

# THE BUREAUCRACY

A bureaucracy is a complex organization in which employees have specific responsibilities and work within a hierarchical structure under formal rules. Americans come in contact with bureaucracies at all levels of government — getting a permit to add a room to your house from the municipal building department, registering a car at the Department of Motor Vehicles, and having your taxes audited by the Internal Revenue Service. There is a widespread perception that the federal bureaucracy is bloated and getting larger. The fact is, however, that most bureaucrats work for state and local government, whereas the number of civilian employees in the myriad of federal agencies has remained remarkably stable over the last half century, and has actually declined somewhat in recent years.

## **Growth and Structure of the Federal Bureaucracy**

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The federal bureaucracy began with the three executive departments — State, Treasury, and War (Defense was added in 1947) — that functioned under the Articles of Confederation and became the core of the cabinet under George Washington. While the Office of the Attorney General was established in 1789, the Justice Department was not created until 1870. Historically, the creation of new cabinet-level departments by Congress is the result of political pressure from constituent groups, for example farmers (Department of Agriculture, 1862), unions (Department of Labor, 1913), and teachers (Department of Education, 1979); their formation usually reflects new priorities in the national political agenda. The Department of Energy (1977), for instance, was established in the wake of the oil embargo and the energy crisis of the early 1970s. Sixty percent of all federal employees work in the executive departments. But the federal bureaucracy has not grown over the years by adding new agencies. Ambitious administrators are adept at convincing Congress or the administration to increase the size, scope, and personnel needed to carry out the duties of the organizations that they head. In addition to the executive departments, the federal bureaucracy consists of **independent regulatory agencies, independent executive agencies, and government corporations.**

Regulatory agencies oversee a particular sector of the economy and/or economic activity. The first independent regulatory agency set up by Congress was the Interstate Commerce Commission (established in 1887, abolished in 1995) in response to abuses by the railroad industry. The number of such agencies has grown as the conception of the role and responsibilities of the federal government has expanded. A board or commission manages these agencies; board members are appointed by the president and confirmed by the Senate for a fixed term. While appointees to several independent regulatory agencies serve at the discretion of the president, others can only be removed for cause. These agencies have quasi-legislative and quasi-judicial functions — they develop and implement rules and regulations relating to their policy area, and adjudicate disputes arising from them (see later in this chapter for a discussion of rule making). The Board of Governors of the Federal Reserve System, the Federal Communications Commission (FCC), the Federal Energy Regulatory Commission (FERC), and the Securities and Exchange Commission are a few examples of independent regulatory agencies.

Independent executive agencies range from high profile organizations such as the National Aeronautics and Space Administration (NASA) to little known ones such as the American Battlefield Monuments Commission. They are run by a single administrator appointed by the president and confirmed by the Senate, but can be removed by the president at any time. Independent executive agencies administer programs for which they were established, and may have rule-making authority like the Environmental Protection Agency. Executive agencies are independent in the sense that they are ideally above partisan politics, but clearly less so than regulatory agencies.

Government corporations are organized like private companies. Their workforce, however, consists of federal employees, and the corporations receive funding from Congress even though they may generate their own revenue. The Corporation for Public Broadcasting, which is responsible for public television and public radio, gets part of its operating budget from subscribers.

Creation of government corporations occurs for several reasons:

- To assume responsibilities that the private sector is unwilling or unable to assume. Examples include Amtrak, which runs passenger rail service throughout the country, and the Federal Deposit Insurance Corporation, which insures savings account deposits
- To improve operating efficiency, as illustrated in the case of the U.S. Postal Service
- To establish a standard that investor-owned companies would have to match, which was one purpose behind the Tennessee Valley Authority. The rates charged for electricity by the TVA were envisioned as a “yardstick” for private utilities.

## **The Federal Civil Service**

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Until the late nineteenth century, most of those appointed to the federal bureaucracy got their positions based on who they knew. The so-called **spoils system** made federal jobs a way of rewarding political supporters. Corruption was a widely recognized problem, but it took the assassination of President James Garfield in 1881 by a disgruntled office seeker to bring about meaningful civil service reform. Under the Pendleton Act (1883), the Civil Service Commission was established and merit became the basis for hiring and promotion of federal employees. The Civil Service Commission was responsible for evaluating job applicants through competitive examinations, and establishing promotion guidelines that focused on performance reviews. In 1978, these functions were taken over by the **Office of Personnel Management**, which is part of the Executive Office of the President. Once a federal worker is hired through the merit system, it is extremely difficult to fire that worker. The rules in effect, which include the right to appeal to the Merit Systems Protection Board and to challenge its decision to the U.S. Court of Appeals, can drag out the process for a long time. The Civil Service System covered only 10% of all federal employees in the late nineteenth century, with the remainder appointed through patronage; today over 90% are covered.

