

POLITICAL APPOINTEE BURROWING PREVENTION ACT

DECEMBER 5, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOWDY, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1132]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 1132) to amend title 5, United States Code, to provide for a 2-year prohibition on employment in a career civil service position for any former political appointee, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Political Appointee Burrowing Prevention Act”.

SEC. 2. LIMITATION ON EMPLOYMENT OF POLITICAL APPOINTEES IN CAREER CIVIL SERVICE POSITIONS.

(a) IN GENERAL.—Subchapter I of chapter 31 of title 5, United States Code, is amended by adding at the end the following:

“§ 3115. Employment of political appointees

“(a) APPOINTMENT APPROVAL REQUIRED.—

“(1) IN GENERAL.—An individual described in paragraph (4) may not be appointed to a career position without receiving prior written approval from the Director of the Office of Personnel Management with respect to such appointment, consistent with the requirements of this subsection.

“(2) AGENCY APPOINTMENT REQUEST.—The head of an agency shall submit a request to the Director to approve the appointment of any individual described in paragraph (4) to a career position. Any such request shall include certification by the agency head to the Director that the appointment is critical for the agency to meet its mission.

“(3) OPM REVIEW.—The Director shall review any request received pursuant to paragraph (2) and—

“(A) with respect to any such request, may—

“(i) approve the request if the Director determines that the appointment process with respect to the request was fair, open, and free from political influence; or

“(ii) deny the request if—

“(I) the Director fails to make the determination under clause (i);

or

“(II) determines that the agency certification under paragraph (2) is unreasonable; and

“(B) with respect to a request approved under subparagraph (A)(i), shall, not less than five days before the date of approval, provide to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate the agency certification and the Director’s rationale for concurring with that certification.

“(4) COVERED INDIVIDUALS.—An individual described in this paragraph is—

“(A) a political appointee;

“(B) a former political appointee who held any political position during the five-year period before the date of the request described in paragraph (2); or

“(C) at the discretion of the Director, a former political appointee who held any political position before the five-year period described in subparagraph (B).

“(b) RESTRICTION ON APPOINTMENT.—

“(1) IN GENERAL.—Notwithstanding any other law, rule, or regulation, during the 2-year period following the date a political appointee separates from a political position, such appointee may not be appointed to any career position in the civil service.

“(2) EXCEPTION.—Paragraph (1) shall not apply to a political appointee who has not personally and substantially participated in any particular matter while employed in a political position.

“(c) APPLICATION.—Nothing in this section shall be construed to restrict the appointment of an individual who is—

“(1) entitled to reinstatement under section 3593(b); or

“(2) eligible for reinstatement under section 3593(a).

“(d) DEFINITIONS.—In this section—

“(1) the term ‘agency’ has the meaning given the term ‘Executive agency’ in section 105;

“(2) the term ‘political appointee’ means an individual serving in an appointment of any duration to a political position;

“(3) the term ‘political position’ means—

“(A) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character;

“(B) a position described under sections 5312 through 5316 (relating to the Executive Schedule); and

“(C) a general position in the Senior Executive Service during such time as it is filled by—

“(i) a noncareer appointee, as defined in paragraph (7) of section 3132(a); or

“(ii) a limited term appointee or limited emergency appointee, as defined in paragraphs (5) and (6) of section 3132(a), who is serving under a political appointment.

“(4) the term ‘career position’ means—

“(A) a position in the competitive service filled by career or career-conditional appointment;

“(B) a position in the excepted service filled by an appointment of equivalent tenure as a position described in subparagraph (A);

“(C) a career reserved position, as defined in paragraph (8) of section 3132(a), in the Senior Executive Service; or

“(D) a general position in the Senior Executive Service when filled by a career appointee, as defined in section 3132(a)(4);

“(5) the term ‘participated’ means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action; and

“(6) the term ‘particular matter’ includes any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.”

(b) CLERICAL AMENDMENT.—The table of sections of chapter 31 of title 5, United States Code, is amended by adding after the item relating to section 3114 the following:

“3115. Employment of political appointees.”

(c) APPLICATION.—

(1) APPOINTMENT REQUESTS.—Section 3115(a) of title 5, United States Code, as added by subsection (a), shall apply to any appointment or request for appointment described in such section submitted to the Office of Personnel Management after the date of enactment of this Act.

