Eighth Edition

PUBLIC ADMINISTRATION

Understanding Management, Politics, and Law in the Public Sector

David H. Rosenbloom | Robert S. Kravchuk | Richard M. Clerkin

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David H. Rosenbloom
American University

Robert S. Kravchuk
Indiana University

Richard M. Clerkin
North Carolina State University

Mc Graw Hill Education

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About the Authors

David H. Rosenbloom is Distinguished Professor of Public Administration at American University in Washington, DC. He earned a Ph.D. in political science from the University of Chicago. Professor Rosenbloom writes extensively about public administration and democratic-constitutionalism. He is the recipient of the 1999 Dwight Waldo Award for outstanding contributions to the field of public administration, the 2001 John Gaus Award for exemplary scholarship in the joint tradition of political science and public administration, and the 2012 Leslie A. Whittington Award for excellence in teaching. He is a fellow in the U.S. National Academy of Public Administration, from which he received the 2001 Louis Brownlow Award for his book *Building a Legislative-Centered Public Administration*. Rosenbloom is editor-in-chief of the CRC/Taylor & Francis Series in Public Administration and Public Policy, serves on the editorial boards of more than a dozen professional journals, and is a Life Associate Trustee Board Member at Marietta College. He was Visiting Chair Professor of Public Management at City University of Hong Kong in 2009 and 2010 and frequently lectures at universities in China and Taiwan. In 1992 he was appointed to the Clinton-Gore Presidential Transition Team for the Office of Personnel Management.

Robert S. Kravchuk is Professor and Director of the Master of Public Affairs Program in the School of Public and Environmental Affairs at Indiana University in Bloomington, Indiana. His teaching and research focus on public budgeting and finance, administrative theory, and the political economy of formerly socialist countries in transition, with a special emphasis on Ukraine and Russia. His administrative experience includes service as Under Secretary in the Connecticut State Budget Office, U.S. Treasury Resident Budget Advisor to the Minister of Finance of Ukraine, and appointment by the U.S. Secretaries of State and the Treasury as Financial Advisor to the President of Bosnia-Herzegovina. He is a frequent writer and lecturer on public budgeting, administrative reform, and government capacity-building. Currently, he is researching the emergence of complex financial networks among U.S. Defense Department major weapons acquisition projects, and is writing a modern text on public financial management. His future projects include a canonical history of American administrative thought, and a comprehensive history of Russian public administration from Ivan the Terrible to Vladimir Putin. In addition to Indiana University, Professor Kravchuk has taught at the University of North Carolina–Charlotte, the University of Connecticut, University of Hartford, and LeMoyne College. He lives in Bloomington, Indiana, with his family.

Richard M. Clerkin is an Associate Professor in the Public Administration Department in the School of Public and International Affairs and the Interim Director of the Institute for Nonprofit Research, Education, and Engagement at North Carolina State University. He received his Ph.D. in Public Affairs from Indiana University–Bloomington, where he was a Chancellor's Fellow. The main focus of his research is on the interplay of government and nonprofit sectors. In particular, he studies motivations for public service and public benefiting activities. Recent research in this vein has examined public service motivation in sector work preferences and in the decision of active duty military to reenlist. A new stream of research, the Changing Philanthropy Project, explores the impact of geographic mobility and regional philanthropic traditions on 1) the volunteering and donating behavior of individuals and 2) the ability of nonprofit organizations to adapt to these changes in their community. His research has been published in *Public Administration Review, American Review of Public Administration, Armed Forces & Society, Nonprofit and Voluntary Sector Quarterly,* and *Nonprofit Management and Leadership*. He lives in Raleigh, North Carolina, with his wife and children.

Contents in Brief

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Preface

The fourth edition of *Public Administration: Understanding Management, Politics, and Law in the Public Sector* was named the fifth most influential book in the field of public administration published from 1990 to 2010 in a study by David O. Kasdan appearing in *Administration & Society* in 2012. This was an amazing achievement for a textbook in competition with books on administrative theory and specific topics such as organization theory, human resources management, policymaking, and budget and finance. Kasdan's finding is bolstered by the book's status as a "world text." It is used in English or translation as the core text in MPA programs throughout China, and to the best of our knowledge, as a core or assigned text in Australia, Canada, Hong Kong, India, Indonesia, Iran, Israel, Kyrgyzstan, Lebanon, Malaysia, Nepal, Netherlands, Pakistan, Portugal, Republic of Georgia, Romania, Singapore, South Africa, South Korea, Taiwan, Thailand, Ukraine, as well, of course, as in the United States.

