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Public comment

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Thank you for the opportunity to comment on the proposal, “Improving Performance, Accountability and Responsiveness in the Civil Service.” I strongly disagree with both the premise behind the proposed rule and the rule itself for reasons I outline below.

The first sentence of the “supplementary information” says, “OPM proposes this rule to strengthen employee accountability and the democratic responsiveness of American government, while addressing longstanding performance management challenges in the Federal workforce.” The evidence that OPM provides on employee accountability in the preamble to the proposed rule largely relies on surveys that discuss the failures by lower level career civil servants, not the ones in “policy-influencing” positions. So even if there is a problem due to poor performance, (which I would not concede but remain open to), this rule will do nothing to address it (and I suspect may exacerbate it).

That leaves us with democratic responsiveness as a reason to implement this regulation. The President appoints 4000 individuals to supervise the executive branch, with more than 1200 of these positions requiring Senate confirmation. Scholars have argued that there are already too many appointees. David Lewis (2011) notes,

There are several reasons why too many appointees might hurt performance. First, appointees may have fewer relevant qualifications than their careerist counterparts. Political appointees are less likely to have subject-area expertise, public-management skills, and the insulation from politics necessary for both long-term planning and the cultivation of professionalism.

And presidents rarely fill even close to all the positions for which they are currently responsible for making appointments.

What then is the evidence that the current system is insufficiently responsive? To OPM’s credit, there are several academic sources cited for this claim. These authors however largely note that bureaucratic disobedience is often grounded in professional norms and expertise (Nou). Thus, to the extent that disobedience is a widespread phenomenon, it runs counter to the stated preference of being able to fire poor performers. As I discuss further below, any attempt to impose presidential preferences on bureaucratic decision-makers inevitably leads to erosion of bureaucratic competence.

David Bednar (2025) has a recent study that emphasizes this point. In a blog post summarizing his findings, he notes,

the expertise and experience of an agency's workforce plays a greater role in determining whether a president succeeds at policymaking. Using an empirical study of rulemaking across three administrations, I find that the greatest predictor of successful implementation of the president's rulemaking agenda is capacity within the federal workforce.

So if democratic accountability is operationalized as responsiveness to the president, a more expert workforce means more accountability.

Finally, one cannot help but suspect that the stated desire for democratic responsiveness comes from the experience of the first Trump Administration. In that case there were well publicized instances of civil servants refusing to follow Trump appointee orders, or in fact undermining them. The most famous instance is OMB officials pushing back on political demands to impound funds for Ukraine in 2019. This example is not a great argument for this rule however. It turns out the OMB officials were right, and President Trump was impeached for his actions. Listening to the career experts would have benefited the President. This is not an isolated instance although the consequences were far more publicized than in other instances. The first Trump Administration also lost in court at record rates (Noll 2020). This is a fate that could have likely been avoided had they paid more attention to career officials.

The possible politicization of the civil service is an issue that hits home for me. I come to it from three different life experiences. I was a civil servant (as was my father before me), working at OMB from 1998-2003 serving both a Democratic and a Republican president. I am now a Dean of a school where many students aspire to government jobs. Finally, I have done extensive research on bureaucratic decision-making, including a book on the bureaucratic experience in the first Trump Administration (Shapiro 2023). I will turn now to each of these perspectives to emphasize the points above.

The Personal

At OMB I had the pleasure of serving with extremely talented and extremely motivated individuals. And there is no doubt that these are positions that would be classified as "policy-influencing," under a renewed Schedule F. Indeed, OMB was the one agency where civil servants were so designated at the conclusion of the first Trump Administration. At OMB, the ethos was "we don't work for the president, we work for the presidency." While administrations would come in skeptical of the OMB staff (since we had just worked for their predecessor from the opposing party), it would not take long before they valued the understanding of how the government worked and how to get things done which was part and parcel of serving at OMB.

We also worked with people at agencies that would clearly be considered policy-influencing. I will note two things about my experience working with them. While there were often disagreements between OMB and the agencies, occasionally heated, I never had cause to doubt that my agency counterparts had vast experience and expertise in the areas we were discussing with them. I also never had reason to doubt their loyalty to the government they served. Second but relatedly, one high level agency official once told me about her experience working with the Reagan Administration saying, "we didn't like them, but they

would come to us with policy questions and we would always answer them to the best of our abilities. It was our job to help them accomplish their goals.”

One of the privileges of working at OMB is that nearly everyone you interact with is policy-influencing. They came to those positions either because of excellent educations or lifetimes of experience (or often both). They also advanced to these positions by being able to navigate political circumstances that swung considerably over the course of their careers. If these individuals had trouble or “caused trouble” in the first Trump Administration, it wasn’t because of their disloyalty to the political branches but rather their interest in adhering to the law and giving their political leaders the best advice they could give.

