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NOMINATION OF HON. JACOB J. LEW

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

NOMINATION OF HON. JACOB J. LEW TO BE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

SEPTEMBER 16, 2010

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NOMINATION OF HON. JACOB J. LEW

THURSDAY, SEPTEMBER 16, 2010

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 3:05 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, presiding.

Present: Senators Lieberman, Levin, Akaka, Carper, Tester, Collins, and Brown.

OPENING STATEMENT OF CHAIRMAN LIEBERMAN

Chairman LIEBERMAN. The hearing will come to order. Good afternoon and welcome. I note the virtual presence of Senator Schumer, but not the actual presence. Pardon? He is in the hall? Tell him—wait, the door is opening. Yes, ladies and gentlemen, from the State of New York——

Senator SCHUMER. At your service.

Senator COLLINS. Always making an entrance.

Chairman LIEBERMAN. A grand entrance. [Laughter.]

Now, Senator Schumer, it is possible that you are very anxious to hear the opening statements——

Senator SCHUMER. I am.

Chairman LIEBERMAN [continuing]. By Senator Collins and me, but if you are busy——

Senator SCHUMER. No——

Chairman LIEBERMAN [continuing]. And because you are an extremely powerful Senator, we would welcome your opening statement first.

Senator SCHUMER. I would be happy to sit and hear yours, Mr. Chairman and Madam Ranking Member.

Chairman LIEBERMAN. Really? That is very courteous. [Laughter.]

Senator Collins does not think you will enjoy hearing her opening statement. [Laughter.]

Senator SCHUMER. Does she not like you?

Mr. LEW. I hope it is not about me.

Chairman LIEBERMAN. Mine will be brief.

It is a pleasure to welcome Jack Lew for this hearing on the President's nomination for him to be the next Director of the Office of Management and Budget (OMB). We all know that everything in life is relative, and probably at different times in your work as Deputy Secretary of State, particularly dealing with Iraq and Af-

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ghanistan, you could not imagine you could have a more challenging job, but now you will, if confirmed.

Your long career managing budgets, finances, technology, and operations in the government, private, and academic sectors, including having been the Director of OMB for President Clinton, makes your ability to do this job self-evident, in my opinion.

The career achievement that you have which gives me most hope is that as budget director under President Clinton, you left office with a $237 billion Federal budget surplus. We all know that times have changed and that our present economic challenges are different and more difficult than they were in the 1990s, and yet the experience that you had then, not just within the Administration but in negotiating with Congress to come up with the Balanced Budget Act, I think will serve you and the Administration and the American people very well in the months ahead.

Obviously, we are facing two big problems now. One is to grow the economy and create more jobs, and that is the immediate problem. The other, longer term, is to get our budget back in balance.

The President has appointed the National Commission on Fiscal Responsibility and Reform, which will be working on a proposal, led by our former colleague Alan Simpson and Erskine Bowles, former Chief of Staff. It is urgent, I think, that Congress act on these recommendations. If you are confirmed, as I believe you will be, I hope you will be able to work with the Commission, if that is appropriate, but certainly to work with us as we respond to the Commission's recommendations.

As I believe you may have been made aware during the staff interview, Vice President Joe Biden sent a letter earlier this year to Senator Kent Conrad, who was the leader of a group of us negotiating around the time of the debt extension, stating the Administration's support for bringing the recommendations of the Commission up for a vote in this Congress. That is perhaps a tall order, but it was a commitment made, and I would like to hear from you about whether you support that commitment.

I am going to put the rest of my statement in the record. I have some other matters more particularly related to governmental management that I would like to talk to you about in the question and answer period. But for now, I thank you for agreeing to take on the enormous challenge of being the Director of OMB at this time, and I look forward to working with you, if you are confirmed.

Chairman LIEBERMAN. Senator Collins.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman. Mr. Chairman, I am going to give our colleague from New York one more opportunity to do his introductory statement before I give my opening statement, if he would like to do so.

Senator SCHUMER. I am a little worried what you are going to say, so I want to stay here. [Laughter.]

Senator COLLINS. Then I shall proceed, Mr. Chairman.

More than eight million Americans have lost their jobs since the "Great Recession" began in 2008. Unemployment remains unacceptably high, increasing to 9.6 percent just last month. What little job growth that we have seen has been disappointingly weak.

The fiscal policies that the Administration and Congress undertake must acknowledge this reality, get the economy moving again, and put Americans back to work. Key to accomplishing these goals is an extension of the tax relief that is scheduled to expire at the end of this year. If we do not act, Americans will face one of the largest tax increases in U.S. history. This is no time to raise taxes. Indeed, it would be the worst time to increase the tax burden on America's families and small businesses.

As Peter Orszag, President Obama's former OMB Director, recently pointed out, the failure to extend existing tax relief would "make an already stagnating job market worse." I hope that the President will heed the advice of his former budget director and abandon his plan to raise taxes at this critical time.

This Administration's policies have failed to stimulate private sector investment, which is key to creating permanent jobs. In fact, many of the fiscal, economic, and budget policies pursued by this Administration have made matters worse. The budget put forth by the President, which I opposed, would double the public debt in 5 years and triple it in 10 years. The President's new health care law is already causing health insurance premiums to increase for many employers and employees, and the uncertainty over tax policies is hindering job creation.

Actually, one small businessman in Maine told me over the recess that it was not the uncertainty, it was the certainty of higher costs, of more taxes, of higher health insurance premiums, and of more regulation that was causing him to delay purchasing a new business and creating new jobs.

Everywhere I traveled in Maine last month, whether I was talking to a machine shop owner, a trucking company operator, a small residential contractor, or other employers, I heard the same refrain. Given the tax and economic policies coming out of Washington, we do not dare create any jobs, take any risks, or make any investments.

Our Nation's future prosperity is shackled to an out-of-control Federal debt. This year's deficit of $1.3 trillion, 9.1 percent of Gross Domestic Product (GDP), is the second largest shortfall in 65 years. Only last year's deficit, which amounted to 9.9 percent of GDP, was larger. By the end of the upcoming fiscal year, the Congressional Budget Office estimates that publicly held debt will exceed $10 trillion, 66 percent of GDP, and will rise to nearly 90 percent of GDP by the end of this decade if current policies are continued.

The cost of entitlement programs continues to escalate and is worsened by the President's health care law, which creates unsustainable new entitlement programs while failing to address spiraling health care costs. Like a perfect storm, rising entitlement costs will soon collide head on with the cresting waves of aging Baby Boomers set to leave their jobs. The result will put even more pressure on already strained Social Security and Medicare budgets.

In other words, I fear that we could be seeing merely a preview of what is to come. Without bold, urgent action, we are heading toward a future of financial stagnation, bogged down by costly entitlements, slow job creation, and sluggish economic growth.

This is the stark economic and fiscal environment that will confront the next OMB Director. OMB will continue to be the lead

player as the Administration formulates policies, I hope in cooperation with Congress, to deal with these grim economic realities and unsustainable budgets.

From the OMB Director, we need common-sense analyses of what is working and what is not. We require honest assessments of fiscal realities, untarnished by political calculus. And we expect the courage to admit mistakes and change course. Otherwise, the Executive Branch and Congress cannot make the bold moves, the difficult decisions needed to do what is right for the American taxpayer.

If confirmed, Mr. Lew will need to develop a realistic plan that prevents the Federal budget from becoming a mammoth anchor, dragging down growth in jobs and personal income. The last time Mr. Lew served as OMB Director, a Democratic President worked with a Republican Congress to balance the Federal budget. I hope that this is a case where history repeats itself. [Laughter.]

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Collins. I was about to say, Senator Schumer, that was not so bad, until the end. [Laughter.]

Senator SCHUMER. I was going to comment, Mr. Chairman, this is an amazingly bipartisan Committee——

Chairman LIEBERMAN. It is.

Senator SCHUMER [continuing]. An Independent and Republicans surrounded by Democrats on either side——

Chairman LIEBERMAN. Yes.

Senator SCHUMER [continuing]. But that comment might have been made better a few minutes earlier. [Laughter.]

Chairman LIEBERMAN. Anyway, we welcome you. We thank you for being here and for your patience in sitting through the opening statements. Please proceed.

HON. CHARLES E. SCHUMER,[1] A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator SCHUMER. Thank you, Mr. Chairman and Ranking Member, and it is great to be here to introduce both my friend and fellow New Yorker, Jack Lew.

No matter how many years Mr. Lew spends here in Washington, he is a New Yorker. He grew up in Forest Hills, went to Forest Hills High School. His lovely wife, Ruth, grew up not far from where I grew up on Ocean Parkway in Brooklyn and went to Hunter High School. I went to Madison High School, and we used to play Forest Hills in basketball, but we always lost. Our team's motto, Mr. Chairman, was, we may be small, but we are slow. [Laughter.]

Anyway, I am delighted to endorse Mr. Lew's nomination to serve as the next Director of the Office of Management and Budget.

Mr. Lew, as everybody knows, is an accomplished public servant. He is renowned for his managerial prowess, his common-sense approach to solving tough problems. He is uniquely well qualified to take the helm of OMB in these precarious times. He is no stranger to many of us in this room.

[1] The prepared statement of Senator Schumer appears in the Appendix on page 37.

Mr. Lew and I met three decades ago when I was a wide-eyed freshman Congressman and he was a top aide to House Speaker Tip O'Neill. I know that the Speaker had a tremendous influence on Mr. Lew, and it is clear that Mr. Lew shares the late Speaker's indefatigable work ethic and sense of civic duty.

And, of course, Mr. Lew is no stranger to the OMB, either. He joined the Clinton OMB in 1994 and quickly distinguished himself not only as a knowledgeable policy wonk, adept at navigating the intricacies of the tax code and Federal budget, but also as an agile leader with a knack for operations. For that reason, he rose to become OMB's Chief Operating Officer, and then in 1998, he was named Director. As we all know, when he left the OMB at the end of the Clinton Administration, the Federal Government had an unprecedented surplus of $236 billion, and we will not comment about what happened in the following 8 years.

Anyway, Mr. Lew spent the past decade further honing his managerial skills in a number of high-stakes environments, from the private sector to academia, but public service always beckons for someone of such high quality, and once again he answered the call to public duty and returned to Washington, DC, to become the Deputy Secretary for Management and Resources at the State Department, a new position. According to his colleagues at State, he "transformed" the Department, cutting red tape and increasing cooperation throughout Foggy Bottom. I know that Secretary of State Hillary Clinton is sad to lose him, but I am confident he will prove to be a valuable asset to the President and to the American people in his new position.

I look forward to working with him and the rest of the President's economic team as we focus on a growth agenda in the months and years to come. Job creation is my top priority in Congress, and I know he shares that commitment to jump-starting the American economy.

In conclusion, Mr. Chairman, I am confident that he possesses the expertise and work ethic necessary to once again excel as the Director of OMB. Thank you for the opportunity to speak, and I hope the Committee will approve this nomination unanimously with the certitude that Deputy Secretary Lew's impressive credentials merit.

Mr. Lew, to you, Ruth, and Shoshana, congratulations.

Chairman LIEBERMAN. Thanks, Senator Schumer. That was a wonderful statement. We appreciate the time that you took to be here, and I know it is a reflection of your confidence in the nominee. Thank you very much.

Senator SCHUMER. Thank you, Mr. Chairman, and I thank the entire Committee.

Chairman LIEBERMAN. Thank you.

Mr. Lew has filed responses to a biographical and financial questionnaire, answered pre-hearing questions submitted by the Committee, and had his financial statements reviewed by the Office of Government Ethics. Without objection, this information will be made part of the hearing record, with the exception of the financial data, which are on file and available for public inspection at the Committee offices.

Mr. Lew, as you know probably, our Committee rules require that all witnesses at nomination hearings give their testimony under oath, so I would ask you to please stand and raise your right hand.

Do you swear that the testimony you are about to give to the Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. LEW. Yes.

Chairman LIEBERMAN. Thank you. Please be seated. We would welcome an opening statement and particularly would look forward to the introduction of your family members who are here.

TESTIMONY OF HON. JACOB J. LEW[1] TO BE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Mr. LEW. Thank you very much, Mr. Chairman, and thank you, Ranking Member Collins and the Members of the Committee, for welcoming me here today. I take great pride in my current and prior government service, and it is a true honor to be considered today as the nominee to be Director of the Office of Management and Budget.

I thank Senator Schumer for his very kind introduction. I am proud to come before the Committee as a New Yorker.

While I have spent many years in Washington, DC, New York will always be home.

I am delighted that joining me today are my wife, Ruth, and my daughter, Shoshana. Together with my son, Danny, and my daughter-in-law, Zahava, who could not be here today—they are in New York—my family has supported me unfailingly and unconditionally during my career in public service. There have often been long hours, long days, long nights, and unfortunately, many missed family events. Their daily sacrifices make possible my public service, and for that, I am eternally grateful.

I am also blessed to have had role models whose influence is always with me. My parents, Ruth and Irving Lew, taught me the importance of being involved in the community and the world around us. And the late Speaker Thomas P. O'Neill, Jr., was not just my boss for 8 years early in my career, but he was a mentor who shared his wisdom about the legislative process, the policy making process, and more generally about how to forge consensus.

It has been my honor and privilege to serve under President Clinton and most recently as Deputy to Secretary of State Clinton, and I am deeply grateful to both of them for the opportunity to serve and for their continuing friendship.

Finally, I am grateful to President Obama for nominating me to serve as the next Director of the Office of Management and Budget. I am humbled by the confidence he has shown in me as we face the enormous challenges that lie ahead.

This is neither my first time testifying before this Committee nor my first time testifying before this Committee as the nominee to be Director of the Office of Management and Budget. My familiarity with OMB gives me a knowledge of the institution's workings and a respect that is deep and heartfelt. I appreciate the centrality

[1] The prepared statement of Mr. Lew appears in the Appendix on page 39.

of OMB to the efficient and effective operation of the Federal Government, and I have the greatest respect and admiration for the women and men who fulfill that critical mission. OMB is about helping to make policy and also ensuring that it can be implemented effectively.

The American people rightfully expect their government to spend their tax dollars wisely and to avoid waste. They also have a right to expect their government to deliver services with the ease and convenience that can be found in so many other parts of daily life. If confirmed as OMB Director, making government more efficient and more effective, more open and responsive to the American people will be a key priority of mine, as it is of the President.

Since my previous service at OMB, I have worked in similar management and budget roles in large nonprofit and private sector organizations and have experienced firsthand that all large organizations wrestle with the same challenge of how to fulfill strategic core missions with scarce resources and competing demands. Indeed, the process of forging consensus behind priorities, directing new resources where they are most critical, and finding internal savings to support new initiatives is a universal challenge.

In addition, in my current role at the State Department, I have now been on the front lines not just setting policy, but working to implement it, often at the very finest levels of detail and with the greatest of stakes, the safety of our brave men and women who volunteer to serve in dangerous assignments. And I have gained visibility into the array of homeland security issues that this Committee spends so much time concentrating on.

Together, these experiences from the past decade have broadened the perspective that I would bring to the position for which you are considering me again. As we know all too well, President Obama has asked me to serve in this position at a time that is very different from when I last sat in the Director's office. In the late 1990s, our challenge was how to maintain a prudent fiscal policy while making the transition into a world of budget surplus at a time of robust economic growth. Today, a series of policy choices and the worst economic downturn since the Great Depression present us with a very different set of challenges, specifically, how to sustain and deepen the economic recovery and spur new job creation in the face of unsustainable budget deficits.

Indeed, the coming months may be the most critical time in fiscal policy in recent memory. As the President has said, it will take tough choices and putting partisan differences aside in order to do what is right for the country today and for our children and our grandchildren in the years ahead.

Throughout my career, I have worked collaboratively across partisan and ideological divides, trying to cut through gridlock and solve seemingly intractable problems. If confirmed as OMB Director, I will work in that bipartisan fashion again with the Members of this Committee, the leadership of both chambers, and with all of those committed to taking constructive steps to rejuvenating our Nation's economy and its fiscal standing.

And while we should aspire to never waste taxpayer dollars, regardless of whether the budget is in surplus or deficit, the management of the Federal Government is particularly important during

lean times. If confirmed, I look forward to working with the Committee to make sure that every dollar we spend has a desired impact and makes a difference.

Getting our economy back on track and our fiscal house in order will take hard work. I am honored that the President has asked me to join him in this endeavor, and I am grateful to this Committee for its consideration of my nomination. Thank you, and I would be happy to answer any questions that the Committee has.

Chairman LIEBERMAN. Thank you very much for that opening statement.

Let me start with the three standard questions we ask of all of the nominees that come before the Committee. First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. LEW. No.

Chairman LIEBERMAN. Second, do you know of anything personal or otherwise that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. LEW. No.

Chairman LIEBERMAN. And third, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Mr. LEW. Yes, I do.

Chairman LIEBERMAN. Thank you. We will start with a first round of questions limited to 7 minutes each.

Let me just pick up from something you said at the end of your opening statement about your record of working across party lines to try to solve problems. You played an important role for the late great Speaker O'Neill, and, of course, perhaps the most popular story told about Tip O'Neill these days, and there are a lot of great ones, is about his cooperation across party lines with President Reagan to solve some big fiscal problems, including obviously the Social Security crisis at that time.

I think you come into this position, if confirmed, with great credibility in that regard, and I hope and I trust that the Administration knows that as we go into the difficult months ahead in the negotiations to try to begin to first improve the economy and then to deal with the enormous burden of national debt, that credibility of yours is a tremendous asset. I hope that you will not allow it to be squandered or in any way compromised because it is going to be critically necessary for somebody to be a bridge between the Executive Branch and Congress, members of both parties, if we are going to make progress on these very difficult economic and political questions related to the national debt.

So I do not really invite an answer. I think you answered it in what you said in your opening statement.

First, let me ask this, and I think maybe you suggested an answer to this. We are facing two enormous economic challenges now, both of which you will be involved in responding to. One is to sustain the economic recovery and have our economy produce more jobs. The second is to begin to reduce the national debt.

Am I correct in assuming that you agree that the immediate priority is economic recovery and job creation?

Mr. LEW. I think there is nothing more important facing us today than encouraging economic growth and creating jobs. We are at the beginning of a recovery, but it is not as strong or as deep as we want it to be. We cannot rest comfortably while we have 9.5 percent unemployment and while millions of Americans who want to work are looking for work.

What I do not think is that one has to wait to take action. One can take action that does not have impact immediately.

Chairman LIEBERMAN. Action regarding the debt?

Mr. LEW. Yes.

Chairman LIEBERMAN. Yes.

Mr. LEW. I think that it is a mistake for us to wait until we have the kind of growth that we all want before we start thinking about taking steps that would show a real dedication to turning the corner at a period of time when the economy is, in fact, growing at a more healthy rate. It takes a long time to make changes in the Federal budget, whether it is the spending or the tax side, and if we wait and do them seriatim, I fear that we will lose the confidence that is needed, that the government officials are taking seriously the challenge that faces us very soon.

Chairman LIEBERMAN. That is a very important point. So you are saying with regard to economic recovery, jobs first, but that does not mean we cannot begin to act on the reduction of the debt. And I also take you to be saying that if we did begin to take action on debt reduction, that itself probably would have a positive effect on the economy.

Mr. LEW. I believe that there is a fear in the country, both amongst the public and in the case of investment amongst businesses, that Washington may not understand how much of a problem it is to look at deficits that are growing at a rate that shows no natural turning point, the debt showing no natural turning point.

I do not think last year or this year was a time when it would have been appropriate to cut the deficit or to try to reduce the debt. The need to get the economy moving again was of paramount importance. When President Obama took office, the economy was in a free-fall. There needed to be a floor, and I think the Recovery Act and other actions taken had a real impact. Millions of jobs were created. The unemployment rate is several points lower than it would be otherwise. I think what nobody knew was how deep the recession was, and when one is facing a recession of historic proportions, I do not think it is surprising that we will only know looking back how deep it really was.

At the same time, business cycles, even bad business cycles, come to an end——

Chairman LIEBERMAN. Right.

Mr. LEW [continuing]. And I think there is an expectation that we should be able to look beyond this year and next year and say that 3 years, 4 years, 5 years from now, we know that there need to be measures in place. And I think that the question of waiting until then to start having the kind of consensus formed to take action will cause a loss of confidence.

In the private sector right now, there is a widespread understanding that businesses are sitting on enormous amounts of cash and not investing. There are trillions of dollars in cash that businesses are sitting on. If we could contribute to the confidence that would unlock the willingness to invest, that would have an enormously positive impact on the economy.

I do not think it is one cause. I do not think it is as simple as if we take action on the deficit, then the next day, there will be an immediate response. I think it is a factor contributing to it because there has not been the sense that it is being taken seriously.

Chairman LIEBERMAN. I agree. I referenced the letter that Vice President Biden sent, actually on behalf of himself, Majority Leader Harry Reid, and Speaker Nancy Pelosi, to Senator Conrad and a group of us who had been negotiating because we had actually wanted to put a statutory proposal forward on a deficit reduction or debt reduction commission and a mandatory vote afterward, confirming that the Administration and the legislative leadership would commit to a vote in this Congress, that is presumably in December, after the Bowles-Simpson Commission reports.

I know now you were made aware of that in the staff interviews with you. Do you support that? It is a commitment, so I hope it can be honored. Do you think it is possible, consistent with what you have just said, that we might actually be able to take some first steps, even if their implementation is longer term, on debt reduction before the end of this Congress?

Mr. LEW. I have read the letter, and I am familiar with the agreement, and I think it reflects the President's agreement and the Administration's agreement that there should be immediate action taken on recommendations from the Commission.

The Administration has been careful not to prejudge the outcome of the Commission, to try to leave room for the Commission to do its work in a way that is not subject to the day-to-day pressures of the political process. I do not know whether there will be something issued in a form that is ready to be voted on, but I think that letter reflected the commitment that when there is something that is ready to be voted on, it should be voted on.

Fundamentally, it is obviously a congressional decision when to schedule a vote, so even if confirmed, it will be something that ultimately requires the congressional leadership to follow up and schedule. But I think it does reflect the Administration's serious commitment that the results of the Commission should be brought forward.

Chairman LIEBERMAN. Very good. Thank you. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Lew, you just testified that businesses are sitting on cash. They are not investing; they are holding back. And that is certainly what I have found in my conversations with business leaders of all sizes. One reason is because of the problems on the debt and spending side, but the other reason is the uncertainty about whether taxes are going to go up come January 1.

I quoted in my opening statement from your predecessor's op-ed in the *New York Times* in which he argued that allowing the tax relief to expire would make the already stagnating jobs market worse. Peter Orszag went on to say, "Higher taxes now would

crimp consumer spending, further depressing the already inadequate demand for what firms are capable of producing at full tilt." Do you agree with that?

Mr. LEW. I think that the article went on to argue that 2 years from now, all the tax cuts should be allowed to expire, so I am not sure that the recommendations in that article would produce the kind of confidence that you are describing.

My view on the issue of the tax cut, the President has made clear that he thinks the tax cut should be extended on all income for families at $250,000, for individuals $200,000 and below, and that means all individuals, whether they are above or below the line, the first $200,000, $250,000 of income, the taxes on that should be extended.

He has equally made the case that it would be wrong to extend the tax cut above that line. The distribution of the tax cut above the line is heavily weighted at the very high end. It is partners in law firms. It is partners in financial institutions. It is not, for the most part, in the areas that people argue it is, which is the hands of small businesses in the communities.

I do not believe that it would be appropriate to take $700 billion over the next 10 years and devote it to a tax cut for the wealthiest Americans. I guess as a matter of fiscal policy, I do not believe it would stimulate the economy. I think that where there are savings, it is not contributing right now to economic growth, since what is driving growth right now is consumption.

I think that if we were to follow the program that the President has advocated, to make permanent the tax cut below $250,000 and $200,000, it would be a very positive thing, and I believe it is correct that this would be the wrong time to increase taxes on middle-class Americans.

Senator COLLINS. So you oppose even a 2-year extension of the current law and would allow taxes to go up on January 1, is that correct?

Mr. LEW. What I have said is, I think that the tax cut below $250,000 and $200,000 should be made permanent. There is an array of other tax proposals that the Administration has proposed. So there would be a net tax reduction if the Administration's tax program was adopted. So I am not advocating a tax increase, no, but I am saying that the tax cut——

Senator COLLINS. Well, you are advocating a tax increase for anyone above $250,000, and that includes some 750,000 small businesses that are Subchapter S Corporations and that employ literally 20 million Americans. As the Blue Dog group in the House has pointed out in its letter, 25 percent of national consumer spending is the result of those in those upper tax brackets. So I do not see how you can say that there would not be a negative impact on demand and on the economy if we hit those individuals with a substantial tax increase and those small businesses with a substantial tax increase come January 1.

Mr. LEW. I think that it is very important to stimulate small business investment, and there is an array of proposals that are pending that would have the effect of encouraging small business investment. I think that if what we want to do is encourage small business investment, that is the right route to go, to reduce the tax

burden for small businesses rather than to have a tax cut that would continue to benefit the very wealthiest Americans, which I do not think has been proven to have the kind of benefit in terms of job creation or stimulus that we need.

So I agree that it would be the wrong time to allow the tax cut for people earning $250,000 and below to expire as that would have a very detrimental effect. That is why the President has proposed extending it. I think there are more effective ways to encourage small business.

Senator COLLINS. Let me turn quickly to the spending side of the ledger. The Republicans on the Appropriations Committee have endorsed a bipartisan proposal by Senators Jeff Sessions and Claire McCaskill that would essentially freeze discretionary spending for fiscal year 2011 at this year's level. That saves over the next decade $296 billion. Do you support that proposal?

Mr. LEW. The Administration has proposed freezing non-security spending for 3 years. It would bring us to the slowest rate of growth and the lowest levels of discretionary spending as a change in modern times.

I am familiar with the proposal that Senators McCaskill and Sessions have proposed. I know that the Administration has taken a look at it and has generally supported the notion that we need to be focusing on reducing spending. My own view, and this really comes from the success of past budget agreements, is that caps on discretionary spending, when they are part of an overall budget agreement, are very effective and that the right place to have the debate about long-term caps on discretionary spending should be when everything is on the table and we are able to make real progress.

The thing I fear is discretionary spending, while it is very important and we need to constrain it, is a small part of the total problem, and if the only thing we do is address discretionary spending and we do not address other forms of spending and we do not address the tax system at all, we are not going to be in a place where we have really turned the corner.

Senator COLLINS. My time has expired. We will continue this debate, I am certain.

Chairman LIEBERMAN. Thanks, Senator Collins.

As is the Committee's custom, we will call Senators in order of arrival. For the Senators' information, that is Senators Akaka, Carper, Tester, Brown, and Levin. Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Mr. Chairman.

I would like to add my welcome to Mr. Lew and his family to this Committee. With so many of the challenges facing our Nation at this critical time, I am pleased that President Obama has nominated someone with Mr. Lew's unique experiences and credentials to be the next Director of the Office of Management and Budget. And, Mr. Chairman, I would like to include an opening statement in the record.

Chairman LIEBERMAN. Without objection, so ordered. Thanks, Senator Akaka.

Senator AKAKA. Mr. Lew, OMB is often thought of as the "Budget Office," but it has a critical role in driving and overseeing effective government management. During this Administration, OMB, with the leadership from Deputy Director for Management Jeffrey Zients, has been active in this role. For example, OMB has partnered with the Office of Personnel Management to push efforts to reform the Federal hiring process. What are your key priorities for government management, and how do you envision working with Mr. Zients to accomplish them?

Mr. LEW. Thank you, Senator. I have had the pleasure of working with Jeff Zients in his role as Deputy Director for Management because as a Deputy Secretary, I have been a member of the President's Management Council, and I, too, have been very impressed with his performance in that role.

I think it is a very important role. The budget demands on OMB take a lot of time and a lot of attention, and the challenge, I think, for OMB as an institution and for an OMB Director is not to let the budget issues dominate so completely that you cannot focus on running the government well.

I tried, when I was at OMB the last time, to do it in two different ways. First, I focused on priority management issues. There was a list at the time of 10 or 12 issues where I was engaged with the Deputy Director for Management and the appropriate program office, trying to solve specific agency problems, where they came to me on a periodic basis and I was part of the management team. You cannot do it on 100 issues. If you try to do it on 100 issues, there just would not be time. But if you identify the top 10 or 12 issues, you can do it, even with the busy schedule that an OMB Director has.

I think there are also functional areas that really require attention, and while the Deputy Director for Management has the full-time job, the Director needs to be engaged. When I was at OMB the last time, information technology (IT) procurement was one of those areas. I think it is still one of those areas. I think contracting reform is another one of those areas. And I think performance management is another one.

Performance management was relatively new when I was at OMB. The Government Performance and Results Act (GPRA) was adopted when I was at OMB. The initial implementation happened when I was there. I would say it is still coming of age. We still have not gotten to the point where it is so tightly connected to what agencies are really trying to accomplish that it is helping to focus the attention of the agencies and OMB as much as I think it should. I think it has made great progress. It is considerably more effective than it was 10 years ago. But I think it still needs the attention of the Director, as well as the Deputy Director.

Senator AKAKA. I am glad you mentioned performance. Mr. Lew, during your previous tenure at OMB, you oversaw the implementation of the Government Performance and Results Act, which provides policy makers data to improve government performance. After nearly 20 years under GPRA, do you believe the law is meeting its objectives and could it be refined or strengthened?

Mr. LEW. I think it has helped, and I think it is not necessarily a question of the law that needs to be changed but a question of

how the law is implemented and used. I think that there was a period of time when performance measurement kind of shifted away from the core objectives of agencies and became less directly central to the question of are we getting done what we have set out to do. I think we are coming back to trying to measure the performance of an agency against what it puts out as its goals.

I think it is important in any performance measurement system to separate the question of how we determine our core values, what do we need to do, from the question of are we doing it well. If you take an example of educating children K to 12, if you find out that your programs are not as effective as you want them to be, that does not mean you do not care about educating children K to 12. It means you have to take the resources and use them better.

