

# **Expanding Opportunities for Informed Participation in Public Policy**



**One of a Series of Occasional Papers in  
Science and Technology Policy**

**Paul Weinstein Jr.**

***Occasional Papers in Science and Technology Policy*** provides a forum for invited authors to share research and offer thoughts on issues in this field. The Science and Technology Policy Institute developed the series at the request of the Office of Science and Technology Policy, part of the Executive Office of the President.

A Federally Funded Research and Development Center (FFRDC) chartered by Congress in 1991, the Science and Technology Policy Institute provides objective analyses on topics of interest to the Office of Science and Technology Policy and other Federal Government agencies, offices, and councils. The Institute is operated by the Institute for Defense Analyses, and its work for the Office of Science and Technology Policy is funded by the National Science Foundation.

All papers published in this series reflect the views, opinions, and findings of the authors and do not represent the official positions of the Science and Technology Policy Institute, the Office of Science and Technology Policy, the National Science Foundation, the Institute for Defense Analyses, or any institutions with which the authors are affiliated.

# Expanding Opportunities for Informed Participation in Public Policy

---

Paul Weinstein Jr.  
August 30, 2010

## Contents

Introduction.....	1
Getting Into the Game: Identifying and Working with the Right Policy Stakeholders .....	2
National Security Council .....	4
National Economic Council .....	5
Domestic Policy Council.....	6
Office of Science and Technology Policy .....	7
Council of Economic Advisors .....	8
Council on Environmental Quality.....	8
Timing Your Swing: Understanding Internal Workflows in the Executive Branch.....	9
State of the Union.....	10
The Budget .....	11
Emergencies/Unexpected Occurrences .....	13
Making Your Pitch: Policy Implementation Tools.....	14
Action Forcing Event .....	14
Budget Impact .....	15
Projected Impact of Policy in Real Terms.....	16
Political Analysis.....	16
Recommending the Right Policy Tool .....	16
Expanding Opportunities for Informed Participation .....	22

## Tables

Table 1. Major Steps in the Development of the President's Budget within the Executive Branch.....	12
Table 2. Policy Tools .....	18
Table 3. Criteria for Evaluating Policy Tools and Proposals.....	19
Table 4. Primary Types of Targeted Tax Incentives.....	20

## Introduction

On his first full day in office, President Obama issued an Executive Memorandum on open government. The goal of the Obama administration's "Open Government Initiative" (OGI) is to bring fresh, new ideas into the realm of Federal Government policymaking from academia, business, unions, non-profits, state, local, and tribal governments, and individual citizens, as well as provide greater transparency to promote accountability and provide information for citizens about what their Government is doing.

As the President stated in his January 21, 2009, Memorandum for Executive Heads of Departments and Agencies, "Public engagement enhances the Government's effectiveness and improves the quality of its decisions. Knowledge is widely dispersed in society, and public officials benefit from having access to that dispersed knowledge."<sup>1</sup>

For example, those in academia often have more time to explore a problem (and its solutions) in depth than those who work inside an administration (who are often necessarily more focused on the day-to-management of government). Further, encouraging outside engagement in the decision-making process may help reduce "groupthink" and its symptoms, including the illusion of invulnerability, the mistaken belief in unanimity, and the tendency towards self-rationalization.<sup>2</sup> Finally, those outside government may not feel restrained by the practical limits of governing, which often allows for more creativity and "out-of-the-box" thinking when tackling public policy issues.

But while not being restrained by the practical limitations of governing can be a positive factor in policy development, not fully understanding those boundaries or how to present policy proposals (once they have passed the germination stage) in a form that government can implement may constitute a barrier to reaching the goals of OGI.

The process of making policy within the executive branch involves the collective action of a wide range of individuals, agencies, departments, policy councils with common and competing ideas and preferences. The failure to understand the nature of government, the limits on it (money, workforce size, and time, among others), and the tools it has at its disposal, can curtail the usefulness of ideas from academia, think tanks, the private sector, unions, and private citizens at large.

---

<sup>1</sup> See "Transparency and Open Government: Memorandum to Executive Heads of Departments and Agencies," The White House, January 23, 2010, [http://www.whitehouse.gov/the\\_press\\_office/TransparencyandOpenGovernment/](http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment/).

<sup>2</sup> Groupthink, a term coined by social psychologist Irving Janis (1972), occurs when a group makes faulty decisions because group pressures lead to a deterioration of "mental efficiency, reality testing, and moral judgment." Groups affected by groupthink ignore alternatives and tend to take irrational actions that dehumanize other groups. A group is especially vulnerable to groupthink when its members are similar in background, when the group is insulated from outside opinions, and when there are no clear rules for decision making.

During my service to two Presidents, including eight years at the White House, I would often meet with stakeholders in local and state government, industry, unions, and non-profits. Sometimes these groups would come forward with data highlighting a problem, and asking for some action. When I put the question forward as to what type of policy they were recommending, how much it cost, or how they thought it should be implemented, most often I would get nothing more in response than a general request for more funding (usually without a figure attached) or a call for greater (or in some cases less) regulations (but without specifics).

This is not to say that the work of think tanks, academia, and others is not useful. In fact, the data, analysis, ideas, and creativity of those outside government are absolutely vital if we are to improve government and make it more responsive to the needs of its citizenry. However, the failure to put these ideas into a context that government officials can understand, use and readily implement can limit the value of that work

Before going further, it should be noted that this is not a paper about public policy analysis. There is a growing and increasingly sophisticated body of literature about the nature of policy analysis (approaches and methods) and the development and assessment of policy alternatives. Any policy recommendation presented to government officials should be rigorously tested using scientific methods, include unbiased and extensive data, and be developed according to the models of rational decision making.<sup>3</sup>

Rather, the purpose of this paper is to improve the usefulness and timeliness of ideas from the public by explaining the following: who are the right government officials, what the internal workflows of the executive branch are, and why it is important to situate ideas into the right policy implementation tools.

## **Getting Into the Game: Identifying and Working with the Right Policy Stakeholders**

The first step to ensure a policy idea is given real consideration by the executive branch is to identify and target the right policy stakeholders. Unfortunately, that is often easier said than done. The Federal Government contains approximately 2 million full-time civilian employees spread over a multitude of distinct agencies, departments, offices, commissions, and councils with different responsibilities, interests, and levels of authority. Understanding what these entities do, and the extent of their authority, is key to a policy proposal's prospects.

