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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT
DIVISION

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MAY 13 1981

The Honorable Jack Brooks
Chairman, Committee on
Government Operations
House of Representatives

Dear Mr. Chairman:

Your letter of May 6, 1981, requested our comments on H.R. 3270 which would extend and amend the authority of the President to reorganize the executive branch of the Government under chapter 9 of title 5, United States Code. On May 6, 1981, I testified before the Senate Committee on Governmental Affairs regarding the President's reorganization authority including specific comments on S. 893. As you know, the only difference between the House and Senate bills is that H.R. 3270 provides for a 2-year extension of authority, whereas S. 893 calls for a 4-year extension.

put both in I/A

As agreed with your office, I am including as enclosure I a copy of my Senate testimony to assist you in your consideration of H.R. 3270. Enclosure II contains suggested language for two amendments to the bill which we provided for the record during our testimony before the Senate Committee. These proposed amendments deal with the information submission requirements and the need to establish a framework for implementing reorganization plans. In terms of the duration of authority, we have no preference between a 4-year and 2-year extension.

We would be pleased to work with your Committee to provide whatever additional assistance we can on your consideration of this proposed legislation.

Sincerely yours,

W.J. Anderson

no

William J. Anderson
Director

Enclosures

Note: These comments refer to testimony by ~~William J. Anderson~~ on the President's Reorganization Authority, 016903 Accession number 115307

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U.S. GENERAL ACCOUNTING OFFICE
Washington, D.C.

FOR RELEASE ON DELIVERY
Expected at 11:00 a.m.
May 6, 1981

STATEMENT OF
MILTON J. SOCOLAR 1/
ACTING COMPTROLLER GENERAL
OF THE UNITED STATES
BEFORE THE
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ON
THE PRESIDENT'S REORGANIZATION AUTHORITY

1/Mr. William J. Anderson, Director, General Government Division, testified for Mr. Socolar.

Mr. Chairman, we are pleased to appear today to discuss the subject of Presidential reorganization authority.

I am including as appendix I the digest of our recent report on the Reorganization Act of 1977. In reviewing several reorganizations, we identified what seems to be a fundamental problem in the reorganization process. Substantial time and resources are always devoted to deciding what is to be reorganized; little attention is given, however, to planning the mechanics of how reorganizations are to be implemented.

The lack of early implementation planning results in substantial startup problems distracting agency officials from their new missions during the critical first year of operations. Also, without implementation data, the Congress is not aware of the full impact of reorganization requirements.

Ten reorganization plans were carried out under the Reorganization Act of 1977. We reviewed four affecting six agencies: the Civil Service Commission (relating to the Federal Labor Relations Authority, the Merit Systems Protection Board, and the Office of the Special Counsel), the Equal Employment Opportunity Commission, the Federal Emergency Management Agency, and the International Development Cooperation Agency.

Startup problems at the six new and reorganized agencies were severe. It took from 10 to 23 months to obtain key officials at two of the agencies. All six agencies experienced delays from 9 to 30 months in acquiring other needed staff. Three of the reorganized agencies did not have sufficient funds to carry out their new responsibilities and, again, all six had difficulty

obtaining adequate office space during the early stages of reorganization. Four of the agencies experienced delays of from 13 to 29 months in establishing administrative support functions. Obviously, much of the expected benefit of reorganization is needlessly lost or significantly delayed under these circumstances.

Startup problems can be alleviated through more attention directed earlier toward planning for implementation. The Office of Management and Budget devotes substantial time and resources in developing reorganization plans for review by the President and the Congress. Implementation requirements of plans do not receive the same priority.

The reorganization plans we reviewed together with accompanying Presidential messages and the supporting information submitted to the Congress covered such matters as the purpose of reorganization, the affected policies and programs, and relevant statutes. The plans and supporting information did not provide the Congress with adequate information concerning administrative and operational requirements. Factors such as the availability of office space and the means for establishing support functions were not actively considered until the plans had received Congressional approval.

Many problems of implementation were left for resolution to the new and reorganized agencies. Although OMB did provide coordination and oversight during most reorganizations, these efforts, without the benefit of earlier planning, were insufficient to allow for reasonably smooth transitions. Even so, OMB cannot do the job alone. The selection and appointment of agency heads lies within the White House domain and the acquisition of office space lies

within the authority of the General Services Administration. Assistance of the Office of Personnel Management would be useful in recruiting for vacant positions and in working out prearrangements for required detailees from other agencies to establish support systems.

There is need for a better mechanism to put approved reorganizations in place. This might be done through high level inter-agency implementation task forces with authority to obtain timely commitments from all affected Federal agencies. Such task forces should be formed early enough to participate in reorganization plan development and should include high ranking officials from OMB, the White House Personnel Office, the General Services Administration, the Office of Personnel Management, and from other agencies as appropriate. Reorganization plans submitted to the President and ultimately by him to the Congress should point out the associated administrative requirements and plans for meeting them.

