

11.1 The Bureaucracy: What is its function?

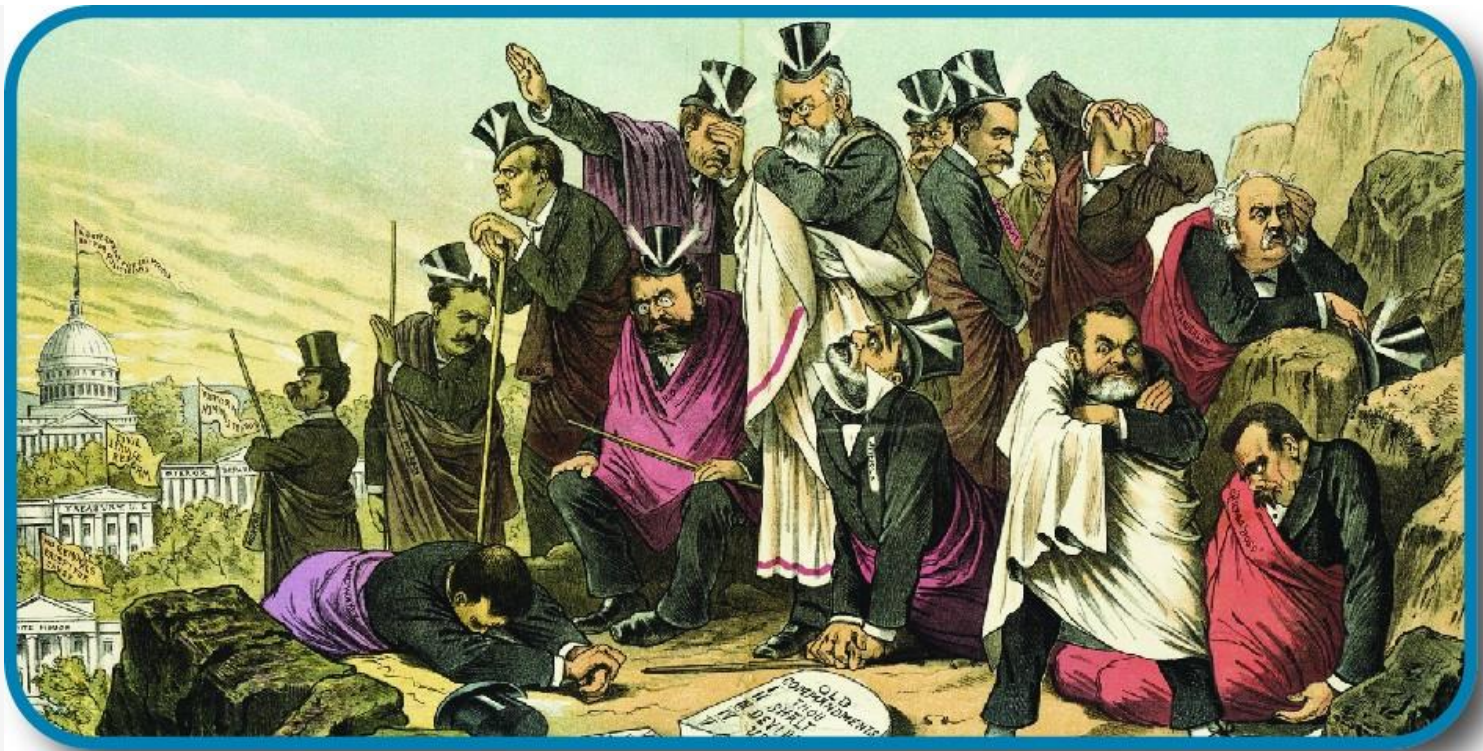


Image 11.1 Cartoon Illustrating the Spoils System and the U.S. Government Bureaucracy

This 1885 cartoon reflects the disappointment of office seekers who were turned away from bureaucratic positions they believed their political commitments had earned them. It was published just as the U.S. bureaucracy was being transformed from the spoils system to the merit system.
(Credit: OpenStax modified image)

Learning Objectives

- Define bureaucracy and bureaucrat.
- Identify the reasons people undertake civil service

Chart 11.1 Learning Objectives on the Bureaucracy and Civil Service

What does the word “**bureaucracy**” conjure in your mind? For many, it evokes inefficiency, corruption, red tape, and government overreach. For others, it triggers very different images—of professionalism, helpful and responsive service, and government management. Your experience with bureaucrats and the administration of government probably informs your response to the term. The ability of bureaucracy to inspire both revulsion and admiration is one of several features that make it a fascinating object of study.

More than that, the many arms of the federal bureaucracy, often considered the fourth branch of government, are valuable components of the federal system. Without this administrative structure,

staffed by nonelected workers who possess expertise to carry out their jobs, government could not function the way citizens need it to.

That does not mean, however, that bureaucracies are perfect. Throughout history, both small and large nations have elevated certain types of non-elected workers to positions of relative power within the governmental structure. Collectively, these essential workers are called the bureaucracy.

A **bureaucracy** is an administrative group of non-elected officials charged with carrying out functions connected to a series of policies and programs. In the United States, the bureaucracy began as a very small collection of individuals. Over time, however, it grew to be a major force in political affairs. Indeed, it grew so large that politicians in modern times have ridiculed it to great political advantage. However, the country's many **bureaucrats** or **civil servants**, the individuals who work in the bureaucracy, fill necessary and even instrumental roles in every area of government: from high-level positions in foreign affairs and intelligence collection agencies to clerks and staff in the smallest regulatory agencies. They are hired, or sometimes appointed, for their expertise in carrying out the functions and programs of the government.

What Does a Bureaucracy Do?

Modern society relies on the effective functioning of government to provide public goods, enhance quality of life, and stimulate economic growth. The activities by which government achieves these functions include—but are not limited to—taxation, homeland security, immigration, foreign affairs, and education. The more society grows and the need for government services expands, the more challenging bureaucratic management and **public administration** becomes. Public administration is both the implementation of public policy in government bureaucracies and the academic study that prepares civil servants for work in those organizations.

The classic version of a bureaucracy is hierarchical and can be described by an organizational chart that outlines the separation of tasks and worker specialization while also establishing a clear unity of command by assigning each employee to only one boss. Moreover, the classic bureaucracy employs a division of labor under which work is separated into smaller tasks assigned to different people or groups. Given this definition, bureaucracy is not unique to government but is also found in the private and nonprofit sectors. That is, almost all organizations are bureaucratic regardless of their scope and size; although public and private organizations differ in some important ways. For example, while private organizations are responsible to a superior authority such as an owner, board of directors, or shareholders, federal governmental organizations answer equally to the president, Congress, the courts, and ultimately the public. The underlying goals of private and public organizations also differ. While private organizations seek to survive by controlling costs, increasing market share, and realizing a profit, public organizations find it more difficult to measure the elusive goal of operating with efficiency and effectiveness.