I think in the early days of GPRA, there was a fear that any indication of a performance weakness would lead to a funding cut, and I think if you really care about the objectives of an agency, GPRA ought to be a way to take the resources and focus them on high-performing ways of reaching your goals. It ought not to be the threat that the money will move to some other objective.

I think that is a culture change. I think if agencies fear that an honest assessment means they will lose money, we will never get honest assessments. It has to be that if the commitment is, these are our core priorities, we will find a way to do it better, and I think that is a question of time, and it has been a long time, I know. Twenty years is a long time. But I do not think that we are yet at the place where it has come together the way I would hope it does.

Senator AKAKA. Mr. Lew, I am very concerned with protecting the privacy of Americans' personal information. In particular, I have been a strong advocate of enforcing current privacy laws at agencies and strengthening areas that may be weak. Unfortunately, many agencies do not have a comprehensive or robust privacy office and may lack clear guidance for how to manage privacy. There is no single government-wide privacy point person to provide leadership on these issues.

Do you believe that OMB should designate a senior privacy official to ensure that all agencies are properly protecting Americans' privacy?

Mr. LEW. I think it is critically important that OMB play a very significant leadership role, ensuring that government programs are implemented in a way that protects the privacy of Americans, and I think that there are a number of offices at OMB, the Office of Information and Regulatory Affairs (OIRA) and the Office of E-Government, that spend a good deal of their time working on those issues.

When I was at OMB, we had a privacy counselor. We did not have an E-Government Office. I think that there are a lot of ways to organize and to do it effectively. What I know for a fact is that this Administration takes privacy issues very seriously, and if confirmed, as I get more familiar with how the operation is working, I will develop my own view as to whether the current organization works.

I have no doubt that the current commitment is real and that it is a question of whether the current organizational structure

works. I have no reason to believe it does not. I have met with the people who run these areas. They share the values that I have described, and I look forward, if confirmed, to being able to come back and give you a report after I have more firsthand knowledge.

Senator AKAKA. Thank you very much, Mr. Lew, for your responses. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Senator Akaka. Next is Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thanks, Mr. Chairman.

Mr. Lew, it is good to see you and your family. I will just ask you to remember you are under oath as I ask this question. Looking at your biography, I note that you went to work for Tip O'Neill in, what was it, 1979?

Mr. LEW. Correct.

Senator CARPER. Is it true that you were 14 at that time? [Laughter.]

Mr. LEW. Well, I think I was 24 when I went to work for him.

Senator CARPER. Well, the years have been kind to you.

I want to go back to 1997, when we last made a real serious run at budget deficits. Who was the Deputy Director of OMB at that time?

Mr. LEW. I think John Koskinen was still there. I do not remember——

Senator CARPER. Deputy Director?

Mr. LEW. For Management, you said?

Senator CARPER. No, just Deputy OMB Director.

Mr. LEW. Well, I was the Deputy Director of OMB in 1997——

Senator CARPER. Thank you. Who was the Chief of Staff for President Clinton at that time?

Mr. LEW. In 1997? I think it was——

Senator CARPER. It was Erskine Bowles. And what does he do now?

Mr. LEW. Erskine Bowles chairs the Deficit Commission.

Senator CARPER. That is what I have heard. And you have a chance of becoming our OMB Director. So it is kind of like deja vu.

Mr. LEW. Well, as I was making the rounds over the last couple of days, appointments with Members of this Committee and the Budget Committee, I did run into Erskine Bowles and Senator Alan Simpson in the hallway because we were talking to the same people.

Senator CARPER. Were they humming, "Happy Days Are Here Again"?

Mr. LEW. I was encouraged that they were in a lighter spirit than I would have expected.

Senator CARPER. Good. That is what I have heard.

Back in the mid-1990s, the Congress passed and President Clinton signed legislation to provide the President with something like line item veto powers. I thought it went way overboard. It provided not only the ability to the President to line item all kinds of spending, tax policy, and entitlement programs, but it required a two-thirds override in both the House and the Senate to stop what the

President wanted to do. It was declared unconstitutional by the courts. I do not think the vote was even close.

A couple of us on this Committee, Senator McCain, Senator Russell Feingold, who is not on this Committee, but we have offered legislation to call for, I think, a more reasoned approach, one that is believed by most legal experts to be constitutionally sound, and that is to really provide what I call a 4-year test drive for the President's rescission powers. The President can sign spending bills into law and then send a rescission message to the Congress asking that spending be reduced in all kinds of ways. Our legislation is more measured. We have let the President for 4 years have the power to submit rescission proposals back to the Senate after signing a spending bill, but would not allow him to go after entitlement programs, would not allow him to go after tax provisions, would allow him to propose rescissions in appropriated spending.

The other thing that is different about our proposal is we would have to vote affirmatively for the proposal. We could vote it down. A simple majority in the House or Senate would stop the rescission, basically kill the rescission, but we would have to vote on it. As it turns out, as you know, most times when the President sends a rescission message to the Congress, it is ignored, and we just never do anything about it.

Some people think most governors have line item veto powers that go beyond what I just described. Some people think that is all we need to do to reduce the budget deficit. That is not all we need to do. We need this freeze on overall domestic discretionary spending. We need to do what Secretary Robert Gates wants to do, like taking $100 billion out of the defense budget. We need for this Deficit Commission to do good work. We need to go after all kinds of waste, fraud, abuse, improper spending, and all that.

But let me have your take on this proposal of Senator Feingold, Senator McCain, and myself, the 4-year test drive to enhance the President's rescission powers, which I think has been endorsed by the President, by the way.

Mr. LEW. Yes. I think it is important to have as many workable tools as we can to try to get our hands around reducing spending when it is not of the highest priority and when it could be reduced without doing damage.

I was at OMB when the line item veto was passed. I had the unpleasant task of reviewing all of the laws that were subject to it. And I must say, it was not just the Supreme Court that had questions with the workability of that law. Going through it, just analytically, it was very challenging.

I think that what has been designed seems to me to be a more workable approach. While I am a lawyer, it is not an area of law that I have special expertise in. I think it is more likely to sit past scrutiny than the line item veto in the 1990s.

I think the question with any of these mechanisms is: Is there a will to use it? Is there a will to make hard decisions? Because everything that would be subject to an enhanced rescission had supporters and sponsors or it would not have been there in the first place. And the challenge of identifying the list is one part of it. Then the challenge of having the will to reverse decisions is another.

The line item veto that was found to be unconstitutional kind of took it out of the legislative process, which is one of the reasons that it was overturned. This will put it back in the legislative process, so it will be a two-part process.

Senator CARPER. As I said, I am not sure if we will have a chance to vote on this proposal this year. I think we have had a couple of hearings. We had a hearing on an earlier version of this proposal offered by Senator Feingold and Senator McCain. We had a hearing on an earlier version of this proposal that I think 20-some of us had cosponsored. We have about 23 cosponsors of this latest version, which has been endorsed by the President, and we may want to tweak it further before we bring it up for a vote either this year or sometime early next year. But we look forward to working with you, and I appreciate the history of your involvement with this and your knowledge. You bring a lot to the table with respect to this tool.

The last thing I want to raise is the tax gap. We are told that it is over $300 billion, money owed, not being collected by the Department of the Treasury. And there are a number of us who have worked in a piecemeal fashion and in some cases in a coordinated fashion to try to reduce the amount of money that is owed by individuals, by companies, that is not being paid, not being collected. Any thoughts you have for us on how we might work with you to take that $300 billion number and start squeezing it down?

Mr. LEW. When I was at OMB the last time, we tried to add additional resources for tax enforcement in order to try to close that tax gap. I think it is effective to add enforcement resources because ultimately, enforcement or the expectation of enforcement is a powerful stimulus to compliance.

I actually think this is an issue that is beyond its fiscal importance, just in terms of confidence in the tax system. Taxpayers of comparable income should feel that they are being treated fairly, each to the other. It is not a good thing for the confidence in the tax system for there to be this sense that people can get away with noncompliance.

So I think it is an important matter of public policy. It is an important matter of fiscal policy. And I cannot say that I have current detailed knowledge of what the enforcement resources are, but I do know that in the 1990s, we thought one of the solutions was to increase enforcement, and I would look forward to working with you and with the Treasury Department on approaches that would be effective.

Senator CARPER. Good. I would just note, Mr. Chairman, for the record that this is not a Democratic or a Republican idea. It is not an Independent initiative. It is just, I think, good policy. We have worked together on a lot of stuff and my hope is this may be one that we can work together on, as well. Thanks. And frankly, a bunch of us introduced legislation today to do just that. Thanks.

Chairman LIEBERMAN. Thanks, Senator Carper. Senator Collins and I always enjoy your cross examinations of the witnesses, as you began today.

Senator Tester, you are next.

OPENING STATEMENT OF SENATOR TESTER

Senator TESTER. Thank you, Chairman Lieberman, and thank you, Mr. Lew, for being here today, and I appreciate your stopping by my office so we could have a visit earlier this week. Thank you for your service. Thank you for your repeated tour of this office. I think that your expertise and experience in this brings a unique quality. You have been there and done that. You have the budget surplus credentials behind you, and such significant ones during the Clinton Administration that I look forward to your service in this job.

As we move forward and talk about things like the debt, which is talked about a lot here, you, more than anyone in this room, understand there are going to be some difficult decisions that have to be made, whether it is on the income side or the expenditure side.

With a lot of those decisions, there has to be a level of education so that people get the facts to know what the impacts are and the real benefits to any decisions that are made to address the debt because they are going to be difficult. Do you see a role for OMB in that education process?

Mr. LEW. I think that OMB has an enormously important role. Well, it has two very important roles. One is the analytic expertise and being able to provide information, which is the way you educate people on this. You make it transparent. You make it clear. And you do it in a way where the numbers have integrity, and it is not a war about whose numbers do you use.

I think the other is that OMB plays an important role in the policy making process in the Administration, and I think the voice of OMB at the table is a voice that is both about what are the important goals, but it is also about how do you accomplish it? How do you make it work? How do you make the macro decisions work, and then when it is a series of individual pieces, how do you make them effective one by one?

I think OMB at its best is a partner not just to the President, but to every agency of government and to the Congress. When OMB is in the room early, my experience was it led to more satisfaction in terms of the outcome on the part of all the participants.

Senator TESTER. But from an OMB perspective, how do you get that information out to the public, or is this something OMB can even do?

Mr. LEW. OMB does not have a direct public program the way a lot of other agencies do, but increasingly in this day of e-government and putting things out on Web sites, what I have noticed is different now than 10 years ago is you can look at the Web site and you can get information to the public. It is not forced on the public. The public has to go there to look for it. But there is much more accessible information than there was.

One of the things that I think the leadership of OMB has to do is speak to these issues before Congress and publicly. It cannot just be something we have private conversations about. I did some of that when I was at OMB the last time. It may be that this is a time where there is a need for more of that. I do not have a strong sense yet of what the time demands are.

Senator TESTER. Montana is one of the few States that is not in a budget deficit situation. It did not happen by accident. There was

some outstanding work done by the Governor of the State of Montana to put some money aside when times were good. That did not happen in this country. When times were good, the budget deficit continued to rise and we did not put any money aside. Do you see that as being a potential long-term solution for budget deficits, and if you do, how would that be done?

Mr. LEW. Well, last time I left OMB, we were putting money aside, we thought, for the bad times. One of the arguments we made about protecting the surplus was that it would be a cushion for future times when we might need it. I thought it was a very ill advised decision to suspend pay-as-you-go (PAYGO) kinds of rules and have spending and tax policy made without the constraints of fiscal discipline for an extended period of time. I am not talking about the response to the recession. I am talking about in times when it was not required to have a deficit to get the economy moving again.

I think you have to look at a cycle. There are times when a deficit is a very good thing, and that is, I think, the case for the last 2 years. When the economy is growing at a good rate, there ought not to be a big deficit. We need to get back to a place where we can, at a minimum, eliminate the deficit that is not related to reducing the debt, and then we have to get beyond that and start to reduce the debt so that we can reduce our interest payments.

I wish I could say I thought that was something I saw in the very near term. Realistically, that is quite a ways down the road. But you have to do it one step at a time, and the Debt Commission's mandate to reduce the deficit to 3 percent of GDP, to come up with proposals, would eliminate the deficit other than the service of the debt. I think it is a worthy goal, and it is a goal we have to focus on.

Senator TESTER. I would agree, and I would hope that when the Deficit Commission comes back with their recommendation, we do not look for reasons to vote against it but rather look for reasons to vote for it so we can get our arms around the debt.

The last thing I want to talk to you about is contracting. We visited a little bit about this in my office. I do not think there is any disagreement that contracting is, especially for small business, a complicated thing. It can take a lot of time and it can take a lot of staff, and quite frankly, in a State like Montana, we end up with a lot of businesses that just say, the heck with it.

What I see happening at the Federal level is they are kind of using big general contractors and then subcontracting and hoping some of the small guys get it. Can you give me your perspective if anything can be done from your potential position as OMB Director to really encourage more contracting so that small business—not to tilt the field toward small business, but at least level it—could get a shot at it? And I am not talking about small business as businesses, again, under 500 people. I am talking about small businesses.

Mr. LEW. I think it is important that we maintain access to Federal contract work on a broad basis. I think it is important for two reasons. One, there are very important enterprises that ought to have a chance for their own benefit to get the work, but I think from the perspective of the public good, there ought to be the kind

of competition that comes from knowing that if you are big and you do it, you do not have a lock on it, that somebody else might be nipping at your heels to take the work back.

Senator TESTER. Thank you.

Mr. LEW. I do not know what we can do immediately. When I look at the contracting issues now, one of the things I am struck by is that Federal agencies are woefully understaffed in some of these areas in terms of the contracting professionals to make sure that the specifications are well designed, the monitoring is well implemented. One of the reasons there has been a drift to large contracts is it is easier to manage, with the number of people who are in agencies to do it, fewer pieces of work.

I do not think I can say I see a huge growth in the Federal workforce as being the immediate solution, but I think we have to recognize that there is a tension there, that if you ask someone to go from one contract to 50 contracts, they are going to need some help.

Senator TESTER. Absolutely. Well, thank you very much. I wish you all the best. Hopefully, you will be confirmed quickly and unanimously. I just think you are a great person for the job and bring some real common sense to a position that needs it. Thank you.

Mr. LEW. Thank you, Senator.

Chairman LIEBERMAN. Thanks, Senator Tester. Senator Brown.

OPENING STATEMENT OF SENATOR BROWN

Senator BROWN. Thank you, Mr. Chairman.

It is good to see you again. I appreciate your coming into my office. And I am glad that we have somebody that is going through the actual process of coming before the Committee. Being the new guy here, I have to admit I have enjoyed learning about our candidates, and I am hopeful that in the future other candidates will come forth like you and look for a full and fair vetting so we can learn about what your thoughts and ideas are, and I am hopeful the Administration will start to do just that.

I know Senator Collins touched a little bit on the tax increases that will happen if nothing is done. I have concern that in the middle of a 2-year recession, we are going to be raising anybody's taxes. Some of those folks that are making $250,000 and up you cited, the lawyers and all those that traditionally people do not like, but they are also involving LLCs and small businesses that use their Social Security number that are actually creating jobs and that are also caught in that net. Two-hundred-and-fifty-thousand dollars in Massachusetts may be different than $250,000 in Montana, when you throw in the fact that you get absolutely no aid or assistance for college and the cost of living is traditionally higher. And these are, many times, the job creators, as well.

I am also hopeful, and I am going to vote for you, as I told you, as well, but I think it is important for you to take a message back to the President that singling out various categories of people in the middle of a 2-year recession to bear a larger burden of the tax burden, I do not think, is appropriate at this point in time.

But I was wondering if you have any position or recommendation on potentially a top-to-bottom review of every Federal program to

save money, streamline, and consolidate. Do you have a position or a recommendation on that?

Mr. LEW. Senator, if I may, just on the tax issue, the tax rate on people earning $250,000 or above would go back to a tax rate that is still lower than the tax rate that was in effect during the 1990s when we had the longest period of economic growth. So I actually think there is a lot of experience. We are not talking about an increase that we have not had experience with. We are talking about having it revert to something that was in place when the economy was quite healthy.

Senator BROWN. Right, but just to counter that, with all due respect, we did not have the economic meltdown that we are having now——

Mr. LEW. No, we did not.

Senator BROWN [continuing]. So it is a totally different circumstance, in the middle of a 2-year recession, to think of raising anybody's taxes, coupled with the second-highest corporate tax rate in the world and a whole host of other regulations and burdens. I feel it is one of the worst business climates around in quite a while.

Mr. LEW. I guess my core concern is that the tax cut for middle-income, middle-class Americans is where the real economic engine is and that is the piece where I think we are in total agreement. It would be a mistake to let that tax rate go up at the beginning of the year, and that is where the real economic benefit of the country is.

On the question of reviewing Federal programs, one of the responsibilities of the OMB Director, and if confirmed, I would undertake this almost immediately upon going to OMB, is to do a review of every agency of the Federal Government. It is an exhaustive process and an exhausting process. It is the way that you use the very capable staff at OMB to ask questions about every program in the Federal Government.

I took that process very seriously when I was there the last time. It is something that I know, if I am confirmed, I will again take seriously. I think that we cannot accept that everything we did before has to be done exactly the same way in the future. I have tried to manage the State Department that way, shifting resources around to accomplish our highest priorities, and not to just accept that what was the case last year is the case next year.

I do not think it requires a new bureaucratic process to do that. The process that exists, if taken seriously, gives you the ability to make recommendations to the President, and if confirmed, it is something I would, I believe, spend the month of October and November deeply involved in.

Senator BROWN. I just want to go through kind of a checklist. Do you have any position or recommendation with regard to a freeze on Federal hires or pay increases for Federal employees?

Mr. LEW. You know, I think that the question of a freeze on Federal hires——

Senator BROWN. Non-essential, I am talking about——

Mr. LEW. Well, we should never have non-essential positions. I mean, we should give people work that is essential. We should not be having jobs that are not essential.

The reason I am hesitating is that the contracting issue, this is something that if we want to move functions into government and it costs us more to do the work by hiring a contractor than it does to hire a government employee, I think we need to move away a little bit from the notion that it is just head count that matters. It is what does it cost to get the work done most effectively.

Senator BROWN. Right.

Mr. LEW. I do not know the answer to that——

Senator BROWN. Well, I am glad you are bringing it up because I do have a question on acquisition reform and dealing with contractors. As you know, there are many contractors that have been overpaid. There is some type of fraud or waste and abuse. And there have been instances, not only are they getting their contracts renewed, but they are actually getting a bonus for doing faulty work. Is that something that you can get——

Mr. LEW. I think we need to look at these issues. Early on in the Administration, the President put this out as an issue that he wanted the agencies to take very seriously. I know at the State Department, I have put a lot of time into looking at how we do contracting in the State Department and the U.S. Agency for International Development (USAID). It is a very difficult area to make quick change in because you do not have the personnel to take over the work unless you hire more people. And the question becomes, do you stop doing things or do you do it the way it was done?

Senator BROWN. Well, you need to do it at least on a competitive basis. With some of the ways these contracts are written, I have never seen anything like it.

Mr. LEW. It should be done on a competitive basis——

Senator BROWN. Do you have any position or recommendation with regard to giving the President the ability to have a line item veto?

Mr. LEW. I just was responding to questions from Senator Carper on the enhanced rescission. The last time a line item veto was enacted, the Supreme Court overruled it.

Senator BROWN. Right. I remember that conversation. What is your position?

Mr. LEW. I supported the line item veto at the time. I helped to implement it, and the Supreme Court overruled it, so I think it is probably sensible to look at mechanisms that are more likely to withstand judicial scrutiny.

Senator BROWN. Do you have the ability through your position to make a recommendation or what is your position on entitlement issues? Do you make recommendations to the President on that?

Mr. LEW. OMB reviews all aspects of the budget, including all the entitlement programs.

Senator BROWN. Is that an area you feel you will be making changes or making recommendations to the President on?

Mr. LEW. I would imagine. It is an area where every year there is a set of mandatory provisions in the budget, and I assume that I would continue the practice of reviewing all programs of the Federal Government.

Senator BROWN. Well, in conclusion, I just want to wish you well. As you know, I told you before that I think you are one of the most qualified people for this job, and I am excited to be able to cast my

vote, make it pretty public. As I said, I am a straight talker. If there is anything my office or the Chairman and the Ranking Member can do to give you the tools and resources you need to do it better, please let us know.

Mr. LEW. Thank you, Senator. And as I said when we met in your office, it has always been a close call whether I call myself a son of New York or a son of Massachusetts. Many people get me confused.

Senator BROWN. Well, I did not think I would be here, and I apologize, but I wanted to come and inquire and give you my support. Thank you.

Mr. LEW. I appreciate it. Thank you very much, Senator.

Chairman LIEBERMAN. Thanks, Senator Brown. Senator Brown is a straight talker——

Senator BROWN. So are you.

Chairman LIEBERMAN. And it has gotten both of us in trouble.

Senator BROWN. Absolutely. [Laughter.]

Chairman LIEBERMAN. But the fact that he said what he did really sort of validates the asset that you have and the credibility you are bringing into this, and we want to make sure when it is over you still have that credibility.

Mr. LEW. I hope that I can do that.

Chairman LIEBERMAN. Because I am so supportive of your nomination, having heard this bi-State loyalty, I am not going to ask you whether you are a Yankees or Red Sox fan. [Laughter.]

Mr. LEW. Well, it is actually an easy question to answer. I am a Mets fan. [Laughter.]

Chairman LIEBERMAN. That is perfect.

Mr. LEW. It made it possible for me to be a Red Sox fan.

Senator BROWN. Patriots or Jets? [Laughter.]

Chairman LIEBERMAN. Senator Collins will start the second round.

Senator COLLINS. Thank you so much, Mr. Chairman.

Mr. Lew, many people do not realize that in addition to the budget responsibilities, OMB also is responsible for the review of all significant Federal regulations to ensure that the economic and other impacts are assessed as part of the regulatory decisionmaking, and there is the office known as OIRA within the OMB that is specifically responsible.

I want to bring to your attention a proposed U.S. Environmental Protection Agency (EPA) regulation that would have an enormous impact on our economy at a time when our economy is very fragile. At the end of April, EPA released draft proposed rules for air emissions for industrial boilers powered by biomass, coal, natural gas, or oil, and this is being referred to as the "boiler MACT" regulations. According to EPA, the cost to implement those rules would be $9.5 billion nationwide. But according to industry experts, the cost to implement the rules in just the forest products industry would be approximately $7 billion.

In my State, Maine companies have estimated that they would have to invest $640 million to comply with the rules, and this mainly would affect the paper mills in Maine, which are already struggling during this very difficult economy.

Now, here is the irony. These rules also apply to hospitals, schools, or any entity that is using a large boiler, and I have heard from constituents who were planning to invest in a new renewable energy biomass boiler for a school, and they were going to get the money from the Department of Energy under the Recovery Act, only to find out that the boiler they would be purchasing, the new renewable energy biomass boiler that is encouraged by the Department of Energy, would not meet the EPA's new rules and they would not thus be allowed to operate the new renewable energy boiler.

So this is the kind of thing that drives the public crazy. Here you have one department in the Federal Government subsidizing the purchase of a new biomass renewable energy boiler for a school while another Federal agency is saying, no, you cannot put that in. It does not meet the highest standards. So clearly, there are discrepancies and cost issues here that warrant the review by OMB.

The industry experts that I have talked with are very concerned that the standards are being set so high that they are going to have to make a massive new investment at a time that they cannot afford it. It is totally contrary to what the Department of Energy is doing to try to get people to move away from fossil fuels to renewable energy.

Now, several of my colleagues on both sides of the aisle, Senator Landrieu, Senator Ron Wyden, Senator Voinovich, Senator Lamar Alexander, and I are writing to the EPA, and we are going to copy Cass Sunstein at OIRA to take a look at this. I am not asking you for your opinion on this rule today.

Mr. LEW. I appreciate that.

Senator COLLINS. I realize that would be unfair. But I am asking you to commit to taking a close look at the economic impact of this rule.

Mr. LEW. Senator, I appreciate your not putting me on the spot because I am not familiar with that specific rule. I am familiar generally with OMB's review of regulations, and I think it is a very important function that OMB has.

I know that the record of this Administration, even compared to the record when I was there the last time, is that it has taken this cost-benefit process quite seriously, if the benefits of the rules outweigh the costs in general, and that has been a value that has been very important to the Director of OIRA and to the team there.

When I was at OMB the last time, I would not say that I got involved in every OIRA matter, but when there were matters of very significant policy importance, particularly when they involved cross-currents between other Federal programs, I did get involved because it is appropriate for the Director to do that. I would intend to work closely with Cass Sunstein, who I have the highest regard for, who I think is an excellent OIRA Administrator, but I think it is also the Director's responsibility to pay attention to the regulatory responsibilities that OMB has.

Senator COLLINS. This is a really important one, and I appreciate that commitment. Another responsibility OMB has that is generally not known by the public, and we have touched on it today, is some responsibility with the Office of Federal Procurement Policy (OFPP) to set Federal procurement rules, and I mentioned to

you during our telephone call my concern that the Administration is considering a dramatic new government-wide procurement policy, which is ironically called the "High Road" policy, that in my view would have a severe negative impact on the ability of small businesses to effectively compete for Federal contracts, would increase the cost of Federal contracts, and would jeopardize the integrity of the Federal procurement system.

We have discussed this on the phone. I am very concerned that this goes away from a merit-based procurement policy and will actually increase the cost of Federal contracts at a time when we should be going in the opposite direction and trying to introduce more competition, more bidders, and decrease the cost.

So I hope, given the strong support that you have expressed today for competition and the need to keep Federal contract costs down, that you will assure me that OMB will not issue any procurement preferences that create artificial barriers to competition and will hurt legitimate small business bidders.

Mr. LEW. Senator, we did discuss this particular matter, and I have inquired. I am not aware of a rule that has the character that you have described. It may be working its way through the system. I do know that the issue itself takes two values that are very important and requires a careful balancing. There is the very important value of encouraging competition and making contracting available to small business, and there is also a set of values about what are the kinds of protections that ought to be available in the workplace. I think that it is important as this is considered to make sure that we ultimately make decisions that promote strong economic activity, but we also recognize that we have a lot of areas where we do things that protect individuals.

I would look forward to working with you on this. I do not have specific knowledge of the rule, so it is hard for me to address the specific issue. But I do very much understand the concern that you are raising.

Senator COLLINS. Well, I was a young staffer on Capitol Hill at the same time you were a young staffer on Capitol Hill, both on the House side where there actually was an initiative that Tip O'Neill and Bill Cohen did together that we always called the Cohen-O'Neill initiative, I would add. [Laughter.]

But when I was in the Senate, I was the staffer who helped draft the Competition in Contracting Act, which still governs today, and I can tell you that I view it, if OMB goes ahead with this policy, as being totally contrary to the Competition in Contracting Act. The Congressional Research Service also agrees that it would require legislation and could not be done by Executive Order. So I hope that you will proceed with great care.

Mr. LEW. I understand the concerns, and if confirmed, I will learn more about this and find out what, if anything, is going on, and I would make the commitment to staying in communication with you on it.

Senator COLLINS. Thank you. And finally, Mr. Chairman, and you have been most generous by allowing me to precede you, I just want to mention that the Postal Service is in an enormous crisis. It has announced a loss of $5.4 billion for the first three quarters of fiscal year 2010, and the Postal Service, in my view, risks a

death spiral of constantly hiking its rates, losing more volume, hiking its rates again, and losing ever more volume. And I disagree with many of the proposals that the Postal Service is making to address its problems.

There is one, however, where I am very sympathetic, and that is the Postal Regulatory Commission has had an independent actuarial analysis that has shown that the Postal Service has been overpaying into the Civil Service Retirement System by between $50 to $55 billion, which is significant money. We have been trying to get the Office of Personnel Management (OPM) to redo the calculations. OPM points to a 2003 law, which was repealed in 2006, and it needs to recalculate what the obligation is.

I do not want to get into that further today, nor do I expect you to have an answer to that today, but I am seeking attention. The answer is not to continually relieve the Postal Service of its health insurance liabilities for its retirees. We may be able to stretch out the amortization schedule, but those are real liabilities. But if, in fact, the Postal Service is paying $50 billion more than it should be, that should be corrected. And it is OMB and OPM that have the power to do that.

Mr. LEW. This is an issue that I would not want to pretend to know in depth, but I am generally familiar with it, and I understand that OPM has been going through a review trying to determine to a high degree of accuracy what the overpayment estimate is. I also know that there are complicated issues as to whether it does or does not require additional legislation, and if so, whether or not it would obviously be subject to PAYGO requirements. If confirmed, I would make the commitment to learn more about it and, again, stay in communication with you on it. I think it is a separate issue from the health issue——

Senator COLLINS. It is.

Mr. LEW [continuing]. And the Postal Service generally presents a number of issues that will need to be addressed in terms of its financial state.

Senator COLLINS. And the Postal Service needs to make some very hard decisions to reduce its cost structure to become more competitive. But this is an issue we need to look at, as well.

Mr. Chairman, I have asked our witness a number of very difficult questions today, and as I leave this hearing, I do not want to leave the impression that I am other than impressed with the nominee, despite the grilling that I may have given him on a number of policy issues. As the Chairman will attest, I have urged that we do a very quick mark-up so that you can get right to work——

Mr. LEW. Thank you, Senator.

Senator COLLINS [continuing]. And I look forward to both casting my vote for you and supporting you. And again, Mr. Chairman, thank you so much for your courtesy.

Chairman LIEBERMAN. Not at all. Thanks, Senator Collins. We are going to try to schedule a meeting of this Committee on your nomination as early next week as we possibly can.

I have one or two quick questions, and actually, Senator Collins asked one of them, about the Postal Service. The other big problems we have talked about, economic recovery and debt reduction, everybody knows. For most people, including most Members of

Congress, the crisis in the Postal Service is, for want of a better metaphor, an iceberg that we do not see, and the management of the Postal Service has really been trying very hard to get ahead of the problem, and they have been working with the employees there. There have been significant reductions in the workforce. But the fact is that there are very profound long-term declines in mail volume. I will just give you the number from 2009, which is a decline in mail volume of 25 billion pieces, 12.7 percent, from the previous year. And, of course, that means deficits, $3.8 billion in 2009, now running comparable, even a little bit higher.

