



GOVERNOR'S OFFICE GUIDE

APPOINTMENTS

Office of Management Consulting & Training
2006 Management Note

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Overview

The governor's authority to select and nominate persons to positions within his or her office, administration or cabinet, and to state boards and commissions, is one of the most important responsibilities associated with the governor's office. Because the governor can manage only a limited number of the state government functions assigned to his or her administration personally, the authority to make gubernatorial appointments provides him or her with the ability to extend his or her reach and influence substantially by selecting individuals who will carry out a much broader range of management and policymaking functions. The gubernatorial appointment process provides the personnel necessary to lead state departments and agencies and promote the governor's policy objectives within state boards and commissions.

The success or failure of a governor can depend largely on the quality of his or her appointments. Because of the large number of appointments that must be made, the governor must implement an appointment process. An effective appointment process includes delegating responsibility for appointments; defining the governor's role in the appointment process; determining what appointments must be made and classifying them; creating prospective candidate lists and evaluating applicants; establishing procedures for hiring; maintaining effective legislative, political, and public relations; and ensuring the success of gubernatorial appointees.

The gubernatorial appointment process and the choice of appointees can send a clear message about the governor's policy positions and management objectives to the public and state government. The appointment process also offers the governor an early opportunity to place key personnel and gain some control over the state bureaucracy.

The quality of appointments is critical, because the governor's appointees are perceived as extensions of the office. A good appointment will reflect well on the governor, while a bad appointment may undermine his or her programs and policies—or even embarrass the governor. The public will form a lasting impression of the governor based on the appointments made early in his or her administration.

Similarly, the appointment process is an important component of the governor's relationships with the legislature and political and interest groups. They may view gubernatorial appointments as an indication of the degree of cooperation or friction that exists between them during the governor's term. Used effectively, the appointment process can build bridges with legislators and political and interest groups that will enhance support for the governor. The appointment process is an important element of the transition and must remain a high priority in subsequent months and years.

Organization and Staffing

Gubernatorial appointments afford the governor many opportunities to enhance his or her influence. Because the power of appointment increases the degree of control the governor can have over the executive branch, the appointment process offers the governor a chance to positively influence the workings of the state bureaucracy. **Judicious appointment decisions decrease the possibility that the governor will need to deal with ineffective, obstructive or disloyal personnel during the administration.** They also offer opportunities to minimize unnecessary conflicts and build support for key gubernatorial initiatives with the state legislature, political leaders, and special interest groups. The governor must thoughtfully assign staff responsibility for this key function, and he or she may want to consider consulting with outside resources on appointments.

Assigning Staff Responsibility for Appointments

It is important to standardize the policies and procedures for selecting candidates for political appointments to ensure this difficult process runs as smoothly as possible. Delegating responsibility for appointments is one way to help prevent friction among staff members and between the governor's staff and agency heads.

Once the governor establishes the parameters of the appointment process, he or she has many options for delegating responsibility for appointment functions. For example, the governor can:

- create an appointment office or name an appointment officer on the governor's senior staff;
- assign appointment functions to other gubernatorial staff positions;
- delegate appointment functions to a state personnel agency; or
- give appointment functions to state agency heads.

Different types of appointments or functions within the appointment process can be delegated in different ways. The nature of the delegation must be made clear. A staff member must understand whether the governor is assigning responsibility for a particular position or function—or whether responsibility for the entire appointment process, including final decisions, is being delegated. For example, the governor's political aide may be expected to reach out to the party, while the governor's legislative aide may be responsible for helping ensure confirmation, and the press secretary may be asked to announce new appointees.

The staff member responsible for appointments should understand the degree of interaction and involvement the governor desires in the appointment process.

Appointment staff also should anticipate how the nature of their positions and their work may bring about an unavoidable lack of popularity among governor's staff and the public. The adage "one appointment equals 1,000 enemies" holds true.

Consulting with Outside Resources on Appointments

The governor needs to establish clear guidelines concerning the involvement of individuals beyond immediate staff in the appointment process. Involvement in the appointment process can range from informal consultation to formal procedures for securing candidates or reviewing potential appointees. Although such procedures can help build political support for the governor and/or the governor's appointment program, care is required to ensure the governor's decision-making authority is preserved and appointees understand the need for loyalty to the governor. Outside resources that can provide useful consultation include:

- legislative leaders;
- legislators from impacted geographical areas;

- legislators on the committee with jurisdiction over a particular agency or issue;
- agency heads;
- party officials or political advisors;
- interest groups in a specific policy area; and
- community organizations in specific regions.

