



Photo courtesy: Charles Dbarapak/AP/Wide World Photos

The Executive Branch and the Federal Bureaucracy

FREQUENTLY, CRITICS OF THE BUREAUCRACY ARGUE that the maze of administrative regulations, rules, and procedures makes it difficult for individual citizens to obtain government services, from student loans to drivers' licenses. One bureaucrat might tell you to do X; another one will tell you to do Y—after you have stood in the wrong line for an hour or two. But, it is unusual for a major actor in the bureaucracy not to know what other actors are doing.

However, the major governmental reorganization that occurred in the wake of the September 11, 2001, terrorist attacks has caused a number of conflicts over departmental responsibilities. For example, as a part of the reorganization, Congress authorized the creation of a Department of Homeland Security. Under the Homeland Security Act of 2002, the department alone has the authority to issue threat warnings, with the cooperation of several agencies and the White House. These warnings are usually issued by the department's secretary; during President George W. Bush's first term, this post was filled by former Pennsylvania Governor Tom Ridge.

But, on May 27, 2004, Attorney General John Ashcroft and FBI Director Robert Mueller called a press conference to ask the public's help in capturing seven suspected terrorists within the United States. In that same press conference, they addressed an imminent terrorism threat to the United States. Both men concluded that a terrorist attack on the United States was likely in the next few months. News accounts quickly revealed that Secretary Ridge first heard about Ashcroft's and Mueller's concerns as he watched television along with millions of other Americans. In fact, earlier that day on several morning news shows, Ridge had downplayed any increased risks of terrorist attack.

Lawmakers, whose job it is to oversee the Department of Homeland Security, were irate and said that the comments made by Ashcroft and Mueller undermined efforts of the national government to assure its citizens of their safety. For example, Representative Christopher Cox (R-CA), who chairs the House Committee overseeing the Department of Homeland Security, remarked,

CHAPTER OUTLINE

- The Executive Branch and the Development of the Federal Bureaucracy
- The Modern Bureaucracy
- How the Bureaucracy Works
- Making Agencies Accountable


“The reason that Congress created the Department of Homeland Security is that we need to merge the various parts of government responsible for pieces of the war on terrorism into one coordinated effort.”¹

The White House was quick to call a meeting of all of the principals, who then issued a joint statement in

an effort to clear the air of conflicting messages. But, to the general public, the issue was not one of conflicting messages. It underscored the common perception that the federal bureaucracy is rife with problems in spite of continued efforts to improve performance and communication that actually have succeeded in some areas.

bureaucracy

A set of complex hierarchical departments, agencies, commissions, and their staffs that exist to help a chief executive officer carry out his or her duties. Bureaucracies may be private organizations of governmental units.



THE FEDERAL BUREAUCRACY often is called the “fourth branch of government” because of the tremendous power that agencies and bureaus can exercise. Politicians often charge that the **bureaucracy**, the thousands of federal government agencies and institutions that implement and administer federal law and federal programs, is too large, too powerful, and too unaccountable to the people or even to elected officials. Many politicians, elected officials, and voters complain that the federal bureaucracy is too wasteful. Nevertheless, few critics discuss the fact that laws and policies also are implemented by state and local bureaucracies and bureaucrats whose numbers are proportionately far larger, and often far less efficient, than those working for the federal government.

Although many Americans are uncomfortable with the large role of the federal government in policy making, current studies show that most users of federal agencies rate quite favorably the agencies and the services they receive. Many of those polled by the Pew Research Center as part of its efforts to assess America’s often seemingly conflicting views about the federal government and its services were frustrated by complicated rules and the slowness of a particular agency. Still, a majority gave most agencies overall high marks. Most of those polled drew sharp distinctions between particular agencies and the government as a whole, although the federal government, especially the executive branch, is largely composed of agencies, as we will discuss later in this chapter. For example, 84 percent of physicians and pharmacists rated the Food and Drug Administration favorably, whereas only one-half were positive about the government in general.² The survey also found that attitudes toward particular agencies were related to public support for their functions. Thus, the public, which views clean air and water as a national priority, was much more likely to rate the Environmental Protection Agency highly.

