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Congressional Budget Office: Appointment and Tenure of the Director and Deputy Director

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Summary

The requirements regarding the appointment and tenure of the Congressional Budget Office (CBO) director are set forth in Section 201(a) of the 1974 Congressional Budget Act, as amended, and codified at 2 U.S.C. 601(a). The Speaker of the House of Representatives and the President pro tempore of the Senate jointly appoint the director after considering recommendations received from the House and Senate Budget Committees. The Budget Committee chairs inform the congressional leaders of their recommendations by letter. The appointment is usually announced in the *Congressional Record*.

Section 201(a) requires that the selection be made "without regard to political affiliation and solely on the basis of his fitness to perform his duties." Media reports over the years indicate that the CBO director is selected under informal practices in which the House and Senate Budget Committees alternate in recommending a nominee to the Speaker and President pro tempore of the Senate. These reports also indicate that the Speaker and President pro tempore have adhered to the Budget Committees' recommendations in making past selections. To the extent that these practices are informal, there may be disagreement with regard to their operation in the future selection of a CBO director.

The director is appointed to a four-year term that begins on January 3 of the year that precedes the year in which a presidential election is held. If a director is appointed to fill a vacancy prior to the expiration of a term, then that person serves only for the unexpired portion of that term. There is no limit on the number of times that a director may be reappointed to another term. Section 201(a) also authorizes a CBO director to continue to serve past the expiration of his term until a successor is appointed. A CBO director may be removed by either house by resolution.

Section 201(a) also provides that the director shall appoint a deputy director. The deputy director serves during the term of the director that appointed the deputy director (and until his or her successor is appointed) but may be removed by the director at any time. The deputy director serves as the acting director if the director resigns, is incapacitated, or is otherwise absent.

Ten people so far have served as CBO director: Alice Rivlin, Rudolph Penner, Robert Reischauer, June O'Neill, Dan Crippen, Douglas Holtz-Eakin, Peter R. Orszag, Douglas Elmendorf, Keith Hall, and Phillip Swagel. The current director, Phillip Swagel, began serving as director on June 3, 2019. Twelve persons have served as deputy director; five of them also served as the acting director (for periods amounting in total to about three years). The current deputy director, Mark Hadley, was appointed to the position in June 2016.

This report will be updated as developments warrant.

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Background

The Congressional Budget Office (CBO) was established by Title II of the Congressional Budget and Impoundment Control Act of 1974 (The Budget Act, P.L. 93-344; July 12, 1974; 2 U.S.C. 601-603). The organization officially came into existence on February 24, 1975, upon the appointment of the first director, Alice Rivlin.[1]

CBO's mission is to support the House and Senate in the federal budget process by providing budgetary analysis and information in an objective and nonpartisan manner.[2] Specific duties are placed on CBO by various provisions in law, particularly Titles II, III, and IV of the 1974 Congressional Budget Act, as amended. CBO prepares annual reports on the economic and budget outlook and on the President's budget proposals and provides cost estimates of legislation, scorekeeping reports, assessments of unfunded mandates, and products and testimony relating to other budgetary matters. In addition to statutory duties, CBO is subject to directives included in annual budget resolutions and chamber rules.

Ten persons so far have served as CBO director: Alice Rivlin, Rudolph Penner, Robert Reischauer, June O'Neill, Dan Crippen, Douglas Holtz-Eakin, Peter R. Orszag, Douglas Elmendorf, Keith Hall, and Phillip Swagel. The current director, Phillip Swagel, began serving as director on June 3, 2019. Twelve persons have served as deputy director; five of them also served as the acting director (for periods amounting in total to about three years). The current deputy director, Mark Hadley, was appointed to the position in June 2016.

Appointment Process

The requirements regarding the appointment and tenure of the CBO director are set forth in Section 201(a) of the 1974 Congressional Budget Act, as amended, and codified at 2 U.S.C. 601(a) (see the **Appendix**). The Speaker of the House of Representatives and the President pro tempore of the Senate jointly appoint the director after considering recommendations received from the House and Senate Budget Committees. The Budget Committee chairs inform the congressional leaders of their recommendations by letter. The appointment usually is announced in the *Congressional Record*.[3]

Section 201(a) requires that the selection be made "without regard to political affiliation and solely on the basis of his fitness to perform his duties." Media reports over the years indicate that the CBO director is selected under informal practices in which the House and Senate Budget Committees alternate in recommending a nominee to the Speaker and President pro tempore of the Senate. These reports also indicate that the Speaker and President pro tempore have adhered

[1] A detailed discussion of the appointment of Alice Rivlin as CBO director and the establishment of the agency is presented in Allen Schick, *Congress and Money: Budgeting, Spending and Taxing* (Washington: Urban Institute, 1980), pp. 131-165.

