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Building a More Effective, Responsive Government

Lessons Learned from the Biden-Harris Administration

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Roosevelt Institute

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The Roosevelt Institute is a think tank, a student network, and the nonprofit partner to the Franklin D. Roosevelt Presidential Library and Museum that, together, are learning from the past and working to redefine the future of the American economy. Focusing on corporate and public power, labor and wages, and the economics of race and gender inequality, the Roosevelt Institute unifies experts, invests in young leaders, and advances progressive policies that bring the legacy of Franklin and Eleanor Roosevelt into the 21st century.

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Foreword

Elizabeth Wilkins

[The men and women of the Republic] . . . will insist that every agency of popular government use effective instruments to carry out their will.

Government is competent when all who compose it work as trustees for the whole people.

- *President Franklin D. Roosevelt in his 1937 inaugural address*

At the Roosevelt Institute, we've written often about the untapped potential of public power.

"When public power is used to serve ordinary Americans, it can counter skewed power dynamics in markets, provide universal access to goods and services, and harness our national potential toward broadly shared economic growth," our 2019 report *New Rules for the 21st Century* said. "Alternatively, concentrated power in the private sector can stunt public power, turning it into a tool to enrich those at the top."[1]

For five discontented decades, our leaders chose the latter path. They failed to use public power with the urgency and ambition Americans demanded. They allowed immense concentrations of wealth and power for the few, and an ever-decreasing sense of security for the many. That path paved the way for a dark alternative: Rather than curbing corporate influence, the second Trump administration has allowed corporations and billionaires to write their own rules and rig the economy with increasing brazenness. With breakneck speed, Trump 2.0 has deployed every tool and agency it can to enrich friends and punish and silence enemies. Meanwhile, the administration's relentless slashing of agency staff and budgets—driven initially by the world's richest man and his cronies—has hollowed out our government's ability to meet people's needs, provide basic services, and respond to emergencies.

While all of these actions have scarred our democratic institutions, it's not too late to change course. To do so, we must understand what changing course really means, and what it will require. We must reckon honestly with how we got here and why the American public has been so frustrated with these institutions for so long. And we must make concrete plans to do better—for the people, and with them.

That's what this report does. In *Building a More Effective, Responsive Government: Lessons Learned from the Biden-Harris Administration*, former Biden-Harris senior officials Hannah Garden-Monheit and Tresa Joseph draw from the insights, recommendations, and candor of more than 45 former public servants and tell a broader story we can't forget: The problems with

[1] Nell Abernathy, Darrick Hamilton, and Julie Margetta Morgan, *New Rules for the 21st Century: Corporate Power, Public Power, and the Future of the American Economy* (Roosevelt Institute, 2019), https://rooseveltinstitute.org/publications/new-rules-for-the-21st-century-corporate-power-public-power-future-american-economy.

these institutions did not start with Donald Trump or Elon Musk, worse as they now are. These problems are, in part, what results from decades of bipartisan neglect, disinvestment, and deference to markets. But just as importantly, they are the product of institutional cultures, norms, and practices that—even when well-intentioned, even when originated for good reasons—no longer serve the public.

As these interviews show us in new detail, in agencies across the federal government, the default mode of operating is risk-averse, incremental, and wed to process at the expense of outcomes. It's no accident that people feel disengaged with and unseen by their government when "federal institutions are designed to passively receive inputs from well-resourced corporate lobbyists and insiders, rather than being optimized for connectivity with ordinary Americans with busy lives," as Garden-Monheit and Joseph write.

Overcoming that status quo could be difficult even at agencies with ambitious populist agendas and clear mandates, as I experienced firsthand as a former public servant.

At Lina Khan's Federal Trade Commission (FTC), where I served as chief of staff and head of policy, our charge was to democratize our agenda-setting and create meaningful channels for public participation. One of our first projects when I started was to revamp the merger guidelines, which our litigators consider when reviewing a merger.[2] Merger review is really the first line of defense against increasing concentration in the economy, so while these guidelines may seem esoteric and technical, they are crucial to constraining corporate power.

In prior revisions of these guidelines, lobbyists and big law partners, hired by major companies or industries that could spend the money to understand them in detail, were the most engaged parties. But merger guidelines have profound impacts on all kinds of market participants—workers, farmers, small business owners, creators. The FTC decided to break with the agency's norms and democratize the process, opening a Request for Information that received more than 5,000 comments.

We also decided that a general invitation for information wasn't enough, and that parties less sophisticated or well-heeled might not know about the opportunity or how to take advantage of it. We affirmatively reached out to affected people in various industries to hear their perspectives and lived experiences in a series of listening sessions.[3] This seemed like a no-brainer to us, to make sure we hear from the people who should be the beneficiaries of our laws, people for whom the merger guidelines were supposed to preserve competitive markets.

What happened next is the kind of hurdle we see again and again in Garden-Monheit and Joseph's interviews: staff pushback in the name of "government expertise." Their argument was that our outreach was one-sided, and we would be accused of "bias." To be clear, these were dedicated public servants, concerned about the efficacy of the agency and their perception that a certain type of reputation was key to preserving it. But where that good intention took them—the thought that we needed to make the same effort to hear from well-resourced

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[2] *Merger Guidelines* (US Department of Justice (DOJ) and Federal Trade Commission (FTC), 2023), https://ftc.gov/system/files/ftc_gov/pdf/2023_merger_guidelines_final_12.18.2023.pdf.
[3] DOJ, "Justice Department and FTC Launch Listening Forums on Firsthand Effects of Mergers and Acquisitions," Press release, March 17, 2022, https://justice.gov/archives/opa/pr/justice-department-and-ftc-launch-listening-forums-firsthand-effects-mergers-and-acquisitions.

corporations as we did from previously voiceless and less powerful market participants—was symptomatic of a deeper disease.

We overcame that resistance, to the benefit of the resulting product. My lesson from that experience, and from the stories of this report's interviewees: Layers of overcautious bureaucracy and fear of corporate retaliation are not conducive to the bold action the public expects from its government.

We need modern, nimble institutions that channel people's concerns and aspirations into tangible results, and a more expansive view of what it takes to create policy momentum. As one interviewee said, "Build the campaign, not just the policy." That requires leaders to position themselves to drive real change forward, both in roles with governing power and in spaces that influence governing—such as advocacy organizations, base-building groups, academia, legal and judicial roles, and media. Cultivating civic leadership is a top priority for our Roosevelt Society, which equips our participants with the skills they'll need to build coalitions and networks, think strategically, and execute successfully.

The rising authoritarianism we see today shows us the stakes of all these efforts. As I wrote in *Democracy Journal* recently, "Defending the anemic institutions that frustrate the public is not a viable strategy."[4] Designing truly democratic and bold institutions is, and this hopeful report is a step toward that future.

[4] Elizabeth Wilkins, "Winning a People-Powered Future," *Democracy Journal* 78 (2025), https://democracyjournal.org/magazine/78/winning-a-people-powered-future.

Executive Summary

We know the tragic effects of President Donald Trump's dismantling of the federal government. But the truth is, Trump and Elon Musk alone didn't break our governing institutions. Even prior to the current administration's actions, both parties presided over decades of disinvestment in federal government capacity, too often abdicating power to private market forces where public institutions once shaped outcomes in the public interest—as Roosevelt has written much about.[5] Conservative efforts to undermine the federal government and hamstring its very ability to function compounded the problem. Decades of underfunding and hollowing out agencies, outsourcing expertise, layering on procedural hurdles that slow action to a crawl, and stacking courts with ideological allies have weakened the government's ability to deliver for working families, stand up to special interests on their behalf, and earn the public's trust. And while the Biden-Harris administration had a fundamentally different vision of the government's role in the economy—rejecting laissez-faire, hands-off approaches to markets—it often sought to restore the governmental institutions and norms that had existed prior to the first Trump administration, rather than dramatically reimagining them to create more progressive, action-oriented government institutions.

The long-running undercutting of the government's capacity to solve national problems is not just a bureaucratic problem. It is a democratic one, because democratic legitimacy requires a government capable of speedily and visibly responding to ordinary Americans' aspirations and discontent. As President Franklin D. Roosevelt warned,

> Democracy has disappeared in several other great nations—not because the people of those nations disliked democracy, but because they had grown tired of unemployment and insecurity, of seeing their children hungry while they sat helpless in the face of government confusion and government weakness through lack of leadership in government.[6]

To avoid that fate, American policymakers must prove that democracy can still deliver—that democratic institutions can operate with urgency to meaningfully improve the lives of ordinary people, and that the government is answerable to the people, not just the monied few. Doing so will require reimagining and building a new, more responsive, and more effective set of federal government institutions, rather than simply restoring what existed before Trump. Future administrations must flip the government's risk profile away from status quo bias and toward delivering bold, timely, and resonant results for working people.

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[5] Abernathy, Hamilton, and Morgan, *New Rules for the 21st Century*.
[6] Franklin D. Roosevelt, "Fireside Chat," Radio Broadcast, The American Presidency Project, April 14, 1938, https://presidency.ucsb.edu/documents/fireside-chat-15.

To ground conversations about government institutional reform in practical experience, we interviewed more than **45 recent federal officials**—senior political appointees from the Biden-Harris administration who worked on economic policymaking—to capture while still fresh their candid insights into the institutional obstacles to execution and innovation. To better understand the bureaucratic hurdles and gaps in capacity that undermine robust federal economic policymaking and delivery, we interviewed appointees from a wide range of agencies, roles, and modes of government administration—including specialists in regulatory policymaking, enforcement, service delivery, federal funding deployment, personnel processes, communications, and more.[7]

In this report, we recount their lessons learned, and we provide **161 practical ideas** they offered for institutional reforms to create a more effective, nimble, and responsive government. These ideas are not meant to be consensus recommendations—i.e., they were not each endorsed by every interviewee. Rather, they serve to provide an "options menu" of credible, actionable solutions offered by practitioners with a shared passion for building a democracy that more quickly and effectively delivers for working people. Of course, we could not speak with every appointee, and we recognize that there are different perspectives; this report offers a window into the experiences and ideas of those we interviewed. We organize the report around core principles for reform gleaned from these interviews, as follows:

Chapter 1: Relentlessly Prioritize Bold, Resonant, and Timely Policies

Future administrations must flip the government's risk profile toward bold, swift action, rather than restoring a system that wasn't working well for working- and middle-class families even before the Trump administration implemented its current policies. Interviewees explained that the government has a strong built-in bias toward incrementalism, thanks to both the inertia associated with moving complex bureaucracies and the fear of politically embarrassing failures. Rebuilding public trust and democratic legitimacy will require instead visibly and boldly proving that the government is fighting to improve ordinary people's lives. Many interviewees accordingly advised that a future administration's policy portfolio should include some signature big swings that speak to working people's immediate economic needs and that can be tangibly felt on the ground within the term. Interviewees stressed that a future administration must do more homework in advance so that it is ready to execute such a proactive agenda on Day One—arriving prepared to prioritize a known set of "must-do" deliverables, even as it stands up more modern, effective government institutions, addresses the crises of the moment, and negotiates with an unpredictable Congress.

Chapter 2: Fling Open the Doors and Proactively Engage with the Public

Another reason that the federal government has a built-in status quo bias is that federal institutions are designed to passively receive inputs from well-resourced corporate lobbyists and insiders, rather than being optimized for connectivity with ordinary Americans with busy

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[7] Agencies represented in our interviews include the Department of Agriculture, Department of Commerce, Department of Energy, Department of Health and Human Services, Department of Justice, Department of Labor, Department of Transportation, Treasury Department, Consumer Financial Protection Bureau, Federal Trade Commission, National Labor Relations Board, and Social Security Administration as well as many components of the White House, including the Office of Management and Budget, Office of Information and Regulatory Affairs, National Economic Council, Domestic Policy Council, Office of Personnel Management, Office of Legislative Affairs, US Digital Service, and more.

lives. This leaves the voices of regular people too often drowned out by the well-resourced lobbyists and big businesses that fan out across DC to protect their own financial interests, and it creates a persistent gap in whom federal officials hear from and who can be mobilized to support and defend a policy. Interviewees offered a range of options for building the infrastructure and capacity for the federal government to instead proactively sustain two-way engagement with the American people—to understand people's problems on their own terms, to learn what solutions actually work on the ground, and to build the on-the-ground coalitions that can mobilize behind those solutions.

Chapter 3: Recalibrate the Executive Branch Tool Kit for an Era of Hostile Courts and a Dysfunctional Congress

The Biden-Harris administration lost precious governing time honing regulatory policies for years, only to see them immediately invalidated by courts stacked with conservative and/or corporate-friendly ideologues. Interviewees recommended a range of legislative options for cabining unelected courts' meddling in economic policy choices made by leaders accountable to the public, including reforms to course-correct from an ideologically captured Supreme Court, to prevent forum shopping, and to limit the scope of judicial review under the Administrative Procedure Act. In the absence of legislative reforms, many interviewees recommended recalibrating resources away from notice-and-comment rulemaking, or at least not relying on notice-and-comment rulemaking as a standalone tool. In that vein, some agencies had more success producing faster, more durable on-the-ground results by waging public campaigns that deployed multiple levers in tandem, instead of relying on rulemaking alone.

Chapter 4: Remove Red Tape That Slows Regulatory Implementation

In addition to its vulnerability to hostile courts, there is another problem with rulemaking: its multiyear timeline. Interviewees described obsolete government organizational structures, layers of procedure, and vetogates that add delays and risk-aversion. They recommended removing such impediments, including eliminating the current role of the Office of Information and Regulatory Affairs (OIRA) as a skeptical gatekeeper—a role originally created by conservatives to hamstring government regulation of markets. They also recommended repealing or significantly narrowing statutory procedural requirements that add make-work and delay, including the Paperwork Reduction Act and the Regulatory Flexibility Act.

Chapter 5: Speed and Scale Corporate Accountability Enforcement

Bold, impactful affirmative litigations to stop corporate lawbreaking—i.e., to enforce worker protection, consumer protection, and competition laws—are some of the most effective remaining federal tools for delivering concrete results for ordinary Americans. However, to make them a central part of an administration's strategy for ensuring the economy works for ordinary Americans, interviewees described a need to adequately resource, speed up, and lift up such actions—so that large corporations can't treat lawbreaking as a mere cost of doing business.

Chapter 6: Modernize Government and Abolish Needless Paperwork

The Biden-Harris administration had many successes using human-centered design to transform government services from frustrating to seamless, such as free and easy tax filing, online passport renewal, and click-to-order COVID tests. But interviewees still regretted that the Biden-Harris administration did not make human-centered design and technological transformation more of a core priority across agencies. They underscored that future administrations could rebuild public trust and reduce inefficiencies by going all-in on human-centered design and in-house technological modernization capacity—including automating benefits through better data-sharing and eliminating needless government paperwork.

Chapter 7: Deploy Federal Funding Faster and More Efficiently

Interviewees pushed back on the notion that success should be measured purely by the number of infrastructure projects completed during a single term, explaining that the goal of the Biden-Harris administration's "Investing in America" agenda was generational transformation, not "shovel ready" wins. That said, interviewees stressed that federal dollars alone do not transform systems, and that failing to obligate funds quickly leaves them vulnerable to rescission or repurposing. Interviewees offered many recommendations for making federal funding deployment faster and more efficient—including defining outcome-oriented objectives from the outset, building out project management capabilities, investing in external capacity, aligning overlapping funding streams, creating next-generation public funding transparency tools, and, where possible, cutting out intermediaries that can add costs and delays.

Chapter 8: Quickly Build Modern, Nimble Teams Post-DOGE

The federal personnel system was hardly perfect even before the so-called Department of Government Efficiency (DOGE) decimated the federal workforce. Interviewees cited slow hiring processes, uncompetitive pay, rigid institutional boundaries, and underutilized performance management tools as impediments to nimble, effective problem-solving. Now, Trump and DOGE have shattered the former social compact with federal workers, in which public service promised stability and a chance to do meaningful, respected work. Interviewees offered options for building a modern, nimble model going forward, including using more "tour-of-duty" models to inject mission-driven talent into government, rewarding performance rather than seniority, using flexible hiring authorities and/or creative contracting approaches to quickly rebuild the federal workforce, deploying agile, cross-disciplinary teams, and restoring collective bargaining rights while making bargaining more meaningful. They also stressed that proving democracy can deliver will require choosing political appointees based on their operational execution skills—not political box-checking.

Chapter 1: Relentlessly Prioritize Bold, Resonant, and Timely Policies

The very premise of democratic accountability requires a government that can govern within the time frame of its elected mandate, and rebuilding trust in democratic institutions will require visibly proving that government can meaningfully improve ordinary Americans' lives. To that end, when crafting a policy agenda, everyone from think tanks to electeds, thought leaders, organizers, and philanthropic funders should prioritize crisp, resonant, and highly executable policy designs that will be broadly and tangibly felt on the ground before citizens are asked to judge them at the polls.

Doing so will require rejecting the incrementalism and risk-aversion that has long been the government's default mode of operating. Many interviewees advised that instead, administrations must prioritize bold policies that are timely, broadly applicable, highly visible and tangible, and readily traceable back to the administration, so that people understand the connections between their daily experiences and what the government is doing for them. Interviewees stressed that this requires doing much more homework in advance, so that any new administration arrives ready to execute on Day One—ready to launch its proactive economic agenda even as it stands up new government institutions and addresses the crises of the moment. What's more, many advised that plans should include dual implementation blueprints—one executable solely under existing authority, even as agencies are being rebuilt, and another contingent on new legislation—because the next administration cannot wait for, or bank on the makeup of, an unpredictable Congress.

The Need to Prioritize Crisp Policies That Visibly and Tangibly Address Immediate Economic Needs

Although President Biden achieved the most significant two-year spate of legislative wins since Lyndon B. Johnson,[8] many interviewees regretted that the legislative accomplishments did not meet the democratic imperative to deliver tangible on-the-ground results within the administration's elected mandate. One problem identified by interviewees was that much of the legislation concerned generational infrastructure and clean energy investments that take time to deliver and didn't speak to ordinary people's immediate, kitchen-table economic needs—despite the ongoing cost-of-living crisis. As one former senior Department of Agriculture (USDA) official commented on the Bipartisan Infrastructure Law (BIL), "Nobody wants a bunch more traffic on the way to work when you cannot afford your daily life." A former senior BIL implementation official explained that "fix the damn roads" can be a resonant message, but infrastructure projects generally take years to complete, making them very hard to use as proof points that government is delivering tangible results. Similarly, a former Department of Commerce (DOC) official explained that the CHIPS and Science Act's investments in semiconductors were critical for national security, but the bill was never meant to be a major job creator; promoting it thus could not substitute for policies that directly addressed working families' immediate economic needs.

[8] Jackie Calmes, "Calmes: Biden Has the Best Legislation Record of Any President Since LBJ. Why Can't Voters See It?," *Yahoo*, February 9, 2023, https://yahoo.com/news/calmes-biden-best-legislation-record-025317035.html.

Chapter 7 describes interviewees' insights and recommendations for deploying federal funding faster and more efficiently. However, many interviewees who worked on—and remain passionate about—making such public investments to support long-term economic growth and security emphasized that the administration's overarching strategy needed to better account for the reality that such investments didn't respond to immediate, pocketbook household needs. In other words, the overall policy portfolio needed to include bold, signature achievements providing immediate relief on pocketbook issues, alongside the longer-term, lower-salience "Investing in America" programs. Unfortunately, many Biden-Harris administration economic policies that might have met this need—such as free, universal preschool; free, universal community college; and affordable childcare and paid family leave—languished on the Hill. Interviewees explained that a focus on wrangling legislatively achievable wins through a dysfunctional Congress—combined with a reluctance to aggressively deploy existing regulatory authorities while legislative negotiations were still live and might be disrupted by bold executive action—left the administration without a timely, visible response to the cost-of-living crisis.

"Nobody wants a bunch more traffic on the way to work when you cannot afford your daily life."

A second problem identified by interviewees was that, even when the administration did manage to wrest from Congress more pocketbook-salient economic policies, they were often too delayed, narrow, or obscurely delivered to resonate. For example, a former senior Department of Health and Human Services (HHS) official explained that the administration invested significant bandwidth and political capital in enacting Medicare drug price negotiation. However, the interviewee elaborated, the legislation applied to only 10 drugs, comes into effect only in 2026, and involves bargaining with the industry rather than curbing its underlying market power—leaving a relatively narrow and not-yet-identifiable set of beneficiaries who likely will never "be able to connect [any relief] to the legislation." Moreover, negotiated prices—while significantly discounted—still were not cheap.[9] As the former senior HHS official explained, "We look ridiculous when we're like, 'It could've been *more* expensive.'"

In another example, several interviewees pointed to the obscurity of the American Rescue Plan's State and Local Fiscal Recovery Funds and the problems associated with using intermediaries for delivery. Interviewees noted that the administration spent significant political capital securing $350 billion for state and local governments to fill COVID-related budget gaps, and the funds were obligated relatively quickly. However, because the money ran through state and local governments, which spent it on a wide variety of local programs, it was challenging for the diffuse successes to break through and resonate. Worse still, an interviewee noted the approach could also yield counterproductive results during implementation, like state governments that opposed the policies using the funds in ways that did not align with their purpose. That said, an interviewee noted that the American Rescue Plan prioritized rapidly pushing out broad fiscal stimulus to save the COVID-shaken economy, rather than focusing on public resonance or easily traceable "wins."

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[9] "Medicare Drug Price Negotiation Program: Medicare Prices Negotiated for 2026 Compared to List and US Market Prices," Office of the Assistant Secretary for Planning and Evaluation (ASPE), August 15, 2024, https://aspe.hhs.gov/sites/default/files/documents/3e8abec86039ac0ed674a8c5fac492e3/price-change-over-time-brief.pdf.

Relatedly, many interviewees underscored the need for policymakers to consider how program design affects both the durability of policies and the coalitions that sustain them—what political scientists call "policy feedback."[10] That is, policies with an identifiable, politically powerful set of beneficiaries (such as the working and middle class) and direct, visible, and timely delivery mechanisms (rather than delayed effects and obscure or "submerged" delivery mechanisms) are more likely to be popular and durable. For example, some interviewees noted that means-tested tax credits, like the American Rescue Plan's expanded Advance Child Tax Credit payments,[11] at least temporarily lifted millions out of poverty, yet did not garner a sufficiently broad political coalition to be made permanent during the term—perhaps because means-tested tax credits aren't as broadly resonant as more universal, beloved programs like Social Security and Medicare. Another possibility posited by an interviewee is that Social Security and Medicare gain durability from people paying into the programs, making them feel more like insurance programs and less like a government handout. Others noted that the relatively frictionless delivery of the Child Tax Credit may have prevented beneficiaries from even realizing they had received it.

Some interviewees highlighted Biden-Harris administration policies that were more readily understandable and direct in their design, which seemed to make them more broadly resonant and sometimes even smoothed implementation. For example, a former senior HHS official contrasted the complexity of Medicare drug price negotiation with the simplicity of the $35 cap on insulin for Medicare patients, stating the latter was "what people talked to the [HHS] Secretary about." Not only was it easy to explain, the straightforward design also simplified implementation. Unlike Medicare drug price negotiation, which took about 100 new hires over two years to implement, the insulin price cap took effect just months after passage (4 months for Medicare Part D and 10 months for Part B).[12]

Several interviewees also raised the administration's work to ban junk fees—hidden fees that make it hard to comparison shop for the best deal—as an example of the kind of design that could break through and resonate. Interviewees noted that the universality of the policy helped build momentum, as it spoke to a wide swath of Americans' frustration with rising corporate power over everyday economic life, including not only consumers up and down the income spectrum but also honest business owners forced to compete on an uneven playing field. The policy's simplicity—a ban—made it easy to export and to extol, with numerous federal agencies (Consumer Financial Protection Bureau (CFPB), Federal Trade Commission (FTC), Department of Transportation (DOT), Federal Communications Commission (FCC), and HHS) joining the "war on junk fees," six states enacting laws to curb fees, members of Congress taking up the charge, and the president using the bully pulpit to tout the policy and to secure concessions from companies.[13] Moreover, the use

[10] Jamila Michener, *Policy Feedback in the Pandemic: Lessons from Three Key Policies* (Roosevelt Institute, 2023), https://rooseveltinstitute.org/publications/policy-feedback-in-the-pandemic.
[11] "Advance Child Tax Credit Payments in 2021," Child Tax Credit, Internal Revenue Service (IRS), last modified October 29, 2024, https://irs.gov/credits-deductions/advance-child-tax-credit-payments-in-2021; *see also* Jared Ortaliza, Anna Cord, Matt McGough, Justin Lo, and Cynthia Cox, "Inflation Reduction Act Health Insurance Subsidies: What Is Their Impact and What Would Happen If They Expire?," *KFF*, July 26, 2024, https://kff.org/affordable-care-act/inflation-reduction-act-health-insurance-subsidies-what-is-their-impact-and-what-would-happen-if-they-expire.
[12] Bisma A. Sayed, Kenneth Finegold, T. Anders Olsen, Nancy De Lew, Steven Sheingold, Kaavya Ashok, and Benjamin D. Sommers, *Insulin Affordability and the Inflation Reduction Act: Medicare Beneficiary Savings by State and Demographics* (ASPE, 2023), https://aspe.hhs.gov/reports/insulin-affordability-ira-data-point.
[13] Biden Administration Press Office, "Fact Sheet: The Biden-Harris Administration Record," Press release, January 25, 2025, https://presidency.ucsb.edu/documents/fact-sheet-the-biden-harris-administration-record; "We're Fighting to Ban Junk Fees and We Need Your Help," End Junk Fees, American Economic Liberties Project, accessed September

of a ban—rather than, for example, a disclosure regime—put the burden on companies to comply, rather than burdening busy Americans with figuring out how to avoid unfair practices themselves.

That said, while lauding the crisp, resonant design of such policies, some interviewees noted that the administration needed to take this approach to issues with a wider on-the-ground footprint in people's lives and then do more to create mobilization opportunities around them. For example, an interviewee explained that the insulin price cap, while resonant, remained limited by its relevance to only a narrow subset of the population—i.e., seniors with diabetes and their families. Similarly, an interviewee noted that tackling junk fees was popular and important to do, but tacked-on fees were relatively minor compared to the deeper problem of concentrated market structures that enable large corporations to take advantage of consumers, workers, and small businesses. A third interviewee noted that, although the FTC's rule banning noncompetes had garnered a groundswell of organic public support, the administration never fully seized the opportunity to organize and mobilize allies around it.

In that vein, a former DOL official highlighted the value of choosing policy priorities in close consultation with community organizing groups, so that a built-in coalition can mobilize to support and defend the policy on the ground. To illustrate the point, the former official (who was also an alumnus of the Obama administration), contrasted the Obama administration's rule broadly raising the salary threshold for overtime eligibility with its narrower rule expanding minimum wage and overtime requirements to home care workers specifically. For the former, there was no organized campaign of workers demanding the change. The interviewee recounted policymakers struggling to even find impacted workers for the White House announcement of the final rule, and the Trump administration's dismantling of it then going largely unnoticed. In contrast, the interviewee explained, the National Domestic Workers Alliance and the Service Employees International Union (SEIU) had pressed for the home care rule based on their members' concerns, and the policy garnered enough public support to survive the first Trump administration. (Its fate in the second Trump administration remains uncertain.) While highlighting the value of a policy having identifiable, motivated beneficiaries eager to mobilize behind it, the interviewee acknowledged that a major challenge of this "people-centered policymaking"[14] is that currently people-powered policy campaign efforts are limited, at least outside of organized labor—as elaborated in Chapter 2.

14, 2025, https://endjunkfees.com; Jarrett Renshaw, "Ticketmaster, Others Agree to Upfront, All-in Prices as Part of Biden War on Junk Fees," *Reuters*, June 15, 2023, https://reuters.com/world/us/ticketmaster-live-nation-agree-all-in-prices-part-biden-war-junk-fees-2023-06-15.

[14] Mary Beth Maxwell, "Time for People-Centered Policy," *Democracy Journal* 76 (2025), https://democracyjournal.org/magazine/76/time-for-people-centered-policy.