Bureaucracy may seem like a modern invention, but bureaucrats have served in governments for nearly as long as governments have existed. Archaeologists and historians point to the sometimes elaborate

bureaucratic systems of the ancient world, from the Egyptian scribes who recorded inventories to the biblical tax collectors who kept the wheels of government well-greased.^[1]

In Europe, government bureaucracy and its study emerged before democracies did. In contrast, in the United States, a democracy and the Constitution came first, followed by the development of national governmental organizations as needed, and then finally the study of U.S. government bureaucracies and public administration emerged.^[2] In fact, the long pedigree of bureaucracy is an enduring testament to the necessity of administrative organization. More recently, modern bureaucratic management emerged in the eighteenth century from Scottish economist Adam Smith's support for the efficiency of the division of labor and from Welsh reformer Robert Owen's belief that employees are vital instruments in the functioning of an organization.

However, it was not until the mid-1800s that the German scholar Lorenz von Stein argued for public administration as both a theory and a practice since its knowledge is generated and evaluated through the process of gathering evidence. For example, a public administration scholar might gather data to see whether the timing of tax collection during a particular season might lead to higher compliance or returns. Credited with being the father of the science of public administration, von Stein opened the path of administrative enlightenment for other scholars in industrialized nations.

The Origins of the U.S. Bureaucracy

In the early U.S. republic, the bureaucracy was quite small. This is understandable since the American Revolution was largely a revolt against executive power and the British imperial administrative order. Nevertheless, while neither the word "bureaucracy" nor its synonyms appear in the text of the Constitution, the document does establish a few broad channels through which the emerging government could develop the necessary bureaucratic administration.

For example, Article II, Section 2, provides the president the power to appoint officers and department heads. In the following section, the president is further empowered to see that the laws are "faithfully executed." More specifically, Article I, Section 8, empowers Congress to establish a post office, build roads, regulate commerce, coin money, and regulate the value of money. Granting the president and Congress such responsibilities appears to anticipate a bureaucracy of some size. Yet the design of the bureaucracy is not described, and it does not occupy its own section of the Constitution as bureaucracy often does in other countries' governing documents; the design and form were left to be established in practice.

Under President George Washington, the bureaucracy remained small enough to accomplish only the necessary tasks at hand.^[3] Washington's tenure saw the creation of the Department of State to oversee international issues, the Department of the Treasury to control coinage, and the Department of War to administer the armed forces. The employees within these three departments, in addition to the growing postal service, constituted the major portion of the federal bureaucracy for the first three decades of the republic. Two developments, however, contributed to the growth of the bureaucracy well beyond these humble beginnings.



Image 11.2 Drawing of President Washington's Cabinet

The cabinet of President George Washington (far left) consisted of only four individuals: the secretary of war (Henry Knox, left), the secretary of the treasury (Alexander Hamilton, center), the secretary of state (Thomas Jefferson, right), and the attorney general (Edmund Randolph, far right). The small size of this group reflected the small size of the U.S. government in the late eighteenth century. (Credit: modification of work by the Library of Congress)

The first development was the rise of centralized party politics in the 1820s. Under Democratic President Andrew Jackson, many thousands of party loyalists filled the ranks of the bureaucratic offices

around the country. This was the beginning of the **spoils system**, in which political appointments were transformed into political patronage doled out by the president on the basis of party loyalty.^[4]

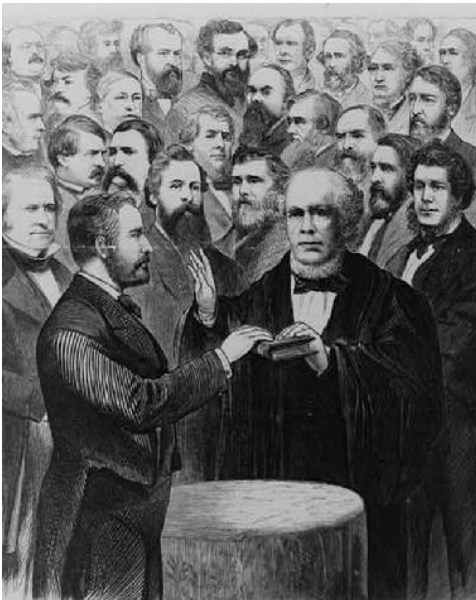
Political **patronage** is the use of state resources to reward individuals for their political support. The term “spoils” here refers to paid positions in the U.S. government.

As the saying goes, “to the victor,” in this case the incoming president, “go the spoils.” It was assumed that government would work far more efficiently if the key federal posts were occupied by those already supportive of the president and his policies.

This system served to enforce party loyalty by tying the livelihoods of the party faithful to the success or failure of the party. The number of federal posts the president sought to use as appropriate rewards for supporters swelled over the following decades.

The Fall of Political Patronage

Patronage had the advantage of putting political loyalty to work by making the government quite responsive to the electorate and keeping election turnout robust because so much was at stake. However, the spoils system also had a number of obvious disadvantages. It was a reciprocal system. Clients who wanted positions in the civil service pledged their political loyalty to a particular patron who then provided them with their desired positions. These arrangements directed the power and resources of government toward perpetuating the reward system. They replaced the system that early presidents like Thomas Jefferson had fostered, in which the country’s intellectual and economic elite rose to the highest levels of the federal bureaucracy based on their relative merit.^[5] Criticism of the spoils system grew, especially in the mid-1870s, after numerous scandals rocked the administration of President Ulysses S. Grant.



(a)



(b)

Caption: It was under President Ulysses S. Grant, shown in this engraving being sworn in by Chief Justice Samuel P. Chase at his inauguration in 1873 (a), that the inefficiencies and opportunities for corruption embedded in the spoils system reached their height. Grant was famously loyal to his supporters, a characteristic that—combined with postwar opportunities for corruption—created scandal in his administration. This political cartoon from 1877 (b), nearly half a century after Andrew Jackson was elected president, ridicules the spoils system that was one of his legacies. In it he is shown riding a pig, which is walking over “fraud,” “bribery,” and “spoils” and feeding on “plunder.” (Credit a, b: modification of work by the Library of Congress)

Image 11.3 Drawings Illustrating the Spoils System

As the negative aspects of political patronage continued to infect

bureaucracy in the late nineteenth century, calls for civil service reform grew louder.