Harold D. Lasswell once defined political science as the “study of who gets what, when, and how.”³ It is by studying the bureaucracy that those questions can perhaps best be answered. To allow you to understand the role of the bureaucracy, this chapter explores the following issues:

1. First, we will examine *the executive branch and the development of the federal bureaucracy*.
2. Second, we will examine *the modern bureaucracy* by discussing bureaucrats and the formal organization of the bureaucracy.
3. Third, we will discuss *how the bureaucracy works*.
4. Finally, we will discuss *making agencies accountable*.

THE EXECUTIVE BRANCH AND THE DEVELOPMENT OF THE FEDERAL BUREAUCRACY

IN THE AMERICAN SYSTEM, the bureaucracy can be thought of as the part of the government that makes policy as it links together the three branches of the national government

in the federal system. Although Congress makes the laws, it must rely on bureaucrats in the executive branch to enforce and implement them. Commissions such as the Equal Employment Opportunity Commission (EEOC), which is charged with enforcing federal anti-discrimination laws, have the power not only to make rules, but also to settle disputes between parties concerning the enforcement and implementation of those rules. Often, agency determinations are challenged in the courts. Because most administrative agencies that make up part of the bureaucracy enjoy reputations for special expertise in clearly defined policy areas, the federal judiciary routinely defers to bureaucratic administrative decision makers.

German sociologist Max Weber believed bureaucracies were a rational way for complex societies to organize themselves. Model bureaucracies, said Weber, are characterized by certain features, including:

1. A chain of command in which authority flows from top to bottom.
2. A division of labor whereby work is apportioned among specialized workers to increase productivity.
3. Clear lines of authority among workers and their superiors.
4. A goal orientation that determines structure, authority, and rules.
5. Impersonality, whereby all employees are treated fairly based on merit and all clients are served equally, without discrimination, according to established rules.
6. Productivity, whereby all work and actions are evaluated according to established rules.⁴

Clearly, this Weberian idea is somewhat idealistic, and even the best-run government agencies don't always work this way, but most are trying.

In 2005, the executive branch had approximately 1.8 million civilian employees employed directly by the president or his advisers or in independent agencies or commissions. The Department of Defense had an additional 2 million in the military. The Postal Service, which is a quasi-governmental corporation not part of the executive branch, has more than 800,000 employees (and is second only to Wal-Mart in total number of employees).⁵

In 1789, conditions were quite different. Only three departments existed under the Articles of Confederation: Foreign Affairs, War, and Treasury. George Washington inherited those departments, and soon, the head of each department was called its secretary and Foreign Affairs was renamed the Department of State. To provide the president with legal advice, Congress also created the office of attorney general. From the beginning, individuals appointed as Cabinet secretaries (as well as the attorney general) were subject to approval by the U.S. Senate, but they were removable by the president alone. Even the First Congress realized how important it was that a president be surrounded by those in whom he had complete confidence and trust.

From 1816 to 1861, the size of the federal executive branch and the bureaucracy grew as increased demands were made on existing departments and new departments were created. The Postal Service, for example, which Article I constitutionally authorized the Congress to create, was forced to expand to meet the needs of a growing and westward-expanding population. Andrew Jackson removed the Post Office from the jurisdiction of the Department of the Treasury in 1829 and promoted the postmaster general to Cabinet rank.

The post office quickly became a major source of jobs President Jackson could fill by presidential appointment, as every small town and village in the United States had



Photo courtesy: NMR © Rob Crandall/The Image Works

■ The Federal bureaucracy encompasses numerous agencies and institutions. Here, an employee of the Bureau of Engraving and Printing checks new U.S. dollar bills.



spoils system

The firing of public-office holders of a defeated political party and their replacement with loyalists of the newly elected party.

patronage

Jobs, grants, or other special favors that are given as rewards to friends and political allies for their support.