[2] For more information on the mission, organization, and policies of CBO, see the agency's website at http://www.cbo.gov. In addition, the House Budget Committee held an oversight hearing on CBO during the 107th Congress: *Congressional Budget Office Role and Performance: Enhancing Accuracy, Reliability, and Responsiveness in Budget and Economic Estimates* (May 2, 2002).

[3] For example, see the announcement regarding the appointment of Dan Crippen in the *Congressional Record* of February 4, 1999, on p. H422; the appointment of Douglas Holtz-Eakin in the *Congressional Record* of February 5, 2003, on p. H313; the appointment of Peter R. Orszag in the *Congressional Record* of January 18, 2007, on p. S731, and January 19, on p. H764; the appointment of Douglas Elmendorf in the *Congressional Record* of January 22, 2009, on p. S759, and January 23, on p. H487.

to the Budget Committees' recommendations in making past selections. To the extent that these practices are informal, there may be disagreement with regard to their operation in the future selection of a CBO director.[4] Section 201(a) states that a CBO director may be removed by either house by resolution.

The director is appointed to a four-year term that begins on January 3 of the year that precedes the year in which a presidential election is held. If a director is appointed to fill a vacancy prior to the expiration of a term, then that person serves only for the unexpired portion of that term. There is no limit on the number of times that a director may be reappointed to another term. Section 201(a) also authorizes a CBO director to continue to serve past the expiration of his term until a successor is appointed.

Section 201(a) also provides that the director shall appoint a deputy director. The deputy director serves during the term of the director that appointed the deputy director (and until his or her successor is appointed) but may be removed by the director at any time. The deputy director serves as the acting director if the director resigns, is incapacitated, or is otherwise absent.

Record of Appointments and Tenure

Ten persons have served as director of CBO during the 10 terms beginning in 1975 (see **Table 1**):

Alice M. Rivlin

Alice Rivlin served two terms as CBO director from 1975 to 1983. Prior to serving as CBO director, Rivlin served as assistant secretary for planning and evaluation with the Department of Health, Education, and Welfare and as a senior fellow with the Brookings Institution.

Rudolph G. Penner

Rudolph Penner served as CBO director for one term from 1983 to 1987. Previously, Penner served as chief economist at the Office of Management and Budget under President Gerald Ford and as director of tax policy studies with the American Enterprise Institute.

Robert D. Reischauer

Robert Reischauer served two terms as CBO director from 1989 to 1995. (He was not appointed until about halfway into the first four-year term.) Reischauer previously served as CBO deputy director (under Alice Rivlin) and as a senior vice president of the Urban Institute.

[4] *CQ Today*, "Democrats to Name New CBO Director," by David Clarke, November 25, 2008. Further discussions of informal selection practices may be found in David Baumann, "Amid Criticism, CBO Director O'Neill Forgoes Second Term," *Congress Daily*, October 28, 1998; Bud Newman, "Domenici Recommends Dan Crippen as New Congressional Budget Office Director," *Daily Report for Executives*, January 14, 1999; Ethan Wallison, "Crippen Will Be New CBO Director,"*Roll Call*, January 14, 1999; Andrew Taylor, "White House Economist Selected to Replace Crippen at CBO," *CQ Monitor*, January 9, 2003; Bud Newman, "Bush Economist Holtz-Eakin Nominated by Nussle to Become New CBO Director," *Daily Report for Executives*, January 10, 2003; Jonathan Nicholson, "Peter Orszag Selected to Head CBO; Formal Appointment Seen In January," *Daily Report for Executives*, December 13, 2006; Ceci Connolly, "Elmendorf Tapped for Congressional Budget Office," *Washington Post*, December 31, 2008, p. A6; and Jonathan Nicholson, "Elmendorf Formally Approved to Take Over Congressional Budget Office," *Daily Report for Executives*, January 23, 2009.

June Ellenoff O'Neill

June O'Neill served as CBO director for one term covering 1995-1999. Previously, O'Neill headed the Center for the Study of Business and Government at Baruch College and was an adjunct scholar at the American Enterprise Institute.

Dan L. Crippen

Dan Crippen served as CBO director for one term covering 1999-2003. Prior to his appointment, Crippen served as chief counsel and economic policy adviser to Senate Majority Leader Howard Baker and domestic policy adviser to President Ronald Reagan and was a member of the law firm Washington Counsel.