The Need to Flip the Risk Profile and Prioritize Fights Worth Having

An institutional culture of risk-aversion and incrementalism is fundamentally at odds with the need to be bold and move swiftly to deliver on-the-ground results for working people. Many interviewees noted that agencies have every incentive to avoid taking risks, because even one-off failures receive much more attention than successes. And the challenge of moving policies through complex bureaucratic structures quickly was a persistent theme across interviews, with policies slowed or watered down as they traveled through many competing power centers and vetogates—a minefield of "nos" and "what ifs." One interviewee described the stakes of failing to flip the government's risk profile as existential, stating that there is a "thin line" between "people getting services" that address their economic insecurities and "fascists stepping in" to fill the void left by an ineffective democratic system. Another interviewee lamented, "On some dimensions [the administration was] bold, but rethinking things was not what Biden was about. The policy was incremental." Another interviewee, addressing claims that the administration simply needed better messaging, responded, "The right policy is the message. … [Administrations can't] message your way out of boring or nonexistent policy."

Interviewees from a wide range of agencies noted that deliberately picking the fights worth having and leaning into the controversy can be a winning strategy for breaking through and demonstrating that the government is on the side of regular people. As one former senior DOT official put it, "On the things where we felt like we were in a good position, we wanted to have the fight and draw the controversy. The White House team should be looking for opportunities to put senior-level principals up to have a fight and show who you're for," whereas "public announcements with no controversy weren't interesting" and didn't break through. A former senior FTC official similarly explained that the FTC went from obscure agency to household name, thanks to Chair Lina Khan's strategy of "lean[ing] into conflict" with large corporations that were taking advantage of people, while also "go[ing] out and explain[ing] why the fight is worth it."

But this mentality was a shift from usual practice in government, with numerous interviewees recounting frustrations with risk-aversion across policymaking modalities, underscoring the need for top-down political will to overcome risk-aversion and keep things moving. For example, in the regulatory context, numerous interviewees expressed frustration with the administration's halting approach to picking battles. Several noted that health care was an area where the administration was willing to take on entrenched, monied interests, yet often failed to ensure the fights involved the kinds of broadly impactful policies that could garner a groundswell of public support and withstand a political knife fight with well-resourced special interests. For example, multiple former HHS senior officials recounted the administration largely caving to industry pushback on narrow, technical adjustments to Medicare Advantage, while ignoring the bigger problem that the program was, as one put it, "just giving a lot of money to insurance that's then

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taking a huge cut and giving people bad coverage." Another former HHS official summed up the frustration with the administration picking battles without committing to fully seeing them through, stating, "Why do we only half do stuff? Just do it and own it."

Interviewees working on "Investing in America" programs similarly raised risk-aversion as a structural obstacle, with agencies leaning on process-heavy safeguards to mitigate risk of high-profile funding flops—but, in doing so, constraining their ability to act quickly or ambitiously. For example, a former senior Department of Energy (DOE) official described clean energy investments as hampered by "build[ing] in lots of checks and processes to limit the risk that you fund something with 'political hair' on it and [ensure it] wouldn't fail. But the whole point was to do the riskier projects that the private sector won't do." A former senior DOT official echoed the sentiment, explaining, "People need to let go of Solyndra"—the high-profile bankruptcy of a solar panel company that had received a federal loan guarantee during the Obama administration. "The fear of a mistake and the fear of risk was so overwhelming that it created a reversion to a really safe mean without having the discussion, 'Is it more important to have this happen quickly?'" Another interviewee elaborated that the White House seemed to telegraph to agencies a preference for risk-aversion in project selection at the highest levels. For example, President Biden expressed pride at having prevented politically risky projects from being funded and of limiting "waste, fraud, and abuse" when as vice president he oversaw implementation of the Obama administration's American Recovery and Reinvestment Program.

"Why do we only half do stuff? Just do it and own it."

Interviewees recounted that, much like how Solyndra loomed large in the federal investments context, the Obama administration's healthcare.gov fiasco affected the risk tolerance of the Biden-Harris administration in the service delivery context. In one example, interviewees described Treasury Department leaders spending the first two years of the administration deprioritizing the Direct File initiative to make tax filing free, based on fear that the Internal Revenue Service (IRS)—which already faced massive customer service problems inherited from prior administrations—would have a high-profile failure. Ultimately, the US Digital Service (USDS) and the IRS worked hand in glove to launch a very successful pilot product in early 2024, but the early hesitation and time spent analyzing policy options cost the administration precious execution time—preventing the product from going from pilot to full-scale, widely available service within the term.

Illustrating the potential upside of taking risks, a former senior DOC official attributed much of DOC's success in spurring new domestic manufacturing of leading-edge semiconductor chips to up-front buy-in on taking calculated risks to achieve ambitious outcomes: "Our vision was to have two different companies doing [leading-edge manufacturing] at scale. We made the decision that to get to two [successful operations]—we needed to fund three." A former DOT official noted that future administrations could also learn from the second Trump administration's approach to risk, stating, "They throw these Hail Marys right and left, and if they get in trouble for one of them, they just throw a few more." The interviewee added that the government should not "do anything that is irresponsible or damaging," but it is important to "recognize that that level of boldness has served them well."

The Need to Launch Immediately and Act Decisively

Many interviewees also envied the second Trump administration's ability to launch its policy agenda immediately upon taking office. Several interviewees noted that many Biden-Harris administrative actions launched late, because the administration spent much of the first two years of the term focused on negotiating legislation, often holding back on issuing administrative actions due to both bandwidth constraints and a fear of undermining the legislative process by deploying existing authorities. Interviewees noted that while legislation generally is indeed worth investing time in because it is more durable than administrative action—including being less vulnerable to hostile courts—waiting for Congress to act can be a dangerous gamble for the executive branch. For example, a former HHS interviewee noted that, even had the Medicare drug price negotiation legislation included an earlier effective date, it would have needed to pass a year earlier—in 2021, instead of 2022—to have time to implement it on the ground within the term. Interviewees also noted that work to rescind and unwind harmful administrative actions by the first Trump administration drew on the same staff as proactive policymaking, so the former also set the latter back in time significantly. Similarly, interviewees recounted the first year of the administration being heavily devoted to COVID response and relief, which limited the bandwidth and resources available for pursuing a proactive policy agenda. Indeed, the need to rapidly pivot to addressing crises like the Russian invasion of Ukraine strained capacity to pursue a proactive domestic economic agenda throughout the administration.

Moreover, many interviewees described losing precious governing time due to a lack of clear, early prioritization and channels for swift decision-making. For example, a former agency chief of staff recounted spending much of the first two years of the administration negotiating internally over budget, legislative, and regulatory priorities—priorities that needed to be set much earlier for actual on-the-ground execution to be possible within the term. Another interviewee analogized to high school: "If you don't hit your marks in your freshman year, even though that's when you're at your greenest and know the least, it's almost impossible to recover in your junior and senior years."

Many interviewees described a lack of clearly defined roles and responsibilities for agencies relative to the many overlapping components of the White House as an institutional impediment to swift, decisive action. Indeed, the number of White House components has mushroomed over time, and the White House has increased its role in policymaking relative to agencies.[15] Numerous interviewees recounted that having so many overlapping power centers without clear lanes made it hard to simply call a play and run with it—leading to wheel-spinning and delays. For example, in the regulatory context, a former senior official described a major priority rule getting delayed for 18 months because no one was empowered to decide how bold the policy should be—i.e., how much litigation risk to tolerate. Another interviewee described

[15] To give just one example, White House offices weighing in on climate policies during the Biden-Harris administration included the White House Climate Advisor, the Senior Advisor to the President for Clean Energy Innovation and Implementation, the US Special Presidential Envoy for Climate, the Council on Environmental Quality, the Senior Advisor to the President for Infrastructure Coordination, the Domestic Policy Council, the National Economic Council, the Office of Management and Budget (OMB), and the Office of Information and Regulatory Affairs (OIRA)—and that's before one even considers the many agencies involved; "Size of the Executive Office of the President (EOP): Coolidge-Clinton," Statistics, American Presidency Project, accessed September 14, 2025, https://presidency.ucsb.edu/statistics/data/size-the-executive-office-the-president-eop.

White House “micromanagement” as delaying policy execution, recounting weekly meetings with as many as a dozen White House policy staff, career Office of Management and Budget (OMB) staff, and agency senior leadership that could span multiple hours—taking precious agency bandwidth and also creating a risk-averse culture in which any individual meeting attendee could raise a concern that then had to be addressed before the policy could move forward into the execution phase.

What the Public Says:

- Nearly two-thirds of likely voters (64 percent) say government works neither effectively nor efficiently to “deliver for me and my family.”
- Only 23 percent of respondents say “providing infrastructure like roads and bridges” is among the top three most important functions of government. Top performing options were instead “ensuring our country is safe and secure” (52 percent), “ensuring Americans can meet their basic health care needs” (45 percent), and “safeguarding individual rights and freedoms” (44 percent).

Source: Groundwork Collaborative / Data for Progress national survey, fielded Sept. 19–22, 2025

Interviewee Recommendations

Prioritize crisp, resonant, and timely policies: Both Congress and executive branch leaders should choose—and relentlessly prioritize—some broadly resonant big swings whose results will be felt concretely on the ground within the term. Interviewees identified several design features that can help, including

- on-the-ground execution timelines that match the timelines of elected mandates;
- simple, crisp designs that are memorable, easy to communicate, and well-suited to reaching and mobilizing the public via the bully pulpit;
- universal designs, rather than means-tested or discretionary programs that have narrower constituencies and/or bury the win in paperwork;
- directly administered programs that don’t rely on intermediaries who can add delay, increase costs, and obscure credit;
- policies with identifiable outside champions and beneficiaries ready and willing to mobilize and fight for them; and
- hooks for direct outreach and on-the-ground organizing that help beneficiaries understand the policy and take civic action based on their experience with it.

Do the homework now: To be able to execute within the term, an administration must do the homework in advance to be ready to launch such policies within weeks or months of taking office, not years. Interviewees flagged the need for parallel planning workstreams to ensure bold, swift execution of a positive economic agenda even while government institutions are being rebuilt:

- **Engage in deep listening and work with community and membership organizations now to develop priorities:** There is tension between launching policies swiftly upon taking office and the need to mobilize on-the-ground coalitions behind them. To mitigate that tension, everyone from think tanks to policymakers to organizers to philanthropic funders should prioritize regularly engaging in on-the-ground listening sessions to better understand the economic challenges faced by average Americans—i.e., to hear from actual working Americans in their own voices—and then use those insights to identify top policy priorities. For example, focus groups and on-the-ground field listening sessions in communities can provide more authentic insights than consultant-driven polling, and they can serve as important checks on DC groupthink and the long-standing assumptions of policy wonks and experts.

- **Legislate early and directly whenever possible and set and enforce deadlines:** Congress should eliminate implementation delays by passing marquee bills as early in the term as possible and by enacting policies directly in statute (rather than delegating policy choices to an agency). Congress should also specify deadlines for implementation—including not only launch dates but completion deadlines (e.g., in the investments context, deadlines for obligating funds and completing work; in the regulatory context, deadlines for finalizing, not just proposing, a rule). It should use its oversight tools to enforce deadlines, and it could even build into statute a "springing" funds transfer to another agency or funding recipient if deadlines are missed. As elaborated in Chapters 4 and 7, Congress should pair new programs with legal flexibilities that speed implementation, such as waivers of Administrative Procedure Act requirements and flexible hiring authorities.

- **Hitch a ride on "must-pass" legislative vehicles:** "Must-pass" legislative reauthorization bills can provide valuable opportunities to codify key priorities. Future administrations should map in advance concrete plans for making the most of such vehicles during the term, including sending Congress its own draft bill. (That said, the opportunities to deploy this strategy may be diminishing, with Congress increasingly turning to short-term extensions rather than reauthorizations.[16])

- **Canvas existing legal authorities in advance and deploy them early**: The executive branch can run out of time to execute if it waits for Congress to fire the starting pistol. Instead, each agency should enter office having systematically mapped its existing statutory mission and authorities, and they should know on Day One what 3–5 "must-do" signature deliverables they will prioritize. As

[16] Alison Randy Aussenberg, Jim Monke, and Megan Stubbs, *Expiration of the 2018 Farm Bill and Extension for 2025* (Congressional Research Service, 2024), https://congress.gov/crs-product/R47659.

elaborated in Chapter 3, existing authorities should be paired with federal and state legislative pushes—waging public campaigns that pursue policies through multiple policymaking channels in tandem, rather than thinking of legislation and executive action as separate, siloed tools. To the maximum extent possible, rules and guidance should be pre-drafted or at least heavily scaffolded in advance (including legal analysis), and the White House should direct acting officials to launch deliverables immediately, rather than waiting for potentially lengthy confirmation processes. Starting from the statutes on the books is critical, because administrations often inherit authorities that have lain dormant through years of laissez-faire practice and accumulated norms or that have been "shame repealed" by powerful industries' lobbying campaigns.

- **Prepare a parallel track for rescission and unwinding work**: Advance homework should also include detailed mapping and pre-drafting or scaffolding of work to rescind harmful Trump-era actions and unwind lingering litigation. Once in office, this work should be parallel tracked so that it does not detract from the proactive policymaking agenda.
- **Create a "deletion docket" and purge low-impact activities**: Executing high-impact priorities swiftly, particularly while simultaneously rebuilding the federal workforce, requires not wasting precious resources and bandwidth on low-impact activities like long-standing programs that lack demonstrable benefits, make-work reports, pet projects, or activities contrary to the administration's goals. Before taking office, future administrations should develop a "deletion docket"—i.e., catalog in advance low-impact programming and then, upon taking office, immediately communicate to staff what to stop doing (or otherwise time-box low-priority matters). Congress could facilitate this by granting agencies transfer and reprogramming authority, but in the absence of legislative changes, future administrations can draw a lesson from DOGE about the efficacy of bold resource-allocation decisions.
- **Plan for emergency-response capacity**: Future administrations should plan for swing, standby capacity to respond to disasters and emergencies, so that they do not require pulling staff away from executing the proactive economic agenda. For example, at times during the Biden-Harris administration, the National Economic Council had a dedicated staffer—a person without other policy portfolios—who was ready and available to coordinate disaster and emergency responses. One interviewee recommended that for longer-running emergencies—such as the COVID pandemic—the White House should use detailee slots from agencies to create the response team, rather than devoting White House personnel slots, of which there are fewer.

Change public servants' risk calculus: Interviewees identified a number of practical solutions for changing the government's risk profile:

- White House and agency leadership must set the tone for a new governmental culture that rewards bold, calculated bets and honest reporting of failure—not just risk avoidance. Senior government leaders, including the White House chief of staff and the White House counsel, must communicate their risk-tolerance levels clearly and directly, because otherwise staff tend to project concerns about risk onto them, with a chilling effect on the boldness and ambition of policies.

- Every agency should have a general counsel (GC) who is a political appointee who understands their role is to advise on how senior leaders can achieve their goals, rather than simply "issue spotting" problems or preventing any risk-taking. After the agency head, GCs are the primary tone-setters on risk tolerance—a role that can make the difference between being mired in bureaucracy and nimble, team-spirited problem-solving.
- As elaborated in subsequent chapters, staffing projects with cross-functional teams organized around a mission can also promote this problem-solving culture and reduce inefficiencies. White House and agency leaders should create a "one-team" culture of collaboration and have zero tolerance for turf battles that distract from achieving the mission.
- Agencies should also create formal mechanisms for rewarding risk-taking and proactively removing inefficiencies, such as using public recognition or existing incentive pay authority to reward staff who pursue innovative approaches.[17]
- Congress could go further by statutorily authorizing new, larger innovation prizes for staff, such as a share of a risky project's financial upside or of the savings from reforming obsolete, inefficient processes or line items.
- Senior leaders should have plans to deal with losses when they come, as they inevitably will from time to time when taking more risks. For example, agencies can plan for how to publicly communicate about a judicial injunction or a failed federal investment, and/or they can be ready to execute a fallback policy that is less risky. Staff will be less gun-shy about being bold and taking calculated risks if they know there's a "Plan B," because a loss isn't the end of the road or a blemish on them personally.

Streamline the White House's organizational structure and empower agencies to execute: A more streamlined White House organizational structure paired with empowered, trusted agency heads should be combined with much earlier, faster channels for escalating unresolved issues to a clearly empowered decision-maker. One option is to consolidate the Domestic Policy Council, National Economic Council, and various specialized domestic policy councils into one centralized domestic policymaking structure—much like the National Security Council covers matters of national security and international affairs.[18] Whatever the precise White House organizational chart, there should be a clear hierarchy and escalation channel for quick decisions. As an interviewee

[17] 5 CFR 575.306.
[18] The Domestic Policy Council and the National Economic Council (NEC) were originally a single entity, the Domestic Policy Staff. They were formally separated in 1993 when President Bill Clinton established the NEC by executive order (Executive Order No. 12835, "Establishment of the National Economic Council," Federal Register 58, no. 16, January 1993, https://archives.gov/files/federal-register/executive-orders/pdf/12835.pdf).

put it, “More decisions should be produced in an hour after hearing from all the sides.” Moreover, once key policy objectives are identified, agency heads and their teams should be empowered to execute them; too often, policy development gets stuck in an endless analysis phase, instead of agency leaders and their teams being clearly directed and empowered to go forth and execute.

Create a lab for economic policy experimentation and innovation: By creating a new “DARPA–Main Street,” an administration could provide an institutional space to experiment with more nimble, bold, and cross-cutting economic policy—a space to tackle economic challenges without being hemmed in by the limits of any single agency’s organizational structure, authorities, budget, bandwidth, or institutional culture.[19] A DARPA-style sense of urgency, drive, and creative problem-solving could pilot solutions to the economic problems faced by regular people and Main Street businesses without the constraints of preexisting institutional boundaries. Small Business Innovation Research funding could potentially be used to create such a space.

Create a Congressional Implementation Office: Congress should establish an independent Congressional Implementation Office to provide nonpartisan “time-to-implement” scores for every major bill. Just as the Congressional Budget Office (CBO) estimates fiscal costs, the implementation office would analyze staffing needs, rulemaking complexity, and interagency or other dependencies, then attach an expected launch date (e.g., “benefits received nine months after enactment”). Requiring such a score would surface hidden delays, discourage lawmakers from loading new programs onto agencies already over capacity, and let them compare policy options not only on price but on how quickly constituents will feel the results. Over time, the office would build a deep well of institutional expertise on successful implementation, and it could proactively pitch implementation approaches to the executive branch—making Congress a proactive partner in ensuring timely, effective implementation of its enactments. The goal should not be to eliminate all longer-term programming in favor of pursuing only shovel-ready projects, but rather to support informed decision-making and to surface opportunities to speed and improve implementation.

Conduct a “lessons learned” project on congressional capacity: Many interviewees noted that much dysfunction was downstream from the declining capacity of Congress to act on pressing national problems. This project did not tackle questions of congressional institutional reforms, such as changes to the filibuster, campaign finance reform, or other reforms to make Congress more structurally responsive to the American people. But, as one interviewee put it, “You can’t have a serious conversation about state capacity without looking at that branch and acknowledging the structural problems there.”

[19] The original DARPA (formally, the Defense Advanced Research Projects Agency) is an agency within the Department of Defense established in 1958 in response to the Soviet Union’s Sputnik launch (Julian Dossett, “What Is DARPA?,” *SPACE.com*, January 7, 2025, https://space.com/29273-what-is-darpa.html). It is known for pursuing “high-risk, high-reward” research outside traditional bureaucratic constraints and for incubating transformative technologies like the internet and GPS.

Chapter 2: Fling Open the Doors and Proactively Engage the Public

Unfortunately, for most Americans, the federal government is distant, abstract, labyrinthine, and often unresponsive—readily navigable by well-resourced, sophisticated interests but not by normal people with busy lives. As one interviewee put it, a single phone call from a C-suite executive or DC insider can often gain immediate attention from a high-level political appointee, while ordinary people and small businesses lack the time, resources, know-how, or incentives to participate and be heard.

Rebuilding trust in democratic institutions will accordingly require redesigning federal government capacity to visibly listen and respond to ordinary people, not just lobbyists and insiders. Many interviewees underscored that, to be responsive to working people's needs, the federal government will need the institutional infrastructure to proactively reach out to and engage with ordinary citizens where they are—instead of just delivering top-down talking points that can, as one interviewee put it, feel like "gaslight[ing] people."

The Need for Two-Way, Proactive Public Engagement

Several interviewees underscored that policymaking without strong public engagement and movement power behind it is often a fool's errand, at least when a policy takes on a special interest. As an interviewee put it, "The policy is 30 percent of [the work]. If you want your policy to survive, you have to do the 70 percent of creating the narrative around it. And the monied interests do a better job." Several interviewees further recounted how organized people power had helped put wind at their backs as they attempted to counter the influence of special interests on policymakers. For example, a former HHS official recounted that the Centers for Medicare and Medicaid Services (CMS) could easily have been entirely "overwhelm[ed]" by industry lobbying against requirements for minimum safe staffing levels in nursing homes, but an outpouring of support from tens of thousands of nurses organized by the SEIU—who recounted in heartbreaking detail the dangers of inadequate staffing—helped push a final rule over the finish line.

However, several interviewees noted the limitations of this playbook: In contrast to the army of lobbyists for big businesses, the external public interest advocacy community varies greatly in strength and size. Small nonprofit organizations based in DC often zealously advocate for the public interest, but interviewees explained that this generally does not generate the same kind of political momentum—i.e., a politically powerful counter to corporate lobbying—as when "real" people from across the country mobilize. Interviewees remarked on how outside of a few discrete areas—principally, unions advocating for workers—very few organizations with significant citizen membership can be mobilized, leaving a persistent gap in whom federal officials hear from and who can be mobilized to support or defend a policy before Congress and in the court of public opinion.

This gap makes it all the more important for policymakers to, as one interviewee put it, "Build the campaign, not just the policy." However, interviewees recounted that the federal government is not in the habit of working with external community organizers and membership organizations to select its policy priorities, and its public engagement infrastructure is not designed for sustained, two-way engagement. Instead, federal external engagement infrastructure tends to be oriented around old-school approaches like press releases, elite media engagements, and canned talking points. In contrast, interviewees explained, meaningful engagement with ordinary people requires time, intention, and capacity on the part of the federal government—flinging open the doors and proactively reaching out. Several interviewees noted the importance of giving agencies both the resources and the legal flexibility to do this, without imposing onerous procedural mandates that can add delays or be weaponized by special interests.

> **"The policy is 30 percent of [the work]. If you want your policy to survive, you have to do the 70 percent of creating the narrative around it. And the monied interests do a better job."**

Some interviewees reported that their agencies did use certain public engagement tools to better keep a finger on the public pulse, without slowing down or delaying policy execution. For example, for the first time in history, the FTC began regularly scheduling Open Commission Meetings, at which any member of the public could (virtually) address commissioners, unscreened and unfiltered. Other strategies used by agencies included holding listening sessions outside of traditional hours so that working people could attend and creating open-ended public comment dockets for people to surface emerging issues. Several interviewees emphasized the value of traveling beyond DC, to meet with people in their communities—such as by holding public listening sessions at union halls and community resource centers.[20] For example, in pursuing rulemaking to facilitate equal access to broadband internet, the FCC held public listening sessions across the country and proactively sought input from public interest and disability community advocates.[21] When agencies proactively reached out to traditionally harder-to-reach communities—like when USDA's Food and Nutrition Service sought input from rural and tribally operated schools to inform updates to the school nutritional assistance program—it not only improved the final outcome of the rule but also helped the agency build trust, understanding, and partnership with those communities.[22] And the FTC, Department of Justice (DOJ) Antitrust, and USDA each created new public-facing portals for Americans to report potential violations of law,[23] much like the CFPB had long made a public consumer complaint portal a centerpiece of its work. Creating these flexible, accessible opportunities for engagement enabled agencies to select their policy and enforcement priorities based on the economic challenges Americans faced on the ground, making them more likely to be responsive and resonant with average Americans.

[20] "Listening Session on Proposed Kroger/Albertsons Merger Hosted by Ufcw Local 99," Events, FTC, last modified October 23, 2023, https://ftc.gov/news-events/events/2023/10/listening-session-proposed-krogeralbertsons-merger-hosted-ufcw-local-99.

[21] Office of Information and Regulatory Affairs, *With the People, for the People: Strengthening Public Participation in the Regulatory Process* (The White House, 2024), https://bidenwhitehouse.archives.gov/wp-content/uploads/2024/08/OIRA-2024-Public-Participation-Report.pdf.

[22] Office of Information, *With the People*.

[23] "Report Violations," Antitrust Division, DOJ, accessed September 14, 2025, https://justice.gov/atr/report-violations; "Comment on a Proposed Merger," Enforcement, FTC, accessed September 14, 2025, https://ftc.gov/enforcement/merger-review/comment-on-a-proposed-merger; "Farmer Fairness," USDA, accessed October 23, 2025, https://www.usda.gov/farmerfairness.

Multiple interviewees noted that public surveys, user research, and user testing can also be incredibly valuable tools for obtaining input from ordinary Americans and ensuring government programs actually function well on the ground. For example, interviewees involved in the IRS Direct File pilot emphasized that extensive user research and user testing were critical to shaping a product that ultimately received strong approval ratings from users. However, as elaborated in Chapter 6, interviewees regretted that federal resources for such human-centered approaches were quite limited, and agencies generally lacked the kind of in-house technologist teams who could design and build more modern, user-friendly interactions with government. An interviewee also cautioned that user research, testing, and survey tools do not in and of themselves build collective power that could defend the policies or connect policy wins to Americans' everyday experiences—meaning they need to be paired with other strategies for creating policy feedback loops.

Interviewees reported that proactive public engagement was too often the exception rather than the rule, with public engagement teams generally brought into projects only at the final "rollout" stage, with a focus on outbound communication and mitigating relationship management risks. For example, many agencies had only one or two political appointees in their communications shops and virtually no personnel or resources for social media or digital engagement. Some agencies also lacked any dedicated staff for engaging with community groups, intergovernmental partners, or the private sector, while others principally used such personnel only at the "rollout" stage. In short, the government's communications and outreach infrastructure was set up for issuing public announcements and communicating with traditional media, but it had little to no capacity for building trusted relationships with grassroots groups who could help the federal government engage in public agenda-setting or mobilize Americans to support or defend a policy.

Moreover, many interviewees raised the shortcomings of the core procedural requirement of the Administrative Procedure Act (APA): notice and comment. They explained that what was theoretically designed to be a mechanism for citizen engagement is instead in practice a minefield of legal exposure weaponized by industry players who purposefully submit lengthy, convoluted letters, knowing the APA requires agencies to respond. One interviewee pointed out that AI may enable special interests to further bog down the comment system, remarking, "You can use AI to write one of these letters, but you can't use AI to review it."

Several interviewees noted that, while public comments were useful for identifying unanticipated issues with proposed policies, as elaborated in Chapter 4, APA requirements to respond to comments in writing had turned the process into a time-consuming check-the-box exercise in mitigating legal risk. Many emphasized that the most useful forms of public input from ordinary Americans—as opposed to monied special interests—occurred outside the APA public comment process, through flexible opportunities like the listening sessions, open-ended comment dockets, and user research strategies described above. Interviewees stressed that increasing public engagement with ordinary Americans doesn't have to add time-consuming delays to policymaking, if agencies make on-the-ground connectivity with real people's economic experiences an ongoing part of their mission—including for agenda-setting—rather than treating it as a formalistic legal requirement.

Many interviewees cited the Paperwork Reduction Act (PRA) as an unnecessary obstacle to better engagement with ordinary Americans. Originally signed into law by President Jimmy Carter in 1980, the PRA requires a six-plus-month-long approval process before the government can conduct even voluntary surveys.[24] For example, a technologist recounted attempting to conduct on-the-ground user research to better understand obstacles faced by poor people at risk of eviction in 2021 during COVID, only to have the OMB block the project for fear of violating the PRA.[25]

One interviewee flagged that the Federal Advisory Committee Act (FACA), originally signed into law by President Richard Nixon in 1972, can also deter agencies from seeking sustained input from ordinary citizens or external experts. FACA requires agencies to go through an elaborate approval process that takes about three months before convening a citizen advisory committee to provide recommendations to the government.[26] Interviewees recounted that fear of triggering FACA's arduous process requirements and the expense of operating an advisory committee deterred their former agency from conducting certain forms of sustained public engagement it otherwise would've liked to do.