Those supporting the patronage system held that their positions were well earned; those who condemned it argued that federal legislation was needed to ensure jobs were awarded on the basis of merit. Eventually, after President James Garfield had been assassinated by a disappointed office seeker, Congress responded to cries for reform with the **Pendleton Act**, also called the **Civil Service Reform Act** of 1883.

The act established the Civil Service Commission, a centralized agency charged with ensuring that the federal government’s selection, retention, and promotion practices were based on open, competitive examinations in a **merit system**.^[6] The passage of this law sparked a period of social activism and political reform that continued well into the twentieth century.

The Bureaucracy Comes of Age

The late nineteenth and early twentieth centuries were a time of great bureaucratic growth in the United States: The Interstate Commerce Commission was established in 1887, the Federal Reserve Board in 1913, the Federal Trade Commission in 1914, and the Federal Power Commission in 1920.

New programs require bureaucrats to run them, and the national bureaucracy has ballooned.^[7] For example, Reagan and Congress increased the defense budget dramatically over the course of the 1980s.^[8]

“THE NINE MOST TERRIFYING WORDS IN THE ENGLISH LANGUAGE”

The two periods of increased bureaucratic growth in the United States, the 1930s and the 1960s, accomplished far more than expanding the size of government.

They transformed politics in ways that continue to shape political debate today. While the bureaucracies created in these two periods served important purposes, many at that time and even now argue that the expansion came with unacceptable costs, particularly economic costs. The common argument that bureaucratic regulation smothers capitalist innovation was especially powerful in the Cold War environment of the 1960s, 70s, and 80s. But as long as voters felt they were benefiting from the bureaucratic expansion, as they typically did, the political winds supported continued growth.

In the 1970s, however, Germany and Japan were thriving economies in positions to compete with U.S. industry. This competition, combined with technological advances and the beginnings of computerization, began to eat away at American prosperity. Factories began to close, wages began to stagnate, inflation climbed, and the future seemed a little less bright. In this environment, tax-paying workers were less likely to support generous welfare programs designed to end poverty. They felt these bureaucratic programs were adding to their misery in order to support unknown others.

When Ronald Reagan ran for president in 1980, his criticism of bureaucratic waste in Washington carried him to a landslide victory. Even as late as 1986, he continued to rail against the Washington bureaucracy, once declaring famously that “the nine most terrifying words in the English language are: I’m from the government, and I’m here to help.”

OVERSIGHT OF GOVERNMENT FROM THE INSIDE--WHISTLEBLOWERS

One of the most important forms of bureaucratic oversight come from inside the bureaucracy itself. Those within are in the best position to recognize and report on misconduct. But bureaucracies tend to jealously guard their reputations and are generally resistant to criticism from without and from within. This can create quite a problem for insiders who recognize and want to report mismanagement and even criminal behavior. The personal cost of doing the right thing can be prohibitive.^[11] For a typical bureaucrat faced with the option of reporting corruption and risking possible termination or turning the other way and continuing to earn a living, the choice is sometimes easy.

Under heightened skepticism due to government inefficiency and outright corruption in the 1970s, government officials began looking for solutions. When Congress drafted the Civil Service Reform Act of 1978, it specifically included rights for federal **whistleblowers**; those who publicize misdeeds committed within a bureaucracy or other organization and set up protection from reprisals.

The act’s Merit Systems Protection Board is a quasi-judicial institutional board headed by three members appointed by the president and confirmed by the Senate that hears complaints, conducts investigations into possible abuses, and institutes protections for bureaucrats who speak out.^[12] Over time, Congress and the president have strengthened these protections with additional acts. These include the Whistleblower Protection Act of 1989 and the Whistleblower Protection Enhancement Act of 2012, which further compelled federal agencies to protect whistleblowers who reasonably perceive that an institution or the people in the institution are acting inappropriately.



Image 11.4 Photo of Bus with Advertisement from Political Group

In 2013, Edward Snowden, an unknown computer professional working under contract within the National Security Agency, copied and released to the press classified information that revealed an expansive and largely illegal secret surveillance network the government was operating within the United States. Fearing reprisals, Snowden fled to Hong Kong and then Moscow. Some argue that his actions were irresponsible, and he should be prosecuted. Others champion his actions and hold that without them, the illegal spying would have continued. Regardless, the Snowden case reveals important weaknesses in whistleblower protections in the United States. (Credit: OpenStax; modification of work by Bruno Sanchez-Andrade Nuño)

QUESTIONS TO CONSIDER

1. What roles do professional government employees carry out?

[Show Answer](#)

the basic functions of government

2. Who are they and how do they acquire their jobs?

[Show Answer](#)

merit examination, education and experience

3. Who makes the rules of a bureaucracy?

[Show Answer](#)

Constitution; federal law passed by Congress, internal rules set by President and executive authority

4. Why might people be more sympathetic to bureaucratic growth during periods of prosperity?

[Show Answer](#)

more money and opportunity for more people

5. In what way do modern politicians continue to stir up popular animosity against bureaucracy to political advantage? Is it effective? Why or why not?

[Show Answer](#)

exposing waste in government

TERMS TO REMEMBER

bureaucracy—an administrative group of nonelected officials charged with carrying out functions connected to a series of policies and programs

bureaucrats—the civil servants or political appointees who fill nonelected positions in government and make up the bureaucracy

civil servants—the individuals who fill nonelected positions in government and make up the bureaucracy; also known as bureaucrats

merit system—a system of filling civil service positions by using competitive examinations to value experience and competence over political loyalties

patronage—the use of government positions to reward individuals for their political support

Pendleton Act/Civil Service Reform Act--to ensure jobs were awarded on the basis of merit; government jobs were to be about “what” individuals knew rather than “who” they knew

public administration—the implementation of public policy as well as the academic study that prepares civil servants to work in government

spoils system—a system that rewards political loyalties or party support during elections with bureaucratic appointments after victory

whistleblowers--those who publicize misdeeds committed within a bureaucracy or other organization

