

## EXECUTIVE OFFICE OF THE PRESIDENT OF THE UNITED STATES

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**I**n its opening words, Article II of the U.S. Constitution makes it abundantly clear that “[t]he executive power shall be vested in a President of the United States of America.”<sup>1</sup> That enormous power is not vested in departments or agencies, in staff or administrative bodies, in nongovernmental organizations or other equities and interests close to the government. The *President* must set and enforce a plan for the executive branch. Sadly, however, a President today assumes office to find a sprawling federal bureaucracy that all too often is carrying out its own policy plans and preferences—or, worse yet, the policy plans and preferences of a radical, supposedly “woke” faction of the country.

The modern conservative President’s task is to limit, control, and direct the executive branch on behalf of the American people. This challenge is created and exacerbated by factors like Congress’s decades-long tendency to delegate its lawmaking power to agency bureaucracies, the pervasive notion of expert “independence” that protects so-called expert authorities from scrutiny, the presumed inability to hold career civil servants accountable for their performance, and the increasing reality that many agencies are not only too big and powerful, but also increasingly weaponized against the public and a President who is elected by the people and empowered by the Constitution to govern.

In *Federalist* No. 47, James Madison warned that “[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.”<sup>2</sup> Regrettably, that wise and cautionary note describes to a significant degree the modern executive branch, which—whether controlled

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by the bureaucracy or by the President—writes federal policy, enforces that policy, and often adjudicates whether that policy was properly drafted and enforced. The overall situation is constitutionally dire, unsustainably expensive, and in urgent need of repair. Nothing less than the survival of self-governance in America is at stake.

The great challenge confronting a conservative President is the existential need for aggressive use of the vast powers of the executive branch to return power—including power currently held by the executive branch—to the American people. Success in meeting that challenge will require a rare combination of boldness and self-denial: boldness to bend or break the bureaucracy to the presidential will and self-denial to use the bureaucratic machine to send power away from Washington and back to America's families, faith communities, local governments, and states.

Fortunately, a President who is willing to lead will find in the Executive Office of the President (EOP) the levers necessary to reverse this trend and impose a sound direction for the nation on the federal bureaucracy. The effectiveness of those EOP levers depends on the fundamental premise that it is *the President's agenda* that should matter to the departments and agencies that operate under his constitutional authority and that, as a general matter, it is the President's chosen advisers who have the best sense of the President's aims and intentions, both with respect to the policies he intends to enact and with respect to the interests that must be secured to govern successfully on behalf of the American people. This chapter focuses on key features of and recommendations for several of the EOP's important components.

### U.S. OFFICE OF MANAGEMENT AND BUDGET (OMB)

OMB assists the President in the execution of his policy agenda across the government by employing many statutory and executive procedural levers to bring the bureaucracy in line with all budgetary, regulatory, and management decisions. Properly understood, it is a President's air-traffic control system with the ability and charge to ensure that all policy initiatives are flying in sync and with the authority to let planes take off and, at times, ground planes that are flying off course. OMB's key roles include:

- **Developing and enforcing** the President's budget and executing the appropriations laws that fund the government;
- **Managing** agency and personnel performance, procurement policy, financial management, and information technology;
- **Developing** the President's regulatory agenda, reviewing new regulatory actions, reviewing federal information collections, and setting and enforcing federal information policy; and

- **Coordinating and clearing** agency communications with Congress, including testimonies and views on draft legislation.

OMB cannot perform its role on behalf of the President effectively if it is not intimately involved in all aspects of the White House policy process and lacks knowledge of what the agencies are doing. Internally to the EOP, ensuring that the policy-formulation procedures developed by the White House to serve the President include OMB is one of any OMB Director's major responsibilities. A common meme of those who intend to evade OMB review is to argue that where "resources" are not being discussed, OMB's participation is optional. This ignores both OMB's role in all downstream execution and the reality that it has the only statutory tools in the White House that are powerful enough to override implementing agencies' bureaucracies.

The Director must view his job as the best, most comprehensive approximation of the President's mind as it pertains to the policy agenda while always being ready with actual options to effect that agenda within existing legal authorities and resources. This role cannot be performed adequately if the Director acts instead as the ambassador of the institutional interests of OMB and the wider bureaucracy to the White House. Once its reputation as the keeper of "commander's intent" is established, then and only then does OMB have the ability to shape the most efficient way to pursue an objective.

Externally, the Director must ensure that OMB has sufficient visibility into the deep caverns of agency decision-making. One indispensable statutory tool to that end is to ensure that policy officials—the Program Associate Directors (PADs) managing the vast Resource Management Offices (RMOs)—personally sign what are known as the apportionments. In 1870, Congress passed the Anti-Deficiency Act<sup>3</sup> to prevent the common agency practice of spending down all appropriated funding, creating artificial funding shortfalls that Congress would have to fill. The law mandated that all funding be allotted or "apportioned" in installments. This process, whereby agencies come to OMB for allotments of appropriated funding, is essential to the effective financial stewardship of taxpayer dollars. OMB can then direct on behalf of a President the amount, duration, and purpose of any apportioned funding to ensure against waste, fraud, and abuse *and* ensure consistency with the President's agenda and applicable laws.

The vast majority of these apportionments were signed by career officials—the Deputy Associate Directors (DADs)—until the Trump Administration placed this responsibility in the hands of the PADs and thereby opened wide vistas of oversight that had escaped the attention of policy officials. The Biden Administration subsequently reversed this decision. No Director should be chosen who is unwilling to restore apportionment decision-making to the PADs' personal review, who is not aggressive in wielding the tool on behalf of the President's agenda, or who is unable to defend the power against attacks from Congress.