So we have to get together and deal with this problem, and OMB has been involved, playing a leadership role. As you know, the reason we ask is not only because we oversee OMB, but by a strange twist of legislative fate and history, the Postal Service is part of our jurisdiction, as well.

Mr. LEW. Yes. I think that the kind of historical change in the way information is handled and managed has created challenges for the Postal Service. The amount of work we do by e-mail instead of letters is a reality.

Chairman LIEBERMAN. Right. That is exactly it.

Mr. LEW. I know that the volumes in the Postal Service have shifted from First Class Mail to Third Class Mail, which is much lower revenue generation. I am not an expert on the Postal Service, but it does not take an expert to realize that there are structural changes that require some attention.

Chairman LIEBERMAN. Agreed. Let me ask you one final question, to go back to the deficit reduction and just to give you a chance to look back, and I am asking because I think it would be helpful to me and perhaps others who are going to be part of this process later in the year or next year, to compare the economic challenges that you faced during the later 1990s with regard to deficit reduction and the ones faced now, if you care to, to compare the political environments, and just generally help us to understand what lessons you took away from that successful bipartisan effort to get America back in the balance that can be helpful to us as we try to do the same.

Mr. LEW. I think in the 1990s, it was a very different economic environment, and we did not have a recession, we had growth. We did not have high unemployment. And what was driving the focus on deficit reduction was the fear that government borrowing was going to become an impediment to the private economy and a very strong message from the public and from the business community that the Federal Government had to be brought under control in order for the future of economic growth to remain bright.

We are in a very different environment right now. We have the lowest interest rates of any time that I am familiar with, and we have not an insufficient level of economic activity. The tools that we have to stimulate economic growth have been used, I think, effectively, but they have had the effect of driving up the deficit.

The challenge today is that, as I think I was saying earlier, if we were to put the brakes on this year or next year, I think it would be profoundly problematic. This year, we should not be looking for massive deficit reduction. But we will emerge with a period of more sustained growth. We will see unemployment coming down.

And at that point, with the very large Federal debt that we have, if we see higher interest rates, we are going to see the kind of pressure, both on the Federal budget and in terms of competition for capital, that will be a real problem in the economy.

When you can see a problem down the road, the answer is not deal with it right now, but put things in place so that when you get there, you have planned ahead. That is not an easy thing for our political system to do. Part of 1983 was a somewhat engineered crisis where Social Security was going to run out of money and it would not have been able to pay the bills. It helped to focus the mind because not paying the bills was not an option. We are now in an environment where we have to create that sense of urgency, knowing that it is a bit farther down the road, but no less real.

In terms of the challenges of working across the aisle, I have now been in this line of work long enough to have several times said it could not get worse than it is, only to be proven wrong, so I do not make predictions any more, whether it is better or worse than it will be in the future. What I do know is that at moments when you think partisanship is as bad as it can be, you still can get things done. In 1983, it was pretty bad. In 1990 and in 1997, it was pretty bad. The problems were urgent, and there were leaders who were willing to step forward and take action. I think if you define a problem as being critical to the national security and the national interest of the United States, leaders then can step forward.

The prospect of unfettered deficit growth and debt growth is both a problem for our economy and for our national security. It is not a good thing if the United States loses its credibility in the world because it cannot manage its own fiscal affairs. I do not think we are there now. I do not think we are at the point where if we start to take action, we cannot reverse the situation. I think if we wait for 2 years, 3 years, or 4 years, we could get to a place we really do not want to be, which is why I see a sense of urgency to try to do this now, notwithstanding the fact that it is difficult and it will be very challenging to build the kind of consensus required to take meaningful action.

Chairman LIEBERMAN. Well, that was an excellent statement and an evocative statement, too, and I agree with you. Ultimately, this does require leadership, and leadership that puts the national interest first. You offer a hopeful perspective because at times in the not-so-distant past when partisanship seemed also to be quite high, people did rise to the occasion.

I agree with you. If we begin to solve this debt problem, it will have effects that are positive for our country well beyond the enormous positive effects it will have on our economy, and I will just mention two that I know you are familiar with.

The first is that here at home, I think part of the frustration and anger that my colleagues and I all hear is based on, in part, a feeling that our country has lost the ability to control its own destiny, that we are not the America that we used to be. And a big part of that is the debt. Everybody understands it. People may not be quite prepared to do what they have to do to start to deal with it, but if we can work together to show that we can begin over a period of time to reduce the debt, I think it will help to restore the

public's confidence, not just in our government, but in our country and its future.

The second thing is your point, just if I may expand it a bit, on national security. It struck me the other day, thinking about different sections of the world, people from the Middle East and Asia, that there is a fear about whether America has the staying power here, and it is very odd that they are asking that question because we are probably more engaged in places like the Middle East and Asia than we have ever been. There are a lot of reasons for it, but one, I think, is that they are worried that we may be declining, just as the American people are worried, as a power, and one element of that is our inability to control our own fiscal destiny, to live essentially within our means.

So your willingness to come back to this position at this moment really is an act of great public service, and I think it is an opportunity for you, it is daunting, to really make an extraordinary contribution to this country even beyond what you have already done, and I am grateful that you are willing to do so.

I thank you for your testimony today. Without objection, the record will be kept open until the close of business tomorrow for the submission of any written questions or statements for the record, and we are doing that, as Senator Collins and I said, because we want to move to confirm you in this Committee and then send you to the floor as soon as possible.

Do you have any final words to say in your defense?

Mr. LEW. Well, thank you, Mr. Chairman. I appreciate the Committee's cooperation and patience. While this is probably the most challenging undertaking I have ever looked ahead toward, it is probably also the most important. I look forward to being able to work together to make real progress because it is that important to our country and for the future.

Chairman LIEBERMAN. I agree. Thank you.

Mr. LEW. Thank you.

Chairman LIEBERMAN. The hearing is adjourned.

[Whereupon, at 4:43 p.m., the Committee was adjourned.]

APPENDIX

United States Senate
Committee on Homeland Security and Governmental Affairs
Chairman Joseph I. Lieberman, ID-Conn.

Opening Statement for Chairman Joseph Lieberman
"Nomination of Jacob Lew, Director of Office of Management and Budget"
Homeland Security and Governmental Affairs Committee
Sept. 16, 2010
As Prepared for Delivery

The hearing will come to order. Good afternoon and welcome. It's a pleasure to welcome Jack Lew to this hearing on the President's nomination of him to be the next director of the Office of Management and Budget.

We all know that everything in life is relative and probably at different times in your work as Deputy Secretary of State, particularly when dealing with Iraq and Afghanistan, you could not imagine you could have a more challenging job, but now you will, if confirmed. Your long career managing budgets, finances, technology and operations in the government, private and academic sectors – including having been the director of OMB under President Clinton – makes your ability to do this job self evident, in my opinion.

But the career achievement you have that most impresses me and gives me the most hope is that as budget director under President Clinton, you left office with a $237 billion federal budget surplus.

We all know that times have changed and our present economic challenges are different and more difficult than they were in the 1990s. And yet the experience you had then, not just within the administration, but in negotiating with Congress to come up with the Balanced Budget Act I think will serve you, and the Administration, and the American public, I think very well in the months ahead.

Obviously we're facing two big problems now. One is to grow the economy and create more jobs. That's the immediate problem.

The other, longer-term is to get our budget back in balance.

I supported the efforts of both the Bush and Obama Administrations to stabilize the financial markets and jump-start the locked up economy.

The President has appointed the National Commission on Fiscal Responsibility and Reform, which will be working on a proposal, led by our former colleague Alan Simpson and Erskin Bowles, former chief of staff.

It will be urgent that Congress act on these recommendations, and if you are confirmed, as I believe you will be, you will work with the Commission if that's appropriate, but certainly with us to bring the Commission's recommendations up for prompt consideration by the Senate.

As I believe you have been made aware, Vice President Biden sent a letter earlier this year to Senator Conrad, who was the leader of a group of us negotiating at that time around the debt ceiling extension, stating the Administration's support for bringing the recommendations of the Commission up for a vote in this Congress. That's perhaps a tall order, but it was a commitment made and I'd like to hear whether you support that commitment.

There are two other things under OMB's purview that concern me and which I would like to discuss during this hearing – federal purchases and information technology management.

Oversight of federal acquisition of goods and services is an extremely important responsibility of the OMB Director, and a responsibility that has grown substantially since you were last at OMB.

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In Fiscal Year 2000, spending on federal contracts had just topped $200 billion. In the last Fiscal Year, the number topped $538 billion.

Across the government, a number of trends over the last decade have resulted in wasteful spending, including an over-reliance on noncompetitive contracts, inappropriate use of "cost-plus" contacts, poor contract planning, and insufficient oversight of contracts.

Too often, agencies have turned to contractors to perform work that is inherently governmental.

The federal acquisition workforce is woefully deficient, and the shortage of expertise in this area will become even more acute over the next few years when roughly half of the acquisition workforce is eligible to retire.

To its credit, the Obama Administration has made improvement of the contact process a top management priority, and former Director Orszag and his team at OMB began a number of initiatives to address the problems I have mentioned. I'm eager to hear what your plans are to keep the momentum going in this area.

OMB also has key responsibilities for information technology – an area of growing importance and concern to this Committee. If confirmed you'll be coming in when Federal Chief Information Officer Vivek Kundra is conducting in-depth reviews of more than $30 billion of troubled information technology projects, as well as financial management systems across the government.

I look forward to hearing how you think OMB can help agencies better use technology to fulfill their mission more effectively, while increasing transparency and citizen participation.

I thank you for agreeing to take on the enormous challenge of being the Director of OMB at this time and I look forward to working with you if you're confirmed.

Sen. Collins.

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Statement of Ranking Member
Senator Susan M. Collins

Nomination Hearing for Jacob J. Lew
to be Director, Office of Management and Budget
September 16, 2010

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More than eight million Americans have lost their jobs since the "Great Recession" began in 2008. Unemployment remains unacceptably high – increasing to 9.6 percent just last month. What little job growth we have seen has been disappointingly weak.

The fiscal policies that the Administration and Congress undertake must acknowledge this reality, get the economy moving again, and put Americans back to work.

Key to accomplishing these goals is an extension of the tax relief that is scheduled to expire at the end of this year. If we do not act, Americans will face one of the largest tax increases in U.S. history.

This is no time to raise taxes; indeed, it would be the worst time to increase the tax burden on America's families and small businesses. As Peter Orszag, President Obama's former OMB Director, recently pointed out, the failure to extend existing tax relief would "make an already stagnating job market worse." I hope the President will heed the advice of his former budget director and abandon his plan to raise taxes at this critical time.

This Administration's policies have failed to stimulate private sector investment, which is the key to creating permanent jobs. In fact, many of the fiscal, economic and budget policies pursued by the Administration have made matters worse. The budget put forward by the President, which I opposed, would double the public debt in five years and triple it in 10.

The President's new health care law is already causing health insurance premiums to increase for many employers and employees, and the uncertainty over tax policies is hindering job creation.

Everywhere I traveled in Maine last month, whether I was talking to a machine-shop owner, a trucking company operator, a small residential contractor, or other employers, I heard the same refrain: Given the tax and economic policies coming out of Washington, we don't dare create any jobs or take any risks.

Our nation's future prosperity is shackled to an out-of-control federal debt. This year's deficit of $1.3 trillion – 9.1 percent of Gross Domestic Product – is the second largest shortfall in 65 years. Only last year's deficit, which amounted to 9.9 percent of GDP, was larger.

By the end of the upcoming fiscal year, the CBO estimates that publicly held debt will exceed $10 trillion – 66 percent of GDP – and will rise to nearly 90 percent of GDP by the end of this decade if current policies are continued.

The cost of entitlement programs continues to escalate and is worsened by the President's health care law, which creates unsustainable new entitlement programs while failing to address spiraling costs. Like a perfect storm, rising entitlement costs soon will collide head-on with the cresting waves of aging Baby Boomers set to leave their jobs. The result will put even more pressure on already strained Social Security and Medicare expenditures.

In other words, I fear we could be seeing merely a preview of what is to come. Without bold, urgent action, we are heading toward a future of financial stagnation, bogged down by costly entitlements, slow job creation, and sluggish economic growth.

This is the stark economic and fiscal environment that will confront the next OMB Director. OMB will continue to be the lead player as the Administration formulates policies to deal with these grim economic realities and unsustainable budgets.

From the OMB Director, we need common-sense analyses of what is working and what is not. We require honest assessments of fiscal realities, untarnished by political calculus. And, we expect the courage to admit mistakes and change course. Otherwise, the Executive branch and Congress cannot make the bold moves needed to do what is right for the American taxpayer.

If confirmed, Mr. Lew will need to develop a realistic plan that prevents the federal budget from becoming a mammoth anchor, dragging down growth in jobs and personal income.

The last time Mr. Lew served as OMB Director, a Democrat President worked with a Republican Congress to balance the federal budget. I hope this is a case where history repeats itself.

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STATEMENT OF U.S. SENATOR DANIEL K. AKAKA
HEARING ON THE NOMINATION OF JACOB LEW
TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

SEPTEMBER 16, 2010

I would like to add my welcome to Mr. Jacob Lew to this Committee. With so many of the challenges facing our nation at this critical time, I am pleased that President Obama has nominated someone with Mr. Lew's unique experience and credentials to be the next Director of the Office of Management and Budget (OMB).

Unfortunately, the economic crisis facing the United States has been deeper, and lasted longer than many of us ever anticipated. The federal response to economic turmoil has been effective in preventing an even greater downturn and placing us on a path to economic recovery by providing emergency resources to state and local governments and businesses. However, this process has been difficult and remains ongoing, which continues to take a heavy toll on American families, as well as the Federal government's budget.

I believe that former Director Orszag's leadership laid the groundwork for bringing the Federal budget under control after the economic turmoil that this Administration inherited. Current projections, while still bleak, show the Federal Government cutting the deficit at an unprecedented pace over the coming years. OMB has also aggressively pursued management efficiencies, and has worked to reduce waste, fraud, and abuse across the Federal Government. As I have said before, I believe that more effective and efficient management are vital to the success of the Federal Government and will yield savings and positive outcomes.

As Chairman of the Subcommittee on Oversight of Government Management, I have witnessed how poor management can compromise taxpayer dollars and harm government missions. I have worked closely with OMB, and others, to address management challenges, notably reforming the outdated security clearance process, in which OMB has taken a leadership role.

We must also continue to improve the performance of the Federal government, as agencies seek to achieve better outcomes at lower costs. This requires better cross cutting strategic planning at agencies, better tools to conduct rigorous program evaluations, and more communication with Congress to inform funding and authorization decisions. I would like to take a moment to commend Deputy Director for Management, Jeffrey Zients, and Associate Director for Performance and Personnel Management, Shelley Metzenbaum, for their strong leadership on government performance issues. I fully support the Administration's efforts to strengthen the Office of Performance and Personnel Management, and look forward to continuing our work together to improve performance across the Federal Government.

OMB is also responsible for several other areas I am especially concerned about. The Federal Government must continue to address contracting policy and the acquisition workforce. My Subcommittee held several hearings in recent years that have shown considerable underinvestment in the acquisition workforce, which at times results in poor contracting oversight. I also want to recognize the Office of Federal Procurement Policy Administrator Dan Gordon's leadership on these issues. I hope that you will support that office's efforts.

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I also want to highlight the need for us to look at the Privacy Act of 1972. Changes are needed to modernize the government's privacy policies. Over nearly four decades since the Privacy Act was enacted, technology has changed fundamentally and its use has increased dramatically. Technology makes our lives easier in many ways, but with increased technology, the risk to the security of Americans' personally identifiable information held by the government has also increased. There have been several inadvertent breaches of such information in recent years, and this Committee has begun to look at the steps needed to strengthen privacy protections. I hope that, if confirmed, you will commit to working with us, and our staffs, as we continue to address this important issue.

Finally, I want to close by again thanking you for agreeing to serve in this position, which you held previously under President Clinton. You presided over an OMB that was able to create budget surpluses and began important management initiatives that continue today. You have also served at the State Department as the first ever Deputy Secretary for Management and Resources. These uncertain times call for strong leadership at OMB, and you have demonstrated that quality time and again in your public service. I wish you well in your confirmation process and look forward to supporting you for this important position.

Thank you, Mr. Chairman.

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Statement by Senator Charles E. Schumer
To the Senate Committee on Homeland Security and Government Affairs
On the nomination of Jacob Lew
To be Director of the Office of Management and Budget
As prepared for delivery
September 16, 2010

Thank you, Mr. Chairman, for inviting me here today to introduce my friend and fellow New Yorker, Jack Lew.

No matter how many years he spends here in Washington, Jack, who grew up in Forest Hills, Queens, and his wife, Ruth, who grew up in Flatbush, Brooklyn, will always be New Yorkers.

I am delighted to endorse Jack's nomination to serve as the next Director of the Office of Management and Budget.

Jack is an accomplished public servant, renowned for his managerial prowess and his common-sense approach to solving tough problems. He is uniquely well-qualified to take the helm of OMB in these precarious economic times.

Jack is no stranger to many of us in this room. He and I first met three decades ago, when I was a wide-eyed freshman Congressman and Jack was a top aide to House Speaker Tip O'Neill. I know that Tip had a tremendous influence on Jack, and it is clear that Jack shares the late Speaker's indefatigable work ethic and sense of civic duty.

Of course, Jack is no stranger to the OMB, either. Jack joined the Clinton OMB in 1994 and quickly distinguished himself not only as a knowledgeable policy wonk, adept and navigating the intricacies of the tax code and the federal budget, but as an agile leader with a knack for operations.

He rose to become OMB's chief operating officer and then, in 1998, was named its Director. When Jack left the OMB at the end of the Clinton Administration, the federal government had an unprecedented surplus of $236 billion.

Jack has spent the past decade further honing his managerial skills in a number of high-stakes environments, from the private-sector to academia.

Last year, Jack once again answered the call to public service and returned to DC to become the Deputy Secretary of State for Management and Resources, a new position. According to his colleagues at State, Jack "transformed" the Department, cutting red-tape and increasing cooperation throughout Foggy Bottom.

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I know Secretary of State Clinton is sad to lose Jack, but I am confident that he will prove to be a valuable asset to the President and the American people in his new position. I look forward to working with him and the rest of the President's economic team as we focus on a growth agenda in the months and years to come. Job creation is my top priority in Congress, and I know Jack shares my commitment to jumpstarting the American economy.

Mr. Chairman, I am confident that Jack possesses the expertise and the work-ethic necessary to once again excel as the Director of the Office of Management and Budget.

Thank you again for the opportunity to speak. I encourage the Committee to approve this nomination with the certitude that Deputy Secretary Lew's impressive credentials merit.

Jack, I congratulate you on your nomination.

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STATEMENT OF JACOB J. LEW

Nominee to Serve As
Director of the Office of Management and Budget

UNITED STATES SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
September 16, 2010

Thank you, Mr. Chairman, Ranking Member Collins, and Members of the Committee for welcoming me today.

I take great pride in my current and prior government service, and it is an honor to be considered today as the nominee to be Director of the Office of Management and Budget.

I am delighted that joining me today are my wife, Ruth, and my daughter, Shoshi. Together with my son, Danny, and daughter-in-law, Zahava, who could not be here today, my family has supported me unfailingly and unconditionally during my career in public service – often through long hours, late nights, and missed family events. Their daily sacrifices make possible my public service, and for that, I am very grateful.

I am also blessed to have had role models who, now, are only with me in spirit. My parents – Ruth and Irving Lew – taught me the importance of being involved in the community and world around us. And the late Speaker Thomas P. O'Neill, Jr. was not just my boss for eight years early in my career, but also a mentor who imparted to me wisdom about the legislative and policymaking process, and more generally about how to forge consensus.

It has been my honor and privilege to serve under President Clinton and, most recently, as a deputy to Secretary of State Clinton – and I am deeply grateful to both of them for the opportunity to serve and for their continuing friendship.

Finally, I am grateful to President Obama for nominating me to serve as the next Director of the Office of Management and Budget. I am humbled by the confidence he has shown in me as we face the enormous challenges that lie ahead.

This is neither my first time testifying before this Committee nor my first time testifying before this Committee as the nominee for the Director of Office of Management and Budget.

My familiarity with OMB gives me a knowledge of the institution's workings and respect for it that is deep and heartfelt. I appreciate the centrality of OMB to the efficient and effective operation of the federal government – and have the greatest respect and admiration for the women and men who work there in fulfilling this critical mission.

OMB is about helping to make policy and to ensure that it can be – and is – implemented effectively.

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The American people – rightfully – expect their government to spend their tax dollars wisely and to avoid waste. They also have a right to expect their government to deliver services with the ease and convenience found in virtually every other part of daily life.

If confirmed as OMB Director, making government more efficient and more effective, more open and responsive to the American people will be a key priority of mine as it is of the President.

Since my previous service at OMB, I have worked in similar management and budget roles in large non-profit and private sector organizations – and have experienced firsthand that all large organizations wrestle with the same challenge of how to fulfill strategic core missions with scarce resources and competing demands.

Indeed, the process of forging consensus behind priorities, directing new resources where they are most critical, and finding internal savings to support new initiatives, is an universal issue.

In addition, in my current role at the State department, I now have been on the frontlines – not just setting policy, but working to implement it – often to the very finest details and with the greatest of stakes: the safety of our brave women and men who volunteer to serve in dangerous assignments. And I have gained a visibility into the array of homeland security issues that this Committee handles.

Together, these experiences from the past decade have broadened the perspective I would bring to this position for which you are again considering me.

As we all know too well, President Obama has asked me to serve in this position at a time very different from when I last sat in the Director's office.

In the late 1990's, our challenge was how to maintain a prudent fiscal policy while transitioning into a world of budget surpluses and robust economic growth.

Today, a series of policy choices and the worst economic downturn since the Great Depression present us with a very different set of challenges, specifically, how to sustain and deepen the economic recovery and spur new job creation in the face of unsustainable budget deficits.

Indeed, the coming months may be the most critical time in fiscal policy in recent memory.

As the President has said, it will take tough choices – and putting partisan differences aside -- in order to do what is right for our country today and for our children and grandchildren in the years ahead.

Throughout my career, I have worked collaboratively across partisan and ideological divides to cut through gridlock and help solve seemingly intractable problems. If confirmed as OMB Director, I will work in that bipartisan fashion again – with the members of this Committee, the leadership of both chambers, and with all those committed to taking constructive steps to rejuvenating our nation's economy and its fiscal standing.

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And while we should aspire to never waste taxpayer dollars, regardless whether the budget is in surplus or deficit, the management of the federal government is particularly important during lean times. If confirmed, I look forward to working with this Committee to make sure every dollar we spend, has the desired impact and makes a difference.

Getting our economy back on track and our fiscal house in order will take hard work. I am honored that the President has asked me to join him in this endeavor, and I am grateful to this Committee for its consideration of my nomination.

Thank you, and I'd be happy to answer any questions you may have.

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BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)

   Jacob Joseph Lew
   Jack Lew

2. **Position to which nominated:**

   Director, Office of Management and Budget

3. **Date of nomination:**

   August 5, 2010

4. **Address:** (List current place of residence and office addresses.)

   NY Residence: REDACTED
   DC Residence: REDACTED
   Office: Department of State, 2201 C Street NW, Washington, DC 20520

5. **Date and place of birth:**

   New York, NY. August 29, 1955

6. **Marital status:** (Include maiden name of wife or husband's name.)

   Married to Ruth N. Schwartz

7. **Names and ages of children:**

   Shoshana M. Lew (27)
   Isaac Daniel Lew (24)

8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.

   Carleton College 9/72-6/73
   Harvard College 9/75-6/78 (AB, 1978)
   Georgetown University Law Center 8/79-6/83 (JD, 1983)

9. **Employment record:** List all jobs held since college, and any relevant or significant jobs held prior to that time, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)

City of Boston, Office of Management and Budget, Deputy Director of Program Analysis, 1978-1979 (Boston, MA)

U.S. House Democratic Steering and Policy Committee (Washington, DC)
Deputy Director, 1979-1985
Executive Director, 1985-1987

Van Ness, Feldman and Curtiss (Washington, DC)
Attorney, 1987
Partner, 1988-1991

Democratic National Committee, Campaign '88 Issues Director, 1988 (Washington, DC)

Center for Middle East Research, Executive Director, 1992-1993 (Washington, DC)

White House, Special Assistant to the President, 1993-1994 (Washington, DC)

Office of Management and Budget (Washington, DC)
Assistant Director, 1994
Executive Associate Director, 1995
Deputy Director, 1995-1998
Director, 1998-2001

Georgetown University Public Policy Institute, Research Professor, 2001 (Washington, DC)

New York University, Executive Vice President and Clinical Professor of Public Policy, 2001-2006 (New York, NY)

Citigroup (New York, NY)
Managing Director and Chief Operating Officer of Global Wealth Management division, 2006-2007
Managing Director and Chief Operating Officer of Citi Alternative Investments division, 2008-2009

Department of State, Deputy Secretary of State for Management and Resources, 2009-present (Washington, DC)

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above.

White House Commission on Aviation Security, Member, 1997
Corporation for National and Community Service, Board Member, 2004-2008 (Washington, DC)

11. **Business relationships:** List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any

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corporation, company, firm, partnership, or other business enterprise, educational or other institution.

Kaiser Family Foundation, Trustee (2007-2009)
College Board Task Force on Higher Education Reform (2006)
Center on Budget and Policy Priorities, Board Member (2008-2009)
Tobin Project, Board Member (2006-2009)
Hamilton Project, Brookings Institution, Advisory Board Member (2006-2009)
City Year New York, Advisory Board Chair (2003-2009)
Institute for Policy Integrity, NYU Law, Advisory Board Member (2008-2009)
IDT Corporation, Board Member (2001-2003)
CVCI Private Equity Fund, Limited Partner (2007-present)
Citigroup, Managing Director (2006-2009)

12. **Memberships:** List all memberships, affiliations, or and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable or other organizations.

Brookings Institution, Hamilton Project, Advisory Board Member (2006-2008)
Hebrew Institute of Riverdale, Member (2001-present)
Council on Foreign Relations, Member (2006-2008)
National Academy of Social Insurance, Member (2002-2008)
Council on Excellence in Government, Member (2001-2008)
Beth Sholom Congregation and Talmud Torah (1992-present)

13. **Political affiliations and activities:**

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

Democratic National Committee, Campaign '88 Issues Director, 1988 (Washington, DC)

(b) List all memberships and offices held in and services rendered to any political party or election committee during the last 10 years.

None

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more during the past 5 years.

Jacob Lew:
2/8/06 – Friends of Hillary Clinton – $1000
2/8/06 – Judy Feder for Congress – $1000
3/22/06 – Joseph Courtney for Congress – $250
7/26/06 – Friends of Joseph Lieberman – $1000
10/20/06 – Judy Feder for Congress – $1000
2/24/07 – Rangel for Congress – $1000
3/2/07 – Hillary Clinton for President – $2300

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9/25/07 – Judy Feder for Congress – $250
2007 – Citigroup PAC – $2080
8/28/08 – Friends of Hillary Clinton – $2300
8/31/08 – Obama for America – $2300
10/24/08 – Judy Feder for Congress – $250
2008 – Citigroup PAC – $4784

Ruth Schwartz:
3/2/07 – Hillary Clinton for President – $2300
2/7/08 – Hillary Clinton for President – $2300

14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Council on Foreign Relations (member)
National Academy of Social Insurance (member)
Council on Excellence in Government (member)

15. **Published writings:** Provide the Committee with two copies of any books, articles, reports, or other published materials which you have written.

Copies of the below published writings are provided with this questionnaire:

U.S. Department of State, *The Ambassador's Review: Positioning the State Department to Achieve the Obama Administration's Foreign Policy Goals* (Spring 2009)

Center for American Progress, *Change for America*, Chapter: Ensuring Fiscal Responsibility and Government Accountability (with Sally Katzen) (2008)

Center on Budget and Policy Priorities, *A Balanced Approach to Restoring Fiscal Responsibility* (with Henry Aaron, et al) (July 9, 2008)

"A Budget That Doesn't Add Up," *The New York Times* (March 1, 2001)

"Medicare: A Clinton Success," *The Washington Post* (March 19, 1999)

"Using the Surplus to Invest in Our Future," *The Hill* (March 3, 1999)

"A Budget for America's Cities," *Nation's City Weekly* (February 22, 1999)

"Our Debt to the Future," *The Washington Post* (with Robert E. Rubin) (February 4, 1999)

16. **Speeches:**

(a) Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics

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relevant to the position for which you have been nominated. Provide copies of any testimony to Congress, or to any other legislative or administrative body.

