Expert: “Schedule F” plan likely to be scuttled entirely, but some reforms are needed

By Nathan Abse

LAST FALL, PRESIDENT Trump proposed a plan to reclassify thousands—possibly hundreds of thousands—of federal employees to “at will” status, under a new job classification: “Schedule F”. Created by executive order only, the advisability—and even legality—has been criticized by federal employee unions, legal experts and leaders in public administration. Some of the experts, however, have said that although rolling back federal employee appeals rights to near-zero is no way forward, some changes and reforms are indeed needed to modernize the structures of the civil service. This week, Nathan Abse interviewed one expert who falls under this category: Donald Kettl, a professor of public policy at the LBJ School of Public Affairs at The University of Texas at Austin.

Q&A WITH DON KETTL

What did you think when Pres Trump first announced Schedule F plan? Why did he do it?

Kettl: I think this is part of a broad strategy that the administration has had for some time. It is not a last-minute thing. It is something we’ve seen from the Heritage Foundation and elsewhere, where some have argued that the difficulties of removing people from the civil service, specifically, has frustrated political leaders. This has been in the works with certain political and other leaders for a long time, and there is a direct line from, for instance, Heritage and some of these groups straight through intermediaries and into the administration. The ideas here predated President Trump.

So it won’t necessarily go away, as an idea, even with Biden coming to the White House—it could reappear after, for instance?

Kettl: Yes. This has to be seen as a very big, very large, ongoing effort. Some kind of effort like this is going to have some backers long after President Trump leaves office.

By Mike Causey

INSIGHT

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Washington D.C., is full of politicians. Full of journalists. Full of experts. Full of think tanks. Lots of people making good to extremely good livings by solving problems. And sometimes even solving them.

A long-time friend, who spent a long time (30 plus years) on Capitol Hill says there is a difference between surviving and thriving in D.C. The trick is finding/identifying a prob-
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**It’s also not something that President Trump came up with at the last minute—as a personal thing, alone?**

**Kettl:** No. Again, this is something that is a product of a larger movement, that came from outside of his administration, originally. It’s not a personal campaign of his, alone.

**In your take, as an academic with the long view, how did you react to the Schedule F EO announcement?**

**Kettl:** When I first saw this, quite frankly I was stunned. This would be the repudiation of merit systems principles in our government since the late 19th century. A very long history and tradition, supported by both Democrats and Republicans. I was stunned.

**What will the incoming Biden administration do with this EO, though?**

**Kettl:** It is clear to me that the incoming administration will strike this down when it comes in. But it leaves me with two questions. First there will be some temptation to do some sort of reform, because some is needed—but taking any part of this EO could undermine support from union and civil service support the new administration will be counting on. So that’s a problem. Any association with this current administration will be harmful. So I doubt Biden will keep any part of it.

**Could President Biden perhaps do something else, some sort of EO-driven reform, when likely he gets rid of Schedule F?**

**Kettl:** The administration possibly could rescind the Trump EO, and then could bring in an executive order of his own, with more fundamental and better-advised reforms than the Trump EO, in some sweeping EO of its own.] There will also be a third option—and some will argue for it—and in fact the National Academy of Public Administration has drafted just such an option. This effort is totally different, and would make reforms while preserving the merit principles that have so long been part of our civil service and government. This to me is the preferable effort.

Thank you.
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SENIOR EXECS: DECEMBER CONFERENCE ADDRESSES COVID

AN ONLINE CONFERENCE for federal leaders—scheduled for next week—aims to help top managers cope with and shape the future direction of their work—most pressing, to share experiences and help ensure new and better ways to deal with COVID, telework and other ongoing challenges.

The three-day Senior Executives Association event, entitled “The Future of Government Leadership is Now,” will be held Mon., Dec. 8 through Weds., Dec. 10.

“Between the pandemic, the shift to fully remote work environments, changing economy and talent drivers, the ideas that drive how work and leadership will be handled in the future are being tested immediately,” the event page stated. “The Government’s leaders are being challenged to meet this new work dynamic head on—which may require different ways of thinking and being.”