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It should be noted that each of OMB's primary functions, along with other executive and statutory roles, is carried out with the help of many essential OMB support offices. The two most important offices for moving OMB at the will of a Director are the Budget Review Division (BRD) and the Office of General Counsel (OGC). The Director should have a direct and effective relationship with the head of the BRD (considered the top career official within OMB) and transmit most instructions through that office because the rest of the agency is institutionally inclined toward its direction and responds accordingly. The BRD inevitably will translate the directions from policy officials to the career staff, and at every stage, it is obviously vital that the Director ensure that this translation is an accurate one.

In addition, many key considerations involved in enacting a President's agenda hinge on existing legal authorities. The Director must ensure the appointment of a General Counsel who is respected yet creative and fearless in his or her ability to challenge legal precedents that serve to protect the status quo. This is vital within OMB not only with respect to the adequate development of policy options for the President's review, but also with respect to agencies that attempt to protect their own institutional interests and foreclose certain avenues based on the mere assertion (and not proof) that the law disallows it or that, conversely, attempt to disregard the clear statutory commands of Congress.

In general, the Director should empower a strong Deputy Director with authority over the Deputy for Management, the PADs, and the Office of Information and Regulatory Affairs (OIRA) to work diligently to break down barriers within OMB and not allow turf disputes or a lack of visibility to undermine the agency's principal budget, management, and regulatory functions. OMB should work toward a "One OMB" position on behalf of the President and represent that view during the various policymaking processes.

**Budget.** The United States today faces an untenable fiscal situation and owes \$31 trillion on a debt that is steadily increasing. The OMB Director should present a fiscal goal to the President early in the budget development process to address the federal government's fiscal irresponsibility. This goal would help to align the months-long process of developing the actual proposals for inclusion in the budget.

Though some mistakenly regard it as a mere paper-pushing exercise, the President's budget is in fact a powerful mechanism for setting and enforcing public policy at federal agencies. The budget team includes six Resource Management Offices that, together with the BRD and other components, help the Director of OMB to develop and execute detailed agency spending plans that bear on *every* major aspect of policy formation and execution at federal agencies. Through initial priority-setting and ongoing supervision of agency spending, OMB's budget team plays a key role in executing policy across the executive branch, including at many agencies wrongly regarded as "independent."

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The RMOs, each of which is led by a political appointee known as the PAD and a career DAD, are separated into six functional units:

- National Security.
- Natural Resources, Energy, and Science.
- Health.
- Education, Income Maintenance, and Labor.
- Transportation, Justice, and Homeland Security.
- Treasury, Commerce, and Housing.

Because the RMOs are institutionally ingrained in nearly all policymaking and implementation across the executive branch, they play a critical role in helping the Director to implement the President's public policy agenda. However, because each RMO is responsible for formulating and supervising such a wide range of policy details, many granular but critical policy decisions are effectively left to the career professionals who serve across Administrations.

To enhance the OMB Director's ability to help the President drive policy at the agencies, the existing six RMOs should be divided into smaller subject-matter areas, allowing for more PADs, and each of these PADs should have a Deputy PAD. This expanded pool of RMOs with additional political leadership would enable more comprehensive direction and oversight of policy development and implementation.

Regardless of whether Congress adopts the President's full set of budget recommendations, the President should reintroduce the concept of administrative pay-as-you-go, or administrative PAYGO. This simple procedural requirement imposes budget neutrality on the discretionary choices of federal agencies, of which there are many in nearly all areas of policymaking. This simple step forces the executive branch to control what it can control. The principle may occasionally yield to other overarching requirements, such as a presidential regulatory budget, but in nearly all cases, administrative PAYGO plays a unique and indispensable role in enforcing fiscal responsibility at federal departments and agencies.

The President should use every possible tool to propose and impose fiscal discipline on the federal government. Anything short of that would constitute abject failure.

**Management.** The Management Office of OMB (the "M-Side" as it is often called) is responsible for carrying out several important agency oversight functions, many of which are statutory. The Management team includes the following offices led by presidentially appointed Senate-confirmed individuals:

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- The Office of Federal Procurement Policy (OFPP).
- The Office of Performance and Personnel Management (OPPM).
- The Office of Federal Financial Management (OFFM).
- The Office of the Federal Chief Information Officer (OFCIO).
- The Made in America Office (MIAO), which was added by the Biden Administration and is not a Senate-confirmed slot.

Each of these offices has responsibilities and authorities that a President can use to help drive policy across the government. It is vital that the Director and his political staff, not the careerists, drive these offices in pursuit of the President's actual priorities and not let them set their own agenda based on the wishes of the sprawling "good government" management community in and outside of government. Many Directors do not properly prioritize the management portfolio, leaving it to the Deputy for Management, but such neglect creates purposeless bureaucracy that impedes a President's agenda—an "M Train to Nowhere."

*OFPP.* This office plays a critical role in leading the development of new policies and regulations concerning federal contracting and procurement. Through the Federal Acquisition Regulatory Council, which is generally chaired by the OFPP Administrator, OFPP helps the Director to set a wide range of policies for all of those who contract with the executive branch. In the past, those governmentwide contracting rules have played a key role in helping to implement the President's policy agenda. This office should be engaged early and often in OMB's effort to drive policy, including by obtaining transparency about entities that are awarded federal contracts and grants and by using government contracts to push back against woke policies in corporate America.

*OPPM.* Through this office, the Director helps federal agencies to establish their performance goals and performance review processes. OPPM also works with the U.S. Office of Personnel Management (OPM) to establish and manage personnel policies and practices across the federal government. The Director should instruct OPPM to establish annual performance goals and review processes for agencies that reflect the President's agenda. OPPM should also be part of the President's strategy to set and enforce sensible policies and practices for the federal workforce.

*OFFM.* This office helps the Director to root out waste, fraud, and abuse in federal programs—for example, through the Do Not Pay program. It should be part of efforts to save precious taxpayer resources.

*OFCIO.* This office guides the federal government's use and adoption of Internet-based technologies to improve government operations and save taxpayer

money. As a function of its leadership role, it is critical in interagency discussions on a wide range of technology issues. The office thus is an important part of the President's efforts to modernize, strengthen, and set technology-adoption policy for the executive branch.

