Public Law 116–121
116th Congress

An Act

Mar. 3, 2020
[S. 394]

To amend the Presidential Transition Act of 1963 to improve the orderly transfer of the executive power during Presidential transitions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Presidential Transition Enhancement Act of 2019”.

SEC. 2. PRESIDENTIAL TRANSITION ENHANCEMENTS.

(a) In general.—Section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “upon request,” and all that follows through “including” and inserting “upon request, to each President-elect, each Vice-President-elect, and, for up to 60 days after the date of the inauguration of the President-elect and Vice-President-elect, each President and Vice President, for use in connection with the preparations for the assumption of official duties as President or Vice President necessary services and facilities, including”; and

(B) in paragraph (2)—

(i) by inserting “, or an employee of a committee of either House of Congress, a joint committee of the Congress, or an individual Member of Congress,” after “any branch of the Government”; and

(ii) by inserting “, or in the case of an employee in a position in the legislative branch, with the consent of the supervising Member of Congress” after “with the consent of the head of the agency”;

(2) by striking subsection (b) and inserting the following:

“(b) The Administrator shall expend funds for the provision of services and facilities under this section—

(1) in connection with any obligation incurred by the President-elect or Vice-President-elect, or after the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President incurred by the President or Vice President, during the period—

(A) beginning on the day after the date of the general elections held to determine the electors of the President and Vice President under section 1 or 2 of title 3, United States Code; and
“(B) ending on the date that is 60 days after the
date of such inauguration; and
“(2) without regard to whether the President-elect, Vice-
President-elect, President, or Vice President submits to the
Administrator a request for payment regarding services or
facilities before the end of such period.”;
(3) in subsection (h)(2)(B)(ii), by striking “computers” and
inserting “information technology”; and
(4) By adding at the end the following:
“(i) MEMORANDUMS OF UNDERSTANDING.—
“(1) IN GENERAL.—Not later than September 1 of a year
during which a Presidential election occurs, the Administrator
shall, to the maximum extent practicable, enter into a memo-
randum of understanding with each eligible candidate, which
shall include, at a minimum, the conditions for the administra-
tive support services and facilities described in subsection (a).
“(2) EXISTING RESOURCES.—To the maximum extent prac-
ticable, a memorandum of understanding entered into under
paragraph (1) shall be based on memorandums of under-
standing relating to previous Presidential transitions.
“(3) TRANSITION REPRESENTATIVE.—
“(A) DESIGNATION OF REPRESENTATIVE FOR INQUIRIES.—
Each memorandum of understanding entered into under
this subsection shall designate a representative of the
eligible candidate to whom the Administrator shall direct
any inquiries or legal instruments regarding the records
of the eligible candidate that are in the custody of the
Administrator.
“(B) CHANGE IN TRANSITION REPRESENTATIVE.—The
designation of a new individual as the transition repre-
sentative of an eligible candidate shall not require the execution
of a new memorandum of understanding under this sub-
section.
“(C) TERMINATION OF DESIGNATION.—The designation
of a transition representative under a memorandum of
understanding shall terminate—
“(i) not later than September 30 of the year during
which the inauguration of the President-elect as Presi-
dent and the inauguration of the Vice-President-elect
as Vice President occurs; or
“(ii) before the date described in clause (i), upon
request of the President-elect or the Vice-President-
elect or, after such inauguration, upon request of the
President or the Vice President.
“(4) AMENDMENTS.—Any amendment to a memorandum
of understanding entered into under this subsection shall be
agreed to in writing.
“(5) PRIOR NOTIFICATION OF DEVIATION.—Each party to a
memorandum of understanding entered into under this sub-
section shall provide written notice, except to the extent prohib-
ited under another provision of law, not later than 3 days
before taking any action that deviates from the terms and
conditions agreed to in the memorandum of understanding.
“(6) DEFINITION.—In this subsection, the term ‘eligible can-
didate’ has the meaning given that term in subsection (b)(4).”.
(b) AGENCY TRANSITIONS.—Section 4 of the Presidential Transi-
tion Act of 1963 (3 U.S.C. 102 note) is amended—
(1) in subsection (a)—
   (A) in paragraph (3), by striking “and” at the end;
   (B) by redesignating paragraph (4) as paragraph (5); and
   (C) by inserting after paragraph (3) the following:
   “(4) the term ‘nonpublic information’—
     “(A) means information from the Federal Government
     that a member of a transition team obtains as part of
     the employment of the member that such member knows
     or reasonably should know has not been made available
     to the general public; and
     “(B) includes information that a member of the transi-
     tion team knows or reasonably should know—
     “(i) is exempt from disclosure under section 552
     of title 5, United States Code, or otherwise protected
     from disclosure by law; and
     “(ii) is not authorized by the appropriate govern-
     ment agency or officials to be released to the public; and”;
(2) in subparagraphs (C) and (D) of subsection (e)(3), by
   inserting “serving in a career position” after “senior representa-
   tive”; and
(3) by striking subsection (f)(2) and inserting the following:
   “(2) ACTING OFFICERS.—Not later than September 15 of
   a year during which a Presidential election occurs, and in
   accordance with subchapter III of chapter 33 of title 5, United
   States Code, the head of each agency shall ensure that a
   succession plan is in place for each senior noncareer position
   in the agency.”;
(4) in subsection (g)—
   (A) in paragraph (1), by striking “November 1” and
   inserting “October 1”; and
   (B) by adding at the end the following:
   “(3) ETHICS PLAN.—
     “(A) IN GENERAL.—Each memorandum of under-
     standing under paragraph (1) shall include an agreement
     that the eligible candidate will implement and enforce an
     ethics plan to guide the conduct of the transition beginning
     on the date on which the eligible candidate becomes the
     President-elect.
     “(B) CONTENTS.—The ethics plan shall include, at a
     minimum—
     “(i) a description of the ethics requirements that
     will apply to all members of the transition team,
     including any specific requirement for transition team
     members who will have access to nonpublic or classified
     information;
     “(ii) a description of how the transition team will—
     “(I) address the role on the transition team
     of—
     “(aa) lobbyists registered under the Lobby-
     ing Disclosure Act of 1995 (2 U.S.C. 1601
     et seq.) and individuals who were former
     lobbyists registered under that Act; and
     “(bb) persons registered under the Foreign
     Agents Registration Act of 1938 (22 U.S.C.
611 et seq.), foreign nationals, and other foreign agents;

