

**Testimony Submitted for the Record**  
**Senate Committee on Homeland Security And Governmental Affairs**  
**Hearing: “Ensuring A Trustworthy Government: Examining The National Security Risks Of**  
**Replacing Nonpartisan Civil Servants With Political Appointees”**

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**September 17, 2024**

Chairman Peters, Ranking Member Paul and members of the Committee, thank you for the opportunity to submit testimony regarding the importance of protecting the federal civil service.

My organization, Citizens for Responsibility and Ethics in Washington (CREW), is a nonpartisan nonprofit organization dedicated to fighting corruption and promoting ethical governance. With this mission in mind, I write to you today to highlight the dangers posed by efforts to dismantle our merit-based civil service system and to recommend further action to protect our federal government from corruption and efforts to manipulate the levers of government to anti-democratic ends.

### **Background**

In October 2020, three months before the end of his term, President Donald Trump issued Executive Order 13957. Colloquially referred to as “Schedule F,” the Executive Order would have upended the merit-based civil service system by creating a new job classification within the federal government. Although President Biden quickly rescinded it upon assuming office, this new classification — Schedule F — would have stripped tens of thousands of federal employees of their merit-based civil service protections, including the protection against being fired based on political whims.<sup>1</sup> The goal was to increase presidential control over the federal career public service by returning federal agencies to the spoils system, under which federal employment was based on party loyalty and patronage rather than merit and expertise — a system that was so corrupt and anti-democratic that Congress abolished it in 1883 with the passage of the Pendleton Act.<sup>2</sup>

The spoils system, which flourished under Presidents Andrew Jackson and Martin Van Buren, is a government structure that allows the president and party leaders to buy and reward people’s loyalty through employment in the federal government.<sup>3</sup> This structure helped foster a political system based on patronage and kickbacks rather than popular sovereignty: in order to be elected, aspiring politicians would buy endorsements and reward loyalty with promises to put important party bosses’ political cronies in positions of power in

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<sup>1</sup> Exec. Order No. 14003, Protecting the Federal Workforce  
<https://www.govinfo.gov/content/pkg/DCPD-202100079/pdf/DCPD-202100079.pdf>

<sup>2</sup> Pendleton Civil Service Reform Act, 22 Stat. 403 (1883),  
<https://govtrackus.s3.amazonaws.com/legislink/pdf/stat/22/STATUTE-22-Pg403a.pdf>.

<sup>3</sup> See “Spoils System,” Encyclopedia Britannica, <https://www.britannica.com/topic/spoils-system>. See also, “Spoils System,” Encyclopedia.com, <https://www.encyclopedia.com/history/united-states-and-canada/us-history/spoils-system>; and Jonathan Rauch, *How American Politics Went Insane*, The Atlantic (Jul/Aug 2016), <https://www.theatlantic.com/magazine/archive/2016/07/how-american-politics-went-insane/485570/>.

their administration.<sup>4</sup> Rather than qualified employees, who are required to do their jobs without regard to political affiliation, the spoils system allowed the president to hire political servants with an overriding loyalty to the party but often without knowledge or expertise in the jobs they were filling. It is not surprising that the spoils system was directly linked to a rise in corruption and even violence.<sup>5</sup> In 1881 President James Garfield, who was selected as the Republican nominee for president in part because he wanted to end patronage and corruption, was assassinated by a rejected office-seeker, Charles Guiteau, who believed that he played a major role in Garfield's election and therefore was owed a job in Garfield's administration.<sup>6</sup>

But the spoils system didn't just create a government prone to corruption, susceptible to violence and littered with inadequate employees — it also resulted in distorted policy making. After all, “party loyalists are also more likely to be insensitive to the limitations and potential harmful effects of their party's policies” while “partisan bureaucrats are likely to sabotage established federal policies and legal statutes to please political leaders.”<sup>7</sup> This quid pro quo system of politics and federal employment undermined Americans' constitutional right to equal protection of the laws by deploying the federal government to reward those who agreed with the party and punish those who disagreed.<sup>8</sup> In sum: not only did the spoils system fill the government with corruption and inefficiency, it undermined American democracy itself.

The development of the federal merit system — and the end of the spoils system — was a significant turning point in the history of our government. By requiring that federal agencies hire candidates based on their expertise, experience and ability to do their job — as opposed to the amount of money they or their friends contributed to a campaign — Congress slashed corruption and mismanagement in all federal agencies.

### **The issue we face today**

History makes clear that a return to the spoils system would be catastrophic both for our democracy and our national security. Nonetheless, conservative activists, government

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<sup>4</sup> See William 'Boss' Tweed and Political Machines, *Bill of Rights Institute*, <https://billofrightsinstitute.org/essays/william-boss-tweed-and-political-machines>.

