaid and other programs; the Department of Housing and Urban Development gives grants to cities for community development; and the Employment and Training Administration in the Department of Labor supplies funds to local governments so that they can run job-training programs. In France, by contrast, government programs dealing with education, health, housing, and employment are centrally run, with little or no control exercised by local governments.

Third, the institutions and traditions of American life have contributed to the growth of what some writers

have described as an “adversary culture,” in which the definition and expansion of personal rights, and the defense of rights and claims through lawsuits as well as political action, are given central importance. A government agency in this country operates under closer public scrutiny and with a greater prospect of court challenges to its authority than in almost any other nation. Virtually every important decision of the Occupational Safety and Health Administration or of the Environmental Protection Agency is likely to be challenged in the courts or attacked by an affected party; in Sweden the decisions of similar agencies go largely uncontested.

The scope as well as the style of bureaucratic government differs. In most Western European nations, the government owns and operates large parts of the economy: The French government operates the railroads and owns companies that make automobiles and cigarettes, and the Italian government owns many similar enterprises and also the nation’s oil refineries. In just about every large nation except the United States, the telephone system is owned by the government. Publicly operated enterprises account for about 12 percent of all employment in France but less than 3 percent in the United States.¹ The U.S. government regulates privately owned enterprises to a degree not found in many other countries, however. Why we should have preferred regulation to ownership as the proper government role is an interesting question to which we return.

Proxy Government

Much of our federal bureaucracy operates on the principle of **government by proxy**.² In every representative government, the voters elect legislators who make the laws, but in this country the bureaucrats often pay other people to do the work. These “other people” include state and local governments, business firms, and non-profit organizations.

Among the programs run this way are Social Security, Medicare, much environmental protection, and the collection of income taxes by withholding money from your paycheck. Even many military duties are contracted out.³ In the first Gulf War in 1991, American soldiers outnumbered private contractors in the region by 60 to 1. But by 2006, there were nearly as many private workers as soldiers in Iraq. One company was paid \$7.2 billion to get food and supplies to our troops there.⁴

When Hurricanes Katrina and Rita hit our Gulf Coast, the nation’s response was managed by a small and weak group, the Federal Emergency Management Agency

government by proxy
Washington pays state and local governments and private groups to staff and administer federal programs.



Mario Tama/Getty Images

Many people were taken by boat away from their New Orleans homes that were struck by Hurricane Katrina in 2005.

(FEMA). When the levees broke, it had only 2,600 employees; most of the help it was to provide came through “partners,” such as state and local agencies, and some of these were not very competent (see our discussion of this disaster in Chapter 3).

Critics of our government-by-proxy system argue that it does not keep track of how the money we send to public and private agencies is used. Congress, of course, could change matters around, but it has an interest in setting policies and defining goals, not in managing the bureaucracy or levying taxes. Moreover, the president and Congress like to keep the size of the federal bureaucracy small by giving jobs to people not on the federal payroll.⁵

Defenders of government by proxy claim that the system produces more flexibility, takes advantage of private and nonprofit skills, and defends the principle of federalism embodied in our Constitution. The defenders make fair points, but the system does produce certain everyday oddities, such as the fact that many average citizens receive costly federal government services over long periods of time without ever directly interacting with civil servants. Donald F. Kettl, a University of Maryland political scientist, dubbed this the “Mildred Paradox”: In her last several years of life, his aged and ill mother-in-law, Mildred, applied successfully for multiple federal health insurance programs and received several years’ worth of different types of expensive institutional care and top-quality medical treatment—all at government expense—but without ever actually encountering a single government worker.⁶

Or look a bit closer at what we noted above regarding the U.S. Department of Agriculture (USDA). As a result of a new federal law (the Healthy, Hunger-Free Kids Act of 2010), the USDA is now required to expand and improve its “food security” programs by, among other measures, seeing to it that all eligible low-income children have daily access to free meals (breakfast or lunch plus a snack)

during the summer months when school is out. The new law, however, does not even begin to specify just how the USDA and its scores and scores of state and local government proxy agencies (not to mention their tens of thousands of administrative partners) are to accomplish that objective. Among big cities, Philadelphia has had the largest USDA-funded summer food program in the country (almost 4 million meals served each summer through more than 1,000 local “sites” including churches, recreation centers, and private homes on streets closed off for the purpose by local police). But the city’s summer participation rate among eligible children has still been only about 50 percent. Given this complex web of administration, perhaps it is a surprise that the program works as well as it does.

15-2 The Evolution of the Federal Bureaucracy

The Constitution made scarcely any provision for an administrative system other than to allow the president to appoint, with the advice and consent of the Senate, “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.”⁷ Departments and bureaus were not mentioned.

In the first Congress, in 1789, James Madison introduced a bill to create a Department of State to assist the new secretary of state, Thomas Jefferson, in carrying out his duties. People appointed to this department were to be nominated by the president and approved by the Senate, but they were “to be removable by the president” alone. These six words, which would confer the right to fire government officials, occasioned six days of debate in the House. At stake was the locus of power over what was to become the bureaucracy. Madison’s opponents argued that the Senate should consent to the removal of officials as well as their appointment. Madison responded that, without the unfettered right of removal, the president would not be able to control his subordinates, and without this control he would not be able to discharge his constitutional obligation to “take care that the laws be faithfully executed.”⁸ Madison won, 29 votes to 22. When the issue went to the Senate, another debate resulted in a tie vote, broken in favor of the president by Vice President John Adams. The Department of State, and all cabinet departments subsequently created, would be run by people removable only by the president.

That decision did not resolve the question of who would really control the bureaucracy, however. Congress retained the right to appropriate money, to investigate the administration, and to shape the laws that would be executed by that administration—more than ample

power to challenge any president who claimed to have sole authority over his subordinates. And many members of Congress expected the cabinet departments, even though headed by people removable by the president, to report to Congress.

The government in Washington was at first minuscule. The State Department started with only nine employees; the War Department did not have 80 civilian employees until 1801. Only the Treasury Department, concerned with collecting taxes and finding ways to pay the public debt, had much power, and only the Post Office Department provided any significant service.

The Appointment of Officials

Small as the bureaucracy was, people struggled, often bitterly, over who would be appointed to it. From George Washington's day to modern times, presidents have found appointment to be one of their most important and difficult tasks. The officials they select affect how the laws are interpreted (thus the political ideology of the job holders is important), what tone the administration will display (thus personal character is important), how effectively the public business is discharged (thus competence is important), and how strong the political party or faction in power will be (thus party affiliation is important). Presidents trying to balance the competing needs of ideology, character, fitness, and partisanship have rarely pleased most people. As John Adams remarked, every appointment creates one ingrate and 10 enemies.

Because Congress, during most of the 19th and 20th centuries, was the dominant branch of government, congressional preferences often controlled the appointment of officials. And since Congress was, in turn, a collection of people who represented local interests, appointments were made with an eye to rewarding the local supporters of members of Congress or building up local party organizations. These appointments made on the basis of political considerations—patronage—were later to become a major issue. They galvanized various reform efforts that sought to purify politics and to raise the level of competence of the public service. Many of the abuses the reformers complained about were real enough, but patronage served some useful purposes as well. It gave the president a way to ensure that his subordinates were reasonably supportive of his policies; it provided a reward the president could use to induce recalcitrant members of Congress to vote for his programs; and it enabled party organizations to be built up to perform the necessary functions of nominating candidates and getting out the vote.

Though at first there were not many jobs to fight over, by the middle of the 19th century, there were a lot. From 1816 to 1861, the number of federal employees increased eightfold. This expansion was not, however, the result of

the government's taking on new functions, but simply a result of the increased demands on its traditional functions.

The Post Office alone accounted for 86 percent of this growth.⁹

The Civil War was a great watershed in bureaucratic development. Fighting the war led, naturally, to hiring many new officials and creating many new offices. Just as important, the Civil War revealed the administrative weakness of the federal government and led to demands by the civil service reform movement for an improvement in the quality and organization of federal employees. And finally, the war was followed by a period of rapid industrialization and the emergence of a national economy. The effects of these developments could no longer be managed by state governments acting alone. With the creation of a nationwide network of railroads, commerce among the states became increasingly important. The constitutional powers of the federal government to regulate interstate commerce, long dormant for want of much commerce to regulate, now became an important source of controversy.

laissez-faire An economic theory that government should not regulate or interfere with commerce.

A Service Role

From 1861 to 1901, new agencies were created, many to deal with particular sectors of society and the economy. More than 200,000 new federal employees were added, with only about half of this increase in the Post Office. The rapidly growing Pension Office began paying benefits to Civil War veterans; the Department of Agriculture was created in 1862 to help farmers; the Department of Labor was founded in 1882 to serve workers; and the Department of Commerce was organized in 1903 to assist businesspeople. Many more specialized agencies, such as the National Bureau of Standards, also came into being.

These agencies had one thing in common: Their role was primarily to serve, not to regulate. Most did research, gathered statistics, dispensed federal lands, or passed out benefits. Not until the Interstate Commerce Commission (ICC) was created in 1887 did the federal government begin to regulate the economy (other than by managing the currency) in any large way. Even the ICC had, at first, relatively few powers.

There were several reasons why federal officials primarily performed a service role. The values that had shaped the Constitution were still strong; these included a belief in limited government, the importance of states' rights, and the fear of concentrated discretionary power. The proper role of government in the economy was to promote, not to regulate, and a commitment to ***laissez-faire***—a freely competitive economy—was strongly held. But just as important, the Constitution said nothing about giving any

regulatory powers to bureaucrats. It gave to *Congress* the power to regulate commerce among the states. Now obviously Congress could not make the necessary day-to-day decisions to regulate, for example, the rates that interstate railroads charged to farmers and other shippers. Some agency or commission composed of appointed officials and experts would have to be created to do that. For a long time, however, the prevailing interpretation of the Constitution was that no such agency could exercise such regulatory powers unless Congress first set down clear standards that would govern the agency's decisions. As late as 1935, the Supreme Court held that a regulatory agency could not make rules on its own; it could only apply the standards enacted by Congress.¹⁰ The Court's view was that the legislature may not delegate its powers to the president or to an administrative agency.¹¹

These restrictions on what administrators could do were set aside in wartime. During World War I, for example, President Woodrow Wilson was authorized by Congress to fix prices, operate the railroads, manage the communications system, and even control the distribution of food.¹² This kind of extraordinary grant of power usually ended with the war.

Some changes in the bureaucracy did not end with the war. During the Civil War, World War I, World War II, the Korean War, and the war in Vietnam, the number of civilian (as well as military) employees of the government rose sharply. These increases were not simply in the number of civilians needed to help serve the war effort; many of the additional people were hired by agencies, such as the Treasury Department, not obviously connected with the war. Furthermore, the number of federal officials did not return to prewar levels after each war. Though there was some reduction, each war left the number of federal employees larger than before.¹³

It is not hard to understand how this happens. During wartime, almost every government agency argues that its activities have *some* relation to the war effort, and few legislators want to be caught voting against something that may help that effort. Hence in 1944, the Reindeer Service in Alaska, an agency of the Interior Department, asked for more employees because reindeer are “a valued asset in military planning.”

A Change in Role

Today's bureaucracy is largely a product of two events: the Great Depression of the 1930s (and the concomitant New Deal program of President Franklin Roosevelt) and World War II. Though many agencies have been added since then, the basic features of the bureaucracy were set mainly as a result of changes in public attitudes and in constitutional interpretation that occurred during these periods. The government was now expected to play an

active role in dealing with economic and social problems. In the late 1930s, the Supreme Court reversed its earlier decisions (see Chapter 16) on the question of delegating legislative powers to administrative agencies and upheld laws by which Congress merely instructs agencies to make decisions that serve “the public interest” in some area.¹⁴ As a result, it was possible for President Nixon to set up in 1971 a system of price and wage controls based on a statute that simply authorized the president “to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, and salaries.”¹⁵ The Cost of Living Council and other agencies that Nixon established to carry out this order were run by appointed officials who had the legal authority to make sweeping decisions based on general statutory language.

