

Recommendations for Transition Teams

Over the past 27 years, the Project On Government Oversight (POGO) has worked towards achieving a more accountable federal government. During that time, POGO has enjoyed a strong working relationship with your Senate office [Senator McCain and Senator Obama] working towards this goal, and thanks you for your efforts on government reform issues.

If elected, your administration will need to make several reforms. The implementation of the following recommendations will help put the country on the right track to a more effective, accountable, open, and honest government – one that is truly responsive to the needs of its citizens. Furthermore, while it is always a goal to have the best possible government at the lowest feasible cost, the financial crisis our country faces makes it even more imperative that the next President more effectively use government resources. POGO believes our recommendations will make significant strides towards shrinking the cost of government operations, while at the same time making them work better. The initial costs of these reforms will be more than offset by the long-term savings for the taxpayer.

We welcome the opportunity to provide more in-depth details about our proposals.

EFFECTIVE

Problem: Some federal agencies are no longer accomplishing their mandated missions. Other agencies are working towards missions that are no longer relevant to 21st century challenges. Agencies are already engaged in strategic planning and self-evaluation through the Government Performance and Results Act (GPRA) and Performance Assessment Rating Tool (PART) processes. However, this information is used infrequently. Furthermore, such efforts generally focus more on quantifiable measures of success, and inadequately measure the quality and relevance of the work of the agency – in other words the output of an agency rather than the impact of its work.

POGO Recommends:

The Presidential transition team should review each agency by assembling agency-specific teams of long-time civil servants, former political appointees from both parties, and stakeholders of the agency's work to determine how well or how poorly each agency is accomplishing its mission, and whether that mission addresses modern public policy needs. In the first 100 days of the Administration, those teams should hold a public comment period and regional town hall meetings to allow the public to voice grievances and suggest improvements for the agency's operations. While it will also be important to review the useful agency performance data collected through GPRA and PART, it is essential to put that information in context.

Problem: Essential public services that are arguably “inherently governmental functions” are frequently privatized. POGO is concerned that the aggressive outsourcing of government functions may have allowed private contractors to be in the improper position of advancing private interests ahead of the public good.

POGO Recommends:

The new President should make it a priority to assess the extent to which outsourcing of previously governmental functions has undermined accountability, effective management, and policy-making in federal agencies. Transition team members and new appointees should review FAIR Act inventories, protests, and job descriptions over the past decade, as well as interview career employees and agency ethics officers, to identify instances of improperly privatized inherently governmental functions. Regulations need to be strengthened to prevent future instances of problematic outsourcing, and any identified inherently governmental positions should be promptly filled by public servants.

Problem: Some political appointees are undermining the effectiveness of critical agencies. In fact, some political appointees are inadequately qualified or not qualified at all for their positions. Others might have the requisite administrative experience but do not believe in the mission of their agency. Still others are negatively qualified, having lobbied and worked to undermine or defeat the missions of the agencies they have been appointed to lead.

POGO Recommends:

The President should emphasize qualified and un-conflicted experience when appointing individuals to office. The President should also review whether a number of the current 4,000 political slots should be converted to civil service status in order to enhance senior level institutional memory and competence at the agency.

Problem: The federal government is struggling to retain skilled employees because those employees can frequently make more money doing comparable work as federal contractors. In some cases the federal government expends resources to train an employee to work for an agency, only to have that employee go through the “revolving door” to work outside the government for a contractor, private law firm, industry association, or lobbying shop. As a result, the government ends up with “brain drain” while paying more for contractors to do work that could have been done by federal employees.

POGO Recommends:

The President should change the culture of what it means to be a civil servant in order to make federal employment more attractive to the most skilled individuals. Policies to consider include changing pay scales to make them competitive with those in equivalent

Project On Government Oversight

private-sector jobs, instituting agency honors programs, paying student loans in return for a period of civil service, allowing retired civil servants to retain their pensions even if they are rehired by the government, and limiting the total cost paid by the government for a contractor employee performing the equivalent work of a federal employee. Recognizing that the contractor workforce is a de facto part of the government, this effort should actually shrink the total footprint of the government.

