

Trump Signs New Law Governing Presidential Transition Practices

By Cheryl Bolen | March 4, 2020 4:35PM ET

A new set of rules and procedures for easing the transition from one presidential administration to the next will require agencies to have plans in place by Sept. 15 for filling all top leadership jobs, not just the head position.

That requirement was one of several mandates for federal agencies included in a bill (S. 394) that President Donald Trump signed into law on March 3. The bill, known as the Presidential Transition Enhancement Act, moved easily through Congress, passing the Senate by unanimous consent in August and clearing the House by voice vote on Feb. 5. The original law was enacted in 1964 and has been modified several times.

“The update to the Act signed into law by the President yesterday clarifies the Act’s requirements on succession planning, which some agencies had found confusing during the 2016 transition,” said Troy Cribb, director of policy at the Partnership for Public Service, in an email to Bloomberg Law.

The new law requires each executive branch agency to have a succession plan in place for senior political positions by September 15 of an election year. Specifically, the head of each agency must determine which of its senior political positions is critical and designate a qualified career employee to serve in that position in an acting capacity should it become vacant.

An average of 43% of secretary positions, deputy secretaries, and undersecretaries left their jobs between Election Day through the first six months of a president’s second term in office, according to an analysis the Partnership’s Center for Presidential Transition conducted of the last three two-term presidencies.

“If you make sure you have people in place who are senior career designated officials, you have some continuity,” said Martha Kumar, director of the White House Transition Project, a nonpartisan group of academics who document transition practices.

“Handing over the keys to the entire \$4.45 trillion federal government is a colossal undertaking,” said Senate Homeland Security and Governmental Affairs Committee Chairman Ron Johnson (R-Wis.), who introduced the bill on Feb. 7, 2019. “This legislation makes important improvements to streamline the transition process.”

Critical Ethics Component

The legislation also codifies ethics requirements practiced voluntarily during previous transitions that require presidential candidates to develop and publicly release ethics plans for their transition teams prior to the election. In addition, the new version of the law outlines a set of minimum requirements for those ethics plans, and mandates that transition team members sign a code of ethical conduct.

The new law also requires presidential transition teams and the General Services Administration to negotiate memorandums of understanding regarding post-transition support, including treatment of transition team records.

“This is a rare piece of legislation in which if you look at the financial impact, it’s less,” Kumar said. It reduces the number of days from 180 to 60 that GSA must provide office space and support for the incoming administration, she said.