Pendleton Act

Reform measure that created the Civil Service Commission to administer a partial merit system. The act classified the federal service by grades, to which appointments were made based on the results of a competitive examination. It made it illegal for federal political appointees to be required to contribute to a particular political party.



Photo courtesy: Bettmann/CORBIS

■ A political cartoonist's view of how President Andrew Jackson would be immortalized for his use of the spoils system.

its own postmaster. In commenting on Jackson's wide use of political positions to reward friends and loyalists, one fellow Jacksonian Democrat commented: "to the victor belongs the spoils." From that statement came the term **spoils system**, which describes an executive's ability to fire public officeholders of the defeated political party and replace them with party loyalists.

The Civil War and the Growth of Government

As discussed in chapter 3, the Civil War (1861–1865) permanently changed the nature of the federal bureaucracy. As the nation geared up for war, thousands of additional employees were added to existing departments. The Civil War also spawned the need for new government agencies. A series of poor harvests and distribution problems led President Abraham Lincoln (who understood that you need well-fed troops to conduct a war) to create the Department of Agriculture in 1862, although it was not given full Cabinet-level status until 1889.

After the Civil War, the need for a strong national government continued unabated. The Pension Office was established in 1866 to pay benefits to the thousands of Union veterans who had fought in the war (more than 127,000 veterans initially were eligible for benefits). Justice was made a department in 1870, and other departments were added through 1900. Agriculture became a full-fledged department and began to play an important role in informing farmers about the latest developments in soil conservation, livestock breeding, and planting techniques. The increase in the types and nature of government services resulted in a parallel rise in the number of federal jobs, as illustrated in *Analyzing Visuals: The Ebb and Flow of Federal Employees in the Executive Branch, 1789–2004*. Many of the new jobs were used by the president or leaders of the president's political party for **patronage**, that is, jobs, grants, or other special favors given as rewards to friends and political allies for their support. Political patronage often is defended as an essential element of the party system because it provides rewards and inducements for party workers.

From the Spoils System to the Merit System

The spoils system reached a high-water mark during Abraham Lincoln's presidency. By the time James A. Garfield, a former distinguished Civil War officer, was elected president in 1880, many reformers were calling for changes in the patronage system. On his election to office, Garfield, like many presidents before him, was besieged by office seekers. Washington, D.C., had not seen such a demand for political jobs since Abraham Lincoln became the first president elected as a Republican. Garfield's immediate predecessor, Rutherford B. Hayes, had favored the idea of the replacement of the spoils system with a merit system based on test scores and ability. Congress, however, failed to pass the legislation he proposed. Possibly because potential job seekers wanted to secure positions before Congress had the opportunity to act on an overhauled civil service system, thousands pressed Garfield for positions. This siege prompted Garfield to record in his diary: "My day is frittered away with the personal seeking of people when it ought to be given to the great problems which concern the whole country."⁶ Garfield resolved to reform the civil service, but his life was cut short by the bullets of an assassin who, ironically, was a frustrated job seeker.

Public reaction to Garfield's death and increasing criticism of the spoils system prompted Congress to pass the Civil Service Reform Act in 1883, more commonly known as the **Pendleton Act**, named in honor of its sponsor, Senator George



Photo courtesy: Bettmann/CORBIS

■ An artist's interpretation of President James A. Garfield's assassination at the hands of an unhappy office seeker.

H. Pendleton (D–OH). It established the principle of federal employment on the basis of open, competitive exams and created a bipartisan three-member Civil Service Commission, which operated until 1978. Initially, only about 10 percent of the positions in the federal **civil service system** were covered by the law, but later laws and executive orders extended coverage of the act to over 90 percent of all federal employees. This new system was called the **merit system**, one characteristic of Weber's model bureaucracy.