The federal civil service is also expected to be politically neutral. Federal employees were barred from actively campaigning for candidates, for example they could not distribute political

literature, and could not run for office themselves under the **Hatch Act** (1939). These restrictions were eased somewhat in 1993. Today, federal bureaucrats can hold positions in political parties and/or political organizations, and can run for office in nonpartisan elections. Many local elections for the school board, city council, and even mayor are nonpartisan, meaning that candidates are effectively independents, without party affiliation.

## **What the Federal Bureaucracy Does**

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The routine of a bureaucracy — collecting fees, issuing permits or licenses, giving tests — is the administration of its defined purpose. The bureaucrat typically performs these tasks by following **standard operating procedures** (SOPs), which are rules and practices intended to enhance efficiency. To the person dealing with the bureaucracy, on the other hand, SOPs often seem to have the opposite effect, creating delay, confusion, and excessive paperwork. Bureaucrats also do not have the luxury of interpreting policy goals. The job of an agent for the Immigration and Naturalization Service (INS) is to issue a green card that allows an immigrant to work in this country, not to ask whether the nation's immigration policy is placed at risk by doing so.

When Congress passes a law, it often sets down guidelines to carry out the new policies. Putting these policies into practice typically falls to one or more federal agencies, and is known as implementation. After the Eighteenth Amendment outlawing the sale, transport, and manufacture of liquor was ratified, Congress passed the Volstead Act to create the bureaucratic machinery necessary to enforce the amendment. Policy directives from Congress are not always clear. Although the legislation may direct a federal agency to develop rules and regulations to implement the statute, bureaucrats have some flexibility in what these rules and regulations actually say. This flexibility is known as **administrative discretion**.

The rules and regulations that govern how a federal program operates are developed through a complicated and often lengthy process called **rule making**.

Under the Administrative Procedures Act (1946), a federal agency must provide public notice as to the time, place, and nature of the rule making, and give interested parties the opportunity to submit written comments or provide testimony through formal hearings.

At a minimum, the process is likely to include the following:

1. Issuance of a notice of proposed rule making
2. Publication of the proposed rules
3. A 30–60 day comment period
4. Publication of the final rules

The public notice, the proposed and final rules, and occasionally the comments will be published in the *Federal Register*. The final rule can be challenged in the federal courts, and will not go into effect until all legal issues are resolved.

The federal bureaucracy directly affects our lives every day by making regulations. Law-created agencies determine and set such regulations as the quality standards of our drinking water, the amount of particulate matter a local power plant can emit, the requirement that the label on a can of food lists its contents and nutritional values, the safety guidelines for using a piece of farm machinery, and the content of the television programs our children watch in the evening. The process of creating these regulations is the same as rule making. Hundreds of volumes make up the *Code of Federal Regulations*.

An often-heard criticism is that federal regulations significantly increase the cost of doing business for American companies, which are passed on to consumers in the form of higher prices. **Deregulation**, reducing or eliminating all together the federal government's role and allowing industry greater freedom in how it operates, became a political watchword in the late 1970s. The domestic airline industry was effectively deregulated through the Airline Deregulation Act (1978), which spelled out the gradual demise of the Civil Aeronautics Board that set rates and controlled routes. While the legislation did bring new carriers into the industry that increased competition in the short run, today there are fewer major airlines providing service and rates are high. Clearly, deregulation does not always achieve the goals its supporters hope, and is not a very effective way of controlling the bureaucracy.

## Criticism of Bureaucracy

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Almost everyone who has contact with a bureaucracy comes away dissatisfied — it may be the long lines to get a passport or the complexity of the federal tax forms. The word bureaucracy itself conjures up negative images. The following are common criticisms of bureaucracy:

**Red Tape:** Bureaucracies operate under complex rules and procedures that often cause delays in providing services or implementing policy; calls to eliminate an agency's "red tape" often means reducing the number of forms the agency uses or the number of pages a form has.

**Waste:** The best known example of waste is the scandal in the 1980s that revealed that the Defense Department spent hundreds of dollars on routine hardware items such as screws and hammers. The fact is that clear cut rewards for cutting costs in a federal agency are less obvious compared to a private company. Money saved by the agency simply goes back to the Treasury.

**Fragmentation/Duplication:** Two or more federal agencies often have jurisdiction over the same policy area. The U.S. Customs Service and the Drug Enforcement Administration both have responsibility for preventing illegal drugs from getting into the United States. Another aspect of fragmentation and duplication occurs when two or more federal agencies operate at cross purposes. The Commerce and Agriculture Departments both help tobacco growers to market their products, but the Food and Drug Administration wants to define cigarettes as a drug delivery system.