Copies of the below speeches are provided with this questionnaire:

August 5, 2010 – Remarks at Center for Strategic and International Studies (CSIS) on "The Next Phase in America's Relationship with Iraq"

July 27, 2010 – Press Conference with Admiral Michael Mullen, Iraq

July 23, 2010 – Remarks – Iraq Transition Conference, National Defense University

June 2, 2010 – Remarks at the Association for Safe International Road Travel (ASIRT) Dinner

April 21, 2010 – Remarks at the First Annual U.S.-African Union High Level Bilateral Meetings

April 16, 2010 – Special State Department Briefing, Subject: Jack Lew and Rajiv Shah's Trip to Afghanistan and Pakistan

March 25, 2010 – Remarks at the Signing a Letter of Intent Regarding Cooperation in Construction of Priority Roads in Pakistan Ceremony

March 24, 2010 – Plenary Remarks at the Opening Session of the U.S.-Pakistan Strategic Dialogue

March 18, 2010 – Speech at the Center for Strategic and International Studies: Rollout of the Smart Global Health Policy's Final Report

March 4, 2010 – Council on Foreign Relations, Closed Session

February 1, 2010 – Remarks at DipCorps

February 1, 2010 – Special State Department Briefing, Subject: 2011 State Department Budget

January 6, 2010 – Remarks to National Institute of Health, "Plans for Research and Innovation in the Global Health Initiative"

December 9, 2009 – Remarks to InterAction

December 1, 2009 – Remarks at the World Bank, Subject: World Aids Day

November 19, 2009 – Town Hall Meeting with Students, Staff and Trainers at the Camp Atterbury-Muscatatuck Center for Complex Operations

November 19, 2009 – Media Roundtable at Camp Atterbury-Muscatatuck Center for Complex Operations

October 26, 2009 – Special State Department Briefing, Subject: State Department Assistance to Military Efforts in Afghanistan and Pakistan

October 14, 2009 – Remarks to U.S. Global Leadership Coalition

October 8, 2009 – Remarks at National Defense University Interagency Symposium

September 11, 2009 – Special State Department Briefing, Subject: Recent Trip to South Asia (Iraq, India, Pakistan and Afghanistan)

September 4, 2009 – Press Roundtable at The American Center, New Delhi, India

July 27, 2009 – US/China S&ED Plenary Remarks

July 10, 2009 – Regular State Department Briefing, Subject: Quadrennial Diplomacy and Development Review

June 24, 2009 – Opening Remarks for Deputy Secretary Lew's Press Availability, OECD, Paris

June 4, 2009 – Remarks at the Conference on the Future of Foreign Ministries, Panel 2: *Aligning the Ministry with Government Priorities,* Toronto, Canada

June 2, 2009 – GAVI Board of Directors Reception, World Bank

May 5, 2009 – The White House Regular Briefing, Subject: Global Health Strategy

April 30, 2009 – Press Conference, Subject: Swine Flu, or H1N1

March 4, 2009 – Remarks at the Center for U.S. Global Engagement Meeting, Subject: Putting Smart Power to Work

Copies of the below hearing testimony are provided with this questionnaire:

April 22, 2010 – Hearing of the Senate Foreign Relations Committee, Subject: Promoting Global Food Security: Next Steps for Congress and the Administration

December 9, 2009 – Hearing of the Senate Foreign Relations Committee, Subject: The New Afghanistan Strategy

December 3, 2009 – Hearing of the House Armed Services Committee, Subject: Afghanistan: The results of the Strategic Review, Part I

May 13, 2009 – Hearing of the State, Foreign Operations, and Related Program Subcommittee of the House Appropriations Committee, Subject: The Department of State

May 13, 2009 – Hearing of the House Foreign Affairs Committee, Subject: Building Capacity to Protect U.S. National Security: The Fiscal Year 2010 International Affairs Budget

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January 22, 2009 – Hearing of the Senate Foreign Relations Committee, Subject: Nominations of James Steinberg and Jacob Lew for Deputy Secretary of State

(b) Provide a list of all speeches and testimony you have delivered in the past 10 years, except for those the text of which you are providing to the Committee. Please provide a short description of the speech or testimony, its date of delivery, and the audience to whom you delivered it.

February 6, 2002 – Hearing of the Senate Budget Committee, Subject: FY 2003 Budget

January 19, 2001 – Hearing of the Senate Budget Committee, Subject: The Clinton Administration Budget

January 16, 2001 – Special White House Briefing, Subject: The Release of the Third and Final Report on E-Commerce

December 19, 2000 – Press Briefing, Subject: Budget Agreement

November 2, 2000 – Special White House Briefing, Subject: Legislative Priorities

October 17, 2000 – Press Conference, Subject: Democratic Budget Priorities

September 5, 2000 – White House Special Briefing, Subject: Legislative Priorities

17. **Selection:**

(a) Do you know why you were chosen for this nomination by the President?

I believe that my prior experience as Director and Deputy Director of OMB at a time when we balanced the budget and achieved a surplus, as well as my service as the Deputy Secretary of State for Management and Resources, as an advisor to House Speaker Thomas P. O'Neill, Jr. and my experience outside of government qualify my nomination.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I believe the sum of my experience, including prior service as OMB Director, make me well qualified for this nomination. If confirmed, I look forward to undertaking the responsibilities of this office.

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B. EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

   If confirmed, I will remain an employee of the U.S. government.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

   No

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization, or to start employment with any other entity?

   No

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

   No

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

   Yes

6. Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis? If so, please explain.

   No

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

   In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Management and Budget's designated agency ethics official to identify

potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with OMB's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.

   Apart from my duties as a government official during the past 10 years, I have had minimal engagement in legislation and policy-making. While employed by New York University, I had occasional meetings with Members of Congress and local government officials on education policy.

3. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

   Yes

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

   No

2. Have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details.

   No

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

   As large institutions, Citigroup and New York University are routinely involved in litigation, and were during the periods I was working for them. However, to my knowledge, no suit involved allegations related to my own conduct, and I was not involved in any legal proceedings.

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4. For responses to question 3, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

None

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None

E. FINANCIAL DATA - REDACTED

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

AFFIDAVIT

Jack Lew being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Subscribed and sworn before me this 10th day of August, 20 10

Notary Public

District of Columbia

Subscribed and sworn to before me, in my presence, this 10th day of August, 20 10 by _____, Notary Public.

My Commission Expires: 02-28-2015

JACQUELINE PRIDGEN
Notary Public, District of Columbia
My Commission Expires February 28, 2015

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

AUG 0 5 2010

The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Jacob J. Lew, who has been nominated by President Obama for the position of Director, Office of Management and Budget.

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick
Director

Enclosures - REDACTED

U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing questionnaire for the nomination of
Jacob J. Lew to be
Director, Office of Management and Budget

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Director of the Office of Management and Budget (OMB)?

I believe that my prior experience as Director and Deputy Director of OMB at a time when we balanced the budget and achieved a surplus, as well as my service as the Deputy Secretary of State for Management and Resources, as an advisor to House Speaker Thomas P. O'Neill, Jr. and my experience outside of government qualify my nomination.

2. Were any conditions, express or implied, attached to your nomination? If so, please explain.

No.

3. What specific background and experience affirmatively qualifies you to be OMB Director?

I believe the sum of my experience, including prior service as OMB Director, qualify me for this nomination. If confirmed, I look forward to undertaking the responsibilities of this office.

4. Have you made any commitments with respect to the policies and principles you will attempt to implement as OMB Director? If so, what are they and to whom have the commitments been made?

No.

5. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures you will use to carry out such a recusal or disqualification.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Management and Budget's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance

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with the terms of an ethics agreement that I have entered into with OMB's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

II. Background of the Nominee

6. According to your ethics agreement, you received a bonus from Citigroup on January 15, 2009. What was your last day of employment at Citigroup and what was the amount of the bonus you received?

My last day of employment at Citi was January 16, 2009. On January 15, 2009 I received a total of $944,518 of which $800,000 was discretionary compensation for 2008; $131,334 was the vesting of restricted stock from prior years and $13,635 was regular salary from January 1-January 16, 2009. There were $452 in pre-tax withholdings, which reduced the W2 income to $944,518 which is what I reported on my SF 278.

7. When did you first learn that you were going to receive the bonus?

I do not recall the exact date, but I was made aware of the discretionary compensation decision in either December 2008 or early January 2009.

8. What is your understanding about why you received the bonus?

Discretionary compensation was based on my performance as chief operating officer, where my responsibilities included aggressively managing expenditure reductions, consolidation of operations and service improvements.

9. Did you receive the bonus pursuant to a written contract you had with Citibank? If so, what were the terms of the contract that entitled you to the bonus?

My employment agreement provided for a base salary of $300,000 but did not specify a specific level of discretionary compensation for 2008. I was eligible for discretionary compensation at a level consistent with comparable Citi employees.

10. Do you believe that it was appropriate for Citibank to pay you the bonus after it had received TARP funds

The compensation was based on work performed, and was in line with compensation levels of other management executives at that firm and its peers.

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III. Role of the Director of OMB

11. What do you anticipate will be your greatest challenges as OMB Director, and what will be your top priorities?

The top challenge for the next OMB Director will be to develop a budget that meets a responsible fiscal path while at the same time working to ensure that we provide for the needs of the American people as the recovery continues, including our national defense and individual security and opportunity.

12. How do you intend to allocate and delegate responsibility among the OMB Deputy Director, the Deputy Director for Management, and yourself as OMB Director? Do you anticipate that the role and responsibilities of Jeffrey Zients, the current Deputy Director for Management and Chief Performance Officer, to change?

I see the three of us working as a team, with defined areas of interest depending both on changing demands and the skills and background that each of us brings to our positions. I intend to work closely with the Deputy Director, the Deputy Director for Management and the entire OMB staff to dedicate our individual strengths to the varied challenges we face. The Deputy Director plays a key role in shaping budget policy and process, and in the internal management operations of OMB. I look forward to working again with Rob Nabors, who is serving as Acting Deputy Director, and who brings to OMB substantial experience in the appropriations and budget process.

The Deputy Director for Management, Jeffrey Zients, who is presently serving as Acting Director, has an extremely important portfolio, and I have always believed that this position should be vested with considerable authority to help drive change through the departments and agencies. It is particularly vital that our management efforts be well coordinated with our budget choices. We must take on budget and management as integral concerns, rather than address them on parallel tracks. I intend for the Deputy Director for Management to be a partner as we work through budget decisions and oversight of program execution as well as the lead on many discrete management responsibilities.

13. You previously served as OMB Director from 1998 through 2000. What do you believe will be the most important differences and similarities between the challenges you faced then and those you would face now, assuming you are confirmed. In addition to being familiar with the structure and responsibilities of OMB, how do you believe your previous tenure as OMB Director would be of help to you, and what lessons that you learned during your earlier tenure do you expect you would be able to apply, given the state of the economy, the fiscal situation, and the other challenges that you would face?

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If confirmed, I will join an OMB that faces very different challenges than the OMB I left in 2001. I left OMB with a surplus of $236 billion at the end of 2000, with a projected 10-year surplus of more than $5 trillion. The current forecast is one of large deficits that require serious attention and a plan over a period of time to bring return to a manageable level of deficit and debt. What has not changed is that the challenge requires OMB to work from solid numbers and analysis, with a capacity to present difficult policy choices in a way that protects core values and reaches out for bi-partisan cooperation. As a participant in many rounds of bi-partisan budget negotiations, including the successful 1997 Balanced Budget Agreement, I think I understand the substantive and procedural, as well as the political, challenges that lie ahead.

IV. Policy Questions

General Government Management

14. What do you see as the most important management challenges facing the federal government, and, if confirmed as OMB Director, what would you do to address those challenges?

At the outset of his Administration, President Obama mandated a far-reaching effort to make government work better. This management agenda has focused on improving the delivery of government services, eliminating waste, reducing costs, and restoring the American people's faith in government's ability to operate effectively, efficiently, and transparently.

OMB plays a lead role in these efforts, and has laid out an aggressive agenda for achieving improvements in key areas such as: focusing agency leaders on key priority performance goals, instituting an outcome-oriented performance measurement program, improving contract management practices to reduce costs and risks in government procurements, improving the government's implementation of technology solutions, strengthening financial management and reducing improper payments, streamlining the hiring process and reforming and reenergizing the Federal workforce, and improving transparency and accountability at all levels. If confirmed, I look forward to working with Jeffrey Zients, Deputy Director for Management and Federal Chief Performance Officer, OMB staff, agency leaders and Members of Congress on all aspects of this agenda.

15. Since 2002, OMB has used the Program Assessment Rating Tool (PART) to evaluate the management and performance of individual programs. What is your opinion of PART, and how do you believe the government-wide process for measuring program performance should be improved?

PART succeeded in getting agencies to develop measures at the program level. The process, however, was very time consuming and measured performance inconsistently. Ultimately, few agencies managers or people in Congress used PART information.

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The most important test of an effective government-wide process for measuring and improving government performance is whether it is used—whether to inform budget decisions or for day-to-day program management. When agencies set clear goals, assign lead officials responsibility for driving progress toward the goals, regularly review and discuss progress toward the goals, and make results transparent, they are more likely to improve both performance and accountability to the public.

16. The PART initiative focuses on individual programs, which aligns with OMB's agency-by-agency budget reviews, but has been used infrequently to address crosscutting issues or to look at broad program areas in which several programs or program types address a common goal. If confirmed as Director, how would you see your role in helping to enhance the integration of agency strategic and annual planning with OMB's budget reviews?

There are a number of ways that OMB can address cross-cutting issues and better integrate strategic and annual planning, including integrating agencies' near-term High Priority Performance Goals with OMB budget reviews. By starting with a focus on outcomes instead of program, and making it easier to find programs contributing to a common goal, OMB can help to coordinate across programs and agencies.

17. OMB is required under the Government Performance and Results Act (GPRA) to annually develop a government-wide performance plan; this plan is expected to provide a comprehensive picture of government performance and could be used to provide a more strategic, crosscutting focus on policy and budget decisions to address goals that cut across conventional agency and program boundaries. OMB has never developed a government-wide performance plan. Do you agree that a government-wide performance plan can help focus decisions on crosscutting issues and programs and reduce overlap across agencies? If not, what do you propose would be the best mechanism to help improve government-wide performance?

The High Priority Performance Goal effort has begun to create the foundation for government-wide planning and performance management. During the process of goal-setting, OMB asked each agency to identify other agencies with which it would need to cooperate to achieve its goals. As a consequence, it is my understanding that OMB is now seeing more agencies plan across organizational boundaries. In addition, OMB is convening multi-agency meetings to plan and coordinate implementation. I believe that cross-agency planning, together with cross-agency implementation, can help deliver more for the taxpayer's dollar.

18. For years the Government Accountability Office (GAO) has recommended that OMB augment a government-wide performance plan with a long-term strategic plan for the federal government. GAO has stated that a government-wide strategic plan could provide an additional tool for government-wide reexamination of existing

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programs, as well as proposals for new programs and, if fully developed, provide a much needed basis for fully integrating, rather than merely coordinating, a wide array of federal activities.

a. Do you see the need for a government-wide strategic plan in making long-term budgetary decisions?

The budget review process is essential for making budgetary decisions across agencies, especially with respect to unnecessary program duplication. For example, the FY 2011 Budget proposes to consolidate nearly 40 K-12 education programs into 11 new programs—reforming a fragmented and ineffective program structure to focus on performance and fund what works. In addition to the budget review process, several agency and cross-cutting planning processes help develop long-term budget decisions, including the Administration's recent plans on homelessness and drug control policy. The Administration has also launched a highly successful initiative to evaluate, using the most rigorous possible studies, whether programs are achieving their intended outcomes as efficiently and effectively as possible. If confirmed, I will continue and strengthen these efforts.

b. If you do not think a government-wide strategic plan is necessary, how do you propose achieving a cohesive perspective on the long-terms goals of the federal government?

OMB is working with the Performance Improvement Council to expand Performance.gov to include Government Performance and Results Act performance information from all agencies. This will provide a far more cohesive, coherent perspective on the long-term goals of the Federal government. It will also make it clearer where there is a need for a more holistic, government-wide approach to planning.

19. In the past, OMB has used PART to evaluate the management and performance of individual programs. GPRA was created to involve both the executive and legislative branches in the performance planning process. One of the criticisms of PART is that it does not involve Congress in setting priorities for program performance review. Without developing an effective strategy for obtaining and acting on congressional views on what to measure, how to measure it, and how to best present this information to a congressional audience, it is more likely that performance information would largely be ignored in the authorization, appropriations, and oversight processes.

a. How would you obtain Congress's views on these matters?

The Administration is making performance information more coherent and easier for Congress to find. This information will hopefully prompt a constructive dialogue on agency strategies and priorities and how to measure them. If confirmed as OMB Director, I will seek meaningful

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consultation with Congress to learn more about the kinds of performance information that it finds useful and input on agency goals and measures. I will expect agencies to do the same.

b. What steps would you take to ensure that your agency's performance measures and reporting meet congressional as well as executive branch needs?

A common portal for government performance information that meets Executive and Legislative Branch needs is long overdue. OMB and the Performance Improvement Council have begun this effort by presenting clear measures and milestones for each of the agency High Priority Performance goals in a forthcoming web site. I will look forward to Congressional feedback on this initial effort as OMB examines the potential to expand the model to modernize and streamline all government performance information.

20. Greater collaboration on performance measurement and evaluation among agencies is necessary to achieve common outcomes across the government. OMB is the focal point for overall management in the executive branch agencies, so it plays a key role in providing leadership and direction to federal agencies' collaborative efforts.

a. If confirmed as Director, how will you ensure that OMB focuses attention on additional areas in need of greater collaboration?

The Administration has launched numerous cross-agency collaborations to encourage agencies to work together to achieve greater effectiveness and efficiency and to inform budget decisions. The FY 2012 Budget process provides an opportunity to encourage agencies to consult with each other during the budget and performance planning process so that resources are allocated to maximize their impact. In addition, the Administration has identified numerous government-wide management goals, such as strategic sourcing and Federal data center consolidation. These are helping agencies collaborate to save. I am committed to continuing these efforts and looking for areas to expand collaboration.

b. What types of key practices would you adopt to enhance and sustain collaboration across agencies?

As a member of the President's Management Council in this Administration, I have seen first-hand the value of collaboration across agencies. The most important aspect of sustaining this collaboration is ensuring that clear objectives and goals have been identified for cross-agency work, maintaining coordination, and investing in dedicated staff resources in order to make significant progress. I believe the interagency councils for individuals like CIOs, CFOs, and Performance Improvement Officers represent an important focal point for improving cross-agency collaboration. OMB will leverage these councils to identify shared goals and challenges across agencies and to accelerate the transfer of the best ideas across government.

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c. **How do you plan to reinforce agency and individual accountability for collaborative efforts, particularly using strategic and annual performance plans, as well as performance management systems?**

As agencies revise their strategic plans and translate those plans into performance targets for their FY 2012 budget submissions, I would encourage them to be clear about the parties responsible for each target and the timeframes for action on those targets, both within and across agencies. If confirmed, I also plan to continue OMB's strong partnership with the Office of Personnel Management to ensure mission performance goals flow through the organization into management and employee individual performance plans. This alignment is critical to any successful organization.

21. **What do you believe can be done systematically to improve the performance of government agencies and programs? For example, should a high-level official be tasked with the government-wide responsibility of setting performance goals and holding managers and agencies accountable? How should any such efforts be integrated with the budget process and coordinated with congressional authorizing and appropriating committees?**

Overall, there are several basic practices that undergird the Administration's current performance agenda and that I believe will help provide clarity and improved coordination of these efforts. These practices include: setting clear priorities; conducting data-driven reviews of agency progress; engaging in constructive follow-up with senior-level management; and ensuring full transparency. If confirmed as Director of OMB, I would ensure that these practices continue to inform the Administration's performance agenda.

22. **At the beginning of each Congress, GAO publishes a report on government operations it deems to be of "high risk." This High Risk List has contributed to congressional oversight by identifying problem areas that impede effective government and cost the government billions of dollars each year.**

a. **What role, if any, do you believe GAO's High Risk List should play in setting priorities for an agency?**

The GAO High Risk List is one of the main sources OMB and agencies should consult when deciding where to focus attention.

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b. Previous efforts include requiring that all agencies develop corrective action plans to address challenges identified on the list. If confirmed as Director, to what extent, if any, would you focus agencies' attention on those programs on the High Risk List?

If confirmed, I plan to work with GAO and agencies to address these critical issues, and I am open to suggestions from GAO and others on how to make the current processes more effective. I will also work with our Deputy Director for Management to continue the Administration's current practice of running regular, data-driven reviews with agencies to maintain focus on items on the High Risk List and improve them so that they can be ultimately removed from the list.

c. Do you think agencies should tackle issues on GAO's High Risk List? If so, what types of actions will you require agencies to take to address High Risk List issues?

If I am confirmed, OMB will continue working with GAO and agencies to ensure each High Risk List issue has an up-to-date corrective action plan with clear performance measures and targets. I would also expect OMB and GAO to continue regular, joint reviews of agency progress relative to their plans.

23. How do you believe OMB can strike an appropriate balance by achieving improved performance and results within the government, but without micro-managing or unduly intruding upon the authority of individual agencies and programs to define their own missions and goals under applicable statutes?

The Administration's High Priority Performance Goal effort is a good example of where OMB and the agencies seem to have struck the appropriate balance. As part of this process, agencies set measurable goals for each of their top priorities. These goals were published in the FY 2011 Budget, and agency leaders have already begun reporting their progress to date. OMB, in turn, conducts a quarterly review process to help agencies stay focused on their goals, as well as facilitate coordination across agencies working on shared goals.

Financial Management

24. Despite considerable effort for many years to improve federal financial management and systems, significant deficiencies remain, including inadequacies that prevent the United States Government from receiving an opinion on its consolidated financial statements. Please describe your views on the need for, and the importance of, improvements in financial management, and on what you would do, if confirmed, to foster improvement.

Improvements in financial management are paramount to the effective stewardship of taxpayer dollars. Specifically, sound financial management enables reliable public reporting of the

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government's finances, robust internal controls to mitigate the risks of error and fraud in government programs, and timely reporting of information to agency decision-makers on day-to-day and longer-term management challenges.

The annual results of agency financial statement audits are an important indicator of progress in carrying out these activities effectively. For the past several years, the vast majority of Federal agencies have achieved an unqualified or "clean" opinion on their annual financial statements. This achievement provides the foundation for additional improvements in financial management moving forward.

If confirmed, I will continue to emphasize the importance of constant improvements in financial management. OMB is working closely with the Treasury Department and other Federal agencies

25. In June 2010, OMB issued M-10-26 calling for the immediate review of financial systems. Additionally, the future of the financial management line of business and associated system requirements established by the now-closed Financial Systems Integration Office is unclear. What steps, if confirmed, would you take towards developing a future strategy for financial systems?

Financial systems modernization projects often cost too much, take too long to deploy, and fall short of the functionality and performance envisioned. OMB's recent policy guidance takes the right steps forward. We should be encouraging agencies to, for example, design smaller financial systems projects that can be completed more quickly, and to take advantage of shared service solutions for financial operations. If confirmed, OMB will work to make sure these and other policies are executed effectively.

26. The President recently signed into law the Improper Payments Information Act of 2010 (111-204), which requires agencies to reduce improper payments made by agency programs, such as Medicare and Medicaid. In 2009, improper payments totaled more than $100 billion and the President has instructed his Administration to reduce these payments by $50 billion by 2012. Furthermore, the Improper Payments Information Act imposes numerous requirements on OMB, including prescribing guidance for agencies and working with agencies so that they can identify programs that may be susceptible to significant improper payments.

a. If confirmed as Director, what steps would you take to ensure that both OMB and agencies meet the necessary requirements set forth in the Improper Payments Information Act of 2010?

Over the past nine months, the President has issued several directives to OMB and the Federal agencies to reduce and recapture improper payments. These presidential actions include an executive order on reducing improper payments and a memorandum establishing a "Do Not Pay" List. OMB and Federal agencies are making substantial progress on these initiatives. For

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instance, under the executive order, the Administration has already identified high-priority programs for reducing improper payments, identified senior officials within agencies accountable for achieving reduction goals, established improved metrics in many of these programs, and launched PaymentAccuracy.gov, which tracks this information online.

I am optimistic about the new improper payments law, the Improper Payments Elimination and Recovery Act (IPERA). I believe it will have a positive impact on agency efforts to prevent, reduce, and recapture improper payments, and believe it can be used in tandem with the recent Presidential actions described above. While IPERA was signed into law just a few weeks ago, it is my understanding that OMB is actively moving forward on implementing the new law and identifying agency efforts, such as payment recapture audits, that will be expanded or improved upon in the months ahead. If confirmed as Director, I will continue to make this critical issue a priority of the Administration. Further, OMB will work with agencies and the Chief Financial Officers Council to help agencies implement the requirements set forth in the new law and achieve the President's goals.

b. If confirmed as Director, what steps do you intend to take in order to meet the President's goal of reducing improper payments by $50 million by 2012?

If confirmed as Director, I will work with the OMB team and leaders across government to reduce improper payments and achieve the President's goal. As stated previously, the Administration has a number of initiatives underway to aggressively tackle the largest sources of payment errors, and I will work to support and advance those initiatives. To start, I will work with agency leaders to hold them accountable for the error reduction targets established under IPERA and the recent executive order. For example, the President has charged the Department of Health and Human Services (HHS) with cutting the error rate for Medicare Fee-For-Service in half by 2012. I believe the passage of the Affordable Care Act (ACA) will serve as a catalyst in meeting this bold objective, and would work with HHS leadership to ensure the effective adoption of the many tools ACA provides for driving down errors in both Medicare and Medicaid.

In addition, there are other government-wide initiatives underway that I believe will have a significant impact on improper payments. These include: establishing a "Do Not Pay List" to prevent payments to ineligible recipients; deploying cutting-edge forensic auditing tools; and implementing new authorities within IPERA, including the expansion of Payment Recapture Audits.

Personnel Management

27. Management of federal personnel resources has emerged as a high profile issue in recent years. GAO has identified human capital management as a government-wide high-risk area ever since 2001, explaining that agencies must do a better job of marshaling personnel management efforts to serve agency and program missions and goals.

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a. What is your assessment of human resources management in the federal government, and what kinds of changes do you believe are desirable?

To improve operations across government, we need to do a better job of managing our human resources. As GAO stated when it put strategic human resource management on the government-wide high-risk list, too little attention to strategic human resource management has undermined the Federal government's ability to serve the American people effectively. The current application and hiring process is overly complex and lengthy, placing an undue burden on the applicant. If confirmed, I look forward to continuing OMB's partnership with OPM to implement the President's May 2010 Memorandum to transform federal hiring and support the development of federal workers.

b. What role do you foresee for OMB in working to improve federal human resources management?

OMB should continue its close collaboration with OPM to improve human resource management. For example, the President's memorandum to agencies tasked OMB with supporting OPM's government-wide hiring reform efforts. OMB and OPM staff are jointly reviewing agency action plans in the coming months to ensure agencies make meaningful progress to reduce hiring time while improving the overall hiring experience. OMB should also work closely with OPM to strengthen employee engagement and results-focused management. OMB will consider these agency efforts during the budget review process this year.

c. What should be the functions and responsibilities respectively of OMB and of the Office of Personnel Management (OPM) in this area?

As a member of the President's Management Council in my present position, I have observed close cooperation between OMB and OPM. It is my understanding that OPM and OMB have partnered with agencies on several key human resources initiatives, including hiring reform, employee engagement, labor-management relationships, and Federal wellness programs. OPM's and OMB's collective goal is to help agencies become more effective and efficient. By partnering with OPM on key efforts, OMB can reinforce OPM's capacity to implement change across the whole Federal government.

28. Certain agencies currently have the authority to waive a number of provisions in the government-wide civil service statutes, in such areas as hiring, pay, and certain employee benefits. These flexibilities are usually provided in order to ensure that agencies are able to expedite the hiring process for critical positions, and recruit and retain top talent.

a. **What has been your experience in working with agencies in order to ensure that the federal government has the necessary number of qualified employees to fulfill its mission, especially those involving national and homeland security?**

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It is critical that the Federal government be able to hire the right people, and do so as quickly as possible. I believe the increase in the number of requests for hiring flexibilities is reflective of the failures in the current Federal hiring process. In my current position at the State Department, I have seen the importance of hiring flexibility under 5 U.S.C. 1361, which has allowed the government to rapidly hire people with special skills, languages, and other unique experiences in places like Afghanistan.

The Administration is committed to streamlining the Federal hiring process, especially in areas involving national security, so we can hire top quality talent faster in the regular course. OMB and OPM have worked together to create new ways to speed Federal hiring and improve its quality.

b. What conclusions have you drawn from these experiences?

I am optimistic that the Administration's efforts to improve the hiring process will lead to genuine improvements in the competitive hiring process, in turn reducing the use of exceptions. At the same time, I recognize the need for flexibility to address specific hiring challenges, such as in the area of national and cyber-security, particularly when there are sudden or temporary requirements.

29. Total spending on government contracts has roughly doubled since 2000, yet the number of federal acquisition specialists who help plan, write, and oversee these contracts has remained fairly constant, following a downsizing of approximately 50 percent in the 1990s. The shortage in this area of expertise could become even more acute over the next few years, when roughly half of the acquisition workforce is eligible to retire.

a. What steps should be taken to address this shortage?

Developing the acquisition workforce is critical to ensuring that the government spends taxpayer dollars wisely. OMB's Office of Federal Procurement Policy (OFPP) has been working with the agencies to take affirmative steps toward improving the capacity, capability and effectiveness of the civilian acquisition workforce. For example, the FY 2011 Budget includes a request to fund a five percent increase in the civilian agency acquisition workforce. I think this investment is a significant step in the right direction. Additionally, OFPP is leading an annual human capital planning process to further focus agencies on hiring, developing, and training acquisition professionals.

b. Section 869 of the Fiscal Year (FY) 2009 National Defense Authorization Act directed OMB to prepare an Acquisition Workforce Development Strategic Plan for federal agencies (excluding the Department of Defense (DOD)) to develop a specific and actionable five year plan to increase the size of the acquisition workforce and operate a government-wide intern program for acquisition. OMB

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released its plan on October 27, 2009 and required each civilian agency to submit an Acquisition Human Capital Plan by March 31, 2010. What will you do to ensure that acquisition workforce planning development processes will be aligned with agency budget submissions?