Regulating the Economy and the Growth of Government in the Twentieth Century

As the nation grew, so did the bureaucracy. In the wake of the tremendous growth of big business (especially railroads), widespread price fixing, and other unfair business practices that occurred after the Civil War, Congress created the Interstate Commerce Commission (ICC). In creating the ICC, Congress was reacting to public outcries over the exorbitant rates charged by railroad companies for hauling freight. It became the first **independent regulatory commission**, an agency outside a major executive department. Independent regulatory commissions such as the ICC, generally concerned with particular aspects of the economy, are created by Congress to be independent of direct presidential authority. Commission members are appointed by the president and hold their jobs for fixed terms, but they are not removable by the president unless they fail to uphold their oaths of office. In 1887, the creation of the ICC also marked a shift in the focus of the bureaucracy from service to regulation. Its creation gave the government—in the shape of the bureaucracy—vast powers over individual and property rights.

When Theodore Roosevelt, a progressive Republican, became president in 1901, the movement toward governmental regulation of the economic sphere was strengthened. The size of the bureaucracy was further increased when, in 1903, Roosevelt

civil service system

The system created by civil service laws by which many appointments to the federal bureaucracy are made.

merit system

The system by which federal civil service jobs are classified into grades or levels, to which appointments are made on the basis of performance on competitive examinations.

independent regulatory commission

An agency created by Congress that is generally concerned with a specific aspect of the economy.