## Controlling the Federal Bureaucracy

Although the federal bureaucracy was certainly anticipated by the framers of the Constitution, they probably did not envision it becoming the “fourth branch” of government. Unlike the Congress, the president, and the courts, there are no formal checks and balances written into the Constitution that specifically limit the power of the bureaucracy. This does not mean, however, that the federal bureaucracy is beyond control.

While naming only a small fraction of all federal employees, the president does appoint all the policy and decision makers in the cabinet departments, independent executive and regulatory agencies, and the highest level of the civil service who qualify for the **Senior Executive Service (SES)**. Established in 1978, the SES is comprised of about 8000 high-level managers that can be hired and fired more easily than other federal bureaucrats and receive incentive bonuses based on job performance. A chief executive committed to reducing the size of the federal government, improving services to the public while cutting red tape, and eliminating frivolous rules can have an impact by the people appointed to key posts. Through the Office of Management and Budget, the president can influence the bureaucracy in two ways — adding or reducing an agency’s budget request and approving or killing new regulations through its rule-making oversight function. Finally, the president can issue an executive order, directing a federal agency to take some action or initiate a new policy. During the Reagan administration, there was talk of reorganizing the federal bureaucracy by eliminating entire executive departments, such as the Department of Education. Reagan and subsequent presidents learned, however, that the bureaucracy has well-placed friends in Congress and powerful interest groups represent them.

The Senate must give its “advice and consent” on the president’s high-level federal appointments. While it is doubtful that a presidential nominee would be rejected based on his/her views on the bureaucracy, confirmation hearings are a good place to impress upon the future Secretary of the Interior how important Congress thinks controlling the size of government is. Whatever amount is earmarked in the administration’s budget for a particular agency, it is Congress who authorizes and appropriates the money. The power of the purse is just one way in which Congress can influence the federal bureaucracy. Another way is through its oversight function, usually carried out through public hearings, which can give Congress a considerable say on the status of federal programs and how an agency is operating. Congress has also enacted laws to ensure the federal bureaucracy operates in the most open manner possible. The **Freedom of Information Act (1966)**, for example, provides that all government records, except those dealing with military, intelligence, or trade secrets, or those that reveal personal private actions, must be made available to the public. If Congress is serious about reducing the number of federal regulations, it is always free to write laws with more specificity. If statutes clearly state how the law is to be implemented, there would be less need for agency rule making.

The federal bureaucracy is not without resources to defend its interests. Political scientists refer to the close relationship that develops between interest groups, federal agencies, and congressional committees/subcommittees that have authorization and/or oversight authority as **iron triangles**. A good example would be the Social Security Administration, the American Association of Retired Persons (which in theory represents all Americans over the age of 50), and the House Subcommittee on Social Security. The relationship among the elements of an iron triangle brings

benefits to each, and not necessarily to the nation as a whole. Interest groups can provide information as well as campaign contributions to members of the subcommittee; the subcommittee can push for a higher level of appropriations for the agency; the agency and the subcommittee can work together to promote legislation or policies that the interest group supports.

As the number of interest groups have grown in recent years and the scope of committee responsibilities have changed, **issue networks** have come to replace iron triangles. Issue networks are much looser relationships and involve a broader range of participants. In addition to members of Congress, agency officials, lobbyists, issue networks are likely to include academics, attorneys, and journalists who share an interest in broad policy areas like healthcare, the environment, or deregulation. The issue network that formed in the early 1990s around telecommunications included the House and Senate committees that dealt with commerce, the Commerce Department, and the Federal Communications Commission; also trade associations like the National Cable Television Association and the Cellular Telecommunications Industry Association, and individual companies such as Bell Atlantic, Turner Broadcasting, and Sony.

## Sample Multiple-Choice Questions

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1. Which of the following statements best describes the federal civilian work force?
  - A. Political factors play no role in making civil service appointments.
  - B. Employees must pass competitive examinations for promotion.
  - C. Half of the employees in the Executive Branch are appointed by the president.
  - D. Federal employees face no limitations on their participation in the political process.
  - E. Once hired, a federal employee can never lose his/her job.
2. The growth of the federal bureaucracy can be attributed to all of the following EXCEPT:
  - A. the need to regulate business
  - B. responsibility of the government for the welfare of the people
  - C. administrators who push for larger budgets and staff
  - D. Supreme Court decisions on federal-state relations
  - E. the creation of new agencies to give policy issues a high profile