World War II was the first occasion during which the government made heavy use of federal income taxes—on individuals and corporations—to finance its activities. Between 1940 and 1945, total federal tax collections increased from about \$5 billion to nearly \$44 billion. The end of the war brought no substantial tax reduction: The country believed that a high level of military preparedness continued to be necessary and that various social programs begun before the war should enjoy the heavy funding made possible by wartime taxes. Tax receipts continued, by and large, to grow. Before 1913, when the Sixteenth Amendment to the Constitution was passed, the federal government could not collect income taxes at all (it financed itself largely from customs duties and excise taxes). From 1913 to 1940, income taxes were small (in 1940, the average American paid only \$7 in federal income taxes). World War II created the first great financial boom for the government, permitting the sustained expansion of a wide variety of programs and thus entrenching a large number of administrators in Washington.¹⁶

Although it is still too soon to tell, a third event—the September 11, 2001, terrorist attacks on the United States—could affect bureaucracy as profoundly as the depression of the 1930s and World War II. A law creating a massive new cabinet agency, the Department of Homeland Security (DHS), was passed in late 2002. Within two years of its creation, the DHS had consolidated under its authority 22 smaller federal agencies with nearly 180,000 federal employees (third behind Defense and Veterans Affairs) and over \$40 billion in budgets (fourth behind Defense, Health and Human Services, and Education). In addition, dozens of intergovernmental grant-making programs came under the authority of the DHS. In late 2004, Congress passed another law that promised, over time, to centralize under a single director of national intelligence the work of the more than 70 federal agencies authorized



CONSTITUTIONAL CONNECTIONS

Beyond Checks and Balances?

The Framers of the Constitution did not envision anything akin to today's federal bureaucracy with its several million full-time employees and its millions more part-time employees. But far more surprising to the Framers than the sheer size of today's federal bureaucracy (after all, the country and its population have grown, too) would be its scope: Cabinet departments, bureaus, independent agencies, government corporations, and regulatory commissions touching virtually every facet of the nation's economic, social, and civic life—trade, banking, labor, environmental protection, broadcasting, transportation, human services, health, housing, education, energy, environmental protection, space exploration, national parks, homeland security, and more. Beyond the contemporary federal bureaucracy's size and scope, the Framers might be mystified by the “proxy government” system described on pages 373–374, and by how so many “federal” programs are actually jointly funded and administered by federal, state, and local governments in conjunction with for-profit firms and nonprofit organizations.

But would the Framers, in turn, view today's federal bureaucracy not only as a “fourth branch” of American national government but one that operates outside their system of separated powers and checks and balances, and that has transformed federalism (see Chapter 3) into Washington-controlled “intergovernmental administration”?

Some think so. They argue that federal agencies, including the Internal Revenue Service, the Environmental Protection Agency, and many others, routinely exercise not only executive powers but also lawmaking and judicial powers as well, and that state governments are required to fund or co-fund and administer many federal programs including large ones such as Medicaid. Moreover, they claim, Congress now commonly passes long and complicated laws and leaves it almost entirely to the discretion of federal bureaucrats to decide what the laws mean, how to apply them, and even in some cases how much to spend on them.

Others, however, think not. They argue that through federal laws that set boundaries on administrators' authority (like the Administrative Procedures Act of 1946), routine oversight of federal agencies by congressional committees and subcommittees, and federal court decisions limiting how far Washington can go in requiring state governments to fund or administer its programs, the federal bureaucracy's powers and the discretion exercised by Washington's appointed officials normally remain duly limited. We share this view: the “fourth branch” is far bigger and broader than the Framers could ever have envisioned, but most federal government agencies most of the time are checked and balanced by Congress and by other means.

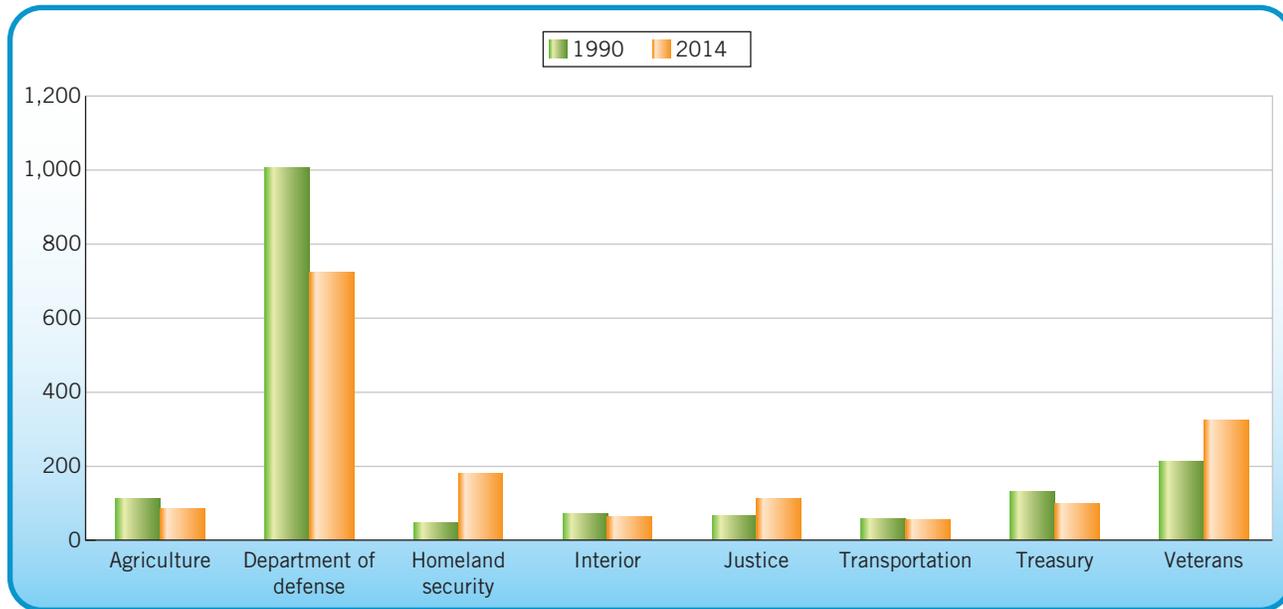
to spend money on counterterrorist activities. But even after related reforms in 2006, dozens of different agencies were still authorized to spend money on counterterrorism activities. In 2013, the DHS faced sharp questioning from the House Subcommittee on Oversight and Management Efficiency, and the Government Accountability Office (GAO) once again ranked the DHS, which by then employed more than 220,000 employees, among those agencies with serious management problems.¹⁷

15-3 The Federal Bureaucracy Today

Presidents do not want to admit that they have increased the size of the bureaucracy. They can avoid saying this by pointing out that the number of civilians working for the federal government, excluding postal workers, has not increased significantly in recent years and is about

the same today (2 million persons) as it was in 1960, and less than it was during World War II. This explanation is true but misleading, for it neglects the roughly 13 million people who work *indirectly* for Washington as employees of private firms and state or local agencies that are largely, if not entirely, supported by federal funds. There are nearly three persons earning their living indirectly from the federal government for every one earning it directly. While federal employment has remained quite stable, employment among federal contractors and consultants and in state and local governments has mushroomed. Indeed, most federal bureaucrats, like most other people who work for the federal government, live outside Washington, D.C.

As Figure 15.1 shows, from 1990 to 2014, several federal executive departments reduced their workforce. The Department of Defense cut its civilian employees by almost one-third. Other Departments, including Agriculture and Treasury, also have fewer employees. The Department of Veterans Affairs expanded after 2007 as

FIGURE 15.1 Federal Civilian Employment, 1990–2014

Source: Office of Management and Budget, *Fiscal Year 2016 Historical Tables: Budget of the U.S. Government*, Table 16.1, “Total Executive Branch Civilian Full-Time Equivalent Employees, 1990 and 2014,” <https://www.whitehouse.gov/sites/default/files/omb/budget/fy2016/assets/hist.pdf>.

discretionary authority

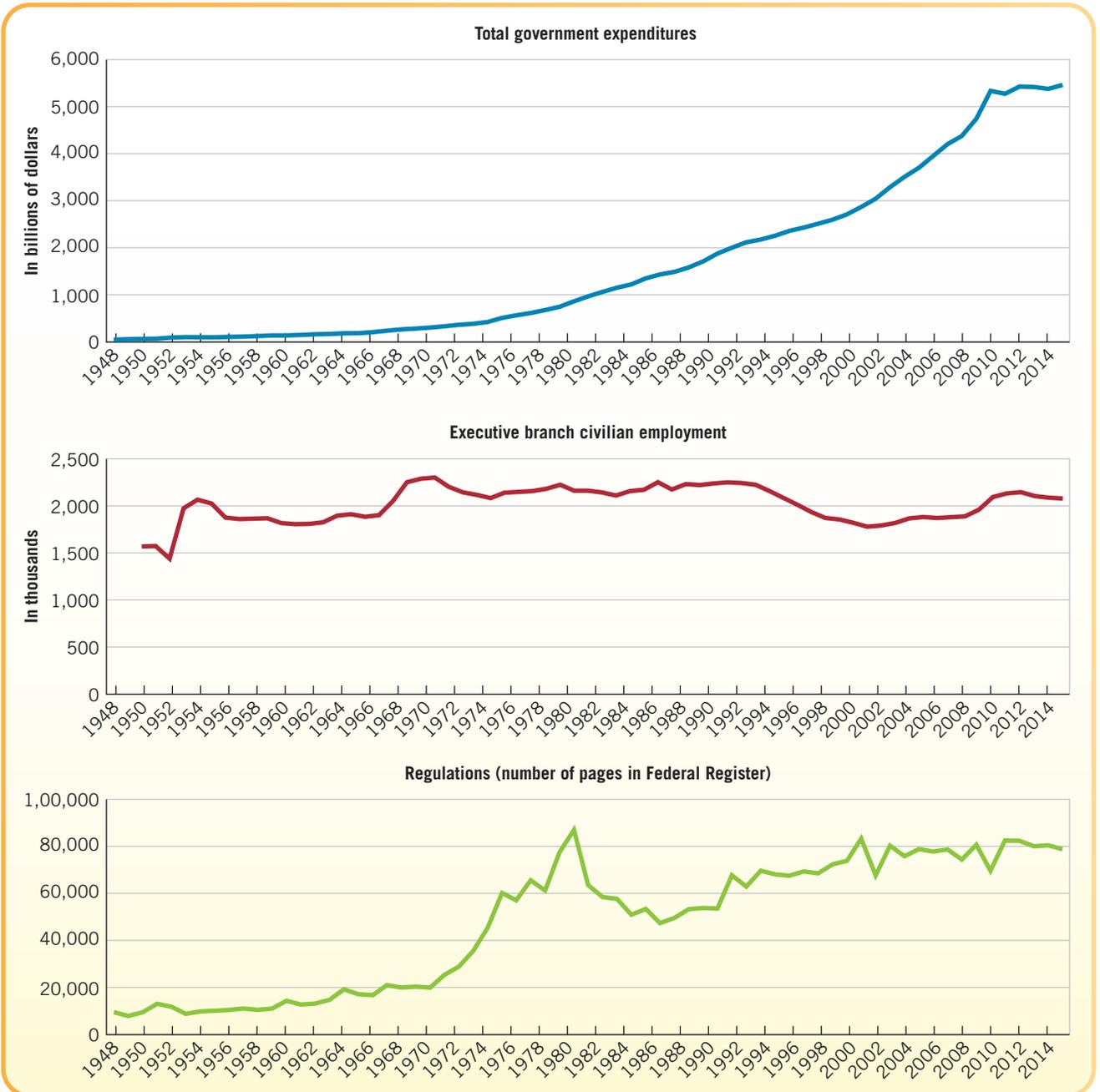
The extent to which appointed bureaucrats can choose courses of action and make policies not spelled out in advance by laws.

veterans from the wars in Iraq and Afghanistan began to return home. High growth also was evident in the U.S. Department of Justice (DOJ). This growth is explained mainly by the growth in just one DOJ unit—and one of the few federal agencies anywhere in the bureaucracy that was slow to join the trend toward what we described earlier in this chapter as government by proxy—the Federal Bureau of Prisons (BOP). The BOP administers nearly 200 facilities, from maximum-security prisons to community corrections centers, all across the country. Between 1990 and 2013, its staff doubled to nearly 39,000, while the prisoner populations these federal workers supervised more than doubled to about 276,000.¹⁸

The power of the federal bureaucracy cannot be measured by the number of employees, however. A bureaucracy of 5 million persons would have little power if each employee did nothing but type letters or file documents, whereas a bureaucracy of only 100 persons would have awesome power if each member were able to make arbitrary life-and-death decisions affecting the rest of us. The power of the bureaucracy depends on the extent to which appointed officials have **discretionary authority**—that is, the ability to choose courses of action and to make policies not spelled out in advance by laws. As Figure 15.2 shows, the volume of regulations

issued has risen much faster than the rate of government spending (relative to gross domestic product) and the number of federal employees who write the regulations and spend the money (federal employees who, as we have explained, often work mainly through state and local government employees and other administrative proxies).

