

Management of the Administrative State

Revised for Publication in Academic Journals

N. B.

An Open Invitation to Explore the Mandates Which Govern the Management of the Administrative State.

Fortunately the [Journal for Benefit-Cost Analysis](#) held a forum where a unique group of leading authorities expressed their precedent setting comments on a recommended plan for moving forward on improving the management of the administrative state. The resultant comments establish the foundation for a deliberative discussion on the future managerial mandates for OIRA (Office of Information and Regulatory Affairs- Executive Office of the President of the United States) and the resultant management of the administrative state.

By management of the administrative state we mean the *processes* which not only govern *how* decisions are made but also the processes governing *which* decisions are made and *who* makes them. The panoptic deliberations envisioned herein differ from the ongoing inquiries of the legal and economic professions in that the former are more akin to an Act III of Dwight Waldo's landmark book titled *The Administrative State* which was published two years subsequent to the enactment of the Administrative Procedure Act. The SSRN Political Science Network states: "Political Science is concerned with how power is distributed and wielded at every level, from the household to globally, and everywhere in between." What better foundation is there than political science for developing the principals to govern the management of the administrative state?

Consequently, the purpose of this article is to encourage individuals in the political and social sciences to promote research and to provide the necessary political acumen needed to enhance [centralized regulatory review](#) by the provision of multi-dimensional landmark mandates to the relevant reviewing authorities and to promote them in leading academic journals.

It appears that as a result of the breadth and depth of the comments rendered by the nationally recognized leaders coupled with their compelling and judicious challenges there is a need to explore a more encyclopedic set of mandates to govern the activities of OIRA, presently the fulcrum for managing the regulatory state. Therefore practitioners and scholars in public policy, history, government, philosophy, public administration, political science, business, related fields and last but not least—*science policy*—(heretofore collectively identified as the "silent disciplines") now have an open invitation to initiate a nationwide and public campaign for the possible embodiment of a new charter into the rubric of OIRA.

To this end a political scientist has already responded to the aforementioned invitation by proposing to unleash the inherent design strength of OIRA by instituting a *proactive* regulatory

mode of action in addition to the established *reactive* mode of action and the proposal is set forth in the last section of this post titled [Recent Developments](#). The forcefulness of the aforementioned proposal demonstrates that if OIRA is going to conquer new frontiers its activities must be both promoted and supported by the "silent disciplines" and responsible organizations in and outside of government should solicit their active participation in the regulatory process.

Not only does a stark difference of opinion remain on how to resolve several of the most significant supervisory issues affecting the management of the administrative state but also remaining is to what degree can the legal and economic professions continue to make worthwhile contributions to the endeavor and accordingly so dominate the discussion? Notwithstanding their laudatory participation to date it is doubtful whether either the focus of the legal academy, whose primary interest is the judicial review of agency actions, or the focus of the economic profession, whose primary interest is the perfection of the methodologies for conducting benefit-cost analyses, can address in a holistic manner and on a continuous basis the increasingly contentious issue of OIRA's role in managing the administrative state.

Please see the results of a multiyear effort by CRE to have established legal institutions address the issues outlined [herein](#). The aforementioned action by CRE was [reinforced](#) by a series of complementary actions by others in the legal profession which culminated in the publication of this [White Paper](#), the substance of which was rejected and is a major reason for pursuing other avenues. Lack of resources precluded undertaking a similar effort involving the economic profession.

Even in the event that the aforementioned disciplines did initiate the relevant research it is imperative that new disciplines capable of effectuating "discipline diversity" participate in discussions governing the management of the administrative state so that the economic and legal professions are no longer the sole participants in the debate. With the advent of the "muscular presidency" the processes which govern the actions of the "most powerful office you never heard of" are far too important not to be addressed by a multitude of disciplines.

Lest it be said that over a lifetime career academicians and practitioners can play a very significant role in the activities of the administrative state but at any particular point in time they are standby equipment; it are the decrees of the federal employees who manage the administrative state who dictate prevailing management principles. It best that we all become acquainted with the historical culture that defines their incentives and therefore guides their actions.

Hopefully this unmatched [library](#) of readily available [historical information](#) on centralized regulatory review will serve as an incentive for a battery of new entrants, with a wide range of backgrounds, to address the managerial mandates applicable to OIRA.

[Background](#)

The history of the development of centralized regulatory review took place over the past [half-century](#). Those readers who are of the opinion that a deeper understanding of the positions set

forth herein requires additional documentation should access this [post](#). *The bottom line is that the background information demonstrates that as a result of a number of decisions made by OMB Directors over a period of forty years that OIRA's staff has been reduced by 50% from the level it had at its inception; the market is signaling a need to modify OIRA's product and to expand its constituent and analytical base.*

[Actions Underway](#)

CRE has for a considerable period of time focused on the preservation and enhancement of OIRA. A brief review of its [homepage](#) demonstrates its commitment to this cause. In doing so CRE has had the privilege of working with a wide range of disciplines who have a varying degree of experience in the management of the regulatory state.

There are signs of the beginning of an enlightened era of scholarship regarding the management of the administrative state as exemplified with the very recent publication of "*Central Clearance as Presidential Management*" as set forth in the Reference section below which is reinforced by the position papers contained in the *Recent Development* section set forth below.

CRE will continue to make its website available to interested practitioners and academicians and within resource limitations continue to answer their questions. Recognizing that a very substantial number of our readers are involved in regulatory compliance they are also encouraged to participate in this program. All parties can continue to contact us by utilizing this [facility](#).

[References](#)

[Central Clearance as Presidential Management](#) *Central Clearance and Rulemaking* (p. 24)

[OIRA Past, Present and Future...](#) Journal of Benefit-Cost Analysis

Most Recent Revision: 05 06 2020 [Initial Post 06 25 2019]

[Recent Developments](#)

[Leading Reports on the Future Direction of OIRA and the Management of the Administrative State](#)