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A former senior USDA official noted one institutional design that did help create more connectivity to ordinary Americans: the agency's large footprint outside DC. The interviewee recounted that USDA's field offices enabled agency leaders to understand real-time local dynamics with just a phone call or two. Whether it was refining a presidential speech for local resonance or calling a state veterinarian directly during a biosecurity crisis, trusted regional contacts could cut through the distance between federal government and on-the-ground reality. Former Department of Labor (DOL) and National Labor Relations Board (NLRB) officials likewise noted that having regional office footprints created valuable opportunities to better understand and respond to the public's needs, which often vary by locale. Regional offices also had a better sense of smaller grassroots groups and local organizations that can be engaged and that might not otherwise be on the radar of national agency offices.

[24] Specifically, the Paperwork Reduction Act generally requires two rounds of notice and public comment, followed by an approval by the Office of Management and Budget, before agencies can solicit information from more than nine individuals or entities; 44 USC § 3507.
[25] The Biden-Harris administration did make modest progress by issuing 2024 guidance that certain usability testing asking only open-ended questions about forms, websites, or services is not subject to the PRA, but interviewees stated that the PRA still remained a substantial obstacle to proactive, structured solicitation of public input (Richard L. Revesz, "Memorandum for the Heads of Executive Departments and Agencies and Independent Regulatory Agencies," Administrator Office of Information and Regulatory Affairs, Executive Office of the President Office of Management and Budget, November 21, 2024, https://bidenwhitehouse.archives.gov/wp-content/uploads/2024/11/PRA-Usability-Testing-Guidance-Memo.pdf).
[26] Specifically, agencies must seek approval and a charter from the General Services Administration's Committee Management Secretariat; 41 CFR 102-3; "Frequently Asked Questions About the FACA," Office of General Counsel, US Department of Commerce (DOC), accessed September 14, 2025, https://2010-2014.commerce.gov/os/ogc/frequently-asked-questions-about-faca.html.

The Need for Sustained Engagement

Many interviewees underscored the importance of staying engaged with the public post-announcement, instead of the usual government habit of treating the job as done when the press release issues. For example, an interviewee recounted the FCC being unaware of problems with its online enrollment system for the Affordable Connectivity Program, a low-income internet subsidy program created by the Bipartisan Infrastructure Law, until it began holding listening sessions with digital navigators. It was then able to engage in a sprint, with USDS support, to significantly streamline the application process.

Several interviewees also wished the administration had developed a playbook for communicating directly with program beneficiaries—to give people the necessary information to use their political power to support the continuation of policies they liked and to end or fix ones they didn't. For example, one official involved in the American Rescue Plan's expanded Child Tax Credit stated that the administration's political allies should have been "knock[ing] doors on it" to build support for its extension. Another interviewee regretted that, despite delivering pension relief sought by Teamsters for a decade, the administration missed the opportunity to send a letter directly to beneficiaries so they would know without a doubt who had finally saved their pensions. A third interviewee recounted the FTC directly emailing everyone who commented on its proposed noncompetes ban to let them know when the rule was finalized and then emailing them again to let them know when a Trump-appointed judge blocked it from coming into effect.[27]

Particularly given the time lags between policy announcement and on-the-ground delivery, as well as the fragmented information ecosystem, interviewees explained that it is very hard for ordinary, busy Americans to know who helped them—and who got in the way—unless someone proactively connects the dots. In addition to encouraging proactive, direct communications with Americans, several interviewees flagged the need to brand programs much more accessibly and understandably—citing opaque acronyms (like Treasury's SLRF) and the fragmenting of related programs spread across multiple agencies and brands (like DOC's Broadband Equity, Access, and Deployment (BEAD) program and Treasury's Capital Projects Program, both of which fund broadband) as obstacles to Americans navigating the federal government.

[27] Had the rule come into effect, it would have required notice to workers that noncompetes were no longer valid.

What the Public Says:

- 74 percent of respondents say "actively seeking input from everyday Americans, not just lobbyists and insiders" would make the government function better.[28]
- 68 percent of respondents say they only rarely "interact with the federal government (e.g., applying for public benefits, calling a government agency)."[29]
- 35 percent of respondents say "the main reason the federal government struggles to deliver for you and your family" is that "it serves wealthy special interests over the American people," as compared to 26 percent who say "it's bogged down in bureaucracy and red tape."

Source: Groundwork Collaborative / Data for Progress national survey, fielded Sept. 19–22, 2025

Interviewee Recommendations

Build proactive public engagement into policymaking processes from the outset: The model of public campaigning for bold, resonant policies through multiple policymaking channels outlined in Chapter 1 and elaborated in Chapter 3 below requires reimagining public and external engagement roles and breaking down the silos between policy and engagement teams, so that the latter are not merely handed a policy for announcement at the final "rollout" stage. Engagement personnel—including communications, legislative affairs, and intergovernmental affairs personnel, among others—should be fully integrated with policy staff from the get-go, ensuring policies are designed to resonate with ordinary Americans and on-the-ground coalitions are mobilized to fight for them. Interviewees identified numerous ways to reconceive engagement roles to support this model of governing through public campaigns for policies:

- **Incorporate personnel with organizing backgrounds**: Teams should include personnel with experience in proactive coalition-building, community organizing, and digital organizing. These personnel should play a hands-on role in obtaining early public input on policy problems to prioritize and organizing allies behind a public policy fight—including building trusted relationships and mobilizing engagement across federal, state, and local policymaking levers.[30] Such community organizers could be incorporated as standing roles, and/or fellowships could be designed to bring organizers into agencies to help with specific initiatives.

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[28] This includes 63 percent of Democrats, 78 percent of Independents, and 84 percent of Republicans.
[29] This includes 65 percent of Democrats, 72 percent of Independents, and 69 percent of Republicans.
[30] For example, an interviewee reported that hiring a public engagement advisor from the worker center community had paid dividends in DOL's ability to connect with less-resourced, nonunion workers; "Worker Centers," Advocate for Social and Economic Justice, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), accessed September 14, 2025, https://aflcio.org/what-unions-do/social-economic-justice/worker-centers.

- **Systematize and scale substantive collaboration with state and local policymakers**: The role of intergovernmental affairs personnel should be reconceived to include proactively helping state and local policymakers enact the administration's priorities at the state and local level—rather than the current model of principally focusing on convening state and local policymakers to celebrate federal wins. These roles should expand and systematize the kind of collaborative intergovernmental work that CFPB did with states to pass state medical debt laws, or that the FTC and DOJ Antitrust did in bringing enforcement actions jointly with state attorneys general.

- **Expand expert capacity for proactive engagement tools like surveys, user research, and user testing**: The federal government should expand its expert capacity to use proactive engagement tools like surveys, focus groups, user research, and user testing. One option is to retool the "Information" component of OIRA to provide expertise and capacity support to agencies to conduct such public engagement. (As recommended below, repealing the Paperwork Reduction Act would also make it easier to use such tools.)

- **Adequately staff and resource new media engagement**: Much discussion has emphasized the failure to look beyond elite national media and the need to instead engage authentically and reach people where they are—through social media, podcasts, local outlets, influencers and other trusted messengers, and venues or platforms that don't traditionally cover politics.[31] This was wholly uncontroversial among interviewees, but they stressed that administrations need to actually allocate resources for this—including staff, equipment, and training.

- **Increase political appointee slots for public engagement**: Agencies' communications and outreach offices need more political appointee spots, instead of relying overwhelmingly on career staff who are less well-positioned to be proactive stewards of an administration's engagement strategy. A former senior communications official cautioned against populating such slots exclusively with political campaign staff, at least without further training or relevant experience, because official governmental engagement strategies require a rich understanding of the relevant substantive policies, institutions, external stakeholders, and reporters and influencers on the relevant beat. Several interviewees also recommended that administrations train all political appointees on media engagement and make regular public engagements a core part of their duties.

- **Expand in-house technologist capacity**: Much as agencies lacked social media personnel and resources, agencies also generally lacked in-house technologists capable of designing and building modern websites (whether in house or by adequately supervising contractors). As elaborated in Chapter 6, agencies need in-house, empowered experts—such as a chief product officer and experts in

[31] Makena Kelly, "The Year Democrats Lost the Internet," *Wired*, December 30, 2024, https://wired.com/story/the-year-democrats-lost-the-internet.

human-centered design—who can ensure the online public face of the federal government is user-friendly.

Foster sustained, two-way engagement: The federal government should make sustained, two-way public engagement a core part of its mission, instead of merely delivering top-down talking points or press releases. Interviewees offered many strategies for doing so:

- **Invite unscripted engagement**: Political appointees should regularly create opportunities for unscripted input from the public, such as public listening sessions—including virtual options and options outside of business hours—and open-ended public comment dockets or complaint portals that help surface economic challenges and trends on the ground to inform policy and enforcement priorities. Additionally, several interviewees noted that—counter to many political appointees' instincts—it can be quite valuable for a senior official to simply show up and listen, making traveling beyond DC worthwhile even without a perfectly crafted message or new policy announcement prepared. Moreover, doing such listening tours with members of Congress can better connect the executive and legislative branches in understanding and solving policy problems.
- **Use the convening power and bully pulpit to build power for regular people**: Administrations should proactively use their convening power and public platform to help grow outside organizing capacity that can drive durable change. For example, a former senior DOL official recounted how a convening of new union organizers at the White House wasn't just a symbolic photo op—rather, it seeded real power on the ground by boosting organizers' credibility back home in their workplaces and communities, including helping organizers secure a first union contract in a region typically hostile to union organizing.[32] An interviewee noted that one strategy for expanding the administration's reach is to allow invited guests to bring guests of their own—bringing new faces and voices into the room.[33]

Proactively and directly communicate with citizens: The federal government should communicate with citizens much more directly—including directly contacting Americans when they are eligible for a benefit, circling back to tell them the outcome of a policy process they participated in, narrating who stands in the way of a policy from taking effect (such as when Congress seeks to cut a program or a court blocks a policy), and providing opportunities for feedback on whether policies are working well on the ground. Future administrations should build out tools for this kind of proactive, direct contact between the federal government and American citizens, such as building hooks for direct

[32] Jordan Zakarin, "Exclusive: Young Union Organizers at White House for Meeting with Biden and Bernie Sanders," *More Perfect Union*, July 17, 2023, https://perfectunion.us/biden-bernie-white-house-meeting-union-organizers; Emily Peck, "Biden's Dealmaker: How Julie Su Helped Broker a Union Contract in Hostile South," *Axios*, May 30, 2024, https://axios.com/2024/05/30/julie-su-blue-bird-labor-contract.

[33] Another interviewee similarly highlighted President Biden's historic walking of a United Auto Workers' picket line as a powerful example of how the bully pulpit can help level the playing field between working- and middle-class people and large corporations (Peter Nicholas, "Biden Makes History by Joining Striking Autoworkers on the Picket Line," *NBC News*, September 26, 2023, https://nbcnews.com/politics/white-house/biden-makes-history-striking-auto-workers-picket-line-rcna117348).

communication between the federal government and beneficiaries into programs' design and creating digital platforms and tools that can be used to directly message citizens who are likely to be impacted by a policy.

Create a system of federal navigators: A future administration should work with Congress to create a corps of federal navigators to help working people and small businesses navigate federal government programs and services—providing "one front door" so that busy people don't have to navigate the alphabet soup of federal agencies and programs on their own. The federal navigator program could be integrated with congressional offices' constituent services teams, so that members of Congress and the executive branch work hand in glove to improve Americans' experience of government.

Use better branding and single front doors for related programs and services: To make the federal government easier for citizens to navigate, every federal program or service should have lay-friendly branding that readily communicates what it does for people, and related programs or services should be provided under one brand via one front door—even if they're administered by different agencies. For example, an interviewee noted that the new, separate broadband programs created at the Treasury Department and DOC during the Biden-Harris administration should have been consolidated into one "universal broadband" brand.

Invest in and sync up with external organizing capacity: Outside of unions and purely seasonal political campaign field operations, the organizational muscle for organizing and mobilizing regular people behind issues and policies that would benefit them is lacking. This leaves powerful, monied special interests' voices as the loudest ones in the DC rooms where decisions are made. Political leaders and philanthropy should invest more in building year-round, on-the-ground organizational strength to counter powerful corporate interests. Congress could also provide funding for on-the-ground community organizations to help citizens access government services and benefits and advocate for their continuation and improvement, although guardrails would be needed to ensure funding goes only to high-quality support for working people.

Create more regional offices: As of fiscal year 2023, about 80 percent of the federal workforce was located outside the DC area.[34] But creating more regional offices could further deepen federal agencies' connection to on-the-ground realities and make federal service an option for candidates with a broader diversity of backgrounds and experiences. For these offices to be effective, there has to be a high premium on DC-located officials bringing them into decision-making processes—consulting them regularly for insights from the field. Importantly, existing personnel should not be forced to relocate against their will, and relocation of agencies should not be used to indirectly fire or penalize federal workers.

Publish data on state-by-state impacts on average Americans: Where possible, policymakers should publish state-by-state data about the impacts of a policy on average Americans. Such data is highly useful for regional communications and outreach, state

[34] A *Profile of the 2023 Federal Workforce* (Partnership for Public Service, 2023), https://ourpublicservice.org/fed-figures/a-profile-of-the-2023-federal-workforce.

legislative advocacy of parallel policies, and amplification of policies by members of Congress.[35] That said, such analysis should not be imposed as a legal requirement that adds red tape or delays.

Remove red tape that blocks or slows proactive engagement: Time-consuming bureaucratic processes that prevent the federal government from proactively engaging with Americans should be repealed or significantly narrowed:

- **Repeal or narrow the Paperwork Reduction Act**: Congress should repeal the PRA outright, or at least substantially narrow its application to large, ongoing, mandatory data collections—not one-time collections or voluntary requests like surveys. In the absence of legislative reforms, the OMB should shorten and limit its review to assessing whether the agency could reduce burdens by using information the government already has and whether the information collection is "fit for purpose"—such as ensuring form language is readily understandable to the end user.

- **Simplify the Federal Advisory Committee Act**: Congress should simplify FACA to make it easier for agencies to convene outside experts, community leaders, and ordinary Americans to provide recommendations to the government, without requiring months of procedural delay. Congress could continue requiring agencies to provide public transparency about such meetings, while scrapping the protracted process for seeking approval from the General Services Administration (GSA). In the absence of legislative reforms, GSA should publish guidance to make clear that FACA requirements apply only in very limited circumstances.

Chapter 3: Recalibrate the Executive Branch Tool Kit for an Era of Hostile Courts and a Dysfunctional Congress

Future administrations must recalibrate the executive branch's tool kit for national policymaking, given the decline of its sister institutions: the paralysis and dysfunction of Congress and conservatives' stacking of the judiciary with activist judges hostile to almost any economic regulation. As one agency's former general counsel lamented, the federal government's "capacity to solve problems is diminished by the destruction of the tools to actually solve them." Indeed, one recent analysis of major rule legal challenges shows a long-term trend of courts increasingly invalidating regulations issued by presidents of both parties, with administrations from Clinton to Biden generally seeing a lower win rate than the preceding administration.[36]

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[35] The FTC's state-by-state fact sheets regarding the noncompete rule provide a potential model; *Constituent Support for the FTC's Noncompete Rule* (FTC, 2024), https://ftc.gov/system/files/ftc_gov/pdf/state_by_state_constituent_support_for_ftc_noncompete_rule.pdf.

[36] By one metric in the study, the first Trump administration had a slightly lower win rate than the Biden-Harris administration, but it was considerably lower than the preceding administrations. By another metric in the study, the first Trump administration's and Biden-Harris administration's win rates were effectively the same (45 and 46

Many interviewees regretted that the Biden-Harris administration's policymaking strategies did not shift to account for this new reality. As one put it, "An 'SOS courts are coming for us' meeting never happened," with agencies charting their own course in the absence of any coordinated strategy. And although legislatively enacted policies were more resilient to hostile courts than administrative actions, as highlighted in Chapter 1, legislative wins were often too delayed or incremental to have widespread, on-the-ground results within a single term. With the benefit of hindsight, interviewees recommended reforming judicial review of administrative actions to limit courts' interference in economic policy choices made by political leaders accountable to the people. They also recommended a tactical shift that can produce faster, more resilient on-the-ground results than rulemaking standing alone: engaging in public-issue campaigns that deploy multiple policymaking levers in tandem. Later chapters dive deeper into interviewees' insights and recommendations for reforming particular executive branch tools (i.e., rulemaking, service delivery, enforcement, and federal funding investments) to deliver better results more quickly and efficiently.

The Vulnerability of Administrative Actions to Hostile Courts

Like many administrations before it, the Biden-Harris administration used not only legislation but also administrative actions as important tools for national policymaking. Indeed, administrations have increasingly relied on such administrative actions over time, as Congress has moved toward passing fewer and fewer bills.[37] However, during the Biden-Harris administration, administrative actions—especially notice-and-comment rulemakings—proved highly vulnerable to conservative courts hostile to economic regulation of the private sector. As of February 2025, courts invalidated 52.4 percent of challenged Biden-Harris administration major rules, issued mixed rulings in another 7.1 percent of cases, and upheld just 40.5 percent of challenged major rules.[38]

Interviewees cited many examples of agencies spending years carefully building a record and honing a regulatory policy to comply with existing legal doctrines, only to have conservative, activist courts heavily populated with appointees of the first Trump administration—most often, the Northern District of Texas and the Fifth Circuit—immediately invalidate it on dubious and often novel reasoning. Indeed, such courts ultimately blocked tens of millions of working-class Americans from receiving economic relief that would have put hundreds of billions of dollars back in their collective pockets—blocking, for example, student loan debt relief for about 20 million people making under $75,000 per year, a cap on credit card late fees that would've saved Americans an estimated $10 billion annually, a ban on noncompete clauses that would've increased the average worker's wages by $500 a year, an expansion of overtime to 4 million workers making less than $58,656 per year, and more.[39]

When courts block an administration's economic policies from coming into effect, they prevent the electorate from experiencing those policies—undermining democratic accountability.

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percent, respectively); "Presidential Win Rates," Institute for Policy Integrity, New York University School of Law, last modified July 15, 2025, https://policyintegrity.org/tracking-major-rules/presidential-win-rates.
[37] Moira Warburton, "Why Congress Is Becoming Less Productive?," *Reuters*, March 12, 2024, https://reuters.com/graphics/USA-CONGRESS/PRODUCTIVITY/egpbabmkwvq.
[38] "Presidential Win Rates."
[39] Bharat Ramamurti, "My Conversation with Senator Elizabeth Warren," podcast, September 15, 2025, *The Bully Pulpit with Bharat Ramamurti*, 22 min., 20 sec., https://bharatramamurti.substack.com/p/my-conversation-with-senator-elizabeth.

Several interviewees further noted that when promised relief never reaches people, it breeds cynicism and distrust in government.

Interviewees highlighted several legal doctrines that enabled corporate special interests to readily obtain relief from economic regulations from conservative, corporate-friendly judges. For one, lax venue and associational standing rules enabled well-resourced industry trade groups to forum shop their challenges to specific jurisdictions where a nationwide injunction or universal vacatur of the policy was near-guaranteed. One agency's former deputy general counsel mourned that no amount of rigor and good faith could withstand an activist judiciary determined to dismantle economic regulations, and thus "legal advice is just 'tell us what circuit you are in, and we'll tell you if you will win or lose.'" Indeed, according to one study, "the Biden Administration lost 79 percent of cases decided by the courts making up the Fifth Circuit, but won 68 percent of cases decided by all other courts."[40]

Additionally, during the Biden-Harris administration, the Supreme Court rolled out new doctrinal vehicles for unleashing conservative, corporate-friendly judicial activism: The "Major Questions Doctrine," first announced in 2022, created a broad and ill-defined standard for overruling an administrative action if a court deemed it to have "vast economic and political significance."[41] The Supreme Court's 2024 *Loper Bright* decision overruled *Chevron* deference—i.e., the deference previously afforded to agencies implementing ambiguous enactments.[42] And its 2024 *Corner Post* ruling adopted an expansive reading of the statute of limitations in the Administrative Procedure Act (APA), which effectively means that, for an administrative action to stick, an agency would have to survive challenge after challenge to the action indefinitely for years to come.[43]

Many interviewees noted that judicial review of administrative action is important to prevent the executive from abusing its power, and thus reforms to the judiciary and to judicial review of administrative action should ensure courts serve as a bulwark for protecting individual liberties. At the same time, the vast majority of interviewees believed the status quo has become untenable, with the conservative Supreme Court giving the second Trump administration a wide berth for lawless and unconstitutional conduct—often without providing any legal reasoning whatsoever—while blocking much of the prior administration's economic agenda from taking effect, destroying the courts' credibility as a neutral, nonpartisan arbiter of the law. Indeed, dozens of sitting federal

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[40] "Forum Shopping," Institute for Policy Integrity, New York University School of Law, last modified July 15, 2025, https://policyintegrity.org/tracking-major-rules/forum-shopping.

[41] Under the Major Questions Doctrine, an agency must have "clear congressional authorization"—more than a "plausible textual basis"—when it "assert[s] a consequential power beyond what Congress could reasonably be understood to have granted." The doctrine invites courts to be more stringent than usual in construing statutes if, in the court's view, the policy is economically or politically consequential—putting a heavy thumb on the scale against Congress delegating consequential powers to the executive branch; *West Virginia et al. v. Environmental Protection Agency et al.*, 20-1530, 597 US 697, 2022 Wl 2347278, 2022 US Lexis 3268, 142 S. CT. 2587 (2022), https://supremecourt.gov/opinions/21pdf/20-1530_n758.pdf.

[42] *Loper Bright Enterprises et al. v. Raimondo, Secretary of Commerce, et al.*, 22-451, 603 US ___ (2024), https://supremecourt.gov/opinions/23pdf/22-451_7m58.pdf.

[43] In *Corner Post*, the Supreme Court held that a six-year statute of limitations for APA claims facially challenging an administrative action runs from when an individual challenger to an agency action is injured, not from when the agency issues its final agency action. Justice Ketanji Brown Jackson's dissenting opinion in *Corner Post* explains the consequences: "There is effectively no longer any limitations period for lawsuits that challenge agency regulations on their face. … [The Court's decision] allows well-heeled litigants to game the system by creating new entities or finding new plaintiffs whenever they blow past the statutory deadline," (*Corner Post, Inc. v. Board of Governors of the Federal Reserve System*, 22-1008, 603 US 799 (2024), https://supremecourt.gov/opinions/23pdf/22-1008_1b82.pdf).

judges have warned that the Supreme Court's recent practices have jeopardized courts' legitimacy.[44] Stanford political scientist Adam Bonica found that, in May and June 2025, the Supreme Court sided with the second Trump administration 93.7 percent of the time, even though district courts had ruled against it 94.3 percent of the time.[45] Bonica further found that the Supreme Court intervened to lift 77 percent of orders against the Trump administration, compared to just 14 percent during the Biden-Harris administration. As the Roosevelt Institute's Corporate Power Director Brad Lipton has explained, "It's increasingly the case that corporate-backed leaders in America make sweeping policy changes when they take the reins, but progressives fighting for working people are blocked [by courts] at every turn when they do."[46]

Given this lopsided scrutiny, one former agency general counsel stated that liberals who believe the government can and should play an active role in solving economic problems need to "junk" the APA, because "it's a statute based on skepticism of a robust state apparatus." Instead, the interviewee elaborated, reforms should refocus courts on "the things that are most worrisome that the state can do—invading personal liberties—as opposed to economic regulation or spending." Several interviewees further underscored that judicial review of administrative actions under the APA generally functions as a one-way ratchet for dismantling economic regulation, because the APA has been interpreted to authorize challenges to agency *inaction* only in very limited circumstances.[47]

[R]eforms should refocus courts on "the things that are most worrisome that the state can do—invading personal liberties—as opposed to economic regulation or spending."

Although one agency's former general counsel told us that, with hindsight, given the hostility of courts, notice-and-comment "rulemaking looks like a giant waste of time," several interviewees believed that it should not be abandoned altogether because it can still shape market participants' conduct in sticky ways and create a template for state-level action—even if the federal rule itself does not prove durable. Several interviewees noted that agencies could save time and avoid wasted effort by prioritizing other tools over notice-and-comment rulemaking, or by using them in tandem. For example, during the Biden-Harris administration, administrative guidance, enforcement policy statements and enforcement actions under existing laws, benefit and service delivery improvements, and federal funding investments were more resilient to scrutiny by hostile courts (though, as elaborated in Chapter 7, unobligated funds remained vulnerable to rescission by Congress). Additionally, interviewees noted that agencies could pursue "skinnier" notice-and-comment rulemakings designed to send a market-moving signal, without spanning hundreds of pages addressing every conceivable edge case or counterargument. That said, some noted this strategy may have

[44] Mattathias Schwartz and Zach Montague, "Federal Judges, Warning of 'Judicial Crisis,' Fault Supreme Court's Emergency Orders," *New York Times*, October 11, 2025, https://nytimes.com/2025/10/11/us/politics/judicial-crisis-supreme-court-trump.html.

[45] Thomas B. Edsall, "The Supreme Court Finally Found a President It Likes," *New York Times*, August 5, 2025, https://nytimes.com/2025/08/05/opinion/supreme-court-trump-administration.html.

[46] Brad Lipton, "Corporations Have Bent the Government to Their Will. To Win for Working People, We Must Fight Smarter," *Fireside Stacks*, September 18, 2025, https://firesidestacks.com/p/corporations-have-bent-the-government-to-their-will.

[47] For example, although the APA provides for citizen petitions for rulemakings, responding to the petition is largely a matter of agency discretion (Maeve P. Carey, *Petitions for Rulemaking: An Overview* (Congressional Research Service, 2020), https://congress.gov/crs-product/R46190); *Norton v. Southern Utah Wilderness Alliance*, 03-101, 542 US 55 (2004), https://oyez.org/cases/2003/03-101.

waning power, given that corporate special interests now know that courts are willing to shield them from regulation.

Using Multiple Policy Levers in Tandem to Wage Public-Issue Campaigns

Interviewees stressed the value of deploying "all the tools" in tandem—regulation, enforcement, state and federal legislation, communications, and the bully pulpit—to drive real-world change, even when individual rulemakings do not survive a hostile judiciary. Interviewees highlighted several case studies to illustrate how integrated public-issue campaigns built around, as one interviewee put it, "a unified agenda across every policymaking channel" can generate public momentum and "people power" strong enough to counter corporate resistance.

In the first case study, DOT's approach to securing automatic refunds for airline passengers whose flights were canceled or delayed by fault of the airline illustrates the strategy: In August 2021, DOT proposed a notice-and-comment rule requiring refunds.[48] Then, in September 2022, while the rule was pending, DOT used reputational pressure to secure enforceable commitments from airlines to provide faster, easier refunds and accommodations, by launching a public dashboard bringing transparency to airlines' practices.[49] DOT integrated a robust public engagement strategy, launching the dashboard as travelers headed to the airport for the Labor Day weekend. In 2022 and 2023, DOT also used its enforcement powers to secure historically large enforcement settlements against airlines that withheld refunds from consumers.[50] Finally, in spring 2024, DOT strategically paired finalization of its rule with a push to incorporate the policy directly into the Federal Aviation Administration (FAA) Reauthorization Act, "must-pass" legislation then moving through Congress.[51] Thanks to DOT's creative use of an "all-the-tools" campaign-style approach to policymaking, just 20 days after DOT finalized its rule, President Biden signed legislation codifying it into law,[52] and the full protections took effect in October 2024.[53]

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[48] 14 CFR 259, 260, 399.

[49] US Department of Transportation (DOT), "Ahead of Labor Day, DOT Launches New Dashboard to Help Air Travelers Know Their Rights When They Experience Flight Disruptions Caused by Airlines," Press release, September 1, 2022, https://transportation.gov/briefing-room/ahead-labor-day-dot-launches-new-dashboard-help-air-travelers-know-their-rights-when.

[50] DOT, "DOT Penalizes Southwest Airlines $140 Million for 2022 Holiday Meltdown," Press release, December 18, 2023, https://transportation.gov/briefing-room/dot-penalizes-southwest-airlines-140-million-2022-holiday-meltdown; David Shepardson, "US Says Six Airlines Issue $622 Million in Refunds," *Reuters*, November 14, 2022, https://reuters.com/business/aerospace-defense/us-says-six-airlines-issue-622-million-refunds-pay-725-mln-fines-2022-11-14.

[51] "Final Rule - Refunds and Other Consumer Protections," Aviation Consumer Protection, DOT, last modified April 24, 2024, https://transportation.gov/airconsumer/refundsfinalruleapril2024; "FAA Reauthorization," Federal Aviation Administration, DOT, last modified October 30, 2024, https://faa.gov/about/reauthorization.