By this test, the power of the federal bureaucracy has grown enormously. Congress has delegated substantial authority to administrative agencies in three areas: (1) paying subsidies to particular groups and organizations in society (farmers, veterans, scientists, schools, universities, hospitals); (2) transferring money from the federal government to state and local governments (the grant-in-aid programs described in Chapter 3); and (3) devising and enforcing regulations for various sectors of society and the economy. Some of these administrative functions, such as grants-in-aid to states, are closely monitored by Congress; others, such as the regulatory programs, usually operate with a greater degree of independence. These delegations of power, especially in the areas of paying subsidies and regulating the economy, did not become commonplace until the 1930s, and then only after the Supreme Court decided that such delegations were constitutional. Today, by contrast, appointed officials can decide, within rather broad limits, who shall own a television station, what safety features automobiles shall have, what kinds of scientific research shall be specially encouraged, what drugs shall appear on the market, which dissident groups shall be investigated, what

FIGURE 15.2 The Growth of the Federal Government in Money, People, and Rules, 1940–2015

Sources: Office of Management and Budget, *Fiscal Year 2016: Historical Tables - Budget of the U.S. Government, Table 14.4*, “Total Government Expenditures By Major Category of Expenditure, 1948–2014”; Office of Personnel Management, *Data, Analysis, & Documentation: Federal Employment Reports – Historical Federal Workforce Tables*, “Executive Branch Civilian Employment Since 1940”; *Federal Register*, “Federal Register Pages Published, 1936–2014.”

fumes an industrial smokestack may emit, which corporate mergers shall be allowed, what use shall be made of national forests, and what prices crop and dairy farmers shall receive for their products.

If appointed officials have this kind of power, then how they use it is of paramount importance in understanding modern government. There are, broadly, four factors that may explain the behavior of these officials:

1. The manner in which they are recruited and rewarded;
2. Their personal attributes, such as their socioeconomic backgrounds and their political attitudes;
3. The nature of their jobs;
4. The constraints that outside forces—political superiors, legislators, interest groups, journalists—impose on their agencies.

competitive service The government offices to which people are appointed on the basis of merit, as ascertained by a written exam or by applying certain selection criteria.

Recruitment and Retention

The federal civil service system was designed to recruit qualified people on the basis of merit, not political patronage, and to retain and pro-

motivate employees on the basis of performance, not political favoritism. Many appointed federal officials belong to the **competitive service**. This means they are appointed only after they have passed a written examination administered by the Office of Personnel Management (OPM) or met certain selection criteria (such as training, educational attainments, or prior experience) devised by the hiring agency and approved by the OPM. Where competition for a job exists and candidates can be ranked by their scores or records, the agency must usually appoint one of the three top-ranking candidates.

In recent years, the competitive service system has become decentralized, so that each agency now hires its own people without an OPM referral, and examinations have become less common. In 1952, more than 86 percent of all federal employees were civil servants hired by the competitive service; by 1996, that figure had fallen to less than 54 percent. This decentralization and the greater use of ways other than exams to hire employees were caused by three things. First, the old OPM system was cumbersome and often not relevant to the complex needs of departments. Second, these agencies had a need for more professionally trained employees—lawyers, biologists, engineers, and computer specialists—who could not be ranked on the basis of some standard exam. And third, civil rights groups pressed Washington to make the racial composition of the federal bureaucracy look more like the racial composition of the nation.

Moreover, the kinds of workers being recruited into the federal civil service have changed. For example, blue-collar employment has fallen while the federal government's white-collar workforce has become more diverse occupationally. As one expert on civil service reform has noted, the "need to recruit and retain physicists, biologists, oceanographers, nurses, statisticians, botanists, and epidemiologists, as well as large numbers of engineers, lawyers, and accountants, now preoccupies federal personnel managers."¹⁹

Employees hired outside the competitive service are part of the excepted service. They now make up almost half of all workers. Though not hired by the OPM, they still are typically hired in a nonpartisan fashion. Some are hired by agencies—such as the CIA, the FBI, and the Postal Service—that have their own selection procedures.

About 3 percent of the excepted employees are appointed on grounds other than or in addition to merit.

These legal exceptions exist to permit presidents to select, for policymaking and politically sensitive posts, people who are in agreement with their policy views. Such appointments are generally of three kinds:

1. Presidential appointments authorized by statute (cabinet and subcabinet officers, judges, U.S. marshals and U.S. attorneys, ambassadors, and members of various boards and commissions).
2. "Schedule C" appointments to jobs described as having a "confidential or policy-determining character" below the level of cabinet or subcabinet posts (including executive assistants, special aides, and confidential secretaries).
3. Noncareer executive assignments (NEAs) given to high-ranking members of the regular competitive civil service or to persons brought into the civil service at these high levels. These people are deeply involved in the advocacy of presidential programs or participate in policymaking.

These three groups of excepted appointments constitute the patronage available to a president and his administration. When President Kennedy took office in 1961, he had 451 political jobs to fill. When President Barack Obama took office in 2009, he had more than four times that number, including nearly four times the number of top cabinet posts. Scholars disagree over whether this proliferation of political appointees has improved or worsened Washington's performance, but one thing is clear: widespread presidential patronage is hardly unprecedented. In the 19th century, practically every federal job was a patronage job. For example, when Grover Cleveland, a Democrat, became president in 1885, he replaced some 40,000 Republican postal employees with Democrats.

Ironically, two years earlier, in 1883, the passage of the Pendleton Act had begun a slow but steady transfer of federal jobs from the patronage to the merit system. It may seem strange that a political party in power (the Republicans) would be willing to relinquish its patronage in favor of a merit-based appointment system. Two factors made it possible for the Republicans to pass the Pendleton Act: (1) public outrage over the abuses of the spoils system, highlighted by the assassination of President James Garfield by a man always described in the history books as a "disappointed office seeker" (*lunatic* would be a more accurate term); and (2) the fear that if the Democrats came to power on a wave of antispoils sentiment, existing Republican officeholders would be fired. (The Democrats won anyway.)

The merit system spread to encompass most of the federal bureaucracy, generally with presidential support. Though presidents may have liked in theory the idea of hiring and firing subordinates at will, most felt that the demands for patronage were impossible either to satisfy



U.S. Coast Guard/UP/Newscom

In 2010, fire erupted from the offshore oil rig operated by BP in the Gulf of Mexico near American land, creating an environmental disaster and requiring a federal investigation and response.

or to ignore. Furthermore, by increasing the coverage of the merit system, a president could “blanket in” patronage appointees already holding office, thus making it difficult or impossible for the next administration to fire them.

The Buddy System

The actual recruitment of civil servants, especially in mid- and upper-level jobs, is somewhat more complicated, and slightly more political, than the laws and rules might suggest. Though many people enter the federal bureaucracy by learning of a job, filling out an application, perhaps taking a test, and being hired, many also enter on a “name-request” basis. A **name-request job** is one that is filled by a person whom an agency has already identified. In this respect, the federal government is not so different from private business. A person learns of a job from somebody who already has one, or the head of a bureau decides in advance whom he or she wishes to hire. The agency must still send a form describing the job to the OPM, but it also names the person whom the agency wants to appoint. Sometimes the job is even described in such a way that the person named is the only one who can qualify for it. Occasionally, this tailor-made, name-request job is offered to a person at the insistence of a member of Congress who wants a political supporter taken care of; more often it is made available because the bureaucracy itself knows whom it wishes to hire and wants to circumvent an elaborate search. This is the “buddy system.”

The buddy system does not necessarily produce poor employees. Indeed, it is frequently a way of hiring people known to the agency as capable of handling the position. It also opens up the possibility of hiring people whose policy views are congenial to those already in office. Such networking is based on shared policy views, not (as once was the case) on narrow partisan affiliations. For example, bureaucrats in consumer protection agencies recruit new staff from private groups with an interest

in consumer protection, such as the various organizations associated with Ralph Nader, or from academics who have a pro-consumer inclination.

name-request job A job filled by a person whom an agency has already identified.

There has always been an informal “old boys’ network” among those who move in and out of high-level government posts; with the increasing appointment of women to these jobs, there has begun to emerge an old girls’ network as well.²⁰ In a later section, we consider whether, or in what ways, these recruitment patterns make a difference.

Firing a Bureaucrat

The great majority of bureaucrats who are part of the civil service and who do not hold presidential appointments have jobs that are, for all practical purposes, beyond reach. An executive must go through elaborate steps to fire, demote, or suspend a civil servant. Realistically, this means no one is fired or demoted unless his or her superior is prepared to invest a great deal of time and effort in the attempt. In 1987, about 2,600 employees who had completed their probationary period were fired for misconduct or poor performance. That is about one-tenth of 1 percent of all federal employees. It is hard to believe that a large private company would fire only one-tenth of 1 percent of its workers in a given year. It’s also impossible to believe that, as is often the case in Washington, it would take a year to fire anyone. To cope with this problem, federal executives have devised a number of stratagems for bypassing or forcing out civil servants with whom they cannot work—denying them promotions, transferring them to undesirable locations, or assigning them to meaningless work.

With the passage of the Civil Service Reform Act of 1978, Congress recognized that many high-level positions in the civil service have important policymaking responsibilities and that the president and his cabinet officers ought to have more flexibility in recruiting, assigning, and paying such people. Accordingly, the act created the Senior Executive Service (SES), about 8,000 top federal managers who can (in theory) be hired, fired, and transferred more easily than ordinary civil servants. Moreover, the act stipulated that members of the SES would be eligible for substantial cash bonuses if they performed their duties well. (To protect the rights of SES members, anyone who is removed from the SES is guaranteed a job elsewhere in government.)

Things did not work out quite as the sponsors of the SES had hoped. Though most eligible civil servants joined it, there was only a modest increase in the proportion of higher-ranking positions in agencies that were



HOW THINGS WORK

Firing a Bureaucrat

To fire or demote a member of the competitive civil service, these procedures must be followed:

1. The employee must be given written notice at least 30 days in advance that he or she is to be fired or demoted for incompetence or misconduct.
2. The written notice must contain a statement of reasons, including specific examples of unacceptable performance.
3. The employee has the right to an attorney and to reply, orally or in writing, to the charges.
4. The employee has the right to appeal any adverse action to the Merit Systems Protection Board (MSPB), a three-person, bipartisan body appointed by the president with the consent of the Senate.
5. The MSPB must grant the employee a hearing, at which the employee has the right to have an attorney present.
6. The employee has the right to appeal the MSPB decision to a U.S. court of appeals, which can hold new hearings.

filled by transfer from another agency; the cash bonuses did not prove to be an important incentive (perhaps because the base salaries of top bureaucrats did not keep up with inflation); and hardly any member of the SES was actually fired. Two years after the SES was created, less than one-half of 1 percent of its members had received an unsatisfactory rating, and none had been fired. Nor does the SES give the president a large opportunity to make political appointments: only 10 percent of the SES can be selected from outside the existing civil service. And no SES member can be transferred involuntarily.