*MIAO.* Building on the example and work of the Trump Administration, President Biden established this office to centralize, carry out, and further develop the federal government's Buy-American and other Made-in-America commitments. Its work ought to be continued and further strengthened.

**Regulatory and Information Policy.** OMB's OIRA plays an enormous and vital role in reining in the regulatory state and ensuring that regulations achieve important benefits while imposing minimal burdens on Americans. The President should maintain Executive Order (EO) 12866,<sup>4</sup> the foundation of OIRA's review of regulatory actions. The Administration should likewise maintain the recent extension of those standards to regulatory actions of the U.S. Department of the Treasury.<sup>5</sup> Regulatory analysis and OIRA review should also be required of the historically "independent" agencies as the Office of Legal Counsel has found is legally permissible.<sup>6</sup>

If the current Administration proceeds with its declared intent to modify aspects of EO 12866 or review OMB Circular A-4,<sup>7</sup> the related document that provides the foundation for cost-benefit analysis, the next President should immediately begin to undo those changes and develop a rigorous, data-driven approach that will result in the least burdensome rules possible. The next President should also revive the directive in Executive Order 13891<sup>8</sup> that significant guidance documents also must pass through OIRA review.

Because OIRA review often leads to fewer regulatory burdens, more regulatory benefits, and better coordination of regulatory policy, funding for OIRA tends to pay large dividends. Yet over the years, funding for OIRA has diminished. This trend should be reversed. The budget should also include sufficient full-time equivalent (FTE) employees to form regulatory advance teams that would consult with agencies on cost-benefit analysis and good regulatory practices at the beginning of the rulemaking process for the most important regulations. These teams would help agencies take cost-benefit analysis into account from the beginning of their rulemaking efforts, which in turn would result in higher-quality regulations and a swifter eventual OIRA review. To preserve the integrity of OIRA review, the staff who consult at the beginning of a rulemaking should not handle its eventual review.

The next President should also reinstate the many executive orders signed by President Trump that were designed to make the regulatory process more just, efficient, and transparent. Executive Orders 13771,<sup>9</sup> 13777,<sup>10</sup> 13891,<sup>11</sup> 13892,<sup>12</sup> 13893,<sup>13</sup> 13924 Section 6,<sup>14</sup> 13979,<sup>15</sup> and 13980<sup>16</sup> should be revived (with modifications as needed). Executive Order 13132<sup>17</sup> on federalism should be strengthened so that state regulatory and fiscal operations are not commandeered by the federal



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government through so-called cooperative federalism programs. Additionally, the President should revise and sign an updated version of President Ronald Reagan's Executive Order 12630<sup>18</sup> on federal takings.

The next President should strengthen implementation of the Information Quality Act,<sup>19</sup> robustly use the authority of the Paperwork Reduction Act,<sup>20</sup> carefully enforce the Privacy Act,<sup>21</sup> and ensure the sound execution of OIRA's statistical and other information policy functions. Regulatory cooperation agreements can also promote the further adoption of good regulatory practices, which improve market conditions for America and her allies. OIRA should also work with other components of OMB to revise and apply OMB's uniform Guidance for Grants and Agreements<sup>22</sup> and ensure that federal contract and grant guidelines satisfy EO 12866 and other centralized standards as appropriate.

But executive reforms and actions, while vital, are not enough: Congress also must act. The next President should work with Congress to pass significant regulatory policy and process reforms, which could go a long way toward reining in the administrative state. Excellent examples of such legislation include the Regulatory Accountability Act,<sup>23</sup> SMART Act,<sup>24</sup> GOOD Act,<sup>25</sup> Early Participation in Regulations Act,<sup>26</sup> Unfunded Mandates Accountability and Transparency Act,<sup>27</sup> and REINS Act.<sup>28</sup>

Finally, the next President should work with Congress to maximize the utility of the Congressional Review Act (CRA),<sup>29</sup> which allows Congress to undo midnight regulatory actions (including those disguised as "guidance") on an accelerated timeline. To leverage the CRA's power to the maximum extent, Congress and the President should enact the Midnight Rules Relief Act,<sup>30</sup> which would help to ensure that multiple regulatory actions could be packaged and voted on at the same time. Immediate and robust use of the CRA would allow the President to focus his rulemaking resources on major new regulatory reforms rather than devoting months or years to undoing the final rulemakings of the Biden Administration.

**Legislative Clearance and Coordination.** OMB plays a critical role in ensuring that the executive branch is aligned on legislative proposals and language, agency testimonies, and other communications with Congress. The Director should use these authorities to enforce policy and message consistency aggressively and promote the effective engagement of the executive branch in legislative processes.

### NATIONAL SECURITY COUNCIL (NSC)

The National Security Council (NSC) was established by statute to support the President in developing and implementing national security policy by coordinating across relevant departments and agencies, integrating authorities and resources toward common ends, and objectively assessing progress toward established goals. Led by the National Security Advisor (NSA), the NSC staff will be successful in implementing the President's national security goals only if it is made up



of personnel with technical expertise and experience as well as an alignment to the President's declared national security policy priorities. The NSC must then chart a course that articulates and achieves the President's national security goals and objectives. The President should empower a strong NSC that not only has the power to convene the policy process, but also is entrusted with the full power of the presidency to drive the bureaucracy.

In organizing (by means of Presidential Directive<sup>31</sup>) an NSC staff that is more responsive and aligned with the President's goals and empowered to implement them, the NSA should immediately evaluate and eliminate directorates that are not aligned with the President's agenda and replace them with new directorates as appropriate that can drive implementation of the President's signature national security priorities. In addition to realigning the staff organization to the President's priorities, the NSA should assign responsibility for implementation of specific policy initiatives to senior NSC officials from across the NSC staff structure. These officials should develop, direct, and execute tangible action plans in coordination with multiple agencies to achieve measurable, time-defined milestones.