[52] Joseph R. Biden, "Statement on Signing the FAA Reauthorization Act of 2024," *American Presidency Project*, May 16, 2024, https://presidency.ucsb.edu/documents/statement-signing-the-faa-reauthorization-act-2024; 14 CFR 259, 260, 399.

[53] In September 2025, the Trump administration announced it would no longer pursue a Biden-era DOT rule to require that airlines provide compensation and amenities to passengers whose flights are significantly delayed or canceled. Despite abandoning that proposal, the administration has said it will continue to enforce the separate automatic refund rule referred to above, which was codified in FAA Reauthorization by Congress (14 CFR 399.79); Alexandra Skores, "White House Plans to Abandon Biden-Era Rules on Compensating Customers for Disrupted Flights," CNN, September 5, 2025, https://cnn.com/2025/09/05/politics/white-house-plans-to-abandon-biden-era-rules-regarding-compensation-on-disrupted-flights; John Yoon, "Trump Administration Drops Biden Plan for Flight Delay Compensation," *New York Times*, September 5, 2025, https://nytimes.com/2025/09/05/business/flight-delays-cancellations-compensation.html.

Former DOT senior staffers underscored that Secretary Pete Buttigieg's hands-on engagement and leadership was key to this successful campaign. An interviewee explained that, originally, career staff were skittish about confronting the airlines, but with clarity from the top that the agency should aggressively protect consumers, "there was a real shift in mindset," and the agency's new "willing-to-sue" posture facilitated relatively swift concessions from airlines. As another interviewee put it, political leadership empowered career staff to "add a zero" to the penalties they had historically sought, so that violating the law was no longer a minor cost of doing business. Marshaling public support was also a crucial counterweight to industry lobbying, with Secretary Buttigieg engaging in a media campaign to publicly make the case against the industry's unfair practices. As one former DOT senior official explained, "When we rolled stuff out on the airline front … it was really politically popular," so public amplification of the issue made it politically challenging to oppose the policy. That meant that once the administration got codification of its rule requiring automatic refunds included in the FAA Reauthorization bill, opponents no longer "wanted the smoke" it would take to remove it.

[O]riginally, career staff were skittish about confronting the airlines, but with clarity from the top that the agency should aggressively protect consumers, "there was a real shift in mindset," and the agency's new "willing-to-sue" posture facilitated relatively swift concessions from airlines.

In a second case study, the CFPB deployed a similar "use-all-the-tools" playbook to quickly provide Americans relief from the burdens of medical debt. In January 2022, the CFPB issued guidance about potential legal violations in medical debt collection, signaling to the market enforcers' growing scrutiny.[54] The next month, it issued a report explaining the devastating human impacts of using medical debt to lower a person's credit score and explaining that medical debt is often not predictive of future payment problems.[55] Within weeks, the major credit reporting agencies changed their practices, removing nearly 70 percent of medical collection debt reporting tradelines from credit reports. The CFPB also began working closely with states.[56] As a result, two states banned medical debt from credit reports even before the CFPB proposed a medical debt rule in summer 2024.[57] The CFPB also enlisted other agencies' help, spurring HHS, the Veterans Affairs Administration, the Department of Housing and Urban Affairs, and USDA to target unfair medical debt practices.

[54] "Bulletin 2022-01: Medical Debt Collection and Consumer Reporting Requirements in Connection with the No Surprises Act," Consumer Financial Protection Bureau (CFPB), January 13, 2022, https://consumerfinance.gov/compliance/supervisory-guidance/cfpb-bulletin-2022-01-medical-debt-collection-consumer-reporting-requirements-in-connection-with-no-surprises-act.

[55] *Medical Debt Burden in the United States* (CFPB, 2022), https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

[56] "National Credit Bureaus Support Consumers with Changes to Medical Collection Debt Reporting," Consumer Data Industry Association, March 18, 2022, https://cdiaonline.org/news/2022/03/18/equifax-experian-and-transunion-support-u-s-consumers-with-changes-to-medical-collection-debt-reporting.

[57] Maysoon Khan, "New York Removes Medical Debt from Credit Reports," AP *News*, December 13, 2023, https://apnews.com/article/medical-debt-new-york-credit-reports-1e7d840e28e409f9de82bfacf8c6cddf; CFPB, "CFPB Proposes to Ban Medical Bills from Credit Reports," Press release, June 11, 2024, https://consumerfinance.gov/about-us/newsroom/cfpb-proposes-to-ban-medical-bills-from-credit-reports.

Like the DOT, the CFPB deployed a robust public engagement strategy, with both CFPB Director Rohit Chopra and Vice President Kamala Harris publicly championing the issue—including holding public events and encouraging states to take up the cause.[58] By the time the CFPB finalized its nationwide rule in January 2025, six states had already banned medical debt from credit reports, and the share of consumers with medical collections on their credit records had fallen by two-thirds.[59] Although a Trump-appointed Texas district court judge vacated the rule after the second Trump administration abandoned its defense, an estimated 15 million Americans or more had already obtained significant relief, the credit reporting agencies have not shifted their practices back, and more states have banned the practice (for a total of 15 state bans to date).[60]

While in each of these case studies the administration secured real-world results more quickly and durably than had it used a tool like notice-and-comment rulemaking standing alone, in each it still took a year or more to deliver results, and those results came late in the administration's tenure. Interviewees thus underscored that such a unified campaign-style approach should be part of an administration's comprehensive strategy from the outset. Interviewees further underscored that using this approach should not be viewed as a substitute for judicial reforms, because these initiatives remain vulnerable to a hostile judiciary. For example, state medical debt bans are currently under assault by special interests claiming that federal law preempts them.

[58] White House, "Fact Sheet: Biden-Harris Administration Announces New Actions to Reduce Medical Debt and Address Illegal Medical Debt Collection Practices," Press release, October 1, 2024, https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2024/10/01/fact-sheet-biden-harris-administration-announces-new-actions-to-reduce-medical-debt-and-address-illegal-medical-debt-collection-practices; White House, "Statement from Vice President Kamala Harris on North Carolina's Medical Debt Announcement," Press release, July 29, 2024, https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2024/07/29/statement-from-vice-president-kamala-harris-on-north-carolinas-medical-debt-announcement.

[59] CFPB, "CFPB Finalizes Rule to Remove Medical Bills from Credit Reports," Press release, January 7, 2025, https://consumerfinance.gov/about-us/newsroom/cfpb-finalizes-rule-to-remove-medical-bills-from-credit-reports; Zachary Blizard and Ryan Sandler, *Recent Changes in Medical Collections on Consumer Credit Records* (CFPB, 2024), https://consumerfinance.gov/data-research/research-reports/recent-changes-in-medical-collections-on-consumer-credit-records.

[60] *Cornerstone Credit Union League, et al. v. Consumer Financial Protection Bureau, et al.*, 4:25-cv-00016 (2025), https://storage.courtlistener.com/recap/gov.uscourts.txed.235173/gov.uscourts.txed.235173.52.0_1.pdf; Fredric Blavin, Breno Braga, and Michael Karpman, "Medical Debt Was Erased from Credit Records for Most Consumers, Potentially Improving Many Americans' Lives," Urban Institute, November 2, 2023, https://urban.org/urban-wire/medical-debt-was-erased-credit-records-most-consumers-potentially-improving-many; Stacy Cowley, "Judge Scraps Rule Eliminating Medical Debt on Credit Reports," *New York Times*, July 29, 2025, https://nytimes.com/2025/07/17/business/medical-debt-credit-reports-ruling.html; Lori A. Medley, "Maine and Oregon Join List of States Prohibiting the Reporting of Medical Debt on Consumer Reports," Eppstein Becker Green, June 23, 2025, https://commerciallitigationupdate.com/maine-and-oregon-join-list-of-states-prohibiting-the-reporting-of-medical-debt-on-consumer-reports.

What the Public Says:

- 52 percent of respondents say “ensuring unelected judges cannot block elected leaders’ economic policies” would make the government function better.[61]

Source: Groundwork Collaborative / Data for Progress national survey, fielded Sept. 19–22, 2025

Interviewee Recommendations

Use “all the tools” and wage a public campaign: Administrations should treat their highest-impact priorities not as isolated regulatory tasks or as projects for Congress alone, but rather as full-scale public campaigns that deploy multiple levers in tandem across federal and state policymaking channels. And they should launch early in an administration’s tenure, not as a last resort after other approaches fail. This approach necessitates different staffing and public engagement models, including using more collaborative, cross-disciplinary teams that proactively seek to build people-powered momentum across policymaking channels, as described in Chapter 2. This strategy is especially important in the absence of legislative reforms to the courts (or reforms that create a more functional, speedy federal legislative process), though it should not be thought of as a substitute for such reforms.

Recalibrate executive branch resources toward more resilient levers, especially in tandem: Similarly, when allocating finite resources, administrations should calibrate resources toward tools more likely to have durable impacts. In particular, enforcement actions and service delivery improvements tended to be systematically under-resourced relative to their upside potential, as elaborated in Chapters 5 and 6. And in some cases, administrative guidance, federal funding levers, and the bully pulpit may be able to more efficiently shift private-sector behavior than large-scale, elaborate notice-and-comment rulemakings. Indeed, rulemaking and legislative efforts often benefit from taking prior actions that can serve as proof points that a policy is workable—such as successful enforcement actions or state efforts.

Cabin judicial review and revamp the APA: Many interviewees, including three agencies’ general counsels, underscored the importance of Congress reforming judicial review of administrative action and the APA to restore the legitimacy of the courts and to ensure the executive branch can fulfill its electoral mandate. Our interviews surfaced a range of reform options (we separately address procedural reforms to speed up notice-and-comment rulemaking in Chapter 5):

- **Eliminate forum shopping:** Congress should require cases challenging federal agency action to be randomly assigned to a panel drawn from across the country or require such cases to be filed in one venue, such as the DC Circuit. In either

[61] This includes 39 percent of Democrats (as compared to 25 percent who say it would make government worse), 51 percent of Independents, and 66 percent of Republicans.

approach, Congress should protect access to justice for litigants, such as providing remote-access options for judicial hearings. All interviewees who discussed the topic were supportive of legislation to curb forum shopping, viewing it as a table stakes no-brainer for restoring the legitimacy of the courts as neutral, apolitical arbiters.

- **Cabin industry trade groups' ability to get universal relief from economic regulation**: Interviewees' views on whether and when nationwide relief from federal action is *ever* appropriate were mixed, but several noted that the Supreme Court's recent decision in *Trump v.* CASA[62] cabining the availability of nationwide equitable injunctive relief will not stop corporate-friendly courts from providing industry-wide relief from economic regulation—thanks to the continued availability of universal vacatur and lax associational standing rules.[63] Congress could change this dynamic by amending the APA to prohibit representative suits on behalf of regulated entities (requiring individuals or firms purportedly harmed to come forward themselves), while eliminating regulated entities' ability to obtain universal vacatur. As an alternative to eliminating representative suits for regulated entities altogether, Congress or the Judicial Conference could amend the Federal Rules of Civil Procedure to require a specific certification that individual members have a cognizable harm and in fact wish the association to represent them in the litigation.
- **Reform the Supreme Court**: Conservative, corporate-friendly capture of the Supreme Court means that the legitimacy of the courts will suffer for years to come, and that without reforms the Supreme Court will continue to pose an existential obstacle to center-left economic policymaking for a generation. Revitalizing the capacity of the federal government to solve national problems requires preventing the judiciary from politicizing and kneecapping that capacity. To that end, interviewees identified several options for reforming Supreme Court review of administrative action and/or pushing back on the Supreme Court's assault on administrative agencies:
    - Expand the Supreme Court, such as by having one justice per circuit (13 total).
    - Create a new specialized court for review of administrative action, and remove the Supreme Court's jurisdiction to review its decisions.

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[62] *Trump, President of the United States, et al. v. Casa, Inc., et al.*, 24A884, 606 US ___ (2025), https://supremecourt.gov/opinions/24pdf/24a884_8n59.pdf.

[63] For one, CASA does not limit the availability of universal vacatur of administrative action under the APA, meaning activist district courts can still wipe regulations off the books, with nationwide effect (*Trump, President of the United States, et al. v. Casa, Inc., et al.*). For another, lax associational standing rules enable industry trade associations like the Chamber of Commerce to claim they are entitled to orders spanning millions of members across the country—enabling them to obtain orders effectively relieving entire industries from regulation, including on behalf of even unidentified members who may or may not have an actual interest in challenging an agency action; Seth Frotman and Brad Lipton, "The 100 Days That Put the Nail in the Coffin of Administrative Law," *Yale Journal on Reglation*, May 21, 2025, https://yalejreg.com/nc/the-100-days-that-put-the-nail-in-the-coffin-of-administrative-law-by-seth-frotman-brad-lipton.

- **Cabin the scope of judicial review**: Interviewees proposed a range of modifications to the scope of judicial review under the APA, with an eye toward ensuring judges focus on questions of law and individual liberties within their expertise, rather than substituting their own policy judgment for those of economic policymakers accountable to the electorate. Interviewees identified several options for Congress:
    - Several interviewees recommended creating different APA standards of review for different types of agencies and/or agency actions, such as providing the government more leeway when it is acting as market regulator and more oversight in areas where it is potentially impeding individual liberties.
    - One interviewee would repeal arbitrary and capriciousness review altogether (as distinct from review of whether an agency acted within its statutory authority), but others worried that would leave an insufficient check on truly arbitrary action and could push hostile courts into more sweeping rulings about agencies' legal authorities.
    - Some interviewees recommended heightening the standard of review for arbitrary and capriciousness challenges, so that truly arbitrary action is checked but courts are less able to substitute their own policy judgments for those of the executive branch. One such option would be to shift to "rational basis" review of agency action, which is more deferential to agencies. This would allow agencies to offer *ex post* justifications for actions in litigation briefs, rather than courts policing the adequacy of agencies' written responses to comments in the regulation itself.
    - Another option would be to more clearly identify the bases on which agency actions may be invalidated. For example, in creating the Broadband Equity, Access, and Deployment (BEAD) program, Congress specified that judicial review is permitted only for corruption or misconduct (and provided for exclusive jurisdiction in the District Court for the District of Columbia).[64]
    - To override an undue focus on make-work proceduralism, several interviewees recommended keeping the requirement to seek public comment, while eliminating judicial review of the adequacy of an agency's written responses to comments. This would refocus the comment process on showing public support or opposition to the rule and offering recommendations for improving the policy—rather than the comment process being used by special interests and conservative courts to second-guess agencies' written responses to commenters' arguments.
    - Similarly, an interviewee recommended that procedural review be cabined to whether the agency sought public comment on the policy, full stop,

[64] 47 USC § 1702.

rather than requiring the agency to have sought public comment on every piece of evidence cited in the final action.

  - Another option recommended by an interviewee for preventing minor procedural issues from being used to invalidate entire regulations is to specify a very high bar for challengers to show that procedural errors were not harmless—i.e., that the agency would not have finalized the rule but for the process mistake.

- **Speed judicial review**: The slow pace of judicial review can leave agency action in limbo for years. Interviewees offered several options for Congress to speed judicial review, including:
  - Amend the APA to replace district court review with petitions for review filed directly in appellate courts (as many agency-specific statutes already provide).
  - Expand the judiciary to decrease caseloads.
  - Create shot clocks for decisions.

- **Override the Major Questions Doctrine**: The Major Questions Doctrine, at least as articulated by the Supreme Court thus far, purports to be a statutory interpretation principle. Given that, Congress should override it across the board through legislation, such as by providing in the Dictionary Act that the political or economic significance of an administrative action is not a basis for overturning it. A more tempered option would be to create a Congressional Review Act facilitating congressional override of judicial decisions that rely on the Major Questions Doctrine.[65]

- **Override *Corner Post* with a statute of repose**: To bring finality to agency actions and promote certainty for market participants, Congress should adopt a statute of repose requiring APA challenges to be brought within a delimited time frame after the agency takes action—overriding the Supreme Court's *Corner Post* decision that allows challenges to be brought many years later.[66]

- **Counter the deregulatory bias of judicial review**: More work is needed to assess whether and how to address the APA's baked-in bias toward blocking administrative action while offering almost no remedy for government inaction, delay, or forgone benefits. For example, Congress could add a cause of action for citizens or states when an agency misses a statutory deadline or forgoes the benefits of regulation.

Increase public accountability for courts blocking popular economic policies: Especially in the absence of legislatively enacted reforms, political leaders should increase public oversight and accountability for corporate-friendly courts, such as by publicly

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[65] Christopher J. Walker, "A Congressional Review Act for the Major Questions Doctrine," *Harvard Journal of Law and Public Policy* 45, no. 3 (2022): 773–94, https://repository.law.umich.edu/cgi/viewcontent.cgi?article=3693&context=articles.
[66] *Corner Post, Inc. v. Board of Governors of the Federal Reserve System.*

naming and shaming the Supreme Court when it invalidates popular economic policies adopted by the politically accountable branches, holding oversight hearings on justices' ethics issues, holding hearings about the unreliability and instability of judicial decision-making, and timing implementation deadlines (to the extent possible) so that Supreme Court review occurs in election years—deterring justices from striking down popular programs. As recommended in Chapter 2, the federal government should directly communicate with Americans to narrate who got in the way of a popular policy taking effect, educating the public about antidemocratic, corporate-friendly courts that invalidate economic regulations on dubious grounds.

Change how Congress delegates to agencies: In the absence of wholesale changes to the APA and judicial review of agency action, Congress will need to rethink how it delegates authority to agencies, because broad delegations to agencies to engage in rulemaking leave the resultant policies highly vulnerable to hostile courts. Alternative strategies offered by interviewees include:

- Legislate much more specific substance directly in statute and make any delegations to agencies as clear as possible.
- Articulate strong statutory standards in statute and then delegate regulatory authority to the agency to create safe harbors or exemptions. This strategy changes regulated entities' incentives to challenge rulemakings, since the rulemaking effectively reduces burdens or provides additional compliance pathways—rather than rulemaking being a condition precedent to regulation of the industry in the first instance.[67]

Consider program-specific exceptions or limitations on judicial review: In the absence of wholesale reforms, when enacting a new programmatic requirement, Congress should consider including program-specific carveouts from judicial review or channeling challenges to less-biased venues. For example, as noted above, the Bipartisan Infrastructure Law cabined judicial review of the BEAD program. (It also provided exemptions to the APA, Paperwork Reduction Act, and the Regulatory Flexibility Act.)

[67] An example of this approach is the Dodd-Frank Act's delegation of authority to CFPB to revise standards for the "qualified mortgage" safe harbor for mortgage lenders—a safe harbor to the statutory obligation to assess borrowers' "ability to repay" the loan (15 USC § 1639c).

Chapter 4: Remove Red Tape That Slows Regulatory Implementation

Chapter 3 explained that rulemaking has become highly vulnerable to conservative courts, such that policymakers should think twice before relying on it as a standalone lever for national policymaking (at least in the absence of legislative reforms). This chapter covers interviewees' further insights and recommendations for shaving precious time off rulemaking processes, because the lengthy process for promulgating and defending rules is itself an impediment to their efficacy.

Indeed, writing as an academic in 2019, Richard Revesz—who went on to become President Biden's OIRA administrator in 2023—and his coauthor Bethany Davis Noll warned that notice-and-comment rulemakings were taking many years to complete, leaving them vulnerable to new administrations' rollback tactics.[68] They recounted it taking years just to develop a proposal, followed by an average of 1.5 years to go from proposed to final rule, followed by several more years to resolve court challenges; then lengthy compliance timelines sometimes added years more. Unfortunately, that warning was prescient. The Biden-Harris administration finalized a crush of 342 "significant" rules in 2024.[69] In short, hundreds of rules—representing thousands of hours of painstaking, methodical regulatory work—were finalized so late that Americans never experienced the kind of real-world benefits that might have built momentum for their durability.

The Proceduralist Make-Work and Bureaucracy That Slows Rulemaking

As explained in Chapter 1, administrations can hit the ground running by planning and drafting before Inauguration Day, launching their top priority rulemakings immediately, and having clear lanes for decision-making. That said, even with early decisions, expedited timelines, and no legal challenge filed, notice-and-comment rulemaking can be too slow to deliver on-the-ground relief within a single term. For example, to lower household costs, President Biden issued an executive order in July 2021 including deadlines for the Food and Drug Administration to make hearing aids available over the counter, and the rule was finalized in 2022. But even though the rule went unchallenged, it took another two years before significant new entrants began disrupting the market.[70]

In hindsight, interviewees explained that, to fit policymaking, judicial review, and actual enforcement of a rule into a single term, rules would need to be finalized much faster—early within the first year to have the best chance of having real-world impacts. An interviewee stressed that such timelines would be extremely ambitious, making it essential to relentlessly

[68] Clyde Wayne Crews Jr., "Biden's 2024 Federal Register Page Count Is Highest Ever," *Forbes*, December 31, 2024, https://forbes.com/sites/waynecrews/2024/12/31/bidens-2024-federal-register-page-count-is-highest-ever.
[69] Crews, "Biden's 2024 Federal Register."
[70] US Food and Drug Administration (FDA), "FDA Authorizes First Over-the-Counter Hearing Aid Software," Press release, September 12, 2024, https://fda.gov/news-events/press-announcements/fda-authorizes-first-over-counter-hearing-aid-software.

prioritize from the outset those that are on the "must-do" list for execution within a single term, while recognizing that it may be impossible to complete others absent a second term.

Interviewees described many rules proceeding through slow, sequential clearance processes dominated by bureaucratic make-work and a tendency toward risk-aversion and skepticism of governmental action. Interviewees described some agencies' organizational structures as part of the problem, with policy staff, economists, and offices of general counsel (OGCs) often reviewing rules in sequenced silos, rather than forming integrated problem-solving teams. This was not only inefficient, but it also encouraged OGCs and economists to view themselves as independent vetogates reviewing skeptically, rather than as advisors and problem-solvers working on a shared policy mission. For example, several interviewees described economists as detached vetogates who issued cost-benefit analyses structured to check legal boxes and calculate even hypothetical, tertiary costs, rather than to improve policymaking. An interviewee quipped, "Cost-benefit analysis would not itself pass a cost-benefit review," given the time spent on analyses of limited utility for actual decision-making.

In contrast, some agencies moved rules much more efficiently by giving one office clear ownership over the process, while fully embedding other key components of the agency (i.e., OGC, economists) into the team from the outset. Some interviewees also identified a new best practice: seeking early feedback from the litigators who would later personally defend the rule in court—typically, career lawyers from the Federal Programs and Civil Appellate branches of the DOJ—rather than waiting for OIRA interagency review, which often involved different DOJ lawyers after the agency finalized its draft of the rule. This seemed to foster a more collaborative discussion of opportunities to mitigate legal risk without sacrificing policy objectives, unlike in other situations (elaborated in Chapter 5) in which DOJ and other agencies had clashing views about acceptable levels of risk.

"Cost-benefit analysis would not itself pass a cost-benefit review."

Almost every interviewee brought up the need to either abolish or significantly redesign OIRA. OIRA was first established by the Paperwork Reduction Act, with a statutory mission concerning how agencies collect, use, and share information,[71] although various forms of centralized review of agencies' actions existed earlier.[72] Then in 1981, to curtail agencies' regulation of industries, President Ronald Reagan issued an executive order expanding OIRA's role to oversight of regulatory policymaking.[73] The order provided that all "major rules" must include a cost-benefit "Regulatory Impact Analysis" and must be submitted to OIRA for clearance before publication. Subsequent administrations continued this non-statutory function as the predominant use of OIRA resources, with President Bill Clinton's Executive Order 12866 now governing the process.[74] Under the order, agencies must submit any

[71] Paperwork Reduction Act of 1980, Pub. L. No. 96-511, 94 Stat. 2812 (1980), https://congress.gov/bill/96th-congress/house-bill/6410/text.
[72] Richard L. Revesz, "Managing Regulatory Review in the Biden Administration," *The Regulatory Review*, November 25, 2024, https://theregreview.org/2024/11/25/revesz-managing-regulatory-review-in-the-biden-administration.
[73] Executive Order No. 12291, "Federal Regulation," Federal Register 46, no. 33, February 1981, https://archives.gov/federal-register/codification/executive-order/12291.html.
[74] Maeve P. Carey, Taylor R. Knoedl, Natalie R. Ortiz, Taylor N. Riccard, Meghan M. Stuessy, *The Office of Information and Regulatory Affairs (OIRA): Overview and Major Responsibilities* (Congressional Research Service, 2025), https://congress.gov/crs-product/R48546; Executive Order No. 12866, "Regulatory Planning and Review," Federal Register 58, no. 190, October 1993, https://reginfo.gov/public/jsp/Utilities/EO_12866.pdf.

"significant regulatory action"—defined by its economic effects—with a detailed cost-benefit analysis for a 90-day review and must receive OIRA clearance before publishing the action (at both the proposal and finalization stages).[75]

True to President Reagan's design, interviewees recounted that OIRA career staff were generally, as one former OIRA official put it, a "skeptical gatekeeper rather than a partner to the regulating agency"—an inapt orientation in an administration pursuing a robust rulemaking agenda. Shifting this culture was particularly challenging because of the low ratio of political to career staff at OIRA, leaving many former officials from agencies deeply frustrated with the delays and skepticism associated with OIRA review. As one interviewee put it, "There are so many risk police along the way [at agencies]. We do not need OIRA to be the risk police."

While many interviewees described substantive review by OIRA career staff as almost always a counterproductive headache, some interviewees described other aspects of the OIRA process that were valuable. They noted that it is important to have a centralized project manager to police deadlines, coordinate the collection of intergovernmental feedback, and provide a clear and quick path of escalation to an empowered decision-maker. Interviewees also noted the importance of the White House having centralized eyes on agencies' work to ensure consistency with the administration's values and goals, and to spot places where agencies needed to work together. Moreover, interviewees from the White House recounted that OIRA review provided a critical point of White House leverage over agencies that were less ambitious or more friendly to regulated industries than the White House. However, such problems could be challenging to correct at the OIRA review phase, which occurred only after agencies had already expended significant time and resources fully drafting a policy.

Some interviewees highlighted that process deviations from traditional OIRA review proved more efficient. A former DOE official stated that DOE and the Treasury Department were able to produce reams of Inflation Reduction Act implementation guidance quickly via an exemption from OIRA review, with a senior White House official with direct access to the White House chief of staff and the president instead overseeing an interagency decision-making process. A former OIRA official noted that American Rescue Plan implementation similarly benefited from a change to usual procedures, using an OMB-chaired review process in which White House review had a hard 14-day cap and all reviews happened concurrently (i.e., the budget and PRA components of OMB reviewed at the same time as OIRA and policy councils). Several interviewees noted policymaking was much more straightforward when principals from the White House and agencies convened a "principals meeting" to make key policy decisions *before* the agency turned to drafting.

Interviewees identified certain statutory process obligations that added further make-work and delay, without yielding additive substantive inputs. For example, by statute, certain agencies—namely the Environmental Protection Agency, the Occupational Safety and Health Administration of the Department of Labor, and the CFPB—must issue proposal outlines or

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[75] In 1995, President Clinton also signed into law the Unfunded Mandates Reform Act (UMRA), which generally requires agencies to publish a statement of costs and benefits of proposed regulations that may result in the aggregate expenditure of $100 million or more (adjusted annually for inflation) in any one year. Some agencies' organic statutes also impose cost-benefit requirements, while some other statutes preclude decision-making on the basis of cost-benefit analysis (Adam G. Levin, *Unfunded Mandates Reform Act: History, Impact, and Issues* (Congressional Research Service, 2021), https://congress.gov/crs-product/R40957).

participate in a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel pursuant to the Regulatory Flexibility Act before seeking public comment on a proposed rule. And under the Magnuson-Moss Warranty Act, the FTC must hold administrative hearings for consumer protection rulemakings. Interviewees reported that the Small Business Administration Office of Advocacy was particularly problematic, even sometimes refusing to convene SBREFA panels for months at a time.

Several interviewees expressed frustration at the protracted timelines for judicial review of rulemakings, with the Biden-Harris administration running out of time to defend its rules. Some interviewees noted that statutes providing for challenges to be filed directly in the courts of appeals compressed review time frames and conserved resources, while the district court phase of APA challenges seemed to add delay without improving the quality of decisions—particularly given that such challenges occur on a closed record and are reviewed de novo by appellate courts.

