Understanding Committee and Floor Delays During The Senate Confirmation Process

A Closer Look at Biden Administration Nominations

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Introduction

The Senate has an important constitutional duty to provide advice and consent on high-level political appointments. But with over 1,300 presidentially appointed officials that require Senate approval, modern administrations face the formidable task of getting their nominees confirmed in an increasingly lengthy confirmation process. The incoming administration of President Donald Trump, like many of its modern predecessors, will likely face delays getting its appointees in place even as the president's party holds the Senate majority.

During President Joe Biden's administration, for example, it has taken nearly three times longer to confirm nominees than during President Ronald Reagan's administration, increasing from an average of 69 days to nearly 190.[1]

This report sheds light on the confirmation process and each step that nominees must complete to be confirmed. It explains the procedures nominees must undergo, provides new data about the time nominees spend in their assigned committee (or committees) versus the Senate floor[2] and suggests opportunities for future reform.

The process

The confirmation process requires presidential nominees and the administration to prepare for intensive vetting and cooperation with senators and their staff. After a nomination is submitted by the president (a process which itself takes intense vetting), most nominees must first pass review and formal approval of the Senate committee with jurisdiction over the position prior to being placed on the Senate executive calendar to await a floor vote.[3]

While the overall process varies from committee to committee, all committees review materials provided by the White House and conduct their own information-gathering on the nominee. Materials provided by the White House include biographical information, a report or summary of background checks and financial disclosure forms that have been vetted by the Office of Government Ethics and agency ethics officials to guard against any conflicts of interest. Further committee review typically includes additional staff research on the nominee, asking the nominee to fill out additional biographical or policy questionnaires, interviews with the nominee and a hearing. The committee then holds a vote on the nominee.

Once referred from committee to the full Senate, there remain multiple procedural hurdles that can delay or stall a nomination, depending on whether the Senate can reach consensus on moving forward with a nominee or whether the Senate must go through time-consuming steps to get to a final vote.

Confirmation delays create burdens for presidential administrations, the people who seek to serve and the Senate itself. Vacancies and delays also can inhibit federal agencies from accomplishing their missions and serving the public. Knowing where, when and for whom these obstacles occur is a critical consideration for government effectiveness.

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[1] https://presidentialtransition.org/senate-confirmations-slow-to-a-crawl/

[2] Time "on the floor" in this report refers to the time between a nomination being placed on the Executive Calendar and final vote of the Senate.

[3] Some specified nominations that are considered "privileged" are not referred to the committee unless upon the request of any senator in accordance with a standing resolution of the Senate, S. Res. 116 (112th Congress). The committee of jurisdiction is still responsible for conducting the necessary vetting and reviewing the nominee's documentation and qualifications. The nomination is moved onto the Nominations Calendar once the relevant committee chair has notified the Senate clerk that all paperwork is processed successfully.

Data on Biden Nominations

Analysis of the Partnership for Public Service's appointee tracker data for Biden nominees[4] shows that:

More than half of nominations fall under the jurisdiction of just three committees, capturing how committees have significantly different workloads when it comes to vetting, interviewing and holding hearings on nominees.

Delays for Biden nominees have grown significantly compared with previous administrations, particularly on the Senate floor. Biden nominations spent twice as long in committee and 15 times longer on the floor on average compared with the nominations during the George H.W. Bush administration.

Committee review is the most time-intensive part of the confirmation process. Biden's nominees spent 121 days in committee and 70 days on the floor on average prior to confirmation.

A nominee's time spent in committee is an important part of the Senate's advice and consent role – vetting individuals for the important jobs for which they have been nominated. The senators who are members of the committees and their staff have expertise in the policy areas that the nominees will be responsible for overseeing if confirmed. Time in committee may be influenced by several factors, including the overall workload of the committee, committee procedures and the extent to which there are policy disagreements among members related to particular positions.