(2) LIMITATION ON APPOINTMENTS.—Section 3115(b) of title 5, United States Code, as added by subsection (a), shall apply to any individual who separates from a political position (as that term is defined in section 3115(c)(2) of such title, as added by such subsection) after the date of enactment of this Act.

(d) REGULATIONS REQUIRED.—The Director of the Office of Personnel Management shall issue regulations necessary to carry out this Act, including regulations to define the term “personally and substantially participated” as such term is used in section 3115(b)(2) of title 5, United States Code, as added by subsection (a).

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

The Political Appointee Burrowing Prevention Act, as amended, codifies current Office of Personnel Management review requirements for political appointees who intend to convert to career positions in the Federal civil service. The bill also requires agencies to make a business case for the conversion. Finally, the bill prohibits a political appointee from converting to a career position within two years following the appointee’s service in a political position.

BACKGROUND AND NEED FOR LEGISLATION

Each presidential administration appoints non-career political employees in agencies to help advance the administration’s policy goals. These political appointees do not receive the job protections of career Federal positions in the competitive, excepted, and Senior Executive Service because their appointments are meant to be temporary. At the end of an administration, most political appointees leave Federal service to allow the incoming administration to select its own appointees.

In contrast to political positions, career positions in the Federal government are designed to be merit-based to ensure the government has a professional, non-political workforce. Career employees should be hired based on their qualifications and promoted based on performance.

Conversion of political appointees to career positions, also known as “burrowing,” can upset the merit-based system. The Government Accountability Office (GAO) reported, “Sometimes, circumstances surrounding conversions [of political appointees] can raise questions as to whether the individuals selected experienced favoritism or enjoyed an unfair advantage in the selection process. Any appearance of this could compromise the merit system’s integrity.”¹ Questionable conversions take several forms. “Conversions in place” occur when a political appointee converts to a career position that has similar, if not identical, roles and responsibilities, as well as the same supervisors as the former political position.² In at least one case, the political appointee who was converting helped draft the job description for a newly-created career service position before the vacancy announcement was issued, which confers an obvious advantage on that political appointee during the hiring process.³ The timing of a conversion to the career excepted service raises concerns when the conversion occurs towards the end of an administration, before a new President is inaugurated.⁴

The number of political conversions is currently lower than in years past. From October 1998 to April 2001, 111 political conversions took place at agencies reviewed by GAO.⁵ Between May 2001 and April 2005, there were 144 political conversions.⁶ Between May 2005 and May 2009, there were 143 political conversions.⁷ Most recently, from January 2010 to March 2016, 69 conversions took place.⁸

The decrease in political conversions may be linked to aggressive oversight. The Office of Personnel Management (OPM) has general oversight authority under Section 1104(b)(2) of title 5, United States Code, and section 5.2 of title 5, Code of Federal Regulations, to ensure the preservation of a merit-based civil service. An OPM memorandum dated November 5, 2009, expanded OPM’s role in reviewing political conversions to competitive or non-political excepted service positions. Previously, pre-appointment reviews were only required for competitive service positions during a presidential election year.⁹ The memorandum allowed OPM oversight at all times and expanded the oversight requirements to non-political ex-

¹ Gov’t Accountability Office, GAO-17-674, PERSONNEL PRACTICES: ACTIONS NEEDED TO IMPROVE DOCUMENTATION OF OPM DECISIONS ON CONVERSION REQUESTS 1 (2017) [hereinafter “2017 GAO Report”].

² Gov’t Accountability Office, GAO-02-326, PERSONNEL PRACTICES: CAREER AND OTHER APPOINTMENTS OF FORMER POLITICAL APPOINTEES, OCTOBER 1998-APRIL 2001 2-3 (2002) [hereinafter “2002 GAO Report”].

³ *Id.*

⁴ *Id.*

⁵ 2002 GAO Report, *supra* note 2, at 2.

⁶ Gov’t Accountability Office, GAO-06-381, PERSONNEL PRACTICES: CONVERSIONS OF EMPLOYEES FROM NONCAREER TO CAREER POSITIONS MAY 2001-APRIL 2005 4 (2006).

⁷ Gov’t Accountability Office, GAO-10-356R, PERSONNEL PRACTICES: CONVERSIONS OF SELECTED EMPLOYEES FROM POLITICAL TO CAREER POSITIONS AT DEPARTMENTS AND SELECTED AGENCIES 1 (2010).