Aligning NSC staff to the President's national security goals will provide clearer direction, a mandate for action, and a baseline of accountability that can be used to evaluate staff performance and the NSC's overall progress. Accountable senior officials, themselves either political appointees or a minimum number of career detailees, who are selected and vetted politically and report directly to political staff should be the main day-to-day managers for interagency coordination and implementation of their assigned national security policy objectives. They should provide policy analysis for consideration by the broader NSC and relevant agencies and ensure timely responses to decisions made by the President. The accountable senior officials should be established at the direction of the NSA and draw on personnel and expertise from beyond the NSC, including OMB, the National Economic Council, and relevant federal agencies.

The NSC staff and principals should work in tandem with the National Economic Council and OMB at all levels, presenting a united effort to achieve the President's goals and drawing on the latter's statutory authorities to guide the bureaucracy. To accomplish national objectives effectively, foreign policy should fully incorporate the economic instruments of national power. National security policy must also include the prioritized allocation of resources. When policies are divorced from the resources required to implement them, they are stillborn—academic exercises that undermine our national security and leave departments and agencies to their own devices.

The accountable senior officials should be empowered to identify, recruit, clear, and hire staff who are aligned with and willing to shepherd the President's national security priorities. NSC staff leads, under the direction of the NSA, should have the discretion to reduce the number of positions that need high-level clearances,

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and the NSC should be adequately resourced and authorized to adjudicate and hold security clearances internally with investigators who work directly for the NSC and whose sole task is to clear NSC officials. If certain staff are determined not to need high-level clearances, the question becomes whether they should be part of the NSC at all.

The NSC should take a leading role in directing the drafting and thorough review of all formal strategies: the National Security Strategy, the National Defense Strategy, the Nuclear Posture Review, the Missile Defense Strategy, etc. In particular, the National Defense Strategy, which by tradition has evaded significant review, should be prioritized for White House review by the NSC and OMB. Both should also conduct reviews of operational war plans and global force planning and allocations with the Secretary of Defense to align them with presidential priorities and review all key policy and guidance intended for implementation by the heads of the Department of Defense, the Department of State, and the Intelligence Community before they are authorized for distribution. The NSC should rigorously review all general and flag officer promotions to prioritize the core roles and responsibilities of the military over social engineering and non-defense matters, including climate change, critical race theory, manufactured extremism, and other polarizing policies that weaken our armed forces and discourage our nation's finest men and women from enlisting to serve in defense of our liberty.

The NSC staff will need to consolidate the functions of both the NSC and the Homeland Security Council (HSC), incorporate the recently established Office of the National Cyber Director, and evaluate the required regional and functional directorates. Given the aforementioned prerequisites, the NSC should be properly resourced with sufficient policy professionals, and the NSA should prioritize staffing the vast majority of NSC directorates with aligned political appointees and trusted career officials. For instance, the NSA should return *all* nonessential detailees to their home agencies on their first day in office so that the new Administration can proceed efficiently without the personnel land mines left by the previous stewards and as soon as possible should replace all essential detailees with staff aligned to the new President's priorities. The HSC has overseen pandemic response, and its incorporation is important.

In the end, change requires intervention, and the NSC staff should be appropriately recruited, manned, and empowered to achieve the President's national security and foreign policy objectives and maintain robust policy analysis and discussion while minimizing resistance from those who have an agenda or who jealously guard their resources and autonomy at the expense of national security and sound policy development. This resistance and inertia can be inadvertently enabled by a small and unempowered NSC.

Additionally, the White House Chief of Staff and NSA must ensure that the NSC is functioning in tandem with the rest of the White House staff to benefit from

the best strategic thinking of the President's top advisers. History shows that an unsupervised NSC staff can stray from its statutory role and adversely affect a President and his policies. Moreover, while the NSC should be fully incorporated into the White House, it should also be allowed to do its job without the impediment of dually hatted staff that report to other offices. For instance, the NSC needs its own counsel to inform what legal options can be provided to the President. The White House Counsel should be part of that policy process as the President's top legal adviser. These recommendations provide a clear road map for rapidly sizing and solidifying the NSC staff to support and achieve the President's objectives beginning on Inauguration Day.

### **NATIONAL ECONOMIC COUNCIL (NEC)**

The National Economic Council is one of the policy councils serving the President along with the NSC and the Domestic Policy Council (DPC). The Director serves as principal adviser to the President on domestic and international economic policy and communicates the President's economic message to the media. The Deputy Director is responsible for the day-to-day operation of the council, which includes chairing the committee that coordinates economic policy development at the Deputy Secretary level. In effect, the Director and Deputy Director are the officials who are primarily responsible for the development of economic policymaking for the Administration. Once a policy is adopted, it is the appropriate agency's responsibility to implement it. The NEC's policy process is also used to determine whether the President should support or oppose legislation passed by Congress.

In addition to its leadership, the NEC has policy experts (for example, Special Assistants to the President or SAPs) who are responsible for developing and coordinating, as well as advising the President, on specific issues. It is essential that the policy expertise of the NEC reflect the current environment's most pressing issues. Today, this would include (among other topics) taxes, energy and environment, technology, infrastructure, health care, financial services, workforce, agriculture, antitrust and competition policy, and retirement programs. NEC's SAPs should have a working knowledge of how the Administration can implement policy through the rulemaking process, although it is not necessary that they be experts on regulation themselves, particularly given OMB's role. This will facilitate the NEC's effectiveness in coordinating Administration policy.

The NEC needs to work closely with other offices within the Executive Office of the President to promote innovation by the private sector and create an environment that will stimulate economic activity while reducing federal spending and debt. This includes working with the DPC, NSC, OMB, Council of Economic Advisers, Office of Intergovernmental Affairs, Office of Cabinet Affairs, White House Counsel, Council on Environmental Quality, Office of Legislative Affairs,

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and Office of Science and Technology Policy. To this end, the NEC Director should chair a standing meeting with the principals from each of the other EOP offices to enhance coordination from within the White House.