Ways to shorten the confirmation process

The data is a reminder that even where there are critical activities that need to occur, there are likely areas to streamline the process to make it easier for all stakeholders, the Senate and its staff, the White House and nominees.

An important starting point would be to reduce the number of positions subject to Senate confirmation – a number that continues to balloon and strain the time and resources of the Senate.

Other possible areas for further consideration include: improving the "privileged" nomination process in the Senate, which allows nominees for certain positions to go through expedited procedures to get to a final vote;[5] other procedural reforms to make full Senate consideration more efficient (such as bundling together certain nominations for final vote); streamlining paperwork for executive nominations; and helping potential nominees better understand what the process is and what information they need to provide to the White House and the Senate committee(s) of jurisdiction.[6]

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[4] This includes all civilian nominations made during the Biden administration that were not pending up until May 16, 2024, excluding judges, U.S. marshals, U.S. attorneys and privileged nominees.

[5] See footnote 2.

[6] For a more detailed discussion of potential reforms, see "Written Statement of Jenny Mattingley, Vice President of Government Affairs, Partnership for Public Service," before a hearing entitled "Senate Procedures to Confirm Nominees," Senate Committee on Rules and Administration, July 30, 2024.
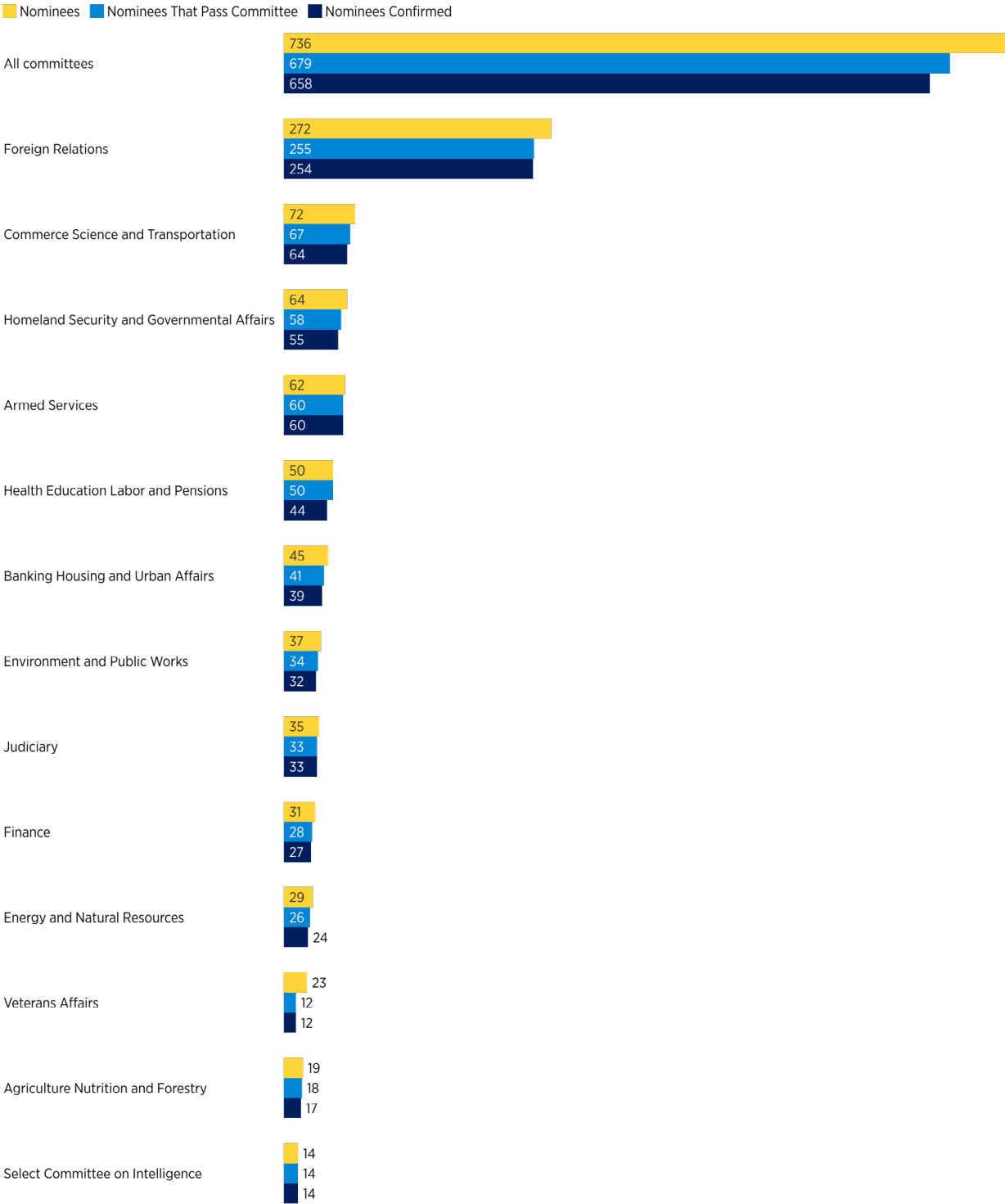
Nominations: Arrival to the Senate and Referral to Committee

