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When Congress decides an agency has become captured by special interests, it may terminate the agency and transfer its regulatory responsibilities. Yet how much accountability does disestablishment actually generate in practice? Using 200 million individually-identified employment records from the Office of Personnel Management, reportedly quarterly between 1974 and 2016, I track the employment and salary implications of disestablishment in cases where Congress specifically cited capture as an important reason for terminating the agency. Surprisingly, disestablishment only rarely has significant negative employment consequences for agency staff. It may at times produce significant employment benefits for agency staff. Most typically, however, it has no discernible impact on agency staff's employment outcomes. Case-studies of key disestablishments provides insights into the mechanisms for these findings. In particular, agency staff outcomes are tied to the strength of the interest groups supporting or opposing the agency. Where supporting interests are strong, Congressional buy-in for the agency mission protects agency staff from accountability, even when collective performance is poor.

What are the consequences to agencies from failing to adequately serve their mission? Institutionalists emphasize that the political system has both carrots and sticks that incentivize effective bureaucratic performance. Among the most important political tools for controlling the bureaucracy are the powers of the purse and the ability to disestablish an agency (Fiorina 1981, 333). By zeroing an agency's budget or removing an agency's legal authority, the political system has the power to destroy an agency and remove all its employees in one fell swoop. Yet scholars have debated the extent to which such apex tools of political control are used, if ever. Kaufman (1976) famously argued that in the American context agencies are essentially immortal, a finding that Lewis (2002) and Carpenter and Lewis (2004) dispute on the basis of longer time-series evidence and somewhat different definitions of agency demise. Indeed, the tough definitional questions are really the key difficulty in adjudicating the debate about the extent and circumstances of agency survival. Has an agency ceased to exist merely because it no longer exists as a legal person, even if its former staff continue to carry out the same functions under the auspices of a new legal entity? If one takes a less restrictive approach, like Kaufman, one

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is liable to see much more continuity and less accountability than if one takes a more formal approach such as Carpenter and Lewis. Commenting on the literature examining agency survival both in the United States and abroad, Kuipers, Yesilkagit, and Carroll (2018) note that "disagreement over definitions of organizational termination continues to feed the debate, and color the findings on survival. As if during an autopsy, different doctors arrive at different conclusions on the cause of death whereas a third one claims the patient has not died at all."

Despite its semantic difficulties, questions about agency survival are important for assessing accountability in the face of poor bureaucratic performance remains an important question. As a result, the agency survival literature continues to grow even in the face of these fundamental issues (James et al. 2016; Boin et al. 2017; Bertelli and Sinclair 2018; Witteloostuijn et al. 2018). In this Article, I take a new and different approach to questions about bureaucratic accountability and agency survival. I pose the question of whether *agency staff* bear any consequences for their agency's poor performance. Unlike agency survival, employment-related outcomes for agency staff are well-defined and unambiguous: a person continues to be on the federal payroll after disestablishment or they are not. An individual's salary is an actual number. While the motivations and preferences for a collective such as an agency are not simply an aggregate of their members, so that agency accountability is surely not identical to staff accountability, the two concepts are intimately related. Meaningful agency accountability is felt by its human staff; rewards and punishments applied to the membership are felt by the agency. Many of the same questions about the determinants of political accountability for agency performance can be asked and answered by examining what happens to agency staff.

Logically, there are three potential responses for political principals to an agency or their staff failing to perform: the agency and staff could be punished with lower wages (in the limit, termination), the agency and its staff could be rewarded with higher wages, or there may be no consequences either positively or negatively at the level of employment. How frequently do political principals choose each of these alternatives and why?

To explore these questions, I rely on an unprecedentedly large and detailed set of data on US Federal Employment between 1974 and 2016 (Singer-Vine 2017). Covering all agencies that report personnel records to the Office of Personnel Management, the electronic records I leverage contain unique name and numeric identifiers that permit tracking of federal employees over the course of their careers in government. Using a matching-based difference-in-difference estimation strategy, I evaluate counter-factual employment outcomes following agency disestablishment such as salary, whether employed in government, and stability of employment. I focus in particular on agency disestablishment that follow wide-spread perceptions of failure, where these perceptions of failure are identified through searches of contemporary media account and discussion in the Congressional record.

Using this analytical approach, I show that when the political system disestablishes agencies as a response to perceived agency failures, agency staff typically face few negative employment repercussions. They are not more likely to leave their job in the short or near term, their salaries are not adversely affected, and their employment situations within the federal workforce are no less stable than they would have been absent disestablishment. In rare cases, average salaries for disestablished agency staff may go down and, even more rarely, they may go up following disestablishment. While in some cases the impacts of disestablishment on career trajectories are statistically detectable, they are rarely substantial as a fraction of life-time earnings.

The lack of employment consequences for poor agency performance is potentially troubling from the perspective of accountability, however on its own this quantitative analysis provides little clue as to rationale or mechanism. Why do political principals engage in mass punishment of employees in some instances, reward employees in others, but for the most part allow staff to continue as they were? To explore such questions, the Article analyzes the legislative history of several key instances of disestablishment, in order to identify some of the trade-offs that political principals faced in responding to agencies that systematically were failing in their mission. Indeed, the cases suggest several important, if non-exclusive factors: the extent to which agencies are adapted to their interest group environment matters; the extent to which the agency's mission is perceived as necessary and in the public interest; and the replacement costs of mission-specific human capital within the agency also matters. Where agencies favor stakeholders that lack political power or make foes of those with power, under take tasks that are perceived as unnecessary or counter-productive, and where alternative sources of expertise are easily found, agency disestablishment following failure may indeed prove hazardous for agency staff. By contrast, when agency supporters have political power, when the agency mission is viewed as increasingly important, and where the staff's skills are unique and sought after, disestablishment and failure may well be rewarded. The most typical case, however, is the moderate one, where crisis prompts risk-averse principals to take disestablishment as a superficial consequence to agency staff, yet the perceived necessity of the agency's mission and the balance of interest group power supporting the agency remains unchanged.

1 Disestablishment As Accountability: The Case of the Renegotiation Board

The Renegotiation Board was an independent commission created to recapture excess profits on defense contracts. [1] The disestablishment of the Board is one of the rare cases where significant negative consequences were felt by agency staff at the level of employment. It is worth parsing carefully, therefore, why these results followed. Between 1951 and 1977, the Board returned a billion dollars in excess profits to the taxpayers, at a cost of about one-hundred million in salaries and overhead (Richburg 1984). Many of its most extraordinary returns were recuperated early in the 1950s, when a desperate US government spent liberally to equip itself for the Korean War.[2] In the 1960s, however, the agency encountered troubles. Unlike most federal agencies, the Board was subject to sunset rules that required frequent reauthorization. During some of these reauthorizations, Congress had decreased the agency's budget and inserted loopholes that allowed for creative accounting tricks.[3] Additionally, Presidents had tended to use the Board as an opportunity for patronage, appointing allied Congressional staffers, politicians who

[1] U.S. Renegotiations Board, *1978 Annual Report* (1978).

[2] U.S. Congress, Senate, Committee on Banking, Housing, and Urban Affairs, *Hearings before the Committee on Environment and Public Works*, 95th Cong., 1st sess., 1977.

[3] U.S. Congress, Senate, Committee on Appropriations, *Hearings before a Subcommittee of the Committee on Appropriations*, 93rd Cong., 2nd sess., 1974, 181.

lost reelection bids, and industry executives to the Board (Mintz 1977b). Reports by oversight committees concluded that the agency was understaffed and not achieving its potential,[4] although the depths of the crisis remained poorly understood.

In 1973, President Ford appointed to the Board one Goodwin Chase, a pugnacious self-made banking executive who had served as Washington state chairman of Democrats for Nixon (Feinsilber 1977). Chase began writing stinging dissents that drew attention to the Board's many failings. In dramatic oversight hearings probing these unusual non-unanimous decisions, Congress learned about the distressing cloak-and-dagger office politics of the Board. Chairman Whitehead appeared more concerned with intimidating the general counsel for helping Chase write his dissents than targeting actual abuse (Mintz and Kuttner 1974). The hearings also uncovered worrisome behavior on the part of other Board members. For example, Board member Rinehart allowed one recalcitrant contractor to negotiate a huge writedown on an excess profit determination while aboard Rinehart's own 43-foot yacht.[5] Worrisome though these managerial peccadilloes were, the bigger problem were systemic. Chase noted that the agency found itself primarily targeting smaller defense contractors and clearing the contracts of large contractors with only limited analysis. The backlog of unexamined sales had reached a staggering 152 billion.[6] Staffing levels had declined annually and morale was generally low.[7] The policies of the agency about approaching frequent interpretive issues were at best scattershot.[7] Senator Proxmire summarized these hearings as establishing that the Board "was not only toothless but gumless [and] aimlesss."[8]

A reform contingent within Congress developed plans to renew the board. Eventually, they would find a powerful ally in President Carter, who fired three deadweight Board members, elevated Chase to chairman, and added William McQuillen and Harry Van Cleve to the Board, both of whom had substantial experience overseeing the Board and

[4] U.S. Congress, House, Committee on Government Operations, *Efficiency and Effectiveness of Renegotiation Board operations*, 6th report, 92nd Cong., 1st sess., 1971, H. Rep. 758.

[5] Committee on Appropriations, *Hearings before a Subcommittee of the Committee on Appropriations*, 1974, 161.

[6] *Ibid*, 126.

[7] *Ibid*, 182.

[7] *Ibid*, 182.

[8] *Ibid*, 242.

government procurement contracts (Mintz 1977a). Legislative attempts to bolster the agency, led by Minish in the House and Proxmire in the Senate, were more fraught (e.g. 94 HR 9534, 94 HR 10680, 95 HR 5959, 95 S. 1594). During the 1974-1976 period, one reasonably might have expected the Congress to double-down on the Board. Indeed, Minish's reform bill 94 HR 10460 passed the House on January 29, 1975. Yet it was never taken up for a vote in the Senate.[9] As these reform bills failed to gain traction, reauthorization in 1976 began to loom once again. Defense industry lobbyists began to spread information sowing doubt about the advisability of the Board. Ultimately reauthorization failed, however the Congress continued to fund the agency until March of 1979.[10] Despite existing in a legal grey zone as a funded but unauthorized agency, the Board continued to secure findings against its substantial backlog. It even managed to publish several new rules and regulations, albeit of questionable validity given the Board's uncertain legal status. Indeed, in 1977 and 1978, under Chase's leadership, the "vigilante" Board saw a notable uptick in its recuperation of profits. Between 1976 and 1979 Congress continued to consider bills to variously extend, kill, or reinvigorate the board, but none obtained a vote. On April 2nd, 1979, mere days after the evaporation of funding for the Board, Senators Proxmire and others forced a vote on an amendment to extend funding until June 1979. This tepid lifeline to the Board was defeated by a resounding 2-1 margin.[11]

In light of this history, one political explanation for the dismantling of the Board in the late 1970s is that in the mid-1970s, the agency showed signs of becoming effective. Indeed, contemporary observers argued as much [12] Ironically, Whitehead may have had the better argument than Chase about how the Board could best achieve its mission. A low-performing Renegotiation Board was well-adapted to its interest group environment. The potential of moving to a new equilibrium in the conflict between taxpayers and the

[9] Committee on Banking, Finance, and Urban Affairs, *Hearings Before the Subcommittee on General Oversight and Renegotiation*, 1977.

[10] *Amendment 60: To Extend the Renegotiation Board*, 96th Cong., 1st sess., *Congressional Record 125*, 6922-6923.

[11] *Ibid*, 6935.