The event will be keynoted several speakers, including Heidi Brooks, Ph.D., of the Yale School of Management, an expert on organizational behavior who has taught on everything from “everyday leadership” to another major focus, a course in “Emotional Intelligence, Power & Politics.” Others include Margarita Devlin, Principal Deputy Under Secretary for Benefits at the VA, Michael Arena, Vice President for Talent and Development at Amazon Web Services, as well as Sharon Benjamin, Ph.D., Senior Principal, The Clearing and co-founder of EarthShare.

A wide variety of current federal leaders will be on hand. Speakers will include Daryle Hernandez, Chief of the Interagency Security Committee (ISC), a unit of a part of the government that received a fair bit of publicity for its mission to protect federal elections—the Cybersecurity and Infrastructure Security Agency (CISA) within DHS. Richard “Kris” Cline, Principal Deputy Director Federal Protective Service, Bethany Blakey, GSA’s Modernization Strategist and Director of Innovation Adoption, Centers of Excellence, Technology Transformation Service, and numerous other seasoned executives will also speak. Other speakers—though leaders and inspiring doers—at the head of organizations outside of government will include Bill Adams, Leadership Solutions Partner at the Center for Creative Leadership, Deedre Daniel, Founder of The Interesting Conversations Company, Malcolm Dunbar, Consultant in Human Capital at Deloitte, as well as media leaders covering the federal sector, such as Nicole Ogrysko, reporter at Federal News Network and Sudeep Reddy, the managing editor of POLITICO.

SEA partnered with the Association of Talent Development for the conference. To sign up, click on the SEA’s event registration page.

CFC: DON’T FORGET TO GIVE THIS YEAR!

Each fall, federal employees make the effort to contribute to their favorite charities and causes through the Combined Federal Campaign.

This year—with so many families across the country savaged by COVID job disruptions, illnesses and even deaths—charity offered by those that are lucky enough have made it through the storm with some resources and gainful employment is more important than ever. Don’t forget: Millions of people remain without work, and with their unemployment insurance and government assistance exhausted, as a direct consequence of the pandemic and at best its uneven management.

Of course, in 2020 as in previous years, many feds focused their philanthropy on an increasingly popular day heralding millions of dollars of gifts made in small increments by ordinary working people—Giving Tuesday, Dec. 1. But, if you somehow missed the date—not hard to do, given the disrupted state of many of our lives—it’s not a problem. You can still go to the same websites, and go right ahead and contribute.

“[P]lease consider supporting the Federal Employee Education and Assistance Fund (FEEA),” a post on the NTEU website suggests. “Your gift will help federal employees dealing with pandemic-related issues, as well as those struggling financially due to natural disasters or other unforeseen events.”

The union notes that since its beginnings in the 1980s, FEEA has provided over 11,000 scholarships to feds and their families.
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LAWMAKERS WANT MORE INFO ON SCHEDULE F

A GROUP OF over 20 chairs of House committees and subcommittees are requesting a “full accounting” both of any burrowing in of political appointees into the civil service and the execution of Schedule F, a new category of federal employee made up of positions centered on policy work that aren’t subject to civil service protections or collective bargaining rights.

Rep. Carolyn Maloney (D-N.Y.), chairwoman of the Committee on Oversight and Reform, led the signatories of the Nov. 25 letter, which was sent to 61 federal agencies. Agencies are facing a Jan. 19 deadline to submit an initial inventory of positions to be converted to Schedule F to the Office of Personnel Management until January 19, 2021, but some departments are ahead of schedule. The Office of Management and Budget has indicated that 88% of its positions are eligible for conversion into Schedule F jobs.

There are concerns that the executive order could accelerate non-competitive hiring into the new schedule as the Trump administration is on its way out, leaving the incoming administration with a bureaucracy tinted by former political appointees from the last presidency.

This process, known as “burrowing in,” can happen before presidential transitions as political appointees are placed inside the civil service. Specifically, Democrats on the Hill have pointed to the potential for Schedule C positions, a category of political appointees exempted from the competitive service, to be converted into Schedule F positions.

OPM reviews and approves the conversion of political appointees into a civil service positions, said James Eisenmann, a partner at Alden Law Group who specializes in federal employee issues. However, Schedule F blurs the lines demarcating the apolitical civil service from pure political appointees, he said.

“What [Schedule F is] potentially doing is really creating this kind of political appointment without calling it a political appointment,” Eisenmann said.

The representatives requested a detailed list of any former political appointees since January 2017 who now hold a permanent competitive position, a non-political excepted service position or a job in the Senior Executive Service.