More than half of nominations are referred to just three committees

Committees have drastically different workloads when vetting and interviewing presidential nominations. The Foreign Relations Committee had by far the most nominations out of all other Senate committees at 272 during the Biden administration, followed by Commerce, Science and Transportation at 72 and Homeland Security and Governmental Affairs at 64. About 55% of nominations went through these three committees alone. The Senate committees for Budget, Indian Affairs, Rules and Administration and Small Business and Entrepreneurship all had fewer than five nominees assigned (not shown below).

Number of Biden Nominees By Senate Committee, Nominee Status

◼ Nominees   ◼ Nominees That Pass Committee   ◼ Nominees Confirmed

All committees
- 736
- 679
- 658

Foreign Relations
- 272
- 255
- 254

Commerce Science and Transportation
- 72
- 67
- 64

Homeland Security and Governmental Affairs
- 64
- 58
- 55

Armed Services
- 62
- 60
- 60

Health Education Labor and Pensions
- 50
- 50
- 44

Banking Housing and Urban Affairs
- 45
- 41
- 39

Environment and Public Works
- 37
- 34
- 32

Judiciary
- 35
- 33
- 33

Finance
- 31
- 28
- 27

Energy and Natural Resources
- 29
- 26
- 24

Veterans Affairs
- 23
- 12
- 12

Agriculture Nutrition and Forestry
- 19
- 18
- 17

Select Committee on Intelligence
- 14
- 14
- 14

Source: Partnership for Public Service

Note: Data includes all civilian nominations during the Biden administration that were not pending as of May 16, 2024, excluding U.S. judges, marshals, attorneys (all of which go through the Judiciary Committee) and privileged nominations. Committees with fewer than 5 nominees tracked are not shown. Some nominees go through multiple committees and are counted for each committee to which they are referred separately.

Each of these committees has jurisdiction over certain types of Senate-confirmed positions. The Senate For-eign Affairs Committee has oversight over 220 ambassadors, who are constitutionally subject to the advice and consent of the Senate.[7] The Senate Commerce Committee processes the confirmation of many boards and commissions, which multiplies the number of nominations under its review. The Armed Services Com-mittee has a high number of civilian nominations to process due to its jurisdiction over the Department of Defense. Not only is DOD the largest federal agency, but it has five layers of political appointees that require Senate confirmation down its chain of command.[8]

Nominees who gain committee approval have a high likelihood of being confirmed

About 92% of President Biden's nominations were reported out of committee. Of those nominations, 97% were confirmed by the Senate, indicating that committees are effectively performing their role in vetting nominees and that the Senate trusts in each committee's review. Of 736 Biden nominations, 78 went uncon-firmed, 57 of which were not reported out of committee.