[12] U.S. Congress, House of Representatives, Committee on Banking, Finance, and Urban Affairs *The Renegotiation Extension Act of 1979 : Hearings Before the Subcommittee on General Oversight and Renegotiation of the Committee on Banking, Finance, and Urban Affairs*, 96th Congress, 1st session, 1979, 73.

defense industry forced the industry's hand. Their coalition was strong enough to block all attempts to continue the agency and eventually led to the disbanding its staff.

At the same time as interest group politics plausibly explains the actual disbanding of the agency in the late 1970s, this story does not figure importantly in the actual debates within Congress about how to respond to the failure of the Board to achieve its mission. Opponents of the Renegotiation Board such as Senator Lugar or Congressman McCloskey would not have said they opposed the Board in order to cheat the taxpayer and enrich defense contractors. Instead, their debates centered upon the *necessity* of the Board and its mission. Their perspective was that the Board had become obsolete.

The argument that the Board had become superfluous had several key dimensions, which are also worth considering as mechanisms that explain why agency's receive unfavorable, neutral, or favorable employment outcomes following disestablishment. On the one hand, opponents argued that times had changed.[13] The Board's greatest success were in the aftermath of genuine wars, when the government faces such urgency that it understandably does not quibble as much as it should over price. Yet agency defenders noted that the US spent far more in the late 1970s on defense purchases than it had in the 1940s or 1950s.[14] Yet much of the backlog was from the late 1960s and early 1970s, a time during which the US was not "officially" at war with Vietnam but in fact very much was. Agency opponents replied that the purchasing process had also changed since the 1950s, so that there were now many more procedural safeguards than there had been. By the late 1970s, several different sub-agencies, employing over 45,000 people and 9,000 auditors, reviewed all defense contracts prospectively under competitive bidding processes.[15] Agency opponents argued that the government had moved toward a system based on *ex ante* screening, rather than on one based on *ex post* renegotiation, and the *ex ante* approach was more efficient and cheaper for the tax-payer in the long-run. The potential for renegotiation of contracts created substantial compliance and uncertainty costs.[16] It also undermined the incentives of firms to innovate. If a contractor found

[13] *Amendment 60: To Extend the Renegotiation Board, Congressional Record 125*, 6923.

[14] Committee on Banking, Finance, and Urban Affairs, *Hearings Before the Subcommittee on General Oversight and Renegotiation*, 1977, 238.

[15] *Amendment 60: To Extend the Renegotiation Board, Congressional Record 125*, 6930.

[16] *Ibid*, 6924.

a way to make a toilet for less money than it initially bid, then it earns a short-term profit, however the government would thereafter get the benefit of lower-prices in all future contracts.[17] Between lost innovation and increased prices passed on to consumers, opponents argued that *any* Renegotiation Board was a bad deal for the taxpayer. Supporters of the agency noted that independent oversight bodies such as GAO had failed to identify *any* marginal compliance costs imposed by the Board and that the Board likely was a valuable deterrent.[18] The debate about hidden costs and benefits from factors such as deterrence and innovation was based on very thin data, however it plausible that Congress became convinced that the Board was no longer good public policy.

One final point emerges from the Congressional debate that can also explain why the Board was disbanded when others were not. Opponents of the agency repeatedly described what they were doing as "mothballing" the Board until the next war required the resuscitation of the Board. Indeed, Senator Lugar sponsored a bill that passed the Senate which would have given the President the authority to revive the agency if a national emergency required it. [19] Although not much discussed in the key Congressional hearings about the Board, opponents implicitly believed that the government could start the agency up again at low-cost. Central to this claim was the observation that there were a very large number of Defense Department employees involved in contracting, with figures ranging from 15,000 to 45,000, at the same time as the contemporary board contained just a few hundred employees. Moreover, the value of the actual expertise possessed by the current Board staff was disputed. In particular, the Board suffered embarrassing and repeated reversals in its determinations by the Court of Federal Claims.[20] While supporters of the Board clearly believed that there was valuable human capital in the agency that could not be recuperated,[21] opponents may have persuasively argued that the agency's replacement cost was atypically low.

[17] Committee on Banking, Finance, and Urban Affairs, *Hearings Before the Subcommittee on General Oversight and Renegotiation*, 1977, 21-23.

[18] *Amendment 60: To Extend the Renegotiation Board*, *Congressional Record 125*, 6920.

[19] *Ibid*, 6923.

[20] *Ibid*, 6930-1. Between 1951 and 1971, appellate jurisdiction was with the Tax Court and under an agency-deferential standard. After 1971, the Court of Claims heard cases under a *de novo* standard, effectively requiring the Board to prove its case again. Committee on Banking, Finance, and Urban Affairs, *Hearings Before the Subcommittee on General Oversight and Renegotiation*, 1977, 494.

[21] *Amendment 60: To Extend the Renegotiation Board*, *Congressional Record 125*, 6922.

2 Disestablishment As Reward: The Case of the Commodity Exchange Authority

The Commodity Exchange Authority (CEA) was a sub-agency of the Department of Agriculture (USDA) created in 1922 to regulate grain futures and replaced in 1974 by the Commodity Futures Trading Commission (CFTC). Futures are financial instruments that, in essence, are promises to purchase or receive goods at some specified date for an agreed upon price. Crucially, they also involve a commodity market such as the Chicago Board of Trade, which standardizes these contracts so that they are fungible, provides facilities and ground-rules for exchanging them, and ensures that members have enough cash to make good on their promises (Carlton 1984). The major economic benefit futures contracts and markets afford is allowing producers and consumers of commodities to decrease economic risk. Futures contracts can protect producers from the down-sides of an unusually large supply and consumers from an unusually weak one. They also allow producers and consumers to learn when it makes sense to wait to sell or buy the commodity, which helps allocate goods more efficiently in the economy. Yet futures markets are also unstable, manipulable, and attractive to speculators, who participate as buyers or sellers in these markets without having any actual interest in ever delivering or receiving these goods.[22] As the primary regulator of these markets, the CEA was subject to heavy criticism for the inadequacy of its performance, particularly in the early 1970s (Schorr 1973; Mollenhoff, Risser, and Anthana 1973). Yet the reaction of Congress to failure at the CEA was quite different from its approach to failure at the Renegotiation Board around the same-time. Rather than eliminate the agency and layoff the staff, the Congress moved them to a newly created Commodity Futures Trading Commission. As one tongue-in-cheek commentator noted, “the long-suffering bureaucrats of the Department of Agriculture who found themselves a part of this new super agency thought they had died and gone to heaven” (Stassen 1982, 833). The goal of this section is to explain why Congress responded to failure at the CEA by promoting the agency and its staff, whereas in the case of the Renegotiation Board they choose to

[22] U.S. Congress, House, Permanent Select Committee on Small Business, *Report on Small Business Problems Involved in the Marketing of Grain and Other Commodities*, 93rd Cong., 2d sess., 1974, H. Rep. 438.

obliterate the agency.

Unlike with the Renegotiation Board, the debates about the CEA's performance were prompted by several events outside the agency (Stassen 1982). Firstly, the number of tradable commodities, the volume of trades, and the size of the overall futures market were growing at phenomenal rates throughout the late 1960s an early 1970s.[23] Indeed, by 1973 it appeared that the futures market would soon have twice as many trades by dollar value as the stock market, which was subject to much more extensive regulation and overseen by the Securities and Exchange Commission, an agency eight times larger than the CEA.[24] In addition to getting larger, these commodities markets were also becoming more volatile.[25] Such volatility created numerous problems for the commodity producers and commodity consumers who actually intended to provide or receive delivery.[26] This volatility made the markets even more attractive to speculators and even more unsavory types. According to some authorities, more than half of commodities dealers were ex-felons, convicted fraudsters, and individuals of otherwise questionable character.[27] While the basis for such statistics is not exactly clear, high-profile scandals such as the collapse of Goldstein-Samuelson option trading shop left unwitting consumers holding the bill for hundreds of millions of dollars.[28] These events mark an important difference with the Renegotiation Board: during Congressional debates about the CEA there were very few who suggested that the regulatory task of the CEA was obsolete, unimportant, and unnecessary.

Although Congressional estimation of the mission was vastly different in the two cases, the evaluation of the agency performance had notable similarities. If anything, the appraisal of the CEA was even more devastating than the Board. With a staff of around 160, the CEA was smaller even than the Federal Maritime Commission, and a

[23] U.S. Congress, House of Representatives, *Report on Commodity Futures Trading Act of 1974*, 93rd Cong., 2d sess., 1974, 39-41.

[24] *Ibid.*

[25] Permanent Select Committee on Small Business, *Report on Small Business Problems Involved in the Marketing of Grain and Other Commodities*, 1974, 10.

[26] *Ibid*, 17-21.

[27] *Report on Commodity Futures Trading Act of 1974*, 1974, 39.

[28] U.S. Congress, House of Representatives, Permanent Select Committee on Small Business, *Hearings before the Subcommittee on Special Small Business Problems*, 93rd Cong., 1st sess., 1973, 51.

fraction of the size of major economic regulators such as the SEC, ICC, or FTC.[29] Even worse, positions at the CEA were "under-graded," undermining the ability "to attract and retain individuals with the requisite skills and professional competence."[30] The average general service grade level of a CEA employee was 7.65, whereas at most economic regulators the level was around 9 or above. Before an oversight hearing, the CEA administrator complained that this undergrading caused many of the best accountants and economists they could find to leave for other agencies, and prevented the agency from acquiring staff with any experience in futures markets.[31] Indeed, a representative from a Chicago exchange told Congress he could count "on the fingers of my hand the people in the [CEA]... who really understand commodities." These staffing issues transalted into weak enforcement and poor performance. An auditor at the USDA testified before Congress about the CEA's "problem areas," which included extensive reliance on self-regulation by exchanges, limited access to information from these exchanges, few trade practices investigations, little follow-up on trade abuses, no effective computer system for tracking manipulations, and half a dozen other major issues.[32] These problems translated into a basic lack of authority and pervasive compliance problems. In one instance, CEA officials were literally standing next to a trader committing an apparent violation, demanded that he stop, and were subsequently ignored by the trader who resumed what he was doing.[33] In another, the CEA was aware that three traders had cornered 60% of the soybean market, yet all it did was request the exchange take care of it.[34]

The problems of CEA's weakness and inefficacy were, however, attributed the bed that Congress had made for it. The CEA's interpretation of its authorizing statute was that they had no authority to seek injunctions to enforce the act.[35] The CEA did have

[29] Permanent Select Committee on Small Business, *Report on Small Business Problems Involved in the Marketing of Grain and Other Commodities*, 1974, 41.

[30] Permanent Select Committee on Small Business, *Hearings before the Subcommittee on Special Small Business Problems*, 1973, 42.

[31] *Ibid*, 364

[32] *Ibid*, 332.

[33] *Ibid*, 298.

[34] Permanent Select Committee on Small Business, *Report on Small Business Problems Involved in the Marketing of Grain and Other Commodities*, 1974, 43.

[35] *Ibid*, 43.

at its discretion significant enforcement powers, for example the ability to block a non-compliant exchange from trading in regulated commodities. Using these tools would, however, impose such significant collateral fallout that the use of these weapons was unlikely.[36] The CEA could only refer investigations to the Justice Department, it could not prosecute cases on its own, nor could it assign civil monetary penalties. In light of these observations, it appeared that the policy arguments for upgrading and promoting the CEA were much stronger than in the case of the Renegotiation Board.

