



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Listing Agency Officials

Committee on Administration and Management

Proposed Recommendation for Committee | October 18, 2019

1 Presidential appointees and the members of the Senior Executive Service (SES) sit at the
2 highest levels of federal agencies.¹ In December 2016, the federal government included 1,242
3 Senate-confirmed, Presidentially-appointed positions (PAS positions) and 472 other
4 Presidentially-appointed positions (PA positions).² The SES included 8,156 individuals in 2016
5 (7,321 career SES, 737 noncareer SES, and 96 limited term/emergency SES).³ These leaders
6 help direct a federal workforce of more than two million employees.⁴

7 The public often learns the identities of cabinet secretaries, heads of other agencies, and a
8 handful of other very high-ranking officials. But the public knows far less about the next layers

Commented [ACUS1]: Staff will expand the introduction here to explain why the Recommendation is scoped in this way.

¹ This Recommendation uses the Administrative Procedure Act’s broad definition of “agency.” 5 U.S.C. § 551(1). By “subcomponent,” this Recommendation refers to bureaus and other subunits within a larger executive department or agency. See JENNIFER L. SELIN & DAVID E. LEWIS, ADMIN. CONF. OF THE U.S., SOURCEBOOK OF UNITED STATES EXECUTIVE AGENCIES 13–15, 125–32 (2ND ED. 2018), available at <https://www.acus.gov/publication/sourcebook-united-states-executive-agencies-second-edition> (describing definitional difficulties and providing an extensive list of agencies and subunits).

² SEN. COMM. ON HOMELAND SEC. & GOV’T AFFAIRS, 114TH CONG., UNITED STATES GOVERNMENT POLICY AND SUPPORTING POSITIONS 216 (THE PLUM BOOK) (Comm. Print 2016), available at <https://www.govinfo.gov/content/pkg/GPO-PLUMBOOK-2016/pdf/GPO-PLUMBOOK-2016.pdf>.

³ OFF. OF PERSONNEL MGMT., 2016 SENIOR EXECUTIVE SERVICE REPORT 3 (2017), available at <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/federal-employment-reports/reports-publications/ses-summary-2016.pdf>.

⁴ Bobby Ochoa, Listing Agency Officials 1, 46–47 (October 10, 2019) (draft report to the Admin. Conf. of the U.S.), <https://www.acus.gov/report/draft-report-listing-agency-officials>.



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9 of the executive branch, in part because information can be difficult to locate in a centralized,
10 updated, and comprehensive format.⁵

11 A recent report by the U.S. Government Accountability Office concluded that “there is
12 no single source of data on political appointees serving in the executive branch that is publicly
13 available, comprehensive, and timely.”⁶

14 To be sure, various resources, including *United States Government Policy and*
15 *Supporting Positions* (the so-called “Plum Book”),⁷ the *Official Congressional Directory*,⁸ and
16 the *United States Government Manual*,⁹ provide periodic snapshots of the occupants of certain
17 high-level agency positions. But these publications do not cover PAS, PA, and SES officials and,
18 given turnover, can quickly become out-of-date.¹⁰ Likewise, although the Office of Personnel
19 Management (OPM) maintains extensive lists of federal employees, those lists are not available
20 in any publicly accessible forum.¹¹ Finally, while some agencies provide current information
21 about high-ranking officials on their websites, practices vary significantly.¹² Detailed

⁵ U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-19-249, GOVERNMENT-WIDE POLITICAL APPOINTEE DATA AND SOME ETHICS OVERSIGHT PROCEDURES AT INTERIOR AND SBA COULD BE IMPROVED 10–14 (2019), available at <https://www.gao.gov/assets/700/697593.pdf>; Ochoa, *supra* note 4, at 1, 39–41, 49–50.

⁶ GAO, GOVERNMENT-WIDE POLITICAL APPOINTEE DATA, *supra* note 5 (summarizing “What GAO Found”).

⁷ THE PLUM BOOK, *supra* note 2.

⁸ UNITED STATES CONGRESS, JOINT COMMISSION ON PRINTING, OFFICIAL CONGRESSIONAL DIRECTORY: 115TH CONGRESS (2017).

⁹ NAT'L ARCHIVES & REC. ADMIN., THE UNITED STATES GOVERNMENT MANUAL (2016).