Interviewee Recommendations

Relentlessly prioritize key rules and finalize them in Year One: Agencies should arrive on Day One with priority rules already drafted or heavily scaffolded, so that they can launch immediately and be finalized within a year. One agency's former chief of staff added that agencies should resist the political pressure to extend comment deadlines to accommodate stakeholders, which adds delays beyond the 60-day comment period generally required by Executive Order 12866.[76] Additionally, agencies should avoid lengthy compliance periods and be prepared to expedite litigation to defend a rule as needed.

Deploy collaborative, cross-disciplinary teams with direct access to an empowered decision-maker: Policymaking teams should be staffed from the outset as cross-disciplinary, hybrid teams—treating policy staff, offices of general counsel, economists, engagement officials, and the litigators who will eventually defend the rule as one team pursuing a shared mission.[77] These hybrid teams should have a designated project manager, and they should have ready access to an empowered decision-maker. As explained in Chapters 2 and 3, they should also work with engagement teams from the outset—for example, pairing a proposed rule with model legislation for states and working with organizing, communications, and digital personnel to build a base of support for the policy.

Abolish or significantly redesign OIRA's regulatory review: All interviewees who discussed the topic agreed OIRA's oversight of regulations should be significantly changed. They raised the following options, which can be accomplished without new legislation and are not necessarily mutually exclusive:

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[76] This timeline could be shortened further by rescinding or amending Executive Order 12866—for example, instead providing for a 30-day comment period. As the Congressional Research Service has explained, the APA itself does not specify a required length for comment periods, instead requiring "an 'adequate' opportunity to comment—of which the length of the comment period represents only one factor for consideration" (Todd Garvey, *A Brief Overview of Rulemaking and Judicial Review* (Congressional Research Service, 2017), https://congress.gov/crs-product/R41546.)
[77] Incorporating litigators into the process earlier would be particularly beneficial if the DOJ Civil Division were repopulated with movement lawyers, as recommended in Chapter 5.

- Rescind EO 12866 and return OIRA to its original statutory information-resources mission only, rather than substantive regulatory review. As described in Chapter 2, this could include making OIRA a home for proactive engagement expertise and capacity. This option would require reassigning rulemaking project management and coordination functions to another component of the White House, such as another part of OMB, a policy council, or the chief of staff's office, where a new culture of collaboration could be nurtured. Additionally, substantive review of policies by political appointees in those components, rather than career OIRA staff, is more appropriate for ensuring policies are consistent with the president's agenda and values.
- Revise EO 12866 to reduce OIRA's role in regulatory policymaking to that of project manager, removing it as an independent substantive reviewer but continuing its role of coordinating White House and interagency feedback, enforcing deadlines, and providing a clear escalation channel for resolving disagreements.
- Revise EO 12866 to remove the requirement that agencies submit a cost-benefit analysis to OIRA. That said, some interpret *Michigan v. EPA*, 576 U.S. 743 (2015), as strongly suggesting rules would be deemed arbitrary and capricious if they do not consider costs at all; however, the case expressly declines to hold that "a formal cost-benefit analysis in which each advantage and disadvantage is assigned a monetary value" is required.
- Require OIRA or other White House component clearance *before* an agency undertakes significant work on a policy, rather than requiring clearance at the back end of agencies' drafting processes.
- Retool OIRA personnel slots for reviewing regulations into a centralized well of capacity to assist, not impede, agencies in regulatory policymaking—such as creating a USDS-style SWAT team that can provide surge drafting capacity and expertise to help agencies execute priority rules quickly.
- Raise the dollar threshold in EO 12866 for policies to trigger OIRA review, or otherwise narrow the types of proposed policies that must be submitted.[78]
- Substantially shorten the 90-day window for OIRA review, while requiring agencies to give the White House advance notice of submission timing.

Right-size proposed rules and regulatory analyses: The length of proposed rules and the economic and legal analyses supporting them has grown substantially in recent years—often spanning hundreds of pages. Agencies should pursue "skinnier" notice-and-comment rulemakings at the proposal stage. Administrations should be more open to

[78] President Biden issued an executive order doubling the threshold for economic impacts to trigger OIRA review; Executive Order No. 14094, "Modernizing Regulatory Review," Federal Register 88, no. 69, April 2023, https://federalregister.gov/documents/2023/04/11/2023-07760/modernizing-regulatory-review. President Trump rescinded that order; Executive Order No. 14148, "Initial Rescissions of Harmful Executive Orders and Actions," Federal Register 90, no. 17, January 2025, https://federalregister.gov/documents/2025/01/28/2025-01901/initial-rescissions-of-harmful-executive-orders-and-actions.

releasing proposed rules and other draft policies that are not entirely complete or fully decided, limiting work at the proposal stage to that necessary to inform the public and to meet legal requirements that final actions be a "logical outgrowth" of the proposal. Reforms to the scope of judicial review elaborated in Chapter 3 and reforms to OIRA review elaborated above would also help relieve much of the burden of such analyses.

Simplify cost-benefit analysis: Even if Executive Order 12866 is rescinded, agencies would generally still be required by the Unfunded Mandates Reform Act (UMRA) to publish cost-benefit statements for significant rules, and, as noted above, some also read *Massachusetts v. EPA* as requiring agencies to consider costs. Agencies should streamline these cost-benefit analyses by focusing on a policy's most important and knowable sources of costs and benefits, rather than devoting excessive time attempting to quantify tertiary or highly speculative costs.[79] Notably, UMRA limits judicial review of agencies' cost-benefit statements to whether the agency prepared one at all, and *Massachusetts v. EPA* declines to require a formal cost-benefit analysis that monetizes each effect, so economists should tailor their analysis to what is actually useful to improve decision-making.[80]

Repeal other unnecessary procedural layers: Congress should clear the thicket of procedural add-ons that stack additional months—sometimes years—onto timelines without measurably improving substance, including the Regulatory Flexibility Act and SBREFA, the Paperwork Reduction Act, mandatory advance notice of proposed rulemaking (ANPR), and the extra Magnuson-Moss Act steps for FTC consumer protection rules. Short of outright repeals, Congress should at least remove duplicative vetogates from these processes (i.e., the Small Business Administration's Office of Advocacy and OIRA/OMB), leaving compliance to the agency. In the absence of legislative reforms, OIRA/OMB and agencies should administratively reduce the burdens of these procedural requirements by doing the minimum amount of work necessary to satisfy them—such as by sharing an actual draft rule with a SBREFA panel, instead of wasting time creating a separate rule outline for panelists to review, or by timeboxing and page-limiting ANPRs.

[79] Broader critiques of the limits of cost-benefit analysis point to how a reliance on efficiency metrics can narrow policy choices and undervalue social goals, in addition to practical and methodological challenges in applying quantitative analysis to complex regulatory decisions; Elizabeth Popp Berman, "Elizabeth Popp Berman on the 'Economic Style of Thinking' That Consumed US Policy," interviewed by David Roberts, *Volts Podcast*, April 15, 2022, 1:02:49, https://volts.wtf/p/volts-podcast-elizabeth-popp-berman; John C. Coates IV, "Cost-Benefit Analysis of Financial Regulation: Case Studies and Implications," *Yale Law Journal* 124, no. 4 (2015): 882–1345, https://yalelawjournal.org/article/cost-benefit-analysis-of-financial-regulation.
[80] That said, rule drafters should be thoughtful about whether and how they use cost-benefit analysis in the rule's justification, as such statements could become subject to review under the APA; 2 USC § 1532.

Chapter 5: Speed and Scale Corporate Accountability Enforcement

Future administrations should prioritize and dramatically increase resources for impactful litigations that stop corporate lawbreaking, because they are one of the few remaining viable federal tools for delivering concrete results for Americans. The Biden-Harris administration did significantly expand enforcement against corporate lawbreaking, by nominating bold leaders to enforcement agencies like FTC, DOJ's Antitrust Division, CFPB, NLRB, DOL, and the Securities and Exchange Commission (SEC) and empowering them to deploy their existing authorities.[81] However, interviewees regretted that the administration was unable to secure sufficient resources to fully maximize the potential impact of this work, and enforcement actions were often too slow-going to deliver on-the-ground results within a single term. This chapter highlights insights and recommendations for speeding and scaling corporate accountability work.

The Potential Efficacy of Corporate Accountability Work

Interviewees noted many successful cases demonstrating the potential benefits of corporate accountability enforcement work, such as the DOT's $140 million civil penalty against Southwest for its 2022 holiday meltdown, the CFPB's record-breaking $3.7 billion penalty against Wells Fargo for mishandling millions of consumer accounts, DOJ's historic cases against Google's anticompetitive conduct, and the NLRB's cases against union-busting companies.[82] Two DOL and FTC case studies cited by interviewees illustrate how bold, creative enforcers can quickly deliver real-world results.

In one example, the Department of Labor used decisive, targeted, and well-planned enforcement to swiftly stop child abuse, while expanding the law's protective reach on an issue with cross-partisan appeal. During a three-month investigation, DOL uncovered children cleaning razor-sharp equipment on overnight shifts at JBS meatpacking plants in eight states. DOL executed targeted anticipatory warrants on over half a dozen facilities and sought emergency relief from a federal district court, successfully obtaining a temporary restraining

[81] Executive Order 14036, "Promoting Competition in the American Economy," Federal Register 86, no. 132, July 2021, https://bidenwhitehouse.archives.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy; Executive Order 14025, "Worker Organizing and Empowerment," Federal Register 86, no. 81, April 2021, https://bidenwhitehouse.archives.gov/briefing-room/presidential-actions/2021/04/26/executive-order-on-worker-organizing-and-empowerment.

[82] Mark Walker and Niraj Chokshi, "US Fines Southwest Airlines $140 Million for Holiday Meltdown," *New York Times*, December 18, 2023, https://nytimes.com/2023/12/18/business/southwest-airlines-fine.html; "CFPB Orders Wells Fargo to Pay $3.7 Billion for Widespread Mismanagement of Auto Loans, Mortgages, and Deposit Accounts," CFPB, December 20, 2022, https://consumerfinance.gov/about-us/newsroom/cfpb-orders-wells-fargo-to-pay-37-billion-for-widespread-mismanagement-of-auto-loans-mortgages-and-deposit-accounts; Josh Sisco, "The Biden Administration Launches Its Second Big Attack on Google," *Politico*, September 9, 2024, https://politico.com/news/2024/09/09/biden-administration-google-antitrust-00177843; Office of Public Affairs, "Region 29-Brooklyn Wins Administrative Law Judge Decision Finding Amazon Unlawfully Retaliated Against Workers for Their Union Activities," National Labor Relations Board (NLRB), December 1, 2023, https://nlrb.gov/news-outreach/news-story/region-29-brooklyn-wins-administrative-law-judge-decision-finding-amazon; Office of Public Affairs, "NLRB Region 7-Detroit Wins Injunction Requiring Starbucks to Rehire Unlawfully Fired Worker, Post the Court's Order, and Cease and Desist from Unlawful Activities Nationwide," NLRB, February 21, 2023, https://nlrb.gov/news-outreach/news-story/nlrb-region-7-detroit-wins-injunction-requiring-starbucks-to-rehire.

order within a day.[83] The next month, it obtained a nationwide consent judgment permanently barring the practice. Just months later, after finding over 100 children working in JBS plants, it imposed a civil penalty of $1.5 million. DOL then built on that momentum, bringing similar suits against other companies and obtaining a pathbreaking order expanding the monetary relief paid to abused children to include disgorgement of processors' tainted profits—helping to ensure lawbreaking isn't profitable.[84] In order to disincentivize violations, DOL also interpreted its authority to maximize civil monetary penalties—penalties beyond compensatory damages—and to enforce the Fair Labor Standards Act's "hot goods" provision, which enabled it to block interstate shipments of tainted goods even while litigation continued. Together, these cases demonstrated that rapid, strategic litigation can deliver immediate relief to vulnerable workers, deter copycat violations across an industry, stop violations from being a mere cost of doing business, and expand the legal tool kit.

In another example, the FTC used a multipronged campaign—much like the DOT and CFPB campaigns described in Chapter 3—to stop anticompetitive conduct by pharmaceutical companies and lower asthma inhaler prices. In September 2023, picking up on a long history of bipartisan FTC amicus briefs on the topic, it issued an enforcement policy statement warning that it is unlawful to use improper patent listings to delay and deter competing generic drugs from coming to market.[85] The next month, the FTC challenged over one hundred improperly listed inhaler and epipen device patents via a Food and Drug Administration (FDA) regulatory challenge process, while simultaneously notifying companies of their potential antitrust liability.[86] The FTC briefed Hill stakeholders on the issue, and in late 2023 and early 2024, Sens. Amy Klobuchar (D-MI), Elizabeth Warren (D-MA), Tammy Baldwin (D-WI), and others sent oversight letters to the drug companies, and the Senate Committee on Health Education, Labor, and Pensions launched hearings.[87]

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[83] US Department of Labor (DOL), "More than 100 Children Illegally Employed in Hazardous Jobs, Federal Investigation Finds; Food Sanitation Contractor Pays $1.5m in Penalties," Press release, February 17, 2023, https://dol.gov/newsroom/releases/whd/whd20230217-1.

[84] DOL, "Department of Labor Finds Poultry Processor Illegally Endangered Children in Dangerous Jobs, Robbed Workers of Wages, Retaliated by Firing Workers," Press release, December 4, 2023, https://dol.gov/newsroom/releases/whd/whd20231204; DOL, "Department of Labor Finds Children Employed Illegally in Dangerous Jobs, Obtains $4.8m in Wages, Damages for Poultry Industry Workers in California," Press release, May 2, 2024, https://dol.gov/newsroom/releases/whd/whd20240502.

[85] "Memorandum of Law of Amicus Curiae the Federal Trade Commission in Opposition to Defendant's Motion to Dismiss," MDL Docket No. 1410, US District Court for the Southern District of New York, January 8, 2022, https://ftc.gov/sites/default/files/documents/amicus_briefs/re-buspirone-antitrust-litigation/buspirone.pdf; FTC, "FTC Amicus Brief Challenges Abuse of FDA 'Orange Book' Listing Procedures to Block Drug Competition," Press release, November 10, 2022, https://ftc.gov/news-events/news/press-releases/2022/11/ftc-amicus-brief-challenges-abuse-fda-orange-book-listing-procedures-block-drug-competition; FTC, "FTC Issues Policy Statement on Brand Pharmaceutical Manufacturers' Improper Listing of Patents in the Food and Drug Administration's 'Orange Book,'" Press release, September 14, 2023, https://ftc.gov/news-events/news/press-releases/2023/09/ftc-issues-policy-statement-brand-pharmaceutical-manufacturers-improper-listing-patents-food-drug.

[86] FTC, "FTC Challenges More than 100 Patents as Improperly Listed in the FDA's Orange Book," Press release, November 7, 2023, https://ftc.gov/news-events/news/press-releases/2023/11/ftc-challenges-more-100-patents-improperly-listed-fdas-orange-book.

[87] Ed Silverman, "Klobuchar Urges Drugmakers to Remove Patents FTC Calls Improper and Inaccurate," *Amy in the News*, January 18, 2024, https://klobuchar.senate.gov/public/index.cfm/2024/1/klobuchar-urges-drugmakers-to-remove-patents-ftc-calls-improper-and-inaccurate; Elizabeth Warren, "Warren, Jayapal Announce Three Drug Manufacturers Pulled Sham Patents After Warnings, Urge FDA to Continue Fight Against Big Pharma Companies' Patent Abuse," Press release, February 16, 2024, https://warren.senate.gov/oversight/letters/warren-jayapal-announce-three-drug-manufacturers-pulled-sham-patents-after-warnings-urge-fda-to-continue-fight-aga

In response to these efforts, several pharmaceutical companies delisted improper patents in December 2023, and three of the four biggest asthma inhaler manufacturers announced a nationwide $35 cap on their out-of-pocket inhaler costs in March 2024.[88] The White House then showcased the inhaler price cuts at an April 2024 event, further amplifying the issue.[89] Later the same month, the FTC built on this momentum, filing FDA regulatory challenges to hundreds more improper patent listings on diabetes and weight loss drugs.[90] It also opened a formal law enforcement investigation into Teva Pharmaceuticals, the inhaler manufacturer that had failed to remove improper listings or cap its prices.[91] The campaign caught the attention of generic drug manufacturers, several of whom filed lawsuits against brand drug manufacturers raising the improper listings. The FTC then participated as amicus, helping to secure both a court order requiring Teva to delist its improper patents and a favorable precedent from the Federal Circuit in December 2024.[92] That decision in turn spurred more companies to delist improper patents in early 2025, clearing the path for more competition.[93] FTC's campaign-style approach, including collaboration with another agency, the Hill, and the private bar, achieved much faster results using fewer resources than a fully litigated FTC enforcement action would have required.

One interviewee flagged that, while enforcement work is indeed one of the most efficacious levers remaining available to the federal government and thus should be much better resourced, policymakers should not be overly optimistic about law enforcement actions becoming a full replacement for other national policymaking tools. The interviewee elaborated that actions targeting discrete practices (e.g., violations of categorical rules about child labor) can have market-wide ripple effects, but often statutory standards provide for fact-bound

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inst-big-pharma-companies-patent-abuse; Tammy Baldwin, "Senator Baldwin Demands Big Pharma Stop Unfair Practices That Reduce Competition, Raise Prices for Inhalers," Press release, January 29, 2024, https://baldwin.senate.gov/news/press-releases/senator-baldwin-demands-big-pharma-stop-unfair-practices-that-reduce-competition-raise-prices-for-inhalers; Bernie Sanders, Ben Ray Luján, Tammy Baldwin, and Edward J. Markey, Letter to Hubertus von Baumbach, Chairman of the Board of Managing Directors, Boehringer Ingelheim International Gmbh, January 8, 2024, https://sanders.senate.gov/wp-content/uploads/2024.01.08-HELP-Committee-Letter-to-Boehringer-Ingelheim.pdf.

[88] Kate Goodwin, "Three Companies Relent to FTC Demands, Delist Patents from FDA's Orange Book," *BioSpace*, December 22, 2023, https://biospace.com/three-companies-relent-to-ftc-demands-delist-patents-from-fda-s-orange-book; Pearl Steinzor, "Biden Administration Extends Efforts for $35 Monthly Asthma Inhaler Price Cap," AJMC, April 4, 2024, https://ajmc.com/view/biden-administration-extends-efforts-for-35-monthly-asthma-inhaler-price-cap.

[89] Kathryn Watson, "Biden Touts Inhaler Price Drops with Bernie Sanders: 'Finally, Finally We Beat Big Pharma,'" CBS *News*, April 3, 2024, https://cbsnews.com/news/joe-biden-bernie-sanders-inhalers-white-house-drug-prices.

[90] FTC, "FTC Expands Patent Listing Challenges, Targeting More than 300 Junk Listings for Diabetes, Weight Loss, Asthma and COPD Drugs," Press release, April 30, 2024, https://ftc.gov/news-events/news/press-releases/2024/04/ftc-expands-patent-listing-challenges-targeting-more-300-junk-listings-diabetes-weight-loss-asthma.

[91] Dan Diamond, "FTC Opens Investigation Into Teva, Escalating Patent Fight with Pharma Industry," *Washington Post*, July 1, 2024, https://washingtonpost.com/health/2024/07/01/teva-patent-pharma-generic-inhaler.

[92] FTC, "FTC Files Amicus Brief in Asthma Inhaler Patent Dispute," Press release, April 22, 2024, https://ftc.gov/news-events/news/press-releases/2024/03/ftc-files-amicus-brief-asthma-inhaler-patent-dispute; *Teva Branded Pharmaceutical Products R&D, Inc., Norton (Waterford) Ltd., Teva Pharmaceuticals USA, Inc. v. Amneal Pharmaceuticals of New York, LLC, Amneal Ireland Ltd., Amneal Pharmaceuticals LLC, Amneal Pharmaceuticals, Inc.*, 24-1936 (Fed. Cir. 2024), https://cafc.uscourts.gov/opinions-orders/24-1936.OPINION.12-20-2024_2439730.pdf.

[93] The Capital Forum, "Teva: Drugmaker Requests Delisting of Inhaler Patents from Orange Book in Response to Court Order; Boehringer Ingelheim, Novo Nordisk Have Also Asked FDA to Pull Disputed Drug-Device Patents," Press release, March 24, 2025, https://thecapitolforum.com/teva-inhaler-patents-orange-book.

applications (e.g., reasonableness) that make it harder to generalize from one case to the next, limiting the deterrent effect.

The Bottlenecks Impeding Swift, Impactful Enforcement Work

Interviewees from enforcement agencies described three major bottlenecks for speeding and scaling corporate accountability work: (1) extreme under-funding, (2) lengthy timelines, and (3) captured or overly risk-averse lawyers situated as vetogates.

Interviewees described enforcement units that are severely underfunded relative to the multibillion-dollar companies they police. A former senior DOT official captured a widely held sentiment, explaining resources were "not nearly enough to be aggressive all the times you want to be. We always had to be picking battles." Interviewees noted that, especially with other administrative policymaking tools under existential threat, pivoting more resources into enforcement actions could be one of the most impactful strategies for protecting the public and shaping the law in the public interest. For example, the entire annual budget of the FTC has always been under $430 million—an amount that would barely register as a rounding error at agencies like HHS or USDA, whose annual budgets are in the tens of billions.[94] And despite its meager resources, the FTC punched far above its weight, returning an estimated $14 in benefits to Americans for every $1 of its costs.[95] As a former DOL official explained, "We need to go all in on litigation—fund it as a strategic tool, not an afterthought."

Former senior enforcement officials also expressed frustration that enforcement was often slow at both the investigative and litigation stages. As one interviewee put it, drawn-out cases "take all the risk of an administration change." And the second Trump administration has now broken with long-standing, bipartisan historical practice by summarily dismissing many pending cases and even undoing long-settled consent decrees.

Interviewees recounted that at the investigative stage, sophisticated defendants slow-walked responses to agencies, as they faced few consequences for delay and may have recognized the potential for waiting out the administration. Meanwhile, career attorneys often had a cultural bias toward turning over every conceivable stone before filing suit—turning pre-suit investigation into a source of protracted delays.

Federal court litigation timelines often yielded even longer delays. For example, the FTC's monopolization case against Facebook has now spanned three administrations: The first Trump administration filed the case in 2020, the Biden-Harris administration filed an amended complaint in 2021, and the trial was held in the second Trump administration in 2025. DOJ's Google ad-tech monopoly suit was unusually swift, thanks to being filed in a "rocket docket" jurisdiction known for moving quickly—yet it still took nearly two years from federal complaint

[94] "FTC Appropriation and Full-Time Equivalent (FTE) History," Office of the Chief Financial Officer, FTC, accessed September 14, 2025, https://ftc.gov/about-ftc/bureaus-offices/office-executive-director/financial-management-office/ftc-appropriation; "Agency Profile General Services Administration (GSA)," Overview, USAspending.gov, last modified September 14, 2025, https://usaspending.gov/agency/general-services-administration?fy=2025; FY 2025 Budget Summary (US Department of Agriculture (USDA), 2025), https://usda.gov/sites/default/files/documents/2025-usda-budget-summary.pdf.
[95] FTC, "FTC Chair Testifies Before House Appropriations Subcommittee," Press release, May 15, 2024, https://ftc.gov/news-events/news/press-releases/2024/05/ftc-chair-testifies-house-appropriations-subcommittee.

to trial.[96] Interviewees noted that Congress originally designed administrative adjudication to provide a faster, more efficient forum for federal enforcement actions, but recent Supreme Court decisions have undermined the availability of that tool.[97]

Interviewees noted that collaborating with state attorneys general can create continuity and durability when complex cases are likely to take longer than the lifespan of a single federal administration. For example, the Google ad-tech case remained ongoing beyond the Biden-Harris administration's tenure, but, because it was filed alongside a bipartisan group of eight state attorneys general, the litigation was near-certain to press forward regardless of White House turnover.

"We need to go all in on litigation—fund it as a strategic tool, not an afterthought."

Interviewees also pointed to bottlenecks created by mismatches between who controls exercise of a legal authority and the culture of the attorneys in those divisions. A common mismatch arose when attorneys with day-to-day responsibility for regulating or supervising an industry had responsibility for enforcement. As one former general counsel put it, such career regulators "had an attitude of not wanting to antagonize" the regulated industry given their ongoing relationship with it, "but actually, the [regulated industry] shouldn't want to antagonize us." Interviewees also described challenges when agency economists sat in separate, parallel units from litigation teams, effectively giving them veto power over enforcement actions. These institutional designs required significant top cover from political appointees, with multiple interviewees underscoring that political appointees must be direct (but respectful) with line attorneys about their desire for bold, high-impact cases. Otherwise, risk-averse staff tended to pursue small-ball cases, and enforcement missions languished.

Interviewees from an array of agencies raised the DOJ's Civil Division as a source of frustration, explaining that Civil Division attorneys often had significant power over other agencies' work but were often less enforcement-minded, less creative, and more risk-averse. For example, some agencies lack independent litigating authority to bring enforcement actions directly in court and are instead required to refer potential cases to DOJ's Civil Division, only to see them wither or become less ambitious. In other instances, agencies with independent litigating authority still needed DOJ sign-off for certain steps (e.g., issuing a subpoena) or for certain interpretations of law (e.g., interpretation of debt collection or bankruptcy laws). Interviewees described working collaboratively with many excellent and dedicated line DOJ Civil Division career attorneys, but many also found it deeply frustrating that DOJ's Civil Division lacked an overarching strategy for or orientation toward using litigation as a tool for affirmatively advancing the public interest—perhaps because it was heavily staffed with institutionalists and former corporate defense counsel.

[96] David McCabe and Nico Grant, "The 'Rocket Docket' Judge Who Will Decide the Fate of Google's Ad Technology," *New York Times*, November 25, 2024, https://nytimes.com/2024/11/25/technology/google-antitrust-leonie-brinkema.html.
[97] Specifically, *Axon Enterprises, Inc. v. FTC* allows defendants to file collateral constitutional attacks on an administrative proceeding in federal court, and, in *SEC v. Jarkesy*, the Supreme Court held that defendants in SEC fraud actions seeking civil penalties have a right to a jury trial in federal court (*Axon Enterprise, Inc. v. Federal Trade Commission et al.*, 21-86, 598 US 175 (2023), https://supremecourt.gov/opinions/22pdf/21-86_l5gm.pdf; *Securities and Exchange Commission v. Jarkesy et al.*, 22-859, 34 F.4th 446 (5th Cir. 2022), https://supremecourt.gov/opinions/23pdf/22-859_1924.pdf).

The Value of “Lifting” Public Enforcement Actions

Several interviewees noted that the Biden-Harris White House was reluctant to “lift up” enforcement matters or include them in its public messaging, for fear of politicizing them, particularly given the experience of the first Trump administration singling out political opponents for disfavor. Indeed, the White House Counsel’s Office generally had a policy against White House officials publicly mentioning corporations by name. However, in our interviews, several senior former agency enforcement officials believed it would have been appropriate and desirable for the White House to call for enforcement campaigns addressed to particular problems and also to lift up specific enforcement actions once they were already public. They explained that public championing of enforcement initiatives helps create deterrence—expanding the market-shaping impact of cases—and also helps show the public that the administration is fighting for them. That said, some interviewees felt that the White House should not call for (or otherwise interfere with) investigations of specific companies before an enforcement agency had made its investigations public.

What the Public Says:

- 71 percent of respondents say “doing more to crack down on companies that break the law” would make the government function better.[98]

Source: Groundwork Collaborative / Data for Progress national survey, fielded Sept. 19–22, 2025

Interviewee Recommendations

Dramatically expand enforcement resources, prioritize high-impact cases, and lift them up: Congress should markedly increase funding for enforcement, because robust resources are the single most effective way to translate statutory authority into real-world protections. Agencies should also redirect resources from less impactful or durable activities to enforcement, and they should pursue high-impact litigations rather than small-ball one-offs. Political leaders (including at the White House) should lift up and champion enforcement work.