Yet the legitimate policy arguments that one observes in Congress are, in part, a function of the strength of the interests on each side. Here too, there were important differences from the case of the Renegoation Board. The CEA/CFTC was supported by an alliance of users of the major commodity markets and the markets themselves (Johnson 1976). While these groups were not fully in agreement on whether the upgraded CEA should be a truly independent regulator or remain part of the USDA (Greenstone 1977), both sides agreed that all commodities should be regulated under one, more expansive umbrella. Individuals representing farmers and the commodity storage industry testified to necessity for stable commodity markets to exist, hence the need for a powerful regulator such as the CFTC. Congressmen who supported the CFTC's creation portrayed themselves as acting in defense of family farmers and ordinary consumers and against a shadowy, powerful cartel of speculators. Massachusetts's Representative Conte summarized well the perspective of members of Congress in bolstering the CEA: "Both producers and consumers have suffered as a result of huge price fluctuations. I am convinced that someone, somewhere, is profiting from all of this. And I suspect that, in some cases at least, the people responible for the price fluctuations are among those benefiting from them."[37]

Although one might expect that the commodity exchanges, as the major regulated entity, would oppose the creation of a substantially more powerful regulator, in fact the largest exchanges supported the enhancement of the CEA.[38] Part of their rationale was

[36] *Ibid*, 43.
[37] Permanent Select Committee on Small Business, *Hearings before the Subcommittee on Special Small Business Problems*, 1973.
[38] *Ibid*, 54-55. Testimony from CME and CBOT representatives

defensive: excessive volatility onion prices in the 1960s had in fact resulted in Congress banning futures on this good.[39] Yet an even larger part of the rationale was *offensive*, since it would help these exchanges to gain market share from competitors and also would reduce uncertainty about the regulated status of goods on their market (Greenstone 1977, 182-183). The Chicago Mercentile Exchange, for example, was designated as a "regulated" exchange. Futures in certain covered products, such as corn or soybeans, could only be traded on such regulated exchanges. However, there were no such restrictions on other, more esoteric futures, such as coffee or mortgages. Futures in these products can and were traded on many other exchanges, for example the New York Mercantile Exchange, which did not have the necessary designation. Unregulated futures such as coffee could also be traded on the regulated exchanges, [40] nevertheless these products were mostly traded outside of Chicago. By creating a single agency that regulated all commodities, Congress would improve the position of leading regulated exchanges such as the Chicago Mercantile Exchange and the Chicago Board of Trade. In this context, it is worth remembering that much of the most extraordinary growth in the futures market was in its least regulated corners.[41]

Who did oppose the enlargement and expansion of the CEA, then, besides the smaller, unregulated exchanges? The Congressional Record gives few clues, itself an indication of the paucity of resistance. A few libertarian Republicans, critical of the regulatory enterprise, spoke out against the creation of a new, large federal agency.[42] The USDA may have opposed the enlargement of the CEA into an independent agency, although not primarily as a matter of defending turf. Their main concern was that the Congress would not properly account for the use of their office facilities in budgeting. Thus, with few exceptions, the interests that existed around the CEA had grown more supportive of the agency, despite its lack of distinguished performance. The arrival of focusing crises created the opportunity for these interests to flex their strength and move to an equilibrium where the agency was even larger and more powerful.

[39] *Ibid*,53,132,136,196

[40] *Report on Commodity Futures Trading Act of 1974*, 1974, 41.

[41] *Commodity Futures Trading Commission Act of 1974*, H.R. 13113, 93rd Cong., 1st sess., Congressional Record 120, 10736.

[42] *Ibid*, 10742-43.

3 Data and Methods

The case studies establish conditions when one might expect particular kinds of employment outcomes following disestablishment. Yet they do not shows what actually happened in these particular cases, nor how frequent these kind of reactions were. In order to evaluate the effect of agency disestablishment on individual employee outcomes, I use an empirical strategy based on difference-in-differences with matching. For each employee of a federal agency in a period prior to disestablishment, I find another employee in a different agency who is as similar as possible based on background covariates.[43] These matches can be thought of as constituting a "synthetic" agency that combines civil servants from many different parts of the federal government. Average outcomes such as salary for the employees of the disestablished and synthetic agency may be compared before and after the disestablishment event, which under appropriate and familiar assumptions identifies the causal impact of disestablishment on these agency employees.

The primary data source for this analysis are detailed administrative personnel records provided by the Office of Personnel Management in response to a recent FOIA request by a journalist, and subsequently posted to the Internet Archive (Singer-Vine 2017). The records cover years 1973 through 2016 and are reported quarterly. There are two sorts of records included in the release: snapshots of information about all current employees ("status" reports), and other information collected upon an employee entering or leaving the federal workforce ("dynamic" reports). Crucially, individuals are identified in the dataset by name and also with a numeric identifier, which permit individual trajectories to be evaluated over time. All agencies that report their employment records to OPM's Enterprise Human Resource Integration system are included in these reports, which is to say almost all executive agencies. Inevitably, there are a handful of agencies that for various reasons do not report to OPM and are not included in this data release.[44] A

[43]Practically speaking, I use all available covariates, generally comprising age, profession, education, years of government service, grade-level, and pre-event salary.

[44]The twenty-five excluded agencies are listed here https://ia600608.us.archive.org/16/items/opm-federal-employment-data/docs/2015-02-11-opm-foia-response.pdf. Note that most of the excluded agencies deal with National Security and Foreign Affairs (i.e. the CIA), are within the Executive Office of the President (i.e. the Office of Policy Development), or are lodged within Congress (i.e. the Architect of the Capitol). The only significant domestic regulator left out of the data is the Federal Reserve Board.

typical status report contains information on about 1.2 million federal workers, implying an overall data set with well over 200 million records.

As important as the identification of actual and counter-factual employment outcomes is the determination of when agency's have been disestablished as a result of failure. In order to define the cases of interest, I used an iterative approach that leveraged existing scholarship and the records of Office of Personnel Management. First, I began by canvasing the academic and policy literature to ascertain a small set of well-known examples of agencies that were terminated during the 1973-2016 time period following visible failures or wide-spread allegations of regulatory capture. This initial exploration uncovered eight probable examples of what one might think of as "terminations for cause."[45] Using these examples, I began to develop systematic criteria for identifying the set of agency terminations that could properly be understood as resulting from failures.

The first question confronting such an analysis is how to define an agency. The OPM's data definition file lists translations for 2,023 four-digit agency codes[46] and 443 two-digit agency codes.[47] These 2,466 codes and translations constitute the initial frame of what might be a potential agency, although the number here is obviously too large because sometimes OPM changes its record-keeping codes without any change in these agencies actually occurring. By excluding military agencies[48] and currently active codes, I reduce the focus to 1,169 disused non-military codes and translations. Given that the purpose of analysis is eventually quantitative analysis, I further restrict attention to these disused codes where the reporting entity had at least one hundred employees at some point in its history, reducing the set of focus codes and names to 855. Without further automatic criteria to apply, several RAs and I began a more exhaustive search to identify agencies appropriate for analysis. In particular, we consult the History of Agency Organizational

[45]These examples were the Atomic Energy Commission (1975), the Mining Safety and Enforcement Administration (1978), the Civil Aeronautics Board (1985), the Federal Home Loan Bank Board (1989), the Interstate Commerce Commission (1995), the Bureau of Mines (1995), the Federal Housing Finance Board (2009), and the Office of Thrift Supervision (2011).

[46]For example, AG04 and CF00 are four-digit codes for the CEA and CFTC, respectively

[47]For example, AG and CF are two-digit codes for the USDA and the CFTC, respectively

[48]Formally, I ignore codes beginning in AF (Air Force), AR (Army), DD (Defense Department), NV (Navy), RH (Armed Forces Retirement Home), SH (U.S. Soldier's and Airmen's Home), and NN (NASA)

Changes contained in the most recent US Government Manual (USGM), which typically lists dates of disestablishment as well as some description of how disestablishment was achieved. Focusing on statutory disestablishment, eliminating still existing agencies with disused codes, and removing clear redundancies[49] the list was reduced to forty five potential cases of disestablishment for cause. RAs then searched ProQuest for news coverage of the agency around the time of disestablishment. If the balance of news coverage was substantially critical, the case was included in the study. Ultimately, thirty-six agency disestablishments are explored in this paper.

4 Results: Illustrative Cases

4.1 Renegotiation Board

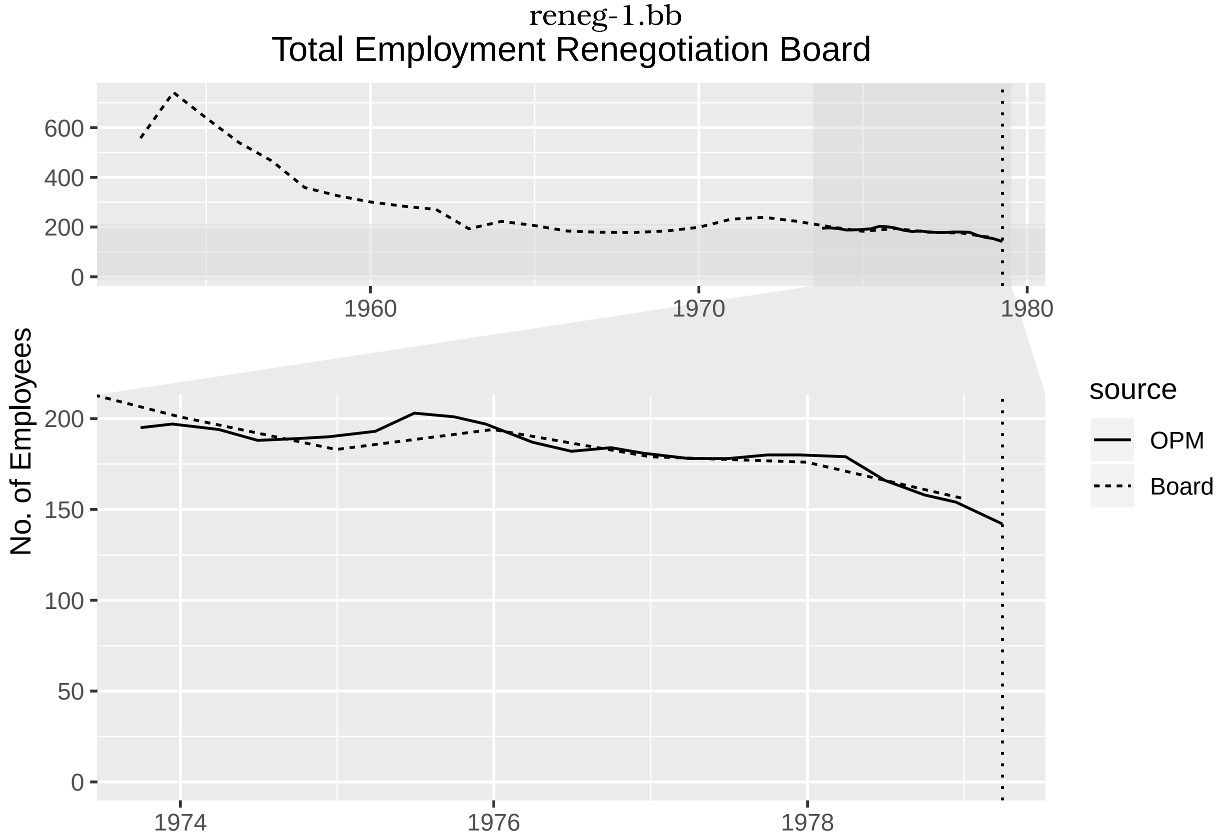
The Renegotiation Board's statutory authority officially lapsed in October of 1976, however the Board continued to exist thereafter and received funding. In July of 1978, Congress scheduled the Board to lose its funding on March 31, 1979 and have the GSA assume ownership of its property (*Amendment 60: To Extend the Renegotiation Board* 1979, p. 6923). After March 31, 1979, the agency should have no employees, which the OPM data confirms. Figure 1 shows historical staffing levels as reported by the Board in its 1978 annual report and includes a call-out highlighting how the Board's figures overlap with OPM's for mutually covered periods. The closeness of these two independent data sources represents a good test of basic data quality. Both sources suggest an overall employment around 200 in the mid to late 1970s, with a notable decline between the first and third quarter of 1978 after the Congress affirmatively set a close of business date. Indeed, roughly 20% of agency employees left in the last year of its existence (including its chairman, Goodwin Chase).