1. For general information on ancient bureaucracies see Amanda Summer. 2012. "The Birth of Bureaucracy". *Archaeology* 65, No. 4: 33–39; Clyde Curry Smith. 1977. "The Birth of Bureaucracy". *The Bible Archaeologist* 40, No. 1: 24–28; Ronald J. Williams. 1972. "Scribal Training in Ancient Egypt," *Journal of the American Oriental Society* 92, No. 2: 214–21. [\[1\]](#)
2. Richard Stillman. 2009. *Public Administration: Concepts and Cases*. 9th edition. Boston: Wadsworth Cengage Learning. [\[2\]](#)
3. For the early origins of the U.S. bureaucracy see Michael Nelson. 1982. "A Short, Ironic History of American National Bureaucracy," *The Journal of Politics* 44 No. 3: 747–78. [\[3\]](#)
4. Daniel Walker Howe. 2007. *What Hath God Wrought: The Transformation of America, 1815-1848*. Oxford: Oxford University Press, 334. [\[4\]](#)
5. Jack Ladinsky. 1966. "Review of Status and Kinship in the Higher Civil Service: Standards of Selection in the Administrations of John Adams, Thomas Jefferson, and Andrew Jackson," *American Sociological Review* 31 No. 6: 863–64. [\[5\]](#)
6. For more on the Pendleton Act and its effects see Sean M. Theriault. 2003. "Patronage, the Pendleton Act, and the Power of the People," *The Journal of Politics* 65 No. 1: 50–68; Craig V. D. Thornton. 1983. "Review of Centenary Issues of the Pendleton Act of 1883: The Problematic Legacy of Civil Service Reform," *Journal of Policy Analysis and Management* 2 No. 4: 653–53. [\[6\]](#)
7. For more on LBJ and the Great Society see: John A. Andrew. 1998. *Lyndon Johnson and the Great Society*. Chicago: Ivan R Dee; Julian E. Zelizer. 2015. *The Fierce Urgency of Now: Lyndon Johnson, Congress, and the Battle for the Great Society*. New York: Penguin Press. [\[7\]](#)
8. John Mikesell. 2014. *Fiscal Administration*, 9th ed. Boston: Cengage. [\[8\]](#)

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11.2 The Bureaucracy: How is it structured?



Image 11.5 Photo of a Person Eating a Hamburger

Photo of girl eating a hamburger from the FDA website and an article, “FDA Ensures Your Foods From Animals Are Safe.” The FDA (Food and Drug Administration) is an agency in the Department of Health and Human Services, a department in the national government’s bureaucracy. (Credit: FDA at <https://www.fda.gov/forconsumers/consumerupdates/ucm419383.htm>)

Learning Objectives

- Understand the basic structure of the executive branch and the bureaucracy.
- Examine the various groups that assist the president in implementing laws, rules and regulations.
- Know the difference between the various types of bureaucratic agencies.

Chart 11.2 Learning Objectives on Bureaucratic Regulatory Agencies

Turning a **spoils system** bureaucracy into a **merit-based civil service**, while desirable, comes with several different consequences. The patronage system tied the livelihoods of civil service workers to their party loyalty and discipline. Severing these ties, as has occurred in the United States over the last century and a half, has transformed the way bureaucracies operate. Without the patronage network, bureaucracies form their own motivations. These motivations, sociologists have discovered, are designed to benefit and perpetuate the bureaucracies themselves.

Bureaucracies are complex institutions designed to accomplish specific tasks. This complexity, and the fact that they are organizations composed of human beings, can make it challenging for us to understand how bureaucracies work.

Bureaucracies are naturally competitive and power-hungry. This means bureaucrats, especially at the highest levels, recognize that limited resources are available to feed bureaucracies, so they will work to enhance the status of their own bureaucracy to the detriment of others.

This effort can sometimes take the form of merely emphasizing to Congress the value of their bureaucratic task, but it also means the bureaucracy will attempt to maximize its budget by depleting all its allotted resources each

year. This ploy makes it more difficult for legislators to cut the bureaucracy's future budget, a strategy that succeeds at the expense of thrift. In this way, the bureaucracy will eventually grow far beyond what is necessary and create bureaucratic waste that would otherwise be spent more efficiently among the other bureaucracies.

Other theorists have come to the conclusion that the extent to which bureaucracies compete for scarce resources is not what provides the greatest insight into how a bureaucracy functions. Rather, it is the absence of competition.

Similarities exist between a bureaucracy like the Internal Revenue Service (IRS) and a private monopoly like a regional power company or internet service provider that has no competitors. Such organizations are frequently criticized for waste, poor service, and a low level of client responsiveness. Consider, for example, the Bureau of Consular Affairs (BCA), the federal bureaucracy charged with issuing passports to citizens. There is no other organization from which a U.S. citizen can legitimately request and receive a passport, a process that normally takes several weeks. Thus there is no reason for the BCA to become more efficient or more responsive or to issue passports any faster.



Image 11.6 Photo of Screen Showing FDA Emergency Operations Center (Credit: fda.gov/aboutfda/centersoffices)

Types of Bureaucratic Organizations

A bureaucracy is a government unit established to accomplish a specific set of goals and objectives as authorized by a legislative body. In the United States, the federal bureaucracy enjoys a great degree of autonomy compared to those of other countries. This is in part due to the sheer size of the federal budget, approximately \$3.5 trillion as of 2015.^[1] And because many of its agencies do not have clearly defined lines of authority—roles and responsibilities established by means of a chain of command—they also are able to operate with a high degree of autonomy. However, many agency actions are subject to judicial review.

In *Schechter Poultry Corp. v. United States* (1935), the Supreme Court found that agency authority seemed limitless.^[2] Yet, not all bureaucracies are alike. In the U.S. government, there are four general types:

cabinet departments, independent executive agencies, regulatory agencies, and government corporations.

Cabinet Departments

There are currently fifteen cabinet departments in the federal government. Cabinet departments are major executive offices that are directly accountable to the president.

They include the Departments of State, Defense, Education, Treasury, and several others. Occasionally, a department will be eliminated when government officials decide its tasks no longer need direct presidential and congressional oversight, such as happened to the Post Office Department in 1970.

Each cabinet department has a head called a secretary, appointed by the president and confirmed by the Senate. These secretaries report directly to the president, and they oversee a huge network of offices and agencies that make up the department. They also work in different capacities to achieve each department's mission-oriented functions. Within these large bureaucratic networks are a number of undersecretaries, assistant secretaries, deputy secretaries, and many others. The Department of Justice is the one department that is structured somewhat differently. Rather than a secretary and undersecretaries, it has an attorney general, an associate attorney general, and a host of different bureau and division heads.