The lawmakers asked for information about competitive service and excepted service positions that have been flagged for conversion to the new personnel category or placed into it.

The letter also addressed concerns about Schedule F’s effects on career civil servants. Under the October executive order, Schedule F employees would be essentially at-will and ineligible for most civil service protections. Lawmakers, federal employee groups and good governance groups have raised alarms about the potential for swaths of civil servants to be fired in the closing days of the Trump administration.

The lawmakers asked for information about competitive service and excepted service positions that have been flagged for conversion to the new personnel category or placed into it.

They included requests for details about any individuals whose positions have been converted to Schedule F, such as specifics about any fired after their position was converted, the title of their Schedule F position and justification for the conversion or placement into the new personnel schedule.

The chairs set a deadline of Dec. 9 for agencies to provide an initial response to the Committee on Oversight and Reform and to the committee that has jurisdiction for each respective agency. They also requested biweekly updates up until the inauguration.

Democrats on the Hill have been pursuing action to block the implementation of the executive order, including attempts to use the appropriations process to block the use of funds for the order’s implementation. The current continuing resolution to fund the federal government expires Dec. 11.

WHAT TO EXPECT FROM JOE BIDEN’S DOD

AS OF THIS writing, Biden has not named a secretary of defense, although Michele Flournoy has been tipped by Pentagon watchers as a likely candidate. She would be the first woman to serve as defense chief and brings a long resume including a stint as undersecretary of defense for policy under the Obama administration. Jeh Johnson, the former homeland security chief and former DOD general counsel is also considered as a strong candidate. Biden’s other national security picks reflect a strong institutional bent, with a focus on experience working in government.

Whomever Biden picks for the top job and for senior posts requiring Senate confirmation, it’s expected that the Biden DOD won’t see the same rate of high-profile and often abrupt leadership churn that is a signature of the Trump administration.

“It was debilitating,” Christian Brose, former Senate staff director and current chief strategy officer for Anduril Industries, told FCW, “because the types of decisions that I’m talking about where you really have to make difficult choices between what to fund and what not to fund, what to scale and what to divest from, these are choices with real consequence and with political risk and sacrifice.”

Biden’s team has “deep benches of talent” Brose said, adding that “they will, or should be able to, get their core teams confirmed or in place quickly and get to work and get to work with a degree of stability so that you’re not seeing the kind of
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senior leadership churn that we’ve experienced for the past four years.”

Regardless of administration, Brose warned that senior leaders have to do more than talk about innovation without substantive investment.

“What are they spending time on and what are they spending money on? There’s a lot of rhetoric, a lot of people are talking a big game about, defense, innovation and change and transformation and the like,” Brose said.

Rep. Anthony Brown (D-Md.), the vice chair for the House Armed Services Committee is looking for improvements on the diversity and inclusion front in a Biden administration.

“Diversity and inclusion have to be integral to any modernization program. And I’ve been focusing a lot...on diversifying the Pentagon, the armed forces generally, and have been working with the defense industrial base to do the same,” Brown said.

“There is a lack of diversity in our defense leadership. Everything from combat arms through combat service support at our highest levels of leadership, there’s a lack of diversity. And I think we need to focus on that as we are focusing on the efforts we need to take to modernize our fighting force,” Brown said.

When asked about the initiatives Mark Esper, now former defense secretary, kicked off over the summer following the George Floyd protests, Brown said they were insufficient. Brown championed a provision in the 2021 National Defense Authorization Act that would require the military services to install chief diversity officers at the secretariat level.

“When you talk about modernization, you’re talking about emerging technologies, innovation and creativity. And one of the components to creating a more innovative sort of approach to how you solve problems and how you deliver solutions is you have to diversify the talent that you have participating in that process,” he said.

“I don’t think it’s sufficient,” Brown said, “The most important thing that we can do and should do...is we have to create chief diversity officers for both the department and the service components. A chief diversity officer who reports directly to the secretary of Defense and the service secretaries.”

Budget pressure

Budget stability is a big issue for contractors and the military services, with pressure expected to come from deficit hawks and from opponents of big defense budgets to pare down spending to make up for huge expenditures in the pandemic response.

“This is the last year of a two year budget agreement. So to be able to have an

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As a result, the Biden administration could be in a position to level up the Defense Department’s data analytics capabilities to match rhetoric about improving human decision-making, especially if the defense team commits to implementing the recently released data strategy.