In many states, the governor has the authority to appoint subcabinet personnel within state agencies. In this case, the governor must decide whether to select subordinate personnel within state agencies or delegate this responsibility to agency heads. This decision has implications for the governor's relationship with agency staff. For example, the governor may want to control the appointment of subordinate agency personnel to help ensure personnel loyalty or achieve a balance in top-level positions. On the other hand, delegating the selection of subordinates to the agency head will enhance the authority of that individual and make it easier for the governor to hold him or her accountable for the conduct of the department. This decision depends primarily on the governor's preference and leadership style.

Roles and Responsibilities

An effective appointment process can enable the governor to avoid many potentially damaging situations. For example, by responding promptly to applicants and individuals submitting appointment recommendations, the governor will project an image of courtesy and efficiency. Without such a process, however, the governor may earn a reputation for administrative inefficiency and unresponsiveness.

An effective appointment process will help ensure time is not wasted on routine appointments and is instead focused on key appointments that require the most attention by the governor. In addition, an appointment process will also screen candidates to verify appointee qualifications and flag possible problems, such as conflicts of interest, personal liabilities, or falsified credentials.

Steps in an Effective Appointment Process

An appointment process that meets the needs of the governor's office includes:

- Delegating responsibility for the appointment process;
- Defining the governor's role in appointments;
- Obtaining a list of appointments to be made, terms of appointees, and qualifications;
- Classifying appointments into manageable categories;
- Creating a list of prospective candidates;
- Evaluating applicants;
- Reviewing required procedures for hiring and developing guidelines that adhere to state laws;
- Maintaining effective legislative, political, and public relations in the appointment of gubernatorial candidates; and
- Developing a strategy to help ensure the success of gubernatorial appointees.

Defining the Governor's Role in the Appointment Process

One of the first steps in the appointment process is to determine the governor's level of involvement with individual appointments. A governor must decide in which appointments he or she wishes to become actively involved and which to delegate or simply review. **The governor has many options in terms of his or her role in daily appointment decisions.**

The governor's role can include:

- preselection of an appointee, when the governor makes a selection single-handedly;
- active involvement in the search and screening process for important appointments;
- review of a limited list of final candidates;
- final approval of a single candidate; and/or
- delegation of the entire decision on a particular appointment or group of positions.

The governor must take an active part in developing the selection criteria that will guide all appointments to ensure a diverse pool of qualified candidates. These criteria should ensure a diverse pool of qualified candidates based on age, race, gender, geography, and physical ability. Establishing such criteria at the beginning of the administration will help avoid future misunderstandings and possible embarrassment for the governor.

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Classifying Appointments

After creating a list of all gubernatorially appointed positions, the appointment staff should classify these positions by type. Most appointive positions will fit into one of the following categories:

- the governor's personal and management staff, including key positions such as chief of staff, budget director, press officer, planning director, and junior staff appointments;
- agency staff, including agency heads and subcabinet appointments;
- boards and commissions with management responsibility or oversight authority;
- regulatory commissions; and
- other appointments, such as professional boards, advisory boards, and boards of trustees.

The governor's office must determine whether the governor will handle appointments personally, identify which positions are high-priority positions, and decide what additional positions are strategically important to the governor's agenda.

Of the primary personnel categories, the governor's personal staff, major agency positions, and appointments to policy-making boards are of the highest priority. Less critical personnel decisions, such as those relating to advisory and professional boards, often are handled in a routine manner by the governor's staff.

Securing Candidates

Once the governor's office has compiled a complete list of appointive positions, the appointment staff must begin compiling a list of potential job candidates.

Define the vacant position and the qualifications required for that position.

Statutory constraints and customary requirements should be identified. Equally important, however, is a clear understanding of the role the governor wants the appointee to play. For example, the list of candidates would be quite different for a governor seeking a corrections secretary to develop and implement a broad program of correctional alternatives than a governor seeking a strong disciplinarian to maintain order in state prisons.

Secure a list of candidates who meet the defined requirements. The number of candidates considered for a particular post may be restricted in certain cases. For some appointments, the governor's choice may be limited to candidates recommended by certain boards or professional groups, such as when an agency director must be selected from a list supplied by that agency's board, or a member of the physicians' licensing board must be selected from a list of doctors prepared by the state medical society.

Where such restrictions exist, the governor or the governor's staff may need to work closely with the affected groups to ensure the candidates will be acceptable. This is true particularly when the governor wants to use his or her appointment power to change policies or priorities.

In other cases, the governor or appointment staff will look to an existing pool of candidates, including applicants, incumbents, campaign workers, or staff eligible for promotion. Developing an appointment database can increase the usefulness of the existing pool substantially by enabling a rapid match of requirements and qualifications (see the section on Techniques and Tools).