There are three major types of governmental entities in the executive branch. The first is the Cabinet-level agency (CLA). CLA's include agencies that have been designated by Congress as having cabinet-level status (their heads sit on the President's Cabinet and are in the line of succession), like the Department of Treasury, as well as large agencies that have major

---

<sup>3</sup> Michael Kraft and Scott Furlong, *Public Policy: Politics, Analysis, and its Alternatives*, CQ Press, Washington, DC, 2010.

programmatic and regulatory responsibility over a specific policy area, such as the Environmental Protection Agency (EPA).<sup>4</sup>

These types of agencies typically have programmatic authority (they distribute money) and some regulatory authority (either programmatic or enforcement). The majorities of their staffs are made up of career civil service employees, but are headed by political appointees, many of whom need to be appointed by the President and confirmed by the Senate. These agencies also typically receive their funding (administrative, programmatic, and regulatory) through the appropriations process.

For agency-specific policy proposals (versus inter-agency), the current procedure is to submit the idea to the relevant agency's office of policy development, secretary's office (the Chief of Staff and others), or at the appropriate programmatic office. If the agency rejects the idea, then approaching the White House policy offices or the Office of Management and Budget (OMB) is the next option.

Independent agencies (IA) vastly outnumber cabinet departments and their influence and the range of issues they address vary greatly.<sup>5</sup> While there is no universal definition of IAs, they often share some of the same characteristics: many are fully or partially self-funded through fees from the industries or individuals they regulate, most are headed by individuals who are nominated by the President and confirmed by the Senate, but who cannot be removed unless for "just cause". Also, their terms-in office are often not con-current with those of the President. Finally, these agencies typically have regulatory enforcement responsibilities and do not typically run programs and hand out money.

Influencing CLAs and IAs can be done both formally (for example, through the public comment period for regulations) and informally (contacting program officers, chief of staff's, policy advisers, and others an agency directly or through a third-party).<sup>6</sup> In the past, affecting policy decisions made within the Executive Office of the President (EOP) and the White House (WHO) was usually done on an ad hoc basis through a point of contact. Of course, gaining access to staff in the EOP and WHO is not easy considering the time constraints placed on staff, but, doing so may increase the likelihood that a particular idea may be included in the administration's agenda.

The EOP and WHO policy councils are the third major type of government entity in the executive branch. The policy councils are important organizations that often get little notice in the press or among the general public (with the exception of the National Security Council).

---

<sup>4</sup> It should be noted that the heads of these types of agency's (EPA, Small Business Administration, etc.) are often members of a particular President's cabinet even though their agencies are not designated as "cabinet agencies."

<sup>5</sup> See <http://www.usa.gov/Agencies/Federal/Executive.shtml>.

<sup>6</sup> On average, Federal agencies and departments issue nearly 8,000 regulations per year. Each day, public users may submit comments on these regulations using Regulations.gov.

However, these councils serve an important function in the policy development process. Some of the roles that the policy councils can play include:

- Advising the President on policy matters;
- Arbiters between other actors in the policymaking process;
- In-house think tanks for policy development;
- Guardians of the President's agenda.

Policy councils are different from agencies and departments outside the EOP. First, they have minimal programmatic and regulatory responsibilities or specific constituencies outside of the President. This can help increase the perceived legitimacy of their role in the policymaking process, but can be easily lost if they do not act as "honest brokers" in handling agency disputes.

Second, the policy councils are primarily made up of political appointees or academics on rotation from universities and colleges directly under control of the President and senior White House staff. As such, their staffs are highly accountable to the President and they have the ability to impact the decision making process at different points in the policy process. However, these institutions also tend to lack the resources and programmatic knowledge of the agencies and turnover is relatively high.

For those outside of the government, the councils offer a very important potential gateway into an administration's policy process. The councils have the ability to propose having an idea included in the State of Union or adding it to the President's list of priorities, thus effectively giving the policy the presidential seal of approval.

While the councils can potentially move ideas to the top of the President's list of priorities, getting someone to champion an idea is not easy. First, policy staffs in the EOP have severe time constraints, and are not easily accessible. Further, it is not always clear who is the right person on a particular issue or which office has responsibility for a particular policy area.

Below is a list of the key policy offices in the EOP and WHO:

### **National Security Council**

The National Security Council (NSC) is the President's principal forum for considering national security and foreign policy matters with his senior national security advisors and cabinet officials. Since its inception under President Truman, the Council's function has been to advise and assist the President on national security and foreign policies and serves as the President's principal arm for coordinating these policies among various government agencies.

The National Security Council was established by the National Security Act of 1947 (PL 235 - 61 Stat. 496; U.S.C. 402), amended by the National Security Act Amendments of 1949 (63

Stat. 579; 50 U.S.C. 401 et seq.). Later in 1949, as part of the Reorganization Plan, the Council was placed in the Executive Office of the President.<sup>7</sup>

The NSC is chaired by the President. Its regular attendees (both statutory and non-statutory) are the Vice President, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, and the Assistant to the President for National Security Affairs. The Chairman of the Joint Chiefs of Staff is the statutory military advisor to the Council, and the Director of National Intelligence is the intelligence advisor. However, under President Obama the NSC's reach has been extended beyond the range of traditional foreign policy issues and has become a much more elastic body, with Cabinet and departmental seats at the table – historically occupied only by the secretaries of defense and state – and determined on an issue-by-issue basis.<sup>8</sup>

The administration has also created new NSC directorates to deal with such department-spanning 21st-century issues as cyber security, energy, climate change, nation-building and infrastructure. Many of the functions of the Homeland Security Council, established as a separate White House entity by President Bush after the terrorist attacks of Sept. 11, 2001, were subsumed into the expanded NSC. Under the Obama administration, the NSC has an interest in the international dimensions of open government.

### **National Economic Council**

The creation of the National Economic Council (NEC) finds its origins in the collapse of the Soviet Union and the 1991 recession. Looking to ensure America did not lose its economic predominance, President William Clinton wanted to establish a more coordinated and centralized policy development and planning apparatus over economic policy. In 1993 the NEC was created by executive order.