Cabinet Department	Year Created	Purpose of Department
State	1789	oversee matters of foreign policy, international issues
Treasury	1789	oversee printing of currency, tax collection, management of government debt
Justice	1870	oversee enforcement of laws, matters related to public safety & crime prevention
Interior	1849	oversee conservation and management of U.S. lands, water, energy, wildlife
Agriculture	1862	oversee farming, agriculture, agricultural inspections
Commerce	1903	oversee promotion of economic growth, job creation, issue of patents
Labor	1913	oversee issues related to wages, unemployment, occupational safety
Defense	1947	oversee armed forces
Health & Human Services	1953	oversee promotion of public health, essential human services, food & drug laws
Housing & Urban Development	1965	oversee housing needs, homeownership, access to affordable housing
Transportation	1966	oversee networks of national transportation
Energy	1977	oversee energy needs, energy security, technological innovation
Education	1980	oversee public education, education policy, education research
Veterans' Affairs	1989	oversee services for veterans, healthcare and benefits programs
Homeland Security	2002	oversee agencies charged with protecting U.S. territory from natural & human threats

Chart 11.3 List of Cabinet Department, Years Created, and Purpose

Individual cabinet departments are composed of numerous levels of bureaucracy. These levels descend from the department head in a mostly hierarchical pattern and consist of essential staff, smaller offices, and bureaus. Their tiered, hierarchical structure allows large bureaucracies to address many different issues by deploying dedicated and specialized officers. For example, below the secretary of state are a number of undersecretaries. These include undersecretaries for political affairs, for management, for economic growth, energy, and the environment, and many others.

Each controls a few bureaus and offices. Each bureau and office in turn oversees a more focused aspect of the undersecretary's field of specialization. For example, below the undersecretary for public diplomacy and public affairs are three bureaus: educational and cultural affairs, public affairs, and international information programs.

Frequently, these bureaus have even more specialized departments under them. Under the bureau of educational and cultural affairs are the spokesperson for the Department of State and his or her staff, the Office of the Historian, and the United States Diplomacy Center.^[3]

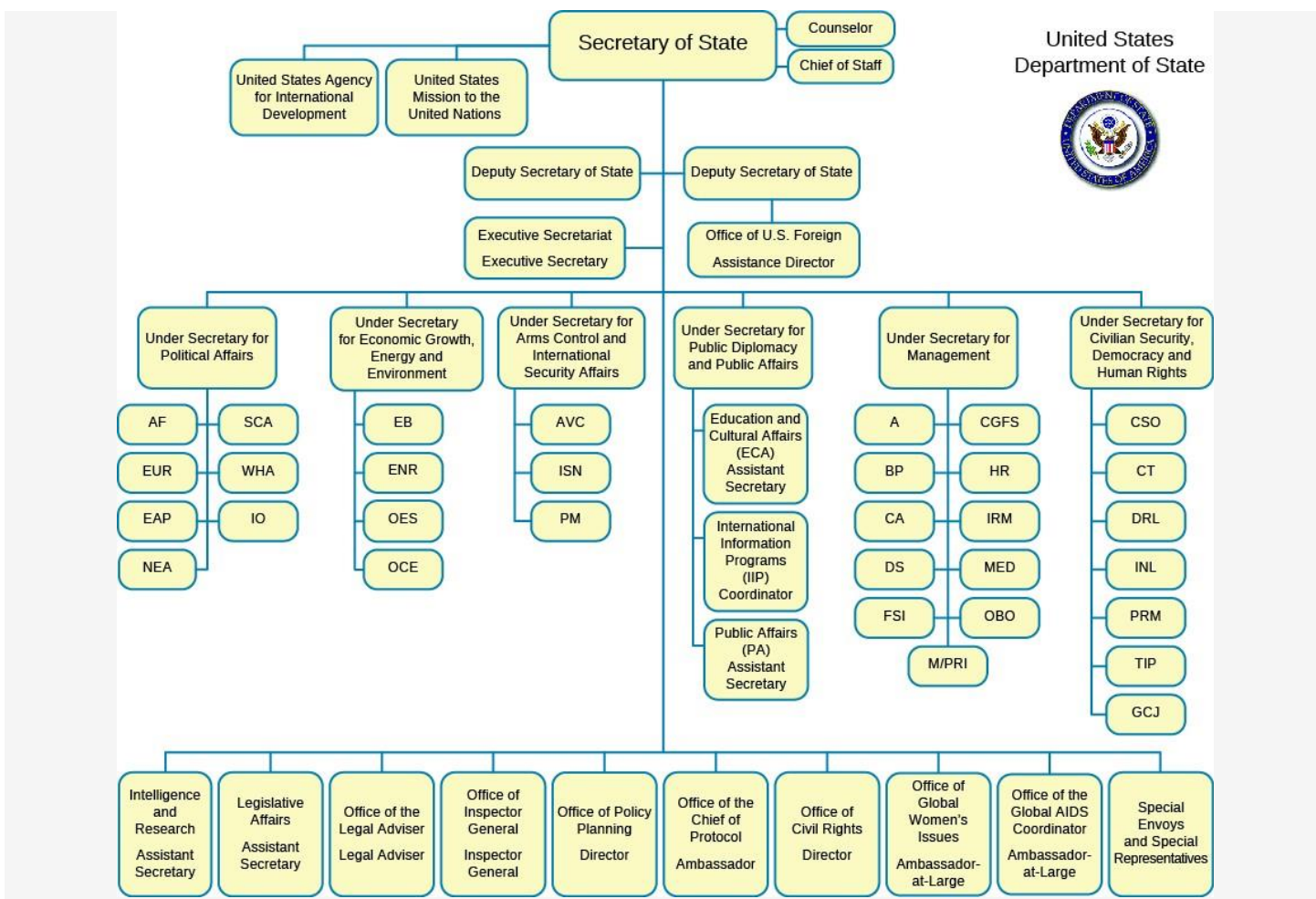


Chart 11.4 Organizational Chart of the United States Department of State

The multiple levels of the Department of State each work in a focused capacity to help the entire department fulfill its larger goals.
(Credit: modification of work by the U. S. Department of State)



Created in 1939 by President Franklin D. Roosevelt to help manage the growing responsibilities of the White House, the Executive Office of the President still works today to “provide the President with the support that he or she needs to govern effectively.”

Independent Executive Agencies and Regulatory Agencies

Like cabinet departments, **independent executive agencies** report directly to the president, with heads appointed by the president. Unlike the larger cabinet departments, however, independent agencies are assigned far more focused tasks. These agencies are considered independent because they are not subject to the regulatory authority of any specific department. They perform vital functions and are a major part of the bureaucratic landscape of the United States—providing information or services.