The new planning process required by OMB's Acquisition Workforce Development Strategic Plan sets the framework for better integrating agency planning and budgeting processes. If I am confirmed as Director of OMB, I will ensure that OMB annually reviews agency plans and budget submissions to ensure that hiring and training needs are aligned with agency missions and improve acquisition outcomes.

c. **The downsizing of the acquisition workforce, which began in the 1990s, ultimately led to systemic failures in the planning and oversight of contracts as the volume and complexity of contracting increased in the following decade. The depletion of the acquisition workforce can be directly linked to the government's inability to prevent cost overruns and deter waste, fraud and abuse. As agencies face difficult budget choices in FY2012 and beyond, how will you ensure that they avoid short-sighted cuts in acquisition personnel that lead to longer-term costs to the government?**

The President has made improving acquisition a priority for all agencies. In accordance with OMB guidance, agencies are reducing their use of high risk contracting authorities, saving money by leveraging the government's purchasing power, and developing their acquisition workforce. Further, the President has requested funds to increase the acquisition workforce by five percent in civilian agencies; I understand the Department of Defense is also taking strong steps to increase its acquisition workforce. This focus underscores the Administration's commitment to ensuring that acquisition professionals are hired and trained adequately to protect the government's interest.

d. **During your time as Deputy Secretary for Management and Resources, what progress did the State Department make in implementing OMB's acquisition workforce plan and addressing the Department's acquisition workforce challenges? Based on your experience at the State Department and elsewhere, what are the major obstacles associated with recruitment and retention of the Federal acquisition workforce?**

Development of the federal acquisition workforce is critical to ensuring that agencies meet their mission goals. The Department of State, like most agencies, depends on a highly-skilled acquisition workforce to help them meet evolving programs demands. Although agencies are busy meeting these mission goals, the government must make recruitment and retention of acquisition professionals a priority. If confirmed, I look forward to working closely with agencies and the Administrator for Federal Procurement Policy on ways to strengthen the Federal acquisition workforce.

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e. **Section 852 of the FY2008 National Defense Authorization Act established a Defense Acquisition Workforce Development Fund for recruitment, training, and retention of the DOD's acquisition workforce, funded by a percentage of all amounts expended by DOD for service contracts. Do you believe such a fund would be useful for civilian agencies?**

I understand that DoD has been able to improve their acquisition workforce development activities using this fund, and I support their continued focus. If confirmed, I would want to discuss with DoD their experience in managing this fund across the services, and hear from civilian agency acquisition leaders to understand how best to support their workforce development needs. Additionally, I understand the President's 2011 Budget requests $158 million to support the civilian acquisition workforce. If confirmed, I look forward to working with OFPP to ensure that these funds directly support the growth and development of our acquisition professionals.

30. **The President issued Executive Order 13434 on National Security Professional Development (NSPD) in May 2007, and issued a strategy and implementation plan pursuant to the Executive Order which establishes a roadmap for strengthening the national security workforce. The Project on National Security Reform and the Commission on the Prevention of Weapons of Mass Destruction both issued reports in December 2008 highlighting the importance of building a 21st century national security workforce by investing in training and education programs and by establishing joint duty programs. The Deputy Director of OMB for Management has overseen the NSPD initiative.**

a. **What is your assessment of Executive Order 13434 and the successive strategy and implementation plan?**

Executive Order 13434 and the successive strategy and implementation plan are critical to building a 21st-century national security workforce and ultimately improving how we prepare for and respond to national emergencies.

It is my understanding that some responsibilities have shifted since December 2008. Specifically, the National Security Staff (NSS) Office has been directed to reinvigorate the National Security Professional Development (NSPD) initiative, which began under the last Administration and was initiated by Executive Order (EO) 13434.

b. **What steps will you take as OMB Director to continue to strengthen the national security workforce, including the use of interagency personnel rotations in order to foster greater interagency unity of effort?**

Currently, designated staff represent OMB in the interagency NSPD meetings led by the NSS. I am fully supportive of the use of interagency personnel rotations in order to foster greater interagency unity of effort. If confirmed as Director of OMB, I will work to enhance interagency

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coordination on national security priorities and to increase opportunities to use interagency personnel rotations in order to strengthen the national security workforce.

31. In December of 2009 Congress eliminated a longstanding provision in appropriations legislation that had prohibited the federal government from employing legal immigrants from many nations, but permitted it for others. Congress enacted a new provision that permits the hiring of all legal permanent residents, refugees, and recipients of asylum, provided that they affirm that they are seeking legal permanent residence and citizenship.[1] However, Executive Order 11935, promulgated by President Ford in 1976, still prohibits all non-citizens from being employed in the federal competitive service. President Ford issued the Executive Order after the Supreme Court had struck down a similar restriction imposed in 1883 by the U.S. Civil Service Commission. Of the approximately two million positions in Executive Branch agencies, 1.4 million are classified as competitive service and therefore off-limits to immigrants because of the Executive Order. In comparison, private sector employers are prohibited by law from discriminating against immigrants in hiring; under this Administration, the Department of Justice has expanded its enforcement operations against private sector employers by its Office of Special Counsel for Immigration-Related Unfair Employment Practices.[2] Further, Executive Orders 12989 (1996) and 13465 (2008) confirm that government contractors, many of which provide agencies with services comparable to those performed by federal employees, are also prohibited from discriminating against immigrants.

a. Do you believe that the Executive Branch should retain prohibitions against the hiring of legal immigrants in the competitive service? Please explain your answer.

Modification of the prior appropriations restriction, coupled with the continued force of President Ford's executive order, certainly creates the anomaly noted in the question. Legal immigrants may now be hired for jobs in the senior executive service and excepted service, but not for jobs in the competitive service of the U.S. government.

President Ford's Executive Order 11935 has remained in force across administrations for more than 40 years, and the long-standing appropriations restriction against hiring legal immigrants was lifted only last year. Agencies charged with setting personnel policy, such as the Office of Personnel Management, are reviewing the current situation in light of the recent change in appropriations law. If I am confirmed, OMB will implement the President's and the Administration's determined policy in this area, as well as the laws passed by Congress.

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[1] PL 111-117, Division C, Section 704

[2] Jordan, Miriam. "Policing Illegal Hires Puts Some Employers in a Bind." *The Wall Street Journal* [updated 15 July 2010; cited 29 July 2010]. Available from http://online.wsj.com/article/SB10001424052748703283004575363303262763196.html.

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b. What are the possible rationales for retaining Executive Order 11935 in its current form?

As previously mentioned, the policy decision about the merits of Executive Order 11935 is under review. OMB is working with those charged with setting personnel policy, such as the Office of Personnel Management and agency officials, to examine fully any rationales for retaining or rescinding the Executive Order, especially in light of the recent change in appropriations law.

c. What are the possible justifications for a federal policy that mandates discrimination against immigrants in the competitive service when discrimination against immigrants by government contractors and other private sector employers is prohibited by law?

It would be premature to speak to the justifications for retaining or rescinding this policy, as the policy is currently under review. If I am confirmed, OMB will implement the President's and the Administration's determined policy in this area as well as the laws passed by Congress.

Real Property Management

32. GAO has designated federal real property management as a high risk area because of long-standing problems with excess and underutilized property, deteriorating facilities, unreliable data, and over-reliance on costly leasing. (GAO Report GAO-07-310, pages 41-42). In June, President Obama issued a memorandum to the heads of executive departments and agencies instructing them to speed the process of eliminating surplus property, to end cost-inefficient leases, and do more with existing assets in order to produce $3 billion in cost savings by the end of FY2012. In order to achieve these goals, the OMB Director is to work with the Administrator of the General Services Administration (GSA) and the Federal Real Property Council to develop guidance for actions agencies should take to carry out the requirements of the memorandum. While agencies have had the authority to dispose of excess property, they have been hesitant to do so.

a. What do you believe are the principal obstacles agencies face in the management of and, if necessary, disposition of federal real property?

Improving the management of real estate is an important opportunity to eliminate a longstanding area of waste and inefficiency in the Federal government. There are several obstacles in this area, including the fact that some agencies do not have an incentive to dispose of unneeded real estate since they do not receive the proceeds from real estate sales. There are also procedural barriers that delay actual disposal once the decision has been made.

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b. What strategies do you believe should be applied to overcome those obstacles?

The President established an important framework for overcoming these obstacles by directing agencies to achieve $8 billion in real property cost savings by FY 2012 ($3 billion from civilian agencies in addition to $5 billion expected from Base Realignment and Closure activities). These savings will be generated through increased proceeds from the sale of assets and reduced expenses from disposals or other space consolidation efforts, including leases that are ended. This Presidential directive will help agencies address inefficiencies in their real estate processes and will motivate them to dispose of under-utilized assets.

In addition, the President's 2011 Budget proposes new legal authorities that would assist agencies in streamlining current processes for real estate disposal and would provide additional incentives by allowing Federal agencies to keep a portion of sales proceeds for investment in other capital improvement needs.

c. What guidance, if any, should agencies receive in order to improve the management of federal real property going forward?

It is my understanding that OMB and GSA are working together on guidance that will help agencies meet the President's goals. Specifically, each agency is required to submit real property cost savings and innovation plans that outline how the agency will achieve its share of the $3 billion savings target for civilian agencies.

Procurement Policy

33. The federal government spent over $538 billion on contracts for goods and services in FY2009. Across the government, a number of trends have led to wasteful spending, including an over-reliance on noncompetitive contracts, misuse of inter-agency contract vehicles, inappropriate use of "cost-plus" contracts, poor requirements planning, and insufficient oversight of contractors. GAO's "high risk" list of government functions at risk for waste, fraud, and abuse includes contract management at the DOD, the Department of Energy, and the National Aeronautics Space Administration, as well as inter-agency contracting. Based on your experience in government, what do you believe are the most important steps that agencies should take to improve efficiencies in contracting and to improve contract management?

Finding efficiencies and improving contract management are critical to ensuring that the government is spending taxpayer dollars wisely. The President has prioritized the improvement of federal contracting practices in order to save $40 billion in contracting by FY 2011, a goal that the Administration is well on the way to meeting. To do this, agencies are leveraging the government's purchasing power, decreasing their use of high-risk contracting authorities, terminating ineffective contracts, and taking other steps to identify savings or reduce wasteful spending. I strongly support these activities. If I am confirmed, OMB will ensure that agencies

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save money by improving their acquisition management and ending contracts that do not deliver value. OMB will also ensure that agencies prioritize the hiring and development of their acquisition workforce.

34. On March 4, 2009, President Obama sent a memorandum to heads of executive departments and agencies making clear that it is the policy of the federal government that agencies not engage in noncompetitive contracts unless fully justified and appropriate; cost-reimbursement contracts be used only where agencies cannot define requirements to support fixed-price contracts; taxpayer dollars should not be spent on contracts that are wasteful, inefficient, subject to misuse; and the government must have sufficient capacity to oversee contracts from start to finish. The President also directed the OMB to issue government-wide guidance to address these issues, and also to clarify when outsourcing for services is and is not appropriate. Consistent with the President's memorandum, OMB issued a series of memoranda last year providing new guidance, instructing agencies to review current contract practices, and, in some cases, laying out specific targets for agencies to meet (*e.g.*, saving 7% of baseline contract spending by the end of FY2011 and reducing by 10% in FY2010 the share of contract dollars awarded to high-risk contracts.

a. How can OMB be most effective in ensuring that agencies follow up on these guidelines? Over the long term, what should OMB's role be in influencing the management of contracts at the agency level?

OMB can play an important role in assessing agencies' progress toward meeting their goals of saving 7 percent of their contracting dollars in FY 2011, reducing their use of high-risk contracts, and identifying successful strategies for improving acquisition practices. OMB is reviewing agencies' progress in meeting their savings goals and will engage senior-level agency leaders in follow-up meetings this fall to discuss steps agencies are taking to reduce risk and save money, such as increasing competition and strategic sourcing and terminating wasteful contracts. By prioritizing these initiatives through both the management and budget functions at OMB, agencies should have even greater focus on making significant progress. Additionally, through its leadership of the Chief Acquisition Officers Council and other interagency groups, OFPP can share best practices for saving money and reducing risk, raise policy and implementation concerns, and ensure that agencies remain focused on improving their acquisition practices and saving taxpayer dollars.

b. Should there be a greater link between an agency's progress in implementing contract reforms and the budget review process for the agency?

I understand that OFPP is working closely with other OMB offices to ensure that agencies are making progress toward implementing the President's policies on contracting.

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35. Numerous GAO, Inspector General (IG) and investigative reports have raised concerns that agencies have improperly tasked contractors with the performance of inherently governmental work, or have weakened their core capabilities by being overly reliant on contractors. Used appropriately, contractors bring specific expertise and needed innovations to the government, helping agencies to perform their missions more effectively. However, the rapid increase in dollars spent on contracting over the last decade has been driven in part by an increased reliance on contractors to perform critical functions, including policy development, budget planning, rulemaking, intelligence gathering and analysis, security, and even the contracting process itself.

a. What do you believe are the key considerations in deciding whether work should be outsourced or performed by federal employees? On March 31, 2010, the Office of Federal Procurement Policy (OFPP) issued a proposed policy addressing when work must be reserved for performance by federal employees and defined inherently governmental functions and critical functions. In finalizing the policy, what issues do you feel need to be addressed?

Clarifying when work may be outsourced, when it should probably be performed by Federal employees, or when it is inherently governmental is a challenging effort that requires careful consideration. In particular, the government must ensure that it retains its core capabilities and can protect the best interests of taxpayers. I understand that OFPP is in the process of reviewing public comments on this issue. If confirmed, I look forward to working with OFPP in finalizing this policy.

b. The promotion of outsourcing to bring efficiency to government operations was a key element of the "Reinventing Government" initiative of the Clinton Administration. What lessons have you drawn from that initiative?

As stated above, clarifying when work may be outsourced or performed by Federal employees is challenging. Any initiative that may include, as an option, the potential conversion of work from Federal employees to contractors must therefore be properly managed and subject to clear and carefully-crafted rules. Oversight is critical.

Contractors continue to play an important role in helping agencies carry out their operations. At the same time, the significant growth in contracting that occurred over the last decade has created an overreliance on contractors in some Federal organizations. That overreliance needs to be addressed to make sure the government maintains control of its mission and of inherently governmental work. Moreover, the scope of contractors' work and their performance standards need to be clear, and monitoring of contractors needs to be effective.

I support the steps OMB is taking to clarify the rules addressing when work must be reserved for Federal employees.

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c. **What will you do to ensure that agencies maintain a career workforce with the necessary skills to establish policy, maintain strong institutional capabilities, and effectively manage acquisitions in order to ensure quality, economy, and timeliness of performance?**

OFPP requires each civilian agency to perform annual human capital planning for acquisition positions. This process encompasses the three essential positions that allow the government to manage contractors effectively: program managers, contracting officers, and contracting officers' technical representatives. In addition, the President's Budget for FY 2011 included a request for $158 million to increase the capacity and capability of the acquisition workforce.

Combined with the previously mentioned guidance on inherently governmental functions, these efforts will assist agencies in ensuring the quality, economy, and timeliness of their acquisitions.

36. **An April 2010 GAO report found a lack of reliable, comprehensive data on the number and use of inter-agency contracts – contracts that are awarded by one agency but used by another. Federal agencies, for example, purchase over $37 billion in goods and services each year through contracts negotiated by GSA for needs such as office products, information technology, and financial services. GAO found that no government-wide system exists to track the number of interagency contracts and thus poor oversight hampers the federal government's ability to leverage its vast purchasing power. GAO and IG inquiries into interagency contracts have also found a lack of clarity regarding management responsibilities among agencies involved in interagency contracting, leading to poor oversight.**

a. **GAO recommended that OMB provide guidance to, and work with, agencies to inventory and avoid duplication of these contracts. Do you agree that OMB's role should be to bring greater discipline and efficiency to this area of contracting?**

OMB is uniquely positioned to gather information about agencies' use of interagency contracts, provide guidance on the proper use of these vehicles, and identify ways in which agencies can better leverage their purchasing power. Agencies have been making progress recently in implementing OFPP guidance to strengthen internal controls of the management and use of interagency contracts. Moreover, improved management controls are now being incorporated into the Federal Acquisition Regulation to further improve effective use of interagency acquisitions. If I am confirmed, OMB will structure business case requirements for future interagency contracts, so that we can better leverage our spending and work to improve data and transparency.

b. **What would be your approach to reviewing and assessing the overall trend in the government's dependency on interagency contracts?**

OMB and agencies need accurate and timely information about existing interagency contracts to

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determine how these vehicles can be used most effectively—part of the continued Administration focus on improving the use and effectiveness of these contracts. As agencies seek ways to save money and leverage their purchasing power, this information will be critical to promoting strategic sourcing and reducing the development of unnecessary contracts. If confirmed, I will build on current efforts to update existing systems, such as the Federal Procurement Data System, so that interagency contracts can be readily identified and a clearinghouse of information on existing contract vehicles can be made available for use by acquisition professionals.

37. As the government's reliance on contractors has increased and become more complex, OFPP's mission in bringing economy, efficiency and effectiveness to federal procurement has become more challenging, and yet the staffing level at OFPP has remained relatively stagnant in recent years, at roughly a dozen FTEs.

a. In light of the fact that federal government contract spending is well over $500 billion annually, do you believe that OFPP has adequate funding and staff to execute its statutory responsibilities effectively?

OFPP plays a critical role at OMB by developing government-wide acquisition policies and implementing management initiatives to support agencies' continuous efforts to improve their contracting practices. To do so, OFPP works closely with other OMB offices, leads the Chief Acquisition Officers Council, and relies on agency partners, such as GSA, to promote effective and efficient contracting. If confirmed, I will work with the Administrator of OFPP to ensure that OFPP staff has the resources necessary to further improve Federal contracting.

b. Do you believe that the current structure of OFPP is effective for executing its statutory responsibilities?

If confirmed, I will work with the Deputy Director for Management and the Administrator of OFPP to ensure that OFPP and all of the management offices are appropriately staffed and structured to work together and execute an effective performance agenda.

c. Given the small number of staff at OFPP, how would you focus your priorities to have the greatest impact on federal procurement?

For the office to be effective and continue to demonstrate leadership in acquisition management, it needs to prioritize those activities that contribute directly to saving money, reducing the use of high-risk contracting practices, and increasing the capability and capacity of the acquisition workforce. The office must also recognize that procurement reform is both a management and a budget issue and coordinate closely with the budget offices within OMB to ensure that policy development and enforcement address these dual aspects of federal procurement.

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38. Cost, schedule and performance problems often arise because agencies do a poor job of setting requirements before negotiating contracts, or because agencies change requirements after entering contracts. How do you think the process of setting requirements for contracts, especially for complex acquisitions, and of developing more realistic cost estimates can be improved?

Developing clear and reasonable requirements, establishing measurable performance goals, and reducing the number of changes to the contract can greatly improve acquisition outcomes. Agencies need to ensure that program managers, who are critical to this process, are appropriately trained and supported. I understand that OMB requested funds in the FY 2011 Budget to hire and train more members of the acquisition workforce, including program managers. I believe this is a significant step in the right direction.

39. Section 743 of the Consolidated Appropriations Act for 2010 requires that agencies submit service contract inventories to OMB and requires that OMB guide agencies in their preparation of these inventories. Under the Act, agencies are due to submit their inventory to OMB by December 31, 2010, and OMB is then required in 90 days to submit a government-wide inventory report to Congress. What steps will OMB take to ensure that agencies are in a position to prepare accurate, comprehensive and useful inventories?

It is my understanding that OFPP is in the process of updating the Federal Acquisition Regulation to include this requirement. OFPP is also developing guidance for agencies on the structure of the inventory requirements, management responsibilities, and reporting requirements.

40. The suspension and debarment process is one of the important tools that the federal government has to protect taxpayers' money from contractor waste, fraud and abuse. When used, it has been very effective in ensuring that the government only does business with responsible contractors. However, many contractors that have engaged in conduct that could lead to suspension or debarment under the Federal Acquisition Regulation (FAR) have not been excluded from participating in the contracting process. The FAR states that for numerous offenses, action is discretionary and up to the agencies to determine appropriate action based on what is in the public's best interest.

a. What is your view on agencies' current usage of suspension and debarment?

Ensuring that the government conducts business with responsible contractors is critical. If confirmed, I will want to make certain that agencies are considering and using this tool, consistent with the law, whenever it is necessary to protect the integrity of the acquisition system and the public from fraud, waste, and abuse.

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b. Do you think OMB should play a role in providing guidance to agencies about appropriate use of suspension and debarment?

I believe that OMB can play a useful role in helping craft regulatory and other guidance to agencies about the appropriate use of suspension and debarment. On a related note, I understand that the Administration changed the Federal Acquisition Regulation to require that contracting officers check the new Federal Awardee Performance and Integrity Information System (FAPIIS) before awarding contracts so that we only conduct business with responsible, ethical contractors. I also strongly support the Administration's efforts to improve the collection of and access to contractor past performance assessments in the Past Performance Information Retrieval System (PPIRS).

41. Inadequate coordination between DOD, the Department of State, and USAID has led to a number of problems with contracting for reconstruction projects in Iraq and Afghanistan. Lines of responsibility for contracting have been blurred, resulting in weak oversight over projects. The capacity of all three agencies to manage contractors – who now outnumber military personnel in Iraq – is simply inadequate.

a. Who in the federal government, in your opinion, should ultimately be responsible for contingency contracting?

Agencies must have the workforce capacity and capability to effectively manage taxpayer dollars. The Administration has aggressively taken on contracting reform and developing and implementing best-practices in contingency contracting is part of this reform, as roles and responsibilities depend on the nature of the contingency (e.g., combat vs. noncombat, domestic vs. international) and the phase of the contingency (e.g., relief, recovery, or reconstruction).

b. What should OMB's role be in improving coordination among agencies for contingency contracting?

The scale of efforts and challenging environment present unique issues. DoD, State, and USAID are focused on addressing the concerns that have been raised, but the environment will continue to be challenging. OMB must ensure that agencies with key responsibilities for contracting during a contingency are taking appropriate steps to coordinate their respective roles. If confirmed as Director, I will continue efforts to improve DoD, State, and USAID coordination with one another when deploying in a common theater of operation. I will also help agencies receive the acquisition resources they need to improve contract oversight. These resources will allow agencies to obtain the personnel and training they need to improve contract oversight.

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42. On April 22, 2010, DOD issued a proposed change to the Defense Federal Acquisition Regulation Supplement that would amend contracting rules governing organizational conflicts of interest (OCIs). DOD's proposed rule contains an expanded definition of OCI and imposes a new requirement on contractors to disclose possible conflicts of interest prior to its submission of an offer.

a. Do you agree with DOD's approach to clarifying and expanding the duties related to disclosure of OCIs?

Given the large number of contractors used by the Federal government, it is critical to clarify how the government identifies OCIs and improve how they are addressed. I support efforts to ensure that our contracting officers have all of the information they need to make informed, reasoned decisions.

b. In your opinion, should FAR rules regarding OCIs be updated with more detailed guidance about how to identify and mitigate OCIs?

It is my understanding that recent changes in the acquisition landscape, including increased government usage of service contractors and increased industry consolidation, have increased the likelihood that OCIs could develop in Federal acquisitions. It would be appropriate for the FAR rules regarding OCIs to be updated to provide contracting officers with appropriate processes for identifying, analyzing, and resolving OCIs in today's environment.

43. Throughout this year, there have been widely publicized reports that the Administration is considering a "High Road Contracting Policy" that may establish a labor preference in the Federal government's competitive source selection process for contractors who adopt certain labor practices for their entire workforce, beyond those already required by law.

a. In general, to what extend do you think a bidding company's labor standards should be considered in the Federal process?

I understand that labor standards, such as those outlined in the Federal Acquisition Regulation, must currently be taken into account in considering bidders for federal contracts.

b. Do you think that a contract preference based on labor standards would be consistent with Administration efforts to reduce the cost of Federal contracts, and with the Administration's direction to agencies to aggressively pursue increased full and open competition?

I am not familiar with the process by which this kind of preference would work or its impact on the cost of Federal contracts. However, I support the Administration's efforts to promote competition among contractors, which generally leads to lower prices, more innovation, and better performance.

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c. **What impact would you expect a "High Road" labor preference would have on the ability of small businesses to effectively compete in the Federal marketplace, especially if, as has been reported, business would be required to adopt certain labor practices for all of their employees (both those working on Federal government contracts and those working in the commercial sector)? Would implementation of a "High Road" labor preference be an incentive or disincentive for small businesses to compete in the Federal marketplace?**

I have not been involved in discussions in this area, but I understand that no decision has been made. In any event, I have not had the opportunity to analyze any particular policy approach in this area and therefore am not in a position to address its impact.

d. **Please describe the outreach you plan to perform across Government (including Congress and Chief Acquisition Officers) and the private sector to inform any decision the Administration is contemplating relative to a "High Road" procurement policy.**

As I mentioned, I have not been involved in discussions on this issue, and do not know of any plan currently in place. If I am confirmed, I will consider the views of Congress, the private sector, and others with respect to possible statutory, regulatory, and policy initiatives.

44. **In an April 26, 2010 memorandum, the President emphasized that in the Federal procurement process, small business contracting should always be a high priority. In FY2008, only one of the government-wide small business contracting goals was deemed to have been achieved and only one agency (GSA) met all of its small business goals. One agency (OPM) met none of its goals and five agencies (Departments of Defense and State, USAID, Social Security Administration, and the National Science Foundation) failed to meet four of their five small business goals.**

a. **What do you see as the major barriers that inhibit small businesses from achieving a greater market share in the Federal marketplace?**

Small businesses are critical to our economy, and I support efforts to promote their strong participation in the Federal marketplace. Ensuring that small businesses understand the often complex federal procurement process and have access to information about contracting opportunities can increase participation. Contracting officers and program managers should also develop their requirements and acquisition strategies with small businesses in mind. I understand the Interagency Task Force on Federal Contracting Opportunities for Small Businesses, established by the Presidential memorandum dated April 26, 2010, is developing recommendations for increasing opportunities for small businesses in federal contracting, and I would welcome the opportunity to help in the implementation of improvements in this important area.

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b. What policy initiatives would you take to enable more small companies to participate in federal contracting?

I support efforts to ensure that small businesses have more opportunities to participate in Federal contracting, such as expanding training of and outreach to small businesses on the federal contracting process. I look forward to helping to implement the Task Force's recommendations when they are released.

c. What steps would you take in to ensure that all agencies meet their small business contracting goals?

If confirmed, I will work with the Administrator of the Small Business Administration and the Administrator for Federal Procurement Policy to implement the Task Force recommendations, review agency progress throughout the year, and follow up with agencies that are not on track to meet their goals.

45. Given that OMB plays a significant role in shaping procurement policy and regulations that govern and affect small business, do you think there are any small business policy areas that OMB should address? For example, do you think OMB should engage in discussions with the Small Business Administration (SBA) regarding the assessment of current size standards for small business, or in ensuring that changes to size standards include input from the small business community?

SBA has embarked on a comprehensive review of all size standards regulations. Several updated standards are in the final stage of rulemaking and will most likely be issued in the very near future. OMB is also working with SBA and procurement officers across government to design policies and procedures that more accurately identify eligible small businesses for contract preference programs, so that only true small businesses receive benefits.

Homeland Security

46. The Nation faces a wide range of potential threats, from both terrorist attacks and natural disasters, and the federal government has finite resources to address them.

a. If confirmed, what principles will guide your decision making regarding how to set priorities and allocate resources for prevention and preparedness among this broad set of threats?

If confirmed as Director of OMB, I would work across the Administration to maximize the impact of taxpayer dollars on our Nation's security and preparedness. Ensuring that our first responders are adequately prepared to respond to hazards, natural disasters, and terrorist threats requires robust emergency response plans at and between every level of government, as well as in the private sector.

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b. How will you prioritize between investments to protect against higher consequence/lower probability events and investments to protect against lower consequence/higher probability threats?

An appropriate balance needs to be struck between investments to protect against higher consequence/lower probability events and lower consequence/higher probability threats. Achieving that balance will require the involvement and partnership of our Nation's homeland security leaders and experts, including stakeholders in communities throughout the country and the private sector. If confirmed as Director of OMB, I would use our review of existing programs to aid that partnership and determine whether enhancements are needed to improve prevention, preparedness, mitigation, or response.

47. The ability to share information must be a key component of our national strategy to combat terrorism. What do you believe are the roles and responsibilities of OMB with respect to information-sharing? How would you coordinate OMB's information-sharing activities with those of the Program Manager (currently located in the Office of the Director of National Intelligence) to support the ongoing implementation of the Information Sharing Environment required by the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458)?

If confirmed as Director of OMB, I would work with the Program Manager, the Chief Technology Officer, agency heads, and other stakeholders to ensure that the Federal government leads by example in sharing information across and within agencies.

OMB's work in support of the Program Manager includes, among other things: conducting oversight; encouraging agencies to promote information sharing; and building information sharing initiatives into budget and performance management activities. I hope to build on this work to promote the goal of improved sharing of homeland security and law enforcement information across all levels of government.

48. This Committee has long been concerned that the heavy reliance on contractors by the Department of Homeland Security ("DHS" or "the Department") undermines its own institutional strength. Early in the year, senior DHS management staff gave us the estimate that there are over 200,000 DHS contractor employees – a level that exceeds the civilian workforce of the Department, which is 188,000. Particular areas of concern include the predominance of contractors in DHS's intelligence and cyber functions, and whether contractors have played an excessive or inappropriate role in traditionally governmental functions such as rulemaking. If confirmed as OMB Director, what would you do to help ensure that DHS achieves a workforce appropriately balanced between federal employees and contractors and that the role of contractors in traditionally governmental functions is not excessive or inappropriate?

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I support the Administration's efforts to strike the right balance in work performed by Federal employees and contractors, as well as DHS's efforts to review and rebalance, as necessary, its relationship with contractors.

If I am confirmed as Director, I will ensure that OMB works closely with DHS as it pursues these important efforts, and will work to provide DHS with the resources it needs to improve contract oversight and accountability. As previously mentioned, I also support the steps OMB is taking to clarify the rules addressing when work must be reserved for Federal employees.

49. The President's FY2011 budget proposed eliminating several homeland security grant programs, including the Interoperable Emergency Communications Grants Programs (IECGP), which funds communications interoperability among first responders, and Metropolitan Medical Response System (MMRS) grants, which support medical preparedness for disasters that result in mass casualties. It was explained that states and cities would be allowed to use their Urban Area Security Initiative (UASI) and State Homeland Security Grant Program (SHSGP) awards to pay for these expenses. But the President's budget did not include enough additional funding for UASI and SHSGP to cover the cuts in the other programs.

a. If confirmed, what would be your criteria for deciding whether particular homeland security grants should be consolidated into more general purpose block grants or whether they should be maintained as separate, targeted grant programs?