The NEC operation is very closely modeled on the NSC. The office is led by an assistant to the President with a number of deputies (anywhere from one to three) and is staffed by political appointees who are experts in a range of areas from health care to tax policy. Like the NSC, the NEC has regular meetings with their agency members. Although it has a much smaller staff, the number of agencies on the council is much greater than the NSC.

The NEC has four principal functions; to coordinate policy-making for domestic and international economic issues, to coordinate economic policy advice for the President, to ensure that policy decisions and programs are consistent with the President's economic goals, and to monitor implementation of the President's economic policy agenda.

The NEC is composed of numerous department and agency heads within the administration, whose policy jurisdictions impact the nation's economy. The NEC Director works in conjunction with these officials to coordinate and implement the President's economic

---

<sup>7</sup> See <http://www.whitehouse.gov/administration/eop/nsc/>.

<sup>8</sup> Karen De Young, "Obama's NSC Will Get New Power," *Washington Post*, February 8, 2009



policy objectives. The Director is supported by a staff of policy specialists in various fields including: agriculture, commerce, energy, financial markets, fiscal policy, healthcare, labor, and Social Security.

The agencies that are members of the NEC include:

- Department of the Treasury
- Department of Commerce
- Department of Labor
- Department of Housing and Urban Development
- Department of Agriculture
- Department of Transportation
- Department of Health and Human Services
- Department of Energy
- Office of Management and Budget
- The Council of Economic Advisors
- United States Trade Representative
- The Office of the Vice President

### **Domestic Policy Council**

The Domestic Policy Council (DPC) of the United States is the principal forum used by the President of the United States for coordinating and developing domestic policy matters, excluding economic policy issues, which are primarily the domain of the NEC. The council forms part of the Office of White House Policy Development, which contains the DPC, the NEC and various subordinate offices, such as the Office of National AIDS Policy. The Director of the DPC is titled the Assistant to the President and Director of the Domestic Policy Council. There are also two deputies who serve on the DPC; one is responsible for the day-to-day policy work of the Council, the other serves as Director of the Office of Social Innovation and Civic Participation. Among the primary issues the DPC is charged with overseeing for the President include education, criminal justice, and immigration policy.

Like its sister councils the NSC and NEC, the DPC has a membership of cabinet and non-cabinet agencies and offices. These include the Department of Education, the Department of Health and Human Services, the Department of Labor, the Department of Agriculture, the Department of Treasury, the Department of Energy, the Department of Housing and Urban Affairs, the Department of Transportation, the Department of Commerce, the Department of the Interior, the Department of Veterans Affairs, the Department of Homeland Security, the Department of Justice, and the Office of the Vice President. Additional participants include the

Office of Management and Budget and the Environmental Protection Agency. The President is Chair of the DPC and the Vice President is Vice Chair.

### **Office of Science and Technology Policy**

The Office of Science and Technology Policy (OSTP) is an office in the Executive Office of the President (EOP), established by Congress on May 11, 1976 with a broad mandate to advise the President on the effects of science and technology on domestic and international affairs.<sup>9</sup>

The OSTP's mission is set out in the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Pub. L. 94-282). The act calls for the OSTP to serve as a source of scientific and technological analysis and judgment for the President with respect to major policies, plans, and programs of the Federal Government.

It further authorizes the OSTP to:<sup>10</sup>

- Advise the President and others within the Executive Office of the President on the impacts of science and technology on domestic and international affairs;
- Lead an inter-agency effort to develop and implement sound science and technology policies and budgets;
- Work with the private sector to ensure Federal investments in science and technology contribute to economic prosperity, environmental quality, and national security;
- Build strong partnerships among Federal, State, and local governments, other countries, and the scientific community;
- Evaluate the scale, quality, and effectiveness of the Federal effort in science and technology.

OSTP handles a broad range of scientific and technological issues within the Executive Office of the President. OSTP has 4 divisions: Science, Technology, Energy and Environment, and National Security and International Affairs. Examples of current OSTP priorities include supporting funding for research and development, improving science, technology, engineering and mathematics (STEM) education, advancing the administration's open government agenda, promoting innovation in key technologies such as health IT, clean energy, and nanotechnology, and encouraging international collaboration in science and technology. The OSTP has approximately 80 staff members, many of whom are experienced scientists and engineers functioning as assistant directors or policy analysts. OSTP is also responsible for managing the National Science and Technology Council.

---

<sup>9</sup> See <http://www.whitehouse.gov/administration/eop/ostp>.

<sup>10</sup> See <http://www.whitehouse.gov/administration/eop/cea>.

## **Council of Economic Advisors**

Established by Congress in the Employment Act of 1946, the CEA consists only of a chair and two members appointed by the President and confirmed by the Senate. The chair and its two members are responsible for establishing the positions by the council. The two members direct research activities of the council in particular fields, represent the council at meetings with other agencies, and generally work with the chair to formulate economic advice.<sup>11</sup>

In addition to the chair and two other members, the Council of Economic Advisors (CEA) has a small professional staff that includes a group of about ten senior staff economists, generally professors on one- or two-year leaves from their universities. They, in turn, are assisted by an additional ten junior staff economists, typically advanced graduate students who also spend only a year or two at the CEA. In addition, four permanent economic statisticians assist in the interpretation and identification of economic data.

The academic nature of the staff and of most CEA members distinguishes it from other government entities, particularly the NEC, whose staff focuses more on policy coordination while the CEA staff focuses on economic analysis for the President and his administration. Members and staff use their strong links to the academic community to obtain advice on technical issues.

## **Council on Environmental Quality**

The Council on Environmental Quality (CEQ) coordinates Federal environmental efforts and works closely with agencies and other White House offices in the development of environmental policies and initiatives. CEQ was established within the Executive Office of the President by Congress as part of the National Environmental Policy Act of 1969 (NEPA) and additional responsibilities were provided by the Environmental Quality Improvement Act of 1970.<sup>12</sup>

Through interagency working groups and coordination with other EOP components, CEQ works to advance the President's environmental agenda. It also balances competing positions among those within the executive branch, and encourages government-wide coordination, bringing Federal agencies, State and local governments, and other stakeholders together on matters relating to the environment, natural resources and energy.