Some prominent independent agencies are the Central Intelligence Agency (CIA), which collects and manages intelligence vital to national interests and the National Aeronautics and Space Administration (NASA), charged with developing technological innovation for the purposes of space exploration.



Image 11.7 Logo for the United States Space Force Branch of the Military (Credit: whitehouse.gov)

In 2019, President Donald Trump established the United States Space Force under the Department of Defense. The Space Force is now the sixth branch of the U.S. Armed Forces, and they are “authorized to organize, train, and equip military space forces of the United States to ensure unfettered access to, and freedom to operate in, space, and to provide vital capabilities to joint and coalition forces in peacetime and across the spectrum of conflict,” according to a presidential memorandum dated 19 February 2019.



Image 11.8 Photo of Moon Landing (Credit: NASA)

The **independent regulatory agency** emerged in the late nineteenth century as a product of the push to control the benefits and costs of industrialization. The first regulatory agency was the Interstate Commerce Commission (ICC), charged with regulating that most identifiable and prominent symbol of nineteenth-century industrialism, the railroad. Other regulatory agencies, such as the Commodity Futures Trading Commission, which regulates U.S. financial markets and the Federal Communications Commission, which regulates radio and television, have largely been created in the image of the ICC. The Securities and Exchange Commission (SEC) illustrates well the potential power of such agencies. The SEC’s mission has expanded significantly in the digital era beyond mere regulation of stock floor trading.

Government Corporations

Agencies formed by the federal government to administer a quasi-business enterprise are called **government corporations**. They exist because the services they provide are partly subject to market forces and tend to generate enough profit to be self-sustaining, but they also fulfill a vital service the government has an interest in maintaining. Unlike a private corporation, a government corporation does not have stockholders. Instead, it has a board of directors and managers.

This distinction is important because whereas a private corporation's profits are distributed as dividends, a government corporation's profits are dedicated to perpetuating the enterprise. Unlike private businesses, which pay taxes to the federal government on their profits, government corporations are exempt from taxes. The most widely used government corporation is the U.S. Postal Service. Once a cabinet department, it was transformed into a government corporation in the early 1970s. Another widely used government corporation is the National Railroad Passenger Corporation, which uses the trade name Amtrak. Amtrak was the government's response to the decline in passenger rail travel in the 1950s and 1960s as the automobile came to dominate. Recognizing the need to maintain a passenger rail service despite dwindling profits, the government consolidated the remaining lines and created Amtrak.^[4]



Image 11.9 Image of Amtrak Train and Crew

Had the U.S. government not created Amtrak in the 1970s, passenger rail service might have ceased to exist in the United States. (Credit: Library of Congress)

Bureaucrats must implement and administer a wide range of policies and programs as established by congressional acts or presidential orders.

Depending upon the agency's mission, a bureaucrat's roles and responsibilities vary greatly, from regulating corporate business and protecting the environment to printing money and purchasing office supplies.

Bureaucrats are government officials subject to legislative regulations and procedural guidelines. Because they

play a vital role in modern society, they hold managerial and functional positions in government; they form the core of most administrative agencies. Although many top administrators are far removed from the masses, many interact with citizens on a regular basis.

Given the power bureaucrats have to adopt and enforce public policy, they must follow several legislative regulations and procedural guidelines. A *regulation* is a rule that permits government to restrict or prohibit certain behaviors among individuals and corporations. Bureaucratic rulemaking is a complex process that will be covered in more detail in the following section, but the rulemaking process typically

creates *procedural guidelines*, or more formally, *standard operating procedures*. These are the rules that lower-level bureaucrats must abide by regardless of the situations they face.

Elected officials are regularly frustrated when bureaucrats seem to not follow the path they intended. As a result, the bureaucratic process becomes inundated with **red tape**. This is the name for the procedures and rules that must be followed to get something done. Citizens frequently criticize the seemingly endless networks of red tape they must navigate in order to effectively utilize bureaucratic services, although these devices are really meant to ensure the bureaucracies function as intended.

QUESTIONS TO CONSIDER

1. Why might the executive branch create a government corporation?

Show Answer

to provide an essential service to the American people

2. What is the difference between an IEA and IRA?

Show Answer

executive agencies are mainly informational and regulatory agencies enforce rules

TERMS TO REMEMBER

government corporation (GC)—a corporation that fulfills an important public interest and is therefore overseen by government authorities to a much larger degree than private businesses

independent executive agency (IEA)—bureaucratic agency providing information or service to the public

independent regulatory agency (IRA)—bureaucratic agency enforcing government regulations/rules

red tape—the mechanisms, procedures, and rules that must be followed to get something done

1. Congressional Budget Office Report, <https://www.cbo.gov/publication/44172> (June 6, 2016). [🔗](#)
2. *A. L. A. Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935). [🔗](#)
3. <http://www.state.gov/r/pa/ei/rls/dos/436.htm> (June 6, 2016). [🔗](#)
4. David C. Nice. 1998. *Amtrak: the history and politics of a national railroad*. Boulder, CO: Lynne Rienner. [🔗](#)

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11.3 The Bureaucracy: Who is in control?



Image 11.10 FBI Director Christopher Wray Questioned by Rep. Jim Jordan of the House Judiciary Committee, July 12, 2023
(Credit: Patrick Semansky/AP and ABC News at abcnews.go.com)

Learning Objectives

- Explain the way Congress, the president, bureaucrats, and citizens provide meaningful oversight over the bureaucracies.
- Identify the ways in which privatization has made bureaucracies both more and less efficient.

Chart 11.5 Learning Objectives Bureaucratic Oversight

Bureaucracies are incredibly complicated. Understandably, then, the processes of rule-making and bureaucratic oversight are equally complex. Elected leaders and citizens have developed laws and institutions to help rein in bureaucracies that become either too independent, corrupt, or both.

Bureaucratic Rulemaking

When the particulars of implementation have been spelled out in the legislation authorizing a new program, bureaucracies move to enact it. When they encounter grey areas, many follow the federal **negotiated rule-making** process to propose a solution, that is, detailing how particular new federal policies, regulations, and/or programs will be implemented in the agencies. Congress cannot possibly legislate on that level of detail, so the experts in the bureaucracy do so.

Negotiated rule-making is a relatively recently developed bureaucratic device that emerged from the criticisms of bureaucratic inefficiencies in the 1970s, 1980s, and 1990s.^[1] Before it was adopted, bureaucracies used a procedure called *notice-and-comment rule-making*. This practice required that agencies attempting to adopt rules publish their proposal in the *Federal Register*, the official publication for all federal rules and proposed rules.