⁸ 2017 GAO REPORT, *supra* note 1, at Cover Page.

⁹ Prior to the 2009 memorandum, OPM did review all requests to convert to career positions in the Senior Executive Service at any time.

cepted service positions.¹⁰ More recently, P.L. 114–136, the Edward “Ted” Kaufman and Michael Leavitt Presidential Transitions Improvements Act of 2015, further increased OPM’s role in overseeing political conversions. The law required OPM to report to Congress about the frequency of agency requests to convert current and former political appointees to non-political civil service positions, including whether OPM approved or denied the request.¹¹ OPM’s pre-appointment reviews help provide a check on the conversion of political appointees to other positions. The reports provided by OPM to Congress on political conversions help ensure Congress stays abreast of potential threats to the integrity of the civil service.

Congress has also engaged in its own oversight of political conversions. For example, former Chairman of the Committee on Oversight and Government Reform Representative Darrell Issa (R–CA), sent a letter on September 22, 2014, requesting OPM documents relating to political conversions.¹² On January 10, 2017, former Chairman Jason Chaffetz (R–UT) sent a letter to 18 agencies requesting documents relating to conversions of non-career political staff to career positions.¹³ On March 10, 2017, former Chairman Chaffetz and the Chairman of the Subcommittee on Government Operations, Representative Mark Meadows (R–NC), sent a letter to OPM questioning the conversion of a former OPM political employee to a career position at another agency.¹⁴

While political conversions have decreased over time, OPM approved 78 requests for conversion between 2010 and 2016.¹⁵ Of these, 69 political appointees ultimately converted to career positions.¹⁶ Troublingly, OPM’s case files for 55 of the conversions did not provide enough information for GAO to initially support OPM’s determination that the conversions occurred absent political influence. In addition, seven conversions were not pre-approved by OPM despite the requirement for agencies to get permission before doing so.¹⁷ It is critical the American public can trust conversions are the result of fair and open competition and are made free of political influence.

The Political Appointee Burrowing Prevention Act of 2017 addresses these shortcomings by putting existing OPM political conversion procedures in law, and expanding upon them. The bill improves upon existing procedures by requiring agencies provide a certification to OPM that the conversion is critical for the agency to meet its mission. This requirement increases OPM’s review standard and will force agencies to use political conversions as a measure of last resort. Because the certification must also be given to Congress prior to conversion approval, Congress can track conversions in real time, and OPM will have to ensure it has the prop-

¹⁰ Memorandum from John Berry, Dir., Office of Personnel Mgmt., to Heads of Exec. Dep’ts and Agencies, *Political Appointees and Career Civil Service Positions* (Nov. 5, 2009).

¹¹ P.L. 114–136.

¹² Letter from Darrell Issa, Chairman, H. Comm. on Oversight and Gov’t Reform, to Katherine Archuleta, Dir., Office of Personnel Mgmt. (Sept. 22, 2014).

¹³ See, e.g., Letter from Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov’t Reform, to Jeh Johnson, Sec’y, Dep’t of Homeland Security (January 10, 2017).

¹⁴ Letter from Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov’t Reform, and Mark Meadows, Chairman, Subcomm. on Gov’t Operations, to Kathleen McGettigan, Acting Director, Office of Personnel Mgmt. (March 10, 2017).

¹⁵ 2017 GAO Report, *supra* note 1, at Cover Page.

¹⁶ *Id.*

¹⁷ *Id.*

er information necessary to answer any questions that may arise regarding any particular conversion.

Finally, the bill provides a cooling-off period of two years wherein political appointees cannot convert to career positions. This two-year period will start as soon as the appointee leaves the political position. With this statutory restriction in place, previously identified problems of unqualified political appointees burrowing into the merit-based civil service will hopefully become a thing of the past.

LEGISLATIVE HISTORY

On February 16, 2017, Representative Ken Buck (R-CO) introduced H.R. 1132, the Political Appointee Burrowing Prevention Act, with Representatives Ted Lieu (D-CA) and Jared Polis (D-CO). H.R. 1132 was referred to the Committee on Oversight and Government Reform. The Committee considered H.R. 1132 at a business meeting on November 2, 2017 and ordered the bill favorably reported, as amended, by voice vote.