The Agency's Point of View

When one realizes that most agencies are staffed by people recruited by those agencies, sometimes on a name-request basis, and virtually immune from dismissal, it becomes clear that the recruitment and retention policies of the civil service work to ensure that most bureaucrats will have an “agency” point of view. Even with the encouragement for transfers created by the SES, most government agencies are dominated by people who have not served in any other agency and who have been in government service most of their lives. This fact has some advantages: It means that most top-tier bureaucrats are experts in the procedures and policies of their agencies and that there will be a substantial degree of continuity in agency behavior no matter which political party happens to be in power.

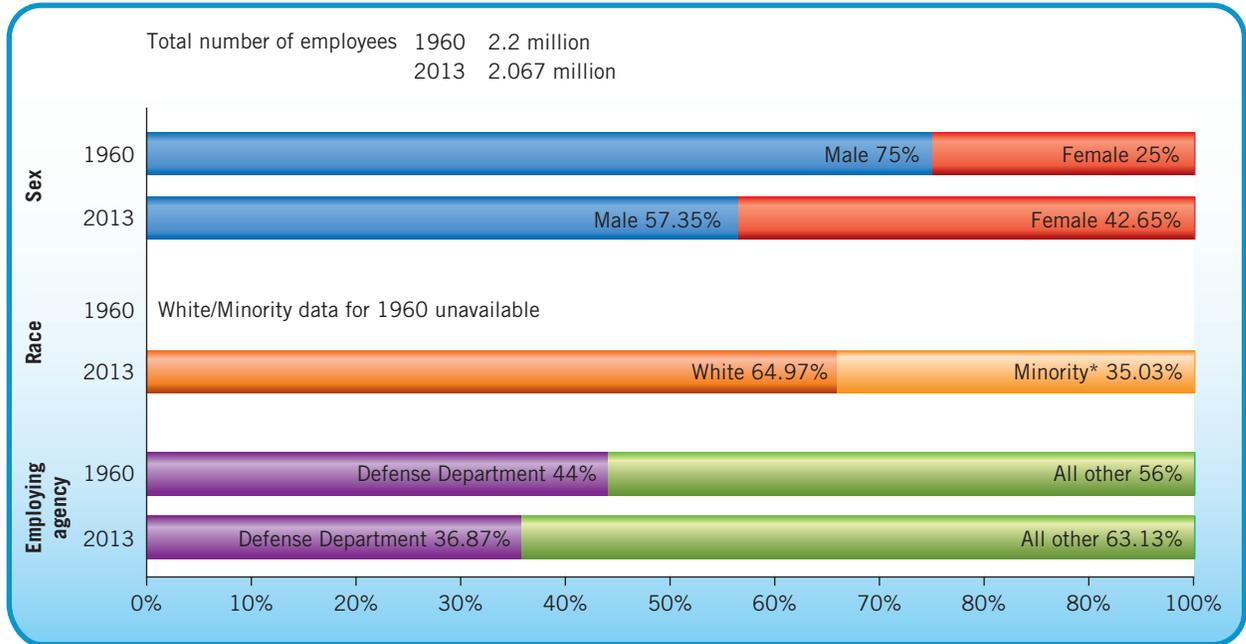
But the agency point of view has its costs as well. A political executive entering an agency with responsibility for shaping its direction will discover that he or she must carefully win the support of career

subordinates. A subordinate has an infinite capacity for discreet sabotage and can make life miserable for a political superior by delaying action, withholding information, following the rule book with literal exactness, or making an “end run” around a superior to mobilize members of Congress sympathetic to the bureaucrat's point of view. For instance, when one political executive wanted to downgrade a bureau in his department, he found, naturally, that the bureau chief was opposed. The bureau chief spoke to some friendly lobbyists and a key member of Congress. When the political executive asked the congressman whether he had any problem with the contemplated reorganization, the congressman replied, “No, you have the problem, because if you touch that bureau, I'll cut your job out of the budget.”²¹

Personal Attributes

Another factor that may shape the way a bureaucrat uses power is personal attributes. These include social class, education, and personal political beliefs. The federal civil service as a whole looks very much like a cross section of American society in the education, sex, race, and social origins of its members (see Figure 15.3). But as with many other employers, African Americans and other minorities are most likely heavily represented in the lowest grade levels and tend to be underrepresented at the executive level. At the higher-ranking levels, where the most power is found—say, in the supergrade ranks of GS 16 through GS 18—the typical civil servant is a middle-aged white male with a college degree whose father was somewhat more advantaged than the average citizen. In the great majority of cases, this individual is in fact very different

FIGURE 15.3 Characteristics of Federal Civilian Employees, 1960 and 2013



Sources: *Statistical Abstract of the United States*, 1961, pp. 392–394; Office of Personnel Management, *Common Characteristics of the Government Fiscal Year 2013*.

Notes: *Blacks, Native Americans, Hispanics, Asians, and Pacific Islanders

from the typical American in both background and personal beliefs.

Because political appointees and career bureaucrats are unrepresentative of the average American, and because of their supposed occupational self-interest, some critics have speculated that the people holding these jobs think about politics and government in ways very different from the public at large. Some surveys do find that career bureaucrats are more likely than other people to hold liberal views, to trust government, and to vote for Democrats.²²

It is important, however, not to overgeneralize from such differences. For example, whereas Obama appointees (virtually all of them strong Democrats) were more liberal than average citizens, George W. Bush appointees (virtually all of them loyal Republicans) were undoubtedly more conservative than average citizens. Likewise, career civil servants are more pro-government than the public at large, but on most specific policy questions, federal bureaucrats do not have extreme positions. Still, those employed in “activist” agencies such as the Federal Trade Commission, Environmental Protection Agency, and Food and Drug



Peter Steiner/Alamy

An Amtrak train speeding along its tracks. Amtrak service costs the federal government much more than the train earns in fares.



Justin Sullivan/Getty Images

A letter carrier picks up mail; his employer, the U.S. Postal Service, is running a huge deficit.

Administration tend to have more liberal views than those who work for the more “traditional” agencies such as the Departments of Agriculture, Commerce, and the Treasury. Even when the bureaucrats come from roughly the same social backgrounds, their policy views seem to reflect the type of government work that they do. For example, studies dating back decades have found that Democrats and people with liberal views tend to be overrepresented in social service agencies, whereas Republicans and people with conservative views tend to be overrepresented in defense agencies.²³ But it is not clear whether such differences in attitudes are produced by the jobs that people hold or whether certain jobs attract people with certain beliefs. Probably both forces are at work.

Do Bureaucrats Sabotage Their Political Bosses?

Because it is so hard to fire career bureaucrats, it is often said that these people will sabotage any actions by their political superiors with which they disagree. And since civil servants tend to have liberal views, it has been conservative presidents and cabinet secretaries who have usually expressed this worry.

There is no doubt that some bureaucrats will drag their heels if they don't like their bosses, and a few will block actions they oppose. However, most bureaucrats try to carry out the policies of their superiors even when they personally disagree with them. When David Stockman was director of the OMB, he set out to make sharp cuts in government spending programs in accordance with the wishes of his boss, President Ronald Reagan. He later published a book complaining about all the people in the White House and Congress who worked against him.²⁴ But nowhere in the book is there any major criticism of the civil servants at the OMB. It appears that whatever these people thought about Stockman and Reagan, they loyally tried to carry out Stockman's policies.

Bureaucrats tend to be loyal to political superiors who deal with them cooperatively and constructively. An agency head who tries to ignore or discredit them can be in for a tough time, however. The powers of obstruction available to aggrieved bureaucrats are formidable. Such people can leak embarrassing stories to Congress or to the media, help interest groups mobilize against the agency head, and discover a thousand procedural reasons why a new course of action won't work.

The exercise of some of those bureaucratic powers is protected by the Whistle Blower Protection Act. Passed in 1989, the law created the Office of Special Counsel, charged with investigating complaints from bureaucrats that they were punished after reporting to Congress about waste, fraud, or abuse in their agencies.

It may seem odd that bureaucrats, who have great job security, would not always act in accordance with their personal beliefs instead of in accordance with the wishes of their bosses. Bureaucratic sabotage, in this view, ought to be very common. But bureaucratic cooperation with superiors is not odd, once you take into account the nature of a bureaucrat's job.

If you are a voter at the polls, your beliefs will clearly affect how you vote (see Chapters 7 and 10). But if you are the second baseman for the Boston Red Sox, your political beliefs, social background, and education will have nothing to do with how you field ground balls. Sociologists like to call the different things that people do in their lives “roles” and to distinguish between roles that are loosely structured (such as the role of voter) and those that are highly structured (such as that of second baseman). Personal attitudes greatly affect loosely structured roles and only slightly affect highly structured ones. Applied to the federal bureaucracy, this suggests that civil servants performing tasks that are routinized (such as filling out forms), tasks that are closely defined by laws and rules (such as issuing welfare checks), or tasks that are closely monitored by others (supervisors, special-interest groups, the media) will probably perform them in ways that can only partially be explained, if at all, by their personal attitudes. Civil servants performing complex, loosely defined tasks that are not closely monitored may carry out their work in ways powerfully influenced by their attitudes.

Among the loosely defined tasks are those performed by professionals, and so the values of these people may influence how they behave. An increasing number of lawyers, economists, engineers, and physicians are hired to work in federal agencies. These men and women have received extensive training that produces not only a set of skills, but also a set of attitudes as to what is important and valuable. For example, the Federal Trade Commission (FTC), charged with preventing unfair methods of competition among businesses, employs two kinds of professionals: lawyers, organized into a Bureau of Competition, and economists, organized into a Bureau of Economics. Lawyers are trained to draw up briefs and argue cases in court and are taught the legal standards by which they will know whether they have a chance of winning a case or not. Economists are trained to analyze how a competitive economy works and what costs consumers must bear if the goods and services are produced by a monopoly (one firm controlling the market) or an oligopoly (a small number of firms dominating the market).

Because of their training and attitudes, lawyers in the FTC prefer to bring cases against a business firm that has done something clearly illegal, such as attending secret meetings with competitors to rig the prices that will be

charged to a purchaser. These cases appeal to lawyers because there is usually a victim (the purchaser or a rival company) who complains to the government, the illegal behavior can be proved in a court of law, and the case can be completed rather quickly.

Economists, on the other hand, are trained to measure the value of a case not by how quickly it can be proved in court, but by whether the illegal practice imposes large or small costs on the consumer. FTC economists often dislike the cases that appeal to lawyers. The economists feel that the amount of money that such cases save the consumer is often small and that the cases are a distraction from the major issues—such as whether IBM or Apple unfairly dominates the computer business, or whether General Motors is too large to be efficient. Lawyers, in turn, are leery of big cases, because the facts are hard to prove and they may take forever to decide (one blockbuster case can drag through the courts for 10 years). In many federal agencies divergent professional values such as these help explain how power is used.

Culture and Careers

Unlike the lawyers and economists working in the FTC, the government bureaucrats in a typical agency don't have a lot of freedom to choose a course of action. Their jobs are spelled out not only by the laws, rules, and routines of their agency, but also by the informal understandings among fellow employees as to how they are supposed to act. These understandings are the *culture* of the agency.²⁵

If you belong to the air force, you can do a lot of things, but only one thing really counts: flying airplanes, especially advanced jet fighters and bombers. The culture of the air force is a pilots' culture. If you belong to the navy, you have more choices: fly jet aircraft or operate nuclear submarines. Both jobs provide status and a chance for promotion to the highest ranks. By contrast, sailing minesweepers or transport ships (or worse, having a desk job and not sailing anything at all) is not a very rewarding job. The culture of the CIA emphasizes working overseas as a clandestine agent; staying in Washington as a report writer is not as good for your career. The culture of the State Department rewards skill in political negotiations; being an expert on international economics or embassy security is much less rewarding.

You can usually tell what kind of culture an agency has by asking an employee, "If you want to get ahead here, what sort of jobs should you take?" The jobs that are career enhancing are part of the culture; the jobs that are not career enhancing (NCE in bureaucratic lingo) are not part of it.