In the past, there has been tension among the DPC, NEC, and NSC over jurisdiction. It is important to set clear jurisdictions at the start of an Administration to prevent needless and counterproductive turf fights. In addition, the Principal Deputy for international economic policy is jointly appointed at NEC and NSC and could end up serving two different interests. To avoid such problems, international economic policy should be entirely coordinated from NEC.

It will be especially important for the NEC to work seamlessly with the Council of Economic Advisers (CEA), which provides the President and the White House offices with the latest economic data and forecasts, as well as estimates of the economic impact of proposed policies, and prepares the annual *Economic Report of the President*. The CEA is not a policy council and therefore does not run policy processes, which is the responsibility of the NEC, DPC, and NSC. However, the CEA does play a key role in ensuring that any policy considered by the councils is rigorously evaluated for its economic impacts.

The NEC works closely with the White House Office of Communications and Office of Speechwriting to ensure that the White House's messaging and media engagement communicate the President's economic policy effectively.

The NEC also plays a key role in advancing the President's economic agenda by advising the Office of Presidential Personnel on appointments to key economic posts, including positions in financial regulatory agencies. The NEC helps to ensure that each economic post is held by a person who shares the President's policy priorities and works well with the rest of the Administration's economic team. The financial regulators are run partly by civil servants (some of whom were political appointees in prior liberal Administrations) who often resist a conservative Administration's policies. It is therefore critical that an Administration not only appoints capable individuals to lead these agencies, but also has personnel who can be hired into senior staff positions within the agencies.

A few areas will be especially important if the NEC is to develop a well-defined economic policy agenda. One is the promotion of innovation as a foundation for economic growth and opportunity. Another is the creation of an environment that fosters economic growth through tax reform and the elimination of regulatory and procedural barriers.

### **OFFICE OF THE U.S. TRADE REPRESENTATIVE (USTR)**

The Office of the U.S. Trade Representative provides the President with the internal White House resources necessary to formulate and execute a unified, whole-of-government approach to trade policy. The President should ensure that the USTR is empowered to serve in that leadership role, much as other

EOP components organize and drive a coordinated policy agenda on behalf of the President.

The People's Republic of China's predatory trade practices have disrupted the open-market trading system that has provided mutual benefit to all participating countries—including China—for decades. The failure of the World Trade Organization (WTO) to discipline China for abrogation of its trading commitments has seriously undermined its credibility and made it a largely ineffective institution. The United States, through an empowered USTR, must act to rebalance and refocus international trading relationships in favor of democratic nations that embrace free, fair, and open trade principles built on market-driven economies.

Chapter 26 of this book outlines recommended trade policy priorities for the incoming President. However, regardless of the approach, successful implementation of that trade agenda will require the President to articulate a clear policy direction and instructions for the executive branch to operate in a coordinated fashion under the leadership of an empowered USTR.

To address these and other challenges, protect the American worker, and secure free and open markets for our communities and businesses, the next President must leverage the institutional resources and strength of the USTR and neither allow institutional interests to drive a fragmented trade policy that is developed from the ground up nor cater to parochial interests across government and Washington's broader industry of influence.

The USTR's mission is vitally important in reorienting the global trading system in a direction that is open, fair, and prosperous. In order to achieve the President's policy goals, a strong USTR must be empowered to set trade policy from the White House with the authority and resources to represent the interests of the President's trade agenda with adequate budget, staff, analysis, and expertise to engage meaningfully in internal and interagency policy deliberations. The USTR should organize and harness existing interagency trade committees to serve the President's trade agenda and drive a consensus among federal stakeholders, dispose of legacy advisory committees with members who serve special interests, direct action to implement policy priorities, measure progress toward implementing the President's agenda, and hold agencies and officials accountable for delivering the President's agenda. The USTR's leadership should not only coordinate and enforce the President's agenda across the federal community, but also set and enforce the President's trade agenda internally.

Trade policy and priorities should be set by the President and implemented by the U.S. Trade Representative in cooperation with the other economic and national security officials, not by the range of governmental and nongovernmental interests that attempt to force their policy preferences on the USTR. A strong USTR empowered with the necessary resources, authorities, and interagency cooperation will protect U.S. interests in the global marketplace more effectively.

### **COUNCIL OF ECONOMIC ADVISERS (CEA)**

Congress established the Council of Economic Advisers in 1946 to advise the President on economic policy based on data, research, and evidence. The CEA is one of the oldest congressionally created offices within the White House complex and plays a broad role in bringing economic expertise to Administration policy across a large range of policy areas. The CEA has one presidentially appointed and Senate-confirmed chair, two presidentially appointed members who assist and often have expertise that complements the chair, and approximately 40 staff employees.

Statutorily, the CEA is charged with being the President's principal source of economic advice. However, this role has diminished over time as its policy appraisal and especially formulation and recommendation functions have been taken over or diluted by other economic policy bodies within the White House. By law, the CEA is required to publish an annual *Economic Report of the President* within 10 days after submission of the budget. This report is not just a messaging document; it is an opportunity to provide greater rigor in support of policy areas that the White House is prioritizing and to build up the external credibility of those ideas.

A future conservative Administration should utilize the CEA as the senior internal White House economists much as the White House Counsel's office functions as the senior internal White House lawyers. This does not mean that there are no economists in other offices. There are, just as there often are lawyers in the policy councils and other White House offices, but the CEA's role, like the White House Counsel's, is to employ its unique expertise (particularly on the technical side) to ensure that sound analysis is contributing to and shaping the policy discussion.

In practice, this means that CEA staff do not "coordinate" the policy process in the way that the DPC or NEC would, but they should be integral to the EOP's policy development processes. CEA staff should support sound policy development and execution by actively contributing to running policy dialogues, proactively raising issues that need to be addressed, consulting on questions that arise, and guiding EOP and agency officials on the analytical foundations of policy. Structurally, the White House Chief of Staff should ensure that the CEA has a seat at the policymaking table on all relevant policy.