<sup>5</sup> See “Spoils System,” *Encyclopedia.com*; see also “Machine Politics,” *PBS*, <https://www.pbs.org/wgbh/americanexperience/features/presidents-unity-garfield/>.

<sup>6</sup> See Gabe Lezra and Diamond Brown, *FAQ: The conservative attack on the merit-based civil service*, CREW (Jan. 25, 2024), <https://www.citizensforethics.org/news/analysis/faq-the-conservative-attack-on-the-merit-based-civil-service/> see also “Machine Politics,” *PBS*,

<https://www.pbs.org/wgbh/americanexperience/features/presidents-unity-garfield/>.

<sup>7</sup> See, Jack K. Knott, “A Return to Spoils: The Wrong Solution for the Right Problem,” 29 *J. of Admin. & Society*, 6 (1998), <https://rb.gy/c0w1dm>.

<sup>8</sup> For instance, William Tweed, the infamous “boss” of Tammany Hall in New York City, would dole out thousands of jobs to friends who had little to no experience with the expectation that he would receive kickbacks--he would, for example, distribute money to judges in exchange for favorable rulings. See <https://billofrightsinstitute.org/essays/william-boss-tweed-and-political-machines>.

officials<sup>9</sup>, Trump's likely cabinet members should he serve a second term<sup>10</sup> and Trump<sup>11</sup> himself have all called for reinstating Schedule F and upending the civil service. Most notable among them is the Heritage Foundation's Project 2025, the now notorious sweeping policy plan crafted by Paul Dans, who himself was partially responsible for implementing Trump's Schedule F order in his capacity as Chief of Staff of the Office of Personnel Management in 2020.<sup>12</sup>

We are at a perilous time for our democracy. Across the globe, democracy has been in decline for nearly 20 years and the United States is not immune from this decline.<sup>13</sup> Today, we face election denialism, broad public distrust in our government institutions buoyed by conspiracy theories<sup>14</sup>, the continuous flood of money into our politics (including millions of dollars supporting election deniers<sup>15</sup>) and corruption scandals at the state and federal level.<sup>16</sup> Against this backdrop, hard-working nonpartisan civil servants with relevant expertise are one of the few backstops against further democratic decline.

Moreover, the merit-based system has only grown in importance since the passage of the Pendleton Act and the end of the 19th century spoils system. With Congress increasingly polarized and unable to pass legislation, federal agencies have been forced to pick up the slack for decades. Rulemakings by administrations of both parties have become the main way our government regulates industries and industry practices— and ensures that our water and air are clean, we can travel safely, we have the technological infrastructure to protect against cyber attacks, our government is prepared to respond to climate emergencies like wildfires and hurricanes and that the medicines we take are safe. Without career civil servants who are experts in their fields and who understand their

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<sup>9</sup> Alayna Treene, *Scoop: 2024 GOP hopefuls back Trump's plan to purge civil servants*, Axios (Aug. 3, 2022), <https://www.axios.com/2022/08/03/2024-gop-hopefuls-trump-plan-purge-civil-servants>

<sup>10</sup> Debra Perlin, *Who would help Trump carry out his promised "purge" of the "deep state"?*, CREW (May 8, 2024), <https://www.citizensforethics.org/reports-investigations/crew-investigations/who-would-help-trump-carry-out-his-promised-purge-of-the-deep-state/>.

<sup>11</sup> Erich Wagner, *Trump Vows to 'Shatter the Deep State,' Revive Schedule F and Move More Agencies Out of DC*, Government Executive (Mar. 21, 2023), <https://www.govexec.com/workforce/2023/03/trump-vows-shatter-deep-state-revive-schedule-f-and-move-more-agencies-out-dc/384266/>; Rebecca Jacobs, *Trump has said he wants to destroy the "deep state" 56 times on Truth Social*, CREW (Aug. 1, 2024), <https://www.citizensforethics.org/reports-investigations/crew-investigations/trump-has-said-he-wants-to-destroy-the-deep-state-56-times-on-truth-social/>.

<sup>12</sup> Alec MacGillis, *The Man Behind Project 2025's Most Radical Plans*, ProPublica (Aug. 1, 2024), <https://www.propublica.org/article/project-2025-trump-campaign-heritage-foundation-paul-dans>.

<sup>13</sup> The Mounting Damage of Flawed Elections and Armed Conflict, Freedom House (Feb. 2024), <https://freedomhouse.org/report/freedom-world/2024/mounting-damage-flawed-elections-and-armed-conflict>

<sup>14</sup> Public Trust in Government: 1958-2024, PEW Research <https://www.pewresearch.org/politics/2024/06/24/public-trust-in-government-1958-2024/>.

