

116TH CONGRESS
1ST SESSION

S. 394

AN ACT

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. PRESIDENTIAL TRANSITION ENHANCEMENTS.**

5 (a) IN GENERAL.—Section 3 of the Presidential
6 Transition Act of 1963 (3 U.S.C. 102 note) is amended—

7 (1) in subsection (a)—

8 (A) in the matter preceding paragraph (1),
9 by striking “upon request,” and all that follows
10 through “including” and inserting “upon re-
11 quest, to each President-elect, each Vice-Presi-
12 dent-elect, and, for up to 60 days after the date
13 of the inauguration of the President-elect and
14 Vice-President-elect, each President and Vice
15 President, for use in connection with the prep-
16 arations for the assumption of official duties as
17 President or Vice President necessary services
18 and facilities, including”; and

19 (B) in paragraph (2)—

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

25 (ii) by inserting “, or in the case of an
26 employee in a position in the legislative

1 branch, with the consent of the supervising
2 Member of Congress” after “with the con-
3 sent of the head of the agency”;

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

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

8 “(1) in connection with any obligation incurred
9 by the President-elect or Vice-President-elect, or
10 after the inauguration of the President-elect as
11 President and the inauguration of the Vice-Presi-
12 dent-elect as Vice President incurred by the Presi-
13 dent or Vice President, during the period—

14 “(A) beginning on the day after the date
15 of the general elections held to determine the
16 electors of the President and Vice President
17 under section 1 or 2 of title 3, United States
18 Code; and

19 “(B) ending on the date that is 60 days
20 after the date of such inauguration; and

21 “(2) without regard to whether the President-
22 elect, Vice-President-elect, President, or Vice Presi-
23 dent submits to the Administrator a request for pay-
24 ment regarding services or facilities before the end
25 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 memorandum of understanding with each eligible candidate, which shall include, at a minimum, the conditions for the administrative support services and facilities described in subsection (a).

“(2) EXISTING RESOURCES.—To the maximum extent practicable, a memorandum of understanding entered into under paragraph (1) shall be based on memorandums of understanding 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 regard-

ing 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 representative of an eligible candidate shall not require the execution of a new memorandum of understanding under this subsection.

“(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 President 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.

1 “(5) PRIOR NOTIFICATION OF DEVIATION.—

2 Each party to a memorandum of understanding en-
 3 tered into under this subsection shall provide written
 4 notice, except to the extent prohibited under another
 5 provision of law, not later than 3 days before taking
 6 any action that deviates from the terms and condi-
 7 tions agreed to in the memorandum of under-
 8 standing.

9 “(6) DEFINITION.—In this subsection, the term
 10 ‘eligible candidate’ has the meaning given that term
 11 in subsection (h)(4).”.

12 (b) AGENCY TRANSITIONS.—Section 4 of the Presi-
 13 dential Transition Act of 1963 (3 U.S.C. 102 note) is
 14 amended—

15 (1) in subsection (a)—

16 (A) in paragraph (3), by striking “and” at
 17 the end;

18 (B) by redesignating paragraph (4) as
 19 paragraph (5); and

20 (C) by inserting after paragraph (3) the
 21 following:

22 “(4) the term ‘nonpublic information’—

23 “(A) means information from the Federal
 24 Government that a member of a transition team
 25 obtains as part of the employment of the mem-

ber 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 transition 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 appro-
priate government 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 representative”;

(3) by striking subsection (f)(2) and inserting
the following:

“(2) ACTING OFFICERS.—Not later than Sep-
tember 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.”; and

1 (4) in subsection (g)—

2 (A) in paragraph (1), by striking “Novem-
3 ber 1” and inserting “October 1”; and

4 (B) by adding at the end the following:

5 “(3) ETHICS PLAN.—

6 “(A) IN GENERAL.—Each memorandum of
7 understanding under paragraph (1) shall in-
8 clude an agreement that the eligible candidate
9 will implement and enforce an ethics plan to
10 guide the conduct of the transition beginning on
11 the date on which the eligible candidate be-
12 comes the President-elect.

13 “(B) CONTENTS.—The ethics plan shall
14 include, at a minimum—

15 “(i) a description of the ethics re-
16 quirements that will apply to all members
17 of the transition team, including any spe-
18 cific requirement for transition team mem-
19 bers who will have access to nonpublic or
20 classified information;

21 “(ii) a description of how the transi-
22 tion team will—

23 “(I) address the role on the tran-
24 sition team of—

1 “(aa) lobbyists registered
2 under the Lobbying Disclosure
3 Act of 1995 (2 U.S.C. 1601 et
4 seq.) and individuals who were
5 former lobbyists registered under
6 that Act; and

7 “(bb) persons registered
8 under the Foreign Agents Reg-
9 istration Act of 1938 (22 U.S.C.
10 611 et seq.), foreign nationals,
11 and other foreign agents;

12 “(II) prohibit a transition team
13 member with conflicts of interest simi-
14 lar to those applicable to Federal em-
15 ployees under section 2635.402(a)
16 and section 2635.502(a) of title 5,
17 Code of Federal Regulations, related
18 to current or former employment, af-
19 filiations, clients, or investments, from
20 working on particular matters involv-
21 ing specific parties that affect the in-
22 terests of such member; and

23 “(III) address how the covered
24 eligible candidate will address his or
25 her own conflicts of interest during a

1 Presidential term if the covered eligi-
2 ble candidate becomes the President-
3 elect;

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

10 “(I) seek authorization from
11 transition team leaders or their des-
12 ignees before seeking, on behalf of the
13 transition, access to any nonpublic in-
14 formation;

15 “(II) keep confidential any non-
16 public information provided in the
17 course of the duties of the member
18 with the transition and exclusively use
19 such information for the purposes of
20 the transition; and

21 “(III) not use any nonpublic in-
22 formation provided in the course of
23 transition duties, in any manner, for
24 personal or private gain for the mem-

1 ber or any other party at any time
2 during or after the transition; and

3 “(iv) a description of how the transi-
4 tion team will enforce the Code of Ethical
5 Conduct, including the names of the mem-
6 bers of the transition team responsible for
7 enforcement, oversight, and compliance.

8 “(C) PUBLICLY AVAILABLE.—The transi-
9 tion team shall make the ethics plan described
10 in this paragraph publicly available on the
11 internet website of the General Services Admin-
12 istration the earlier of—

13 “(i) the day on which the memo-
14 randum of understanding is completed; or

15 “(ii) October 1.”.

Passed the Senate August 1, 2019.

Attest:

Secretary.

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