By publishing the proposal, the bureaucracy was fulfilling its obligation to allow the public time to comment. But rather than encouraging the productive interchange of ideas, the comment period had the effect of creating an adversarial environment in which different groups tended to make extreme arguments for rules that would support their interests. As a result, administrative rulemaking became too lengthy, too contentious, and too likely to provoke litigation in the courts.

Consider the Original

|| Federalist No. 70 ||

The Executive Department Further Considered

From the New York Packet

Tuesday, March 18, 1788.

Author: **Alexander Hamilton**

To the People of the State of New York:

THERE is an idea, which is not without its advocates, that a vigorous Executive is inconsistent with the genius of republican government. The enlightened well-wishers to this species of government must at least hope that the supposition is destitute of foundation; since they can never admit its truth, without at the same time admitting the condemnation of their own principles. Energy in the Executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws; to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice; to the security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy. Every man the least conversant in Roman story, knows how often that republic was obliged to take refuge in the absolute power of a single man, under the formidable title of Dictator, as well against the intrigues of ambitious individuals who aspired to the tyranny, and the seditions of whole classes of the community whose conduct threatened the existence of all government, as against the invasions of external enemies who menaced the conquest and destruction of Rome.

There can be no need, however, to multiply arguments or examples on this head. A feeble Executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution; and a government ill executed, whatever it may be in theory, must be, in practice, a bad government. Taking it for granted, therefore, that all men of sense will agree in the necessity of an energetic Executive, it will only remain to inquire, what are the ingredients which constitute this energy? How far can they be combined with those other ingredients which constitute safety in the republican sense? And how far does this combination characterize the plan which has been reported by the convention?

The ingredients which constitute energy in the Executive are, first, unity; secondly, duration; thirdly, an adequate provision for its support; fourthly, competent powers.

The ingredients which constitute safety in the republican sense are, first, a due dependence on the people, secondly, a due responsibility. [...]

Federalist No. 70, "The Executive Department Further Considered, March 18, 1788 by Alexander Hamilton; <https://www.congress.gov/resources/display/content/The+Federalist+Papers#TheFederalistPapers-70>

Chart 11.6 Excerpt from Federalist Paper No. 70



The *Federal Register* was once available only in print. Now, however, it is available online and is far easier to navigate and use. Have a **look** at all the important information the government's journal posts online.

Reformers argued that these inefficiencies needed to be corrected. They proposed the *negotiated rule-making process*, often referred to as regulatory negotiation, or “reg-neg” for short. This process was codified in the Negotiated Rule-making Acts of 1990 and 1996, which encouraged agencies to employ negotiated rule-making procedures. While negotiated rulemaking is required in only a handful of agencies and plenty still use the traditional process, others have recognized the potential of the new process and have adopted it.

In negotiated rulemaking, neutral advisers known as conveners put together a committee of those who have vested interests in the proposed rules. The conveners then set about devising procedures for reaching a consensus on the proposed rules. The committee uses these procedures to govern the process through which the committee members discuss the various merits and demerits of the proposals. With the help of neutral mediators, the committee eventually reaches a consensus on the rules.



Image 11.11 Lois Lerner, Former IRS Director, Testifies Before Congress

Government Bureaucratic Oversight

In this photograph, Lois Lerner, the former director of the Internal Revenue Service's Exempt Organizations Unit, sits before an oversight committee in Congress following a 2013 investigation. On the advice of her attorney, Lerner invoked her Fifth Amendment right not to incriminate herself and refused to answer questions. (Credit: U. S. Congress; OpenStax included image)

The ability for bureaucracies to develop their own rules and in many ways control their own budgets has often been a matter of great concern for elected leaders. As a result, elected leaders have employed a number of strategies and devices to control public administrators in the bureaucracy.

Congress is particularly empowered to apply oversight of the federal bureaucracy because of its power to control funding and approve presidential appointments. The various bureaucratic agencies submit annual summaries of their activities and budgets for the following year, and committees and subcommittees in both chambers regularly hold hearings to question the leaders of the various bureaucracies. These hearings are often tame, practical, fact-finding missions. Occasionally, however, when a bureaucracy has committed or contributed to a blunder of some magnitude, the hearings can become quite animated and testy.

This occurred in 2013 following the realization by Congress that the IRS had selected for extra scrutiny certain groups that had applied for tax-exempt status.

While the error could have been a mere mistake or have resulted from any number of reasons, many in Congress became enraged at the thought that the IRS might purposely use its power to inconvenience citizens and their groups.^[2] The House directed its Committee on Oversight and Government Reform to launch an investigation into the IRS, during which time it interviewed and publicly scrutinized a number of high-ranking civil servants.



The mission of the U.S. House Oversight Committee is to “ensure the efficiency, effectiveness, and accountability of the federal government and all its agencies.” The committee is an important congressional check on the power of the bureaucracy. Visit the [website](#) for more information about the U.S. House Oversight Committee.

Perhaps Congress’s most powerful oversight tool is the **Government Accountability Office (GAO)**.^[3] The GAO is an agency that provides Congress, its committees, and the heads of the executive agencies with auditing, evaluation, and investigative services. It is designed to operate in a fact-based and nonpartisan manner to deliver important oversight information where and when it is needed. The GAO’s role is to produce reports, mostly at the insistence of Congress.

In the approximately nine hundred reports it completes per year, the GAO sends Congress information about budgetary issues for everything from education, health care, and housing to defense, homeland security, and natural resource management.^[4] Since it is an office within the federal bureaucracy, the GAO also supplies Congress with its own annual performance and accountability report. This report details the achievements and remaining weaknesses in the actions of the GAO for any given year.

Apart from Congress, the president also executes oversight over the extensive federal bureaucracy through several different avenues. Most directly, the president controls the bureaucracies by appointing the heads of the fifteen cabinet departments and of many independent executive agencies, such as the CIA, the EPA, and the Federal Bureau of Investigation. These cabinet and agency appointments go through the Senate for confirmation.

The other important channel through which the office of the president conducts oversight over the federal bureaucracy is the Office of Management and Budget (OMB).^[5] The primary responsibility of the OMB is to produce the president’s annual budget for the country.

With this huge responsibility, however, comes a number of other responsibilities. These include reporting to the president on the actions of the various executive departments and agencies in the federal government, overseeing the performance levels of the bureaucracies, coordinating and reviewing federal regulations for the president, and delivering executive orders and presidential directives to the various agency heads.