Douglas Holtz-Eakin

Douglas Holtz-Eakin served as CBO director for one term (leaving a little more than a year before the term's completion). Prior to beginning his term, he served as chief economist for the Council of Economic Advisers. While director, he was on leave from Syracuse University, where he held the position of Trustee Professor of Economics at the Maxwell School.

Peter R. Orszag

Peter Orszag served as CBO director for about half of one term. He resigned on November 25, 2008, a little more than two years before the term's completion. Previously, Orszag was the Joseph A. Pechman senior fellow and deputy director of economic studies at the Brookings Institution, and before that, he held positions with the President's Council of Economic Advisers and National Economic Council.

Douglas W. Elmendorf

Douglas Elmendorf began his service as CBO director on January 22, 2009, about half-way through the term to which Peter Orszag had originally been appointed. Prior to his appointment, Elmendorf was a senior fellow in the economic studies program at the Brookings Institution, serving as the director of the Hamilton Project, and before that, he was a senior economist at the White House's Council of Economic Advisers, a deputy assistant secretary for economic policy at the Department of the Treasury, and an assistant director of the Division of Research and Statistics at the Federal Reserve Board.

Keith Hall

Keith Hall began his term as the director of CBO on April 1, 2015. Previously, Hall spent more than 10 years with the U.S. International Trade Commission conducting studies on international trade and trade policy. In addition, he served a four-year term as the commissioner of the Bureau of Labor Statistics and served as the chief economist for both the White House Council of Economic Advisers and the U.S. Department of Commerce.

Phillip Swagel

Phillip Swagel began his term as CBO director on June 3, 2019. As stated on the CBO website, "Previously, he was a professor at the University of Maryland's School of Public Policy and a visiting scholar at the American Enterprise Institute and the Milken Institute. He has also taught at Northwestern University, the University of Chicago's Booth School of Business, and Georgetown

University. His research has involved financial market reform, international trade policy, and China's role in the global economy. From 2006 to 2009, Dr. Swagel was Assistant Secretary for Economic Policy at the Treasury Department, where he was responsible for analysis of a wide range of economic issues, including policies relating to the financial crisis and the Troubled Asset Relief Program. He has also served as chief of staff and senior economist at the Council of Economic Advisers in the White House and as an economist at the Federal Reserve Board and the International Monetary Fund."[5]

Twelve persons have served as deputy director of CBO: Robert A. Levine, Robert Reischauer, Raymond Scheppach, Eric A. Hanushek, Edward Gramlich, Robert Hartman (acting), James Blum, Barry Anderson, Elizabeth Robinson, Donald B. Marron, Robert A. Sunshine, and Mark Hadley, the current deputy director. The position was vacant on two occasions. Five different deputy directors served as acting director, as discussed below.

As **Table 1** shows, the gap between the beginning of a term and the appointment of the director has varied considerably. Peter Orszag was appointed 15 days after the beginning of his term. Alice Rivlin, June O'Neill, Dan Crippen, Douglas Holtz-Eakin, and Keith Hall were appointed (or reappointed) within three months of the beginning of their terms. Rudolph Penner, however, was not appointed until nearly seven months after his term had begun (and did not assume his office until more than a month later). Robert Reischauer began his first term more than two years after it had started.

As a consequence of these appointment gaps, incumbent directors have remained in office for weeks or months after their terms have expired, or CBO has operated with an acting director. Alice Rivlin stayed in office for nearly eight months (until August 31, 1983) before her successor, Rudolph Penner, took over. Penner remained in office for about four months (until April 28, 1987) but left long before a new director was appointed. Edward Gramlich, and then James Blum, served successively as acting directors for a period of nearly two years.

Robert Reischauer stayed on as director for almost two months (until February 28, 1995) before he was succeeded. June O'Neill stayed in office nearly a month after her term ended (until January 29, 1999) but left about a week before her successor was appointed. James Blum served as acting director during the interim. Barry Anderson served as acting director from the time that Dan Crippen left office on January 3, 2003, until Douglas Holtz-Eakin was appointed to succeed him on February 5. Douglas Elmendorf stayed on as director for three months before he was succeeded, and Keith Hall stayed on for approximately five months before he was succeeded.

Similarly, appointment gaps may occur when a director resigns before his or her term is completed. As indicated previously, Douglas Holtz-Eakin resigned on December 29, 2005, a little more than a year before the completion of his term (on January 3, 2007). The deputy director, Donald B. Marron, began serving as acting director at that time. He continued in that capacity until the appointment of Peter Orszag just over a year later.