Senior economists traditionally have not gone through the Office of Presidential Personnel process and more often than not are hired on an academic-year cycle. As a result, senior economists hired in the summer of a presidential election year tend to remain on staff until the next summer even if a President from the opposite party takes power and installs a new slate of CEA political appointees for chair, members, etc. Although these hiring practices create some continuity, the presence of senior economists who were never fully vetted for their alignment with White House policy objectives or who were holdovers from a recently departed Administration can breed skepticism and distrust of the CEA by other units within the White

House, creating the risk that the CEA's role in the policymaking process will be diminished. A future Administration should consider hiring that reflects the White House calendar (mid-January) and involves the Office of Presidential Personnel.

### **NATIONAL SPACE COUNCIL (NSPC)**

The National Space Council is responsible for providing advice and recommendations to the President on the formulation and implementation of space policy and strategy. It is charged with conducting a whole-of-government approach to the nation's space interests: civil, military, intelligence, commercial, or diplomatic. Historically, it has been chaired by the Vice President at the President's direction, and its members consist of members of the Cabinet and other senior executive branch officials as specified by the President in Executive Order 13803.<sup>32</sup> The NSpC's purpose is to ensure that the President's priorities relative to space are carried out and, as necessary, to resolve policy conflicts among departments and agencies that are related to space.

Space projects and programs are risky, complex, expensive, and time consuming—although commercial space innovations are lowering costs and accelerating schedules. Nevertheless, while fiscal discipline should not be ignored, long-term policy stability is crucial to investors, innovators, industry, and agencies. Policy stability is easier when policies and programs are aligned with long-term national interests as opposed to those of particular advocacy groups or political factions. The Trump Administration's major space policies—including the U.S. Space Force, the Artemis program to land the next Americans on the moon, and support for a strong commercial space sector—have endured under the Biden Administration.

Major challenges remain in implementation and regulatory reform to keep up with rapidly evolving space markets and competitors. These include the long-term sustainability of space activities in light of increasing orbital debris; creation of space situational awareness services for civil and commercial uses; management of mega-constellations; licensing of new commercial remote sensing capabilities; keeping up with licensing demands due to high launch rates; transitioning International Space Station operations to multiple, privately owned space platforms; and (most important) accelerating the acquisition and fielding of national security space capabilities in response to an increasingly aggressive China.

The Vice President should have a clear understanding with the National Security Advisor and the White House Counsel that they and their respective staffs will work within the White House to determine the scope and leadership of policy reviews that can overlap multiple areas of responsibility. A similar understanding is necessary with the heads of other policy councils such as the NEC, DPC, and National Science and Technology Council (NSTC).

As a result of the President's direction and the Vice President's leadership, the NSpC under the Trump Administration was able to coordinate a wide range of



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space policy reviews, legislative proposals, and regulatory reforms smoothly. The NSpC generally led on space issues within the EOP, but other White House offices also took on space topics.

- As a member of the NSpC, and in coordination with other members, the Office of Science and Technology Policy developed a national space weather strategy, research and development (R&D) plans to mitigate the effects of orbital debris, and protocols for planetary protection to avoid biological contamination of celestial bodies.
- The Council of Economic Advisers did research on the economic benefits of space property rights.
- OMB's Office of Information and Regulatory Reform updated and streamlined commercial launch licensing and commercial remote sensing satellite rules.

During the Trump Administration, if a topic was purely military, such as standing up the U.S. Space Command, the NSC took the lead. If a topic cut across military, civil, and commercial sectors, as was the case with cybersecurity in space, the NSpC and NSC would cochair the policy review groups.

Trusted, collegial relationships across the White House complex are critical to successful space policy development, implementation, and oversight. Nowhere is this more important than in the relationship between the NSpC staff and OMB staff who oversee civil and national security-related space spending. Teamwork between the NSpC and OMB staff can communicate clear presidential priorities to departments and agencies, facilitating smooth development of the President's budget request. The NSpC and OMB have many opportunities to collaborate in promoting presidential priorities while finding offsets in lower-priority programs and funding lines.

## **OFFICE OF SCIENCE AND TECHNOLOGY POLICY (OSTP)**

The White House Office of Science and Technology Policy (OSTP) was created by the National Science and Technology Policy, Organization, and Priorities Act of 1976.<sup>33</sup> Before its creation, Presidents received their advice and counsel on such matters through advisers and boards that had no statutory authority. The Director of OSTP is one of the few Senate-confirmed positions within the Executive Office of the President. Consistent with other laws, the President may delegate to the Director of OSTP directive authority over other elements of the executive branch. Other EOP policy officials and organizations such as the NSC and NEC are formally only advisory with relevant agency directives issued by the President.

The OSTP's functions, as contained in the law, are to advise the President of scientific and technological considerations, evaluate the effectiveness of the federal effort, and generally lead and coordinate the federal government's R&D programs. If science is being manipulated at the agencies to support separate political and institutional agendas, the President should increase the prominence of the OSTP's Director either formally or informally. This would elevate the role of science in policy discussions and subsequent outcomes and theoretically help to balance out agencies like the Departments of Energy, State, and Commerce and the Environmental Protection Agency and Council on Environmental Quality. The OSTP can also help to bring technical expertise to regulatory matters in support of OMB.

The OSTP should continue to play a lead role in coordinating federal R&D programs. Recent legislation, especially the CHIPS and Science Act,<sup>34</sup> has expanded federal policy and funding across the enterprise, and there is a need for more significant leadership in this area both to ensure effectiveness and to avoid duplication of effort. As befitting its location in the White House, the OSTP must be concerned with advancing national interests and not merely the parochial concerns of departments, agencies, or parts of the scientific community.