<sup>15</sup> Bankrolling the Big Lie, CREW (June 4, 2024), <https://www.citizensforethics.org/reports-investigations/crew-reports/bankrolling-the-big-lie/>.

<sup>16</sup> Gabe Lezra, *Accused foreign agents do not belong in the Senate*, CREW (Apr. 11, 2024), <https://www.citizensforethics.org/news/analysis/accused-foreign-agents-do-not-belong-in-the-senate/>; Press Release, U.S. Congressman Henry Cuellar Charged with Bribery and Acting as a Foreign Agent, Department of Justice (May 3, 2024), <https://www.justice.gov/opa/pr/us-congressman-henry-cuellar-and-his-wife-charged-bribery-unlawful-foreign-influence-and>; Press Release, Jury convicts former Ohio House Speaker, former chair of Ohio Republican Party of participating in racketeering conspiracy, US Att'y Southern District of Ohio (Mar. 9, 2023), <https://www.justice.gov/usao-sdoh/pr/jury-convicts-former-ohio-house-speaker-former-chair-ohio-republican-party>.

responsibilities under the law, these functions would collapse. A government hamstrung by federal agencies filled with unqualified party loyalists would harm almost every part of everyday Americans' lives and leave our democracy vulnerable to attempts to diminish it, including efforts by foreign adversaries, like Russia<sup>17</sup>, Iran<sup>18</sup>, and China<sup>19</sup>, that seek to unlawfully influence our elections.

### **How to Protect the Civil Service and our Democracy**

This hearing is an important step in bringing to light the harms posed by attacks on our civil service, and we hope that other members of Congress follow the committee's lead in seeking to address this issue.

To truly protect the civil service, however, Congress must pass the Saving The Civil Service Act<sup>20</sup> which would prevent a future president from resurrecting Schedule F through executive action. The bipartisan bill, led by Senator Tim Kaine (D-VA) and Representatives Gerry Connolly (D-VA) and Brian Fitzpatrick (R-PA), would cap the number of reclassifications within a given term, ensuring that no more than one percent of the employees at a given agency could be converted to a new job classification within a four year span. It also would require the consent of any employee whose role was being converted. These reforms are designed to impede a president from carrying out any wide-scale efforts to upend the civil service, and ensure that civil servants cannot be hired and fired based on their loyalty or disloyalty to a particular president or political party.

While the Office of Personnel Management (OPM) finalized a rule<sup>21</sup> in April 2024 to strengthen protections for the civil service, administrative rules can be undone by a subsequent administration in compliance with the Administrative Procedures Act (APA). That is why legislation is needed. Passing the Saving the Civil Service Act will provide much stronger protections against a future president who seeks to upend the civil service.

### **Conclusion**

Protecting the career civil service and guaranteeing that it is staffed by people with relevant expertise ensures that agencies can fulfill their role as stewards of Congress's mission. Carrying out federal programs effectively, efficiently and consistently with Congress's intent requires them to be staffed by individuals with a thorough understanding of the particular

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<sup>17</sup> Press Release, Justice Department Disrupts Covert Russian Government-Sponsored Foreign Malign Influence Operation Targeting Audiences in the United States and Elsewhere, Department of Justice (Sept. 4, 2024), <https://www.justice.gov/opa/pr/justice-department-disrupts-covert-russian-government-sponsored-foreign-malign-influence>.

<sup>18</sup> Robert Lagare, *U.S. intelligence officials warn of Iran's attempts to interfere in presidential election*, CBS News (Aug. 19, 2024), <https://www.cbsnews.com/news/intelligence-community-iran-interference-hacking-u-s-elections/>.

<sup>19</sup> Tiffany Hsu and Steven Lee Myers, *China's Advancing Efforts to Influence the U.S. Election Raise Alarms*, New York Times (Apr. 2, 2024), <https://www.nytimes.com/2024/04/01/business/media/china-online-disinformation-us-election.html>.

<sup>20</sup> S. 399, 118 Cong. (2023), <https://www.congress.gov/bill/118th-congress/senate-bill/399>.

<sup>21</sup> Upholding Civil Service Protections and Merit System Principles, 89 Fed. Reg. 24982 (Apr. 9, 2024), <https://www.federalregister.gov/documents/2024/04/09/2024-06815/upholding-civil-service-protections-and-merit-system-principles>.

statutory and regulatory schemes, institutional knowledge of the history of the programs, familiarity with relevant stakeholders inside and outside government and substantial technical expertise. That is what the career civil service provides — and what a return to the spoils system would completely destroy. Passing the Saving the Civil Service Act and protecting the merit-based system is therefore critical to the government's ability to continue operating effectively and protecting the health, safety, welfare and security of Americans.

We thank the Committee for holding this important hearing and welcome the opportunity to work with you to advance our shared commitment to our government institutions and our democracy.