At first thought, the worldwide use of the book seems odd. After all, its framework is informed by features of the U.S. political system that are central to public administration here, but unusual singularly or in combination in developed and developing nations across the globe. These include the constitutional separation of powers, federalism based on a particular blend of dual sovereignty, and our legal system. It could be that students abroad want to learn about U.S. administrative practices, believing correctly or incorrectly that they can serve as a model for their own countries. However, on further consideration it is more likely that the book has attained its measure of success because all public administrative systems have managerial, political, and legal dimensions and, to some extent, these share common characteristics almost everywhere. Management typically values efficiency and cost-effectiveness; in democracies and even some autocracies, political accountability and responsiveness are valued; the legal dimension's concern with human rights and the rule of law is also widespread, though far from universal. In several countries, classes include student presentations analyzing local administrative issues from each of the three perspectives and discussions of strategies for incorporating elements of management, politics, and law into their potential resolution. Our effort in this eighth edition has been to retain the U.S. focus while broadening much of the discussion and themes in ways that enhance their utility elsewhere.

This comports with the original mission of the book—to ground students in the fundamentals of public administration while embracing its complexity through what has become known as the "three-perspectives" or "competing-perspectives" model. The eighth edition, like those before it, describes, explains, and analyzes public administration through the lenses of three well-established, coherent ways of conceptualizing and understanding public administration: management; politics (primarily with regard to policy implementation and the values of participation, representation, responsiveness, and accountability); and law. These perspectives are embedded in the U.S. Constitution and American political culture.

Each perspective has a distinctive set of core values, decision procedures, organizational arrangements, view of the individual, way of knowing and learning, budget making, and *modi operandi*. In the midst of President Bill Clinton's second term, when his administration's effort by the National Performance Review to "reinvent government" was in full swing, the fourth edition split the management perspective into "traditional management" and "new public management" (NPM). The NPM is no longer new—and some might say the label is *passé*. It has been augmented, but not replaced, by "collaborative governance," a topic to which this edition pays considerable attention. In turn, collaborative governance necessarily (and happily) requires greater coverage of the roles of nonprofit organizations in today's public administration. Realistically, contemporary management consists of a mix of traditional, NPM, and collaborative governance perspectives and practices. The continuing development of the management perspective, however, does not eclipse the importance of the political and legal approaches to public administration and their continuing evolution.

The book remains divided into four parts. Part I introduces the book's intellectual framework and discusses the development of public administration in the United States. Part II considers public administration's core functions: organization, personnel, budgeting and finance, and decision making. Part III shows how management, politics, and law converge in the practice of policy analysis and implementation evaluation and regulatory administration. Part IV focuses on the place of the "public" and the "public interest" in public administration. Chapters are devoted to public administration and the public, democratic constitutionalism, and accountability and ethics. The concluding chapter looks at trends that are likely to impact public administration in the near-term future.

In keeping with previous revisions, we have sought throughout the text to update, maintain relevance by incorporating vital developments in U.S. governance and administrative thought, including court decisions, and to jettison material that is no longer pertinent or useful in explaining contemporary public administrative theory, techniques, and practices to students. Few texts reach an eighth edition or the global stature this one has attained. Attribution goes to the staying power of the basic framework and appeal of a comprehensive look at the challenges of governing in the late modern era. We continue

to believe that the three-perspectives approach to analyzing and understanding administrative matters in all their complexity is the key to educating future public administrators to systematically approach the ever-changing and "complexifying" environments in which they will work. (*Note*: A password-protected Web site at www.mhhe.com/rosenbloom8 contains a comprehensive Instructor's Manual and Test Bank.)

A book reaching an eighth edition generates many debts of gratitude to those reviewers and readers who have offered excellent suggestions for improvements along the way. They have become too numerous to name individually, but their contributions are now part of the book and greatly appreciated. We also want to thank our readers for their loyalty over the years. You are responsible for the book's success and we welcome your comments and suggestions for continually upgrading it.