Anticipatory exit creates certain difficulties for empirical analysis, especially in regard to difference-in-difference estimators based on matching. Those familiar with the program evaluation literature may recall discussions of "Ashenfelter's dip," in which job training programs can falsely reveal gains in earnings as a form of mean reversion. In

[49] For example, "U.S. INTERNL DEVELOPMENT COOPERATION AGY" and "U.S. INTERN DEV COOPERATION AGENCY" are treated as one agencies

Figure 1: Staffing levels at the Renegotiation Board

reneg-1.bb



this particular context, the concerns about bias due to violations of strict exogeneity of treatment are somewhat different. Individuals who do not leave an agency in dire straits are presumably less likely than their matches to leave the federal workforce even if the agency had been doing well. To the extent that outside offers lead to higher salaries, it is also possible that the salaries of the matched pairs may rise faster than those in the "treatment" group would have. Given significant amounts of anticipatory exit, the effect of disestablishment on whether the staff of the disestablished agency stay in government may be under-estimated, while the effect on salary may be over-estimated.

In order to address the anticipatory exit issue, which is not present in most disestablished agencies, I focus on the impact of disestablishment on individuals who were employed by the Board as of March 1978, before any significant evidence of anticipatory exit emerges. The OPM file from Q1 1978 contains personnel data on 1,135,316 employees, out of whom 179 worked for the Renegotiation Board. There were no exact matches available for seventeen employees of the Board and three individuals in other agencies were the best match for two Renegotiation Board employees. The overall size of the "treated" group that was subject to disestablishment was 162 units, while the "control" group was 160. Figure 2 presents a Love plot that illustrates balance before and after matching along some of the most important dimensions of matching. As compared with other agencies, the Board was substantially older, more experienced in government, and more likely to be employed in accounting or industrial fields such as contracting or procurement.

Figure 3 examines the fraction of each cohort employed by the federal government for the entire time-series of OPM data and include a call-out focusing on these proportions two years before and five years after the agency was disestablished. In contrast with the aggregate analysis, there does not seem to be significant evidence of strategic exit by employees after the first quarter of 1978 and prior to actual disbanding of the agency at the end of the first quarter of 1979. The disbanding of the agency was the truly significant event for generating employment consequences for the agency's staff, although surprisingly nearly half of these individuals managed to find an alternative position in the federal government.

Figure 2: Circles represent difference in means between the Board and all federal employees, while traingles represent difference in means after matching.

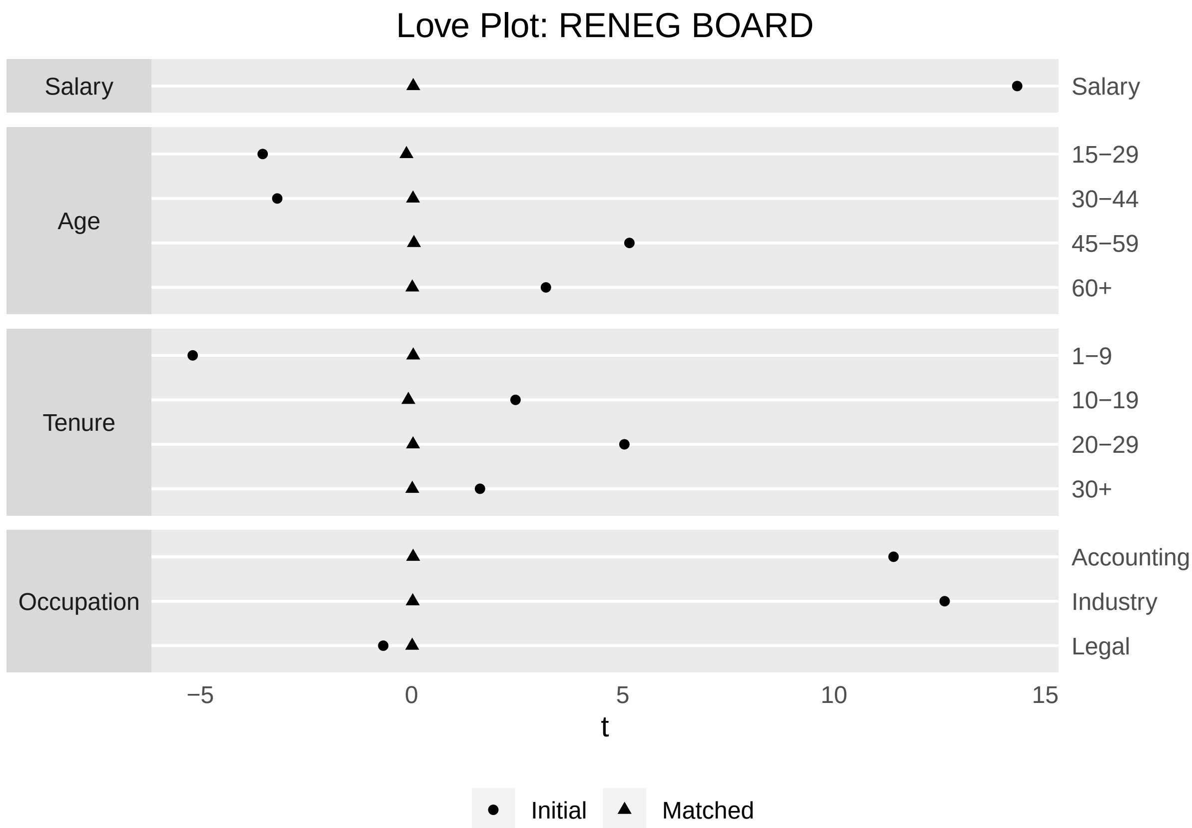
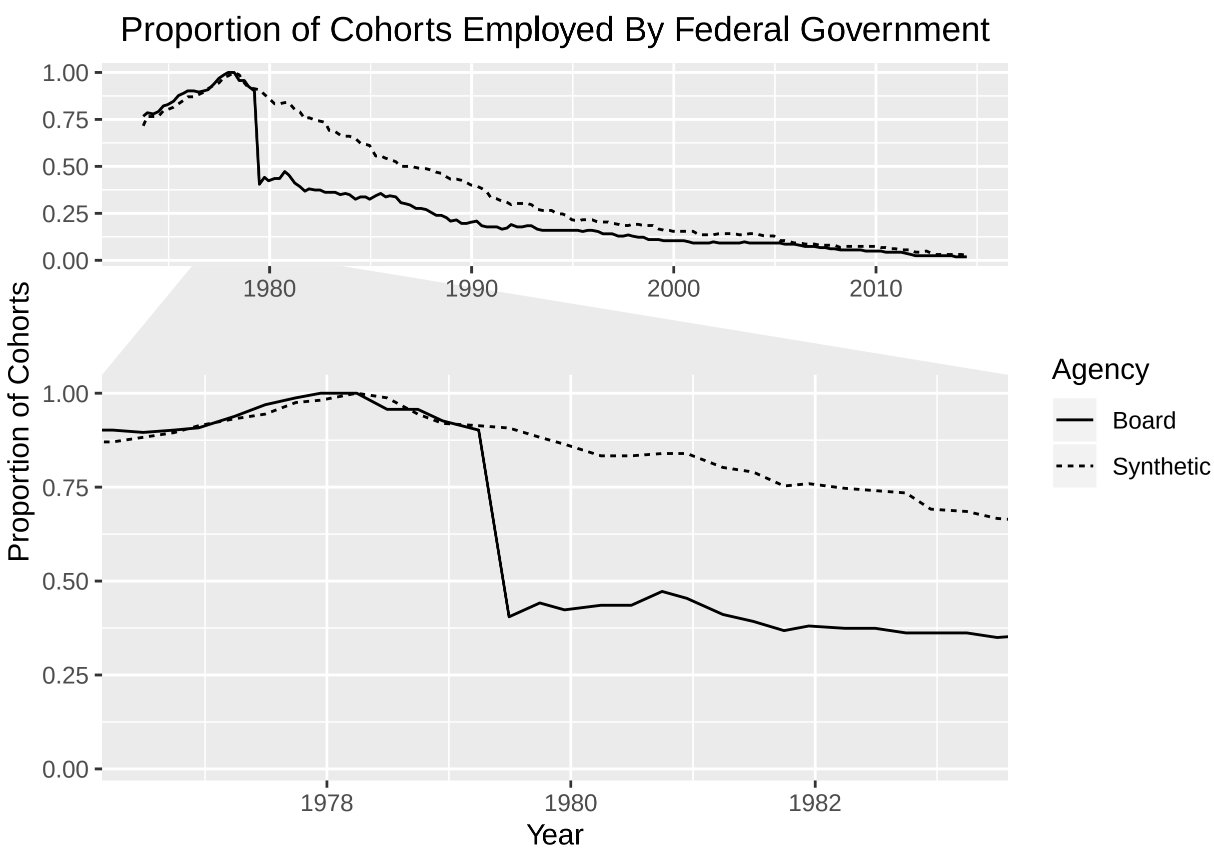


Figure 3


Proportion of Cohorts Employed By Federal Government
1.00
0.75
0.50
0.25
0.00
1980
1990
2000
2010
Proportion of Cohorts
1978
1980
1982
Year
Agency
Board
Synthetic

Salary data is only available for those employees who resumed employment in the federal workforce, which creates challenges for estimating the impact of disestablishment on salary. Figure 4 focuses on the average salaries of each cohort conditional on both matched pairs remaining in government. Salaries at all times are calculated in terms of 2019 dollars. The decline in the average of both groups immediately after disestablishment reflects the fact that individuals in more senior roles at the Renegotiation Board were more likely to permanently leave the government, while more junior individuals were more likely to find alternative positions within the federal government in the short and longer-term. Yet it is apparent that within these matched pairs, the "synthetic agency" staff have aggregate salaries that are consistently higher than those former Board employees, implying a consistent and persistent negative effect of working for this agency on salaries.