We recommend that legislation granting reorganization authority to the President require that reorganization plans contain a section on proposed implementation actions to be taken. This section should describe

- the mechanism established to facilitate implementation activities and
- the specific actions taken to assure that, upon Congressional approval, the requisite leadership, staffing, funding, office space, and administrative support functions will be dealt with expeditiously so as to

implement any given reorganization on its effective date or soon thereafter.

The Administration's proposal, introduced as S. 893, in extending the President's reorganization authority, would require more information to accompany reorganization plans, and would increase the time for Congressional consideration. S. 893 would also prohibit the use of the reorganization authority to create new independent Federal agencies and would modify Congressional procedures for approving reorganization plans.

Section 4 of S. 893 would require that drafts of Executive orders, Presidential directives, and administrative actions related to carrying out a proposed reorganization be submitted with the reorganization plan. The provision would be a step in the direction of fully informing Congress of anticipated collateral actions and other ramifications of a plan. As presently drafted, however, section 4 is subject to varying interpretations, and contains several definitional ambiguities that could prove troublesome. Rather than directing the transmittal of draft orders, directives, and administrative actions, we recommend the provision be amended to require an explanation of the anticipated nature and general substance of such orders or directives as the President expects will be necessary to carry out the reorganization.

I might also point out that the recommendation contained in our report logically supplements section 4 by requiring a separate comprehensive section on implementation as a vital part of each reorganization plan. This section would stress such specific

factors as agency leadership, staffing, funding, office space, and administrative support systems.

Section 5 would prohibit the renaming of an existing Executive department and the creation of a new agency that is not a component or part of an existing Executive department or independent agency. Five of the ten reorganization plans implemented during the prior Administration would not have been possible under the second prohibition precluding the use of reorganization plan authority to create a new independent agency. The Federal Emergency Management Agency, the International Communications Agency, the Federal Inspector for the Alaska Natural Gas Transportation System, the International Development Cooperation Agency, and two new agencies under the Civil Service Commission reorganization--the Federal Labor Relations Authority and the Office of Personnel Management--were created through Presidential reorganization plan authority but would not have been possible under the restriction proposed by S. 893.

Finally, under section 6 of the bill, reorganization plans would become effective if any one of three conditions were satisfied during a 90-day layover period: (1) each House of Congress adopts a resolution approving the plan; (2) one House of Congress adopts an approving resolution, while the other House fails to vote; and (3) neither House votes on an approving resolution. Under the 1977 act, reorganization plans became effective if neither House adopted a disapproving resolution or, alternatively, neither House voted on a disapproving resolution during the 60-day layover period.

S. 893 is an improvement over the approval process of the previous law. The 1977 act and S. 893 contain a number of provisions that encourage a vote on every reorganization plan by both the House and the Senate. However, S. 893's approval mechanism more closely approximates the normal legislative process because it contemplates passage, rather than defeat, of a resolution by both Houses as a condition of plan approval.

We would be pleased to work with the Committee to provide whatever additional assistance we can in connection with further consideration of this bill. We have prepared draft language that would incorporate our recommendation on section 4 and the recommendation contained in our report. In addition to the points covered in my statement, there are also a few technical comments and suggested refinements concerning several provisions of the bill that we would be glad to share with the Committee staff.

COMPTROLLER GENERAL'S
REPORT TO THE COMMITTEE
ON GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE

IMPLEMENTATION: THE
MISSING LINK IN PLANNING
REORGANIZATIONS

D I G E S T

The Reorganization Act of 1977, as amended provides the President broad authority to reorganize Federal agencies. The act expires in April 1981. In anticipation of reauthorization proceedings, the former Chairman, Senate Committee on Governmental Affairs, asked GAO to identify:

- What systemic problems, if any, new or reorganized agencies have had in obtaining personnel or support services made necessary by the reorganization. (See ch. 2.)
- How the Congress and the executive branch can avoid or alleviate these problems. (See p. 22.)
- What services may be common to the successful implementation of any reorganization and must be routinely provided by the executive branch to effectively and efficiently carry out the transfer. (See p. 20.)

Due to time constraints GAO limited its review to four reorganizations involving six agencies: the Equal Employment Opportunity Commission, the Federal Emergency Management Agency, the Federal Labor Relations Authority, the International Development Cooperation Agency, the Merit Systems Protection Board, and the Office of the Special Counsel.

NEW AND REORGANIZED AGENCIES EXPERIENCED SUBSTANTIAL STARTUP PROBLEMS

The six new and reorganized agencies GAO reviewed experienced substantial startup problems. These included

- delays in obtaining key agency officials,
- inadequate staffing,
- insufficient funding,

- inadequate office space, and
- delays in establishing such support functions as payroll and accounting systems.