David H. Rosenbloom
Robert S. Kravchuk
Richard M. Clerkin

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PART I

Introduction: Definitions, Concepts, and Setting

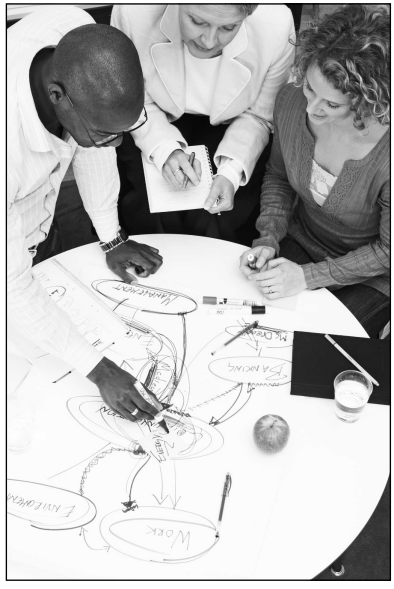
CHAPTER 1

The Practice and Discipline of Public Administration

Competing Concerns

Key Learning Objectives

1. Be able to define public administration, and to identify its principal concerns.
2. Understand the differences between public administration and private management.
3. Learn the managerial, political, and legal approaches to public administration and the tensions among them.
4. Learn about six trends that are transforming government in the 21st century and management of private enterprises—changing the rules of the game; using performance measurement; providing competition, choice, and incentives; "government on demand"; engaging citizens; and using networks and partnerships.



This chapter considers what distinguishes *public* administration from the administration and management of private enterprises, focusing on the roles of the Constitution, the public interest, economic market forces, and state sovereignty. The principal focus of public administration with providing both *service* and *regulation* is explored. The chapter discusses a framework for understanding public administration that consists of three general and competing approaches to administrative theory and practice. One approach sees public administration as essentially management, another emphasizes its political nature, and the third focuses on its legalistic aspect. In the past twenty-five years, the traditional managerial approach took on a new variant, called the "new public management" (NPM), in response to calls for more responsive and efficient government. The NPM in turn has a relatively distinctive offshoot called "collaborative governance," which relies on for-profit and nonprofit organizations, often generically referred to as "third parties," to achieve public administrative program objectives. Each perspective embraces a different set of values, offers distinctive organizational approaches for maximizing those values, and considers the individual citizen in different ways.

Public administration has historically been difficult to define. Nonetheless, we all have a general sense of what it is, though we may disagree about how it should be carried out. In part, this is because public administration involves a vast amount of activity. Public sector jobs range from providing homeland security, to the exploration of outer space, to sweeping the streets. Some public administrators are highly educated professionals who may be at the forefront of their fields of special expertise (like NASA engineers and rocket scientists); others possess few skills that differentiate them from ordinary workers. Some public administrators make policies that have a nationwide impact and may benefit millions of people; others have virtually no responsibility for policy making and simply carry out mundane but necessary clerical tasks. Public administrators are doctors, lawyers, scientists, engineers, accountants, budgeters, policy analysts, personnel officers, managers, baggage screeners, clerks, keyboarders, manual laborers, and individuals engaged in a host of other occupations and functions. But knowing what public administrators *do* does not resolve the problem of defining what public administration *is*.

It was pointed out some time ago that any one-paragraph or even one-sentence definition of public administration may prove temporarily mind-paralyzing.[1] This is because "public administration" as a category is so abstract and varied that it can be described only in vague, general, and somewhat competing terms. Yet some attention to definition is important. First, it is necessary to establish the general boundaries, and to convey the major concerns of the discipline and practice of public administration. Second, defining public administration helps place the field in a broader political, economic, and social context. Third, and perhaps most importantly, consideration of the leading definitions of public administration reveals that there are at least three distinct underlying approaches to the field. For years the tendency among scholars and practitioners has been to stress one or another of these approaches. But this

has promoted confusion, because each approach tends to emphasize different values, different organizational arrangements, different methods of developing knowledge, and radically distinct views of the individual citizen.

Some Definitions

One can find a wide variety of definitions of public administration, but the following are among the most serious and influential efforts to define the field.[2]

1. "Public administration . . . is the action part of government, the means by which the purposes and goals of government are realized."
2. "Public administration as a field is mainly concerned with the means for implementing political values. . . ."
3. ". . . Public administration can be best identified with the executive branch of government."
4. "The process of public administration consists of the actions involved in effecting the intent or desire of a government. It is thus the continuously active, 'business' part of government, concerned with carrying out the law, as made by legislative bodies (or other authoritative agents) and interpreted by the courts, through the processes of organization and management."
5. Public administration: (a) is a cooperative group effort in a public setting; (b) covers all three branches—executive, legislative, and judicial—and their interrelationships; (c) has an important role in the formulation of public policy, and is thus part of the political process; (d) is different in significant ways from private administration; and (e) is closely associated with numerous private groups and individuals.