During the Trump and Biden Administrations, there has been a bipartisan focus on prioritizing R&D funding around the so-called Industries of the Future (IOTF). Under President Trump, IOTF priorities were artificial intelligence (AI), quantum information science (QIS), advanced communications/5G, advanced manufacturing, and biotechnology. Under President Biden, this list has been expanded to include advanced materials, robotics, battery technology, cybersecurity, green products and clean technology, plant genetics and agricultural technologies, nanotechnology, and semiconductor and microelectronics technologies. These priorities should be evaluated and narrowed to ensure consistency with the next Administration's priorities.

Given a long list of priorities, coordinating efforts across agencies and measuring success are extremely challenging. The OSTP and OMB are required to work together on an annual basis to prioritize the funding requests and whatever Congress adds on top of them, but there continues to be concern about mission creep and funds expended on nonscientific R&D.

The President should also issue an executive order to reshape the U.S. Global Change Research Program (USGCRP) and related climate change research programs. The USGCRP produces strategic plans and research (for example, the National Climate Assessment) that reduce the scope of legally proper options in presidential decision-making and in agency rulemakings and adjudications. Also, since much environmental policymaking must run the gauntlet of judicial review, USGCRP actions can frustrate successful litigation defense in ways that the career bureaucracy should not be permitted to control. The process for producing assessments should include diverse viewpoints. The OSTP and OMB should jointly assess the independence of the contractors used to conduct much of this outsourced

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government research that serves as the basis for policymaking. The next President should critically analyze and, if required, refuse to accept any USGCRP assessment prepared under the Biden Administration.

The President should also restore related EOP research components to their purely informational and advisory roles. Consistent with the Global Change Research Act of 1990,<sup>35</sup> USGCRP-related EOP components should be confined to a more limited advisory role. These components should include but not necessarily be limited to the OSTP; the NSTC's Committee on Environment; the USGCRP's Interagency Groups (for example, the Carbon Cycle Interagency Working Group); and the Federal Coordinating Council for Science, Engineering, and Technology. As a general matter, the new Administration should separate the scientific risk assessment function from the risk management function, which is the exclusive domain of elected policymakers and the public.

Finally, the next Administration will face a significant challenge in unwinding policies and procedures that are used to advance radical gender, racial, and equity initiatives under the banner of science. Similarly, the Biden Administration's climate fanaticism will need a whole-of-government unwinding. As with other federal departments and agencies, the Biden Administration's leveraging of the federal government's resources to further the woke agenda should be reversed and scrubbed from all policy manuals, guidance documents, and agendas, and scientific excellence and innovation should be restored as the OSTP's top priority.

### **COUNCIL ON ENVIRONMENTAL QUALITY (CEQ)**

The Council on Environmental Quality is the EOP component with the principal task of administering the National Environmental Policy Act (NEPA)<sup>36</sup> by issuing regulations and interpretive documents and by overseeing the processes of individual permitting agencies' own NEPA regulations, including categorical exclusions. The CEQ also coordinates environmental policy across the federal government, and its influence has waxed and waned across Administrations.

The President should instruct the CEQ to rewrite its regulations implementing NEPA along the lines of the historic 2020 effort and restoring its key provisions such as banning the use of cumulative impact analysis. This effort should incorporate new learning and more aggressive reform options that were not included in the 2020 reform package with the overall goal of streamlining the process to build on the Supreme Court ruling that "CEQ's interpretation of NEPA is entitled to substantial deference."<sup>37</sup> It should frame the new regulations to limit the scope for judicial review of agency NEPA analysis and judicial remedies, as well as to vindicate the strong public interest in effective and timely agency action.

The Federal Permitting Improvement Steering Council (FPISC), of which the CEQ is a part, has been empowered by Congress through significant new funding and amendments to FAST-41.<sup>38</sup> The President should build on this foundation to

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further empower the FPISC by making its Executive Director an EOP appointee with delegated presidential directive authority over executive branch permitting agencies. For instance, the implementation of Executive Order 13807's One Federal Decision<sup>39</sup> revealed many ways that the systems established by EO 13807 can be improved. The new President should seek to issue a new executive order to create a unified process for major infrastructure projects that includes giving project proponents more control of any regulatory clocks.

The President should issue an executive order establishing a Senior Advisor to coordinate the policy development and implementation of relevant energy and environment policy by officials across the EOP (for example, the policy staff of the NSC, NEC, DPC, CEQ, and OSTP) and abolishing the existing Office of Domestic Climate Policy. The Senior Advisor would report directly to the Chief of Staff. The role would be similar to the role that Brian Deese and John Podesta had in the Obama White House. This energy/environment coordinator would help to lead the fight for sound energy and environment policies both domestically and internationally.

The President should eliminate the Interagency Working Group on the Social Cost of Carbon (SCC), which is cochaired by the OSTP, OMB, and CEA, and by executive order should end the use of SCC analysis.

Finally, the President should work with Congress to establish a sweeping modernization of the entire permitting system across all departments and agencies that is aimed at reducing litigation risk and giving agencies the authority to establish programmatic, general, and provisional permits.

### **OFFICE OF NATIONAL DRUG CONTROL POLICY (ONDCP)**

Congress created the Office of National Drug Control Policy (ONDCP) through the Anti-Drug Abuse Act of 1988<sup>40</sup> to serve as a coordinative auxiliary for the President on all matters related to drug policy. The next President's top drug policy priority must be to address the current fentanyl crisis and reduce the number of overdoses and fatalities. This crisis resulted in the deaths of more than 100,000 Americans in 2021.

The next Administration must reaffirm a commitment to preventing drug use before it starts, providing treatment that leads to long-term recovery, and reducing the availability of illicit drugs in the United States. The drug trafficking environment is exponentially more dynamic and dangerous today than it was just five years ago as powerful synthetic opioids (fentanyl and its analogues) are mixed into other drugs of abuse. Drug trafficking organizations are extremely nimble and able to adapt quickly to federal government actions and changes in user behavior. Disrupting the flow of drugs across our borders and into our communities is of paramount importance, both to save lives and to bolster our public health efforts. For these reasons, the Director of ONDCP should make it a point to consult with federal border enforcement officials.