Solving these startup problems distracted agency officials from concentrating on their new missions during the critical first year of operations.

Two of the six agencies had delays from 10 to 23 months in obtaining key officials. For example, the Federal Emergency Management Agency was virtually leaderless during the early months of its existence. Its Director was not confirmed until 10 months after the reorganization plan was approved; a total of 23 months passed before all 16 top management positions were filled. (See pp. 5 to 6.)

The six agencies experienced delays from 9 to 30 months in acquiring needed staff. As of February 1981, 19 months after the reorganization approval date, the International Development Cooperation Agency still had not resolved a dispute with the Department of the Treasury over the number of positions to be transferred. (See pp. 6 to 8.)

Three of the six reorganized agencies--the Federal Labor Relations Authority, the Merit Systems Protection Board, and the Office of the Special Counsel--did not have sufficient funds to carry out their new responsibilities. This led to combined fiscal year 1979 and 1980 appropriation increases ranging from \$3.4 million to \$4.1 million. (See pp. 8 to 9.)

All six agencies had difficulty in obtaining adequate office space. Five agencies' space needs still had not been met when GAO completed its review in February 1981. For example, current plans will not allow the Merit Systems Protection Board and the Office of the Special Counsel to move to new office space until June 1981, almost 3 years after they were established. (See pp. 9 to 12.)

Four of the six agencies experienced delays of from 13 to 29 months in establishing administrative support functions. For example, the Federal Emergency Management Agency's budgeting,

accounting, and payroll systems were not finalized as of February 1981, 29 months after the reorganization plan's approval. (See pp. 12 to 13.)

MORE EMPHASIS NEEDED ON IMPLEMENTATION PLANNING

The Office of Management and Budget (OMB) devoted substantial time and resources to developing reorganization plans for review by the President and the Congress. However, implementation of those plans did not receive the same priority or visibility. (See p. 15.)

The reorganization plans, the accompanying presidential messages, and supporting information submitted to the Congress discussed such matters as the purpose of the reorganization, the affected policies and programs, and relevant statutes. However, the plans and supporting information did not address the administrative and operational requirements to carry out the proposed reorganizations. Factors such as the availability of needed office space or the time and cost required to establish support functions were not considered until the plans had met congressional approval. (See p. 16.)

Many of the responsibilities for implementation were left up to the new and reorganized agencies. Although OMB provided a coordination and oversight role during most reorganizations, these efforts were not enough to prevent problems in obtaining key agency officials, other staffing, funding, office space, and support functions. (See pp. 16 to 17.)

These startup problems could be alleviated by including in future reorganization plans front-end implementation planning objectives.

Establishment of high level interagency implementation task forces to obtain timely commitments from all Federal agencies affected by reorganization plans may help to further alleviate startup problems. Task force members should include agency heads or high ranking officials from OMB, the White House Personnel Office, the General Services Administration, the Office of Personnel Management, and/or

the losing and gaining agencies. (See pp. 17 to 22.)

RECOMMENDATION TO THE CONGRESS

GAO recommends that any future legislation granting reorganization authority to the President require that reorganization plans contain sections on proposed implementation actions. (See p. 22.) Appendix II contains suggested legislative language.

AGENCY COMMENTS

GAO did not obtain official agency comments on its report due to the short time frame between completion of its work and the expiration of the Reorganization Act in April 1981.

Suggested Amendments to S. 893

I. Strike the text of section 4, and in substitution, insert the following:

Information to Accompany Plans

Sec. 4. (a) Section 903(b) of title 5, United States Code, is amended by adding at the end thereof the following new sentences:

"The message also shall contain an explanation of the anticipated nature and general substance of such orders or directives as the President expects will be necessary to carry out the reorganization. The President shall submit such further background or other information as the Congress may require in its consideration of the plan."

(b) The third sentence of section 903(b) of title 5, United States Code, is amended by striking the word "also."

II. Redesignate sections 5 and 6 as sections 6 and 7, respectively, and insert immediately after section 4, the following new section:

Information to Be Included in Plans

Sec. 5. Section 904 of title 5, United States Code, is amended by inserting after paragraph (5), the following new paragraph:

"(6) [Reorganization plans transmitted by the President under section 903 of this title] shall, in addition to the required description of the reorganization proposed, contain a section on plan implementation. In addition to such other information the President deems desirable, this section shall explain how, through establishment of an

interagency task force or otherwise, implementation of the reorganization has been planned and how, upon congressional approval, effective leadership, adequate staffing, funding, office space, and administrative support are to be provided so as to achieve efficient implementation of the proposed reorganization on its effective date, or as soon thereafter as practicable."