In addition, CEQ oversees the Office of the Federal Environmental Executive. The role of the Federal Environmental Executive is to promote sustainable environmental stewardship throughout the Federal Government.

---

<sup>11</sup> George Shambaugh and Paul Weinstein Jr., *The Art of Policymaking*, Pearson Longman, New York, N.Y.

<sup>12</sup> See <http://www.whitehouse.gov/administration/eop/ceq/about>.

The CEG also has some regulatory responsibilities as it is responsible for Federal Agency implementation of the environmental impact assessment process and acts as a referee when agencies disagree over the adequacy of such assessments.

In enacting NEPA, Congress recognized that nearly all Federal activities affect the environment in some way and mandated that before Federal agencies make decisions, they must consider the effects of their actions on the quality of the human environment. Under NEPA, CEQ works to balance environmental, economic, and social objectives in pursuit of NEPA's goal of "productive harmony" between humans and the human environment, 42 U.S.C. §4331(a).<sup>13</sup> In addition, NEPA assigns CEQ the task of ensuring that Federal agencies meet their obligations under the Act. The challenge of harmonizing our economic, environmental and social aspirations has put NEPA and CEQ at the forefront of our nation's efforts to protect the environment.

## **Timing Your Swing: Understanding Internal Workflows in the Executive Branch**

Once you have identified the right policy stakeholder, step two is knowing when it is best to approach them with your proposal.

Imagine you are a major league baseball player who has just struck out to lose the World Series. As you are walking back to the dugout, a teammate who had been watching the game from the bullpen runs towards you and informs you that he has figured out that the opposing team's pitcher telegraphs his pitches. You look at your teammate in disbelief and finally mutter the words, "wish you had said something sooner."

As the scenario above underscores, information and ideas are only useful if shared at the appropriate juncture. This axiom "timing is everything" applies to policymakers and baseball players alike.

One of the biggest barriers to opening the halls of power up to ideas from the outside is timing. White House, EOP, and agency staff are under enormous time constraints. Most days their attention is reserved for the day-to-day responsibilities of governing, such as implementing existing laws and programs, negotiating with other agencies and offices, working with congressional staff or Members of Congress, reviewing testimony and public statements on important issues, or arbitrating disputes among different offices and/or departments.

Those periods when policy staffs in the executive branch do focus on idea development are centered on a few key processes, the timing of which is different depending on whether the entity is in the EOP or a cabinet agency. Understanding when these periods occur is vital for policymakers outside the Federal Government.

---

<sup>13</sup> Ibid.

## State of the Union

Two of these processes are annual occurrences. The first is the President's State of the Union (SOTU). The SOTU is an annual address presented by the President of the United States to the United States Congress. The address not only reports on the condition of the nation but also allows the President to outline his legislative agenda and national priorities to Congress.<sup>14</sup> The SOTU is typically given before a joint session of the United States Congress and is held in the House of Representatives chamber at the United States Capitol.

From Jefferson to Taft, the SOTU was delivered in writing, and was generally a report on the general condition of government and the nation at large. During the modern era, the SOTU has transformed into a policy agenda for the President, with list of recommendations that the chief executive requests Congress to act upon.

Work on the SOTU begins in earnest in mid to late summer, six months prior to the address which usually occurs in late January. Typically, the EOP staff begins the process by organizing inter-agency working groups to develop recommendations for ideas to be included in the SOTU. Any ideas that are included, are considered part of the President's agenda, and are given priority by the White House for enactment, funding, and implementation.

The process of developing ideas for the SOTU lasts through the fall, in some cases into December. Initially a list of ideas from the agencies and EOP offices is compiled by the White House and analyzed and debated throughout the summer and early fall. If a consensus is not achieved, options are laid out in a decision memorandum to a principals meeting of top White House and cabinet heads. Their recommendations (and any disagreements), are then sent to the President for his decision. Once a policy agenda is complete, the ideas are included in a document accompanying the SOTU which is sent to Congress, the press corps, and published for the public at large. The President's top priorities are referenced in the SOTU itself.

For a policy idea from the outside to be seriously considered, it must actually be placed into the process at the beginning of the SOTU process, around July or August prior to the address' delivery. It is at this point that policy staff in government will be most receptive to outside ideas. Why? Because it is during this time that EOP staff have been directed to cast a wide net for new ideas, and they know that any idea will have adequate time to be vetted. Many of those outside government mistakenly assume that they can submit ideas for the SOTU a month or two before the speech. In reality, that is much too late, particularly for ideas that have a budget impact. Policy ideas must go through many stages before they get to the President. This includes budget estimates, legal reviews, economic and policy impact assessments, political/legislative analysis, and sign-off from the appropriate agencies and EOP offices.

---

<sup>14</sup> "Ben's Guide to the U.S. Government," Government Printing Office, <http://www.gpoaccess.gov/sou/index.html>.

## The Budget

Like the SOTU, the “The Budget of the United States” (colloquially referred to as “the President’s budget”) is also used as a tool for the administration to outline its policy and legislative agenda for the upcoming year. It is important to note that the President’s budget is not a law, but rather a recommendation to the Congress.

In 1921, the Congress passed the Budget and Accounting Act. This law required the President to submit to Congress an annual budget for the entire Federal Government. The Act also created the Bureau of the Budget, now called the Office of Management and Budget (OMB), to review funding requests from government departments and assist the President in formulating the budget.<sup>15</sup>

Current law requires the President to submit a budget no earlier than the first Monday in January, and no later than the first Monday in February.<sup>16</sup> Typically, Presidents submit budgets on the first Monday in February.

The President’s budget request constitutes an extensive proposal of the administration’s intended spending and revenue plans for the following fiscal year. The budget proposal includes volumes of supporting information intended to persuade Congress of the necessity and value of the budget provisions. In addition, each Federal executive department and independent agency provides additional detail and supporting documentation to Congress on its own funding requests.

While initially envisioned as a way to help reign in deficits and improve the coordination of budget policymaking, the President’s budget has become a tool of policymaking as well. As such, it is, along with the SOTU, the primary, annual process through which new ideas are submitted for consideration by the executive branch.