What conclusions can be drawn from the variety of definitions of public administration and their myriad nuances? One is that public administration is indeed difficult to pin down. Another conclusion is that there is really no such subject as "public administration," as such, but rather that public administration means different things to different observers and lacks a significant common theoretical or applied meaning. However, this perspective has limited appeal because the problem is certainly not that there is no public administration—we not only know it exists, but also are often acutely aware of its contributions and/or its shortcomings.

Ironically, another conclusion that can be drawn from the multiplicity of definitions is that public administration is everywhere. Some have argued that there is no field or discipline of public administration per se because the study of public administration overlaps a number of other disciplines, including political science, sociology, economics, psychology, and business administration. Although this approach contains a great deal of truth, in practical terms it is unsatisfactory because it leaves us without the ability to analyze coherently a major aspect of contemporary public life—the emergence of large and powerful governmental agencies. In a word: *bureaucracy*.

This book concludes that all the previous definitions are helpful, but limited to some extent. Public administration does involve *activity,* it is concerned with *politics* and *policy making,* it tends to be concentrated in the *executive* branch of government, it does differ from private administration, and it is concerned with *implementing the law*. But we can be much more specific by offering a definition of our own: *Public administration is the use of managerial, political, and legal theories, practices, and processes to fulfill legislative, executive, and judicial mandates for the conduct of governmental regulatory and service functions*. There are several points here that require further elaboration.

➧ Emphasizing the *Public* in Public Administration

First, public administration differs from private administration in significant ways. The lines between the public and private sectors are often blurred, insofar as several aspects of management and law are generic to both sectors. However, on balance, public administration remains a separate field. The reasons for this are outlined in the pages which follow.

Constitutions

In the United States, the federal and state constitutions define the environment of public administration and place constraints on it. First, constitutions fragment power and control over public administration (see Box 1.1). The separation of powers places public administration effectively under three "masters." Americans have become accustomed to thinking of governors and presidents as being in control of public administration, but in practice legislatures possess as much or more constitutional power over administrative operations. This is clearly true at the federal level, where Congress has the constitutional authority to create agencies and departments by law; fix their size in terms of personnel and budget; determine their missions and legal authority, internal structures, and locations; and establish procedures for human resources management. Congress has also enacted a large body of **administrative law** to regulate administrative procedures, including rule making, open meetings, public participation, and the gathering and release of information.

The courts also often exercise considerable power and control over public administration. They help define the legal rights and obligations of agencies and those of the individuals and groups on which public administrators act. They define the constitutional rights of public employees and the nature of their liabilities for breaches of law or the Constitution. The judiciary has also been active in the restructuring of school systems, public mental health facilities, public housing, and prisons in an effort to make certain they comply with constitutional standards. Judicial review of agency activities is so extensive that the courts and public administrators are now widely regarded as "partners."[3] The extent of legislative and judicial authority over public administration leaves chief executives with only limited control over the executive branch,

1.1 Public Administration's Constitutional Status*: Whose Executive Branch Is It, Anyway?

The Ethics in Government Act of 1978, which expired in 1992, provided for the appointment of an independent counsel much like Kenneth Starr, independent counsel in the impeachment of former President Bill Clinton in 1999. The independent counsel's job was to investigate and prosecute certain high-ranking government officials for federal crimes. The independent counsel was located in the Department of Justice and had "full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department, . . . the Attorney General, and other department [personnel]." The independent counsel was appointed by a special court, called the Special Division, and could not be removed by the attorney general except for "good cause, physical disability, mental incapacity, or any other condition that substantially impairs the performance of such independent counsel's duties." The key question before the U.S. Supreme Court in *Morrison v. Olson* was whether these arrangements violated the constitutional separation of powers. The Court, per Chief Justice William Rehnquist, held that they did not. First, the appointment of an executive officer by a court under these circumstances was not "incongruous" because it did not have "the potential to impair the constitutional functions assigned to one of the branches" of the government. Second, the Court noted that in its "present considered view . . . the determination of whether the Constitution allows Congress to impose a 'good cause'-type restriction on the President's power to remove an official cannot be made to turn on whether or not that official is 'purely executive.'" Rather, "the real question is whether the removal restrictions are of such a nature that they impede the President's ability to perform his constitutional duty" to take care that the laws be faithfully executed. The Court concluded that although "[i]t is undeniable that the Act reduces the amount of control or supervision that the Attorney General and, through him, the President exercises over the investigation and prosecution of a certain class of criminal activity," the executive branch retained "sufficient control over the independent counsel to ensure that the President is able to perform his constitutionally assigned duties."