Being part of a strong culture is good—up to a point. It motivates employees to work hard in order to win the

respect of their coworkers as well as the approval of their bosses. But a strong culture also makes it hard to change an agency. FBI agents for many years resisted getting involved in civil rights or organized crime cases, and diplomats in the State Department didn't pay much attention to embassy security. These important jobs were not a career-enhancing part of the culture.

Constraints

The biggest difference between a government agency and a private organization is the vastly greater number of constraints on the agency. Unlike a business firm, the typical government bureau cannot hire, fire, build, or sell without going through procedures set down in laws. How much money it pays its members is determined by statute, not by the market. Not only the goals of an agency, but often its exact procedures, are spelled out by Congress.

At one time, the Soil Conservation Service was required by law to employ at least 14,177 full-time workers. The State Department has been forbidden by law from opening a diplomatic post in Antigua or Barbuda but forbidden from closing a post anywhere else. The Agency for International Development (which administers our foreign-aid program) has been given by Congress 33 objectives and 75 priorities and must send to Congress 288 reports each year. When it buys military supplies, the Defense Department must give a "fair proportion" of its contracts to small businesses, especially those operated by "socially and economically disadvantaged individuals," and must buy from American firms even if, in some cases, buying abroad would be cheaper. Some of the more general constraints include the following:

- *Administrative Procedure Act (1946)*. Before adopting a new rule or policy, an agency must give notice, solicit comments, and (often) hold hearings.
- *Freedom of Information Act (1966)*. Citizens have the right to inspect all government records except those containing military, intelligence, or trade secrets or revealing private personnel actions.
- *National Environmental Policy Act (1969)*. Before undertaking any major action affecting the environment, an agency must issue an environmental impact statement.
- *Privacy Act (1974)*. Government files about individuals, such as Social Security and tax records, must be kept confidential.
- *Open Meeting Law (1976)*. Every part of every agency meeting must be open to the public unless certain matters (e.g., military or trade secrets) are being discussed.



POLICY DYNAMICS: INSIDE/OUTSIDE THE BOX

Postal Service Reform: Client Politics?

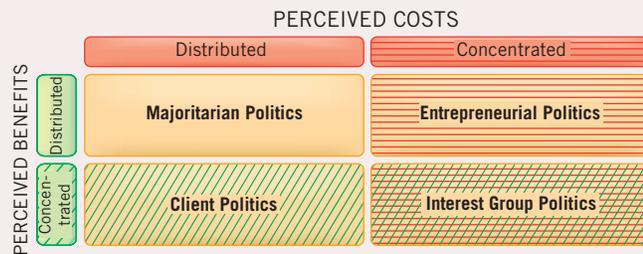
Article I, Section 8, of the Constitution authorized the Congress to “establish Post Offices.” Today’s United States Postal Service (USPS) is the second largest employer in the nation (behind Walmart). It is not taxpayer-funded and generates more than \$60 billion a year in revenue for its services. It has more than 500,000 career employees. It has mail routes that cover every square mile of the nation. It delivers mail to more than 100 million addresses each week. It handles about 160 billion pieces of mail each year. It has more office buildings than the number of McDonald’s, Starbucks, and Walmart stores combined. Millions of people (especially older people) and many businesses (not only “junk mail” purveyors) continue to rely heavily on “snail mail.” And certain legal documents still normally get sent in paper envelopes via “regular mail.”

But the USPS is in trouble. Since 2001, the volume of mail delivered by the USPS has declined by about a quarter, and its workforce has fallen by more than 300,000. In the 2012 Fiscal Year, the USPS ran a deficit that totaled about \$16 billion. Facebook, email, texting, and other means of electronic communications have increasingly displaced both routine and episodic communications that once started with dropping paper into the old metal mailbox on the street corner. Meanwhile, for-profit shipping businesses like United Parcel Service (UPS) and Federal Express have expanded. They carry substantial portions of all “door-to-door” mail including express or “overnight” envelopes, packages, and boxes.

In recent years, Congress has considered numerous proposals to “save” or “streamline” the USPS. For instance, in 2012, Postmaster General Patrick Donahoe proposed reducing mail delivery to five days a week (eliminating most Saturday deliveries), restructuring payments for postal worker retiree health benefits, consolidating mail processing centers, and reducing “window hours” in about half of the roughly 26,000 post offices around the country. The USPS receives no taxpayer funding. In 2012, the Senate passed a bill that would have pumped billions of tax dollars into the USPS, but the House rejected the measure. In 2013, the USPS was authorized to end most Saturday deliveries effective August of that year as many more far-reaching reform bills continued to circulate in Congress.

Some have characterized the battles over USPS reform bills as, in effect, instances of client politics. Supposedly, the issue pits the labor union representing most postal workers (the American Postal Workers Union of the AFL-CIO) against a broad, bipartisan coalition, backed by majority public opinion, which favors closing more postal offices and accelerating workforce reductions. But that view is at odds with at least two facts: First, some key GOP leaders in Congress have opposed sweeping reforms to the USPS and, second, as revealed in a major survey commissioned by the USPS Office of the Inspector General in early 2013, most Americans, including young Americans, oppose such reforms, too:

- Although three-quarters of people erroneously assume that the USPS is taxpayer-funded, four-fifths still say they want the USPS to serve all citizens in all locations even if it means that the USPS loses money.
- Three-quarters are opposed to reducing postal service hours, and three-quarters also oppose plans for three-day delivery schedules.
- Even 95 percent of young adults, a population that relies largely on online communications, say they would be adversely affected if the USPS went out of business anytime soon.



Source: “Going Postal,” *The Economist: World in 2012*, p. 46; Julia Ziegler, Postmaster General Urges Quick Action in Lame Duck Session, Federal News Radio, November 1, 2012; Hope Yen, “Post Office Reports Record Loss of \$15.9 Billion for Year,” Federal News Radio, Associated Press, November 15, 2012; American Postal Workers Union, APWU Home Page, “Survey Says: Most Americans Oppose Plant Closures,” June 4, 2013.

One of the biggest constraints on bureaucratic action is that Congress rarely gives any job to a single agency. Stopping drug trafficking is the task of the Customs Service, the FBI, the Drug Enforcement Administration, the Border Patrol, and the Defense Department (among

others). Disposing of the assets of failed savings-and-loan associations was the job of the Resolution Funding Corporation, Resolution Trust Corporation, Federal Housing Finance Board, Office of Thrift Supervision in the Treasury Department, Federal Deposit Insurance

Corporation, Federal Reserve Board, and Justice Department (among others). Similarly, in the aftermath of the 2007 financial crisis, many different agencies were involved in the TARP program, the bailouts, and programs to help homeowners who could no longer afford their homes.

The effects of these constraints on agency behavior are not surprising.

- The government will often act slowly. (The more constraints that must be satisfied, the longer it will take to get anything done.)
- The government will sometimes act inconsistently. (What is done to meet one constraint—for example, freedom of information—may endanger another constraint—for example, privacy.)
- It will be easier to block action than to take action. (The constraints ensure that lots of voices will be heard; the more voices heard, the more they may cancel each other out.)
- Lower-ranking employees will be reluctant to make decisions on their own. (Having many constraints means having many ways to get into trouble; to avoid trouble, let your boss make the decision.)
- Citizens will complain of red tape. (The more constraints to serve, the more forms to fill out.)

These constraints do not mean government bureaucracy is powerless, only that, however great its power, it tends to be clumsy. That clumsiness arises not from the fact that the people who work for agencies are dull or incompetent, but from the complicated political environment in which that work must be done.

The moral of the story: the next time you get mad at a bureaucrat, ask yourself, why would a rational, intelligent person behave that way? Chances are you will



A U.S. Air Force F-35 stealth fighter aircraft undergoes pre-flight checks before launching.

discover there are good reasons for that action. You would probably behave the same way if you were working for the same organization.

iron triangle A close relationship between an agency, a congressional committee, and an interest group.

15-4 Checks, Problems, and Possibilities for Reform

Government agencies behave as they do in large part because of the many different goals they must pursue and the complex rules they must follow. Where does all this red tape come from?

From us. From us, the people.

Checks

Every goal, every constraint, every bit of red tape, was put in place by Congress, the courts, the White House, or the agency itself responding to the demands of some influential faction. Civil rights groups want every agency to hire and buy from women and minorities. Environmental groups want every agency to file environmental impact statements. Industries being regulated want every new agency policy to be formulated only after a lengthy public hearing with lots of lawyers present. Labor unions also want those hearings so that they can argue against industry lawyers. Everybody who sells something to the government wants a “fair chance” to make the sale, and so everybody insists that government contracts be awarded only after complex procedures are followed. A lot of people don’t trust the government, and so they insist that everything it does be done in the sunshine—no secrets, no closed meetings, no hidden files.

If we wanted agencies to pursue their main goal with more vigor and less encumbering red tape, we would have to ask Congress, the courts, or the White House to repeal some of these constraints. In other words, we would have to be willing to give up something we want in order to get something else we want even more. But politics does not encourage people to make these trade-offs; instead, it encourages us to expect to get everything—efficiency, fairness, help for minorities—all at once.

Agency Allies

Despite these constraints, government bureaucracies are not powerless. In fact, some of them actively seek certain constraints. They do so because it is a way of cementing a useful relationship with a congressional committee or an interest group.

At one time scholars described the relationship between an agency, a committee, and an interest group as an **iron triangle** (see Figure 15.4). For example, the

issue network A network of people in Washington, D.C.-based interest groups, on congressional staffs, in universities and think tanks, and in the mass media, who regularly discuss and advocate public policies.

Department of Veterans Affairs, the House and Senate committees on veterans' affairs, and veterans' organizations (such as the American Legion) would form a tight, mutually advantageous alliance. The department would do

what the committees wanted and in return get political support and budget appropriations; the committee members would do what the veterans' groups wanted and in return get votes and campaign contributions. Iron triangles are examples of what are called *client politics* (see our discussion of client politics in Chapter 1 for more details).

Many agencies still have important allies in Congress and the private sector, especially those bureaus that serve the needs of specific sectors of the economy or regions of the country. The Department of Agriculture works closely with farm organizations, the Department of the Interior with groups interested in obtaining low-cost irrigation or grazing rights, and the Department of Housing and Urban Development with mayors and real-estate developers.

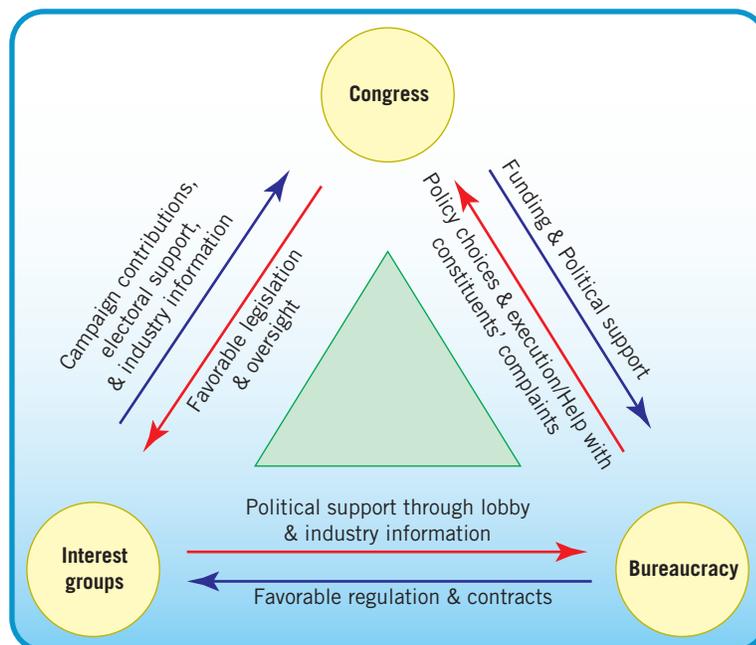
Sometimes these allies are so strong that they can defeat a popular president. For years, President Reagan tried to abolish the Small Business Administration (SBA), arguing that its program of loans to small firms was wasteful and ridden with favoritism. But Congress, reacting to pressures from small-business groups, rallied to the SBA's defense. As a result, Reagan had to oversee an agency that he didn't want.