**Data as a breakout star**

DOD released its long-awaited data strategy in October, and the Biden administration could build on that to make data and analytics a key priority across the department, said Tara Murphy Dougherty, CEO of Govini, a decision science and data analytics firm.

“They’re going to be looking to not just analyze data, but to use it for decision-making so that they can understand for big spending on defense, are we getting the national security that we expect? Do we get the warfighting capabilities that we’re looking for? Because they aren’t just going to measure success by the number of ships in the Navy or the number of planes in the Air Force,” Murphy Dougherty said.

As a result, the Biden administration could be in a position to level up the Defense Department’s data analytics capabilities to match rhetoric about improving human decision-making, especially if the defense team commits to implementing the recently released data strategy.

“That will help them move really quickly in an area where certainly America’s competitiveness, vis-a-vis China in particular, in this case has been not as solid,” Murphy Dougherty said. “The fundamentals are there. And the fundamentals, frankly, are nonpartisan. It treats data like a strategic resource, [addresses] the cultural inclination to hoard your data, basic things that the department has needed to do for a long time.”

“This administration has started the effort of improving DOD data, which has been going on for decades, but it has placed some emphasis on improving access to data, making better quality data for decision purposes,” said Peter Levine, a senior fellow with the Institute for Defense Analyses and DOD’s former deputy CMO. “I assume that any incoming team, whoever the incoming team is, will renew that focus and also want to pursue that effort,” he said.
friend the congressional aide, thinks somebody’s brother-in-law either had a load of radon kits, or an interest in a business that blocks radon leaks. Then somebody got to local politicians who thought it was a win-win cause to back. Plus a campaign donation would be nice too. Again a win-win because the taxpayers footed the bill. Some later studies indicated that two counties in Pennsylvania and Ohio with unusually high levels of radon had lower than average incidences of lung cancer. Go figure!

Another example: A former official at the Office of Personnel Management said he couldn’t recall any legislation affecting the Federal (CSRS or FERS) retirement system being passed that didn’t have a direct benefit for some member (or members) of Congress. Or a key staffer. Or somebody connected to the politicians or his/her spouse. In one case a bill (now law) was worded so that a member of Congress with three ex-wives could leave wife number one and wife number three with a benefit which ex-wife number two would not get. I may have mixed up the order of which ex-spouse was left in legal limbo. But you get the idea. He said this was true of every retirement improvement bill that went through Congress. Somebody special benefited too. Or the law was actually written for them.

He said the same thing happened in legislation drafted by a congressional committee. The purpose was equal pay for women in government. It was just. It was fair. And long overdue. It also was to be a political stepping stone for a House member who wanted to be vice president. Then president. While it was (still is) true that in many cases women weren’t paid as much as men on the basis of occupation, men and women in the same GS grade at the same step were paid the same. As a way to make the point they set about setting up a program of based on pay equity. They took an occupation dominated by women and classified it the same as occupation that was overwhelmingly male. Like librarians vs. engineers. When it was finally enacted into law Congress stipulated that every federal personnel operation worldwide would need training in implementing the program. Quit a job. A well-paying job. Guess what. After a talent search it was determined that only one firm in the United States had the experience and talent to get the lucrative contract. Was the firm headed by a relative of a member of the House committee? If you said yes, you are very perceptive. Or have worked in government a long, long time.

The House has passed bills, some linked, some stand alone, that would give uniformed military personnel a pay raise, give civilian feds 12 weeks of paid parental leave for the birth or adoption of a new child, give President Trump more money to build that wall and block the government from shifting any operations (or personnel) from the Office of Personnel Management to either the GSA or the Office of Management and Budget. This is a rare example of Republicans and Democrats cooperating so that both sides get something they want.

In the case of the OPM spinoff (first proposed by the Trump White House), House Democrats inserted language which says certain Washington-based think tanks, with understandably high payrolls and expenses, must study, and study any changes. And rate them as good or bad. Necessary or harmful. That sounds like a long-time project. It won’t cost as much as a moon landing, but it will cost taxpayers. It may be money well spent. Or not. Chances are we will never know. Meantime life goes on in the Nation’s Capital. Thank you for your generous contributions. Even if I didn’t know you were making them.