Incorporate public input: Public engagement can and should be integrated into the enforcement mission, such as through the field listening sessions and public-facing complaint portals described in Chapter 2. These inputs can help shape enforcement priorities and can also add narrative heft to lawsuits—ensuring the negative impacts of corporate abuse on regular people are front and center, rather than cases merely being esoteric legal matters. The CFPB’s Consumer Complaint Database provides a particularly strong model worth replicating.[99] The system automates complaint intake, transmits

[98] This includes 65 percent of Democrats, 73 percent of Independents, and 76 percent of Republicans.
[99] The CFPB’s system was built open source, meaning it could be expanded to other agencies (or states) relatively easily; “Consumer Complaint Database,” Consumer Education, CFPB, last modified September 12, 2025, https://consumerfinance.gov/data-research/consumer-complaints.

complaints to companies, and publishes their responses—spurring many companies to provide consumer redress voluntarily, while the system also surfaces emerging or systemic abuses for enforcers.

Build up trial capacity: Trial litigation is a different skill set from investigating or negotiating a settlement, and it requires significant resources. Having credible capacity to go to trial is an important part of adopting a "willing-to-sue" posture, which facilitates not only actual wins at trial but also greater deterrence and stronger leverage for settlement negotiations.

File federal court complaints faster: Agencies can shorten the life cycle of a case by filing a complaint in federal court faster, ideally in jurisdictions known for moving cases efficiently (so-called rocket dockets). Although civil investigative demands (CIDs) are valuable tools for pre-suit investigation, agencies must shift the culture away from letting investigations drag on behind-the-scenes for years. Staffing enforcement units with more former plaintiffs' attorneys can help counter this culture, because such attorneys are more accustomed to relying on publicly available information and post-complaint discovery to build cases. Agencies can also accelerate timelines for federal court litigation by seeking emergency relief where appropriate.

Bring strategic CID-enforcement actions early: Agencies should consider filing a strategic CID enforcement action early in the term, establishing judicial precedent that slow-walking or ignoring a CID is unlawful. The signaling effect of such an action could deter future foot-dragging, shortening the investigative timeline for cases that follow.

Embed economists in enforcement units: Agency economists should use the CFPB model of embedding economists directly within enforcement units, where their empirical skills can shape case strategy in real time. Such integrations improve evidentiary rigor and prevent economic analysis from becoming a siloed, gatekeeping layer.

Hire technologists and deploy modern technology: Digitization now touches nearly every aspect of our economy, meaning enforcement teams must be capable of understanding fast-evolving, complex technical systems and digesting reams of digital information. To scale enforcement rapidly and sustainably, agencies should hire technologists with deep expertise in software, data science, and emerging tech—embedding them as partners to enforcement teams. Alongside talent, agencies should deploy modern tools (e.g. AI-assisted document review and advanced analytics) to compress investigative timelines and detect misconduct at scale.[100]

Break down silos around legal authorities: Enforcement teams should be organized around markets, issue areas, and/or investigative targets rather than around legal causes of action, so that investigators can pursue misconduct holistically instead of in

[100] A recent FTC report details efforts by the FTC and government agencies around the world to increase technology capacity in law enforcement agencies (Office of Technology Staff Report, *Building Tech Capacity in Law Enforcement Agencies* (FTC, March 2024), https://ftc.gov/system/files/ftc_gov/pdf/ot.techcapacityreport.pdf).

stovepipes.[101] Reorganizing around cross-authority teams can reduce duplication, avoid missed opportunities for coordinated action, and increase deterrence. Interagency teams could also be created when markets and issues span multiple agencies' jurisdiction, or interagency teams could even be target-specific—such as when a known bad actor is likely in violation of multiple agencies' statutes.

Scale and systematize collaboration with state attorneys general and the private public interest bar: Federal enforcers can multiply resources, maintain durable pressure on large defendants, and promote the sound development of the law more efficiently by making work with state attorneys general and the private plaintiffs' bar a routine part of their playbook. The retooling of outreach positions described in Chapter 2 would support such efforts. Partnerships can include joint complaints, federal intervention in meritorious private actions to add government heft, and amicus programs that steer doctrine and bolster private cases without the time and expense of full enforcement actions. Agencies should also consider hiring private firms to prosecute cases on the government's behalf, particularly while they are in the process of rebuilding their own in-house capacity.

Recruit impact litigators into the DOJ Civil Division: The DOJ Civil Division should be seeded with lawyers (at both the political and career levels) who view impact litigation as an engine of structural reform, deliberately recruiting movement lawyers steeped in aligning courtroom work with broader policy objectives. Although Big Law corporate defense bar experience need not be a categorical disqualifier for DOJ positions, there should be a heavy thumb on the scale toward ensuring DOJ personnel are eager to be creative, nimble, and savvy about using litigation to advance the public interest.

Provide accruing monetary penalties sufficient to create deterrence: Congress and agencies should ensure financial sanctions are large enough that lawbreaking isn't simply a corporate cost of doing business. Financial penalties structured to accrue while violations remain ongoing—such as per-day rather than per-violation fines—also increase defendants' incentive to quickly stop unlawful conduct. In some cases, agencies may be able to interpret their statutes to authorize per-day fines, while in others new legislation is needed.[102]

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[101] For example, DOL operates separate enforcement divisions with separate regional office structures that don't directly map onto one another. At FTC, competition and consumer-protection lawyers have separate, parallel divisions, even though competition and consumer protection violations often go hand-in-hand.

[102] For an example of how to structure penalties in this manner, see the CFPB's Unfair and Deceptive Acts or Practices authority, under which civil penalties may be levied per day of violation, with the highest tier allowing for $1 million per day. As a counterexample, the FTC's lack of authority to recover financial damages for anticompetitive conduct is a major obstacle to efficient enforcement of the law. Note that structuring monetary relief as a penalty may trigger requirements to afford a jury trial right in federal court (12 USC § 5565; *AMG Capital Management, LLC, et al. v. Federal Trade Commission*, 19-508, 141 S. Ct. 1341, 209 L. Ed. 2d 361 (2021), https://supremecourt.gov/opinions/20pdf/19-508_l6gn.pdf; *Securities and Exchange Commission v. Jarkesy et al.*).

Establish financial penalties for failure to promptly comply with CIDs: Similarly, Congress should enact financial penalties to deter targets from slow-walking their responses to agencies' CIDs. A per-day fine for each day a district court finds a respondent failed to be in timely full compliance with a CID could fundamentally change targets' calculus around foot-dragging.

Increase the availability of "rocket dockets": To prevent meritorious enforcement actions from languishing in court for years, Congress should expand the Article III bench to reduce caseloads and/or create expedited litigation tracks for government enforcement cases. Such measures would shorten time to judgment and lower litigation costs for both the government and defendants.

Reassign enforcement responsibilities to agencies with a track record: Congress should place primary enforcement authority in agencies that have demonstrated both capacity and an institutional culture of vigorous action, rather than entrusting exclusive powers to chronically underperforming agencies.[103] Meanwhile, motivated regulators like the DOL, FTC, CFPB, and DOJ Antitrust Division should not be forced to clear unnecessary vetogates—such as mandatory sign-offs by DOJ's Civil Division.

Expand external litigation capacity to stop corporate wrongdoing: States should expand the capacity of state attorney general offices—filling the gaps left by the current administration's nonenforcement of the laws while also seeding cases that could become state-federal collaborations in a future administration. Congress can also multiply enforcement capacity to stop corporate wrongdoing by expanding capacity beyond federal government enforcement agencies. By establishing private rights of action, and by eliminating forced arbitration clauses, Congress can empower consumers, workers, and states to serve as force multipliers when federal agencies lack the bandwidth. Congress should also enable federal Legal Services Corporation (LSC) funding to be used more efficiently by removing the appropriations rider that bars LSC-funded organizations from pursuing class actions, enabling low-income citizens' lawyers to stop widespread lawbreaking in one suit instead of playing case-by-case whack-a-mole.[104]

Track and publicize impacts: Enforcement agencies should develop systems for tracking and publicizing the impact of their work. For example, the CFPB's supervision authority enabled it to quantify and report publicly how much money had been refunded to consumers in response to its campaign against banking junk fees.[105] In the absence of such standing supervisory authority, agencies could build requirements for reporting impacts into the remedies they seek from corporations.

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[103] *See, e.g.*, Erika M. Douglas, "Antitrust Abandonment," *Yale Journal on Regulation* 42, no. 1 (2025): 1–94, https://yalejreg.com/print/antitrust-abandonment.
[104] Consolidated Appropriations Act of 2024, Pub. L. No. 118-42, 138 Stat. 25 (2024), https://congress.gov/118/plaws/publ42/PLAW-118publ42.pdf.
[105] CFPB, "Supervisory Highlights Junk Fees Update Special Edition," *Supervisory Highlights*, no. 31 (2023): 1–18, https://files.consumerfinance.gov/f/documents/cfpb_supervisory_highlights_junk_fees-update-special-ed_2023-09.pdf.

Create federal victim relief accounts and directly distribute relief: Similarly, enforcement agencies could increase the visibility and traceability of their work by using victim relief accounts to distribute compensation directly to victims. For example, monetary penalties secured by the CFPB are deposited in its Civil Penalty Fund, which is used to help compensate victims who wouldn't otherwise receive compensation from the defendant.[106] This approach should be expanded so that all victim compensation flows through a federal account to the victims—making it clearer that the federal government, not the corporate wrongdoer, is the one who secured relief.

Chapter 6: Modernize Government and Abolish Needless Paperwork

The Biden-Harris administration demonstrated that, when the government prioritizes human-centered design, it can deliver low-friction, modernized services that feel practically magical to users accustomed to kludgy, burdensome interactions with the federal government—such as free and easy tax filing, fully online passport renewal, COVID tests delivered to your door after just a few clicks, and a student debt relief application so easy that Reddit users bragged about completing it from the toilet.[107]

However, many interviewees underscored that due to under-resourcing and a culture of risk aversion, the administration did not fully maximize the upside potential of digital modernization and human-centered design, notwithstanding President Biden's December 2021 executive order on transforming federal customer experience and service delivery.[108]

Several interviewees explained that if an administration went all in on human-centered design, the government could eliminate reams of paperwork, reduce inefficiencies, and automate benefits delivery. Increasing uptake of existing benefits and services could also provide significant economic relief to working Americans, without requiring new legislation: By one estimate, over $140 billion in government benefits already authorized by Congress go unclaimed annually.[109] On a more fundamental level, this approach could help rebuild trust in government,

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[106] "Civil Penalty Fund," Enforcement, CFPB, last modified December 12, 2024, https://consumerfinance.gov/enforcement/payments-harmed-consumers/civil-penalty-fund.
[107] The President's Management Agenda, *The Biden-Harris President's Management Agenda* (Office of Management and Budget, 2024), https://assets.performance.gov/pma/biden-harris/files/GSA09PMA-101-2024+End+of+Year+PMA+Report+-+508.pdf; Shira Ovide, "Surprise! The Federal Government Made a Website That Doesn't Stink," *Washington Post*, March 29, 2024, https://washingtonpost.com/technology/2024/03/29/irs-direct-file-free-tax-filing-review; Ben Cohen, "America Has Pulled off the Impossible. It Made Getting a Passport Simple," *Wall Street Journal*, July 4, 2025, https://wsj.com/business/us-passport-online-renewal-e58b51d1?msockid=0e223975ebb36a2e0f662c98ea716b31; Jordan Weissman, "The Government's New Website for Ordering Free COVID Tests Is Refreshingly Easy to Use," *Slate*, January 18, 2022, https://slate.com/technology/2022/01/government-free-covid-test-website.html; Adodie, "Biden Opens Applications for Student Debt Cancellation," *Reddit*, October 17, 2022, https://reddit.com/r/neoliberal/comments/y6r051/biden_opens_applications_for_student_debt.
[108] "Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government," Federal Customer Experience, last modified December 2023, https://performance.gov/cx/executive-order.
[109] Matthew Desmond, *Poverty, by America* (Crown Press, 2023), 241.

demonstrating that the government can competently deliver helpful services for Americans. As one interviewee put it, “There’s been a 50-year project of saying the government is terrible. The point to communicate [to] people [that the government actually can serve them well] is at the point of service.”

The Need to Invest in and Empower In-House Technologists

Several interviewees stated that, during the Biden-Harris administration, lack of resources, prioritization, and political will constrained government modernization efforts. One interviewee pointed out that the position of chief technology officer—a role typically focused on planning for the long-term technological needs of the federal government—remained vacant throughout the Biden-Harris administration, leaving “no one with a technical vision of how the government should make progress.” Another interviewee lamented that, during the administration, the “USDS had a scarcity mindset,” generally deploying only small, two-to-four-person teams structured as temporary and not “load-bearing.” The interviewee explained, “You can’t transform anything with that many people. Transformation is long and hard.”

Multiple interviewees explained that, as one put it, the reason government “IT sucks is that we outsourced all of it in the Bush administration and never rebuilt it.” Now, interviewees elaborated, IT budgets are heavily allocated to maintaining legacy systems, unable to be used to build in-house capabilities and/or making it difficult to switch to different, more modern technologies. Interviewees stated that IT departments (namely, the offices of agency chief information officers) tended to function more like procurement bureaucracies—bidding contracts out to vendors, often without the in-house technologist expertise necessary to meaningfully supervise the work. Another interviewee identified procurement rules that prioritize lowest-cost bids as part of the problem, explaining that “if [an IT product] wins [a government contract] because it’s cheap but it sucks, it becomes a problem.” In short, the government lacked sufficient in-house capacity not only to implement and execute technological modernization but also for ongoing strategic operational planning to improve user experiences.

That said, interviewees highlighted that the Direct File pilot provided a model for how to use outside contractors to expand capacity effectively. An interviewee described in-house staff and contractors sitting “side by side.” The interviewee explained that “there was never a deliverable thrown out to contractors,” in contrast with other “bad contractor models” in which deliverables “are wholly owned and run by Accenture.” Moreover, the Direct File team was cross-disciplinary, with engineers, user experience designers, and tax code experts working together to shape the program’s structure—defining eligibility, building the interface, and designing the operational workflow in tandem.

“There’s been a 50-year project of saying the government is terrible. The point to communicate [to] people [that the government actually can serve them well] is at the point of service.”

However, multiple former officials vented that, rather than such approaches being a routine, core capability of the government, efforts to modernize government technology tended to be discrete, spot initiatives—often facilitated by loans from the Technology Modernization

Fund—rather than sustained work. An interviewee explained that this institutional design is at odds with truly modernizing government services, because “a product isn’t a project. It doesn’t have an end date.”[110]

Interviewees also noted the limitations of relying only on centralized SWAT-team capacity to modernize agencies’ benefits and services, explaining that, even when USDS technologists were available to work with an agency, they sometimes faced cultural obstacles to modernization. Several interviewees underscored how government is generally organized around lawyers and policy wonks within a single agency marching through the process of producing legalistic outputs like rules, guidance, and forms. Instead, interviewees explained, everything from the decision of what problems to prioritize, to policy and program design, to ultimate implementation should work backward from the needs of the human end-users of government programs and services. For example, one technologist recounted that, during the Biden-Harris administration, staff at CMS and the Social Security Administration (SSA) declined to fix the problem that one can enroll in Medicare only at SSA.gov and not at Medicare.gov—a striking example of how the government’s default mode of working in legalistic institutional silos can produce absurd results for the end-user.

Several interviewees underscored that political will and strong, directive leadership were often the secret sauce for overcoming institutional inertia. For example, a USDS alumnus who served in both the Obama and Biden-Harris administrations recounted that President Barack Obama’s Veterans Affairs (VA) Administrator Bob McDonald unlocked a radical transformation of VA services using a surprising lo-fi tool: He penned a letter stating that service delivery reforms were a top priority and providing his cell phone number for anyone who encountered blockers, helping to empower a USDS team embedded at the VA. An interviewee underscored the high efficacy of such modernization efforts, with the VA now receiving higher patient satisfaction scores than private-sector health care.[111]

The Unrealized Potential of Streamlined Service Delivery

Several interviewees expressed frustration that program designs sometimes introduced frictions for the user in order to avoid a “bad narrative” or based on excessively cautious legal interpretations. One example cited by multiple interviewees was the application portal for student debt forgiveness. While the application form itself was easy to complete, several interviewees posited that it would have been possible to deliver relief without any application step at all. For example, a former senior official from the Department of Education recounted that the department could have instead used information already within its control to assess eligibility for forgiveness—such as using fact-specific proxies like whether the loan was in negative amortization or the age of the loan—and simply forgiven debt based on that

[110] “Meet the Technology Modernization Fund,” Technology Modernization Fund (TMF), accessed September 14, 2025, https://tmf.cio.gov/about.
[111] Audrey Bhullar, “VA Hospitals Outperform Private Sector in Patient Experience,” VA *News*, June 20, 2023, https://news.va.gov/121045/va-outperform-private-sector-patient-experience.

information, without an application.[112] Instead, the administration chose to impose an income limit on relief, seemingly to avoid the political risks associated with providing relief to people with higher incomes who could be perceived as undeserving. The choice to means-test relief—rather than to use fact-specific proxies already known to the Department of Education—in turn necessitated an application process, because, by statute, the IRS cannot share income information in its possession with other agencies without the taxpayer's consent.[113] Several interviewees wondered whether courts would have clawed back debt relief in the counterfactual scenario in which the administration had used information already within its control to cancel debt on the day it announced the policy—instead of introducing lag time in which opponents could get conservative courts to block further implementation.

Another interviewee stated that all manner of unnecessary application burdens are imposed on Americans to avoid risks of "waste, fraud, and abuse," because it is a ready part of politicians' lexicon, while there is little countervailing political pressure to avoid wasting Americans' time with unnecessary paperwork. A third interviewee vented that the onus should not be on ordinary Americans to navigate a mazelike government. Instead, the government should think of "a service [a]s a transaction that completes. No need to call back, no uncertainty, no 'did I fill out the form correctly?'"

Multiple interviewees noted that, with the political will and appropriate resource allocation, an administration could much more radically transform government services, abolishing needless government paperwork altogether. Instead, the interviewees posited, the federal government could use information already within its possession to simply notify Americans their benefits are on the way—no application, no waiting period, just frictionless delivery.

[T]he government should think of "a service [a]s a transaction that completes. No need to call back, no uncertainty, no 'did I fill out the form correctly?'"

Service design can also reduce paperwork burdens in contexts beyond traditional benefits delivery. For example, a former senior DOT official stated that during the Biden-Harris administration, DOT began reducing paperwork burdens on applicants for infrastructure funding by pre-populating application forms with drop-down options, a shift that had started "making a real difference" in the ease and speed of access to funding—especially for first-time applicants. HHS redesigned certain notices of funding opportunities to make them shorter and more lay-friendly, reducing application times by an estimated 31 percent.[114] Another interviewee gave a different, hypothetical example, positing that the Direct File free tax-filing program could have been even

[112] During the first Trump administration, the Department of Education used existing disability determinations to automatically cancel federal student loan debt for certain disabled veterans, simply notifying them their debt would be canceled unless they opted out; White House, "Presidential Memorandum on Discharging the Federal Student Loan Debt of Totally and Permanently Disabled Veterans," Presidential Memoranda, August 21, 2019, https://trumpwhitehouse.archives.gov/presidential-actions/presidential-memorandum-discharging-federal-student-loan-debt-totally-permanently-disabled-veterans; "Total and Permanent Disability Discharge," Federal Student Aid, US Department of Education, accessed October 5, 2025, https://studentaid.gov/manage-loans/forgiveness-cancellation/disability-discharge.
[113] *See* 26 USC § 6103.
[114] Office of Information and Regulatory Affairs (OIRA), *Tackling the Time Tax 2024 Edition: Making Important Government Benefits and Programs Easier to Access* (Executive Office of the President, 2024), https://bidenwhitehouse.archives.gov/wp-content/uploads/2024/07/OIRA-2024-Burden-Reduction-Report.pdf.

more ambitious by using W-2 information already sent to the government by employers to calculate Americans' tax liability—simply giving them a tax bill to check for accuracy.[115]

Such tech-forward approaches can not only improve Americans' experience of government—helping rebuild trust—but also increase efficiency. For example, an interviewee recounted that at SSA, Commissioner Martin O'Malley took care to engage with frontline customer service staff to understand pain points in the workflow. This revealed that the customer service software for tracking beneficiaries' calls required clicking through numerous screens to answer variations of the same question. The introduction of a simple fix—a "no to all" button—meaningfully improved staff efficiency, which was particularly important given substantial declines in SSA customer service staffing levels over time due to persistent underfunding even as the number of beneficiaries increases.[116]

The use of state governments as benefit delivery intermediaries also creates obstacles to modernization efforts. That is, many federal government basic needs programs, including the Supplemental Nutrition Assistance Program (SNAP), housing assistance, unemployment insurance, and Medicaid, are administered in part or in full by states. An interviewee explained that the federal government currently has limited ability to modernize delivery of these services, because its main hook would be to take away funding, which would harm the very beneficiaries that modernization efforts aim to help.

Several interviewees noted that streamlined interagency data-sharing would greatly benefit the federal government's ability to use fact-specific proxies to assess Americans' eligibility for programs. As the student debt forgiveness example illustrates, agencies often cannot readily access information that already exists elsewhere in government—forcing Americans to resubmit information the government already has. In addition to IRS limits on sharing of income data, interviewees pointed to the Family Educational Rights and Privacy Act and lengthy Privacy Act agency review processes as slowing down and inhibiting agencies' ability to streamline service delivery.

For example, people already enrolled in certain existing programs like SNAP and Pell Grants became categorically eligible for the Bipartisan Infrastructure Law's new Affordable Connectivity Program (ACP), a low-income internet subsidy program. But an interviewee recounted that, even though Congress helpfully built this piggybacking into the program's eligibility criteria, the FCC could not readily access other agencies' data. Instead, lawyers had to devote many months and precious bandwidth to extensive interagency negotiations and legal compliance vetting of program-by-program data-sharing agreements (including, in the case of SNAP, state-by-state agreements). The agreements enabled FCC to speed eligibility checks if and when someone applied for ACP, but that is still much less efficient than simply auto-enrolling people already known to be eligible.

Several interviewees acknowledged that cumbersome data-sharing procedures were intended to mitigate the risks associated with broad interagency data access, noting that public trust and

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[115] Full pre-population would require adjusting reporting time frames to match tax filing deadlines.

[116] Martin O'Malley, "Committee on Ways and Means Subcommittee on Social Security and Subcommittee on Work and Welfare United States House of Representatives," Statement for the Record, Social Security Administration (SSA), March 21, 2024, https://gop-waysandmeans.house.gov/wp-content/uploads/2024/03/SSA-Testimony-House-Ways-Means-Committee.pdf.

cybersecurity require clear limits on governmental use of people's data that are anchored in transparency and purpose limitations. However, several interviewees regretted the Biden-Harris administration's risk-averse approach to intergovernmental data-sharing, with agencies often resisting data-sharing and adopting very stringent interpretations of legal limits. These interviewees explained that this had undermined modernization of services, while doing nothing to prevent the second Trump administration from misusing Americans' data. As one interviewee put it, "People thought clunkiness protected people" by making it "harder for a future administration to target people they don't like," but that reasoning has "broken down given the clunkiness did not stop anyone."

What the Public Says:

- 65 percent of respondents say "making accessing government services as simple and modern as ordering something online" would make the government function better.[117]
- 64 percent of respondents say "abolishing needless paperwork by using information [the government] already has to deliver services and benefits automatically" would make the government function better.[118]

Source: Groundwork Collaborative / Data for Progress national survey, fielded Sept. 19–22, 2025

Interviewee Recommendations

Dramatically expand technological capacity across government and empower modernization teams to execute: Centralized, specialized teams like USDS and the Government Service Administration's 18F play important roles in government modernization—providing surge capacity to agencies and building in-house, cross-governmental software products. Those teams must be rebuilt and expanded, but to truly realize the full potential for technological transformation, agencies also need in-house transformation teams. Political leaders must clearly empower such teams with the mandate and resources to execute—making customer service and human-centered design a core priority, not a spot project.

Build human-centered design into policy design from the outset: Human-centered design needs to be incorporated at the policy and program development stage, rather than treating implementation as a secondary process that's downstream from legal or policy work establishing program terms and requirements. That means embedding technologists in program design teams, using early user research and user testing to inform design, and designing program terms and requirements to limit burdens on end users that undermine program efficacy. The United Kingdom's Policy Lab provides one such model, integrating evidence, participation, and experimentation into the

[117] This includes 62 percent of Democrats, 69 percent of Independents, and 68 percent of Republicans.
[118] This includes 47 percent of Democrats (compared to 8 percent who say it would make government worse), 55 percent of Independents, and 74 percent of Republicans.

policymaking process.[119] (As noted in Chapter 2, the federal government should dramatically expand its capacity for user research and user testing, including removing the PRA as an impediment to it.)

Eliminate needless paperwork and streamline agency data-sharing: The federal government should use fact-specific proxies and pre-populated forms to eliminate needless paperwork, drawing on information already in the government's possession to confirm eligibility and simply notify Americans of their benefits and services when possible, instead of forcing them to provide details the government already knows. Interviewees identified several changes needed to facilitate this:

- Congress should amend 26 U.S.C. § 6103 so that agencies can access IRS taxpayer data for the purpose of delivering a government benefit, removing the duplicative burden of having to prove one's income to establish program eligibility.
- Congress and agencies should also align IRS income reporting time frames and benefits enrollment timelines, so that income data is not stale for purposes of benefit eligibility determinations.[120]
- The federal government should develop a streamlined process—with appropriate purpose limitations and cybersecurity and privacy protections—for interagency data-sharing that eliminates the need to negotiate bespoke agency-by-agency agreements. The streamlined process could also address data-sharing with state governments.

Maximize enrollment: Congress should create an affirmative obligation for agencies to maximize uptake of service and benefits, achieving the full legislative intent of programs, including requiring automatic enrollment wherever possible. Such legislation should include a safe harbor for agencies that try in good faith to reduce burdens, so that fear of relatively small-scale or one-off incorrect spending does not prevent them from striving to minimize burdens on end users.

Fund marketing to increase uptake: Congress should appropriate dedicated marketing and outreach funds to help agencies increase awareness and participation in public programs—supporting coordinated, evidence-based campaigns that reach eligible populations through trusted messengers, digital channels, and community partnerships.

Counterbalance the political emphasis on eliminating "waste, fraud, and abuse": Interviewees proposed a number of options to ensure that politicians better weigh the risks of "waste, fraud, and abuse" against the costs of imposing procedural frictions on eligible, deserving Americans:

- **Share user testing videos**: As explained in Chapter 2, user testing can be an invaluable tool for understanding whether and how programs work for Americans on the ground, in real life. In addition to performing user testing much more often, the federal government should publish videos of user testing (with testers'

[119] "About Policy Lab," Policy Lab, accessed October 2, 2025, https://openpolicy.blog.gov.uk/about.
[120] Currently, the IRS knows an individual's income only once it receives the worker's W-2 or tax form.

permission) and share them with members of Congress—making more concrete how hard and frustrating it can be for Americans to obtain benefits and services to which they are entitled.

- **Establish a Congressional Implementation Office**: As outlined in Chapter 1, Congress should create a Congressional Implementation Office to report on implementation burdens and pitch implementation approaches to the executive branch.
- **Expand the mandate of inspectors general (IGs)**: Administrations should nominate IGs committed to thinking more holistically about both the costs and the benefits of procedural protections against waste, fraud, and abuse. Congress should require IGs to report not just on "waste, fraud, and abuse" but also on how many eligible Americans are estimated to be missing out on benefits they are owed and the barriers in their way—including regular public reporting of data.

Make IT funding flexible: Current budget structures favor procurement over personnel, even where it's inefficient. Congress should reduce pressures to outsource by giving agencies more flexibility to use their IT budgets for in-house personnel—creating more flexibility to build products and services in house and to ensure in-house personnel have the skills needed to meaningfully supervise contractor performance.

Create more flexibility in contracting: As further discussed in Chapter 7, administrations should rescind or revise policies that bias decisions toward outsourcing—which hollows out government capacity and creates overreliance on private contractors, including in areas involving sensitive data and critical functions. When contracting is appropriate, agencies should have greater flexibility to weigh the quality and track record of firms, rather than being forced to privilege the lowest-cost bid at the expense of effective, high-quality performance.

Adequately resource customer service: Government must adequately resource its customer service functions so agencies can provide timely, reliable access to benefits and information. Underfunding leads directly to backlogs, errors, and public frustration, which undermine trust in government.