Figure 4

Average Salaries for Paired Samples

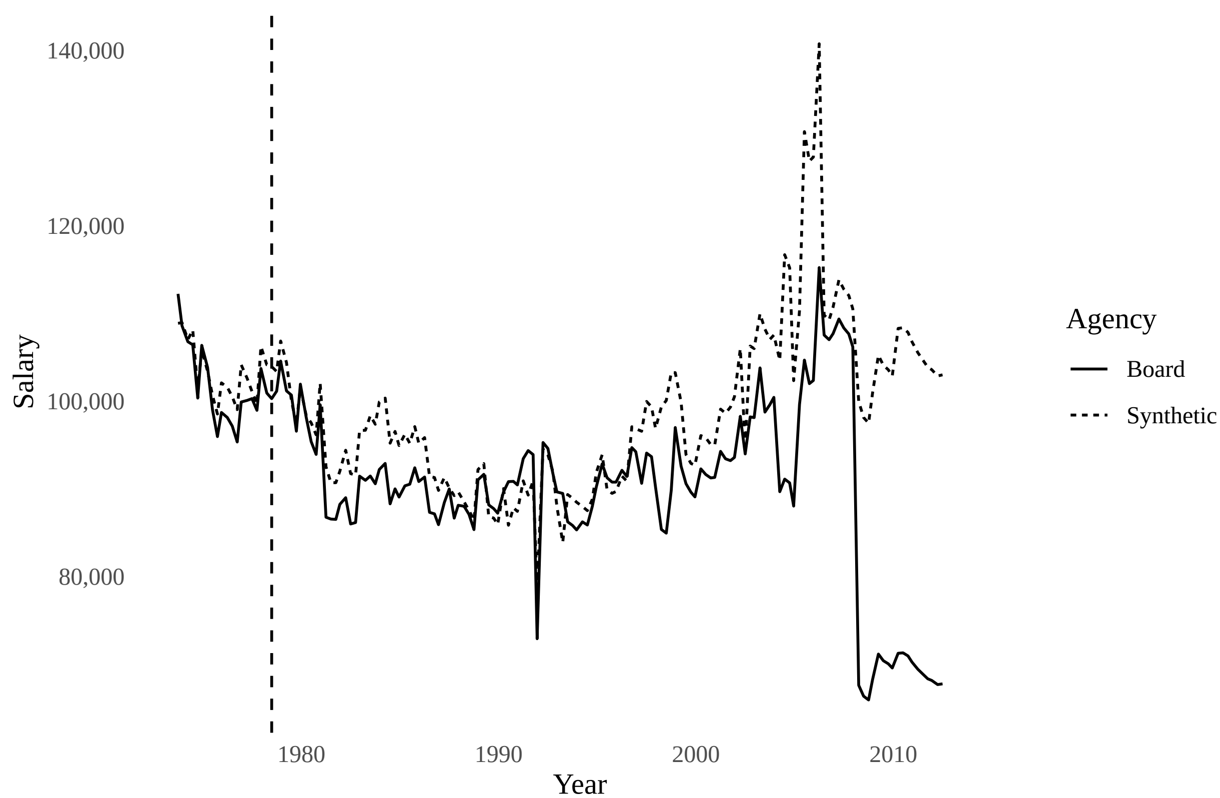


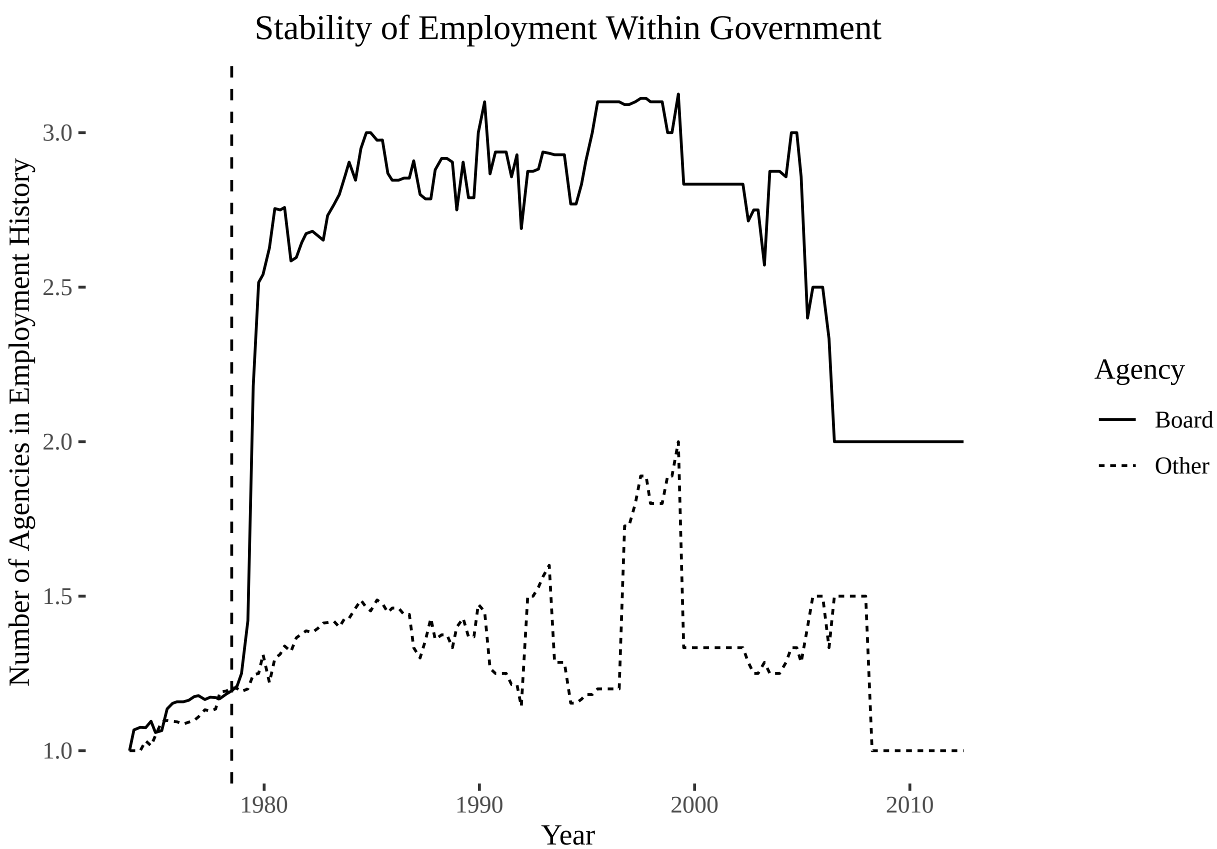
Figure 5 looks at the stability implications of disestablishment. The outcome variable in this case is the number of distinct agencies that have employed the individual over the course of their career. Call this outcome Y_{it}. Lower values of Y_{it} reflect more stable employment. An individual who went to work for an agency out of college and spent thirty years in the same agency would have $Y_{it} = 1$ for all periods. If this individual then left their agency, say in period t, but went to work for a new federal agency, then $Y_{i(t+1)} = 2$. Because of the attrition problem, the figure again focuses on paired individuals who remained employed in federal government. Logically, the treatment group should show a level shift of at least one immediately after disestablishment, since all individuals who stay in government will work for a new agency or not be observable. Yet in subsequent periods, the employees of the Board continue churning through agencies at higher rates than their matched peers, suggesting that the dislocation caused by the Board's disestablishment had ongoing impacts on these individual's choices of employment. After six or seven years, however, the trends are not notably different between the two treatment group. On average, an employee of the Board would have worked for two additional agencies relative to their synthetic agency peers.

4.2 Commodity Exchange Authority

The Commodity Futures Trading Commmission was created on October 23, 1974, however Congress gave the USDA up to 180 days to transfer its personnel (Johnson 1976, 19-20). Given the ambiguous status of each agency and its staff in this liminal period, it is important to analyze carefully how OPM recorded the employment of each of the two agencies. Figure 6 shows the aggregate staffing levels of the two agencies according to OPM's data. From OPM's perspective, CEA actually went out of busines between the first and second quarter of 1975. Indeed, according to the CFTC, the transfer of authority for futures trading occurred on April 21, 1975.[50] Importantly from a data analysis perspective, there are no instances of individuals being employed by both agencies simultaneously; Q2 1975 represents a clean break from Q1 1975. Although there is no comparable evidence of strategic exit as in the case of the Renegotiation Board, it is somewhat questionable how one should define the pre-disestablishment period. Here, I

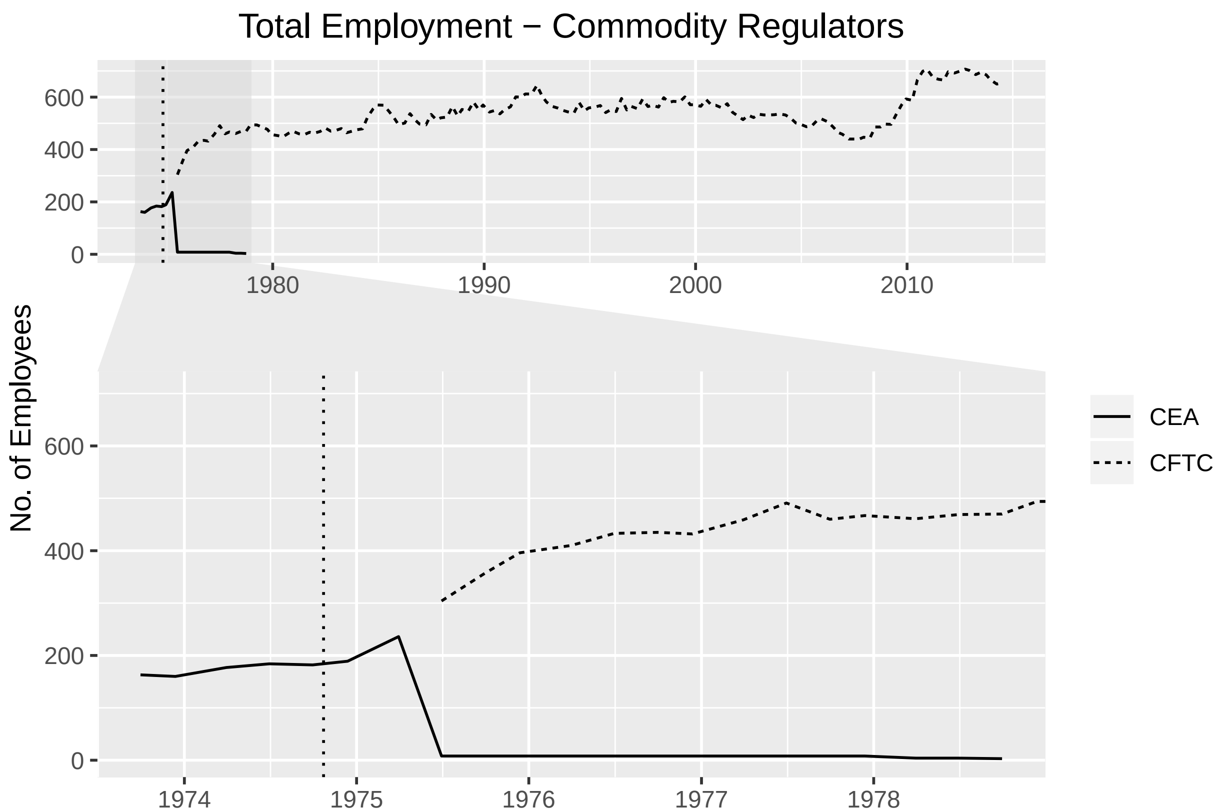
[50] https://www.cftc.gov/About/HistoryoftheCFTC/history_1970s.html

Figure 5: Stability of employment where paired individuals are both in government



shall use the September 1974 report as defining the last pre-disestablishment period.

Figure 6: Stability of employment where paired individuals are both in government.