However, unlike the SOTU, the budget process is done on a much larger scale, and the opportunities for those outside the government to submit ideas are greater than in the SOTU process.

---

<sup>15</sup> Daniel C. Desimone, “The Making of the Federal Budget,” *Government Finance Review*, June 2002.

<sup>16</sup> See 31 U.S.C. 1105(a).

**Table 1. Major Steps in the Development of the President's Budget within the Executive Branch<sup>17</sup>**

Steps	Timeline
OMB issues Spring planning guidance to executive branch agencies for the upcoming budget. The OMB Director issues a letter to the head of each agency providing policy guidance for the agency's unique budget request (absence more specific guidance, the out year estimates included in the previous budget serves as a starting point for the next budget).	Spring
OMB and the relevant executive branch agencies discuss budget issues and option. OMB works with the agencies to: 1) identify major issues for the upcoming budget; 2) develop and analyze options for the upcoming Fall review; and 3) plan for the analysis of issues that will need decisions in the future.	Spring/Summer
OMB issues Circular A-11 to all Federal agencies with official detailed instructions for submitting budget data and materials.	July
Executive branch agencies (except those that are exempt) make budget submissions to OMB.	September
Fiscal year begins.	October 1
OMB conducts its Director Reviews. During this process OMB staff meet with senior agency representatives and analyze their proposals in light of presidential priorities, program performance, and budget constraints, often with input from White House and EOP offices and policy councils. During this process issues and options are presented to the OMB Director and other senior OMB officials for decision.	October/November
OMB briefs the President and EOP advisors on proposed budget policies. The OMB director recommends a complete set of budget proposals to the President after OMB has reviewed all agency requests and considered overall budget policies	Late November
Passback occurs. OMB usually informs all executive branch agencies at the same time about decisions on their budget requests.	Late November
Agencies may appeal to OMB and the President. An agency head may ask OMB to reverse or modify certain decisions. In most cases, OMB and the agency head resolve such issues, and if not, work together (and with White House staff) to present them to the President for a decision.	December
Agencies prepare and OMB reviews congressional budget justification materials. Agencies prepare these materials to explain their budget requests to the relevant congressional committees.	January
Transmission of the President's Budget to the Congress.	First Monday in February

The budget process cycle can take almost two years. Roughly one year before publishing the President's Budget, OMB issues its spring planning guidance to all executive branch agencies for upcoming budget. For policy experts outside the government, this is the first window in the budget process for sharing new ideas, reforms, etc. Often, during this time period, agencies will put together a memo on budget priorities that they will submit to OMB. Ideas

<sup>17</sup> Rick Mertens and Greg Henry, "Budget Process for Science and Technology," Office of Management and Budget, 2010.

included in this memo are often a starting point in a larger discussion within the administration on which priorities will be funded and which will not. In tight budget environments, it is very important for new ideas to be included on priority lists as early as possible. Submitting ideas to agency program offices, budget offices, and to OMB divisions during this window is optimal. Using think tanks, advocacy organizations, or academic institutions as a conduit can help improve the likelihood that an idea is given consideration. Individuals can also try to work with through congressional offices or through state and local officials.

However, if none of those options are available, the Internet now offers individuals a number of ways to engage in the policy debate. For example, many advocacy organizations and think tanks have blogs that are monitored by government agencies for ideas and information. In addition, government agencies have begun to establish online idea portals in which individuals and groups can offer proposals for specific projects. For example, the National Commission of Fiscal Responsibility and Reform (“Commission”) has maintained an ideas box that is reviewed by the Commission staff weekly.<sup>18</sup> Many question whether such online suggestion boxes are taken seriously by government. That partly depends on whether government is willing to commit resources to reviewing the ideas suggested, and whether citizens are willing to offer serious, well-researched ideas

In the summer, the second window for new ideas approaches. This period coincides with the early stages of development of the President’s SOTU policy agenda. During this time, agencies and OMB discuss budget options and issues, and OMB works closely with agencies in setting up their proposals for the “Director’s Review” in the fall. During this period, White House and EOP offices often look for ideas to include in the budget that will later become part of the President’s SOTU policy agenda. Often these ideas are in policy areas that the EOP feels have not been adequately addressed in the agency budgets. Reaching out to the EOP policy councils during this time can prove to be very opportune.

Following this period, ideas are generally winnowed down, not added from the list of administration budget priorities. Policy proposals are often cast aside or cut back in order to meet budget targets, and any ideas that do not have a relevant sponsor (an agency, the White House staff, OMB), will not survive the budget knife. Finally, at the end of the process, OMB and the EOP offices often need to cut from elsewhere in the budget in order to finance the President’s agenda. All these pressures mean government officials will be less inclined to consider new spending or tax ideas after the close of July.

### **Emergencies/Unexpected Occurrences**

Besides annual events like the SOTU and the President’s budget, there are also unscheduled windows for putting forward new policy ideas, like emergencies (such as military conflicts or

---

<sup>18</sup> See <http://www.fiscalcommission.gov/>.



natural disasters) or unexpected events (like a dramatic decline in the stock market or a major spike in the crime rate).

These periods are unpredictable, so outside policymakers cannot fully prepare for them. Nevertheless, when such events happened, the demand for new ideas inside the Federal Government is very high and presents a great opportunity for those policymakers who can develop well-thought out ideas quickly but thoroughly, or for “on the shelf” policies that can be modified to fit immediate circumstances.

## **Making Your Pitch: Policy Implementation Tools**

Often researchers are disappointed when they provide groundbreaking information and/or data to the government but the executive branch decides not to act upon it. Usually they blame politics, ideological differences, or bureaucratic inertia for the government’s indifference. While certainly all three can occur, in some cases the lack of progress is the result of something else: the failure of researchers to turn their research and/or data into real, usable policy.

If those outside the government want to maximize the likelihood that their work will be acted upon by government, they need to make sure they are not only talking to the right people at the right time, but also recommending policy in a format that can actually be implemented by government. That requires understanding policy process and the implementation tools available to policy makers.