Report Out of Committee, Comfirmation Rates of Biden Nominations All Senate Committees

Committee Pass Rate	92%
Confirmation Rate of All Nominations	89%
Confirmation Rate of Nominations That Passed Committee	97%

Source: Partnership for Public Service

Many of the nominations that did not win committee approval were often assistant secretary-level positions or deputy administrators and deputy directors in key agencies. Why these nominations fail depends on many factors; often the reason is unknown or not publicly available. Specific questions about the nominee, duties of the position itself, incomplete documentation provided by the nominee and complications in vetting are common examples of challenges that can impact the success of a nomination. Moreover, policy disagree-ments between committee members and the sitting administration can create delays and roadblocks in the confirmation process irrespective of the qualifications of nominees themselves.

Committees are well-situated to evaluate the qualifications of nominees and play an integral role in the confirmation process. Nominations passing the committee review are contingent on cooperation between presidential personnel teams, members of the committees, nominees and agencies to ensure the vetting is timely and thorough. Even if the president has sent a nomination to the Senate and it has been referred to committee, the committee typically will not move forward with its own process until all paperwork from the White House has been submitted, and the committee conducts its own vetting before proceeding to a vote. Upon clearing the milestone of committee approval, most nominees are confirmed, although the floor process has become increasingly lengthy.

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[7] From research by David Lewis on the number of presidentially appointed, Senate-confirmed positions: https://presidentialtransition.org/blog/presidential-appointments-are-hard-to-track-and-growing/
[8] https://presidentialtransition.org/reports-publications/layered-leadership-examining-how-political-appointments-stack-up-at-feder-al-agencies/#:~:text=Examining%20How%20Political%20Appointments%20Stack%20Up%20at%20Federal%20Agencies.%20The

Average days in committee and on the Senate floor

President Biden's nominations have experienced greater delays than previous administrations. The greatest increase in delays have come from the Senate floor, where Biden nominees on average spent 15 times longer than George H.W. Bush nominees. Committee delays also have been significant, with Biden's nominees spending about twice as long in committee than George H.W. Bush's appointees. While comparable data for the Trump administration's first term is not available, these trends across this period suggest significant confirmation delays for President Trump's second term.

Average Days in Committee for Executive Nominations By Administration

George H.W. Bush First Term	61
Bill Clinton First Term	59
Bill Clinton Second Term	83
George W. Bush First Term	70
George W. Bush Second Term	87
Barack Obama First Term	79
Joe Biden First Term (5/16/24)	121

Source: Partnership for Public Service

Average Days on Floor for Executive Nominations By Administration

George H.W. Bush First Term	5
Bill Clinton First Term	16
Bill Clinton Second Term	30
George W. Bush First Term	26
George W. Bush Second Term	16
Barack Obama First Term	46
Joe Biden First Term (5/16/24)	70

Source: Partnership for Public Service

Confirmed Biden nominees spent an average of 121 days in committee and 70 days on the Senate floor. Biden nominations spent nearly twice as much time in committee compared with the floor, which is a smaller proportion than in previous administrations. This is primarily due to rapid growth in Senate delays. Historically, nominations have always spent more time in committee since committees conduct rigorous vetting and interviewing.

At the same time, these delays in committee have increased significantly for Biden's nominees. While nominees during the first term of the George W. Bush and Barack Obama administrations spent about two and a half months in committee on average, this delay rose to nearly four months for Biden nominees. The growth in Senate floor delays during the Biden administration is most striking, where Biden nominees spent 15 times longer before being confirmed compared with nominations in the George H.W. Bush administration.