Conducting Internal and National Searches

In most instances, the list of potential candidates can be supplemented by an **internal search**. This search can include sources such as the state personnel agency, other agency heads, the political organization, interest groups, and the legislature. Gubernatorial staff working in functions such as outreach and advance also can help develop a diverse applicant pool. By staffing the governor at a wide variety of events, their responsibilities bring them into extensive contact with constituent, local and regional organizations and interest groups.

In other cases, the governor may desire an additional field of candidates. The governor's office can find other candidates through a **national search** run by the governor's staff or a professional search firm. This alternative may be particularly useful for an appointment that requires a specific

mix of skills or when the person needed to fill the position must have similar high-level experience, perhaps acquired in another state.

Whatever method is used to locate candidates, **it will simplify matters greatly if all those involved in the search process have a clear understanding of the purpose of the appointment; the management, leadership, and professional skills required to meet the needs of the position; and the role the appointee will play as part of the governor's team.** If this information is thoughtfully defined, it will improve the chances of attaining a successful match between the job and the appointee.

Clarifying Expectations and Performance Requirements

It is important for certain ground rules to be established for appointees. In the case of routine appointments, general guidelines may outline expected performance in areas such as attendance and participation. For more critical positions, the governor or staff member to whom the person would report should discuss how the appointee will interact with the governor as well as any specific performance objectives. In addition, it may be desirable to reach an understanding of the conditions under which the candidate might leave the administration. Many governors use the hiring process to reach agreements with potential appointees on how a subsequent falling-out might be handled with a minimum of public embarrassment. In some situations, a governor may require an undated resignation as a prerequisite to appointment.

Making Hiring Decisions

Once the necessary information on a position and its applicants has been collected and candidates have been informed of the governor's expectations and performance requirements, a hiring decision must be made. The governor will make many of these decisions, while the governor's chief of staff, appointment director, and/or other governor's staff or agency heads will make others. The governor's management style and the level or political sensitivity of the position usually determine who makes the selection.

The process for making hiring decisions will vary, with some governors relying on written recommendations and others preferring less formal consultation with appointment staff. In either case, **the decision-making process will be enhanced by the preparation of a standardized decision package** that could include:

- the governor's policy goals regarding the position;
- statutory requirements of the position;
- necessary professional qualifications;
- recommendations of staff, interest groups, party legislators, and others;
- the desired balance of appointments; and
- background data on the appointee.

Once a decision has been made, it must be communicated to the appointee and made public. In many states, formal or informal procedures govern the advance notification of legislative leaders and other interested parties.

Securing Legislative Approval

In many states, appointments are subject to senate confirmation and/or other legislative review by the committee with jurisdiction over the relevant policy area. Often this review is based solely on the information provided by the governor's office. In other cases, the review includes additional background checks and/or the nominee's personal appearance before the appropriate legislative body. The governor's staff should help prepare the nominee for this process and set clear guidelines on the nature of any testimony to be provided. Some states forbid nominees to comment on future policy decisions to avoid the appearance or reality of trading votes for specific directions or decisions.

Responsibility for dealing with the legislative clearance process usually is centralized with the appointment staff or with staff responsible for legislative affairs. The confirmation or review process is sometimes used as a device to extend legislative oversight or influence. The legislature also may seek to use its confirmation power in one area of concern to extract concessions from the governor in other areas. For these reasons, the personnel responsible for legislative affairs must maintain close contact with the governor and ensure the appointment and policy staff in the gover-

nor's office are informed of the current standing of legislative relations.

The governor's staff will work closely with the legislature throughout the confirmation process. The working relationship will be more productive if prior consultations have been conducted and ongoing communication exists. **Involving legislative district members in the final review and approval of potential candidates can generate allies for the appointee's confirmation. In addition, as a courtesy, many governors ask the district representative or senator to notify appointees of their confirmation.** This practice also can build or reinforce good legislative relations.

Announcing Appointments

Major appointments often are announced by a press release highlighting the significant qualifications and accomplishments of the governor's designated appointee, or a press conference featuring the appointee. Routine and less-sensitive appointments typically are handled through a combined press release listing a variety of appointments to one or several agencies, boards, or commissions. To ensure widespread notification of new appointments, many governors' communications offices have developed special procedures for publicizing these announcements. They will send targeted press releases to the news media in the appointee's local community and trade publications that cover specific programs or issues.

Most positions include a formal appointment letter or commission. There also may be opportunities for individual or collective swearing-in ceremonies or brief meetings or photo opportunities with the governor.