### **Action Forcing Event**

An action-forcing event is an occurrence whose consequences are of a significant and immediate nature and which require at least a consideration of responses. Action-forcing events can be big occurrences, such as a military conflict or a natural disaster, or an important but more subtle event, such as new crime data or the introduction of legislation by a Member of Congress. The action-forcing event triggers the need for a decision (although the decision could be not to act). Those who are asking for a decision do so because they believe the situation is deserving of consideration at the highest levels.

Action-forcing events are used by government employees to initiate a dialogue and encourage policymakers to focus on the issue at hand. Action-forcing events can be either policy-related or political-related. For example, an upcoming election, a petition by a group that represents an important constituent, a Member of Congress requesting assistance are just a few examples.

For those policymakers outside government, understanding the nature and role of action-forcing events is important because 1) they provide a window of opportunity to influence the policy debate, and 2) they provide a rationale for considering a policy change.

## **Budget Impact**

One of the first questions asked by government policymakers regarding any proposal (particularly in the context of with today's high budget deficits), is will it cost anything and if so, how much? Without a serious budget estimate, most policy ideas will be put onto the backburner.

Besides scarce resources, the other reason budget estimates are important is that most executive branch staff rely on OMB for spending cost estimates or Treasury for revenue projections. Both agencies are overworked and focused on presidential priorities and because of the current fiscal climate may have a tendency towards rejecting proposals out of hand as being too costly. However, if a policymaker has a credible projection of cost, this can be used to serve as a starting point for or a counter to an OMB or Treasury estimate.

For example, in the 1990s, the White House was approached by a number of mayors from large urban centers asking for the creation of a tax incentive to encourage the cleanup of "brownfields."

Brownfield sites are abandoned or underused industrial and commercial facilities available for re-use. Expansion or redevelopment of such a facility may be complicated by real or perceived environmental contaminations.<sup>19</sup>

At that time, I was chief of staff of the White House Domestic Policy Council and, along with my colleague Mark Mazur (now Deputy Assistant Secretary for Tax Policy), was tasked to develop a brownfields tax incentive. Mazur and I developed a proposal to allow for the immediate expensing of brownfields cleanup accompanied with an estimate for its cost.

Concurrently, the Treasury's Office of Tax Policy modeled an estimate that was significantly higher than ours. However, because we had a cost projection of our own (and data supporting the figure), we were able to compare estimates and convince Treasury to recalculate the cost. The final figure for the proposal was significantly smaller than originally estimated by Treasury and subsequently the idea was included in the President's agenda and later enacted into law.

It is important to note that if the recommended proposal requires expenditures on behalf of the government, the budget estimate should include a one year, five-year, and ten-year projection and, if possible, a proposed offset to pay for the idea. Such an offset could include program elimination or reduction, savings from greater government efficiencies, or an increase in revenues either through tax increases, closing loopholes in the tax code, or ideas to decrease the tax gap (the difference between what the Internal Revenue Service estimates is owed and what it actually collects).

---

<sup>19</sup> "Glossary of Terms for Brownfields" (URL), Environmental Law Institute, <http://www.brownfieldscenter.org/big/glossary.shtml>, retrieved November, 29, 2009.

## **Projected Impact of Policy in Real Terms**

Failing to project the impact of any new policy concept in real terms is often a death knell for an idea. Too often proposals are accompanied by anecdotal evidence, case studies, or input-focused goals rather than real projections of possible outcomes.

Ideas with realistic, well-researched, scientifically supported projected impacts are more likely to gain support in an administration and Congress. Furthermore, given the current state of the Federal budget, ideas that have measurable goals will often be given preference for scarce funding.

What are real impacts? Some examples include: jobs created, number of murders reduced, higher reading scores, decreased waiting time at airport security lines, increased level of technology exports, etc.

## **Political Analysis**

As a result of the highly partisan environment in Washington, it is useful in most cases to include a political analysis when presenting a new idea. An analysis should always include both a strategic and tactical examination of the policy presented. A strategic analysis should look at what are the long-term impacts of the proposal once it becomes law. Will it change the political dynamic between parties, the branches of government, and/or the levels (Federal, State, local) of government? How will the proposal impact the rest of the administration's agenda? Will it make it easier to enact other ideas or will it use up the President's political capital? Will the idea change the public's view of government (will they trust it more or less), the President, or other members of the administration?

A tactical analysis should focus on how to implement the proposal. What is the best mechanism (legislation, executive order, public/private partnership) for employing the idea? What political tradeoffs will need to occur in order to gain enactment? If legislation is the best implementation tool, which Members of Congress and which groups will be supportive, and which will be opposed? How do you build a majority coalition in favor of the idea? Elected officials are more likely to seriously consider ideas that will cause political backlash if they fully understand which groups, individuals will be upset and why. This allows them to develop a counter strategy. This also applies to ideas with strong political upsides.

Outside advisers should address these questions, and polling and focus group data, or political research (voting records, public statements) can be helpful in putting together a political analysis that will reassure government officials.

## **Recommending the Right Policy Tool**

In thinking about addressing problems, policymakers must have a full understanding of what government can and cannot do. Policy tools reflect both the scope and limits of

government. In order to maximize the impact of what is being proposed, it is absolutely essential that policymakers recommend the “right” policy tool.

The government has at its disposal a set of policy tools that effectively fall into three broad categories that Bemelmans-Videc, Rist, and Vedung have named carrots, sticks, and sermons.<sup>20</sup> Any of the instruments in these three categories (see Table 2) “may vary among criteria like resource intensiveness, targeting (precision and selectivity), or political risk (the legitimacy criterion).”<sup>21</sup>

Each policy tool will produce different outcomes depending on their effectiveness, efficiency, equity/fairness, impact upon liberty/freedom, administrative and technical feasibility, political viability, and social acceptability. In deciding on what policy tool or mix of tools to propose using, policymakers must decide what will ensure the optimal scores on the criteria mentioned in Table 3.

Over the years, the number and complexity of policy tools outlined in Table 2 has grown dramatically. In part this has occurred because the lack of resources (money) due to structural deficits (except for a few brief periods such as the late 1990s), has forced policymakers to be more creative and target benefits more narrowly. It is also the result of the growing numbers of areas in which government is now involved. As a result, many of today’s policy implementation tools increasingly more complex than before. Policymakers need to be cognizant of the growing catalog of policy tools available to those in the executive branch.