Justice Antonin Scalia heatedly dissented:

> There are now no lines. If the removal of a prosecutor, the virtual embodiment of the power to "take care that the laws be faithfully executed," can be restricted, what officer's removal cannot? This is an open invitation for Congress to experiment. What about a special Assistant Secretary of State, with responsibility for one very narrow area of foreign policy, who would not only have to be confirmed by the Senate, but could also be removed only pursuant to certain carefully designed restrictions? . . . Or a special Assistant Secretary of Defense for Procurement? The possibilities are endless. . . . As far as I can discern from the Court's opinion it is now open season upon the President's removal power for all executive officers. . . . The Court essentially says to the President: "Trust us. We will make sure that you are able to accomplish your constitutional role." I think the Constitution gives the President—and the people—more protection than that.

So an executive official with law enforcement duties can be appointed by a court and dismissed only for limited reasons specified by Congress. Whose executive branch is it, anyway?

**Morrison v. Olson* 487 U.S. 654 (1988).

and far less authority than is commonly found in the hands of chief executive officers of private organizations, whether profit-seeking or not. The text of the federal Constitution grants presidents only two specific powers that they can exercise over domestic federal administration on their own: the power to ask department heads for their opinions in writing on various subjects and to

make temporary appointments to vacant offices when the Senate is in recess. In practice, of course, chief executives in the public sector now often exercise statutory powers given to them by legislatures—but legislative bodies almost always retain a strong interest in how public agencies are operating.

The separation of powers not only provides each branch with somewhat different authority over public administration but also may frustrate coordination among them. Chief executives, legislatures, and courts are responsive to different constituencies, political pressures, and time constraints. All three branches have legitimate interests in public administration. However, they often differ with regard to what they think agencies should do and how they ought to do it.

The federal constitutional framework also embodies a system of federalism that allows for considerable overlap in the activities of federal, state, and local administrators. Often the federal government will create a program and rely on the states to implement it. Funding and authority may be shared. In practice, state and local agencies may be responsible to federal departments to a greater extent than they are to state governors or state legislatures.

The federal courts also have a substantial impact on state and local administration. They define the constitutional or legal rights of citizens as they are affected by governmental activity. Over the years the federal courts have ordered extensive reforms in state and local administrative systems and processes.[4]

The separation of powers and federalism result in a fragmentation of authority that is generally not seen in the private sector. Legal restrictions and requirements affect private management, but they do not fragment authority over it in the same way or to the same extent, nor do they provide so many parties with a legal right to observe and participate in private firms' policy decisions and other affairs.

Constitutional concerns are important in another way as well. They embrace values in the public sector that frequently run counter to the values embodied in private management. Efficiency in government is often subordinated to political principles such as representativeness, accountability, and transparency. Efficiency is also trumped by legalistic considerations such as due process. Remember that, with the exception of the Thirteenth Amendment, which prohibits slavery and involuntary servitude, the Constitution does not directly regulate relationships between purely private parties. Rather, it applies to relationships among units of government, such as Congress and the president or the federal and state governments, and to those between the public and its governments. Further, in most of the public sector, there is no genuine equivalent to the profit motive that is so central to private enterprise.

The Public Interest

The governmental obligation to promote the public interest also distinguishes public administration from private management. In a moral and basic sense, government must serve "a higher purpose."[5] Even though reasonable people may disagree about precisely what is in the public interest, there can be no

dispute about the obligation of public administrators to consider it as a general guide for their actions. When they fail to do so, public administrators may rightly be criticized. A central issue is assuring that public administrators represent and respond to the interests of the citizenry.[6] Various regulations have been enacted over the years in an effort to assure that those exercising public power will not use it for narrow partisan or purely private gain or engage in subversion. Many public personnel systems in the United States and abroad place restrictions on the political activities of civil servants, some have comprehensive conflict-of-interest regulations, and all are concerned with the political loyalty of their employees.