“(I) prohibit a transition team member with conflicts of interest similar to those applicable to Federal employees under section 2635.402(a) and section 2635.502(a) of title 5, Code of Federal Regulations, related to current or former employment, affiliations, clients, or investments, from working on particular matters involving specific parties that affect the interests of such member; and

“(II) address how the covered eligible candidate will address his or her own conflicts of interest during a Presidential term if the covered eligible candidate becomes the President-elect;

“(iii) a Code of Ethical Conduct, which each member of the transition team will sign and be subject to, that reflects the content of the ethics plans under this paragraph and at a minimum requires transition team members to—

“(I) seek authorization from transition team leaders or their designees before seeking, on behalf of the transition, access to any nonpublic information;

“(II) keep confidential any nonpublic information provided in the course of the duties of the member with the transition and exclusively use such information for the purposes of the transition; and

“(III) not use any nonpublic information provided in the course of transition duties, in any manner, for personal or private gain for the member or any other party at any time during or after the transition; and

“(iv) a description of how the transition team will enforce the Code of Ethical Conduct, including the names of the members of the transition team responsible for enforcement, oversight, and compliance.

“(C) PUBLICLY AVAILABLE.—The transition team shall make the ethics plan described in this paragraph publicly available on the internet website of the General Services-
Administration the earlier of—
“(i) the day on which the memorandum of understanding is completed; or
“(ii) October 1.”.