But iron triangles are much less common today than once was the case. Politics of late has become far more complicated. For one thing, the number and variety of interest groups have increased so much in recent years that scarcely any agency is not subject to pressures from several competing interests instead of only from one powerful interest. For another, the growth of subcommittees in Congress has meant most agencies are subject to control by many different legislative groups, often with very different concerns. Finally, the courts have made it much easier for all kinds of individuals and interests to intervene in agency affairs.

As a result, nowadays government agencies face a bewildering variety of competing groups and legislative subcommittees that constitute not a loyal group of allies, but a fiercely contentious collection of critics. The Environmental Protection Agency is caught between the demands of environmentalists and those of industry organizations, the Occupational Safety and Health Administration between the pressures of labor and those of business, and the Federal Communications Commission between the desires of broadcasters and those of cable television companies. Even the Department of Agriculture faces not a unified group of farmers, but many different farmers split into rival groups, depending on the crops they raise, the regions in which they live, and the attitudes they have toward the relative merits of farm subsidies or free markets.

Political scientist Hugh Hecló has described the typical government agency today as being embedded not in an iron triangle, but in an **issue network**.²⁶ These issue networks consist of people in Washington-based interest

FIGURE 15.4 Iron Triangle



groups, on congressional staffs, in universities and think tanks, and in the mass media who regularly debate government policy on a certain subject—say, health care or auto safety. The networks are contentious, split along political, ideological, and economic lines. When a president takes office, he often recruits key agency officials from those members of the issue network who are most sympathetic to his views.

When Jimmy Carter, a Democrat, became president, he appointed to key posts in consumer agencies people who were from that part of the consumer issue network associated with Ralph Nader. Ronald Reagan, a conservative Republican, filled these same jobs with people who were from that part of the issue network holding free-market or antiregulation views. When George Bush the elder, a more centrist Republican, took office, he filled these posts with more centrist members of the issue network. Bill Clinton brought back the consumer activists. George W. Bush reversed Clinton, and Barack Obama reversed Bush.

Congressional Oversight

The main reason why some interest groups are important to agencies is that they are important to Congress. Not every interest group in the country has substantial access to Congress, but those that do and that are taken seriously by the relevant committees or subcommittees must also be taken seriously by the agency. Furthermore, even apart from interest groups, members of Congress have constitutional powers over agencies and policy interests in how agencies function.

Congressional supervision of the bureaucracy takes several forms. First, no agency may exist (except for a few presidential offices and commissions) without congressional approval. Congress influences—and sometimes determines precisely—agency behavior by the statutes it enacts.

Second, no money may be spent unless it has first been authorized by Congress. **Authorization legislation** originates in a legislative committee (such as Agriculture, Education and Labor, or Public Works) and states the maximum amount of money that an agency may spend on a given program. This authorization may be permanent, it may be for a fixed number of years, or it may be annual (i.e., it must be renewed each year, or the program or agency goes out of business).

Third, even funds that have been authorized by Congress cannot be spent unless (in most cases) they are also appropriated. Appropriations usually are made annually, and they originate not with the legislative committees but with the House Appropriations Committee and its various (and influential) subcommittees. An **appropriation** (money formally set aside for a specific use) may be, and often is, for less than the amount

authorized. The Appropriations Committee's action thus tends to have a budget-cutting effect. There are some funds that can be spent without an appropriation, but in virtually every part of the bureaucracy, each agency is keenly sensitive to congressional concerns at the time that the annual appropriations process is going on.

But is fidelity to the constitutional principle of separation of powers (see Chapter 2) called into question when Congress engages in oversight of agencies that are in the executive branch? Members of Congress themselves once debated that issue, but the aforementioned Administrative Procedure Act of 1946 and a dozen subsequent laws that built on it (the latest being the Data Quality Act of 2000, and all upheld when challenged in the courts) are predicated on the idea that agencies are “adjuncts for legislative functions. . . . Congress lacks the capacity to legislate on all matters it touches and perforce must delegate a great deal of legislative authority to the agencies.”²⁷

This idea was challenged during the George W. Bush presidency by administration officials and others who, especially but not exclusively with respect to military, national, and homeland security issues, argued that agencies were bound to act in accordance with the president's directives whenever they conflicted with directives from Congress. While Bush's executive-centered approach sparked many controversies, most scholars seem to think that it effected no major or lasting changes, and some suggest that it stirred Congress to pursue even more comprehensive (and aggressive) oversight policies and practices.²⁸

The Appropriations Committee and Legislative Committees

The fact that an agency budget must be both authorized and appropriated means that each agency serves not one congressional master but several, and that these masters may be in conflict. The real power over an agency's budget is exercised by the Appropriations Committee; the legislative committees are especially important when a substantive law is first passed or an agency is first created, or when an agency is subject to annual authorization. In the past, the power of the Appropriations Committee was rarely challenged; from 1947 through 1962, fully 90 percent of the House Appropriations Committee's recommendations on expenditures were approved by the full House without change.²⁹ Furthermore, the Appropriations Committee tends to recommend less money than an agency

appropriation A legislative grant of money to finance a government program or agency.

authorization legislation

Legislative permission to begin or continue a government program or agency.

trust funds Funds for government programs collected and spent outside the regular government budget.

committee clearance The ability of a congressional committee to review and approve certain agency decisions in advance and without passing a law.

legislative veto The authority of Congress to block a presidential action after it has taken place. The Supreme Court has held that Congress does not have this power.

requests (though some specially favored agencies, such as the FBI, the Soil Conservation Service, and the Forest Service, have tended to get almost everything that they have asked for). Finally, the process of “marking up” (revising, amending, and approving) an agency’s budget request gives to the Appropriations Committee, or one of its subcommittees, substantial influence over the policies that the agency follows. Of late, the appropriations

committees have lost some of their great power over government agencies. This has happened in three ways. First, Congress has created trust funds to pay for the benefits many people receive. The Social Security trust fund is the largest of these. In 2012, it took in \$729 billion in Social Security taxes and paid out \$635 billion in old-age benefits. There are several other trust funds as well. **Trust funds** operate outside the regular government budget, and the appropriations committees have no control over these expenditures. They are automatic.

Second, Congress has changed the authorization of many programs from permanent or multiyear to annual authorizations. This means that every year the legislative committees, as part of the reauthorization process, get to set limits on what these agencies can spend. This limits the ability of the appropriations committees to determine the spending limits. Before 1959, most authorizations were permanent or multiyear. Now a long list of agencies must be reauthorized every year—the State Department, NASA, military procurement programs of the Defense Department, the Justice Department, the Energy Department, and parts or all of many other agencies. Third, the existence of huge budget deficits during the 1980s and in the 2000s has meant that much of Congress’s time has been taken up with trying (usually not very successfully) to keep spending down. As a result, there has rarely been much time to discuss the merits of various programs or how much ought to be spent on them; instead, attention has been focused on meeting a target spending limit. In 1981, the budget resolution passed by Congress mandated cuts in several programs before the appropriations committees had even completed their work.³⁰ In addition to the power of the purse, there are informal ways by which Congress can control

the bureaucracy. An individual member of Congress can call an agency head on behalf of a constituent. Most such calls merely seek information, but some result in, or attempt to obtain, special privileges for particular people. Congressional committees may also obtain the right to pass on certain agency decisions. This is called **committee clearance**, and though it usually is not legally binding on the agency, few agency heads will ignore the expressed wish of a committee chair that he or she be consulted before certain actions (such as transferring funds) are taken.

The Legislative Veto For many decades, Congress made frequent use of the legislative veto to control bureaucratic or presidential actions. A **legislative veto** is a requirement that an executive decision must lie before Congress for a specified period (usually 30 or 90 days) before it takes effect. Congress could then veto the decision if a resolution of disapproval was passed by either house (a “one-house veto”) or both houses (a “two-house veto”). Unlike laws, such resolutions were not signed by the president. Between 1932 and 1980, about 200 laws were passed providing for a legislative veto, many of them involving presidential proposals to sell arms abroad.

But in June 1983, the Supreme Court declared the legislative veto to be unconstitutional. In the *Chadha* case, the Court held that the Constitution clearly requires in Article I that “every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary” (with certain minor exceptions) “shall be presented to the President of the United States,” who must either approve it or return it with his veto attached. In short, Congress cannot take any action that has the force of law unless the president concurs in that action.³¹ With a stroke of the pen, parts of 200 laws suddenly became invalid. At least that happened in theory. In fact, since the *Chadha* decision, Congress has passed a number of laws that contain legislative vetoes, despite the Supreme Court having ruled against them! (Someone will have to go to court to test the constitutionality of these new provisions.)

Opponents of the legislative veto hope future Congresses will have to pass laws that state much more clearly than before what an agency may or may not do. But it is just as likely that Congress will continue to pass laws stated in general terms and require that agencies implementing those laws report their plans to Congress, so that it will have a chance to enact and send to the president a regular bill disapproving the proposed action. Or Congress may rely on informal (but scarcely weak) means of persuasion, including threats to reduce the appropriations of an agency that does not abide by congressional preferences.

Congressional Investigations Perhaps the most visible and dramatic form of congressional supervision of an agency is the investigation. Since 1792, when Congress

investigated an army defeat by a Native American tribe, congressional investigations of the bureaucracy have been a regular feature—sometimes constructive, sometimes destructive—of legislative-executive relations. The investigative power is not mentioned in the Constitution, but has been inferred from the power to legislate. The Supreme Court has consistently upheld this interpretation, though it has also said that such investigations should not be solely for the purpose of exposing the purely personal affairs of private individuals and must not operate to deprive citizens of their basic rights.³² Congress may compel a person to attend an investigation by issuing a subpoena; anyone who ignores the subpoena may be punished for contempt. Congress can vote to send the person to jail or can refer the matter to a court for further action. As explained in Chapter 14, the president and his principal subordinates have refused to answer certain congressional inquiries on grounds of “executive privilege.”

Although many areas of congressional oversight—budgetary review, personnel controls, investigations—are designed to control the exercise of bureaucratic discretion, other areas are intended to ensure the freedom of certain agencies from effective control, especially by the president. In dozens of cases, Congress has authorized department heads and bureau chiefs to operate independent of presidential preferences. Congress has resisted, for example, presidential efforts to ensure that policies to regulate pollution do not impose excessive costs on the economy, and interest groups have brought suit to prevent presidential coordination of various regulatory agencies. If the bureaucracy sometimes works at cross-purposes, it usually is because Congress—or competing committees in Congress—wants it that way.

Bureaucratic “Pathologies”

Everyone complains about bureaucracy in general (though rarely about bureaucratic agencies that everyone believes are desirable). This chapter should persuade you that it is difficult to say anything about bureaucracy “in general”; there are too many different kinds of agencies, kinds of bureaucrats, and kinds of programs to label the entire enterprise with a single adjective. Nevertheless, many people who recognize the enormous variety among government agencies still believe they all have some general features in common and suffer from certain shared problems or pathologies.

This is true enough, but the reasons for it—and the solutions, if any—are often not understood. There are five major (or at least frequently mentioned) problems with bureaucracies: red tape, conflict, duplication, imperialism, and waste. **Red tape** refers to the complex rules and procedures that must be followed to get something

done. (As early as the seventh century, legal and government documents in England were bound together with a tape of pinkish-red color. Since then *red tape* has come to mean “bureaucratic delay or confusion,” especially that accompanied by unnecessary paperwork.³³) *Conflict* exists because some agencies seem to be working at cross-purposes with other agencies. (For example, the Agricultural Research Service tells farmers how to grow crops more efficiently, while the Agricultural Stabilization and Conservation Service pays farmers to grow fewer crops or to produce less.) *Duplication* (usually called “wasteful duplication”) occurs when two government agencies seem to be doing the same thing, as when the Customs Service and the Drug Enforcement Administration both attempt to intercept illegal drugs being smuggled into the country. *Imperialism* refers to the tendency of agencies to grow without regard to the benefits that their programs confer or the costs that they entail. *Waste* means spending more than is necessary to buy some product or service.

red tape Complex bureaucratic rules and procedures that must be followed to get something done.