DHS's homeland security State and local grant programs were not created systematically and the overall arrangement of programs does not reflect strategic thinking about addressing homeland security risks. The 2011 Budget grant consolidation request begins to address this ad hoc approach by providing the Secretary with the ability to establish homeland security priorities across a few, broad grant programs. Consolidating grant programs will provide Federal, State, and local governments with greater flexibility to meet emerging homeland security threats and will also allow DHS to allocate resources to the areas of greatest security threat. The effectiveness of programs, rather than the level of funding, should be the measure of success in protecting the homeland.

b. The IECGP program was created by Congress in the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) to help states overcome interoperability problems that too often frustrate the effectiveness of first responders during a crisis. One reason Congress created a dedicated interoperability program was that a large portion of SHSGP funds was being used for interoperability, leaving less money for other needs. Additionally, the funds under IECGP are disbursed on an all-hazards basis, while SHSGP funds are distributed under a formula based on the risk of

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terrorism. If confirmed, would you reconsider the proposal to eliminate separate funding for the IECGP program?

The 2011 Budget recognizes that activities otherwise funded under the IECGP are still vital to National preparedness. The consolidation reflects an attempt to achieve administrative efficiencies, rather than an effort to diminish IECGP activities or detract from their importance. In general, I support consolidation efforts that continue to fund important activities while decreasing administrative overhead. If confirmed as Director of OMB, I will use the 2012 budget process and future budgets to conduct a thorough review of different government programs.

c. **MMRS supports preparedness for mass casualty events – whether as a result of a natural disaster or a terrorist attack – and brings together hospitals, government officials and first responders to do critical planning before a disaster strikes in 124 regions around the country. Last year, each MMRS jurisdiction received less than $300,000, yet, even with these modest funding levels, the MMRS system was used in the response to the H1N1 pandemic flu outbreak by many communities to staff vaccination clinics, coordinate hospital visitation policies among local area hospitals, support pandemic preparedness training and community planning, and to provide tamiflu to H1N1 infected first responders. Other recent events, including the devastating earthquake in Haiti and the findings of the WMD Commission concerning the likelihood of a biological attack, have further highlighted the importance of mass casualty preparedness. In light of these concerns, would you reconsider the proposal to eliminate the MMRS program?**

The Administration recognizes the importance of mass casualty preparedness and the good work achieved through the Metropolitan Medical Response System (MMRS). The 2011 Budget's grant program consolidation reflects an attempt to achieve administrative efficiencies, not an effort to undermine certain activities or detract from their importance. In general, I support consolidation efforts that continue to fund important activities while decreasing administrative overhead. If confirmed as Director of OMB, I will use the 2012 budget process and future budgets to conduct a thorough review of different government programs.

50. **The Assistance to Firefighters Grant (AFG) program is a competitive, peer reviewed program that helps fire departments across the country get essential training, equipment, and vehicles and build capabilities. In FY2009, the AFG program received more than $3 billion in applications for the $565 million then available. The President's FY2011 budget request, however, proposed cutting AFG funding by 22%, on top of a 31% reduction the previous year. If confirmed, would you support restoring funds to the AFG program or at least maintaining funding at existing levels?**

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The Administration believes that firefighters provide an essential service to their communities. It is my understanding that, while the FY 2011 budget request is lower than the FY 2010 enacted amount, it is $20 million higher than last year's Budget request and is higher than any of DHS's last five budget requests for Assistance to Firefighters Grants. If confirmed as Director of OMB, I will use the 2012 budget process and future budgets to conduct a thorough review of different government programs.

51. DHS, through the Federal Emergency Management Agency (FEMA), administers nearly $4 billion of grants to assist state, local and tribal governments, port and transit system administration, first responders and others prevent, prepare for, protect against and respond to natural disasters, acts of terrorism, and other man-made disasters. To ensure that these funds are used effectively to increase preparedness, both the Post-Katrina Emergency Management Act of 2006 (109-295) and the Implementing Recommendations of the 9/11 Commission Act of 2007 included provisions requiring the development and implementation of objective performance measures for these grants. Despite these requirements – and despite the fact that, according to GAO estimates, FEMA budgeted roughly $58 million from FY2008 to FY2010 to develop and implement several different evaluation efforts – FEMA has yet to develop any meaningful performance measures for its grant programs and still cannot provide basic information on the grants' effectiveness. Most recently, FEMA leadership has indicated that they have abandoned the Cost-to-Capabilities system, the agency's latest effort to track and measure the capabilities being achieved through homeland security grant programs, rather than attempt to improve the system. FEMA leadership has not provided any indication that any other efforts to improve grant tracking or performance measurement are currently underway.

If confirmed, what steps will you take to ensure that FEMA develops required performance metrics for the preparedness grants it administers? What expertise in performance measurement can and will OMB bring to bear to assist FEMA in these efforts?

The Administration recognizes the necessity to develop and implement a robust system to measure and report on the effectiveness of DHS grant funding. If confirmed as Director of OMB, I will work to ensure that OMB continues to work with FEMA at both staff and leadership levels on improving and measuring performance.

52. The Post-Katrina Emergency Management Reform Act directs the President to ensure that each federal agency with responsibilities under the National Response Framework (formerly the National Response Plan) has appropriate capabilities, resources and plans.

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a. **If confirmed, what will you do to ensure that the many federal agencies that need to prepare for and respond to natural and man-made threats to our nation have sufficient resources to do so?**

If confirmed, OMB staff will continue to serve an integral role in the Domestic Readiness Group, an interagency policy group led by National Security Staff that convenes on a regular basis to develop and coordinate preparedness, response, and incident-management policy. I will work to ensure that Federal agencies with responsibilities under the National Response Framework have the necessary resources to respond to a catastrophic incident.

b. **The Post-Katrina Emergency Management Reform Act also requires the FEMA Administrator to submit to Congress annually an estimate of the resources needed by federal agencies to respond to a catastrophic incident, a report which has never been submitted. If confirmed, will you commit to work with the President and executive branch agencies to ensure that the first of these required annual reports is completed and submitted to Congress within a year of your confirmation?**

The FEMA Administrator's annual estimate of needed resources submitted to Congress requires coordination with the relevant Federal agencies and should be based on appropriate and available data and previous lessons learned. I understand that FEMA, in coordination with OMB, is already working on the annual report on catastrophic response, which is on track for submission to Congress within a year.

53. **The RAND Corporation noted in a 2004 report, "When Terrorism Hits Home: How Prepared are State and Local Law Enforcement," that "[h]omeland-security experts and first-responders have cautioned against an overemphasis on improving the preparedness of large cities to the exclusion of smaller communities or rural areas, noting that much of our critical infrastructure and some potential high value targets (nuclear power plants, military installations, agriculture facilities, etc.) are located in less-populated areas." Moreover, we know that al Qaeda attackers lived, trained, transited, hid, and otherwise used smaller communities and rural areas as a staging ground for the September 11, 2001 attacks. What steps will you take to ensure that smaller communities and rural states and localities receive adequate federal assistance to prevent, prepare for, respond to, and recover from terrorist attacks?**

The Administration is committed to addressing the security needs of smaller communities and rural communities. Since 2003, the Department of Homeland Security has provided over $30 billion in homeland security grant funding to State and local governments to prevent, prepare for, respond to, and recover from terrorist attacks. A significant portion of this amount has gone to less populated areas. At the same time, the Administration remains committed to assisting major metropolitan areas alongside smaller and rural communities—helping communities respond to terrorism, no matter their location or size. More broadly, there are also ongoing efforts to measure the effectiveness of the grant money awarded, in order to assess our baseline level of preparedness and assist in guiding future grant priorities.

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54. Looking the budget that FEMA has for flood map modernization last fiscal year, the President's budget request was $220 million and Congress fully funded that amount. This year, however, the Administration's budget request was at $194 million, a ten percent cut of $26 million. FEMA has claimed that it does not have the resources or funds to perform the more detailed flood mapping that certain coastal geographic areas require, and therefore that financial burden can fall to those communities. Do you believe that FEMA should increase the current funding level for flood map modernization to accommodate those communities?

I support the Administration's 2011 Budget proposal for Flood Hazard Mapping and Risk Analysis Program (formerly the Flood Map Modernization Fund). The request of $194 million will continue a robust program to produce improved flood hazard mapping for the National Flood Insurance Program. Further, I strongly support flood mapping efforts for coastal areas, which began in 2009; the 2011 Budget includes $50 million to initiate updated coastal flood hazard studies in those areas determined to be in most need. If confirmed as Director of OMB, I will use the 2012 budget process and future budgets to conduct a thorough review of funding levels for various government programs.

55. This Committee's 2006 report on the failed response to Hurricane Katrina, "Hurricane Katrina: A Nation Still Unprepared," found that FEMA lacked the resources needed to accomplish its mission and that resource shortages contributed to FEMA's failures in responding to Katrina. For the last two fiscal years of the Bush Administration, the Administration's budget requests included increases in FEMA's budget, but over the last couple years very little if any additional funding for FEMA operations has been sought in the President's budget requests. Some believe FEMA's budget is still not adequate to accomplish its mission. Do you believe there is a need for additional increases to FEMA's budget? Please explain why or why not?

At the direction of the Congress, I believe FEMA has made strides since Hurricane Katrina in improving its logistic systems and strengthening field operations.

Money alone, however, will not solve FEMA's management problems. I support the Administration's commitment to raising the profile of the agency and focusing management attention on building the systems to ensure FEMA is successful in the future.

If confirmed as Director of OMB, I will use the 2012 budget process and future budgets to conduct a thorough review of different government programs.

56. Hurricane Katrina made landfall almost five years ago, and the recovery and rebuilding process has been a struggle. The challenges faced have demonstrated that our recovery processes and systems need improvement. What is your vision of the role of the Federal government in the recovery and rebuilding process in the

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catastrophic disasters? Do you believe changes are needed in the way the federal government supports state and local communities in the recovery and rebuilding process?

I believe that this Administration has taken significant steps towards improving recovery—including speeding up the delivery of assistance to Katrina-affected communities whose Federal assistance had previously been stalled. I support the Administration's work to further improve long-term disaster recovery at all levels of government, focusing on key priorities.

The Administration's approach stresses that Federal, State, and local government—as well as the non-profit, private, and philanthropic sectors and individuals—share responsibility for effective recovery. To that end, I believe that the forthcoming National Disaster Recovery Framework—a parallel document to the existing National Response Framework—will better define the Federal, State, local, tribal, private, non-profit, and citizen roles in disaster recovery. I support its goal to establish a more effective structure for coordinating Federal programs throughout the recovery process, as well as set performance standards for the Federal support of State and local recovery.

57. As GAO reports have documented, protecting more than 9,000 federal facilities and the millions of federal employees and visitors that inhabit them daily has been a daunting challenge for the Federal Protective Service (FPS). Operational, management, and funding challenges have inhibited the agency's ability to carry out its mission. However, with the recent completion of the Department of Homeland Security's Quadrennial Homeland Security Review and Bottom Up Review, DHS has indicated that it intends to redesign the FPS "to better match mission requirements."

a. The FPS is currently funded entirely by fees paid by other agencies. A basic security fee is assessed to all agencies that utilize FPS services; additional building specific fees are also collected by the FPS and used to pay for the contract guards and other countermeasures procured by the agency. Despite Congressional mandates to increase the size of the FPS in order to sustain an appropriate level of security, many agencies have balked at FPS's efforts to raise the basic security fee to pay for the hiring of additional law enforcement officers. Do you believe the FPS should continue to be funded entirely by fees paid by other federal agencies, or should alternative funding mechanisms be considered for the FPS?

Revamping the funding structure in and of itself will not solve all the issues that currently face FPS. FPS's management and business functions must also be addressed in order to build more effective operations. If confirmed as OMB Director, I will ensure that OMB works with DHS so that FPS remains sufficiently funded.

b. The FPS currently relies on approximately 1,200 full time employees and 15,000 contract security guards to safeguard federal facilities. Do you believe OMB and

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DHS should review the FPS's current mix of federal law enforcement officers and contract security guards, to determine if there is a more appropriate or efficient balance between work done by federal employees and work done by contractors?

I support the Administration's efforts to strike the right balance in work performed by Federal employees and contractors, as well as DHS's efforts to review and rebalance, as necessary, its relationship with contractors. If confirmed as Director, I will ensure that OMB works closely with DHS as it pursues these important efforts.

58. Section 874 of the Homeland Security Act of 2002 (P.L. 107-296) requires that each budget request that is submitted to Congress be accompanied by a report on the Future Years Homeland Security Program (FYHSP) that is similar to the annual Future Years Defense Program report that accompanies the annual budget request for the Department of Defense. Section 874 provides that the FYHSP report shall be provided to Congress "at or about the same time" as the budget request. This report is intended to provide Congress with detailed information on long-range planning and investment within the Department of Homeland Security that facilitates Congressional efforts to authorize and oversee programs and activities within the Department.

This Committee has requested but not received FYHSP reports to accompany the last two budget requests, i.e. the FY2010-FY2014 report to accompany the FY2010 request and the FY2011-2015 report to accompany the FY2011 request. It is the Committee's understanding that FYHSP reports have been produced internally by DHS but have not been cleared for distribution to Congress, including because of delays in OMB approval, in contravention of the statutory requirement.

a. If you are confirmed, will you ensure that the completed reports for FY2010-FY2014 and FY2011-FY2015 are released to Congress, to the extent that OMB played or is playing a role in delaying or denying their release?

It is my understanding that the 2009 Presidential transition contributed to the short time to submit a FY 2010 budget, and that the focus of the Department during the FY 2011 budget process was on the completion of the Quadrennial Homeland Security Review (QHSR) and the subsequent Bottom-Up Review (BUR). The BUR will underpin the 2012-2016 FYHSP.

b. If you are confirmed, will you ensure that OMB does nothing to delay or deny the release of the FY2012-FY2016 report "at or about the same time" as the FY2012 budget request?

If confirmed as OMB Director, I will work with DHS to ensure the timely submission of the 2012-2016 FYHSP to the relevant congressional committees.

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59. **The Special Reserve Fund (SRF) was established by the Project BioShield Act of 2004 to encourage the development of medical countermeasures to chemical, biological, radiological, and nuclear (CBRN) weapon threats by providing assurances that the federal government was committed, with access to stable funding, to purchasing new countermeasures if companies invested capital and embarked on years long development programs of those countermeasures. Purchases by the Project BioShield SRF have added new medical countermeasures to the Strategic National Stockpile that enhance our national security. The Strategic National Stockpile now includes vaccines and therapeutics to address the threats of anthrax, smallpox, and botulism, among other countermeasures. Within the past two months, one million doses of a new smallpox vaccine that is safer for vulnerable populations were delivered as a result of a Project BioShield contract.**

a. **Unfortunately, recent attempts to divert these funds, including for short-term response needs to last year's H1N1 influenza pandemic, have eroded trust in the government's commitment to preparing for threats from Weapons of Mass Destruction (WMD). Further, recent Administration comments[3] questioning the value of Project BioShield raise the troubling prospect now, that nine years after 9/11 and the anthrax attacks, we are considering starting over rather than building off the foundation that has already been laid. Will you reaffirm whether Project BioShield and the Biomedical Advanced Research and Development Authority of the Health and Human Services (HHS) play an important role in preparing for WMD terrorist threats?**

BioShield and the Biomedical Advanced Research and Development Authority (BARDA) together provide valuable support for the research, development, and procurement of essential CBRN countermeasures, such as those for anthrax, smallpox, botulism, and radiation exposure. I am committed to supporting these and other programs that aim to enhance the Nation's preparedness.

b. **Do you believe that the remaining funds of the Project BioShield Special Reserve Fund should be used solely for the advanced development of CBRN medical countermeasures and their acquisition for the Strategic National Stockpile? If not, how else do you believe these funds should be used?**

The SRF has been used to advance the development and procurement of CBRN medical countermeasures, and the Administration will continue to support the development of new countermeasures to address the highest priority threats.

c. **In December 2009, Secretary Sebelius announced that HHS was undertaking a review of the medical countermeasure development enterprise, which was to be**

[3] See "Senators slam plan to slash anti-bioterrorism funds", Los Angeles Times (July 22, 2010) (White House spokesman Nick Shapiro said the government has been dissatisfied with Project BioShield and is redesigning a system creating incentives for private drug companies to produce drugs and vaccines faster."), available at http://articles.latimes.com/2010/jul/22/nation/la-na-bioterror-20100723.

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completed in the first quarter of this year. Our understanding is that HHS completed the review on time, but that release appears to be stalled by ongoing discussions with OMB. If confirmed, will you ensure that the medical countermeasures review is promptly released? Also, what steps will you take to ensure that there is adequate funding to implement recommended improvements to the medical countermeasure enterprise?

I understand that Secretary Sebelius announced the release of the Public Health Emergency Medical Countermeasures Enterprise Review in August and that the Administration transmitted a budget amendment to support the recommendations in this report. As outlined in the budget amendment, several medical countermeasures initiatives would be funded using resources from pandemic influenza and BioShield. If confirmed, I will work with the Secretary to ensure that improvements to the medical countermeasure enterprise receive appropriate funding.

60. The Spring 2009 H1N1 influenza pandemic, and the effort to prepare for the fall return of the disease, resulted in the most extensive public health effort ever attempted. The rapid response to the H1N1 influenza outbreak required that long-term influenza preparedness funds be employed in short-term response needs. Approximately $1.6 billion set aside for long-term activities such as developing domestic vaccine production or new anti-viral medications was removed to address the short-term need to buy H1N1 vaccine. Congress subsequently made $7.65 billion available for the H1N1 response in FY2009 supplemental appropriations, a significant portion of which remains unobligated today. What are the plans for the unobligated funds from the FY2009 H1N1 supplemental? Will the $1.6 billion removed from the pandemic influenza preparedness funds be returned using the unobligated funds of the FY09 supplemental?

The Federal Government mounted unprecedented efforts against the 2009 H1N1 pandemic, including initiating a number of activities with available resources at the time, prior to submitting a supplemental request to Congress. With the further support from Congress, the Federal Government quickly made new H1N1 vaccines available to the public, expanded funding to states for additional laboratory capacity, and donated vaccines and ancillary supplies to the World Health Organization for further distribution to countries in need. All told, the extraordinary public health response—across federal, state and local governments, the private sector, communities, and individuals—was successful in helping to mitigate the effects of the H1N1 flu.

The FY 2011 Budget proposed to support more than $550 million in H1N1 supplemental resources to further pandemic preparedness activities in CDC and the Office of the Assistant Secretary for Preparedness and Response. It is my understanding that Secretary Sebelius recently transmitted to Congress an updated pandemic influenza spend plan for the available balances, which takes into account the Public Health Emergency Medical Countermeasures Enterprise Review and the President's Council of Advisors on Science and Technology Plan to Improve Nation's Vaccine Response Against Pandemic Influenza and Other Outbreaks, both

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released in August. The updated flu spend plan will support many of HHS's on-going influenza activities and will enhance readiness for the next pandemic influenza.

61. The President's FY2010 budget supported the "termination of outdated systems," such as the terrestrial-based Long Range Navigation system (LORAN-C) operated by the Coast Guard. The Coast Guard estimates that LORAN-C termination will save $36 million in FY2010 and $154 million over the following four years. However, decommissioning LORAN-C, without first having established a proper back-up for the Global Positioning System (GPS), makes the short-term gain associated with closing LORAN appear very short-sighted. In fact, the decision to eliminate the Nation's only back-up to GPS makes GPS a more desirable target to terrorism, and significantly increases the vulnerability of the United States' cellular communications, financial services, and power grid networks. To help address the gap created by the decommissioning of the existing LORAN infrastructure, will you support the development of the enhanced Long Range Navigational System (eLORAN) if it is determined by the Department of Homeland Security to be the optimal back-up to GPS?

To address backup capabilities for critical GPS applications, I support the Administration's Space Policy issued in June that directs agencies to "increase resiliency to harmful interference to GPS, and identify and implement, as necessary and appropriate, redundant and back-up systems or approaches for critical infrastructure, key resources, and mission-essential functions." I will work with DHS to find ways to close whatever critical gaps exist, including considering the development of a national system, such as enhanced LORAN.

62. The Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit CARD Act) requires the Treasury Department to issue regulations governing stored value cards, including specifically requiring the Treasury Secretary to consider the benefits to law enforcement of requiring that stored value devices be included in the reporting requirements at the border. In a series of hearings held by this Committee over the past two years, we have learned that law enforcement agencies throughout our government have become increasingly concerned that stored value devices are being exploited by drug cartels and other smuggling networks to launder their proceeds.

Under current law, individuals carrying cash and other monetary instruments in excess of $10,000, such as traveler's checks or money orders, must declare those instruments at the border. Individuals carrying more than $10,000 in stored value devices do not have to report this fact since the devices are not considered monetary instruments under the law.

The Treasury Department's Financial Crimes Enforcement Network (FinCEN) issued a Notice of Proposed Rulemaking (NPRM) on stored value cards on June 28,

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2010, but failed to include any regulations concerning cross-border reporting requirements for stored value cards. If confirmed, what steps will you take to ensure the Treasury Department complies with the Credit CARD Act's requirement to issue regulations governing the international transportation of stored value cards?

I understand and take seriously the importance of accurate information on international transactions, and the need to understand whether and how these cards may contribute to problems such as money laundering or terrorist financing. My understanding is that the Treasury Department plans to gather public comments on this issue. If confirmed, I will follow up with Treasury regarding the public comments and ensure that it takes necessary and prudent actions to comply with the law.

63. **On July 6, 2010, Director Orszag issued a memo transferring many of OMB's Federal Information Security Management Act (FISMA) responsibilities to DHS. OMB will still retain the responsibility to submit annual FISMA reports to Congress and to development and approve Federal agency cybersecurity budgets. However now DHS will effectively take on the primary responsibility for the operational aspects of FISMA.**

Also, DHS under its statutory authorities and various national security and Homeland Security Presidential Directives, oversees critical infrastructure protection, operates the United States Computer Emergency Readiness Team (US-CERT), oversees implementation of the Trusted Internet Connection initiative, and takes other actions to help secure both the Federal civilian government systems and the private sector. These programs are operationally managed and implemented primarily out of DHS's National Cyber Security Division (NCSD).

In the Cyberspace Policy Review, the President found that our "Nation's approach to cybersecurity over the past 15 years has failed to keep pace with the threat" and "we need to demonstrate abroad and at home that the United States takes cybersecurity-related issues, policies and activities seriously." Both DOD through Cyber Command and DHS through Cybersecurity & Communications Component are taking on increasingly responsibilities. DHS has a need to expand cybersecurity capabilities and also manage with new FISMA responsibilities, yet the OMB approved DHS FY2011 budget proposal for the NCSD was reduced by $19 million from FY2010 levels.

a. **How will you ensure that cybersecurity remains a top funding priority under your leadership?**

If confirmed, I will work closely with the Cybersecurity Coordinator to ensure that DHS is funded adequately and responsibly to deal with constantly evolving cybersecurity threats.

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b. Many experts believe the tie between national security issues like cybersecurity and our economic security are not strong enough, what can you do as the Director of OMB to help the cybersecurity mission space be informed by both national and economic security experts from the government and industry?

The Cybersecurity Coordinator reports to the National Security Advisor and the Director of the National Economic Council to ensure that the White House is adequately informed on national and economic security issues. As mentioned above, if confirmed, I intend to work closely with the Cybersecurity Coordinator to ensure the needs of both national and economic security are addressed.

c. How can DHS grow capabilities to fulfill its Federal civilian cybersecurity mission, develop the technical expertise, and effectively partner with the private sector when the budget for cybersecurity at DHS is decreasing?

Training, recruiting and retaining skilled cybersecurity experts is fundamentally important for all federal agencies. If confirmed as Director of OMB, I will work to ensure DHS is adequately and appropriately funded to fulfill its important cybersecurity mission. As mentioned previously, however, the effectiveness of programs, rather than the level of funding, should be the measure of success.

d. Do you believe that the DHS needs additional resources to accomplish its many important cybersecurity missions?

DHS has been steadily building its cybersecurity capabilities since its establishment in 2003. If confirmed as Director of OMB, I will use the budget process to conduct a thorough review of different programs and work to ensure that DHS is adequately funded to fulfill its important cybersecurity mission.

National Defense

64. In his report to Congress mandated by Section 1251 of the National Defense Authorization Act for FY2010, the President described his commitment to provide $80 billion in funds for the U.S. nuclear weapons stockpile and infrastructure over the next decade. Although the Section 1251 Report projected the costs of the major programs that the National Nuclear Security Administration (NNSA) will undertake in coming years, those projections will only be estimates until such major projects as the Uranium Production Facility (UPF) and Chemistry Metallurgy Research Replacement-Nuclear Facility (CMRR-NF) have been baselined. In a June 25th letter to former directors of our national laboratories, Secretary of Defense Robert Gates and Secretary of Energy Steven Chu addressed this concern when they noted that, as "we achieve a fuller understanding of requirements, funding in future budget years, or target completion schedules, may require adjustment. We are

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committed to carrying out the intent of these and other initiatives to modernize the nuclear security enterprise.

a. Do you agree with the conclusion of Secretary Gates and Secretary Chu that, to fulfill these commitments, future budgets for the nuclear enterprise may need to be adjusted above the projections described in the Section 1251 Report as we gain a fuller understanding of the requirements of the plan?

I support the President's agenda for reducing nuclear risks to the United States and the international community, which is outlined in the Section 1251 Report. In general, I believe that program funding should be considered as part of the budget review for all programs. This is especially true for projects related to the nuclear stockpile, as cost estimates for facilities become clearer and as programs to maintain and upgrade the stockpile mature.

b. How do you view the importance of fully funding the plan described in the Section 1251 Report to modernize the nuclear enterprise in future budgets?

The President's Budget includes $80 billion over the next decade to maintain the nuclear weapons stockpile and upgrade the infrastructure. If confirmed as OMB Director, I will ensure that OMB reviews this funding as part of the budget process, as cost estimates for facilities become clearer and as programs to maintain and upgrade the stockpile mature.

c. How do you view the NNSA's ongoing work to perform surveillance, maintain basic critical skills, and sustain science-based Stockpile Stewardship? Is it important to sustain funding for these activities as the NNSA undertakes such major new infrastructure projects as the UPF and CMRR-NF?

I strongly support the President's agenda for reducing nuclear risks to the United States and the international community, including the proper maintenance of our nuclear stockpile. The President increased this budget from FY 2010 to 2011 by over $600 million, which includes increased funding for stockpile and infrastructure upgrades and investments in laboratory personnel.

65. In a statement issued on May 28, the President said that if the Congress includes funding for an alternate engine for the F-35 Joint Strike Fighter in the Defense Appropriations Act for FY2011, "I will veto any such legislation so that it can be returned to me without those provisions."[4] What is your view of this issue, and how will you advise the President to act if Congress funds the alternate engine?

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[4] *See* Armed Forces Press Service, "Obama backs Gates in budget debate" (May 28, 2010), available at http://www.army.mil/news/2010/06/01/40105-obama-backs-gates-in-budget-debate

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I support the President's decision to end the program. Based on DoD's assessment, there is no programmatic or economic reason to continue with the alternate engine, and canceling the program would result in near-term savings of over a billion dollars that could be used for more urgent programs. Moreover, the alternate engine program has been proposed for termination in every Budget since FY 2007—under both President Bush and President Obama—which reflects the bipartisan consensus that it is unnecessary spending. If confirmed as OMB Director, I will work with DoD to ensure that high-priority programs are fully supported while low-priority spending is redirected to its most effective use.

Budget and Economic Policy

66. Given the dramatically different fiscal outlook the country faces now than when you were formerly the Director of OMB in the late 1990s, what do you believe the significant differences will be in the challenges you face as Director of OMB?

When I began as Director of OMB in 1998, the country was in the midst of the longest economic expansion in its recorded history. During my tenure, real GDP grew at over 4 percent per year; the private sector added over 200,000 jobs per month; and by early 2000, the unemployment rate was at a 30-year low. At the same time, a legacy of fiscal discipline was already in place, starting with the Budget Enforcement Act of 1990 and continuing through the 1993 and 1997 budget agreements. As a result, we had three consecutive years of surplus, including a surplus of $236 billion in 2000, and were on a path towards eliminating the publicly held debt by 2013.

Today, the Nation is recovering from the worst economic crisis in generations. While the economy is growing again, it is growing slowly; it will take many months of job growth to offset the over 8 million jobs lost in 2008 and 2009. At the same time, President Obama inherited ten-year deficits totaling over $8 trillion—driven in part by the previous Administration's decisions not to pay for the 2001 and 2003 tax cuts and the Medicare prescription drug benefit. Despite measures to put our country's finances in order, including the one percent of GDP in deficit reduction proposed in the President's Budget, we remain on an unsustainable fiscal course.

Accordingly, the Director of OMB today faces a different set of challenges and opportunities than I faced in the late 1990s. What has not changed is that the challenge requires OMB to work from solid numbers and analysis, with a capacity to present difficult policy choices in a way that protects core values and reaches out for bi-partisan cooperation. As a participant in many rounds of bi-partisan budget negotiations, including the successful 1997 Balanced Budget Agreement, I think I understand the substantive, procedural, and political challenges that lie ahead.

67. One of the challenges we are currently facing is striking the appropriate balance between pursuing stimulative measures to promote economic growth and create jobs in the short term and reducing structural budget deficits and national debt over the long term. In a recent speech delivered at the Brookings Institution, former OMB Director Peter Orszag said, "I think there has, unfortunately, developed a

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false debate between jobs and the deficit. The debate is poorly framed because, as in many things in life, it's all a matter of timing."[5] Do you agree with Mr. Orszag, and, if so how do you suggest we should determine when the focus of government fiscal policy should shift away from short-term economic stimulus and revert to the nation's long-run fiscal and budgetary imbalances? Generally, how do you believe we can achieve that appropriate balance?

I agree with Mr. Orszag. In the long run, it is crucial that we take significant and concrete steps to get our country back on a sustainable fiscal track. In the short term, however, the economic recovery is fragile, and unemployment remains stubbornly high. Under such circumstances, immediate deficit reduction would be counterproductive, and it is important to continue targeted initiatives that help to stimulate the economy.