SECTION-BY-SECTION

Section 1. Short title

Section 1 provides the short title of the bill.

Sec. 2. Limitation on employment of political appointees in career civil service positions

Section 2 of the bill amends title 5, United States Code, by adding a new section 3115, entitled “Employment of Political Appointees.” The new section prohibits a current political appointee or certain former political appointees from being appointed to a career civil service position without written approval by the Director of the Office of Personnel Management. In order to effect a conversion, the head of the agency seeking to appoint the individual must submit a request to the Director that includes a certification the appointment is critical for the agency to meet its mission.

The new section also prohibits political appointees from appointment to a career civil service position for two years after the end of the political appointment, unless that person has not personally and substantially participated in any particular matter while employed in a political position. There are also exceptions to the ban for individuals entitled to reinstatement in the Senior Executive Service under existing law.

This section specifies amendments made by this bill shall apply to appointments and separations conducted after the bill’s date of enactment.

Finally, this section authorizes the Director of the Office of Personnel Management to issue regulations necessary to carry out the bill.

EXPLANATION OF AMENDMENTS

During Committee consideration of the bill, Representative Mark Meadows (R-NC) offered an amendment in the nature of a substitute (ANS) to require OPM review any conversion request of political appointees or certain former political appointees to career positions. OPM is required to certify the appointment was fair, open, and free from political influence. If OPM approves a request, it will

provide to specified congressional committees the requesting agency's certification that the conversion is critical for the agency to meet its mission and OPM's rationale for concurring with that certification. The ANS also maintained the underlying bill's prohibition on the appointment of political appointees to a career position within two years of separating from a political position. The ANS was adopted by voice vote.

COMMITTEE CONSIDERATION

On November 2, 2017, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported, as amended, by voice vote.

ROLL CALL VOTES

There were no roll call votes requested or conducted during Committee consideration of H.R. 1132.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill amends title 5, United States Code, to provide for a two-year prohibition on employment in a career civil service position for any former political appointee, and other related restrictions. As such, this bill does not relate to employment or access to public services and accommodations in the legislative branch.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective of this bill is to amend title 5, United States Code, to provide for a two-year prohibition on employment in a career civil service position for any former political appointee, and other related restrictions.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

This bill requires the Office of Personnel Management to issue regulations to implement H.R. 1132, including regulations to define “personally and substantially participated.”

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATES STATEMENT

Pursuant to section 423 of the Congressional Budget and Impoundment Control Act (Pub. L. 113–67), the Committee has included a letter received from the Congressional Budget Office below.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

COMMITTEE ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the Congressional Budget Act of 1974 is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 20, 2017.

Hon. TREY GOWDY,
*Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1132, the Political Appointee Burrowing Prevention Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 1132—Political Appointee Burrowing Prevention Act

H.R. 1132 would amend federal law regarding the hiring of former political appointees, as that term is defined in the bill. In general, the bill would codify the Office of Personnel Management's (OPM's) current policies and practices regarding the hiring of political appointees, though CBO expects there would be some minor changes to OPM's processes. Specifically, the bill would bar political appointees from holding civil service positions for two years unless certain criteria were met. CBO estimates that the cost of implementing H.R. 1132 would not be significant because it would not significantly change the government's current employment procedures.

Enacting H.R. 1132 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 1132 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1132 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * *

PART III—EMPLOYEES

* * * * *

SUBPART B—EMPLOYMENT AND RETENTION

* * * * *

CHAPTER 31—AUTHORITY FOR EMPLOYMENT

SUBCHAPTER I—EMPLOYMENT AUTHORITIES

Sec.

3101. General authority to employ.

* * * * *

3115. *Employment of political appointees.*

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SUBCHAPTER I—EMPLOYMENT AUTHORITIES

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§3115. Employment of political appointees

(a) **APPOINTMENT APPROVAL REQUIRED.**—

(1) **IN GENERAL.**—An individual described in paragraph (4) may not be appointed to a career position without receiving prior written approval from the Director of the Office of Personnel Management with respect to such appointment, consistent with the requirements of this subsection.

(2) **AGENCY APPOINTMENT REQUEST.**—The head of an agency shall submit a request to the Director to approve the appointment of any individual described in paragraph (4) to a career position. Any such request shall include certification by the agency head to the Director that the appointment is critical for the agency to meet its mission.