For example, according to the Congressional Research Service, there are over 100 major tax incentives.<sup>22</sup> These tax incentives come in many types: deductions, credits, deferral, rebates, and expensing. In many instances, different tax incentives exist to encourage similar behavior. For example, there are six major incentives to help students and parents pay for college at the time of enrollment or after graduation. In addition, there are several other incentives to help parents and relatives save for a dependent’s college tuition.

---

<sup>20</sup> Marie-Louise Bemelmans-Videc, Ray C. Rist, and Evert Vedung (Edited), *Carrots, Sticks, and Sermons*, Transactions Publications, London, 2007.

<sup>21</sup> Ibid.

<sup>22</sup> Thomas L. Hungerford, “Tax Expenditures: Trends and Critiques,” Congressional Research Service, September 13, 2006.

**Table 2. Policy Tools**

<b>Tool</b>	<b>Examples</b>	<b>Carrot</b>	<b>Stick</b>	<b>Sermon</b>
Subsidize	Direct payments, loans, loan guarantees, price supports, tax incentives, grants.	X		
Allocate scarce resources	Airlines slots at airports, housing voucher eligibility limits, allocation of wireless spectrum		X	
Tax	Raise or lower income tax rates, impose tax on specific good like gasoline or tobacco to influence behavior/use.	X	X	
Privatize	Sell or transfer government assets to private sector	X	X	
Contract	Contract out for government services or buy products for government agencies (weapons systems or IT)	X		
Regulate	Licensing, inspection, enforcement of standards in a broad range of areas including the environment, financial services, health care, food safety, worker safety, etc. Can involve deregulation and regulatory reform as well as new regulations.		X	
Conduct Research	National Science Foundation support for university-based research in broad range of disciplines, NIH support for biomedical research.	X		
Educate	Public campaigns led by senior official such as President, First Lady, Vice President on an important issue (reducing childhood obesity, increasing interest in math and science education).			X
Prizes	Cash or other prizes for the first team to accomplish a particular goal, such as the Automotive X Prize for 100 miles/gallon auto.	X		
Disclosure	SEC requirements for disclosure to protect investors and improve efficiency of capital markets.		X	
Label	“Energy Star” - Energy/EPA program helps consumers and businesses identify energy-efficient products and services.	X		X
Create markets	Emission trading system to reduce sulfur dioxide emission.	X	X	
Coordinate	Improve the coordination between different agencies to reduce duplication, identify synergies, and clarify roles and responsibilities.	X	X	X
Manage	Improve public sector productivity and performance by establishing clear goals, increasing support for evaluation and capacity of government agencies to learn from agencies, and create problem-solving networks.	X	X	X

**Table 3. Criteria for Evaluating Policy Tools and Proposals**

<b>Criteria</b>	<b>Definition</b>	<b>Limitations</b>	<b>Uses</b>
Effectiveness	Probability of success	Agreement on definition of success. Future uncertainty	Most policy proposals
Efficiency	Achievement of goals in terms of lowest possible cost	Measuring in terms of cost benefits not always easy or possible. Sometimes other factors more important.	Tax, regulatory, budget, monetary policy.
Equity	Fairness in distribution of policy's costs and benefits on all strata's of society	Hard to measure. Disagreements on how to define equity.	Access to health care and education, civil rights, issues involving those with disabilities.
Liberty/Freedom	Extent to which policy restricts privacy and rights/choices.	Often entangled in ideological debate.	Free speech, property rights, Internet policy.
Administrative/Technical Feasibility	The ability of government to implement a policy as intended given technical and administrative limitations	Policies are often proposed and enacted without feasibility studies or test trials.	Most policy proposals
Political Viability	Likelihood of political support	Hard to determine. Political support or opposition can change quickly because of events.	Most policy proposals. The more controversial the more relevant.
Social Acceptability	The extent to which the public will accept a proposal.	Difficult to analyze or determine, even when using technical measures like polling, focus groups, etc. Some measures are more scientific than others. Interpreting data is subjective.	Most policy proposals.

Why is familiarity with the many different types of policy tools important to policymakers outside of the executive branch? First, each of these tools has different strengths and weaknesses. For example, tax credits can be made refundable to benefit lower income at the same level as higher income families. But such credits can also be subject to abuse. Deferral of taxes may encourage people to save, but can also create unintended economic distortions, such as too much savings during recessionary periods when more spending might be a more desirable societal goal. Furthermore, almost all tax incentives that are targeted make the code more complex and may be a factor in the underreporting of tax receipts. But at the same time, there are a number of policymakers who believe providing subsidies through the tax code is less bureaucratic than

providing support through agency-specific programs and therefore, more effective. Table 4 lists the main types of targeted tax incentives available to policymakers today.

**Table 4. Primary Types of Targeted Tax Incentives**

Type	Explanation
Deduction	An expense or an amount of money which lowers your taxable income. It is subtracted “off-the-top” from the amount of money you made throughout the year, your gross income. Once all deductions are subtracted, this amount is known as your adjusted gross income, or AGI. Examples of deductions include contributions to a traditional IRA, student loan interest that was paid during the year, tuition and expenses, alimony paid, and classroom-related costs for teachers. There are also deductions that are related to self-employment income. The standard or itemized deductions are subtracted from the AGI, yielding your taxable income. This is the number which determines the amount of tax that you owe
Credit	Dollar-for-dollar reduction which are subtracted from your tax liability. Let’s say, for instance, that you qualify for a \$100 tax credit. The government is, in essence, saying to you “We are giving you credit for having already paid \$100 in tax.” Therefore, \$100 is subtracted directly from the amount of tax that you owe. There are tax credits for college expenses, for retirement savings, even for adopting children. Some well-known tax credits include the American Opportunity education credit, the Earned Income Credit, and the Child Tax Credit. There are many more special-interest and business or investment credits as well.
Deferral	Allows taxpayers to delay paying taxes to some future period. In theory, the net taxes paid should be the same. In practice, due to the time value of money, paying taxes in future can be preferable (for the taxpayer) to paying them now. Taxes can sometimes be deferred indefinitely, or may be taxed at a lower rate in the future, particularly for deferral of income taxes. It is a general fact of taxation that when taxpayers can choose when to pay taxes, the total amount paid in tax will likely be lower. By deferring taxes on the returns of an investment, the investor benefits in two ways. The first benefit is tax-free growth: instead of paying tax on the returns of an investment, tax is paid only at a later date, leaving the investment to grow unhindered. The second benefit of tax deferral is that investments are usually made when a person is earning higher income and is taxed at a higher tax rate. Withdrawals are made from an investment account when a person is earning little or no income and is taxed at a lower rate.
Expensing and Accelerated Depreciation	Schemes that allow business firms to write off assets faster than true economic depreciation are referred to as accelerated depreciation. At the extreme of accelerated depreciation, the firm expenses—that is, deducts from taxable income the assets’ full cost of acquisition. The result can be a dramatic reduction in tax liability.