These delays primarily stem from limited time on the executive calendar to vote on nominations and the increased practice of whichever party is in opposition to the president to force cloture votes, which prolong the confirmation process.[10]

Nearly 60% of recorded votes were on cloture and procedural votes on nominations during the Biden administration, a nearly six-fold increase since the George H.W. Bush administration. There were nearly eight times more votes on cloture for nominations during the first two years of the Biden administration than George H.W. Bush over the same time frame.[11] While nearly 97% of Biden nominees that pass committee were confirmed, it still took an average of 70 days on the floor before they were confirmed. The relatively steep increase in floor delays indicates an important area to review for reform.

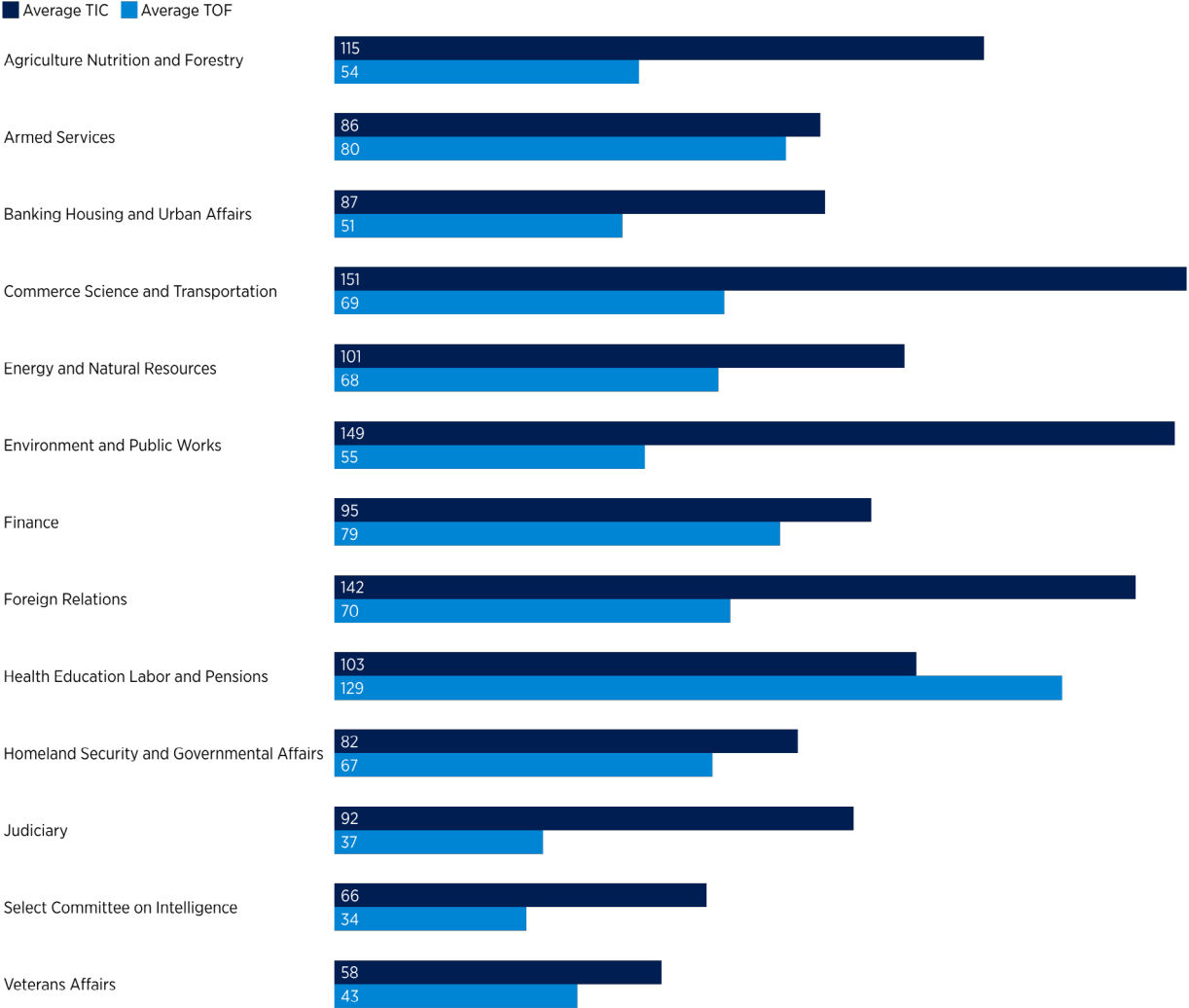## Time in committee and floor varied considerably between committees