The President's 2011 Budget outlines an appropriate transition from economic recovery to fiscal discipline. It lays out a path that brings deficits as a share of the economy from 10 percent of GDP this year to 4 percent of GDP in 2013. This happens as the economy recovers, stimulus measures like the Recovery Act rapidly phase out, and our deficit reduction measures phase in.

Recognizing that we need a bipartisan process to bring deficits down further, the President created the bipartisan Commission on Fiscal Responsibility and Reform, which is charged with recommending policies that will balance the budget excluding interest payments on the debt by the middle of the decade and meaningfully improve the long-run fiscal outlook. The men and women serving on the Fiscal Commission take this task very seriously, and I look forward to their policy recommendations in December.

68. The unemployment rate remains high, and Treasury Secretary Geithner has warned it is likely to go higher before it declines. What policies would you propose to increase the employment rate in this country?

Our Nation is recovering from the worst recession in generations, and too many people are out of work. In the short run, targeted measures are needed to spur job formation. In the long run, investing in education, basic research, export promotion, and increased opportunities for small business will add jobs and lower unemployment.

The Administration has already taken many steps this year to bring down the unemployment rate and to minimize the effects of job loss. The 2011 Budget proposed several further measures. This year alone Congress has enacted and the President has signed the Hiring Incentives to Restore Employment Act (HIRE) and a package of measures that extends unemployment benefits and provides tax cuts for individuals and businesses while also extending Small Business Administration lending. Moreover, Congress recently passed a measure to help States maintain health services and avoid layoffs of teachers, police officers and firefighters. For the

[5] The Brookings Institution, "Fiscal Accomplishments and Budget Update: A Discussion with Peter Orszag, Director of the Office of Management and Budget" (Washington, D.C., July 28, 2010), available at http://www.brookings.edu/~/media/Files/events/2010/0728_fiscal_budget/20100728_orszag_budget.pdf

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longer term, the President's export initiative is also intended to promote employment. The initiative is designed to support the goal of doubling U.S. exports over five years.

Ultimately, however, more needs to be done. Additional measures should be chosen carefully so that they have the highest possible impact. Moreover, given our long-run fiscal challenges, additional support should be done in a responsible way, and the key is to act quickly, so that we can finish the job and return the American economy to full health.

69. GDP growth in the second quarter of this year was 2.4 percent, down from 3.7 percent in the first quarter, and from 5.0 percent in the fourth quarter of 2009. Is it possible to increase the level of economic growth over the rate currently predicted, through appropriate policies? What policies would you recommend be considered to increase economic growth? What level of long-term economic growth level do you believe is realistic?

The Nation is beginning to recover from the worst economic downturn since the Great Depression. Over the last four quarters, the economy has expanded at a rate of 3.0 percent. This growth is due in part to the American Recovery and Reinvestment Act of 2009, which boosted GDP and helped put Americans back to work. The Council of Economic Advisors reports that as of the second quarter of 2010, the Recovery Act had increased GDP by between 2.7 and 3.2 percent. This estimate is in between CBO's two projections for the Recovery Act's effect on GDP, and is broadly consistent with private sector estimates. As of the second quarter of 2010, CEA predicts that the Recovery Act is responsible for between 2.5 million and 3.6 million jobs.

The private sector must be the main engine for future economic growth. The Administration aims to promote private sector growth through appropriate tax and regulatory policies, and through support for innovation, R&D, and education in new areas of economic growth.

70. Do you believe that addressing our nation's long-term budget challenges will require federal revenues to increase as a share of GDP? If so, at what level of GDP do you believe federal revenue will need to rise?

Addressing our nation's long-term budget challenges by definition requires a mixture of increased revenues and decreased spending. The precise combination of the two—and therefore the resulting level of federal revenues—is a central question for the bipartisan Fiscal Commission. I know that the commission is currently considering policies to correct our Nation's medium- and long-term fiscal imbalance, and I look forward to their recommendations in December.

71. The Federal government faces an unsustainable long-term budget outlook. In your view, what actions should the Congress and the Administration take to address our long-term structural budgetary imbalances? Do you have recommendations on how

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the policy-making process could be reformed to more effectively address long-term fiscal challenges?

In enacting the Affordable Care Act (ACA), President Obama and Congress took a historic step in addressing the principal driver of our long-term fiscal imbalance—the rising costs of Federal health care programs, especially Medicare and Medicaid. According to CBO's official score, the Act reduces the deficit by over $100 billion over the next decade and over $1 trillion in the decade after that. Moreover, it fundamentally transforms our health system into one that delivers better care at lower cost.

One particularly relevant element of the ACA is the Independent Payment Advisory Board (IPAB). Beginning in 2014, the IPAB will annually recommend proposals to Congress and the President that will slow the growth in Medicare spending and improve the quality of services for Medicare beneficiaries. Critically, the IPAB's recommendations go into effect unless both Congress and the President specifically reject them.

It is crucial that the Administration and Congress work together on effective implementation of the ACA in the years ahead. If confirmed as Director of OMB, I look forward to working with Congress so that the ACA delivers on its potential.

Even with the historic changes in the ACA, however, the Nation remains on an unsustainable fiscal trajectory. That is why the President has created the bipartisan Fiscal Commission, as noted above. As a staffer to Speaker O'Neill, I worked closely with the 1983 Greenspan Commission, and saw first-hand the importance of leaders from both sides of the aisle working closely to find bipartisan solutions to our Nation's greatest challenges. I hope that the Fiscal Commission, which is modeled on the Greenspan Commission, will be equally successful.

72. Which economic measures or indicators do you believe are most appropriate for determining the point at which policies designed to strengthen the economy in the short-term are no longer needed? In other words, when should government fiscal policy shift from short-term economic performance to the nation's long-run fiscal and budgetary imbalances?

In the long run, it is crucial that we take significant and concrete steps to get our country back on a sustainable fiscal track. At the moment, however, with the economy still in the nascent stages of recovery and unemployment still stubbornly high, it is too soon to tighten fiscal policy substantially. Under these circumstances, elevated deficits are both appropriate and desirable, and it is important to continue targeted initiatives that help to stimulate the economy.

However, it is vital to have a plan that puts us on a path towards fiscal sustainability in the medium and long-term. The 2011 Budget puts us on a path towards fiscal sustainability by 2015, reducing the deficit as the unemployment rate falls and the economy recovers. The Fiscal Commission is expected to propose steps needed for sustainability over the long term.

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73. What do you think is the appropriate rate of growth for discretionary spending over time? Should the Federal government budget for emergencies? If so, how?

There is no single growth rate for discretionary spending that is appropriate at all times, in all cases. For example, under the current economic circumstances, the FY 2011 President's Budget proposed a three-year non-security discretionary freeze through 2013, but projected growth in non-security discretionary funding beyond that point. Within the non-security freeze, the President proposed growth in high-priority areas that will support economic recovery and invest in the future, while also seeking savings by proposing to terminate or reduce $10 billion in discretionary programs.

In terms of budgeting for emergencies, I agree with the Administration's proposal to provide an allowance for the costs of future disasters.

74. In your view, do current federal budgetary accounting rules and practices provide sufficient information to policymakers and the public regarding the likely budgetary costs and market risks economic policy options?

While improvements can always be made, current budgetary accounting rules and practice provide a solid foundation. First, budget outlays are generally projected and recorded year-by-year on a cash basis, which provides a method for understanding the near- and medium-term budgetary costs of the government's recent actions. Second, for the long-term budgetary impact, the *Analytical Perspectives* volume of the President's Budget provides long-term projections of spending for all current programs. These projections, along with those from CBO, give a helpful picture of the country's long-term fiscal outlook. Finally, the recently enacted statutory Pay-As-You-Go (PAYGO) Act requires that OMB record the deficit impact of all legislation affecting mandatory spending and/or governmental receipts on official 5- and 10-year PAYGO scorecards. This requirement will strengthen policymakers' focus on the multiyear costs of legislation. If confirmed as OMB Director, I would welcome additional ideas from the Congress and the policy-making community about other steps to provide useful information about the budgetary implications of current activities.

75. Do you have recommendations on how federal budgetary accounting practices could be reformed to increase recognition by policymakers and the public of the long-term budgetary implications of current programs, current tax provisions, and new tax and spending proposals?

I believe that, while improvements can always be made, current budgetary accounting rules and practice provide a solid foundation. First, budget outlays are generally projected and recorded year-by-year on a cash basis, which provide a basis for understanding the near- and medium-term budgetary costs of the government's recent actions. Second, for the long-term budgetary impact, OMB typically provides long-term projections of spending for all current programs in

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the *Analytical Perspectives* volume of the President's Budget. These projections, along with those from CBO, give a helpful picture of the country's long-term fiscal outlook. Finally, the recently enacted statutory Pay-As-You-Go (PAYGO) Act requires that OMB record the deficit impact of all legislation affecting mandatory spending and/or governmental receipts on official 5- and 10-year PAYGO scorecards. This requirement will strengthen policymakers' focus on the multiyear costs of legislation, and I would welcome additional ideas from the Congress and the policy-making community about other steps to provide useful information about the budgetary implications of current activities.

76. What role do you believe pay-as-you-go (PAYGO) budget rules should have given the present economic and budgetary circumstances?

I believe PAYGO can be an effective tool to constrain increases in the deficit due to changes in mandatory spending and taxes. The recent enactment of the Statutory PAYGO Act of 2010 is restoring fiscal realities to the lawmaking process and helping to usher in an era of responsibility in Washington. However, there may be circumstances where exemptions are warranted – specifically, for temporary policies that are clearly focused on addressing job creation and economic recovery.

In addition, while PAYGO can be an effective constraint on new legislation, it does not address the Nation's unsustainable fiscal path. That is the reason why the President created the Fiscal Commission, which is charged with identifying policies to improve the fiscal situation in the medium term and to achieve fiscal sustainability over the long run.

77. Over the years, there have been various proposals for a biennial budget with funding decisions made in odd-numbered years and with even-numbered years devoted to authorizing legislation. What is your opinion of biennial budgeting?

At the moment, budgeting consumes a great deal of time and energy that could be devoted to addressing programmatic issues from a longer-term and more in-depth perspective. If executed well, biennial budgeting would concentrate budget decisions in the first year of each two-year period, freeing up much-needed time in the second year for management, long-range planning, and oversight.

However, biennial budgeting is not an answer to all the problems of the budget process, and there are many practical difficulties with its implementation. There is already a time lag between the forecasts that shape budget decisions, and the decisions themselves. Biennial budgeting would add a year to that time lag and mid-course corrections would be necessary. Moreover, if the process either becomes too inflexible or too open-ended, biennial budgeting will not work well. If Congress and the Administration decide to enact biennial budgeting, it will require a true commitment from all parties involved.

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78. As you know, the tax cuts that were enacted in 2001 and 2003 are scheduled to expire at the end of this year.

a. What would the short-term and long-term effects on the economy be if the existing tax structure expired?

I agree with the President's view that the tax burden of middle class Americans should not be increased. That is why the Administration proposed to permanently continue the 2001 and 2003 tax cuts for families making less than $250,000, and why it has already proposed and enacted middle class tax cuts that benefits 95 percent of working Americans. Such tax cuts for middle class families are especially important in light of current economic weakness. Unlike higher-income families, middle-income families spend more of their tax relief—which helps grow demand and create new jobs.

By contrast, the upper-income 2001 and 2003 tax cuts—those tax cuts for families making more than $250,000—should be allowed to expire. These tax cuts add substantially to the deficit, are unfair, and do little to promote economic growth. In fact, CBO found that continuing such upper-income tax cuts is among the least effective means of stimulating the economy available. Allowing these tax rates for just the top 2 percent of American households to expire as scheduled will reduce the deficit by more than $750 billion (including reduced interest on the national debt) over the next decade.

b. Do you agree with the President that these tax cuts should only be extended for single taxpayers making more than $200,000 and married tax payers making more than $250,000? If so, why and if not, what incomes do you propose? Why?

The President has been clear that he supports letting the 2001 and 2003 tax cuts expire for the wealthiest Americans. This is the responsible thing to do for the country's long-term fiscal health, saving $750 billion over the next decade. Moreover, as already mentioned, extending tax cuts for the wealthy is inefficient stimulus, as these individuals are less likely to spend this money in the economy than middle-class families. Instead of using this money for tax cuts for the wealthy, it would be far more efficient to spend this money on extending unemployment insurance or on helping states and localities avoid layoffs of teachers, police, and firefighters who will spend their income in the economy.

At the same time, the President has vowed not to raise taxes on middle-class families, especially in the midst of the worst recession in generations. The Administration has proposed to permanently extend the 2001 and 2003 tax cuts for individuals earning less than $200,000 and households earning less than $250,000. It is these families who are the backbone of the economic recovery.

79. According to the Tax Foundation, small business flow-through entities in the top two income tax brackets earn 70 percent of all small business income, and pay 80 percent of the income taxes associated with small business income. Small businesses

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are also significant generators of new jobs in our country. Are you concerned that an increase in the top two rates could affect small businesses and therefore job growth? What are your suggestions to protect small business flow-through entities from tax increases if the 2001 and 2003 tax cuts are allowed to expire for those earning more than $200,000/$250,000?

I support continued efforts to aid small businesses, which are crucial to our economy. The President's 2011 Budget proposes a number of initiatives for small businesses, including a new small business loan fund and increasing the maximum loan size for Small Business Administration loans. Moreover, Congress is considering legislation that expands opportunities for lending. Most small businesses will pay lower taxes as a result of the initiatives in the President's 2011 Budget.

80. Are you a proponent of the Federal government adopting a value-added tax, in addition to the income tax?

The VAT is an idea long debated among academics. I am not aware of any serious discussions of a VAT among economic policymakers in the Administration.

The President has asked the bipartisan Fiscal Commission to recommend policies to achieve medium-term fiscal sustainability and meaningfully improve the long-run fiscal outlook. Those recommendations may include changes in the country's revenue and spending policies, and I believe the Commission must be given the freedom to reach the decisions it deems necessary and appropriate. I look forward to the Commission's report in December.

81. Former Director of OMB, Peter Orszag, was outspoken in his view that rising health costs and federal expenditures on Medicare and Medicaid constituted the nation's central fiscal challenge over the long-term, and that, without changes in federal law, the government's spending on these two programs was on an unsustainable path. Do you believe that, following enactment of the Patient Protection and Affordable Care Act (P.L. 111-148) earlier this year, projected federal spending on health care continues to pose a substantial long-term fiscal challenge?

I agree with Mr. Orszag that rising health costs and Federal spending on Medicare and Medicaid are the main drivers of our Nation's long-term fiscal challenges. I also believe that the Affordable Care Act (ACA) took historic and significant steps towards putting our country back on a sustainable fiscal course while laying the foundation for a higher-quality, more efficient health care system.

First, the official score from the Congressional Budget Office found that the Act will reduce the deficit by more than $100 billion over the next decade and more than $1 trillion in the decade after that. At the same time, the new law includes the most promising ideas from economists and

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leaders from across the political spectrum to bring long-term health costs under control. These include the excise tax on high-cost health insurance plans, the Independent Payment Advisory Board, and measures to curb waste and improper payments in the Medicare system.

As the Administration has noted, just including these proposals in the legislation is no guarantee of success. There is much work to be done to implement these proposals and keep them workable over time. If confirmed as Director of OMB, I look forward to working towards the effective implementation of the ACA.

Finally, even with the successful implementation of the ACA, the Nation remains on an unsustainable fiscal course. More needs to be done. That is exactly why the Administration's Budget proposes more than $1 trillion in additional deficit reduction, and why the President has formed a bi-partisan Fiscal Commission charged with recommending measures to achieve medium term fiscal sustainability and to meaningfully improve the long-run fiscal outlook.

82. President Obama, when he was President-elect, "vowed to get rid of federal programs that no longer make sense and run others in a more frugal way to make Washington work in tough economic times."[6] Peter Orszag in a recent speech said that the President's 2010 and 2011 budgets proposed about $20 billion in terminations, reductions, and savings, and that OMB has asked agencies in their FY2012 budget submissions to identify their least critical programs.[7] What terminations and efficiencies in Federal programs do you believe could achieve the most savings, and by what process do you believe they can be identified and put into place? How large a saving do you believe can be achieved from these efforts

The Federal government must continually review all spending to make certain that every dollar addresses a clear need or problem. The $20 billion in terminations, reductions, and savings that the Administration identified in the 2010 and 2011 budgets are good examples of spending that should be cut. The Administration's 2012 budget guidance also provides a useful means for identifying wasteful, duplicative, or unnecessary spending. The guidance asks non-security agencies to submit budgets five percent below the freeze and also includes an exercise to identify the programs least critical to the agency mission. Finally, while there are some large programs whose termination can produce large savings (such as the F-22 program terminated last year), the Administration's SAVE Award—a process to get Federal workers ideas about how to save money—shows that there are savings of all sizes that can be realized across the Federal government. If confirmed as Director of OMB, I will continue to work with agencies and Congress to identify specific areas of waste and duplication and cut out unnecessary spending.

83. A number or requirements have been instituted or proposed to try to achieve more accountability and control with regard to earmarks. For example, this Committee

[6] Rhee, Foon. "Obama Vows Line-by-Line Budget Review." *The Boston Globe*, November 25, 2008. Available from http://www.boston.com/news/politics/politicalintelligence/2008/11/obama_vows_line.html
[7] *See* the Brookings Institution, note 1 above.

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recently approved S. 3335, the Earmark Transparency Act, a bill to require Congress to establish a unified and searchable database on a public website for congressional earmarks. What do you believe is the appropriate role of Congress and its individual Members in directing government spending, and what measure to achieve greater accountability and control do you believe are needed?

As the government, we have a responsibility to spend every taxpayer dollar wisely and ensure that funding decisions are made in a transparent way. This transparency is especially important for earmarks, which are not subject to competitive or merit-based processes.

The President has been advocating earmark reforms since 2006, when then-Senator Obama worked with several of his colleagues to initiate a series of reforms to bring more transparency and disclosure to the earmarks process. As President, he has continued to be an advocate for greater transparency in the earmarking process to help ensure that earmarks have a legitimate and worthy public purpose.

The Administration has worked with Congress to curb unnecessary and wasteful earmarks, and Congress has made significant progress in this regard. The 2010 appropriations process saw a significant decline in earmarks compared to the previous year. If confirmed as Director of OMB, I will work with Congress to continue to improve efficiency and effectiveness of Federal spending.

American Recovery and Reinvestment Act

84. In response to the economic problems that faced the nation at the beginning of this Administration, Congress and the President enacted the American Recovery and Reinvestment Act of 2009 (ARRA) (P.L. 111-5).

a. How successful do you believe ARRA has been in helping the economy recover, and how many jobs do you believe have been created or saved by ARRA?

When Congress passed the American Recovery and Reinvestment Act (Recovery Act), many experts and commentators predicted that we were on the cusp of a second Great Depression. In the fourth quarter of 2008, real GDP was declining at a rate of almost 5.5 percent per year. That quarter saw a loss of 1.7 million jobs, and employment fell during every month of 2008. The revised GDP statistics show that the actual decline in GDP growth in the third and fourth quarters of 2008 was about twice as large as the preliminary estimates we had at the time indicated.

The Recovery Act has boosted GDP and helped put Americans back to work. The Council of Economic Advisors reports that as of the second quarter of 2010, the Recovery Act had increased GDP by between 2.7 and 3.2 percent. As of the second quarter of 2010, CEA predicts that the Recovery Act created or saved between 2.5 million and 3.6 million jobs. Since the passage of the Recovery Act, government estimates of the effects of the Recovery Act have generally been within CBO's estimates and broadly consistent with private sector estimates.

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b. In hindsight, do you believe that there are provisions of ARRA that could have been implemented more effectively or that should have been implemented more quickly?

When the President signed the Recovery Act, he stated that it was "a balanced plan with a mix of tax cuts and investments." The Recovery Act anticipated a recovery that would take years, not weeks, and was thus designed to include a mix of programs that would stimulate the economy over a two-year timeframe, as well as invest in the long-term economic future of the country. As enacted, the Recovery Act was split roughly into thirds between tax relief, immediate individual and state relief, and reinvestment programs and projects.

The speed with which different Recovery Act provisions have stimulated the economy reflects typical patterns for different kinds of Federal programs. For example, the Making Work Pay tax credit went into effect in April right after the Recovery Act was enacted. Similarly, payments to states to support Medicaid and save teacher jobs accounted for a significant share of early obligations and outlays. Project funding typically spends out at a different pace, as plans have to be developed and properly approved to ensure accountable spending of taxpayer dollars. However, even project funding reflects an aggressive pace of spending, which has been a high priority for the Administration. Given the depth of the recession in 2008, it is good economic policy that stimulus will continue as project funding continues in the coming months.

c. Do you believe there are provisions of ARRA that have not contributed to economic recovery?

Taxpayers benefit from the mix of investments in the Recovery Act, as described above. For example, more than 110 million working families have received a boost in their paycheck thanks to the Making Work Pay tax credit. Governors report that Recovery Act funding for education budgets funded approximately 350,000 education jobs in the first quarter of 2010. And over 3,000 public housing authorities have been awarded Recovery Act funding totaling nearly $4 billion, helping to create jobs, retrofit housing, and support construction projects to improve public housing across the country. All of these gave an immediate boost to the economy.

Other parts of the Recovery Act included down payments on longer-term priority areas—such as broadband development and high-speed rail, which will help continue to drive recovery, modernize our nation's infrastructure, and lay a new foundation for long-term economic growth. Activity in these longer-term investment areas is well underway. For example, roughly $7 billion in broadband funding will be obligated by the end of the fiscal year. The Administration expects that roughly two-thirds of the funding will be spent within two years of the awards, and all of the funds within three years. These awards will bring broadband internet access to communities where there is little or no access—a significant step forward in driving local economic development—at a critical time in the economic recovery.

85. ARRA contained unprecedented reporting requirements by requiring recipients of federal funds, including sub-recipients, to submit detailed quarterly reports to the

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federal government on their use of the funds. Also, the Recovery.gov website developed by the Recovery Accountability and Transparency Board has provided unprecedented transparency to the American public on the spending of stimulus dollars. This transparency is helping to bring greater accountability to federal programs by serving as deterrence against wasteful spending, and by helping the public judge the results of programs. This type of transparency should drive better performance measures for programs across the federal government.

a. What lessons do you take away from the accountability and transparency provisions of ARRA, and do you believe similar measures should be extended to non-ARRA spending?

The Administration's effective implementation of the accountability and transparency provisions of ARRA has given the public a valuable window into the Federal spending process. Since the day ARRA was passed, the Administration has expanded upon the transparency and accountability requirements in the Act. For example, immediately after the passage of ARRA—and well before the Act's transparency requirements called for recipients to report on their receipt and use of ARRA funds--OMB issued an initial round of guidance which called agencies to report in real-time on ARRA obligations and outlays. Subsequent rounds of OMB guidance continued to refine this process. OMB's guidance about the recipient reporting process also included reporting obligations not required by law, but added based on the values learned from the statute itself.

With respect to non-ARRA spending, this Administration has continued to draw on lessons learned from the implementation of ARRA. For example, the new USASpending.gov 2.0 offers significantly improved visibility into government spending and improves the implementation of Federal Funding Accountability and Transparency Act (FFATA).

b. What do you see as the remaining challenges in effectively implementing the ARRA?

As the Recovery Act winds down, it will be important to maintain the momentum that has characterized efforts thus far to implement the Act as efficiently, effectively, and transparently as possible. As agencies and recipients begin exhausting ARRA funds, they will also face the challenge of adjusting to more regular funding levels than they have experienced over the course of ARRA's implementation.

86. Over the past year OMB and the Recovery Accountability and Transparency Board have worked towards encouraging recipients of ARRA funds to report on the use of these funds through Recovery.gov; however, there still remains several recipients who have failed to comply with reporting requirements. What do you believe is the appropriate approach to enforcing the compliance with ARRA reporting requirements? If confirmed, what additional steps might you take to further enforce reporting by non-compliers?

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The Administration has taken rigorous action to address issues of non-compliance with recipient reporting requirements. ARRA requires recipients to file quarterly reports. Where recipients do not meet reporting obligations, agencies are held responsible for appropriate accountability actions. In May, in response to concerns from this Committee and others, OMB issued M-10-17, which requires swift action to penalize non-compliant recipients. President Obama's April 6, 2010, directive also called for more aggressive action by Federal agencies in addressing recipient noncompliance. In addition, I understand that non-compliance is being taken very seriously and that any instance will be addressed.

The number of non-compliant recipients has decreased in each of the prior reporting cycles as the agencies have become more aggressive in combating non-compliance. Every effort will be made to obtain compliance by the recipients and Federal agencies will pursue recipients that fail to complete their reporting responsibilities.

87. An important element of the transparency provisions in ARRA is to provide Congress and the public with information about ARRA spending. While the Recovery.gov website provides important information, it does not give the full picture of the status of ARRA spending. More specifically, the Recovery.gov website fails to disclose what ARRA funds have yet to be committed, that is, the amount of unobligated funds that remain available to be spent in future years. Senator Collins wrote a letter to Director Orszag in February asking that OMB make publicly available information about what funds have been obligated and outlayed, by program, as well as a total of what funds have been spent and what amount remains unobligated. OMB has provided some information, but has not yet been able to provide comprehensive totals, including the total percent of funds that have been spent to-date. How do you plan to make this information available to Congress and the public? How long do you expect making this information publicly available will take OMB?

I understand that Director Orszag responded to Senator Collins with a synopsis of information on the subject of unobligated balances, and that OMB took additional measures to respond to Senator Collins's inquiries in the letter by asking agencies to notify the public when they repurposed funds administratively. In response to regular Congressional interest, the Administration—at the Vice President's direction—has continued to develop new and updated documents that present information on ARRA funds. In addition, Recovery.gov provides updated obligations of all ARRA programs, showing that over 85 percent of ARRA funds have already been obligated to date. Finally, CBO's most recent report confirms that ARRA is on track to meet the ambitious target of spending 70 percent of funds by the end of FY 2010.

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U.S. Postal Service

88. The U.S. Postal Service (USPS) concluded FY2009 with a net loss of $3.8 billion compared to $2.8 billion in FY 2008 and has posted a net loss of $5.4 billion in the first three quarters of FY2010 alone. USPS also reported a mail volume decline of more than 25 billion pieces, or 12.7 percent for FY2009, compared to the previous fiscal year. In March 2010, the Postal Service proposed several changes to attempt to address its declining financial condition. Proposals include restructuring USPS's retiree health benefits from a pre-funding requirement to a "pay-as-you-go" structure, changing the six day delivery requirement to a 5-day delivery schedule, and filing an exigent rate increase.

a. What role do you believe OMB should play in considering these and other proposals? What should be OMB's role in helping identify changes to improve the Postal Service's financial condition?

OMB forecasts Postal Service budget impacts and makes and analyzes legislative recommendations to assist and improve the USPS. The financial health of the Postal Service is important to the bottom line of the Budget of the U.S. Government and to the country more broadly. If confirmed, I look forward to working with the USPS and the Congress to ensure that USPS has the tools and authorities it needs to remain viable during and beyond the current financial crisis.

b. This year the Postal Service Inspector General and the Postal Regulatory Commission both issued reports, concluding that the Postal Service's contributions into the Civil Service Retirement System (CSRS) fund yield an overpayment of $75 billion and $50 to $55 billion, respectively. The Office of Personnel Management, however, is relying on repealed law to contend that it does not have the authority to change the methodology for calculating the CSRS pension fund contribution allocation. The Office of Personnel Management committed, during a recent meeting with Senators Collins and Carper, that it would respond to the reports of overpayment. How will you help ensure that this response is vetted through OMB in a timely and efficient manner?

OMB should facilitate timely responses by agencies to Congressional inquiries and intra-governmental requests. If I am confirmed and the OPM response has not yet been provided, I will work to ensure that it is released as soon as practically possible.

E-Government and Information Technology

89. The E-Government Act of 2002 (P. L. 107-347) gave responsibilities to OMB to develop interagency E-Government services and to promote both interagency cooperation and the use of the internet for providing services to citizens. Every year OMB issues a report on the implementation of E-Government initiatives and

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activities agencies have taken toward providing citizen services. How effective do you believe OMB has been in developing these services, and how will OMB facilitate these initiatives under your leadership?

Agencies continue to make progress in providing electronic government services to the public. For example, IRS Free File has generated over 27 million tax returns and helped the Federal Government save over $68 million. In its lead role, OMB established common operating processes, governance structures, and standard operating procedures for multi-agency technology initiatives.

To improve the transparency of Federal programs, OMB created new technology in 2009 and 2010 such as Data.gov, IT Dashboard.gov, and USAspending.gov. Data.gov, for example, improved public access to Federal data and enabled innovative uses of government data by people outside the government. From these datasets, private persons and organizations developed hundreds of applications that help parents keep their children safe, let travelers find the fastest route to their destinations, and inform home buyers about the safety of their new neighborhood.

If confirmed, I will continue to support the coordination of these initiatives and will look to increase the use of collaborative technologies to improve the efficiency of government operations.

90. The introduced version of The E-Government Act of 2002 (S.830) envisioned a Federal Chief Information Officer. At the time the Administration opposed this provision, saying that the Deputy Director for Management would fulfill that position. The enacted version of the E-Government Act created an Administrator of E-Government and Information Technology, but when President Obama appointed Vivek Kundra to this position he was dual-hatted as Federal Chief Information Officer. Do you believe that this change should be made legislatively? How do you see the different responsibilities of the Deputy Director for Management and the Administrator of E-Government and Information Technology?

The E-Government Administrator, who also serves as Federal Chief Information Officer (CIO), is directly responsible for the oversight of the Federal IT investment portfolio and Federal IT policies.

The OMB Deputy Director for Management, who also serves as the Federal Chief Performance Officer (CPO), is responsible for all aspects of management within the Executive Branch. These include responsibilities for ensuring coordination and consistency of policy areas such as financial management, information technology management, acquisition management, and human resources management.