In at least one state, the governor sets aside one day each month to greet all new appointees and their families. The appointment process also should include a follow-up letter to unsuccessful candidates.

Maintaining Relations with Appointees

The governor will need to develop and maintain a system of ongoing relations with the appointees serving in his or her administration. While the liaison effort need not occupy a great deal of time—particularly with lower-level appointments—gubernatorial attention will remind appointees of their role in state government, inspire enthusiasm, and thank them for their service. It also can help augment the governor's outreach efforts and build citizen support for his or her goals and priorities.

A variety of activities or liaison efforts can foster ongoing relations with the governor's appointees. An orientation letter or package and new appointee training will acquaint the incoming appointee with his or her role in the administration and communicate the governor's view of the board or commission. Such a package also can be used to express a governor's expectations for the nominee, including the quality of service and ethical standards of the administration.

An annual event at the governor's residence can be used to thank appointees or retiring appointees for their service to state government. Periodic correspondence between the governor and his or her appointees will help maintain their enthusiasm for serving the administration and allow the governor to substantially extend his or her impact.

Techniques and Tools

Several techniques and tools can be used to facilitate the appointment process including data collection systems, hiring procedures, and evaluation mechanisms. All are geared toward ensuring good prospective candidate pools from which the governor can choose his or her appointees.

Develop a List of Appointments

A critical step in the appointment system is to develop a process for generating a list of appointment vacancies. An ideal list would contain:

- the name of the board, commission, or entity;
- the statutory authority of the board, commission, or entity and approval restrictions;
- the names of incumbents, their dates of service, and the dates when their terms expire;
- special statutory restrictions on appointments, such as occupation, political party, or number of positions appointed elsewhere (e.g., legislature or professional group);
- a brief description of duties or responsibilities of members;

- the professional qualifications required of the position; and
- compensation and benefits associated with the position.

Whether this list is obtained from the prior administration, a state personnel or human resources department, or must be generated by the new administration, the list must be updated continually to ensure the governor is prepared when a key appointment needs to be made.

Use an Appointment Database

Nearly all states use a database to update information and retrieve detailed data on the appointment process. The appointment database provides detailed information on:

- particular boards or commissions, including their names, composition, background, and geographical distribution;
- current board members and commissioners, including their names and addresses, party affiliation, race, gender, and references;
- current and upcoming vacancies; and

- nominees, including their names and addresses, race, gender, party affiliation, qualifications, references, and board preferences.

Quick access to this type of information makes it easier to balance membership based on characteristics such as race, gender, geography, and political party affiliation. A database can help compile a “qualifications index” to match qualified nominees with vacancies that require certain skills. A good appointment database enables a small staff to maintain accurate and current data and provide sound recommendations to the governor. It can simplify the process of preparing applicant acknowledgement and appointment letters as well as ease the process of logging recommendations and referrals.

Leverage the Governor’s Web Site and Online Applications

The governor’s Web site is an extremely useful tool for providing constituents with more information about boards and commissions and encouraging a diverse applicant pool for gubernatorial appointments. Information provided online often includes a list of available positions, guidelines and qualifications for seeking an appointment, and an online application. Accepting applications online or via e-mail helps streamline the paper trail and can save time in finding successful gubernatorial appointees. In order to realize these benefits, however, the governor’s appointment staff must take certain precautions. Applications and supplementary documents received electronically must be tracked and logged in a consistent and timely fashion. In addition, appointment

data listed on the governor’s Web site must be reviewed regularly to ensure the information is accurate and up to date.

Implement a Standardized Appointment Process

The application process must be standardized and viewed as fair and unbiased. **Although not all candidates will receive appointments, the process should ensure all applicants receive fair consideration.** The appointment staff should take care to log and track each application and recommendation received. Having a comprehensive appointment database can make it easier to keep track of all candidates and open positions and helps the governor’s office follow up on inquiries, applications, and recommendations. Although the governor’s appointments are discretionary and subject to political considerations, it is critical to avoid allegations of cronyism or other biases in the system. A process that is regularly followed will prevent allegations of favoritism or unfair treatment and cut down on friction between staff members and others involved with the appointment process.

Respond with Timely Acknowledgements

Responding in a timely manner to applications and recommendations helps promote a favorable image of the governor’s office, and it encourages constituents and interested parties to participate more openly in the appointment process. However, the sheer number of candidates and high volume of open positions that must be tracked can make it difficult for the governor’s staff to respond quickly with written replies.