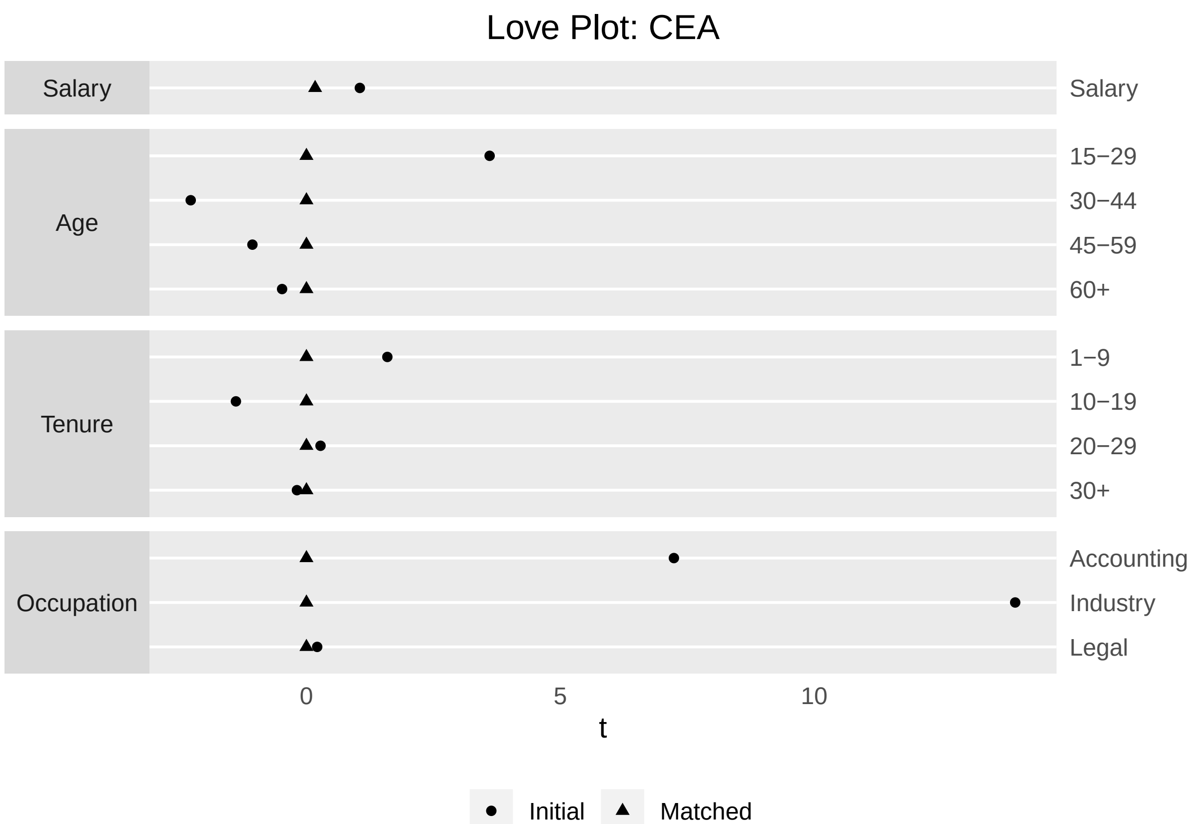


The OPM file from Q3 1974 contains personnel data on 1,041,148 employees, out of whom 182 worked for the CEA. There were no exact matches available for ten employees of the Board and two individuals in other agencies were the best match for two CEA employees. The overall size of the "treated" group that was subject to disestablishment was 172 units, while the "control" group was 170. Figure 7 presents a Love plot that illustrates balance before and after matching along some of the most important dimensions of matching. As compared with other agencies, the Board had more young people and fewer mid-career individuals. They had more accountants or individuals working in industrial fields, and only marginally more likely to be working as lawyers.

Figure 8 examines the fraction of each cohort employed by the federal government for the entire time-series of OPM data and include a call-out focusing on these proportions one year before and five years after the agency was disestablished.[51] Both pre and post-

[51] Longer pre-trends are not available because OPM record coverage begins in 1973

Figure 7: Circles represent difference in means between the Board and all federal employees, while traingles represent difference in means after matching.



trends are largely similar for the two cohorts. Between Q2 and Q3 of 1980 twenty-two former CEA employees simultaneously left the government, however it seems unlikely that these departures were attributable to the disestablishment of the CEA and by the mid 1980s an almost identical proportion of both cohorts are in government.

Figure 8: Proportion of each cohort

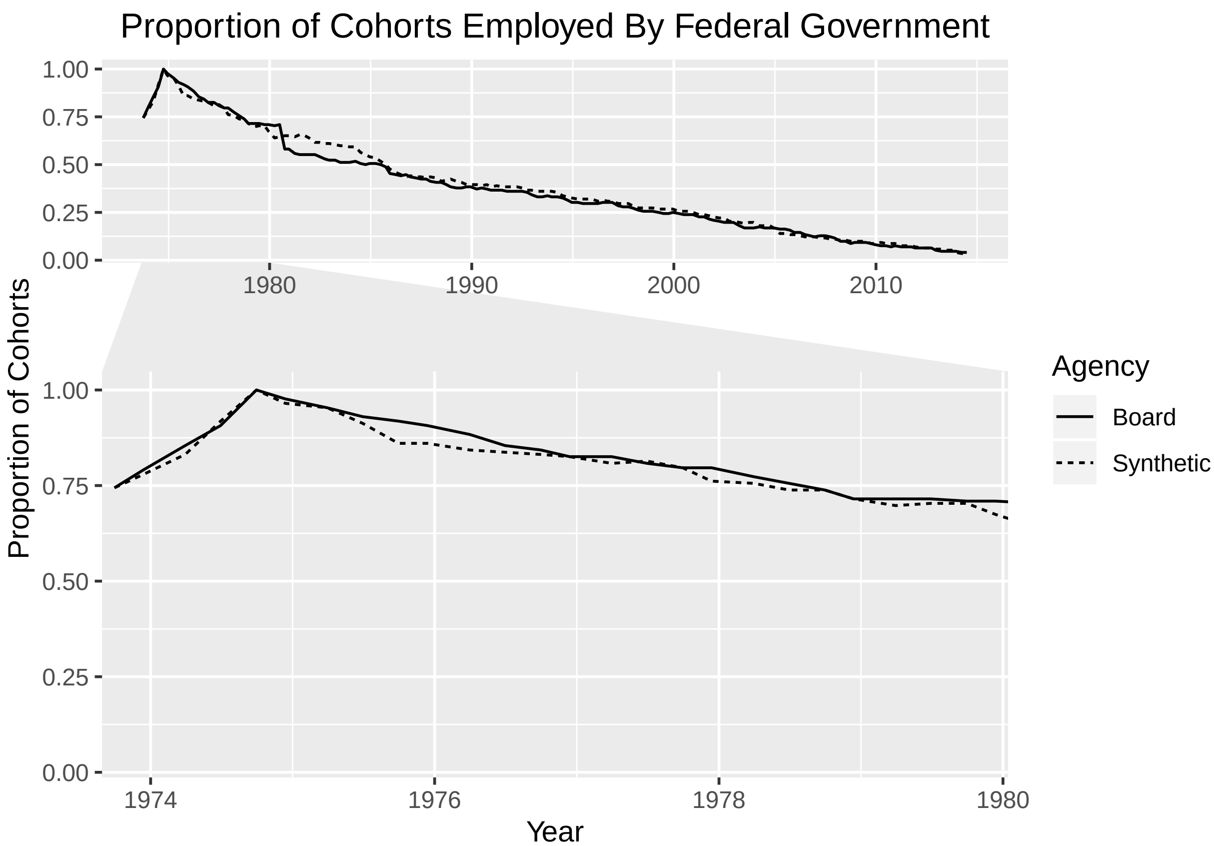


Figure 9 presents the average salary of each cohort over time in constant 2019 dollars. Although attrition remains an empirical issue here, particularly over time, I nevertheless do not condition in this figure on the paired status of both matches being in governemnt, since the attrition rate does not appear to influence one cohort more than the other. Immediately before and after the disestablishment of the CEA, both treatment cohorts have exceedingly similar salaries. Beginning in the late 1970s and accelerating into the mid 1980s, however, it appears that substantial differences in salary emerge. Indeed, in 1991 the cohort of former CEA employees had average earnings worth over 12,000 more than their peers in other agencies. Although attrition complicates the analysis, it appears that these gains after the mid 1980s plausibly exceeded a full year of additional salary, for those employees who stayed until the early 2000s. Such gains are also plausibly attributable to the transformation of the CEA into the CFTC, as younger employees of the CEA may have been well-positioned to benefit from the "upgrading" of positions in the agency. Put differently, without Congressional action in 1974, the CEA would have likely stayed an unprofessional and under-graded agency that did not have the ability to reain high-performing junior staff.

Figure 9: Average salary of cohort salaries

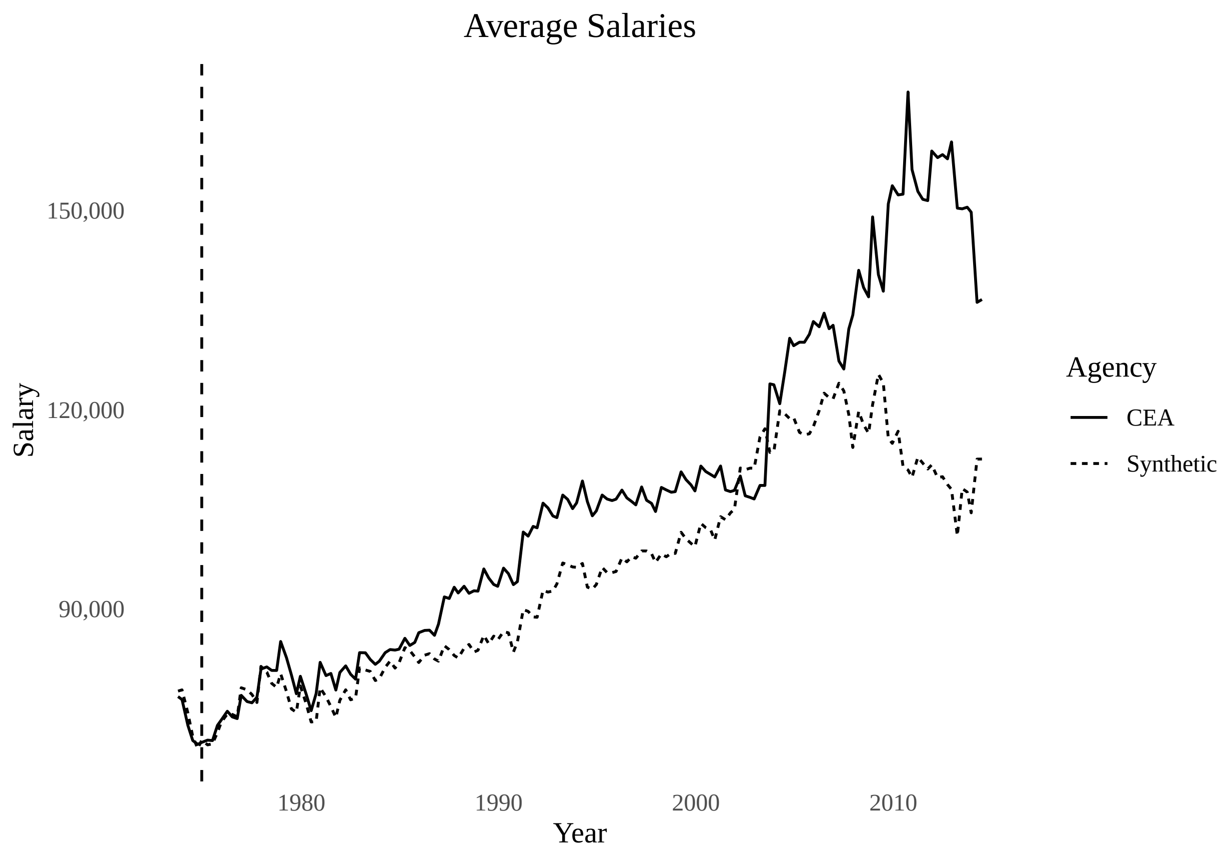
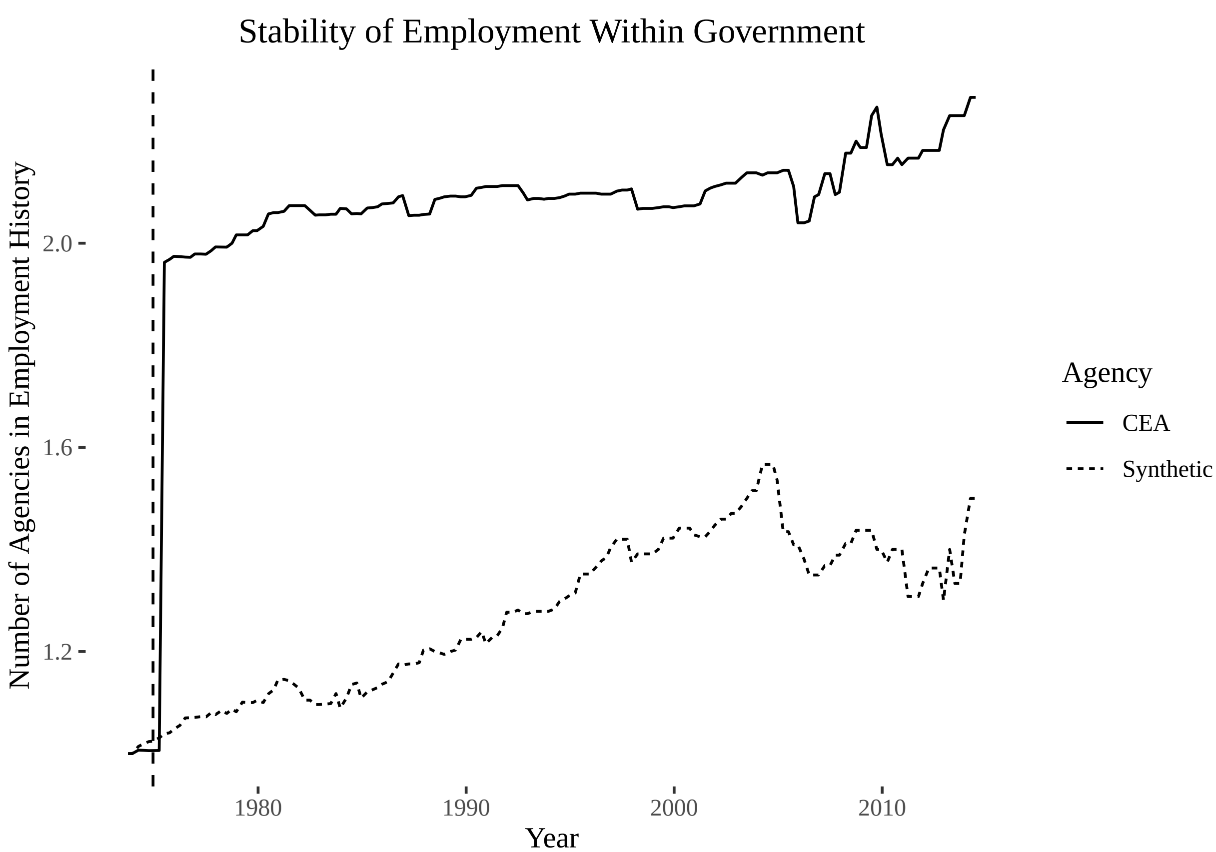