These problems all exist, but they do not necessarily exist because bureaucrats are incompetent or power-hungry. Most exist because of the very nature of government itself. Take red tape: Partly we encounter cumbersome rules and procedures because any large organization, governmental or not, must have some way of ensuring that one part of the organization does not operate out of step with another. Business corporations have red tape also; it is to a certain extent a consequence of bigness. But a great amount of governmental red tape is also the result of the need to satisfy legal and political requirements. Government agencies must hire on the basis of “merit,” must observe strict accounting rules, must supply Congress with detailed information on their programs, and must allow for citizen access in countless ways. Meeting each need requires rules; enforcing the rules requires forms. One person’s red tape is another person’s valued procedural safeguard.

Or take conflict and duplication: They do not occur because bureaucrats enjoy conflict or duplication. (Quite the contrary!) They exist because Congress, in setting up agencies and programs, often wants to achieve a number of different, partially inconsistent goals or finds that it cannot decide which goal it values the most. Congress has 535 members and little strong leadership; it should not be surprising that 535 people will want different things and will sometimes succeed in getting them.

Imperialism results in large measure from government agencies seeking goals so vague and so difficult to measure that it is hard to tell when they have been attained.



David McNew/Getty Images

At the world's busiest border crossing, cars line up to enter the United States in Tijuana, Mexico, where passengers must first meet strict immigration requirements overseen by the U.S. Customs and Border Patrol.

When Congress is unclear as to exactly what an agency is supposed to do, the agency will often convert that legislative vagueness into bureaucratic imperialism by taking the largest possible view of its powers. It may do this on its own; more often it does so because interest groups and judges rush in to fill the vacuum left by Congress. As we saw in Chapter 3, the 1973 Rehabilitation Act was passed with a provision barring discrimination against people with disabilities in any program receiving federal aid. Under pressure from people with disabilities, that lofty but vague goal was converted by the Department of Transportation into a requirement that virtually every big-city bus have a device installed to lift people in wheelchairs onboard.

Waste is probably the biggest criticism that people have of the bureaucracy. Everybody has heard stories of the Pentagon's paying \$91 for screws that cost 3 cents in the hardware store. President Reagan's "Private Sector Survey on Cost Control," generally known as the Grace Commission (after its chairman, J. Peter Grace), publicized these and other tales in a 1984 report. No doubt there is waste in government. After all, unlike a business firm worried about maximizing profits, in a government agency there are only weak incentives to keep costs down. If a business employee cuts costs, he or she often receives a bonus or raise, and the firm gets to add the savings to its profits. If a government official cuts costs, he or she receives no reward, and the agency cannot keep the savings—they go back to the Treasury.

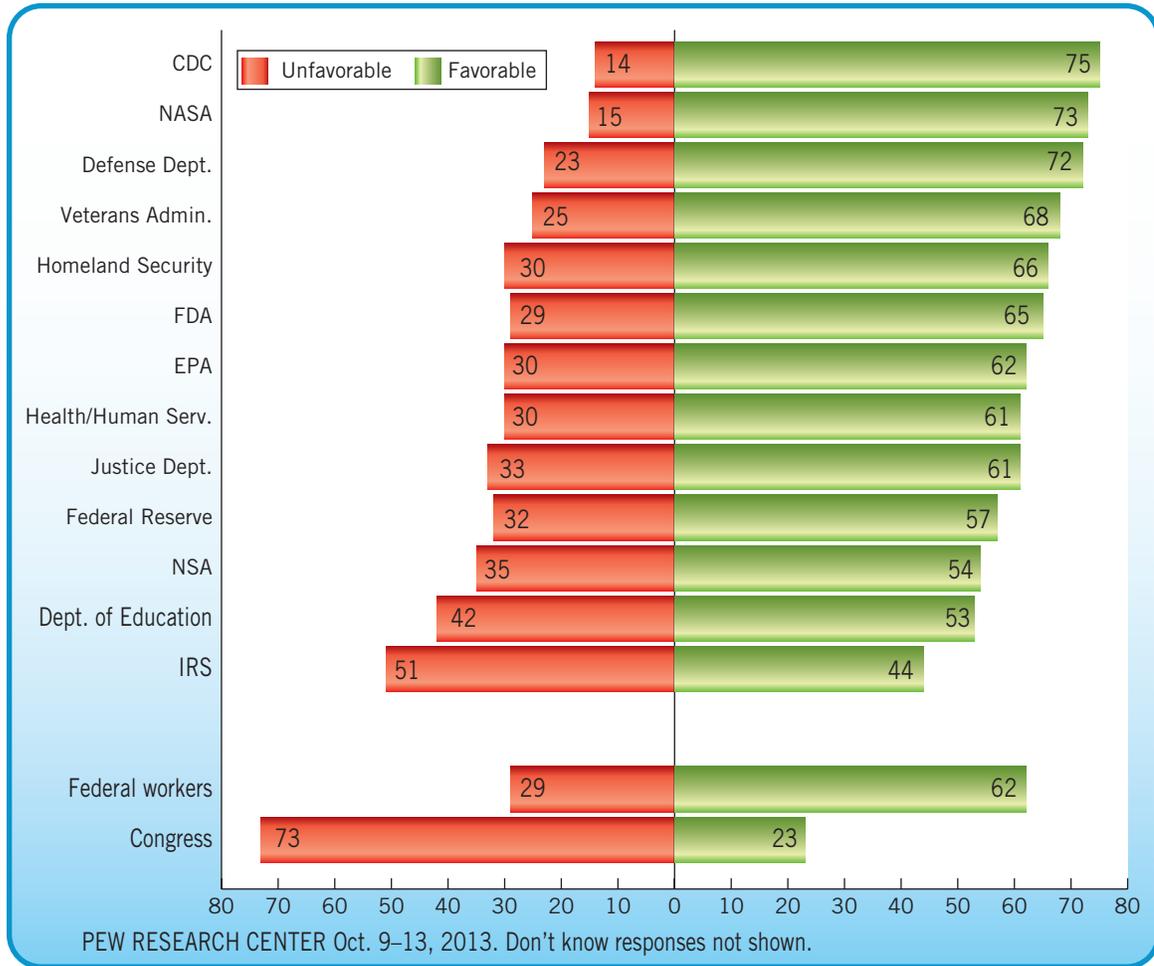
But many of the horror stories are either exaggerations or unusual occurrences.³⁴ Most of the screws, hammers, and light bulbs purchased by the government are obtained at low cost by means of competitive bidding among several suppliers. When the government does pay outlandish amounts, the reason typically is that it is purchasing a new or one-of-a-kind item not available at your neighborhood hardware store—for example, a new bomber or missile.

Even when the government is not overcharged, it still may spend more money than a private firm in buying what it needs. The reason is red tape—the rules and procedures designed to ensure that when the government buys something, it will do so in a way that serves the interests of many groups. For example, it often must buy from American rather than foreign suppliers, even if the latter charge a lower price; it must make use of contractors that employ minorities; it must hire only union laborers and pay them the "prevailing" (i.e., the highest) wage; it must allow public inspection of its records; it frequently is required to choose contractors favored by influential members of Congress; and so on. Private firms do not have to comply with all these rules and thus can buy for less.

From this discussion, it should be easy to see why these five basic bureaucratic problems are so hard to correct. To end conflicts and duplication, Congress would have to make some policy choices and set some clear priorities, but with all the competing demands that it faces, Congress finds it difficult to do that. You make more friends by helping people than by hurting them, and so Congress is more inclined to add new programs than to cut old ones, whether or not the new programs are in conflict with existing ones. To check imperialism, some way would have to be found to measure the benefits of government, but that is often impossible; government exists in part to achieve precisely those goals—such as national defense—that are least measurable. Furthermore, what might be done to remedy some problems would make other problems worse. If you simplify rules and procedures to cut red tape, you are also likely to reduce the coordination among agencies and thus to increase the extent to which there is duplication or conflict. If you want to reduce waste, you will have to have more rules and inspectors—in short, more red tape. The problem of bureaucracy is inseparable from the problem of government generally.

Just as people are likely to say they dislike Congress but like their own member of Congress, they are inclined to express hostility toward "the bureaucracy" but goodwill for that part of the bureaucracy with which they have dealt personally. While most Americans have unfavorable impressions of government agencies and officials in general, they have quite favorable impressions about government agencies and officials with whom they have had direct contact or about which they claim to know something specific.

For example, Figure 15.5 shows that wide majorities have very or somewhat favorable impressions of diverse federal government agencies. Surveys dating back decades suggest that, despite persistent public complaints about "the bureaucracy," most Americans have judged, and continue to judge, each federal agency to be fair and useful.³⁵

FIGURE 15.5 How the Public Views Particular Federal Agencies

Source: Pew Research Center, “Trust in Government Nears Record Low, But Most Federal Agencies Are Viewed Favorably,” October 18, 2013.

This finding helps explain why government agencies are rarely reduced in size or budget: whatever the popular feelings about the bureaucracy, any given agency tends to have many friends. Even the much-criticized FEMA, viewed unfavorably by half the public, was able to fend off budget cuts in the several years following its failed response to Hurricane Katrina.

Reforming the Bureaucracy

The history of American bureaucracy has been punctuated with countless efforts to make it work better and cost less. There were 11 major attempts in the 20th century alone. The latest was the National Performance Review (NPR)—popularly called the plan to “reinvent government”—led by Vice President Al Gore.

The NPR differed from many of the preceding reform efforts in one important way. Most of the earlier ones suggested ways of increasing central (i.e., presidential) control

of government agencies: the Brownlow Commission (1936–1937) recommended giving the president more assistants, the First Hoover Commission (1947–1949) suggested ways of improving top-level management, and the Ash Council (1969–1971) called for consolidating existing agencies into a few big “super departments.” The intent was to make it easier for the president and his cabinet secretaries to run the bureaucracy. The key ideas were efficiency, accountability, and consistent policies.

The NPR, by contrast, emphasized customer satisfaction (the “customers” in this case being the citizens who come into contact with federal agencies). To the authors of the NPR report, the main problem with the bureaucracy was that it had become too centralized, too rule-bound, too little concerned with making programs work, and too much concerned with avoiding scandal. The NPR report contained many horror stories about useless red tape, excessive regulations, and cumbersome procurement systems that make it next to impossible for agencies to do



HOW WE COMPARE

Outsourcing Government

In the United States, government by proxy is the norm. Bureaucrats in Washington pay state and local governments and private groups to staff and administer most federal programs.

For instance, Medicaid, the main federal health program for low-income citizens, is administered mainly by state agencies. The federal government has cofunded nonprofit groups to lead recovery efforts in the hurricane-ravaged Gulf Coast. At points during the second Gulf War, there were nearly as many for-profit workers as U.S. soldiers in Iraq.

The Canadian and Indian central governments each administer many policies via provincial or territorial governments; and every European government uses private contractors for at least some functions.

But most other democracies restrict and regulate outsourcing more than the United States does; for example, German law directs that all persons involved in administering national policies must be directly supervised by a government official.

And no other nation follows the American practice whereby government bureaucracies give tax-exempt organizations, including local faith-based groups, grants to administer myriad health and human services programs.

Many experts argue that outsourcing and proxy government have gone too far in this country; but none is sure whether or how it can be reined in, and most admit that public administration in other democracies is also far from perfect.

Sources: Donald F. Kettl, *The Next Government of the United States: Why Our Institutions Fail Us and How to Fix Them* (New York: W. W. Norton, 2008); Paul R. Verkuil, *Outsourcing Sovereignty: Why Privatization of Government Functions Threatens Democracy and What We Can Do About It* (Cambridge, UK: Cambridge University Press, 2007); John J. Dilulio, Jr., “Government by Proxy: A Faithful Overview,” *Harvard Law Review* (March 2003): 1271–84.

what they were created to do. (For example, when smoking was permitted in federal office buildings, the General Services Administration issued a nine-page document that described an ashtray and specified how many pieces it must break into, should it be hit with a hammer.)³⁶

To solve these problems, the NPR called for less centralized management and more employee initiative, fewer detailed rules and more emphasis on customer

satisfaction. It sought to create a new kind of organizational culture in government agencies, one more like that found in the more innovative, quality-conscious American corporations. The NPR was reinforced legislatively by the Government Performance and Results Act (GPRA) of 1993, which required agencies “to set goals, measure performance, and report on the results.”

