



PRESIDENTIAL TRANSITION ACT: POST-ELECTION REQUIREMENTS

INTRODUCTION

In 1963, to safeguard against “any disruption occasioned by the transfer of the executive power,” Congress passed the Presidential Transition Act. The act established a framework for the federal government to prepare for a transition from one president to another, and in the years since, it has been amended multiple times to help account for the increasing complexities of the transition process.¹

The modern-day Presidential Transition Act outlines multiple requirements for all stakeholders involved in presidential transitions. This document describes those requirements that apply to the post-election period, once the administrator of the General Services Administration has “ascertained” the apparent successful candidates for the office of president and vice president.

WHAT REQUIREMENTS ARE IMPOSED ON AGENCIES POST-ELECTION?

Through both pre- and post-election activities, the act establishes a framework for an outgoing administration’s engagement with an incoming administration.

- Pre-election, the act requires each agency to designate a senior career official to oversee transition planning. Post-election, these transition directors and their teams must engage a president-elect’s agency review teams to brief them on critical information regarding their agency.
- The act additionally requires agencies to create “briefing materials related to the presidential transition” by November 1 of an election year. Post-election, agencies give these materials to agency review teams as part of their engagements.

WHAT IS THE GSA’S ROLE POST-ELECTION?

As the federal government’s central transition coordinator, the GSA plays three roles post-election:

- **Provider of support services to the president-elect and vice president-elect:** These services include office space for the transition team as well as expenses for transition team staff, experts and travel. The services can continue up to 60 days after inauguration.
- **Liaison between federal agencies and the president-elect’s transition team:** GSA’s federal transitions coordinator facilitates introductions between agency review teams and career officials and helps ensure review teams are cleared to enter each agency to begin information gathering. Additionally, GSA oversees the implementation of the pre-election memorandum of understanding it negotiated with the transition team, which governs conditions for access to federal agencies by transition team members.
- **Provider of support services to outgoing president and vice president:** Thirty days before the expiration of a term, GSA begins to support an outgoing president and vice president with logistical support and office space they may use for a total of seven months for out-going transition activities. (Separately, the Former Presidents Act provides for long-term support of former presidents.)

¹ 3 U.S.C. § 102 note. The act has been updated in the last two decades by the Presidential Transition Act of 2000 (P.L. 106-293), the Pre-Election Presidential Act of 2010 (P.L. 111-283), the Edward “Ted” Kaufman and Michael Leavitt Presidential Transitions Act of 2015 (P.L. 114-136), and the Presidential Transition Enhancement Act of 2019 (P.L. 116-121).

HOW DOES THE ACT IMPLICATE TRANSITION RELATED TO NATIONAL SECURITY?

The act requires that, as soon as possible after the election, the president-elect be given a classified summary on threats to national security, covert military operations, and pending decisions on possible use of military force.

Additionally, it directs the FBI and other agencies that assist with conducting background investigations to conduct those investigations expeditiously following the election, with the goal of providing appropriate security clearance before the inauguration for individuals the president-elect has selected for high-level national security positions, including secretaries and under-secretaries of Cabinet-level agencies.

WHAT REQUIREMENTS ARE PLACED ON RECIPIENTS OF TRANSITION ASSISTANCE?

As recipients of GSA services, a president-elect's transition team is required to disclose two pieces of information:

- **Non-federal contributions received for transition activities:** The transition team must disclose to the GSA contributions they receive to assist with their transition work that do not come from the federal government within 30 days after inauguration. The GSA is required to make this information public.
- **Identities of review team members:** The transition team must disclose to the public the name of any individual who enters a federal agency following the election as part of the president-elect's transition team prior to the transition team's initial contact with the agency.

SOURCES AND FURTHER READING

“Presidential Transition Act Summary”, Partnership for Public Service's Center for Presidential Transition, March 10, 2020, available at: <https://presidentialtransition.org/publications/presidential-transition-act-summary/>