Problem: Many federal employees look the other way when they recognize waste, fraud, mismanagement, and abuse because they lack sufficient whistleblower protections against retaliation. Absent such protections, the federal government cannot expect its employees to disclose mistakes and practices that must be corrected in order for the government to operate efficiently and effectively.

POGO Recommends:

The President should issue an Executive Order to strengthen federal employee whistleblower protections, including strict administrative, civil, and criminal penalties for officials that retaliate against whistleblowers. The Executive Order should also include rewards such as commendations, public recognition, and monetary awards for federal employees who disclose waste, fraud, and abuse, or who suggest ways to improve the operations of their agency.

Problem: Inspectors General (IG) have been encouraged through the past two Administrations to be part of the agency management team, rather than to be “junkyard dogs” in seeking out waste, fraud, and abuse at their respective agencies. As a result, some IGs have moved more towards program management, rather than functioning as the independent and objective watchdogs envisioned by the IG law.

POGO Recommends:

The executive branch should reinvigorate the independence of Inspectors General by recognizing the need for them to be strong in-house watchdogs, not an arm of agency management.

ACCOUNTABLE

Problem: Oversight functions at agencies across the federal government have been decimated. Federal officials also lack the enforcement tools needed to prevent, detect, and remedy waste, fraud, and abuse in federal spending. From the Department of Defense to the Department of Interior and Food and Drug Administration, the offices and functions that can prevent corruption, waste, and

mismanagement have been underfunded, defanged, or co-opted by the entities they were intended to oversee.

POGO Recommends:

While assessing each agency's operations, the President should pay special attention to oversight offices – and particularly the entity to whom those offices report – to ensure that oversight functions are adequately independent, and that the offices are afforded the resources, authority, and incentives to provide rigorous oversight. The President should also implement the recommendations contained in the National Procurement Fraud Task Force Legislation Committee White Paper, in order to allow federal officials to hold recipients of federal funds accountable.

Problem: The federal acquisition workforce is currently overwhelmed and staff levels are inadequate to oversee federal government contracts. Contracting dollars have doubled since the beginning of the decade, yet the acquisition workforce has remained constant, and in some agencies is significantly smaller.

POGO Recommends:

The President should expand the federal acquisition, auditing, and accounting workforce in order to improve oversight and promote integrity in federal spending. Improving oversight will enhance contract management, resulting in savings that would more than pay for this expansion. A strong oversight workforce can help the government get better returns for the taxpayer on goods and services and also help prevent programs from falling behind schedule and running over budget.

Problem: The federal contracting system is prone to abuse and it prevents government officials from ensuring that taxpayers are paying fair and reasonable prices for goods and services.

Specifically, sole-source contracts and contract bundling undermine competition and lead to waste, fraud, and abuse. To receive quality goods and services at the lowest practicable cost, the government must encourage competition. Contract bundling, where the delivery of many often-unrelated goods and services are gathered under a single contract, dramatically reduces competition and transparency in government contracting.

POGO Recommends:

The government must eliminate or, at the very least, limit the use of risky contracting vehicles and provide contracting and program officers and oversight staff with the necessary tools to effectively manage government spending. The government must have contractor cost or pricing data so that it can make well-informed spending decisions.

Government agencies should also conduct full and open competitions, to the maximum extent practicable, for all non-urgent purchases. Agencies should require genuinely competitive bids for task and delivery orders before the contract can be considered "competitive." Sole-source contracts should be used sparingly, and the government should ensure that non-competitive contract pricing is fair and reasonable.

The federal government should avoid contract bundling in future contracts in order to increase contracting competition. Agencies should consider un-bundling existing contracts.

Problem: The Constitution assigns the President the responsibility of enforcing laws passed by Congress, but the recent abuse of executive signing statements has allowed the President to improperly infringe upon the Congress's legislative role. These signing statements direct agencies to ignore sections of the bills with which he has disagrees, generally asserting that those sections would present impermissible constraints on the President's power as Commander in Chief. The statements have very clearly ordered his subordinates at federal agencies not to obey more than 1,100 sections of different laws. Many of these sections would have provided Congress and the public with additional information and transparency about the activities of executive agencies.