For those outside government, it is therefore vital to not only be familiar with the different types of policy tools, but also the strengths and weaknesses of those tools. The criteria in Table 3 can also be used in identifying the various strengths and weaknesses of each policy implementation tool.

It is also important to remember that many policy tools can only go into effect once there is a legal basis for action. For example, the creation of a new tax incentive will probably require the enactment of legislation, whereas a decision by the Federal Government to buy more fuel efficient cars for government agencies might require an executive order from the President.

Like policy tools, these legal starting points have their unique strengths and weaknesses, and those outside government need to be aware of these when recommending the use of a certain policy tool. The nature of each legal process may dramatically change the nature and impact of the tool envisioned.

Let's take legislation as an example. While the President cannot submit legislation or compel Congress to vote on a bill, he, nevertheless, has an important role in the legislative process. The President can direct his administration to draft bills, convince allies in Congress to introduce legislation, and use the powers and trappings of his office, including the threat of veto or the promise of support for legislation, to get laws enacted.

Despite these sources of influence, using the legislative process to gain enactment of laws is not without its drawbacks. Bills must be negotiated through Congress, and most legislation never makes it into law. Furthermore, even those bills that do become law are often quite different than what the President and his administration may have first envisioned. Finally, the legislative process is usually long and time-consuming. Only in the gravest emergencies are bills enacted in anything close to "real-time."

While enacting laws can be a long and complicated process, executive orders are often perceived a faster alternative for igniting change. An executive order in the United States is an order issued by the President as the head of the executive branch of the Federal Government. In other countries, similar edicts may be known as decrees, or orders-in-council.

U.S. Presidents have issued executive orders since 1789, usually to help officers and agencies of the executive branch manage the operations within the Federal Government itself. Executive orders do have the full force of law since issuances are typically made in pursuance of existing statutes (some of which specifically delegate to the President some degree of discretionary power) or are based in a power inherently granted to the executive by the Constitution.<sup>23</sup>

While executive orders have the full force of law, they are limited in scope by the source of their legal authority (the Constitution and existing statutes). In addition, subsequent administrations can override an executive order just as easily as it was put into force, and Congress could withhold the necessary funding needed to implement the President's directive.

Yet despite their sometimes controversial nature and limited range of authority, executive orders have grown in use by Presidents. The primary reason for this is that they can be put into

---

<sup>23</sup> U.S. Presidents have issued executive orders since 1789. Although there is no Constitutional provision or statute that explicitly permits executive orders, there is a vague grant of "executive power" given in Article II, Section 1, Clause 1 of the Constitution, and furthered by the declaration "take Care that the Laws be faithfully executed" made in Article II, Section 3, Clause 4. At the minimum, most executive orders use these Constitutional reasoning's as the authorization allowing for their issuance to be justified as part of the President's sworn duties,[1] the intent being to help direct officers of the U.S. executives carry out their delegated duties as well as the normal operations of the Federal Government - the consequence of failing to comply possibly being the removal from office. (The American Presidency Project, [www.presidency.ucsb.edu/executive\\_orders.php](http://www.presidency.ucsb.edu/executive_orders.php).)



effect without congressional approval. This is especially relevant for Presidents who have low approval ratings, in the last year of their final term of office, or interacting with a Congress (or one of the two chambers) controlled by an opposition party. Policy analysts hoping to influence an administration should keep these circumstances in mind when suggesting whether to recommend a legislative or executive order as the best way to put in effect a policy idea.

## **Expanding Opportunities for Informed Participation**

Unlike their counterparts in academia, the private sector, and the foundation world, policymakers in the executive branch are not afforded the opportunity to address policy matters in a vacuum. While policymakers outside of government often operate without the requirement of having to offer specific, detailed, solutions to the problems they identify, test, and measure, those inside the halls of power do not have that same luxury. Government officials are restrained by the specific types of policy tools they have at their disposal. Such tools, like the policies themselves, have strengths and weaknesses that need to be understood if the best result is to be attained.

Furthermore, the process of making policy within the executive branch involves the collective action of a wide range of individuals, agencies, departments, policy councils with common and competing ideas and preferences. Finally, the policy development process transpires at different stages throughout a particular year. To effectively participate in this complex process, an outside individual or entity must understand these variables.

Organizations (e.g. foundations, non-profits, agencies) could take a number of steps to collect, synthesize, organize, and make available relevant information that would broaden opportunities for utilization. Some of this information would be broadly relevant to the policy process in general, while other kinds of information would be germane to specific policy domains, such as health, education, energy, science and technology, etc. Examples include:

- “Tacit” information that successful policy-makers and organizations acquire over time about how to be effective, which can be acquired through oral history, ethnography, interviews and biographies;
- More detailed taxonomies of different policy instruments, with examples of the documents that are used to implement these policies, such as executive orders, regulations, policy speeches, strategy documents, legislation, rule-making, requests for proposal, decision memoranda;
- Case studies of policy decisions and policy initiatives, and the role that external actors and experts played in shaping that policy (e.g. a collection of case studies on the role of the economics profession called *Better Living Through Economics*);

- “Maps” of particular policy domains, which might include key actors, beliefs and preferences of key actors, history and evolution of policy, current policy debates, relevant literature reviews, etc.

The availability of this information would be particularly helpful to academics, practitioners, and non-profit organizations that are not able to afford lobbyists. A relatively low-cost experiment would be to determine whether the availability of this information in a well-organized and easy to understand format could improve the ability of outside stakeholders to provide high-quality advice.