Citizen Bureaucratic Oversight

Several laws passed in the decades between the end of the Second World War and the late 1970s have created a framework through which citizens can exercise their own bureaucratic oversight.

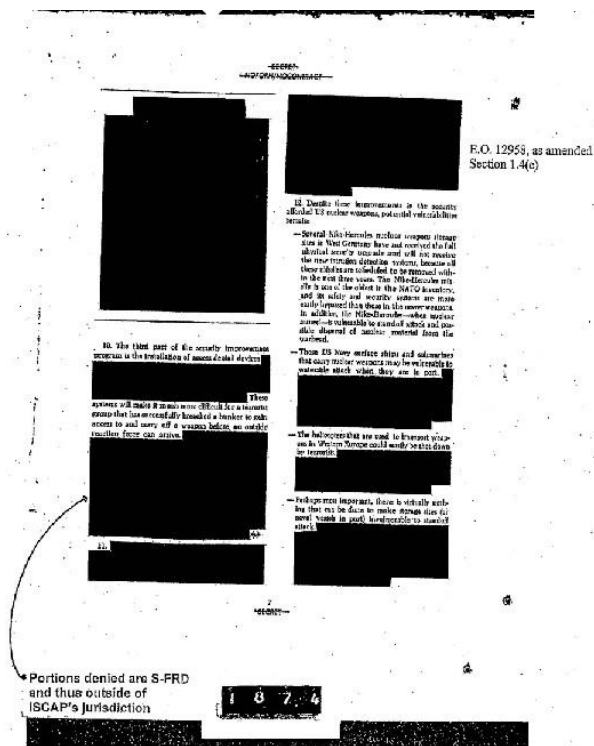


Image 11.12 Photo of Redacted Document

As this CIA document shows, even information released under FOIA can be greatly restricted by the agencies releasing it. The black marks (**redacting**) cover information the CIA deemed particularly sensitive. (Credit: Central Intelligence Agency)

The two most important laws are the **Freedom of Information Act** of 1966 and the Government in **Sunshine Act** of 1976.^[6] Like many of the modern bureaucratic reforms in the United States, both emerged during a period of heightened skepticism about government activities.

The first, the Freedom of Information Act of 1966 (FOIA), emerged in the early years of the Johnson presidency as the United States was conducting secret Cold War missions around the world, the U.S. military was becoming increasingly mired in the conflict in Vietnam, and questions were still swirling around the Kennedy assassination. FOIA provides journalists and the general public the right to request records from various federal agencies. These agencies are required by law to release that information unless it qualifies for one of nine exemptions.

These exceptions cite sensitive issues related to national security or foreign policy, internal personnel rules, trade secrets, violations of personnel privacy rights, law enforcement information, and oil well data. FOIA also

compels agencies to post some types of information for the public regularly without being requested.

In fiscal year 2020, the government received 772,869 FOIA requests, with just three departments—Defense, Homeland Security, and Justice—accounting for more than half those queries.^[7] The Center for Effective Government analyzed the fifteen federal agencies that receive the most FOIA requests and concluded that they generally struggle to implement public disclosure rules. In its latest report, published in 2015 and using 2012 and 2013 data, ten of the fifteen did not earn satisfactory overall grades, scoring less than seventy of a possible one hundred points.^[8]

The Government in Sunshine Act of 1976 is different from FOIA in that it requires all multi-headed federal agencies to hold their meetings in a public forum on a regular basis. The name “Sunshine Act” is derived from the old adage that “sunlight is the best disinfectant”—the implication being that governmental and bureaucratic corruption thrive in secrecy but shrink when exposed to the light of public scrutiny. The act defines a meeting as any gathering of agency members in person or by phone, whether in a formal or informal manner.

Like FOIA, the Sunshine Act allows for exceptions. These include meetings where classified information is discussed, proprietary data has been submitted for review, employee privacy matters are discussed, criminal matters are brought up, and information would prove financially harmful to companies were it released. Citizens and citizen groups can also follow rule-making and testify at hearings held around the

country on proposed rules. The rule-making process and the efforts by federal agencies to keep open records and solicit public input on important changes are examples of responsive bureaucracy.

Government Privatization

When those in government speak of privatization, they are often referring to one of a host of different models that incorporate the market forces of the private sector into the function of government to varying degrees.^[9] These include 1) using contractors to supply goods and/or services, 2) distributing government vouchers with which citizens can purchase formerly government-controlled services on the private market, 3) supplying government grants to private organizations to administer government programs, 4) collaborating with a private entity to finance a government program; and, 5) even fully divesting the government of a function and directly giving it to the private sector. We will look at three of these types of privatization shortly.

Divestiture, or full **privatization**, occurs when government services are transferred, usually through sale, from government bureaucratic control into an entirely market-based, private environment. At the federal level this form of privatization is very rare, although it does occur. Consider the Student Loan Marketing Association, often referred to by its nickname, Sallie Mae.

When it was created in 1973, it was designed to be a government entity for processing federal student education loans. Over time, however, it gradually moved further from its original purpose and became increasingly private. Sallie Mae reached full privatization in 2004.^[10]

Another example is the U.S. Investigations Services, Inc., which was once the investigative branch of the Office of Personnel Management (OPM) until it was privatized in the 1990s.

At the state level, however, the privatization of roads, public utilities, bridges, schools, and even prisons has become increasingly common as state and municipal authorities look for ways to reduce the cost of government.

QUESTIONS TO CONSIDER

What concerns might arise when Congress delegates decision-making authority to unelected leaders, sometimes called the fourth branch of government?

[Show Answer](#)

whose interests are they most likely to favor

Which model of bureaucracy best explains the way the government currently operates? Why?

[Show Answer](#)

personal opinion

Do you think Congress and the president have done enough to protect bureaucratic whistleblowers?

[Show Answer](#)

open for debate

TERMS TO REMEMBER

Divestiture--full privatization of a government function by turning the work over to the private sector

Freedom of Information Act-- FOIA provides journalists and the general public the right to request records from various federal agencies

Government Accountability Office—an agency that provides Congress, its committees, and the heads of the executive agencies with auditing, evaluation, and investigative services

negotiated rulemaking--a rulemaking process in which neutral advisors convene a committee of those who have vested interests in the proposed rules and help the committee reach a consensus on them

privatization--measures that incorporate the market forces of the private sector into the function of government to varying degrees; through contractors, distributing government vouchers, government grants, collaboration, and divesting the government of a function to the private sector

Sunshine Act-- requires all multi-headed federal agencies to hold their meetings in a public forum on a regular basis

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