By contrast, private firms are thought to best serve the general interest by vigorously pursuing their own economic interests. Their task is to be highly efficient and competitive in the marketplace. Not only is profit the motivating factor in the world of business, the profit motive is viewed as a positive social and economic good. Private companies should not endanger the health and safety of their workers or that of the general community. Nor should they damage or destroy the environment. By and large, however, it is assumed to be government's role to ensure, through proper regulation, that the private sector does not harm society at large. This is partly why it is plausible to hold that "public administration is not a kind of technology but a form of moral endeavor."[7]

The Market

A closely related distinction between public and private administration concerns the market. Public agencies traditionally have not faced free, competitive markets in which their services or products are sold.[8] For the most part, the price tags attached to governmental operations are established through budgetary procedures rather than fixed in the market through free transactions between buyer and seller. Revenues are generated largely through taxation, although in some cases user fees may be a substantial source of operating budgets. Additionally, bonds may be sold to pay for capital projects. Even where user fees are important, however, a governmental agency may be operating as a legal monopoly or be under a mandate to provide service to all people at a fixed cost, no matter how difficult or expensive it may be to reach them. The U.S. Postal Service's mission regarding first-class mail is an example: The price of sending a letter from Miami to North Miami is the same as that of sending one to Honolulu or Nome.

The market is less constraining in the public sector than in the private sector. The market becomes most salient for public agencies when governments, primarily cities, are under severe fiscal constraints. In the long run, excessive taxation of the public in support of undesired or inefficient governmental operations can cause citizens (who are the consumers or customers of public administrative operations) to "opt out" of the system, by moving to another jurisdiction. Governments may also seek to contract out some services, such as trash collection. The federal, state, and local governments also

face market forces when they borrow money. The less strong their financial shape is, the more expensive borrowing is likely to be. But the governments in question are not likely to go out of existence. Unlike private firms, they cannot move "off shore" and rarely dissolve through bankruptcy.

The "public choice" movement holds that government agencies will be more responsive and efficient if they can be compelled to react to market-like forces. For instance, public schools might be made to compete with one another by allowing parents the opportunity to choose which schools to send their children to within a general geographic area. Voucher systems can be used to promote competition between public and private schools.

Private firms typically face markets more directly. Under free-market conditions, if they fail to produce products or services at competitive prices, consumers take their business elsewhere, and a company's income declines. Eventually the noncompetitive private firm will go out of business. In between the typical public agency and the private firm is a gray area in which not-for-profit organizations and highly regulated industries, such as many utilities, operate. Not-for-profit organizations (NPOs) fill an important niche in the economy, providing services that may not be sustained through market pricing, either because their clients lack the funds to pay for them, or because the goods provided have merit but cannot feasibly be provided either by the market (because they are public or quasi-public goods) or through government (because the services are provided on the basis of social or religious criteria that governments must steer clear of).

A vast number of NPOs operate in the United States. In 2011 the country had around 1.08 million tax-exempt organizations, the vast majority of them charitable or religious in nature. Social welfare agencies, business leagues, labor groups, social and veterans' clubs, and fraternal societies make up the rest. NPOs received more than $298.42 billion in contributions in 2011, or around 2.0% of GDP, including $217.79 billion in the form of individual contributions (equal to 1.9% of household disposable income). In fact, some two-thirds of American households routinely donate money to NPOs, with the average gift in 2008 reaching $2,321. The remainder came from foundations ($41.67 billion), corporate donors ($14.55 billion), and bequests ($24.41 billion). NPOs also derive a substantial amount of revenue both from government sources and from their own business-type (for-profit) activities. This makes NPOs a significant partner with governments in addressing certain areas of social concern and need. It also formed the basis for the efforts of President George W. Bush to lever the activities of "faith-based and community initiatives" in the service of meeting some federal priorities.[9]

The remoteness of market forces from most public administrative operations has profound consequences. It enables government to provide services and products that could not profitably be offered by private firms. Some of these services and products are referred to as **public goods** or quasi-public goods. Broadly speaking, these are goods, such as national defense and lighthouses, that individuals cannot be excluded from enjoying, that are not exhausted or significantly diminished as more individuals use them, and for