Scrutinize major contracts in advance: Before Inauguration Day, agency teams should examine every major contract of the agency (which are generally public) and assess whether the contractor is performing well—prioritizing contracts that touch key aspects of the agency's mission and/or involve major touchpoints between the government and its citizens. Agencies should arrive on Day One knowing whether and which contracts are working well, so that they can immediately rebid contracts, insource key functions, or otherwise improve performance.

Create performance standards for state-administered federal programs: Congress should create better levers for ensuring states administer federal benefits programs in conformance with best practices around human-centered design. For example, Congress could provide authority for the federal government to step in—such as authority to appoint a federal "receiver" to take over administration of a federal benefit—when state administrators fail to achieve performance benchmarks.

Build open source: Agencies should build new technology products and services as open source by default, releasing source code, application programming interfaces, and development tools publicly wherever possible. Not only does this promote transparency, reuse, and innovation—it also invites real-world scrutiny that improves security, resilience, and public trust. For example, the CFPB's Consumer Complaint Database and the IRS's Direct File programs were open source—turning government infrastructure into a public digital good rather than a closed asset.

Chapter 7: Deploy Federal Funding Faster and More Efficiently

The Biden-Harris administration secured a historic increase in public investment across many sectors, including clean energy, semiconductors, and a wide range of outdated infrastructure—roads and bridges, clean water, high-speed internet, public transit, high-speed rail, airports, port and supply chain infrastructure modernization, and toxic pollution remediation, among other projects. Many interviewees who worked on these programs underscored that the goal of many of these programs was bold, generational transformation—including in communities previously left behind—not quick, "shovel-ready" wins.[121] Several interviewees thus pushed back on the notion that the success of these programs should be judged based solely on the number of projects completed within a single term. That said, interviewees shared a range of lessons learned about how to speed up funding deployments, identifying systemic weaknesses in how the government designs, implements, and sustains public investments. Interviewees also noted that slow obligation of funds leaves programmatic goals vulnerable to administration turnover.

The Need for Congress to Share Responsibility for Implementation-Oriented Design

Interviewees reported that agencies sometimes faced statutory designs that slowed implementation—demonstrating the need for more shared responsibility between the executive branch and Congress for implementation-oriented policy design. For example, the Biden-Harris administration has been pilloried for slow deployment of the Bipartisan Infrastructure Law's $42 billion Broadband Equity, Access, and Deployment (BEAD) funds.[122] Yet, as interviewees explained, the source of delay was not the executive branch's pace—indeed, DOC issued its Notice of Funding Opportunity *before* the statutory deadline—but rather the statutory design. Specifically, the law mandated 14 linearly sequenced steps, generally intended to guard against repeating the failures of the first Trump administration's broadband deployment program,

[121] For example, an interviewee recounted that at DOT, only 1 out of 125 competitive grant programs included "project readiness" as a scoring factor—by design.
[122] Jon Stewart, "Why Can't We Have Nice Things with Ezra Klein," *The Weekly Show*, posted March 27, 2025, YouTube, 1:18:20, https://youtube.com/watch?v=NcZxaFfxloo.

which had experienced many awardee defaults.[123] The biggest chunk of delay came from Congress tying funding allocations to the FCC's creation of a new location-by-location map of existing internet services—a complex exercise that took over a year and a half (a year to collect data and create the map, and another seven months to adjudicate challenges to it).[124] This mapping process was a nonnegotiable for key Hill stakeholders, in large part because it soothed the fears of incumbent Internet Service Providers (ISPs) of "overbuilding" competing internet infrastructure in their territory.[125] In short, Congress was responsive to incumbent ISPs' desire for proceduralist protections of their interests, but less attuned to the downstream deployment delays caused by this choice.

In another example, Congress structured the IRA's investments in electric vehicle (EV) charging networks to require both the federal government and states to establish new program infrastructure layered atop one another—a source of now-infamous delays.[126] An interviewee explained that such layered institutional designs create "a bunch of opportunities for institutional bottlenecks," so policymakers should distinguish areas where state and local governments have existing delivery infrastructure or relevant expertise (e.g., transportation projects) to leverage instead of involving them in areas where they principally add delay (e.g., a new field like EV charging). In the case of both the EV charging program and BEAD, interviewees further explained that at least internally the administration had always understood that the statutory designs would mean full deployment would take until 2030. Yet because this expectation was not well-known publicly, the administration became vulnerable to public caricatures.

Interviewees also explained that the sheer scale of new programs enacted by Congress created implementation challenges. Some agencies were charged with implementing dozens of new programs at once, which required simultaneously recruiting staff, establishing operations, formulating policies for the new programs, and engaging with stakeholders and intermediaries—the equivalent of building entire fleets of planes while flying them, and that's before even entering the project evaluation phase. To give just one example, an interviewee reported that DOE stood up more than 60 new grant and loan programs under BIL and IRA, while about 175 DOE staff worked full-time to help the Treasury Department issue more than 90 guidance documents implementing IRA tax credits—a massive interagency coordination effort.

[123] Asad Ramzanali and Benjamin Dinovelli, "Red Tape Isn't the Only Reason America Can't Build," *The Atlantic*, June 10, 2025, https://theatlantic.com/ideas/archive/2025/06/rural-broadband-biden-trump/683088; Janie Dunning, Drew Garner, and Reid Sharkey, "New Dataset Reveals Impact of RDOF Defaults on Each State," Benton Institute for Broadband & Society, February 18, 2025, https://benton.org/blog/new-dataset-reveals-impact-rdof- defaults-each-state.
[124] "FCC Mapping Overview and Guide," Internet for All, accessed September 14, 2025, https://broadbandusa.ntia.doc.gov/sites/default/files/2022-08/IFA-FCC-Mapping-Overview-and-Guide.pdf; "Broadband Mapping Timeline," Next Century Cities, last modified November 2022, https://nextcenturycities.org/wp-content/uploads/2021/05/Broadband-Mapping-Timeline-updated-Nov.-10-2022.pdf.
[125] Paul Glastris and Kainoa Lowman, "The Broadband Story Abundance Liberals like Ezra Klein Got Wrong," *Washington Monthly*, July 9, 2025, https://washingtonmonthly.com/2025/07/09/the-broadband-story-abundance-liberals-like-ezra-klein-got-wrong.
[126] Melissa Goldin, "Fact Focus: Posts Misrepresent Biden Administration Spending on EV Charging Stations," AP *News*, November 27, 2024, https://apnews.com/article/fact-check-electric-vehicle-charging-stations-75-billion-buttigieg-1ddcd6ee193fc1847e5401c95c016ec3.

An interviewee noted that Congress's committee jurisdiction structure can create perverse incentives to create overlapping programs, because members of Congress wanting "ownership" over a popular initiative tend to establish new programs at agencies within their committee's jurisdiction—even if the same functionality already exists or would fit more naturally at a different agency.[127]

The Limits of Internal Capacity

Choreographing so many interlocking new needs all at once required expanding federal government capacity and expertise at a scale unprecedented since the New Deal. Interviewees reported that because many of the new programs took new approaches to the government's role in the economy, it was necessary to recruit and hire large numbers of new personnel to meet the expanded policy ambition. As one interviewee put it, the administration was "going to set strategic objectives from the top down for what we wanted from the funding. That whole strategy was culturally new for career staff." Moreover, existing staff lacked experience building or investing in the types of projects they were now tasked with delivering and lacked experience with the complex deal structures required. For example, former senior officials from DOC, DOE, and HHS involved in implementing CHIPS, the IRA, and Medicare drug price negotiation each recounted needing to hire outside personnel with deep knowledge of highly technical industries, as well as deals lawyers who could engage in hardball negotiations with sophisticated, well- resourced companies. Interviewees recounted that even when agencies had prior experience in an area, the magnitude of capacity needed expanded substantially. For example, BEAD was nearly 10 times larger than the largest broadband deployment program previously operated by DOC.

Interviewees from these agencies recounted that flexible hiring authorities were key to scaling up quickly, as traditional competitive civil service hiring would have been far too slow to meet the needs. Several interviewees also noted that pulling off these new programs would have been impossible had the agencies adhered to, as one put it, a "purity test" of hiring only candidates from public interest backgrounds. Rather, successful personnel for these roles often came from the private sector. This made it important to carefully handpick candidates who were mission-aligned—inspired to leave the private sector to serve their country, often for a temporary tour-of-duty—while carefully guarding against conflicts of interest. For example, a former senior DOC official recounted that, to safeguard against revolving door corruption risks, the agency required recruits to divest stock in both chip companies and major users of chips like Apple and General Motors, and it imposed a cooling-off period following their federal employment.

Many interviewees also identified lack of project management capacity as a problem. Several interviewees explained that traditionally the federal government thinks of its role as publishing a funding opportunity announcement, selecting projects, and obligating funds—as one put it, a "fire and forget culture" in which the federal government "cut[s] the check" but then largely leaves the funding recipient responsible for actual project delivery. But that approach left no one in the federal government responsible for ensuring projects actually got done on the

[127] For example, the American Rescue Plan created a broadband program at the Treasury Department because senators on the Finance Committee who championed broadband had jurisdiction over it and not the DOC. Indeed, the Government Accountability Office has identified over 100 federal programs administered by 15 agencies that can fund broadband access (Andrew Von Ah, Keith Cunningham, Kate Perl, Eli Albagli, Oluwaseun Ajay, Emilee Pugh Bell, Melissa Bodeau, et al., *Broadband: National Strategy Needed to Guide Federal Efforts to Reduce Digital Divide* (US Government Accountability Office (GAO), 2022), https://gao.gov/products/gao-22-104611).

ground. A former senior DOT official recounted that the agency was able to help clear bottlenecks at the state and local level by picking up the phone to use federal political capital to unstick things at the state or local level—what another interviewee termed "bird dog[ging] a project." However, the interviewees elaborated, DOT lacked sufficient personnel to do this across the board, instead forced to triage: Multibillion-dollar projects could receive this kind of attention and fast-tracking, but, an interviewee elaborated, the "$10 or $20 million grants, which, in many ways, are actually more bread and butter" did not, given capacity constraints.

An interviewee also noted a resource-allocation tension between selecting more projects for awards versus entering grant agreements that obligated the funds. The interviewee explained that, politically, the administration often prioritized more announcements of awards, but this then increased the backlog of grant agreements to enter. This presented a real trade-off, because obligated funds are more protected from rescission or repurposing than award announcements.

The Choke Points in External Capacity

Interviewees returned again and again to another core theme: *External* capacity—i.e., what state, local, tribal, and territorial governments and ultimate funding recipients could actually absorb and deliver—was often a limiting factor in federal execution. Interviewees underscored that generational, transformative investments require significant planning, development, and procurement and grantmaking work that intergovernmental partners have limited bandwidth to do. Formula funding could flow relatively quickly into preexisting state or regional plans and delivery mechanisms, such as state DOT-administered transportation infrastructure programs. However, interviewees reported that even entities accustomed to accessing and deploying federal funds sometimes lacked capacity to pursue multiple new funding opportunities at once, or to pursue more complicated federal programs.

Moreover, interviewees explained that, because the administration was committed to investments reaching previously underserved and left-behind communities—including especially rural communities—it was, by definition, trying to reach places with little experience or capacity for project planning and delivery. For example, a former senior DOC official involved in implementing BEAD explained that some states had no experience funding broadband deployment and thus required federal funding and technical assistance to create a state broadband office before they could even begin planning for deploying BEAD funds. A former DOT interviewee added that, even when state agencies had the capacity, sophistication, and political will to nimbly expedite funding deployment, the capacity of external contractors often constrained the speed of execution.

For example, an interviewee stated that Pennsylvania's reopening of I-95 in record time following the bridge collapse "gets held up as the example that you can do [projects] super fast," but cautioned that, even though it is possible to do one project quickly, not all projects can move forward simultaneously with that speed due to the external capacity constraints.[128] Factors like a limited number of heavy highway contractors in a jurisdiction, shortages of lead pipe removal contractors, or an insufficient pipeline of engineers create roadblocks to moving

[128] Nouran Salahieh, Celina Tebor, Lauren Mascarenhas, and Danny Freeman, "Body Pulled from Wreckage of Collapsed Section of I-95 in Philadelphia Identified as Truck Driver, Official Says," CNN, June 14, 2023, https://cnn.com/2023/06/13/us/philadelphia-i95-collapse-fire-tuesday/index.html.

projects quickly, even once federal funds are awarded.[129] Indeed, recent empirical research by former OMB Chief Economist Zachary Liscow and others finds that the two main drivers of infrastructure construction costs are limited competition among contractors (which drives up prices) and understaffing of in-house DOT personnel (which leads to expensive outsourcing and more change orders).[130]

A former USDA official added that they had seen federally funded projects successfully built, only to later "go dark" from lack of funding for ongoing staffing or maintenance. The interviewee elaborated that the federal government usually funds capital expenditures but not operating expenses, leaving communities on their own to find the capacity to sustain a project.

The Shortcomings and Trade-Offs of Using Private, For-Profit Firms for Implementation

As noted above and in Chapters 1 and 6, several interviewees recounted that relying on intermediaries for program delivery can create bottlenecks and delays, dilute federal control over fund use (e.g., ensuring human-centered benefit delivery or directing funds to the right projects), and blur credit and accountability. They emphasized that program design should thus carefully weigh whether intermediary partners bring real delivery capacity or important expertise that should be leveraged for federal programs, because their downsides can outweigh their value for a given programmatic mission.

Interviewees also identified a variety of other shortcomings with reliance on private, for-profit firms for delivery. For one, several interviewees noted that providing grants, loans, or tax credits to or procuring goods and services from private, for-profit firms bakes the private profit margins of those firms into the cost for taxpayers. Interviewees also noted that reliance on private firms increases the risk of fraud and corruption, which then causes the federal government to build in more time-consuming, burdensome procedural protections to mitigate risks.

Interviewees noted trade-offs for all of the different mechanisms for deploying federal funding—i.e., procurement, tax credits, formula funding, and discretionary grants. Interviewees described the federal procurement processes as slow and too often reliant on costly, poor-performing contractors, while also noting that the government often lacked the in-house capacity to avoid contracting or even to meaningfully supervise contractors.

Several interviewees noted that tax credits bypass creating new federal implementation infrastructure by piggybacking on Treasury's existing tax systems, but they provide less leverage for shaping private-sector behavior, reach only those who file tax returns, and obscure credit for wins. Formula funding similarly can flow quickly and can garner broad political support because, as one interviewee put it, "everyone gets a piece of the pie." However, like tax

[129] Alison Dirr, "1,900 Lead Service Lines Replaced as Milwaukee Water Works Contends with Contractor Shortage," *Milwaukee Journal Sentinel*, July 19, 2019, https://jsonline.com/story/news/local/milwaukee/2019/07/17/1-900-lead-service-lines-replaced-milwaukee/1756325001; Donato Davis, "A Shortage of Engineers Is Slowing Down Work at Dot, Officials Say," *CT Mirror*, July 28, 2023, https://ctmirror.org/2023/07/28/ct-engineers-dot-roads-bridges-engineers-shortage.
[130] Zachary Liscow, William Nober, and Cailin Slattery, "Procurement and Infrastructure Costs," NBER Working Paper no. w31705, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4582322.

credits, formula funding can be hard to connect back to the federal government, undermining policy feedback loops. As one interviewee put it, formula funding announcements are "usually just a number of dollars going to a state," without the kind of "texture, place, or project" specifics that make investments tangible and understandable. The interviewee elaborated that the federal government generally lacks project-level insights into where formula funding dollars are actually going, such that "the few times that we did any kind of event around a formula-funded project, it took a tremendous amount of back-and-forth with a friendly governor to find something interesting they were funding."

Meanwhile, interviewees explained that grants provided a more direct relationship with funding recipients, giving the government more leverage to shape project delivery and more ability to publicly narrate what it is doing for people. An interviewee explained, "Because the dollars are going toward a specific project, in a community, with a documented need, and announced on a timeline controlled by the feds, [grants] make for a much newsier event." However, grants too come with downsides, taking longer to deploy. An interviewee reported that large-scale use of discretionary grant programs had created backlogs in entering grant agreements, which then exposed funding to rescissions and repurposing when the administration changed.

As one interviewee put it, "The more directly we're giving money to the end user, the better for us achieving our goals." Many interviewees expressed enthusiasm for the government building more in-house capacity to operate programs directly, whether by building out in-house capacity for the federal government to execute directly (e.g., creating a federal construction workforce in the style of FDR's Works Progress Administration) or by directly procuring goods and services that the federal government then provides to Americans (e.g., akin to HHS, USDS, and the Department of Defense working together to procure COVID tests from manufacturers and then distribute them via the US Postal Service, or the federal government directly procuring private construction services to build projects rather than giving money to state and local governments that do so).[131]

However, many interviewees, while agreeing this approach sounded good in theory, expressed skepticism about its feasibility in practice given how little post–New Deal experience the federal government has with such models. One interviewee posited that the federal government could pilot direct delivery approaches to rebuild this muscle, and flagged that projects spanning multiple jurisdictions would be the place to consider chartering new federal entities—rather than duplicating well-established state and local government delivery channels for within-jurisdiction projects. Another interviewee stated that "a professional skilled corps of engineers would in theory be good," but noted that Army Corps of Engineers projects are "too long and over budget" because "Congress doesn't sufficiently fund it. Our budget process is just so broken that it limits our ability to get things done."

"The more directly we're giving money to the end user, the better for us achieving our goals."

[131] Jory Heckman, "'We Rocked It.' How USPS Pulled off Delivering 380 Million COVID-19 Tests," *Federal News Network*, May 30, 2022, https://federalnewsnetwork.com/workforce/2022/05/we-rocked-it-how-usps-pulled-off-delivering-380-million-covid-19-tests.

Many interviewees stressed that lack of in-house expertise on actual project delivery was an expensive problem. For example, a former DOT official explained that state and local governments hire sophisticated engineering firms as contractors to expand their capacity to deploy federal funds, but then can lack sufficient in-house capacity to meaningfully oversee the contractors. The interviewee stated that for more complex projects, these governmental partners are ultimately forced to "hire more consultants to manage the consultants"—with consultants making hundreds of thousands of dollars.

The Importance of Defining Desired On-the-Ground Outcomes Up Front

A number of interviewees raised what some have derided as "everything-bagel liberalism"—a purportedly pernicious tendency of liberals to try to layer too many goals onto a government program. One former senior DOC official stated that the substance of the "everything-bagel liberalism [critique] is total bullshit," because when the government expends taxpayer dollars to make public investments, "we *were* picking winners. . . . We had a perspective, [we're] not just doing what industry wants." Interviewees also explained that what some have assumed were tacked-on, extraneous policy goals in fact reflected objectives critical to the public mission—to ensure that taxpayer dollars supported durable projects that revitalized communities.[132] For example, multiple DOC interviewees stated that, contrary to public criticisms of the CHIPS program's requirement that applicants create plans for childcare access, a workforce strategy was critical "to grapple with the problem of trying to build massive manufacturing in a rural undeveloped area," and in fact "Asian companies said 'yes, we build childcare'" because "without childcare in the area, we won't be able to get the recruiting we need to succeed." Similarly, other interviewees pointed out that climate resilience was key to durable investments, as it would be wasteful to expend taxpayer dollars on new infrastructure only to have severe weather destroy or damage it. And several interviewees underscored the importance of ensuring federal funding supports the creation of good-quality, union jobs, not only to ensure workers receive fair wages and benefits, but also because using a strong, skilled workforce produces more reliable, high-quality projects.

"[T]he substance of the "everything-bagel liberalism [critique] is total bullshit," because when the government expends taxpayer dollars to make public investments, "we *were* picking winners. . . . We had a perspective, [we're] not just doing what industry wants."

At the same time, many of the same interviewees recounted that the process of developing policy priorities for funding programs was overly messy and time-consuming. Interviewees explained that there were often repeated negotiations over policy goals: First, enactments were negotiated with Congress. Then, an agency would have to develop and clear with the White House the program's more specific policy terms (most often, via drafting a notice of funding opportunity). Next, within the agency, negotiations would occur again in the project selection process. Finally, grant agreements could involve back-and-forth with funding recipients that also raised policy issues. As one interviewee put it,

[132] Stewart, "Can't Have Nice Things."

"In some ways, we tried to do our job multiple times," which was both time-consuming and "freight[ed] our projects with a lot of goals." Multiple interviewees expressed concern that the complexity associated with such "freighted" federal requirements falls hardest on lower-income, less sophisticated communities and smaller or less well-resourced funding applicants, who have a harder time participating in federal programs the more complex they become.

Some interviewees attributed these problems to the messy White House and agency organizational relationships described in Chapter 1. Several interviewees recounted White House components working in parallel silos to insert their priorities into funding opportunity announcements, often in very high-level terms, with no single White House component or agency clearly empowered to own deconfliction or drill down into what, specifically, it meant on the ground for something to be a priority. A former DOC official described up-front alignment and public communication of desired outcomes as key, pointing to the early strategic vision for CHIPS funding as providing "a macro filter for what we're looking for" that officials and prospective funding recipients could keep coming back to throughout the implementation process.[133]

Interviewee Recommendations

Build prompt implementation into legislative design: Interviewees identified a number of practical options for better prioritizing implementation when creating funding programs:

- As recommended in Chapter 1, a Congressional Implementation Office should assess time-to-launch and operational complexity, helping lawmakers reduce implementation timelines from the start. And Congress should include deadlines in statute, including for all stages of implementation, from program announcement to funding obligation to project completion.
- Congress should avoid new program proliferation that strains bandwidth by building on existing delivery infrastructure where possible, rather than creating new programs entirely from scratch. That said, Congress should build only on existing programs or delivery mechanisms that have track records of success, and it should retire ones that don't.
- When creating a new program, Congress should provide agencies with the flexible authorities and sufficient resources needed to stand it up at scale. This includes flexible hiring authorities, "Other Transactions Authority" for programs without traditional grant-grantee funding relationships, and sufficient administrative funding to build teams, infrastructure, and partnerships quickly.
- As noted in Chapter 3, when creating new programs, Congress should also consider including exemptions from other federal process requirements, such as APA notice and comment and/or judicial review, and the Paperwork Reduction Act.

[133] CHIPS for America, A *Strategy for the CHIPS for America Fund* (DOC, National Institute of Standards and Technology, 2022), https://nist.gov/system/files/documents/2022/09/13/CHIPS-for-America-Strategy%20%28Sept%206%2C%202022%29.pdf.

- Congress should carefully assess whether using intermediaries—such as state governments or private for-profits—is necessary or desirable for the particular programmatic goal. State and local governments are sometimes valuable or necessary intermediaries to bring local expertise and/or to leverage existing delivery capacity, but they and other intermediaries can also introduce significant delays, increase costs, blur accountability, and introduce opportunities for fraud.
- When it's necessary to use intermediaries, Congress should consider putting governmental skin in the game to incentivize project success. Interviewees noted a diversity of options:
    - Clearly defined project parameters can help ensure that federal funds flow to the intended types of projects.
    - Requirements for real-time project-level reporting can increase transparency and accountability in how funds are used.
    - "Golden share" provisions can give the government a say in corporate decisions, to protect the public's investment and ensure the government stays engaged in critical decision-making.[134]
    - Provisions that give the government an equity stake in the "upside" of a project can ensure taxpayers share in the benefits of profitable investments. Allowing such funds to revolve back into a successful program, rather than to the General Fund, could further incentivize agencies to push for project success.
    - An interviewee pointed to the DOE's Grid Innovation Program as a successful example of aligning public and private incentives for prompt execution.[135] The program required a governmental entity (one or more states, tribes, local governments, and/or public utility commissions) to apply for funding in collaboration with an electric sector owner or operator. Although the private owner or operator would generally lead project delivery, the governmental entity's buy-in from the outset incentivized it to help clear implementation bottlenecks—such as by expediting permitting.
    - Funding could be directly conditioned on states and/or localities streamlining or speeding their own processes, such as putting shot clocks on permitting.

Define desired outcomes up front: Congress and agencies should publicly define from the outset the concrete outcomes they aim to achieve on the ground, while recognizing that some outcomes matter more or less depending on the context and that clarity about

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[134] The Trump administration recently utilized a "golden share" provision in approving the US-Nippon Steel merger (Spencer Kimball, "Trump Now Wields Sweeping Veto Power over US Steel. Here's How the 'Golden Share' Works," *CNBC*, June 26, 2025, https://cnbc.com/2025/06/26/trump-golden-share-us-steel-nippon-merger.html).
[135] "Grid Resilience and Innovation Partnerships (GRIP) Program," Federal Financing Tools, US Department of Energy (DOE), accessed September 14, 2025, https://energy.gov/gdo/grid-resilience-and-innovation-partnerships-grip-program.

which outcomes take precedence helps focus implementation. Publishing a clear strategic vision up front gives the agency a North Star map of what to prioritize—limiting relitigation of priorities—and helps potential funding recipients both understand and anticipate what is expected of them.

Align funding streams: Congress should grant agencies greater authority to braid, transfer, or reprogram related funding sources toward common goals. Overlapping programs divided across agencies often force agencies to spend scarce time coordinating with each other, while leaving the public to navigate a confusing maze of fragmented initiatives. Allowing agencies to align funding more seamlessly would reduce duplication, accelerate implementation, and make government easier to use. Even in the absence of new legislation, agencies can move in this direction by launching shared "front doors" (e.g., one website and one set of engagement personnel for broadband) and coordinating outreach so communities experience government as a single, coherent partner rather than a patchwork of disconnected programs.

Build a next-generation public funding transparency tool: Improve on USAspending.gov by creating a user-friendly platform that not only shows where federal dollars are going but also provides local texture and human-impact narratives that help the public understand what those investments mean for their communities. The Biden-Harris administration took a step in this direction with its "Investing in America" map,[136] but a more ambitious, permanent tool could integrate geospatial data, plain-language descriptions, and stories from beneficiaries. By turning federal spending into something people can actually see and connect to their daily lives, such a tool would strengthen accountability and rebuild trust that the government is delivering tangible value in people's lives.

Create in-house project manager capacity: Major federal funding programs should have dedicated project managers and modern dashboard tools to track projects from start to on-the-ground completion (not just funding obligation), ensuring real-time visibility into progress and bottlenecks. Project managers should ensure projects do not get stuck in grant agreement backlogs, as failing to obligate funds within a term jeopardizes the entire project. Project managers should be empowered with clear authority to fast-track decisions and cut through red tape so that priority projects can launch and deliver results on the ground within the term. Additionally or alternatively, a USDS-style centralized team of project managers could deploy to agencies to provide surge capacity to programs when needed. Interviewees noted that this is a highly competitive skill set in the private sector, so special pay authority would likely be needed.

Pilot direct delivery: More work is needed to better understand what types of projects and at what scale the federal government can directly deliver projects more effectively and/or efficiently than the private sector. Pilot projects at the state and local level could lay the groundwork for new federal approaches. And as one interviewee noted, federal

[136] "President Joe Biden: Investing in America," White House, last modified January 10, 2025, https://bidenwhitehouse.archives.gov/invest.

pilot projects focused on cross-jurisdictional projects would be fertile ground for building federal capacity for Work Progress Administration–style delivery.

Reform permitting: Wholesale permitting reforms at all levels—federal, state, and local—are desperately needed, with interviewees flagging state and local permitting in particular as a serious time suck for project delivery and noting federal permitting requirements were sometimes duplicative of state and local ones. However, given the complexity of permitting laws, proposing specific legislative reforms was beyond the scope of this project.

Use human-centered design in grant applications: For discretionary grant programs, agencies should use user-centered approaches to minimize the burdens of applying for federal funds. As noted in Chapter 6, by focusing on administrative burden reduction, HHS substantially reduced certain grant application times, and DOT found that pre-populating grant applications with already known information and providing drop-down options made applications quicker and easier—a form of human-centered design for grantees. Publishing examples of successful applications can also help applicants see concretely what is expected of them.

Dramatically expand technical assistance: Congress should invest in expansions of technical assistance to boost external capacity. For example, federal programs should provide pooled technical assistance resources—such as in-house technical experts available to help funding applicants—instead of forcing each prospective applicant to separately procure their own consultant.[137] Congress could also provide funding for private organizations to provide technical assistance and operational support—while recognizing that quality varies and vetting for only high-quality organizational partners is key.

Ensure adequate funding for operational expenditures—not just capital expenditures—where necessary for project sustainability: To improve project sustainability in under-resourced communities, such as rural areas, Congress should increase indirect cost rates, shift from short-term grants to multiyear funding structures that allow for planning and continuity, and consider ongoing operating expense funding streams for projects that are important to the public interest but unlikely to be viable in the long term without ongoing subsidy. That said, guardrails should ensure such funds are used only where truly necessary to keep good projects up and running, because funding operational expenditures can become a slippery slope that depletes funds for new projects.