The Professional

I have taught public policy for more than 20 years. I ran our public policy program for seven years and have been Dean of our school (which includes public health, urban planning and health administration in addition to public policy since 2022). Students we have taught have taken jobs at the Federal Reserve, the Government Accountability Office, the Departments of Commerce, Housing and Urban Development, and many other federal agencies. Many of them have risen to policy-influencing positions.

A public policy curriculum teaches students to be analysts. Our students take three semesters of statistics and one of economics. Many take courses in public finance or cost-benefit analysis as well. Now they are learning advanced computational techniques that are well beyond my capabilities. I tell incoming students that they come into graduate school with the desire to make the world a better place and our job is to give them the analytical tools to do so without dampening their public centered mentality.

In other words, while many of them go to work for non-profits or the private sector, they are being trained to be qualified to be dedicated public servants. This means not using their government positions to achieve an ideological agenda, but rather to provide input on policies and to conduct implementation of such policies as effectively as possible. They are also trained in the American political system, in order to ensure that they clearly understand the role of elected officials vs. the role of civil servants. A few run for office or go to work for political leaders in order to achieve policy goals. But most choose the wonkier path of using their analytical skills to improve public welfare.

My approach as an educator is deeply informed by my experience in government. I want my students to mature into the individuals I worked with at OMB. That is, I want them to be dedicated civil servants who understand their role in a political system. In my current job, I get to meet with our alumni a lot. It constantly heartens me that many of them have adopted this mentality. Subjecting them to political litmus tests in their government jobs is antithetical to the training they have received.

The Research

My research career largely involves examining questions surrounding the regulatory process such as notice and comment rulemaking and cost-benefit analysis. While some of my research is quantitative, I have also done much qualitative research. Much of this qualitative research involves interviewing policy-influencing federal (and occasionally state) government officials.

My most recent book focuses specifically on the questions addressed by the proposed rule. I examine the history of debates surrounding the idea of a bureaucracy that exhibits neutral competence. After detailing the history of those debates, I move on to case studies of four agencies during the first Trump

Administration. Two of those agencies are executive branch agencies, the Office of Management and Budget, and the Economic Research Service at the Department of Agriculture.

The growing complexity of issues facing the US in the late nineteenth century, combined with the pathologies engendered by the Jacksonian spoils system (culminating in the assassination of President Garfield) led to the creation of a competitive civil service. That civil service ensured that the US government would eventually be capable of combating problems unimagined when the Pendleton Act was passed. The world has become infinitely more complicated since its passage in 1883.

The population of the United States has increased by a factor of six. And hence, the volume of questions we ask government to weigh in on has also exploded. Questions involving particulate contamination of the atmosphere, airport security, artificial intelligence and many others would have been incomprehensible to our 19th century forebears. While some would love all decisions involving public policy to be made by elected officials, there simply aren't enough elected officials, and there is not enough expertise possessed by such officials or their political staff for them to make those decisions intelligently.

The phrase neutral competence has long been used to describe the ideal characteristic of the career bureaucracy. Much of the debate both in the academic literature and in political debates has centered on the meaning of neutrality. Indeed, much of the language in the proposed rule echoes this debate. However, I would argue that the chief obstacle to some of President Trump's goals in his first administration was the competence of bureaucracy, not its neutrality, and that competence is what would be undermined by this rule, if finalized. This competence insisted on following scientific consensus on climate change. It insisted that cures such as ivermectin and hydroxyquinoline would not treat Covid-19. The legal expertise in the federal bureaucracy insisted that impounding funds that Congress had explicitly delegated for Ukraine was illegal. These are some of the most prominent examples of bureaucratic competence coming into conflict with the preferences of the Trump Administration. I could come up with dozens more.

Schedule F. may or may not have been an attempt to push back on a perceived lack of neutrality in civil servants. It most certainly was an attempt to push back on their competence as is this rule. Taking qualified and even expert civil servants and making them weigh the tradeoff between voicing the views based on their expertise and keeping their jobs would utterly undermine their expertise (Bednar 2025). It would mean that presidents would not be getting advice based on expertise but on what employees thought they wanted to hear. It would mean that Congressional will as expressed in the statutes that enable the executive branch to make policy would be discounted. This rule would undermine expertise and competent decision-making in the executive branch.

Conclusion

Despite my obvious admiration for public servants, I am confident that there are instances where individuals subvert the legal and legitimate goals of the President. I am also confident however that those instances are the rare exceptions to the rule. The current system does make it difficult to fire these individuals but does so in order to ensure that the expertise of the vast majority of civil servants in policy-influencing positions can use their skills to serve their country without fear of political repercussions. The OPM proposal would flip that current dynamic on its head. Agencies may find it easier to remove the small number of bad actors but in doing so will instill a culture of fear in the vast majority of the workforce that simply wants to do their jobs and help the president with the best advice possible. Is it worth losing untold numbers of positive contributors to seek out a few problems?

Clearly in my mind, the answer is no. The only possible rationale is to undermine the competence of the those in policy influencing positions. We as a nation will be worse off for doing so. Please do not finalize this proposal for the sake of the country.

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