POGO Recommends:

The newly-elected President should rescind these signing statements and pledge that if he strongly disagrees with sections of a bill, he will veto it.

OPEN

Problem: Much information about government operations is not made readily available to the public. Members of the public must frequently file Freedom of Information Act (FOIA) requests in order to learn about the performance and actions of their government.

POGO Recommends:

As a matter of practice, the federal government should place online all new government-generated or government-collected information that is not exempt from FOIA.

Furthermore, instead of withholding an entire document that contains information that cannot be released, the government should release the document with that information redacted. The federal government should automatically post all this releasable information at publicly available agency websites.

All information released through FOIA should promptly be made available online. This will decrease the need for duplicate FOIA requests that now contribute to the large FOIA request backlogs. Furthermore, agency budgets must allow for these changes, accounting for increased staff to handle posting new agency information, as well as providing adequate resources to support chronically under-funded FOIA offices.

Problem: The executive branch frequently overclassifies and uses pseudo-classifications, such as Sensitive But Unclassified (SBU) and Controlled Unclassified Information (CUI), to withhold information from the public. Often the apparent reason is not the legitimate need for secrecy, but the concealment of embarrassing information, including mistakes.

POGO Recommends:

The executive branch should protect only legitimate national security and privacy concerns, and it should penalize agencies that violate these standards.

Problem: The federal government cannot make contractor responsibility determinations. The federal government is the world's largest consumer of goods and services. As such, it has tremendous buying power to encourage good corporate behavior. However, the government lacks a system to ensure that contracts are awarded only to responsible contractors, as is required by law.

POGO Recommends:

The President should immediately implement and fund the congressionally-mandated database of information regarding the integrity and performance of contractors, entities, and persons awarded federal contracts and grants. The database should detail the instances in which contractors and grant recipients have defrauded the government, violated laws and regulations, had poor work performance, or had their contracts or grants terminated for default. This database should be made publicly available.

Problem: The federal contracting and grant-making system is opaque. The government lacks rules to ensure that the contracting and grant-making process is open to the public.

POGO Recommends:

To restore public faith in federal spending, agencies should announce and promptly publish online all new and existing contracts, grants, and task and delivery orders above \$100,000, as well as requests for proposals and solicitations, contract or grant data, award decisions and justifications, audits, and other related reports.

HONEST

Problem: The revolving door between the government and contractors or regulated industries inevitably creates conflicts of interest and undermines the public's faith in the government. The revolving door undermines the basic obligations of public service to place loyalty to the Constitution, laws, and ethical principles above personal or private gain.

POGO Recommends:

The President should issue an Executive Order that executive branch employees, including political appointees, must consider their position a matter of public trust and service, not a stepping stone for personal gain. Once they leave government service, there should be a three year prohibition against public employees and officials working for or representing industries or other private interests that they regulated, contracted with, or otherwise oversaw. Similarly, the President should exercise great caution in appointing individuals with ties to the industry they will oversee. The Office of Government Ethics and agency ethics offices should be given administrative enforcement power over violations of ethics, as well as the necessary resources to execute this new mandate.

Problem: Executive branch advisory committees have a large impact on policy but are exempt from most ethics measures and restrictions. This can lead to conflicts between public and private interests. Often, advisory committee members – also known as “special government employees” – work for the industries that benefit from the policies they are recommending.

POGO Recommends:

The next President should reconsider the executive branch's use of advisory committees. If such committees are to be continued, they should include, but not unduly rely on, private interests. The President should ensure that unclassified portions of advisory committee meetings and minutes are available on the internet. When federal advisory committee members recuse themselves from any discussion of matters in which they or their private employers or clients have a significant financial interest, this disclosure or recusal – including name, title, employer, and the specific nature of the financial interest – should be filed with the Office of Government Ethics and made publicly available.