Figure 10 looks at the impact of disestablishment on employment stability, as in the case of salaries focusing on cohort averages. Interestingly, the level-shift in number of places worked following the transfer of the CEA to CFTC was 0.96, a little less than the shift logic would seem to require. As it turns out, despite the command that "all of the personnel of the [CEA]. . . shall be transfered to the [CFTC] upon the effective date of this act,"[52] there were actually seven employees of the CEA in September 1974 who wound up elsewhere in the Department of Agriculture.[53] Regardless of whether these failures to transfer were actually unauthorized, the more interesting observation is about what happened to this cohort *after* transfer. The slope of the CEA line is more gradual after the level-shift than the synthetic cohort, indicating a decreased tendency to seek out employment in other agencies. Such increased stability is what one might expect given the apparent salary implications of transfer. Evidently, Congress not only staunched the bleeding of commodities regulators, they made them even more static than their peers.

Figure 10: Average salary of cohort salaries



[52]P.L. 93-463 Sec. 104

[53]Here stability is defined at the "agency" level, whereas if it were defined at the lower sub-agency level the guaranteed level-shift would emerge. Nevertheless, because OPM soometimes arbitrarily reassigns sub-agency codes, exploring stability at the lower level of aggregation greatly increases the analytical complexity for limited gains in understanding

5 Results: Complete Cases

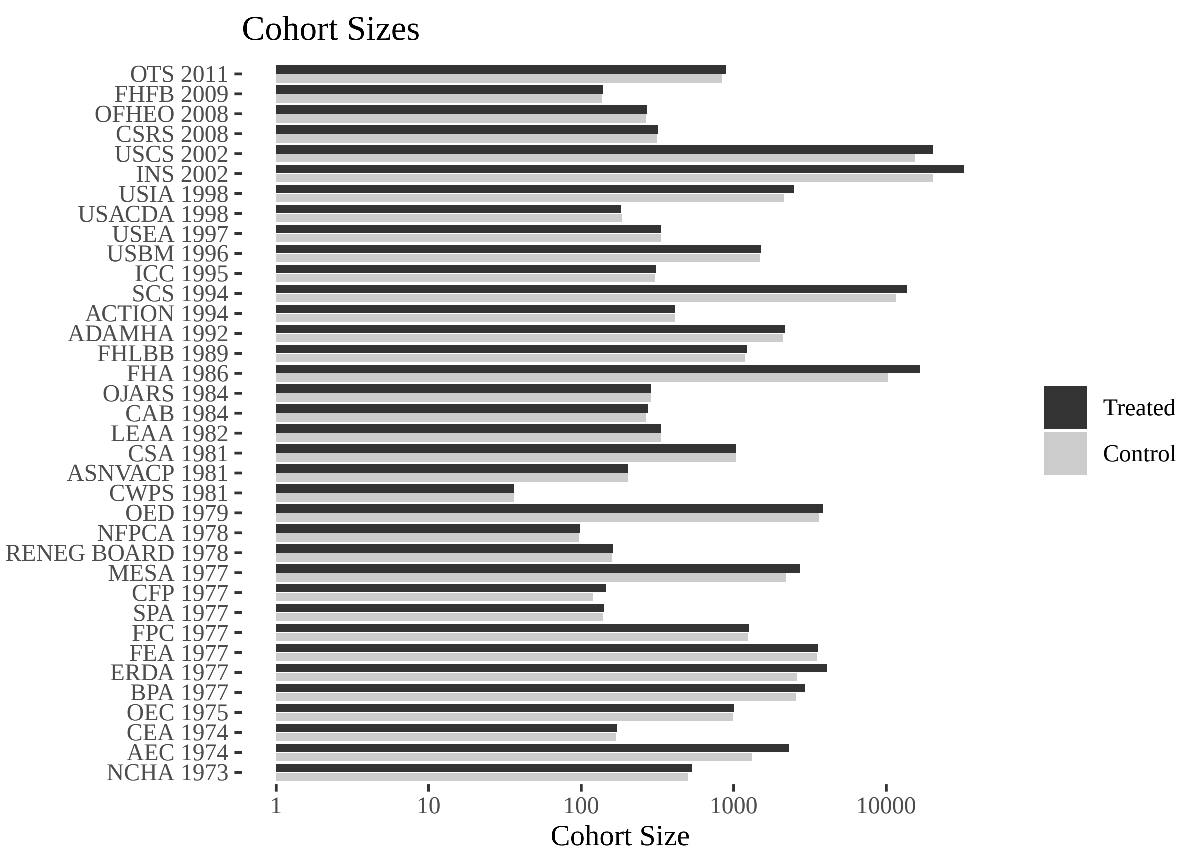
The prior section applies the proposed analytical framework to understanding employment outcomes for the staff of disestablished agenices. Its empirical findings are broadly in line with what one might have expected to happen following disestablishment given a closer political and historical analysis of these cases. Yet the major virtue of quantitative methods is that they allow for more general and abstract understanding than deep analysis of all cases can afford. In this section, I describe what follows from applying a similar analytical approach to a much larger set of cases, in particular the set of disestablishments that should primarily be understood as resulting from the agency substantially failing in its mission.

Figure 11 describes the size of each treatment and control cohort in the cases considered. Of the 36 agency disestablishments studied, roughly half involve about agencies with a few hundred employees are less, about a third involve agencies with around 1,000 employees, and only four involve agencies with over 10,000 staff members. Finding distinct matches for these staff is harder in some cases than others, in which case the control group will be smaller as some individuals in the "synthetic agency" serve as matches for multiple individuals in the disestablished agency. Estimates and standard errors necessarily must account for these weights, and so they do.

Figure 12 explores the long-run implications of disestablishment on whether an individual remains employed in government. In the analysis of a single illustrative case, it was possible to track this employment status over time. In the meta-analysis, however, we are tracking events at multiple times, which can lead to information over-load. To simplify, each of these studies looks at the difference in proportion of treatment and control groups in government after five years.[54] It turns out the experience at the CEA and the Renegotiation Board are both atypical: most of the time there is no significantly different tendency for individuals of the disestablished agency to still be in government after five-years. Five cases are like the CEA in which disestablished agency staff are

[54]By construction, in period $t-1$, all individuals in both cohorts will be in government, so this simple difference is the same as the difference in difference.

Figure 11: Size of treatment and control cohorts for each disestablishment study



more likely to be in government five-years out than they plausibly would have, while in ten cases they are significantly less likely to remain in government. In only one case was more than half of the staff still out of government five-years later, but not much more.

Figure 12: Proportion in government

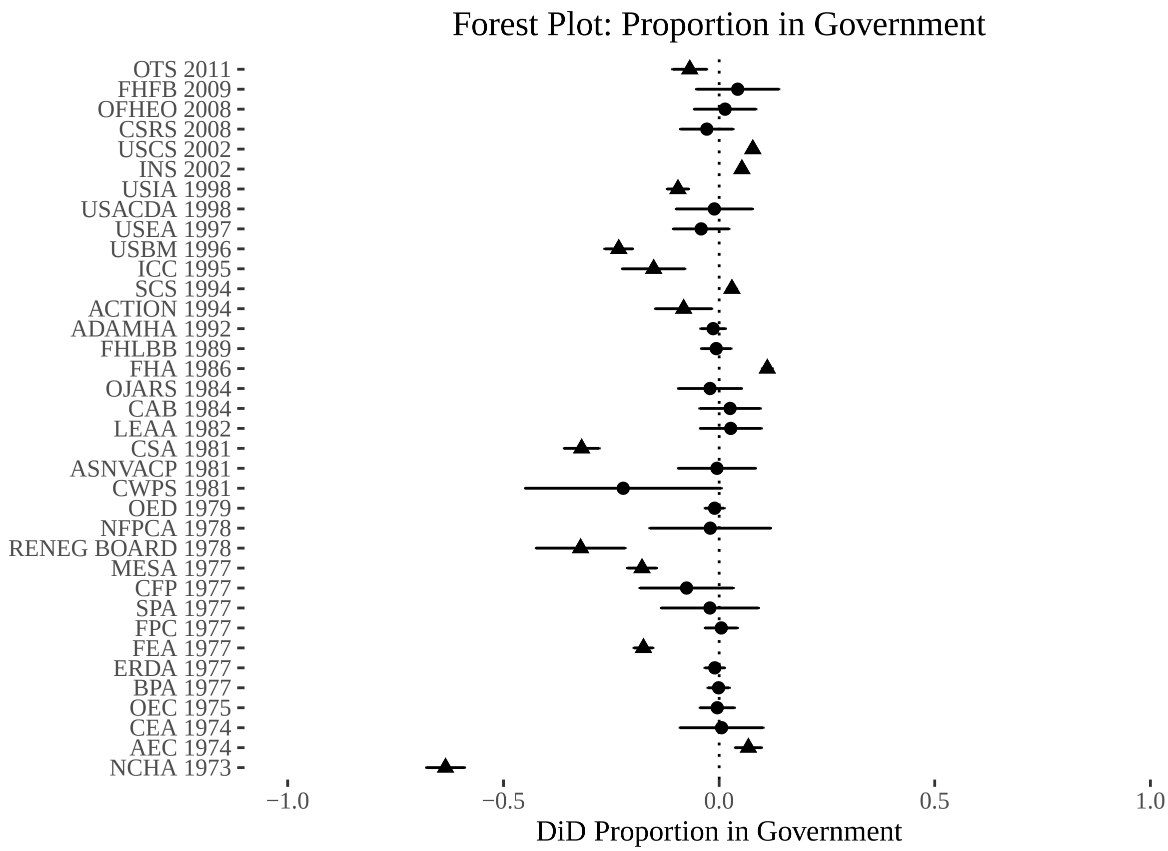


Figure 13 looks at the five-year impact of disestablishment on salary, here via difference-in-difference rather than simple differences. The findings are more informative for those agencies in which there was not a substantial effect on whether the individual was employed in government, for reasons discussed in context above. Even viewing these empirically challenging cases purely descriptively, there are only a handful of instances where significant effects on salaries are observed either way. Nearly the same number of effects are positive as are negative. A number of these significant effects are not particularly substantial. Even the largest estimate significant estimates, of about 10,000 dollars, are not a large fraction of life-time earnings. They are on the order of plus or minus one year.