On average, Biden nominations that moved through the Veterans Affairs' Committee spent the least amount of time in committee compared with other nominations in major committees at 58 days. The next lowest were Intelligence and Armed Services nominations, which both spent an average of 66 days and 86 days, respectively. Nominations under the jurisdiction of the Commerce and Environment committees spent the most time in committee on average, 151 and 149 days, respectively.

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[9] Research from George Krause and Jason Byers on confirmation delays covered 5,786 confirmed executive appointments between 1987 and 2012. They found the average total confirmation delay was 94.01 days. Delay was primarily attributed to committees (73.17 days) rather than the floor (20.84 days). The latest draft of the report can be found here: https://georgeakrause.com/wp-content/uploads/2024/07/Krause-Byers.Deference-or-Constraint.pdf

[10] Cloture is a Senate procedure used to limit the time of debate on a bill, nominee or other matter.

[11] https://ourpublicservice.org/blog/the-broken-senate-confirmation-process/#:~:text=All%20votes%20on%20nominations%E2%80%94direct%20votes%20on%20nominations,%20cloture%20votes%20and

Average Number of Days in Committee, Floor for Confirmed Biden PAS Nominees By Senate Major Committees

■ Average TIC ■ Average TOF

Committee	Average TIC	Average TOF
Agriculture Nutrition and Forestry	115	54
Armed Services	86	80
Banking Housing and Urban Affairs	87	51
Commerce Science and Transportation	151	69
Energy and Natural Resources	101	68
Environment and Public Works	149	55
Finance	95	79
Foreign Relations	142	70
Health Education Labor and Pensions	103	129
Homeland Security and Governmental Affairs	82	67
Judiciary	92	37
Select Committee on Intelligence	66	34
Veterans Affairs	58	43

Source: Partnership for Public Service

Comparatively, most nominations spent less time on the floor after advancing through committee. This contrast is most evident for Biden nominations assigned to the Environment and Public Works Committee, where nominees spent 55 days on the floor on average. The Health, Education, Labor and Pensions Committee was the only committee where its assigned nominations spent more time on the Senate floor than in committee. These nominations spent 26 more days on average on the floor compared with committee time and spent the most time on the floor overall than nominations from other major committees at 129 days. Despite the committee review process of vetting the nominees' qualifications, nominations that faced the greatest floor delay were often assistant secretary-level positions or members of boards and commissions.

Conclusion

As Senate confirmation delays increase, pinpointing the areas of delay is important in understanding potential areas for reform so that new presidents, including returning President Trump, may quickly fill their leadership teams and qualified nominees for executive leadership positions to continue to serve the American public.

The most straightforward way to decrease confirmation delays is to reduce the number of political appointees subject to Senate confirmation, with a focus on categories such as non-controversial boards and commissions. Delays on the floor are exacerbated by limited time on the executive calendar and increased reliance on recorded votes for confirmation. This is a pressing issue as the number of positions subject to Senate confirmation continues to grow.

Moreover, the substantial growth in delays in recent decades creates a greater burden on nominees to endure personal and professional uncertainty for months on end.

To mitigate these delays, senators should consider how to ease the administrative burden on nominees, agencies and committee staff, particularly on the committees with the most nominations. This may include additional agency and transition team support for nominees to accurately and swiftly complete necessary documentation as well as developing more centralized systems (for example, portals for electronic submission of the nominee's forms) and common biographical and financial questionnaires for committees to process nominations.

Author

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