(3) **OPM REVIEW.**—The Director shall review any request received pursuant to paragraph (2) and—

(A) with respect to any such request, may—

(i) approve the request if the Director determines that the appointment process with respect to the request was fair, open, and free from political influence; or

(ii) deny the request if—

(I) the Director fails to make the determination under clause (i); or

(II) determines that the agency certification under paragraph (2) is unreasonable; and

(B) with respect to a request approved under subparagraph (A)(i), shall, not less than five days before the date of approval, provide to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate the agency certification and the Director's rationale for concurring with that certification.

(4) **COVERED INDIVIDUALS.**—An individual described in this paragraph is—

(A) a political appointee;

(B) a former political appointee who held any political position during the five-year period before the date of the request described in paragraph (2); or

(C) at the discretion of the Director, a former political appointee who held any political position before the five-year period described in subparagraph (B).

(b) **RESTRICTION ON APPOINTMENT.**—

(1) **IN GENERAL.**—Notwithstanding any other law, rule, or regulation, during the 2-year period following the date a political appointee separates from a political position, such appointee may not be appointed to any career position in the civil service.

(2) **EXCEPTION.**—Paragraph (1) shall not apply to a political appointee who has not personally and substantially participated in any particular matter while employed in a political position.

(c) **APPLICATION.**—Nothing in this section shall be construed to restrict the appointment of an individual who is—

(1) entitled to reinstatement under section 3593(b); or

(2) eligible for reinstatement under section 3593(a).

(d) **DEFINITIONS.**—In this section—

(1) the term “agency” has the meaning given the term “Executive agency” in section 105;

(2) the term “political appointee” means an individual serving in an appointment of any duration to a political position;

(3) the term “political position” means—

(A) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character;

(B) a position described under sections 5312 through 5316 (relating to the Executive Schedule); and

(C) a general position in the Senior Executive Service during such time as it is filled by—

(i) a noncareer appointee, as defined in paragraph (7) of section 3132(a); or

(ii) a limited term appointee or limited emergency appointee, as defined in paragraphs (5) and (6) of section 3132(a), who is serving under a political appointment.

(4) the term “career position” means—

(A) a position in the competitive service filled by career or career-conditional appointment;

(B) a position in the excepted service filled by an appointment of equivalent tenure as a position described in subparagraph (A);

(C) a career reserved position, as defined in paragraph (8) of section 3132(a), in the Senior Executive Service; or

(D) a general position in the Senior Executive Service when filled by a career appointee, as defined in section 3132(a)(4);

(5) the term “participated” means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action; and

(6) the term “particular matter” includes any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.

* * * * *

ADDITIONAL VIEWS

H.R. 1132, the Political Appointee Burrowing Prevention Act, as introduced, would prohibit agencies from hiring political appointees for career positions for two years following their separation from the political positions. The bill has bipartisan support.

An amendment adopted during the Committee's consideration of the bill would add additional significant hurdles for agencies seeking to hire applicants into career positions if they separated from political appointments in the last five years. The applicability of this provision would be to any former political appointee during the last five years who applies for a career position after the date of enactment, which raises concerns about retroactivity. Agencies would be required to certify, in writing, to the Office of Personnel Management (OPM) that the appointment is "critical for the agency to meet its mission." This is a very high bar that could make it nearly impossible to hire former political appointees into career positions. The amendment would also place the final decision about whether to allow the hiring of former political appointees in the hands of another political appointee, the Director of OPM. The current review process used by OPM avoids this problem by delegating this authority to senior career officials.

It is not clear that these additional obstacles to hiring qualified career staff are necessary. There are several controls in place already to ensure that when former political appointees are hired into career positions, the selection process is fair, open, and based on skills, knowledge, and abilities. The Government Accountability Office has found that "the ability to convert political appointees to career positions is an appropriate and valuable means of achieving a highly skilled workforce."¹

We all want the best people in federal service. I am hopeful that we can work with the Majority to address some of the issues raised by the amendment adopted in Committee prior to consideration of the bill in the full House.

ELIJAH E. CUMMINGS,
Ranking Member.



¹ Government Accountability Office, *Office of Personnel Management: Actions Are Needed to Help Ensure the Completeness of Political Conversion Data and Adherence to Policy* (Sept. 30, 2016) (GAO-16-859) (online at www.gao.gov/assets/690/680178.pdf).