Orszag resigned on November 25, 2008, a little more than two years before the term's completion. On the same day, Robert A. Sunshine began serving as the acting director. He continued in that role until the appointment of Douglas Elmendorf about two months later.[6]

[5] CBO, "Biographies and Staff Listings," https://www.cbo.gov/about/organization-and-staffing.

[6] CBO, "CBO Director Orszag Resigns; Sunshine Becomes Acting Director," press advisory, https://www.cbo.gov/communications/advisory/2008-11-25-director.shtml. See also Michael Bologna and Jonathan Nicholson, "President-Elect Vows Spending Reform During Rollout of Key OMB Appointments," *Daily Report for Executives*, November 26, 2008.

Table 1. Terms of the Director of the Congressional Budget Office

Term	Director	Date Appointment Announced in *Congressional Record*
January 3, 1975-January 3, 1979	Alice M. Rivlin	February 25, 1975 (page 4151)
January 3, 1979-January 3, 1983	Alice M. Rivlin	[none]
January 3, 1983-January 3, 1987	Rudolph G. Penner	July 21, 1983 (page 20285)
January 3, 1987-January 3, 1991	Robert D. Reischauer[a]	March 2, 1989 (page 3218)
January 3, 1991-January 3, 1995	Robert D. Reischauer	November 26, 1991 (page 35842)
January 3, 1995-January 3, 1999	June Ellenoff O'Neill	February 22, 1995 (page S2984); February 28, 1995 (page H2373)
January 3, 1999-January 3, 2003	Dan L. Crippen[b]	February 4, 1999 (page H422)
January 3, 2003-January 3, 2007	Douglas Holtz-Eakin[c]	February 5, 2003 (page H313)
January 3, 2007-January 3, 2011	Peter R. Orszag[d]	January 18, 2007 (page S731); January 19, 2007 (page H764)
	Douglas W. Elmendorf	January 22, 2009 (page S759); January 23, 2009 (page H487)
January 3, 2011-January 3, 2015	Douglas W. Elmendorf	January 26, 2011 (page H500) (page S263)
January 3, 2015- January 3, 2019	Keith Hall	March 3, 2015 (page S1227)
January 3, 2019- January 3, 2023	Phillip Swagel	May 15, 2019 (page H3835)

Source: Congressional Budget Office and the *Congressional Record*, various years.

a. Deputy director Edward Gramlich and assistant director James Blum served successively as acting directors between April 28, 1987, when Rudolph Penner left office, and March 6, 1989, when Robert Reischauer's appointment took effect.

b. Deputy director James Blum served as acting director between January 29, 1999, when June O'Neill left office, and February 3, 1999, when Dan Crippen's appointment took effect.

c. Deputy director Barry Anderson served as acting director between January 3, 2003, when Dan Crippen left office, and February 5, 2003, when Douglas Holtz-Eakin's appointment took effect. Deputy director Donald Marron served as acting director between December 29, 2005, when Douglas Holtz-Eakin left office, and January 18, 2007, when Peter R. Orszag's appointment took effect.

d. Deputy director Robert A. Sunshine served as acting director between November 25, 2008, when Peter Orszag left office, and January 22, 2009, when Douglas Elmendorf's appointment took effect.

Appendix. Establishment of the Congressional Budget Office under Section 201(a) of the 1974 Congressional Budget Act

(2 U.S.C. 601(a))

(a) In General.—

(1) There is established an office of the Congress to be known as the Congressional Budget Office (hereinafter in this chapter referred to as the "Office"). The Office shall be headed by a Director; and there shall be a Deputy Director who shall perform such duties as may be assigned to him by the Director and, during the absence or incapacity of the Director or during a vacancy in that office, shall act as Director.

(2) The Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after considering recommendations received from the Committees on the Budget of the House and the Senate, without regard to political affiliation and solely on the basis of his fitness to perform his duties. The Deputy Director shall be appointed by the Director.

(3) The term of office of the Director shall be 4 years and shall expire on January 3 of the year preceding each Presidential election. Any individual appointed as Director to fill a vacancy prior to the expiration of a term shall serve only for the unexpired portion of that term. An individual serving as Director at the expiration of a term may continue to serve until his successor is appointed. Any Deputy Director shall serve until the expiration of the term of office of the Director who appointed him (and until his successor is appointed), unless sooner removed by the Director.

(4) The Director may be removed by either House by resolution.

(5)(A) The Director shall receive compensation at an annual rate of pay that is equal to the lower of—

(I) the highest annual rate of compensation of any officer of the Senate; or

(ii) the highest annual rate of compensation of any officer of the House of Representatives.

(B) The Deputy Director shall receive compensation at an annual rate of pay that is $1,000 less than the annual rate of pay received by the Director, as determined under subparagraph (A).

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