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Some states have established more flexible guidelines on acknowledgements to help appointment staff save time on paperwork and ensure faster turnaround. Instead of always responding with a letter, some states allow staff to make a phone call or send an e-mail acknowledgement if the applicant applied online or via e-mail, or if the appointment staff is responding to a candidate (or individual submitting a recommendation) with whom they have had frequent and regular contact. When setting a policy for acknowledgments, two key factors should be considered: the governor's preference and personal style, and the degree of formality required by the situation.

Conduct Background Checks and Establish Clearance Procedures

After a list of candidates for a position has been compiled, the appointment personnel must begin the sensitive process of checking applicant qualifications and identifying potential sources of conflict of interest or undisclosed problems that may embarrass the governor or the candidate. This process also may include a review with legislative, political, and interest group leaders who have an interest in the position.

In several states, conflict of interest is defined by statute. If a definition is lacking, the governor's office must develop a clear policy on conflict of interest, including requirements for financial reporting and public disclosure. It is imperative for these

requirements to be understood and accepted by all serious candidates for gubernatorial appointments. It is also important that any required reports or statements be reviewed by a second party and apparent conflicts be identified and addressed. In some states, the governor's legal advisor carries out this review and recommends ways to resolve problems. (See the *Governor's Office Guide on the Legal Counsel* for more information on the role of the governor's legal counsel.)

The process for background checks will vary depending on state law and the nature of the vacant position. **Background check requirements in many states are typically divided into two levels: standard procedures apply for routine and/or less sensitive positions and more rigorous requirements are implemented for high profile and/or more sensitive appointments.**

A simplified, standard process often can be used for **routine or less sensitive appointments**. Candidates are asked to fill out an application form detailing their personal and career background along with other qualifications for appointment. The application usually is followed by a reference check, which sometimes serves as the sole verification of experience, credentials, and possible problems or conflicts of interest. More extensive background information may be solicited only if conflicting data are uncovered.

For more **significant and high profile appointments**, the clearance process often is divided into several parts, with some elements taking place prior to the governor's tentative selection and others being reserved for those who are offered appointments. The preclearance process for nonroutine appointments typically verifies education and experience, checks on any required business or professional credentials, and contacts various references. **States lacking the staff or financial resources to conduct police and financial**

employers for whom the candidates have worked and the neighborhoods where the candidates have lived. While this investigation is being completed, it also is important to undertake a complete reference check.

For finalists for major appointments, this process likely will be supplemented with a detailed interview conducted by the appointment director and, possibly, the governor. In such interviews it may be useful for the governor to ask a deliberately open-ended question, such as, "Is there anything in your background that could be

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checks on every finalist may choose only to conduct full background checks on the last round of finalists or for appointments that require confirmation by the senate. This distinction enables expensive investigatory resources to be concentrated on individuals most likely to be appointed and reduces the possibility of leaks or unwanted public speculation.

State police or investigators in the state personnel agency often are responsible for conducting the more detailed background checks. These checks typically include a credit report and a review of tax, arrest, and criminal records. In some states, these checks are supplemented by a full field investigation in which state staff visit

embarrassing to me or you if it were to become public?"

The final clearance process for both routine and nonroutine positions also can include contact with party leaders at the state, county, or municipal level and with legislators, legislative leaders, and interest groups. The clearance process will vary among states and categories of positions, but it is important for clearance to be carried out consistently for all viable candidates. This will help alleviate some of the awkwardness that arises from this often uncomfortable but very necessary phase of the appointment process. It also will help protect the governor should adverse information about an appointee become known.

Although the clearance process for final candidates is typically private, it is not unusual for the press to speculate on the identity of finalists and the status of the search process. **It is important for the governor to establish a clear policy con-**

cerning the release of information during the search and clearance period. This policy also should be clearly communicated to the candidates so they are not embarrassed by premature or unexpected publicity.

Common Background Check Procedures

- ✓ Review the application for appointment
- ✓ Check references
- ✓ Examine state and federal tax returns
- ✓ Investigate criminal record and/or record of arrests
- ✓ Perform a credit check
- ✓ Verify licenses and certifications
- ✓ Contact legislators, legislative leaders and interest groups and party leaders at the state, county or municipal level
- ✓ Interview with governor's office staff and/or the governor

Final Thoughts

A well-organized gubernatorial appointment process is an essential component of every governor's office because it helps secure who will work with and for the governor during the course of his or her administration. If appointments are not made carefully, the governor will lose a valuable opportunity to maximize his or her impact on state government. If, on the other hand, the appointment process runs well, it will enable the governor to secure

high quality appointees to deal promptly and efficiently with important tasks and activities of state government. A gubernatorial appointment system should reflect the governor's preferences and management style. The appointment function is a powerful management tool that can advance the governor's policy agenda and help achieve the goals of his or her administration.