President George W. Bush built on the Clinton-Gore NPR efforts and the GPRA using the Performance Assessment Rating Tool (PART). The main goal of the PART was to link management reform to the budget process. During the 2008 presidential campaign, Barack Obama harkened back to the Clinton-Gore NPR but also pledged to keep but improve Bush’s PART. By Obama’s second term, however, administrative reform was not widely mentioned among main priorities or accomplishments in office.

Reforming the bureaucracy is easier said than done. Most of the rules and red tape that make it hard for agency heads to do a good job are the result either of the struggle between the White House and Congress for control over the agencies or of the agencies’ desire to avoid irritating influential voters. Silly as the rules for ashtrays may sound, they were written so that the government could say it had an “objective” standard for buying ashtrays. If it simply had bought ashtrays at a department store the way ordinary people do, it would have risked being accused by Ashtray Company One of buying trays from its competitor, Ashtray Company Two, because of political favoritism.

The rivalry between the president and Congress for control of the bureaucracy makes bureaucrats nervous about irritating either branch, and so they issue rules designed to avoid getting into trouble, even if these rules make it hard to do their job. Matters become even worse during periods of divided government when different parties control the White House and Congress. As we saw in Chapter 14, divided government may not have much effect on *making* policy, but it can have a big effect on *implementing* it. Presidents of one party have tried to increase political control over the bureaucracy (“executive micromanagement”), and Congresses of another party have responded by increasing the number of investigations and detailed rule-making (“legislative micromanagement”). Divided government intensifies the cross-fire between the executive and legislative branches, making bureaucrats dig into even deeper layers of red tape to avoid getting hurt.

This does not mean that reform is impossible, only that it is very difficult. For example, despite a lack of clear-cut successes in other areas, the NPR’s procurement reforms stuck: government agencies can now buy things costing as much as \$100,000 without following any complex regulations. Still, the main effect of the NPR,

What Would You Do?

NEWS

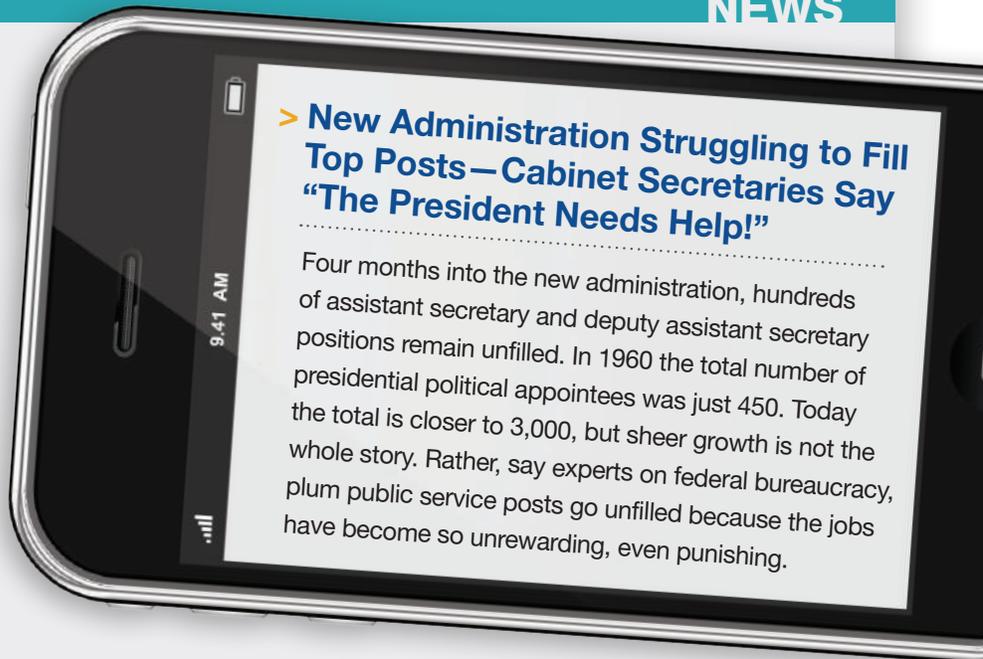
Memorandum

To: Dr. Leah Titanium, president of Cybersystems Engineering

From: Colin Robert, secretary of defense

Subject: *Becoming an assistant secretary of defense*

As both secretary and a dear old college buddy of yours, I write again to express my hope that you will accept the president's call to service. We all desperately want you aboard. Yes, conflict-of-interest laws will require you to sell your stock in your present company and drop out of its generous pension plan. No, the government won't even pay moving costs. And once you leave office, you will be barred for life



from lobbying the executive branch on matters in which you were directly involved while in office, and you will be barred for two years from lobbying on matters that were under your general official authority. Your other concerns have teeth, too, but let me help you weigh your options.

Arguments for:

1. I hate to preach, but it is one's duty to serve one's country when called. Your sacrifice would honor your family and benefit your fellow Americans for years to come.
2. As an accomplished professional and the head of a company that has done business with the government, you could help the president succeed in reforming the department so that it works better and costs less.
3. Despite the restrictions, you could resume your career once your public service was complete.

Arguments against:

1. Since you will have to be confirmed by the Senate, your life will be put under a microscope, and everything (even some of our old college mischief together) will be fair game for congressional staffers and reporters.
2. You will face hundreds of rules telling you what you can't do and scores of congresspersons telling you what you should do. Old friends will get mad at you for not doing them favors. The president will demand loyalty. The press will pounce on your every mistake, real or imagined.
3. Given the federal limits on whom in the government you can deal with after you leave office, your job at Cybersystems may well suffer.

Your decision

- Accept position Reject position



Chip Somodevilla/Getty Images

When the Ebola virus surfaced in the United States in 2014, first responders wore full biohazard suits to disinfect possible contaminated areas.

the GPRA, and the PART was to get federal agencies collecting far more information than in the past concerning what they do, without, however, using the information to improve the way they do it.³⁷

It might be easier to make desirable changes if the bureaucracy were accountable to only one master—say, the president—instead of to several. But that situation, which exists in many parliamentary democracies, creates its own problems. When the bureaucracy has but one master, it often ends up having none; it becomes so powerful that it controls the prime minister and no longer listens to citizen complaints. A weak, divided bureaucracy, such as exists in the United States, may strike us as inefficient, but that very inefficiency may help protect our liberties.

LEARNING OBJECTIVES

15-1 Discuss the unique features of the American federal bureaucracy.

A bureaucracy is a large, complex organization composed of appointed officials. American bureaucracy is distinctive in three ways: political authority over the bureaucracy is shared by several institutions; most national government agencies share their functions with state and local government agencies; and government agencies are closely scrutinized and frequently challenged by both individuals and nongovernmental groups.

15-2 Explain the evolution of the federal bureaucracy.

The Constitution made no provision for an administrative system other than to allow the president to appoint, with the advice and consent of the Senate, ambassadors, Supreme Court judges, and “all other officers . . . which shall be provided by law.” By the early 20th century, however, Washington’s role in making, administering, and funding public policies had already grown far beyond what the Framers had contemplated. Two world wars, the New Deal, and the Great Society each left the government with expanded powers and requiring new batteries of administrative agencies to exercise them.

Still, the president, cabinet secretaries, and thousands of political appointees are ultimately their bosses. Congress and the courts have ample, if imperfect, means of checking and balancing even the biggest bureaucracy, old or new.

15-3 Summarize how the federal bureaucracy functions today.

Today, the federal bureaucracy is as vast as most people’s expectations about Washington’s responsibility for every public concern one can name. It is the appointed officials—the bureaucrats—not the elected officials or policymakers, who command the troops, deliver the mail, audit the tax returns, run the federal prisons, decide who qualifies for public assistance, and do countless other tasks. Unavoidably, many bureaucrats exercise discretion in deciding what public laws and regulations mean and how to apply them.

Discretionary authority refers to the extent to which appointed bureaucrats can choose courses of action and make policies not spelled out in advance by laws. It is impossible for Congress to specify every last detail regarding how a law it passes is to be implemented. Many laws are administered by persons with special information and expertise, and many private citizens administer public laws by working as government contractors or grantees.

15-4 Discuss checks on and problems with the federal bureaucracy, and possibilities for reform.

Congress exerts control over the bureaucracy in many different ways. It decides whether an agency may exist and how much money an agency spends. It can hold oversight hearings and launch investigations into just about any aspect of agency decision making or operations it chooses. And it traditionally has enjoyed wide latitude from the president in exercising its oversight functions.

There have been numerous efforts to make the bureaucracy work better and cost less, including 11 presidential or other major commissions in the 20th century. Among the latest was the National Performance Review (NPR), popularly called the plan to “reinvent government.” Vice President Gore led the NPR during the two terms of the Clinton administration. The NPR was predicated on the view that bureaucracy had become too centralized, too rule-bound, too little concerned with program results, and too much concerned with avoiding scandal.

In the end, the NPR produced certain money-saving changes in the federal procurement process (how government purchases goods and services from private contractors), and it also streamlined parts of the federal personnel process (how Washington

hires career employees). Most experts, however, gave the NPR mixed grades. The Bush administration abolished the NPR but began the Performance Assessment Rating Tool (PART). Most experts judged the PART to be only mildly successful.

All large organizations, including business firms, have some complex rules and procedures, or red tape. Some red tape in government agencies is silly and wasteful (or worse), but try imagining government without any red tape at all. Imagine no rules about hiring on the basis of merit, no strict financial accounting procedures, and no regulations concerning citizen access to information or public record-keeping. As Yale political scientist Herbert Kaufman once quipped, one citizen’s “red tape” often is another’s “treasured procedural safeguard.”

TO LEARN MORE

For addresses and reports of various cabinet departments: www.whitehouse.gov

Documents and bulletin boards:

<http://fedworld.ntis.gov>

National Partnership for Reinventing Government:

<http://govinfo.library.unt.edu/npr/index.htm>

A few specific websites of federal agencies:

Department of Defense: www.defenselink.mil

Department of Education: www.ed.gov

Department of Health and Human Services:

www.dhhs.gov

Department of State: www.state.gov

Federal Bureau of Investigation: www.fbi.gov

Department of Labor: www.dol.gov

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Downs, Anthony. *Inside Bureaucracy*. Boston: Little, Brown, 1967. An economist’s explanation of why bureaucrats and bureaus behave as they do.

Durant, Robert F., ed. *The Oxford Handbook of American Bureaucracy*. New York: Oxford University Press, 2010. Thirty-three largely up-to-date academic essays covering just about every facet of the subject.

Halperin, Morton H. *Bureaucratic Politics and Foreign Policy*. Washington, D.C.: Brookings Institution, 1974.

Insightful account of the strategies by which diplomatic and military bureaucracies defend their interests.

Hecl, Hugh. *A Government of Strangers*. Washington, D.C.: Brookings Institution, 1977. Analyzes how political appointees attempt to gain control of the Washington bureaucracy and how bureaucrats resist those efforts.

Kettl, Donald F. *Government by Proxy*. Washington, D.C.: Congressional Quarterly Press, 1988. An account of how the federal government pays others to staff and run its programs.

Kettl, Donald F. *The Next Government of the United States: Why Our Institutions Fail Us and How to Fix Them*. New York: W. W. Norton, 2008. A masterful study of how proxy government functions and often fails today, and what might be done to remedy its worst failures.

Moore, Mark H. *Creating Public Value: Strategic Management in Government*. Cambridge, MA: Harvard University Press, 1995. A thoughtful account of how wise bureaucrats can make government work better.

Parkinson, C. Northcote. *Parkinson’s Law*. Boston: Houghton Mifflin, 1957. Half-serious, half-joking explanation of why government agencies tend to grow.

Wilson, James Q. *Bureaucracy: What Government Agencies Do and Why They Do It*. New York: Basic Books, 1989. A comprehensive review of what we know about bureaucratic behavior in the United States.

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