Dive deeper on supply-side private-sector choke points: A deep dive is needed to map the sectors where private-sector concentration creates bottlenecks for building key infrastructure—such as the oligopolies of heavy highway contractors described above. A deep dive could propose sector-specific policy solutions.

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[137] For example, the Biden-Harris administration launched the Thriving Communities Network, in which several federal agencies committed to coordinating and collaborating across a set of technical assistance programs; "Thriving Communities Network (TCN)," Smart Growth, US Environmental Protection Agency (EPA), last modified March 21, 2025, https://epa.gov/smartgrowth/thriving-communities-network-tcn.

Adequately fund cross-departmental agency personnel and permitting agencies: Departmental administration budgets typically fund shared professionals like general counsel offices and human resources offices that support implementation across multiple programs, but these unsexy budget lines are chronically underfunded, which slows execution. Congress should also adequately fund permitting agencies, whose capacity bottlenecks can delay delivery of major investments.

Create a new investment-ready corporate structure: Congress could use the tax code to create a new type of entity specifically designed to be an eligible, trustworthy recipient of public funds. Just as B Corps certify adherence to social responsibility standards, such entities could make a set of public-interest commitments—such as caps on excessive profit margins, prohibitions on stock buybacks and dividends, prevailing wage and labor neutrality requirements, and/or transparency requirements. In exchange, such firms could receive preferred access to federal funding streams and potentially favorable tax treatment, creating a class of private-sector intermediaries capable of receiving federal funds quickly, without sacrificing the public purpose of federal investment.[138]

Procurement fixes: While interviewees largely focused on federal funding programs, they also surfaced the need to reform federal procurement:

- **Reduce inefficient outsourcing and reliance on poor contractors**: The federal government should rescind or revise OMB Circular A-76, which imposes burdensome process requirements to determine which activities must be outsourced.[139] Rescinding A-76 would provide agencies flexibility to build and retain in-house expertise, instead of putting a thumb on the scale for outsourcing—which can hollow out core operational capacity. And as noted in Chapter 6, agencies should have more flexibility to consider contractor quality—not just the lowest-cost bid.
- **Dive deeper on federal procurement**: More work is needed to scrutinize federal procurement rules, with a focus on reforms to speed up the process, expand and diversify the supply base, and improve contractor performance. A deep dive effort should map out how to streamline the 2,000+ page Federal Acquisition Regulations, so that federal government procurement isn't a byzantine, slow process in which sophisticated, well-resourced players have an edge. A deep dive should also propose changes to lowest-price bidding to prevent poor performers from winning bids and examine how sole-source contracting can deepen dependence on single vendors—which can ultimately raise costs and lower quality over time.

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[138] The Better Builder Program in Texas provides a model for this kind of approach. Contractors are certified for compliance with certain work protections, and only such certified contractors are eligible awardees for certain procurements; Results for America (RFA) and Trailhead Strategies, *Making the Construction Industry a Better Place to Work* (Travis County Purchasing Office, Contract Compliance, 2023), https://results4america.org/wp-content/uploads/2023/09/Procurement-Case-Study-Travis-County-Texas-Better-Builder-FINAL.pdf.
[139] Executive Office of the President, Office of Management and Budget, "Performance of Commercial Activities," Circular No. A-76 to the Heads of Executive Departments and Establishments, August 4, 1983, https://whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A76/a076.pdf.

Chapter 8: Quickly Build Modern, Nimble Teams

Before Trump and DOGE, the federal workforce was overwhelmingly composed of underpaid, underappreciated public servants who relentlessly pushed through bureaucratic inertia to get things done—overcoming tremendous obstacles, often at great personal cost, out of a sense of duty to the American people. Yet interviewees also acknowledged that, even then, the government's personnel model was less than perfect. Interviewees recounted problems when political appointees lacked the operational skills to execute in a government setting, and they described slow, outmoded hiring practices, a lack of meaningful performance management, and rigid institutional boundaries as impediments to adapting and delivering in a fast-changing, complex economy.

Now, DOGE has decimated the federal workforce, cruelly and indiscriminately firing or pushing out about 300,000 federal workers, without regard to their performance or the critical functions they performed,[140] and stripping hundreds of thousands of workers of their rights to collectively bargain.[141] This not only immediately harms those workers, their families, and the American people they so passionately served, but this draconian period will also likely have long-lasting consequences for the attractiveness of federal service. In short, the traditional government service model—with its long-term job security, good benefits, a voice in one's working conditions, and a chance to do meaningful, respected public service—has now broken down. In its wake, interviewees identified both a need and an opportunity to restore collective bargaining rights while also modernizing how the federal government hires, rewards, and nurtures talent. Interviewees warned that building a new and improved federal workforce will be a massive operational challenge—one that requires a new playbook, developed in close collaboration with public-sector unions.

The Need for Political Appointees to Be Mission-Aligned Operators

Interviewees highlighted frustrating aspects of both the political appointee and career civil service systems. With respect to political appointees (Senate-confirmed and otherwise), many interviewees stated that hiring practices needed to better ensure leadership teams had three important skill sets: (1) policy acumen aligned with the president's vision, (2) political savvy and strong communications skills, and (3) the operational know-how, relationships, and emotional intelligence to get things done in a government setting. Interviewees recounted that too often, political appointees had policy expertise but lacked the skills necessary to move beyond ideas to execution. Indeed, some interviewees noted a mismatch between the culture of think tanks, academia, and the legal profession and the need for political appointees to drive toward outcomes. As one interviewee put it, "If you hire all lawyers and college professors, those are positions and professions that come from institutions that move slowly and that tend to look for process prescriptions rather than outcomes." In contrast, when governing, you need to empower leaders who believe "the process should support the goal, or you blow up the process."

[140] Eileen Sullivan, "Year Will End with 300,000 Fewer Federal Workers, Trump Official Says," *New York Times*, August 22, 2025, https://nytimes.com/2025/08/22/us/politics/trump-federal-workers.html.
[141] Nate Raymond, "Court Allows Trump to End Union Bargaining for Federal Workers," *Reuters*, August 1, 2025, https://reuters.com/legal/government/court-allows-trump-end-union-bargaining-federal-workers-2025-08-01.

Several interviewees noted that talented career Senior Executive Service (SES) personnel could be an invaluable antidote to this dynamic, as highly skilled and internally respected SESers could shepherd priorities through the institution and supply the missing know-how regarding how to get things done—freeing political appointees to focus on policy decision-making and public engagement. However, interviewees noted that problematic bottlenecks arose when SES officials viewed themselves as independent vetogates, rather than as expert bureaucracy whisperers helping translate a political administration's priorities into practice.

An interviewee noted another cultural mismatch in some political appointee hiring, observing that rehiring former administration officials could yield missed opportunities for fresh thinking and creativity. The interviewee noted that much of the Biden-Harris regulatory agenda was a "copy-paste" from the Obama administration, positing that many Obama administration alums "had been through these battles before. They had suffered losses. They wanted to redo the battle and not take the losses. But instead, we needed to pull out and say, 'Is there a way to do it differently?'"

Several interviewees raised the problem that too many subcabinet political posts are now subject to Senate confirmation. Indeed, from 1960 to 2016, the number of Senate-confirmed positions grew by nearly 60 percent.[142] Interviewees explained that this adds delay and can turn agencies into a federation of semi-independent power centers, rather than a single, unified operational command, leading to time wasted and priorities compromised by intra-agency negotiation.

Multiple interviewees underscored that an agency's ability to execute was a direct function of the agency head's willingness to roll up their sleeves and, as one interviewee put it, cut through "bureaucratic bullshit" and "break eggs." Interviewees noted that the most successful agencies tended to have heads with one of two backgrounds: Either the agency head had deep expertise in an agency's particular mission and legal authorities and arrived with a specific vision of what to accomplish, or the agency head had significant prior executive leadership experience. Interviewees contrasted these models with less successful agencies in which the agency head seemed to be appointed based on some perceived political need, rather than based on their passion for using the specific role to get things done.

The Slow, Clunky Civil Service Hiring Process

At the civil service level, all interviewees who discussed the topic supported keeping the merit system principles, but they described civil service hiring processes as plagued by glacial, convoluted, and outmoded practices.[143] As of 2023, the average time to hire a federal worker was over three months—more than double the timeline for private-sector hiring.[144] An interviewee recounted losing great candidates to other jobs because it sometimes took six months just to make a job offer, an experience that Merit Systems Protection Board reporting

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142 *Unconfirmed: Why Reducing the Number of Senate-Confirmed Positions Can Make Government More Effective* (Center for Presidential Transition, Partnership for Public Service, 2021), https://presidentialtransition.org/reports-publications/unconfirmed-reducing-number-senate-confirmed-positions.
143 "Merit System Principles (5 USC § 2301)," US Merit Systems Protection Board (MSPB), accessed September 14, 2025, https://mspb.gov/msp/meritsystemsprinciples.htm.
144 A *Profile of the 2023 Federal Workforce* (Partnership for Public Service, 2023), https://ourpublicservice.org/fed-figures/a-profile-of-the-2023-federal-workforce.

confirms is not uncommon.[145] Interviewees reported that, once a candidate was selected, clearance processes were also slow. While there have been some efforts over the last several years to improve the personnel vetting system, interviewees stated that more is needed to meaningfully reduce clearance processing times.[146]

As noted in Chapter 7, interviewees who worked on new federal funding programs underscored that using flexible hiring authorities rather than the competitive civil service hiring process was essential for scaling quickly. For example, direct hire, term-limited, expert and consultant, Intergovernmental Personnel Act, and reemployed annuitant "dual compensation waiver" appointments can all provide quicker paths to recruiting and onboarding workers than competitive civil service procedures, but they often don't provide civil service protections to the new hire. An interviewee also pointed to creative approaches like utilizing cross-government hiring pools, enabling agencies to pull from existing hiring pools rather than run their own separate hiring process.

Slow speed wasn't the only obstacle to recruiting top-flight talent into the civil service. Interviewees recounted that for many roles, federal pay scales were rigid and uncompetitive with the private sector, and several flagged that mid-career recruits particularly struggled to afford the pay cuts associated with federal service. Indeed, one study found that, as of 2022, the pay gap between the private sector and the federal government was 24 percent.[147]

Multiple interviewees recounted the deeply frustrating experience of persuading top-flight candidates to apply for a role, only to see a civil service screening panel fail to advance them to the interview stage. Other interviewees recounted position descriptions that had not been updated that required educational credentials no longer taught by universities or that failed to capture the operational aspects of the role. One interviewee recounted that SES hiring processes were so inscrutable that a cottage industry of paid consultant SES hiring coaches has emerged. On a more positive note, a former senior DOL official explained that DOL improved its own workforce to some degree by making a concerted effort to redraft its position descriptions, including building in lived experience as one factor—e.g., looking for personnel who had actually worked minimum wage jobs or stood up for themselves in the workplace.

Many interviewees recounted that agency HR departments were not well-staffed and could be slow-moving bureaucracies that operated heavily on, as one interviewee put it, institutional "lore," rather than knowledge of actual legal requirements. Interviewees recounted that the Office of Personnel Management (OPM) was able to significantly speed hiring for Bipartisan Infrastructure Law implementation by creating an OPM SWAT team to work hand in glove with agency HR departments to share best practices and clear bottlenecks or misunderstandings. As a result, the Biden-Harris administration managed to hire about 7,500 personnel in 18 months—a breakneck pace compared to historical practice, but still only a drop in the ocean when one considers the scale of the challenge of rebuilding the federal workforce post-DOGE.

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[145] *Reforming Federal Hiring: Beyond Faster and Cheaper* (MSPB, 2022), https://mspb.gov/studies/studies/Reforming_Federal_Hiring_Beyond_Faster_and_Cheaper_224102.pdf.
[146] Alissa H. Czyz, "Federal Workforce: Observations on the Implementation of the Trusted Workforce 2.0 Personnel Vetting Reform Initiative," GAO, May 9, 2025, https://gao.gov/assets/gao-25-107325.pdf.
[147] Zachary Liscow, "State Capacity for Building Infrastructure," in *Strengthening America's Economic Dynamism*, ed. Melissa S. Kearney and Luke Pardue (Aspen Institute, 2024), https://economicstrategygroup.org/wp-content/uploads/2024/11/Liscow-AESG-2024.pdf.

Numerous interviewees (including officials who were not from USDS), pointed to the USDS "tour-of-duty" model as a case study in how to inject fresh thinking and modern skills into agencies, without the hurdles associated with long-term hiring. Interviewees noted that the relatively short-term stint of USDSers in government—usually 12 to 24 months—attracted top-flight talent who might not otherwise pursue government service, yet was long enough to execute meaningful projects. Former USDS interviewees stated that the most successful hires not only had strong technical skills but also had the emotional intelligence to work collaboratively with agency staff. However, an interviewee cautioned that using a centralized SWAT team to parachute into an agency for a relatively short period of time can lead to adversarial dynamics or prevent work from being absorbed into an agency for the longer term.

Many interviewees emphasized that the government must still deliver near-term results even as it rebuilds the civil service over time. They warned of a trust gap in recruiting, since few applicants will believe any promises of job security beyond a four-year term, making it harder to attract long-term talent. Interviewees stressed that front-loading tour-of-duty models and other rapid capacity-building efforts will thus be essential, even as any longer-term civil service reform efforts continue.

The Need to Engage in Real-Time Performance Management

Interviewees recounted that the overwhelming majority of federal workers were remarkably talented and dedicated public servants, often sacrificing opportunities for higher-paying private-sector jobs because of their passion for helping others. However, interviewees also recounted struggling to address poor performers. For example, an interviewee described spending over nine months actively managing the process of firing someone who was indisputably a nonperformer (including no longer showing up for work)—a significant waste of precious bandwidth. Another senior official recounted struggling to remove someone who was threatening other workers. Indeed, the Government Accountability Office reports, "The time and resource commitment needed to remove a poor performing permanent employee can be substantial. It can take six months to a year (and sometimes longer) to dismiss an employee."[148] One interviewee noted that, since federal employees cannot bargain over pay, the collective bargaining process is often forced to center on procedural issues—contributing to an accretion of extensive performance management process requirements.

Several interviewees elaborated that the existing performance management tools were adequate in theory, but in practice their protracted timelines and a lack of support from HR departments disincentivized busy managers from using them. Interviewees reported that this sometimes contributed to a culture of tolerating or ignoring poor performers, rather than investing the time required to transfer or remove them, which in turn forced other dedicated public servants to pick up poor-performing colleagues' slack. Interviewees also noted that, when agency cultures treated high and poor performers equivalently, they missed opportunities to motivate and reward those who go above and beyond in their service to the American people.

[148] *Improved Supervision and Better Use of Probationary Periods Are Needed to Address Substandard Employee Performance* (GAO, 2015), https://gao.gov/assets/gao-15-191.pdf.

The Need to Break Down Agency Borders

Interviewees also stressed that rigid institutional boundaries between agencies often undermined effective governance. They observed that pressing challenges often cut across jurisdictions, yet agencies remain siloed by statute, culture, and funding streams. Working across these institutional borders requires significant time and coordination by political leaders, and moving personnel from one agency to another generally involves extensive negotiations. This fragmentation makes it harder to marshal expertise, put personnel to their highest and best use, and coordinate action on complex, cross-cutting problems.

What the Public Says:

- 66 percent of respondents say "paying government workers based on their performance, not just their seniority" would make the government function better.[149]
- 63 percent of respondents say "making it easier to fire ineffective government workers" would make government function better.[150]
- 51 percent of respondents say "offering government workers private-sector-level pay to draw and keep skilled workers" would make the government function better.[151]
- 61 percent of voters say the government should hire more skilled public employees to deliver public services, compared to 29 percent that say the government should hire more private companies.[152]

Source: Groundwork Collaborative / Data for Progress national survey, fielded Sept. 19–22, 2025

Interviewee Recommendations

Prepare a highly choreographed Day One hiring surge: Rebuilding after DOGE's removal of hundreds of thousands of civil servants will require the capacity to hire at speed and scale, supported by detailed advance planning to

- launch a public call to service, inviting dedicated Americans to help rebuild government;
- collaborate with public-sector unions to inform and socialize the plan;
- build recruiting pipelines;

[149] This includes 54 percent of Democrats, 78 percent of Independents, and 74 percent of Republicans.
[150] This includes 46 percent of Democrats (compared to 18 percent who say it would make it worse), 76 percent of Independents, and 76 percent of Republicans.
[151] This includes 53 percent of Democrats, 38 percent of Independents, and 55 percent of Republicans.
[152] Hiring more skilled employees, as opposed to hiring private companies, enjoys a majority across all subgroups, including Republicans (50 percent vs. 39 percent, respectively).

- deploy Day One hiring and onboarding SWAT teams—composed of experienced, nimble recruiters—with clear authority and guidance to move quickly;
- embrace the use of flexible hiring authorities;
- draft new agency org charts that harness multidisciplinary teams and new position descriptions;
- ready a user-friendly version of USAJobs.gov (or a successor platform) to recruit the next generation of public servants; and
- map and plan for all hiring process pain points and bottlenecks—including a plan to speed up suitability and security checks.

Remove personnel who lack professionalism and integrity: To safeguard institutional integrity and restore public trust, future administrations should promptly remove any incumbent personnel who are not committed to the Constitution, the rule of law, and serving *all* American people—not just their friends or political partisans.

Restore collective bargaining rights: A future administration should restore collective bargaining rights for federal employees. More work is needed to determine how to make bargaining rights more meaningful—ensuring workers have a real voice in the workplace conditions that matter, not just procedural add-ons that don't improve job quality or workforce effectiveness.

Build a workforce with a wider range of skills, experiences, and expertise in modern markets: A modern federal workforce must bring diverse skills and lived experiences to deliver results with the speed and effectiveness the public deserves. Beyond lawyers and policy staff, agencies need technologists, data scientists, industry experts, user experience designers, product and project managers, social media specialists, community organizers, impact litigators, and more. Building a modern workforce requires mapping the expertise needed for today's challenges—not just recreating what existed before DOGE—and prioritizing skills over credentials or connections. As noted in Chapter 2, expanding regional offices outside DC would also broaden the talent pool for those unable or unwilling to relocate, especially post-DOGE.

Hire agency heads based on their plans for the agency, not politics: Future administrations should prioritize hiring agency heads based on their vision for the agency and their aptitude for organizational and operational management, not to check political boxes.

Reduce positions subject to Senate confirmation: Congress should further reduce the number of Senate-confirmed positions.[153] Even absent legislative reform, future

[153] In 2011, Congress eliminated confirmation for 163 positions via the Presidential Appointment Efficiency and Streamlining Act, and a Senate resolution streamlined the confirmation process for another 272 (Presidential Appointment Efficiency and Streamlining Act of 2011, Pub. L. No. 112-166, 126 Stat. 1283 (2011), https://congress.gov/bill/112th-congress/senate-bill/679; Korin Davis, "Easy Solutions for a Still-Broken Political Appointments Process," Brookings, February 20, 2014, https://brookings.edu/articles/easy-solutions-for-a-still-broken-political-appointments-process).

administrations should have non-confirmed appointees ready to move on priorities from Day One, instead of letting protracted confirmation processes delay policy execution.

Modernize civil service positions: Interviewees offered many recommendations for ensuring the federal government can efficiently recruit and retain top-flight talent, and for ensuring poor performance isn't allowed to fester:

- **Modernize federal pay**: Many talented workers are deterred from federal service because government salaries are uncompetitive with the private sector. Congress should raise federal pay to compete more effectively for talent and should enact less rigid pay scales, so that compensation and promotion reflect performance, not just seniority.
- **Speed up civil service hiring**: The slow speed of the civil service competitive hiring process is ill-suited to a post-DOGE environment in which new administrations must rebuild. While retaining the merit system principles, the number of steps and actors involved in hiring should be maximally streamlined.
- **Prioritize meaningful, active performance management**: Real-time, active performance management should be a priority, not an annual check-the-box afterthought. Agency heads should set a clear expectation that supervisors should make meaningful distinctions when it comes to performance—not everyone should automatically get an "outstanding" rating. HR departments should be significantly upskilled and better resourced, to become active partners in ensuring managers have the skills and support necessary to provide workers with timely, meaningful feedback—including positive feedback, constructive criticism, and mentorship. HR departments should also play an active role in the laborious process of transferring or firing a worker when necessary. Too often, HR departments lacked the capacity to support managers, leaving them on their own to juggle both substantive duties and personnel management responsibilities—shortchanging the latter.
- **Recognize and reward high performers**: Just like underperformance shouldn't be ignored, high performers should be actively recognized, rewarded, and given opportunities for professional advancement. One option is to increase the use of incentive pay to reward and retain high performers, while providing objective, outcome-oriented standards for bonuses. Agencies and the White House should publicly recognize high performers, to motivate workers while also helping the public better understand the dedicated public servants in their government.[154]
- **Shorten time frames for removing underperformers**: Civil service protections are a core part of ensuring a merit-based civil service, and employees accused of poor performance should certainly have fair notice and an opportunity to improve, but keeping poor performers in place for many months serves neither the public nor the many talented federal workers who must pick up their slack. Administrations should work with public-sector unions and other stakeholders to tackle a serious reform proposal—one that strikes the right balance between protecting a

[154] 5 CFR 575.306.

merit-based civil service and providing for efficient and straightforward removals when warranted.

Adopt new models of working together: Interviewees offered a range of options for changing how the federal workforce operates, with an eye toward adding capacity quickly while also breaking down the institutional borders between agencies to make the government less siloed and more agile:

- **Expand "tour-of-duty" models, especially for year one**: Several interviewees pointed to "tour-of-duty" models as the most promising way to bring dedicated, mission-oriented people into government post-DOGE. In addition to or in lieu of expanding the USDS model in which personnel are hired centrally and then deployed to agencies, agencies could use this model more widely—much like how some agencies already use direct hire, term hire, and Intergovernmental Personnel Act authorities to bring outside experts into government for shorter stints.[155] That said, while a "tour-of-duty" model holds significant promise for an early surge, as well as for bringing fresh expertise and experiences into government, it also increases the potential for conflicts of interest, requiring safeguards to ensure candidates make a robust commitment to putting the public interest first.

- **Use contracting authority strategically to add capacity quickly**: Individualized hiring processes will struggle to fill the capacity gap quickly. Agencies should prepare to enter into contracts to strategically add high-quality, mission-aligned teams quickly. Outside organizations—nonprofit, for-profit, academic, or otherwise—should prepare to serve as hubs to retain experienced staff and scale up as needed. Doing this well will require significant preparation, including working with federal sector and federal contractor labor unions to build in fair protections.

- **Systematize institutional knowledge**: As promising as the "tour-of-duty" model is for rebuilding, no organization can run efficiently and effectively if the entire workforce turns over every four years. Rebuilding the civil service is especially important when it comes to expertise unique to the federal government, such as how highly technical regulatory operations work. Post-DOGE, less institutional knowledge will be left, but using reemployed annuitant "dual compensation waivers" to bring back retirees temporarily could help. A new administration should improve institutional knowledge transfer and reduce single points of failure, so that key processes don't depend on the institutional knowledge of a single individual—which creates bottlenecks. Open sourcing of information can help build public trust through transparency, while also making it harder for future administrations to decimate institutional knowledge.

- **Create centralized SWAT teams of surge capacity**: The federal government should establish a centralized "SWAT team" of both top-tier project managers and

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[155] "Intergovernmental Personnel Act Hiring and Placement," Federal Hiring, Partnership for Public Service, accessed September 14, 2025, https://ourpublicservice.org/our-solutions/workforce/federal-hiring/intergovernmental-personnel-act-hiring-and-placement.

experts in unique-to-government processes, such as National Environmental Policy Act reviews and Administrative Procedure Act rulemaking—nimble positions that can surge support to agencies as needed. This cadre could also serve as trainers to build agencies' capabilities.

- **Make it easier for agencies to work together and to transfer personnel among agencies**: Administrations should make it easier for agencies to work together and to move personnel among agencies to where they are most needed. Options for doing so identified by interviewees include
  - hiring more personnel centrally and then deploying them to where they are most needed;
  - building into new position descriptions more flexibility to shift personnel around;
  - creating cross-agency teams organized around outcome-oriented objectives with a clear chain of command to an empowered decision-maker;
  - establishing a central fund that can reimburse an agency for sending its personnel to help another agency—instead of difficult interagency budget negotiations constraining such "details"; and/or
  - obtaining streamlined reorganization authority from Congress, or, in the absence of new authority, assessing whether some agencies should be functionally combined under shared leadership.

Create a safety net to protect personnel from harassment: Given the degree of division and violence in the country currently, future administrations should prepare a "safety net" for personnel who may be unfairly targeted by political opponents. These protections should ensure appointees have access to professional liability insurance, legal defense resources, rapid response communications support, and personal security in the face of credible threats to their safety. Otherwise, the risk of being personally harassed may deter personnel from serving the American people in publicly visible ways.

Prohibit federal workers from owning stock in companies they regulate. To increase trust that public servants are accountable to the public—not pursuing personal financial gain—agencies should prohibit all workers from owning stock in companies they are charged with regulating, going above and beyond the current statutory prohibitions set out in 18 USC § 208. For example, the CFPB Supplemental Standard of Ethical Conduct prohibits employees from owning or controlling securities in entities that the bureau regulates, a standard other agencies could adopt.[156]

[156] "Supplemental Standards of Ethical Conduct for Employees of the Bureau of Consumer Financial Protection," Final Rules, Rules & Policy, CFPB, last modified July 1, 2021, https://consumerfinance.gov/rules-policy/final-rules/supplemental-standards-ethical-conduct-employees-bureau-consumer-financial-protection.

What's Next: The Work to Reimagine and Rebuild Must Start Today

The project of building a government that can execute effectively from Day One and deliver on-the-ground results by Year Four cannot wait for election night or the transition window. Interviewees recounted that the first year of the Biden-Harris administration was overwhelmingly focused on pandemic response and recovery, which set back efforts to develop and execute a broader, proactive economic agenda. Interviewee after interviewee stated that, in hindsight, much more homework needed to be done in advance of taking office to set the administration up for success—to arrive prepared not just to address the crises of the moment and to undo policies counter to its agenda, but also to swiftly deliver the kind of bold changes to the economy that Americans craved. Multiple interviewees also flagged the need to ensure planning efforts actually translate into governance, noting that during the Biden-Harris administration agencies often did not use work done by the transition's agency review teams or by other planning initiatives.[157]

Post-DOGE, the challenges of standing up a government and reversing the damage done by the second Trump administration's policies will be even more daunting. We don't yet know what economic, national security, public health, or other crises the next president will inherit, but just nine months in we already face a vast hollowing out of federal government capacity and a national crisis for the resilience of democracy itself. Rebuilding will present not only an enormous challenge but also a tremendous opportunity for the next president to build a new set of modern, nimble institutions that better resonate with and respond to ordinary Americans. As one interviewee put it, "If someone burned down your house, you wouldn't rebuild the exact same house." Post-DOGE, we can learn from past flaws and build a new, better government that's worthy of the American people it is supposed to serve.

To seize the opportunity, an administration must arrive on Day One not just with a high-level policy agenda but with an execution battle plan. To ensure policies are implemented and widely felt on the ground within the term, an administration must arrive with draft legislation, rules, budgets, and IT builds already prepared or at least heavily scaffolded. It will need surge-ready hiring and onboarding architecture, so that qualified staff can be cleared, equipped, and seated within months—not the decades it could take using prior procedures. And it will need agency-by-agency reviews that go much deeper than traditional agency transition review teams: mapping org chart changes, drafting new position descriptions, cataloging existing authorities and preparing executive actions, inventorying contracts in need of fixes, making authority and budget wish lists, and preparing a rescission and deletion docket of harmful policies and low-impact pet projects to end.

To prove that democracy can still deliver, policymakers must arrive prepared to fight, boldly and visibly, to address ordinary people's daily economic frustrations and to rebuild trust that the government is accountable to the people—not monied interests or DC insiders. Doing so is critical to saving our democracy. It's time to get to work.

[157] One interviewee flagged that planning efforts that preceded the official transition generally were not provided to or utilized by the transition's agency review teams—meaning there were two rounds of largely wasted planning work.

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