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The National Drug Control Program agencies represented a total of \$41 billion in fiscal year 2022. Whereas the position for overseeing budget activities is traditionally held by a career official, it is imperative that a political appointee lead the ONDCP budget office to ensure coordination between the OMB Program Associate Director and the ONDCP budgetary appointee.

ONDCP grant-making activities have been controversial over the years, particularly within conservative Administrations concerned that the White House lacks the expertise to oversee such programs directly. The ONDCP administers two grant programs: the Drug-Free Communities Support Program and the High Intensity Drug Trafficking Areas Program. While it makes sense to transfer these programs eventually to the Department of Justice and Department of Health and Human Services, respectively, it is vital that the ONDCP Director ensure in the immediate term that these grant programs are funding the President's drug control priorities and not woke nonprofits with leftist policy agendas. Thus, the President must insure that the ONDCP is managed by political appointees who are committed to the Administration's agenda and not acquiesce to management by political or career military personnel who oversaw the prior Administration's ONDCP.

### **GENDER POLICY COUNCIL (GPC)**

The President should immediately revoke Executive Order 14020<sup>41</sup> and every policy, including subregulatory guidance documents, produced on behalf of or related to the establishment or promotion of the Gender Policy Council and its subsidiary issues. Abolishing the Gender Policy Council would eliminate central promotion of abortion ("health services"); comprehensive sexuality education ("education"); and the new woke gender ideology, which has as a principal tenet "gender affirming care" and "sex-change" surgeries on minors. In addition to eliminating the council, developing new structures and positions will have the dual effect of demonstrating that promoting life and strengthening the family is a priority while also facilitating more seamless coordination and consistency across the U.S. government.

Specifically, the President should appoint a position/point of contact with the rank of Special Assistant to the President or higher to coordinate and lead the President's domestic priorities on issues related to life and family in cooperation with the Domestic Policy Council. This position would be responsible for facilitating meetings, discussions, and agreements among personnel; coordinating Administration policy; and ensuring agency support for implementation of policies related to the promotion of life and family in the United States.

### **OFFICE OF THE VICE PRESIDENT (OVP)**

The Vice President is elected to the second highest office in the nation and plays a constitutionally vital role as President-in-waiting. The Vice President is also

the President of the Senate and is charged with breaking tie votes in that body. In recent years, the Vice President has been granted office space in the West Wing and the Eisenhower Executive Office Building.

The OVP is another one of the levers that the President should use to execute his agenda. This is particularly true because there is significant and unique leverage that the Vice President's leadership of the OVP can evoke to shape policy discussions and outcomes. Every other appointed White House official serves at the pleasure of the President, whereas the Vice President is elected, and the process for filling vacancies in that Article II constitutional office, which includes confirmation of a replacement Vice President by a majority of both Houses of Congress, is governed by the Twenty-Fifth Amendment.<sup>42</sup>

The Vice President has his or her own economic advisers, domestic policy and national security staff, and daily intelligence briefings. The Vice President should fill his or her office with strong and sound policy minds to effectively assist the President in fulfilling his agenda.

The Vice President is also a statutory member of the National Security Council.<sup>43</sup> In theory, in light of the fact that the Vice President is a member of the Smithsonian Institution's Board of Regents,<sup>44</sup> there is nothing to prevent Congress from assigning the Vice President additional statutory duties.

All of the component councils and offices discussed in this chapter include real policy development and implementation authority, and a robust OVP should be fully integrated into all policy-formation procedures. Only a Vice President who is deeply steeped in the interworking of the interagency and policy councils can offer useful advice and prove helpful in accomplishing the President's agenda. It is also obvious, in view of the fact that many former Vice Presidents have gone on to be elected President in their own right,<sup>45</sup> that the Vice Presidency can act as a training ground for presidential office.

In the past, the Vice President has been tasked with leading certain initiatives or issues. For example, Mike Pence was tasked with coordinating the federal response to COVID-19, and both Pence and Kamala Harris have chaired the National Space Council. Vice Presidents Richard Cheney and Dan Quayle were also active on the deregulatory front and in imposing regulatory moratoria. However, OVP officials should be fully integrated into each and every process from the start of a new Administration and not have to wait to be invited to join various meetings or working groups on an ad hoc basis. For example, the budget and regulatory review processes are linchpins in the execution of policy, and the OVP should have a seat at the table through every phase of policy development.

Past Vice Presidents have also spent significant time abroad serving as a type of brand ambassador for the White House and, more broadly, for the United States, announcing Administration priorities and coordinating with heads of state and other top officials of foreign governments. The Vice President, as President of the

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Senate, often serves as a presidential emissary to the Senate and thus can be especially helpful in securing passage of the President's legislative agenda.

To the extent that he or she desires, a Vice President can have a direct role in shaping Administration policy. A Vice President who regularly attends meetings and disperses staff across the interagency and policy councils is a Vice President whose voice will be heard.

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42. U.S. Constitution, Amendment XXV, <https://www.law.cornell.edu/constitution/amendmentxxv> (accessed March 9, 2023).
43. 50 U.S.C. § 3021(c)(1), <https://www.law.cornell.edu/uscode/text/50/3021> (accessed March 9, 2023).
44. 20 U.S.C. § 20(a), <https://www.law.cornell.edu/uscode/text/20/42#:~:text=The%20business%20of%20the%20Institution%20shall%20be%20conducted,no%20two%20of%20them%20of%20the%20same%20State> (accessed March 9, 2023).
45. Vice Presidents Gerald Ford and Lyndon Johnson assumed (Ford) or initially assumed (Johnson) the office of the presidency by a process of succession.