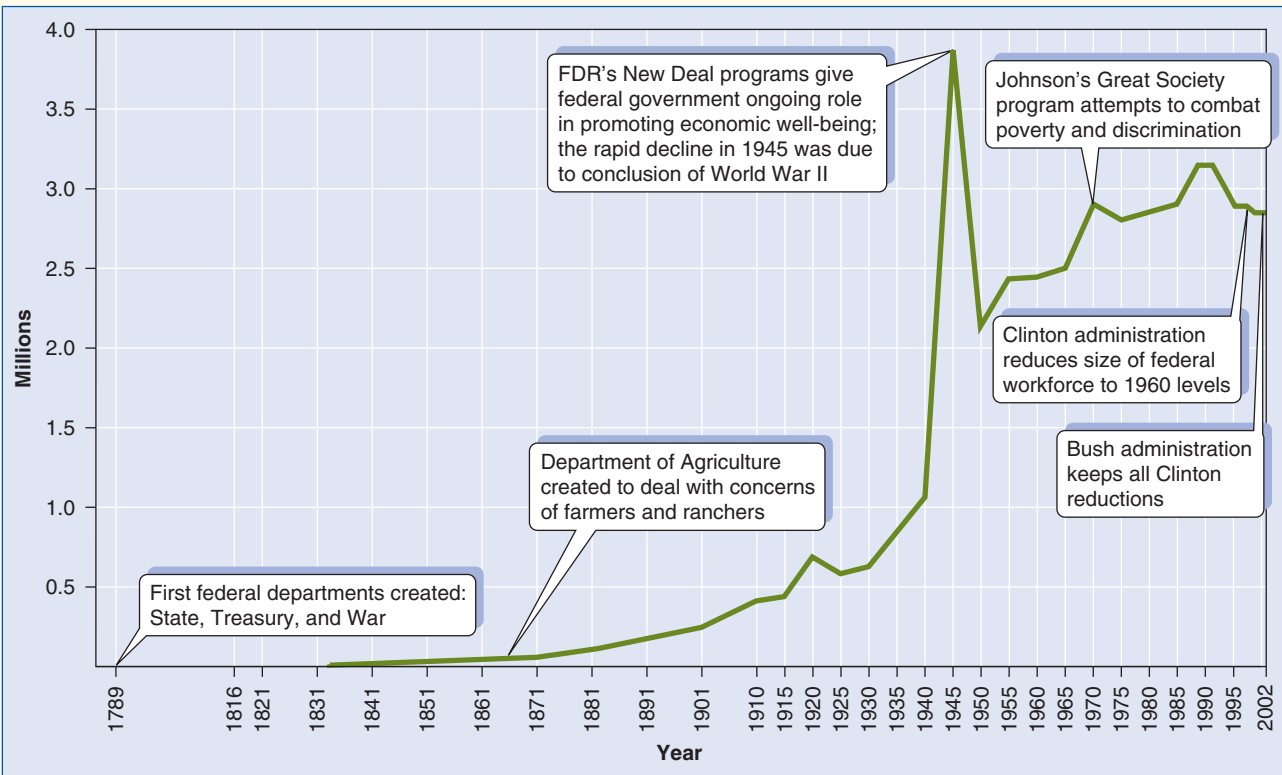
Analyzing Visuals

NUMBER OF FEDERAL EMPLOYEES IN THE EXECUTIVE BRANCH, 1789–2002

The federal government grew slowly until the 1930s, when Franklin D. Roosevelt’s New Deal programs were created in response to the high unemployment and weak financial markets of the Great Depression. A more modest spike in the federal workforce occurred in the mid-1960s during Lyndon B. Johnson’s Great Society program. Through 2005, seven new executive departments were created: the Department of Housing and Urban Development (1965), the Department of Transportation (1966), the Department of Energy (1977), the Department of Education and the Department of Health and Human Services (1979—created out of the old Department of Health, Education, and Welfare), the Department of Veterans Affairs (1989), and the Department of Homeland Security (2003). It is important to

note that while the number of federal employees has gone down, agencies increasingly make use of outside contractors to do their work.

After reviewing the data and balloons in the line graph and reading the material in this chapter on the roots and development of the executive branch and federal bureaucracy, answer the following critical thinking questions: Before the United States’ involvement in World War II, what was the principal reason for the growth in the number of federal employees? The rapid decline in federal employees between 1945 and 1950 resulted from the end of World War II, but why do you think the number of federal employees declined after 1970? What do you think caused the increase in federal employees between 1975 and 1990?



Sources: Office of Personnel Management, *The Fact Book*, <http://www.opm.gov/feddata/03factbk.pdf>.

asked Congress to establish a Department of Commerce and Labor to oversee employer-employee relations. At the turn of the twentieth century, many workers toiled long hours for low wages in substandard conditions. Many employers refused to recognize the rights of workers to join unions, and many businesses had grown so

large and powerful that they could force workers to accept substandard conditions.

In 1913, when it became clear that one agency could not well represent the interests of both employers and employees, President Woodrow Wilson divided the Department of Commerce and Labor, creating two separate departments: Commerce and Labor. One year later, in 1914, Congress created the Federal Trade Commission (FTC). Its function was to protect small businesses and the public from unfair competition, especially from big business. Bureaus within departments also were created to concentrate on a variety of issues.

As discussed in chapter 3, the ratification of the Sixteenth Amendment to the Constitution in 1913 affected the size of government and the possibilities for growth. It gave Congress the authority to implement a federal income tax to supplement the national treasury and provided an infusion of funds to support new federal agencies, services, and governmental programs.

In the wake of the high unemployment and weak financial markets of the Great Depression, President Franklin D. Roosevelt created hundreds of new government agencies to regulate business practices and various aspects of the economy. Roosevelt proposed, and the Congress enacted, far-ranging economic legislation. The desperate mood of the nation supported these moves, as most Americans began to change their ideas about the proper role of government and the provision of governmental services. Formerly, most Americans had believed in a hands-off approach; now they considered it the government's job to get the economy going and get Americans back to work.