Figure 13: Salary

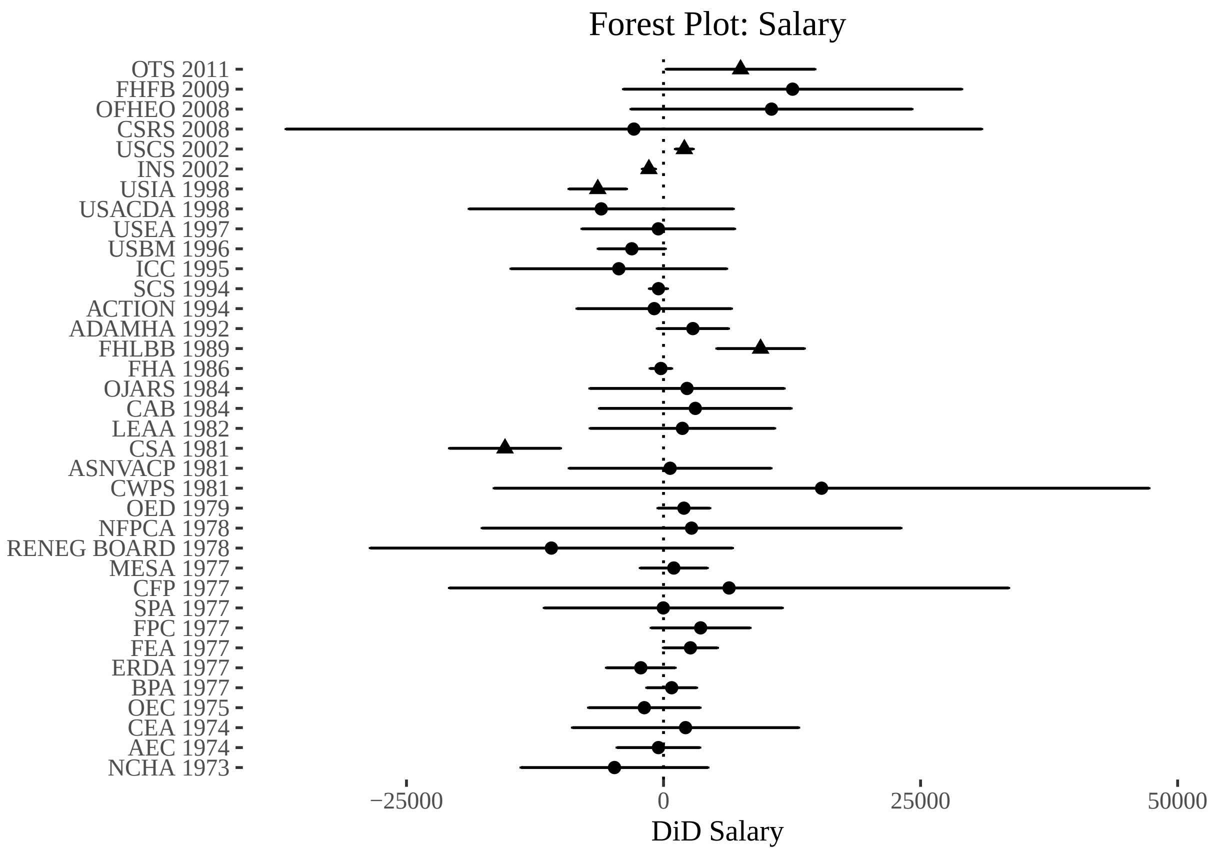
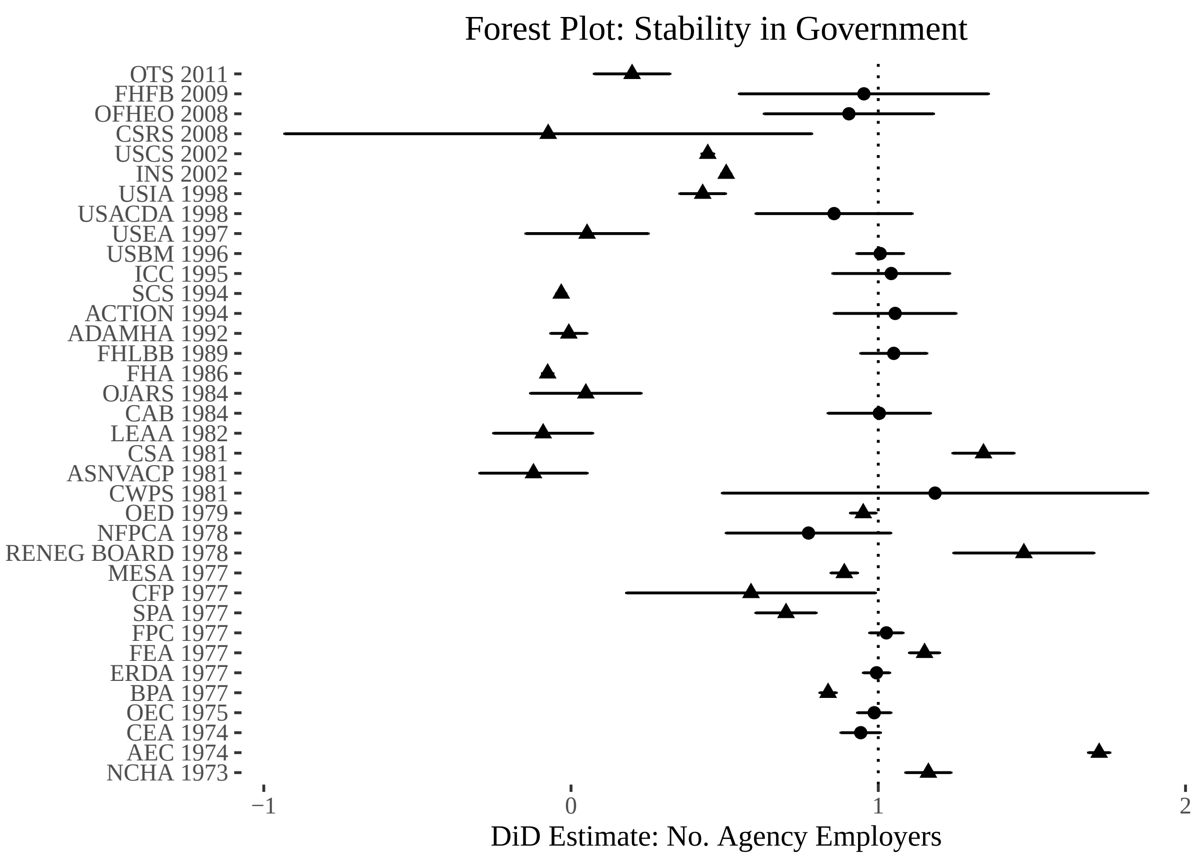


Figure **??** looks at the stability implications of agency employment after five-years. Here it appears that there are more satistically interesting effects, however disestablishment apparently leads to more stability in emplyment five-years out. This finding is somewhat puzzling. Possible explanations include that successor agencies have a strong tendency to attract "synthetic" employees from elsewhere in the workforce and that individuals who survive federal service after disestablishment are the ones who are truly committed to the agency's mission. Neither of these stories is truly causal. The causal story is that the political system creates other, non-salary based inducements that make the successor agency a particularly appealing place to work. For example, the staff of a disestablished agency may perceive employment in federal government to be even more secure than they had previously believed.

Figure 14: Stability



6 Discussion

Although the power to disestablish or completely defund an agency hypothetically entails severe employment consequences for agency staff, including loss of job, income, and a stain on one's employment history, in practice it does not appear that these negative repercussions often materialize. Typically, staff of a disestablished agency are as likely to work in the federal government following disestablishment as their peers in other agencies not subject to disestablishment. Typically their salaries are about the same as they would have been and they do not churn through various positions in the federal government at higher rates than their peers. If anything, disestablishment tends to stabilize their outcomes.

There are several concerns about interpreting these estimates as causal effects of disestablishment. One concern is that some individuals may sense that the Sword of Damocles hangs above them and therefore leave well-before disestablishment. Such strategic anticipation of disestablishment could lead to expected differences between an individual working for the disestablished agency and an individual working for some other agency, even if they look identical on all other observables such as length of service in government, age, and so forth. The disestablished agency staff member is perhaps more committed to the civil service in general, a more zealous believer in the agency-mission in particular, or less able to obtain employment outside the public sector than their match in the other agency. Such background factors could influence future .

Such fears of strategic anticipation do not appear rationally justified in light of the papers findings, however. At least for the employees with matches in other agencies, disestablishment does not typically seem to result in significant chance of job loss or salary loss. To the extent that there was some evidence of strategic exit occurring at the Renegotiation Board, it appears to have been confined to those rare individuals within the agency who do not have matches in other agencies. In other words, it is possible that more of the expected negative effects of disestablishment are occurring but within some narrow segment of the agency with highly specific skills. Possibly, they are also higher up in the agency. More work to assess this part of the story seems warranted.

A second important empirical concern regards attrition, which is to say the non-observability of outcomes for some individuals in the study. The comprehensiveness of the administrative data set substantially decreases concerns about the effect of attrition on status as a federal employee. In the few cases where disestablishment causes significant job loss, for example at the Renegotiation Board, the salary and stability estimates are potentially misleading. In the more common cases where disestablishment does not cause immediate job loss, there is still substantial attrition. As Figure 8 showed, five-years after the disestablishment of the CEA, roughly one in four members of both treatment and control groups were not employed in federal government. These individual's employment histories and salaries are not observable in the data. Future work can and should explore how a robust accounting for attrition effects changes these estimates. Generally, however, robust accounting for attrition tends to decrease significance of estimated effect. Since the major finding here is that the majority of cases of disestablishment do not lead to significant differences in employment outcomes, it seems unlikely that proper accounting for attrition would produce significantly deeper understanding of these phenomena.

If the negative ramifications of disestablishment rarely are felt by employees, what does it say about bureaucratic accountability and political power? One possible lesson is that political principals are in much the same situation as the CEA was in attempting to regulate the exchanges. They possess tools that can obliterate an agency. Yet the very power of these tools makes them difficult to use. Far from supporting Congressional dominance, a closer examination of the actual use of the power to destroy suggests Congressional subservience. When agencies perform badly enough that drastic action must be taken, political principals take measures that seem to sanction the agency, but in fact they may reward the agency staff or leave them basically as they were.

Yet significant individual accountability does, occasionally, happen following low bureaucratic performance. A close examination of several key cases of disestablishment suggests that political accountability to powerful stakeholders does matter much more than performance in the stated mission. The Renegotiation Board was killed because it was threatening to become effective. The defense industry opposed to the agency was much more powerful than the diffuse coalition of taxpayers. The CEA was promoted in spite of its lack of efficacy, because its stakeholders approved of its mission. For the most part, agencies are in limited control of the strength of the interest groups around them. The rise of futures markets as platforms of exchange was the result of technological and economic innovation, not something that agencies directly control. What the case studies suggest may protect agencies is unique expertise and task-specific human capital, which raises the replacement cost of the agency and its staff. Here too, however, agencies are not necessarily in complete control. The policy systems for purchasing military equipment changed around the Board even as it existed, such that alternative sources of skill were readily available to political principals if the agency needed to be brought back again. To some extent, then, the findings about disestablishment do some work to explain why agencies may become so defensive about turf: in the long-run, having other agencies perform similar tasks decreases the costs for political principals to use their apex tools of bureaucratic control.

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