¹⁰ See GAO, GOVERNMENT-WIDE POLITICAL APPOINTEE DATA, *supra* note 5, at 13 (“Until the names of political appointees and their position, position type, agency or department name, start and end dates are publicly available at least quarterly, it will be difficult for the public to access comprehensive and reliable information.”); Ochoa, *supra* note 4, at 18–38.

¹¹ Ochoa, *supra* note 4, at 45–48.

¹² *Id.* at 36–37.



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22 information about appointment terms, vacant offices, acting officials, and delegated authority is
23 often even more difficult to find.¹³

24 Knowing the identities of those who help lead federal agencies is important for
25 promoting transparency and facilitating public participation in the work of government.¹⁴ For
26 instance, congressional members and staff, White House officials, officials at other federal and
27 state agencies, the media, academic researchers, and members of the public more generally all
28 have reasons to know this information.¹⁵

29 The Conference has previously addressed related issues. In 1968, the Conference
30 recommended changes to the *U.S. Government Organization Manual*, specifically pointing out
31 deficiencies with the “narrative text submitted” by agencies and encouraging agencies to
32 improve these entries.¹⁶ This Recommendation goes much further, offering specific
33 recommendations for making agency information publicly available.

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¹³ See, e.g., Anne Joseph O’Connell, Acting Agency Officials and Delegations of Authority 16–18 (September 16, 2019) (draft report to the Admin. Conf. of the U.S.), <https://www.acus.gov/report/draft-report-acting-agency-officials> (describing significant data issues).

¹⁴ See GAO, GOVERNMENT-WIDE POLITICAL APPOINTEE DATA, *supra* note 5, at 13; Ochoa, *supra* note 4, at 3.

¹⁵ See GAO, GOVERNMENT-WIDE POLITICAL APPOINTEE DATA, *supra* note 5, at 13.

¹⁶ See, e.g., Admin. Conf. of the U.S., Recommendation 68-2, *U.S. Government Organization Manual* (Dec. 11, 1968).



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34 One of this Recommendation’s purposes is to advance the Conference’s recent efforts to
35 promote greater access to relevant agency information.¹⁷ This is a companion to
36 Recommendation 2019-__, *Listing Agency Officials*, which _____.¹⁸

RECOMMENDATION

Recommendations Applicable to Agencies Generally

- 37 1. Agencies should prominently display on their webpages updated information about each
38 current and acting PAS, PA, and SES official, including the term of each such
39 individual’s appointment (if applicable). Vacancies should also be prominently displayed.
40 2. If an agency does not list information about each current and acting PAS, PA, and SES
41 official on its own webpage for all subcomponents, it should make this clear on its
42 website and link to subcomponent websites where the information can be located.

Recommendations Applicable to the Office of Personnel Management

- 43 3. OPM should publish comprehensive data about PAS, PA, and SES officials on a monthly
44 basis on a public website and ensure the information is easily accessible.
45 4. OPM should include the following fields, if applicable, for each listed PAS, PA, and SES
46 official: Agency; Name (first and last); Job Title; Start Date; End Date (if known or
47 reasonably foreseeable); and Type of Appointment.
48 5. OPM should create separate lists of current and former officials.

Commented [ACUS3]: Should similar language about specific fields appear in #1 (re: agencies)?

¹⁷ See, e.g Admin. Conf. of the U.S., Recommendation 2019-_, *Acting Agency Officials and Delegations of Authority*, __ Fed. Reg. ____ (____); Admin. Conf. of the U.S., Recommendation 2019-3, *Public Availability of Agency Guidance Documents*, 84 Fed. Reg. 38,931 (Aug. 8, 2019); Admin. Conf. of the U.S., Recommendation 2018-6, *Improving Access to Regulations.gov’s Rulemaking Dockets*, 84 Fed. Reg. 2139 (Feb. 6, 2019); Admin. Conf. of the U.S., Recommendation 2018-5, *Public Availability of Adjudication Rules*, 84 Fed. Reg. 2142 (Feb. 6, 2019); Admin. Conf. of the U.S., Recommendation 2017-1, *Adjudication Materials on Agency Websites*, 82 Fed. Reg. 31,039 (July 5, 2017). Earlier Conference recommendations in accord include Admin. Conf. of the U.S., Recommendation 89-8, *Agency Practices and Procedures for the Indexing and Public Availability of Adjudicatory Decisions*, 54 Fed. Reg. 53,495 (Dec. 29, 1989).

¹⁸ Admin. Conf. of the U.S., Recommendation 2019-_, *Acting Agency Officials and Delegations of Authority*, __ Fed. Reg. ____ (____).