During World War II, the federal government continued to grow tremendously to meet the needs of a nation at war. Tax rates were increased to support the war, and they never again fell to prewar levels. After the war, this infusion of new monies and veterans' demands for services led to a variety of new programs and a much bigger government. The G.I. (Government Issue) Bill, for example, provided college loans for returning veterans and reduced mortgage rates to allow them to buy homes. The national government's involvement in these programs not only affected more people but also led to its greater involvement in more regulation. Homes bought with Veterans Housing Authority loans, for example, had to meet certain specifications. With these programs, Americans became increasingly accustomed to the national government's role in entirely new areas such as affordable middle-class housing, which never would have existed without government assistance.

Within two decades after World War II, the civil rights movement and President Lyndon B. Johnson's War on Poverty produced additional growth in the bureaucracy. The Equal Employment Opportunity Commission (EEOC) was created in 1965 (by the Civil Rights Act of 1964). The Departments of Housing and Urban Development (HUD) and Transportation were created in 1965 and 1966, respectively. These expansions of the bureaucracy corresponded to increases in the president's power and his ability to persuade Congress that new agencies would be an effective way to solve pressing social problems. Remember from chapter 8 that most major expansions of bureaucratic and presidential power occurred during times of war, social crisis, or economic emergency, as is underscored by the recent creation of the new, huge Department of Homeland Security.



Photo courtesy: OAP Photo

■ During the New Deal, President Franklin D. Roosevelt suggested and Congress enacted the Emergency Relief Appropriation Act, which authorized the Works Progress Administration (WPA) to hire thousands of unemployed workers to complete numerous public work projects.

Government Workers and Political Involvement

As an increasing proportion of the American workforce came to work for the U.S. government as a result of the New Deal recovery programs, many began to fear that the members of the civil service would play major roles not only in implementing public policy but also in electing members of Congress and even the president. Consequently, Congress enacted the Political Activities Act of 1939, commonly known as the **Hatch Act**, named in honor of its main sponsor, Senator Carl Hatch (D-NM). It was designed to prohibit federal employees from becoming directly involved in working for political candidates.

Although presidents as far back as Thomas Jefferson had advocated efforts to limit the opportunities for federal civil servants to influence the votes of others, over the years many criticized the Hatch Act as too extreme. Critics argued that it denied millions of federal employees First Amendment guarantees of freedom of speech and association and discouraged political participation among a group of people who might otherwise be strong political activists. Critics also argued that civil servants should become more involved in campaigns, particularly at the state and local level, to understand better the needs of the citizens they serve.

In 1993, in response to criticisms of the Hatch Act and at the urgings of President Bill Clinton, Congress enacted the **Federal Employees Political Activities Act**. This liberalization of the Hatch Act allows employees to run for public office in nonpartisan elections, contribute money to political organizations, and campaign for or against candidates in partisan elections. They still, however, are prohibited from engaging in political activity while on duty, soliciting contributions from the general public, or running for office in partisan elections. During the signing ceremony, Clinton said the law will “mean more responsive, more satisfied, happier, and more productive federal employees.”⁷ See Table 9.1 for more specifics about the Federal Employees Political Activities Act .

Some workers, however, didn’t even realize that they were federal employees. The Hatch Act, for example, had a surprising effect when a teacher in the Washington, D.C., public schools was fired for running for the D.C. city council, a race he lost in a landslide. Prior to the 1993 amendments, D.C. employees were exempt from the Hatch Act’s reach. But, political wrangling led to their being covered in the 1993 amendments. Thus, because D.C. employees are treated as federal workers, they are not exempt from Hatch Act provisions that bar federal workers from running for public office in partisan elections. Initially, the teacher wasn’t aware of the prohibition, but he refused to terminate his candidacy even after being notified that it could cost him his job.⁸

Hatch Act

Law enacted in 1939 to prohibit civil servants from taking activist roles in partisan campaigns. This act prohibited federal employees from making political contributions, working for a particular party, or campaigning for a particular candidate.

Federal Employees Political Activities Act

1993 liberalization of the Hatch Act. Federal employees are now allowed to run for office in nonpartisan elections and to contribute money to campaigns in partisan elections.