I do not see the need for further statutory authority for these positions; the CPO and CIO work well together to improve the performance of the Federal government.

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91. An important goal of the E-Government Act of 2002 was to make the federal government more transparent and accountable. Subsequent laws, such as the Federal Funding Accountability and Transparency Act of 2006 (P. L. 109-349), have established additional requirements for making government information available to the public online. In December 8, 2009 OMB issued M-10-06 establishing the Open Government Directive aimed at directing federal agencies to identify and publish online data sets, improve the quality of government information, and create new forms of communication between government and the people through a policy framework.

a. Do you believe this initiative has succeeded at the goals of enhanced government transparency, participation, and collaboration?

As one can see on the Open Gov Dashboard, agencies are making significant progress in promoting transparency, participation, and collaboration. For instance, all Federal agencies have registered high-value data sets on Data.gov to enhance government transparency. The total number of data sets publicly available through Data.gov grew from 47 in May of 2009 to over 270,000 today. The public can also track the performance of Federal IT investments with ITDashboard.gov, monitor the reduction in improper payments with PaymentAccuracy.gov, and explore Federal spending across the country with USAspending.gov. These initiatives are important steps in fulfilling the Administration's commitment to open government and transparency and providing the foundation for a new level of accountability, effectiveness, and communication between government and the people.

b. What would you do, if confirmed, to implement this directive and help agencies make government information more readily available to the general public and federal agencies more transparent overall?

If confirmed, I intend to make open government a priority by ensuring that agencies continue to make progress on their Open Government plans and building upon existing initiatives such as Performance.gov, which allows people to track agency progress in achieving their performance goals.

92. OMB Circular A-130, which establishes policy for the management of Federal Information Resources, has not been updated since 2000. Given the technological and legislative changes in the past 10 years, do you believe that Circular A-130 should be updated to update Federal information resource policy?

Circular A-130, like other OMB guidance, is subject to regular internal review as well as user feedback. I would welcome the Committee's views on whether updates or revisions are needed.

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93. The Office of Electronic Government and Information Technology within OMB has the responsibility for providing overall leadership and direction to the executive branch on E-Government. OMB's Office of Information and Regulatory Affairs also has certain responsibilities, under the Paperwork Reduction Act (P. L. 104-13), regarding the collection and dissemination of government information. Do you believe functions related to the management of government information are appropriately allocated between those two offices, or should those functions or offices be reorganized?

My understanding is that the Administrator for OIRA and the Administrator for the Office of E-Government have a strong cooperative working relationship. Both the Administrators and their respective offices consult frequently and effectively on key issues, and bring useful but different perspectives to the table. I therefore believe that the functions of the two offices, both distinct and overlapping ones, are appropriately allocated, and I look forward to working with each of these offices if I am confirmed.

94. In May 2009, at the appointment of President Obama, the first Chief Technology Officer (CTO) position was created to foster new ideas and encourage government-wide coordination.

a. What impact to you think this position has had over the past year in assisting in OMB's overall management of the Federal government's information technology infrastructure?

The Federal CTO focuses on fostering innovation, new ideas, technologies, and research and development activities. The Federal CIO within OMB, who is responsible for information technology within the Federal government, has been working together with the Federal CTO to investigate and foster new technology solutions nation-wide. For example, the Federal CIO and Federal CTO are working together to explore opportunities to coordinate Federal, State and local government efforts to improve the use of technology to deliver health services across the country.

b. How do you, if confirmed, plan to utilize this position to further increase our Nation's sophistication in using technology to access government services?

The Federal CTO reports to the Director of the Office of Science & Technology (OSTP), who in turn reports to the President. If confirmed, I will work with OSTP Director Holdren, CTO Chopra, and CIO Kundra to advance the President's priorities for establishing an open government and improving the Nation's access to government services through innovative uses of technology.

c. What do you believe the relationship should be between the CTO and the Chief Information Officer (CIO)?

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As I believe has been the case to date, the relationship should be cooperative and mutually supportive. CTO Chopra and CIO Kundra have a great history of working together. The CIO and CTO need to collaborate to solve national challenges using 21st century technology, reform our government so that it is more efficient, and support innovation inside and outside the Federal Government.

95. Information security continues to be a serious and growing problem throughout the federal government. Under the Federal Information Security Management Act of 2002 (FISMA), OMB is required to develop and oversee the implementation of policies, principles, standards, and guidelines on information security for federal agencies. Recently, OMB has played the lead role in implementing the Trusted Internet Connection (TIC) and Federal Desktop Core Configuration (FDCC) initiatives, which are designed to strengthen information security at federal agencies.

a. Please discuss your familiarity and experience with cybersecurity issues.

While I am not an expert on cybersecurity, I worked extensively on Y2K migration during my previous tenure at OMB. Additionally, I have experience at the State Department as well as running the operations of major organizations, so I understand the significance of cyberspace threats to U.S. economic and national security.

b. What do you see as the greatest information security challenges facing the federal government?

To deal with constantly evolving cybersecurity threats, the Federal government needs to have the most talented cybersecurity workforce. Training, recruiting, and retaining skilled cybersecurity experts is fundamentally important for Federal agencies. I support the National Initiative for Cybersecurity Education (NICE), which includes measures to train the current Federal workforce and assist the Nation in building a cybersecurity workforce for the future.

Another challenge the Federal government faces is moving agencies from the static, compliance-oriented security posture of the past towards dynamic, continuous monitoring capabilities. As outlined in OMB memorandum M-10-15, "FY 2010 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management," agencies need to be able to monitor security-related information continuously in a manageable and actionable way.

c. What do you believe OMB's role should be in securing government networks, and how do you believe that role could be exercised more effectively?

OMB recently issued memorandum M-10-28, "Clarifying Cybersecurity Responsibilities and Activities of the Executive Office of the President and the Department of Homeland Security (DHS)," which clarifies the respective responsibilities and activities of OMB, the National

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Security Staff's Cybersecurity Coordinator, and DHS, in particular with respect to the Federal Government's implementation of the Federal Information Security Management Act of 2002. OMB will help develop the cybersecurity portions of the President's Budget and provide budgetary and fiscal oversight of agencies' use of these funds. OMB will also submit the annual FISMA report to Congress and coordinate with the Cybersecurity Coordinator on cybersecurity policy issues.

d. In addition to its responsibilities under FISMA, what role do you see OMB playing in the implementation of the Comprehensive National Cybersecurity Initiative?

OMB is closely coordinating oversight of the Comprehensive National Cybersecurity Initiative (CNCI) with the National Security Staff, who oversee the overall initiative. OMB also participates in the Interagency Policy Coordination group to coordinate the CNCI budget formulation.

96. There have been concerns over the past few years about whether OMB has sufficiently enhanced information security across the Federal government. Specifically many agencies have complained that the guidance issued by OMB under FISMA is not timely, inconsistent from year to year, and does not measure whether agencies are secure.

a. What specific steps will you put in place to ensure OMB is measuring appropriate information security metrics that are timely and correctly identify areas that need more attention?

A task force was established in September 2009 to develop new, outcome-focused metrics for information security performance for Federal agencies. If confirmed, I will ensure that OMB and DHS regularly review these metrics to make sure they are appropriate and that any areas of concern are addressed.

b. How will OMB under your leadership improve agency implementation of information security standards

Under OMB Memorandum M-10-15, DHS has the operational responsibilities for implementation of information security standards throughout the Federal agencies. The National Institute of Standards and Technology will continue to develop information security standards and OMB will promulgate the standards.

If confirmed, I will work with the Cybersecurity Coordinator to ensure that agencies institutionalize these standards.

97. On July 6, OMB Director Peter Orszag and Cybersecurity Coordinator Howard Schmidt issued Memorandum M-10-28, entitled "Clarifying Cybersecurity

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Responsibilities and Activities of the Executive Office of the President and the Department of Homeland Security." This memorandum stated that "[e]ffective immediately, DHS will exercise primary responsibility within the executive branch for the operational aspects of Federal agency cybersecurity with respect to the Federal information systems that fall within FISMA under 44 U.S.C. §3543."

a. How would you interpret this memorandum and the differing roles of OMB, the White House Cyber Coordinator, and DHS as it relates to federal information security?

OMB is responsible for the development and approval of the cybersecurity portions of the President's Budget and for the OMB budgetary and fiscal oversight of the agencies' use of funds. The Cybersecurity Coordinator leads the interagency process for cybersecurity strategy and policy development. DHS exercises primary responsibility within the executive branch for the operational aspects of Federal agency cybersecurity with respect to the Federal information systems that fall within FISMA.

b. Specifically, if confirmed, how would you interact with the Department of Homeland Security to use the governmentwide management and budget role of OMB and the security role of DHS to increase risk-based and cost-effective cybersecurity across the government?

In carrying out its operational responsibility, DHS will be subject to OMB oversight. The Cybersecurity Coordinator will maintain its role in coordinating and overseeing information security policy across various federal agencies and stakeholders. As part of OMB's traditional budgetary role, I look forward to working with the Department of Homeland Security to make sure we are making the appropriate investment to safeguard our federal systems and moving towards an environment that is not simply compliance-based but delivers real security.

98. The federal government will spend close to $80 billion in FY2011 on Information Technology (IT) investments. OMB is responsible, under the Clinger-Cohen Act, for overseeing these major IT investments by approving agencies' business cases and ensuring that investments achieve on average 90 percent of cost, schedule, and performance goals. In June 2009, OMB launched the IT Dashboard to track major IT investments. Through the IT Dashboard, OMB is able to identify more than a billion dollars worth of IT projects that are poorly planned and/or poorly performing. Unfortunately, agencies have been slow to provide accurate information on the IT Dashboard.

a. What is your perspective on the IT Dashboard as a tool for accountability and managing these troubled investments?

The IT Dashboard is a positive and necessary first step in a long-term process to improve our visibility into and oversight of Federal IT investments. Using the Dashboard, people can now

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identify and monitor the performance of IT projects just as easily as they can monitor the stock market or baseball scores. This is a significant change from the previous model, where reporting was done on paper and treated as a compliance exercise. By raising the visibility of this information, IT Dashboard has already yielded major gains in the accuracy of IT investment data. I believe these gains will continue as long as OMB and the public continue to hold agencies accountable for the information they report.

b. What steps do you plan to take to enforce agencies to accurately report IT investment status on the IT Dashboard?

If confirmed, I would ensure that OMB takes a variety of steps to encourage agencies to report IT investment status accurately. OMB should continue the practice of TechStat accountability sessions initiated by the Federal CIO. OMB also has a role to play in ensuring that guidance is clear and consistent. It should constantly engage with agencies to look for ways to improve the data and make it as easy (and secure) as possible for them to submit their data to the IT Dashboard. Finally, as agencies learn that what they report has a direct impact on decisions made by OMB and also that the American public is watching more closely than ever before, data quality will naturally continue to improve.

c. If confirmed, how will use the IT Dashboard or other mechanisms better inform Congressional oversight Committees on those IT investments that are facing cost, schedule, and performance problems before their costs significantly increase?

OMB created the IT Dashboard in part to provide a common platform that would be easily understood by a variety of constituencies, which is why OMB engaged directly with Congress and GAO during the development of the Dashboard. OMB will use the IT Dashboard to inform Congress about troubled or at-risk investments where cost or schedule problems exist, where agency CIOs have given investments poor ratings, or where investments are failing to perform as planned.

99. In addition to the IT Dashboard, in 2010 OMB began conducting TechStat Accountability meetings as a means to provide oversight of poorly managed IT projects and to give the agency responsible action plans toward halting or mediating these problematic IT projects. What steps do you plan to take to institutionalize this process so that OMB may continue to closely monitor the management of specific IT projects and help ensure remedial action when necessary, even after the current individual has left the position?

Since January, OMB has conducted over 30 TechStat sessions, and has scheduled additional sessions. Moreover, various agencies have started developing their own internal versions of the TechStat sessions. If confirmed, I will encourage all agency CIOs to conduct TechStat-like sessions. Additionally, I will use TechStat sessions to complement the annual President's budget review of agencies' IT business cases and budget requests.

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100. OMB memorandum M-05-23 requires agencies to monitor cost, performance and schedule information for major information technology investments using an earned value management (EVM) system. OMB is required to collect this information on a regular basis and help agencies that are experiencing cost, schedule, and performance overruns. Many agencies, however, fail to provide EVM data, either because project managers are not aware of the requirement, do not effectively collect and track EVM data, or do not require contractors to provide accurate and useful EVM data. In addition, the IT Dashboard currently provides cost, schedule and performance information; however this information does not reflect agencies EVM data.

a. What do you intend to do to enhance the education of project managers and senior management to effectively collect, use, and report EVM data?

OMB recently issued Memorandum M-10-27 "Information Technology Investment Baseline Management Policy," in which OMB gave agency-specific guidance regarding requirements for managing and monitoring baselines (including use of EVM).

OMB's Office of Federal Procurement Policy has also issued a memorandum requiring that all project managers running major acquisitions be trained and obtain certain certifications.

If confirmed, I will work with the agencies and ensure that these practices are in place throughout the government.

b. How do you plan to ensure that agencies provide the EVM data to OMB in an accurate and timely manner?

OMB has been holding TechStat accountability sessions to ensure that EVM data is accurate and timely. Since January, OMB has conducted over 30 TechStat sessions, and has scheduled additional sessions. As the IT Dashboard evolves, OMB plans to make EVM data available where relevant.

c. How will OMB use the EVM data submitted by agencies to monitor the status of IT investments government-wide and better inform Congress whether investments are achieving cost, schedule, and performance goals?

Earned value management data received from agencies is one of several indicators available to assess the overall health and performance of Federal IT investments. Yet EVM alone cannot give a full picture of Federal IT investments. Moreover, EVM is not required for every major investment. OMB memorandum M-10-27 requires agencies to provide EVM reports on contracts requiring EVM, and to submit those reports to the IT Dashboard on a monthly basis. When used and used correctly, EVM can supplement the cost and schedule calculation currently available for all major investments.

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d. How do you plan to reconcile the information agencies report on the IT Dashboard with their EVM data?

As EVM is generally only useful for the development portion of new projects, OMB has found that EVM is not entirely sufficient to track the overall performance of IT investments. Given this, OMB decided to put information directly from project plans on the IT Dashboard. This raw data is then used to independently calculate cost/schedule performance information for the entire investment and display it on the public website. Where EVM data is collected, it is the agencies' responsibility to make sure it is consistent with the data they put on the IT Dashboard.

e. If confirmed, how will you ensure that contractors are providing useful EVM data to project managers?

If confirmed, I will work to ensure that EVM policies are in place for all major acquisitions and that agencies are monitoring project data reporting by contractors.

101. The Clinger-Cohen Act of 1996 created Federal CIOs and charged them with strategically planning and managing agency information resources to enhance the way the Federal government achieves its overall mission. Congress originally intended for CIOs to report directly to the agency head, but many agencies have positioned CIOs lower in the organizational structure.

a. What do you see as the role and proper authority of federal CIOs? Do you believe any statutory changes are needed to the authority given to federal CIOs in current law?

Agency CIOs should be responsible for the planning and management of agency information resources, as outlined in the Clinger-Cohen Act of 1996 (CCA). The CCA clearly requires agency heads to ensure that CIOs have the proper authority within their agencies to accomplish this mission.

Agency CIOs are currently working with OMB to develop recommendations on improving the Federal Government's IT management and procurement practices. That review will be completed in mid-October. If I am confirmed, I will use the outcome of that review to formulate any relevant suggestions for statutory changes.

b. What steps, if any, will you take toward providing additional authority to the CIOs to carry out their mission?

As previously mentioned, agency CIOs are currently working with OMB to develop recommendations on improving the Federal Government's IT management and procurement practices. That review will be completed in mid-October. If I am confirmed, I will use the outcome of that review to formulate any suggestions for statutory changes and will work with Congress to help enact those recommendations.

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c. **The Clinger-Cohen Act requires agency CIOs to assess the requirements established for agency personnel regarding information technology knowledge and skills and to develop specific plans for hiring, training, and professional development. If confirmed, what actions will you take to ensure that CIOs effectively fulfill this mandate?**

Qualified personnel are crucial to ensuring that agency IT systems are well planned, managed, and maintained. The Federal CIO Council is currently working on a government-wide IT workforce survey to enable agency managers to identify future workforce needs. If confirmed, I will work with the Director of the OPM to ensure that the survey is completed and that the results are used to help agencies attract and retain the best talent in the future.

d. **The Chief Information Officer Council is the principal interagency forum to improve agency practices for the management of information technology. Do you believe this forum is effective? What steps do you believe need to be taken to improve the Council's effectiveness in fulfilling its role and mission?**

Yes, it is effective. The Federal CIO Council collaborates on a variety of important issues, ranging from the development of the IT dashboard to the workforce survey that identifies IT staffing needs.

As previously mentioned, agency CIOs are currently working with OMB to develop recommendations on improving the Federal Government's IT management and procurement practices. That review will be completed in mid-October. If I am confirmed, I will use the outcome of that review to formulate any relevant suggestions to improve the Council's effectiveness.

102. **In February 2010, OMB's Chief Information Officer directed agencies to consolidate the ever-sprawling federal data centers which had doubled in size from 432 in 1998 to more than 1,100 in 2009. If confirmed, what actions will you take to ensure that the federal government reduces its reliance on energy consuming data centers and maintains maximum virtualization through this consolidation effort?**

Since 2009, OMB has been working with agencies to provide a more detailed inventory of Federal data centers. Preliminary analysis revealed that there was both a significant growth in the number of data centers and also a number of redundant, underutilized and inefficient data centers. This past February, OMB launched the Federal Data Center Consolidation Initiative (FDCCI) to examine in more detail the proliferation of data centers and the energy required to operate these facilities. If confirmed, I will work to ensure that the FDCCI leads to implementable strategic plans that help the government realize cost and energy savings. I will also ensure that OMB works with the Council on Environmental Quality (CEQ) in order to ensure that data center consolidation is institutionalized as part of agency Strategic Sustainability Performance Plans.

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103. Every year federal agencies spend nearly a billion dollars in telecommunication services. To reduce costs, GSA developed a program called Networx and awarded contracts with lower overall cost to government for these services. Transitioning to Networx has proven to be a challenge for many agencies and as such, the federal government is losing millions of dollars in savings by not switching over to the cheaper contracts being offered. During the prior Administration, OMB issued guidance for this important transition. In addition, OMB has continued working with GSA to encourage agencies to transition in a timely manner. Despite these efforts, the transition to Networx still faces significant challenges toward achieving its expected cost savings. Specifically, as of July 2010 only 23% of the total value of the Networx contracts had been achieved. What steps do you believe need to be taken to make this transition of telecommunication services successful?

OMB is actively monitoring the transition efforts and has already directed GSA to take more aggressive actions to accelerate agency transition to the Networx contract. If confirmed, I will work with the Administrator of GSA to finish the transition to the Networx contract and save taxpayer dollars through utilizing a more efficient and effective contract.

104. The President's FY2011 budget called for the establishment of the Integrated, Efficient, and Effective Uses of Information Technology program. The purpose of the program would be to establish a central common platform to provide IT services that would reduce duplicative and inefficient services.

a. What do you see as the defining difference between this new program and services currently provided through the E-Government fund?

The E-Government fund helps promote the development of new innovative solutions to support services to the public or increase efficiency of government operations.

This new fund is primarily intended to support on-going government improvement efforts, such as the Federal Cloud Computing Initiative, Accountability Dashboards, and providing expert resources to support federal CIOs in oversight of IT related activities.

b. If confirmed, how will you ensure that this new program is efficiently managed and achieves its purpose?

As with any other program, OMB will work to ensure that funds are spent effectively. For example, to make certain that E-Government Funds are spent well, OMB, in conjunction with GSA, established the E-Gov Fund Projects Oversight Board. The Board meets monthly to review the status of each project.

c. How will you ensure that the program does not overlap or provide duplicative services from the E-Government fund?

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The Federal CIO is responsible for overseeing the use of both funds; he will ensure that there is no overlap or duplicative services being supported by the two funds. A plan for how the funds will be used is available and has been used to brief Congress this spring on the appropriations request.

d. The E-Government Act requires annual reports on the operation of the E-Government Fund to Congress. Do you believe that the Congress should be kept similarly informed on the activities of this new program?

Yes. If I am confirmed, I will continue to make sure that Congress is informed of the activities of this new fund. The Administration also intends to make much of this information available to the public via transparency websites like USAspending.gov and ITDashboard.gov.

105. In June and July, 2010, OMB issued a series of memoranda in an attempt to reform the government's efforts to manage IT investments and required an immediate review of large-scale financial systems investments and high-risk IT projects across the federal government.

a. Do you agree with the preference, expressed in the memoranda, for a more segmented approach to IT investments as opposed to the long-term approach of past investments that sought to achieve broad-based business transformations? Do you think that over-customization of IT investments should be avoided?

Yes. Too many of the Federal government's large IT system projects have ended in failure, often due to the excessive scope and longevity of these projects. Projects that last too long are exposed to a greater risk of failure. Likewise, excessive customization increases the risk of projects failing or incurring excessive costs. Whenever possible, it is better to adopt commercial solutions with minimal customization.

b. In your view, what improvements do agencies need to make to their own internal investment review processes to ensure more effective management of large-scale and high-risk projects? How should reviews conducted by OMB, (such as the recently-announced reviews of financial management systems and other high-risk IT procurements) relate to agencies' own acquisition review processes?

Senior agency leaders need to be more involved in overseeing IT investments from inception to completion. First, senior leaders should apply best practices in planning, developing, and implementing new systems. Second, they should ensure that IT investments are clearly aligned with agency priorities and that agencies have the capacity to carry out the project. Finally, they must be willing to intervene if an IT project is in jeopardy, including terminating the project if necessary.

OMB's review of financial management systems and other high-risk IT procurement focuses on large, complex, and expensive projects or projects where there are government-wide problems.

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At the same time, agencies should continually review all of their IT investments—both large and small. Among other initiatives, OMB's IT Dashboard and TechStat processes (discussed below) will encourage agencies to improve their internal IT review.

Given the rapid evolution of technology, the government needs to be designing solutions for the next 18 months, not the next 10 years. Doing so will result in smaller but more meaningful results.

c. In what way do you think OMB can exercise oversight over, and bring discipline to, procurements for high-risk IT projects while at the same time avoiding intrusion on agency decisions regarding their mission needs?

OMB has established several initiatives that balance improved IT management and oversight with agency prerogatives. One initiative is the IT Dashboard, which provides agencies with a web-based tool to better monitor their IT investments, while increasing transparency and accountability. Another is the TechStat process, where OMB and agencies work together to formulate a plan for addressing troubled investments; agencies are encouraged to adopt these recommendations internally. Rather than interfere with agency authority, these tools and processes focus on improving the success rate of IT investment across the Federal government. Ultimately, agency CIOs are accountable for the performance of the all IT projects in their agencies and for fulfilling agency needs.

106. The Federal Financial Assistance Management Improvement Act of 1999 (FFAMIA), P.L. 106-107 (codified at 31 U.S.C. § 6101 note), sought to create a common system for prospective applicants for federal assistance to apply for and report on federal grants. This led to the creation of Grants.gov web site, which serves as the federal government's central portal for finding and applying for federal grants. Unfortunately, Grants.gov has had significant problems in the recent past. For example, in 2009, the anticipated increase in the volume of federal grant applications due to the Recovery Act threatened to overwhelm Grants.gov and federal grant-making had to quickly identify alternative methods for accepting grant applications. In addition, after 10 years, Grants.gov still does not meet all of the requirements of FFAMIA such as the development of a common system for both grant applications and reporting.

a. If confirmed, what actions will you take to expand Grants.gov or another, related website to include grant reporting functions?

I am not familiar with all the details of Grants.gov, but I understand that this is an area that OMB is closely reviewing. I believe that providing a robust technical platform for the grantee community to do business with the Federal government is critical to the government's broader grants management improvement goals. To the extent there are additional changes that can be made to improve the overall performance of the system, I look forward to working with the OMB team to identify and implement such changes.

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b. What additional steps will you take to improve and modernize Grants.gov?

I am committed to working with the OMB team and larger grants community on exploring options for the modernization of Grants.gov. It is my understanding that a bill pending before the Senate (S.303) would include additional guidelines for modernizing grants processes and systems. If confirmed, I will ensure that our modernization efforts incorporate any potential legislative requirements.

107. Grants.gov relies on voluntary contributions from the 26 federal grant-making agencies for its funding. GAO raised this funding structure as an area of concern in a July 2009 report (GAO-09-589), noting that untimely agency contributions have adversely affected Grants.gov operations. In its comments on the GAO report, the Department of Health and Human Services (HHS), which serves as the managing partner agency for Grants.gov, stated that "the Grants.gov system funding model is institutionally biased against investing adequate resources in system improvements and could benefit from review."

a. Do you agree with HHS's comments?

It is my understanding that the funding model for Grants.gov is widely used for other government-wide initiatives. If confirmed, I will work closely with the OMB team to review this funding model and determine if a more appropriate or effective approach is warranted.

b. Do you believe the current funding structure allows Grants.gov to be adequately maintained, longer-term planning to be undertaken, and necessary improvements to be made?

If confirmed, I will work closely with the OMB team to evaluate the funding model and its impact on system performance. As we work to modernize Grants.gov, it will be important to evaluate the current funding mechanism to determine if a different approach is warranted.

c. What alternative funding mechanisms, if any, would you recommend considering to support Grants.gov?

If confirmed, I will work closely with the OMB team to review the existing funding model and determine if there are more appropriate or effective approaches for funding Grants.gov.

Regulatory Affairs and Paperwork Reduction

108. What do you believe should be the role of OMB and its Office of Information and Regulatory Affairs (OIRA) regarding regulation, particularly regulation to protect health, safety, and the environment? For example, in what areas should OIRA

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provide guidance to the regulatory agencies, are there areas in which OIRA guidance should be mandatory, and how should any differences in policy or practice between OIRA and an agency be identified and addressed?

As a general matter, I support the centralized oversight role performed by OMB and OIRA under Executive Order 12866. The centralized review of regulations is important to ensure that regulations are developed transparently, are based on sound analysis, and are consistent across the Federal Government and with Presidential priorities and policies. A delicate balance needs to be struck between respecting agency expertise and responsibility and ensuring consistency in analysis and Administration policy.

With respect to guidance to the regulatory agencies, OMB generally issues guidance to assist agencies in carrying out their responsibilities in a consistent and efficient manner. OIRA has issued several documents since the beginning of the Administration that, for example, aim to increase public access to rulemaking information or to assist agencies in collecting reliable survey and statistical information under the Paperwork Reduction Act. If confirmed, I look forward to learning from agencies where further guidance may be helpful.

Differences in policy or practice between OIRA and an agency should be addressed on a case-by-case basis. If confirmed, I would want to work with both OIRA and the agencies should such a situation arise.

109. OIRA is a relatively small office within OMB, but it has many responsibilities under various statutes and executive orders. Administration initiatives in recent years have also added more oversight duties to OIRA's staff, in areas such as oversight of information quality, peer review, and reviews of regulatory agencies' guidance documents.

a. Do you believe OIRA has sufficient staff to carry out all of these tasks effectively?

OIRA officials inform me that they have adequate resources to handle their various responsibilities, including those concerning information quality, peer review, and guidance. If confirmed, I will aim to provide OIRA with the leadership and support it needs to meet its many responsibilities as effectively as possible.

b. Alternatively, do you believe any of these tasks should be eliminated, reduced, or delegated to other federal officials?

At this time, I do not have any views regarding the possible elimination, reduction, or delegation of any of these tasks.

c. Concerns have been expressed regarding the consistency of OIRA's rulemaking determinations (e.g., Agency X's rule is determined to be significant while

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Agency Y's very similar rule is determined to be non-significant). What measures will you take to ensure that OIRA's requirements and guidance applicable to one agency are consistent with those applicable to another agency on similar matters?

Thank you for bringing this matter to my attention. If confirmed, I look forward to learning more about the issue and working with the OIRA Administrator to ensure that OIRA's requirements and guidance are applied consistently from agency to agency.

110. Are there particular ways in which better documentation and more transparency should be required in order to enable members of the public to be better informed of OIRA's interactions with interested parties and agencies?

I believe that transparent rulemaking promotes accountability and public collaboration and participation. If confirmed, I would be ready to study this issue further and consider measures to enhance regulatory transparency, with due consideration of the Executive Branch's legitimate constitutional interests in maintaining the confidentiality of its internal deliberations.

111. In your opinion, do the Paperwork Reduction Act (PRA) and OIRA's implementation of it strike an appropriate balance between the benefits to the public and the burdens on the public that result from data collection by federal agencies? Would it be beneficial to amend the PRA, or to modify OIRA's implementation of it, to enable agencies' data-collection efforts to yield greater net benefits to the public?

Under the PRA, OIRA has the responsibility of weighing the burdens of information collection on the public against the "practical utility" of the information for the agency. I support this approach and I understand that OIRA has recently issued a series of guidance documents on the PRA, with the goal of implementing the statute in a transparent manner that promotes innovative ways of engaging with the public. If confirmed, however, I would be open to working with Congress to consider changes to the PRA that would enable agencies' data collection efforts to yield the greatest net benefits possible.

Privacy Policy

112. President Clinton appointed a Chief Counselor for Privacy at OMB during his second term; however, that position was eliminated at the outset of the Bush Administration. In fact, since January 2001 there has not been any senior federal official devoted to privacy issues notwithstanding a growing set of challenges posed by technological and policy developments and a growing cadre of privacy officers within key government agencies. Please discuss your views on how to incorporate

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privacy concerns into government policymaking and whether you would advocate creating a senior level position within OMB to address privacy concerns.

Privacy is an OMB-wide priority. While laws such as the Privacy Act assign agencies the principal responsibility for compliance, OMB plays a key oversight role and provides guidance to help agencies meet their obligations. As the Federal Government encounters new challenges posed by technological and policy developments, OMB determines appropriate steps to ensure that privacy is fully protected. For example, OMB recently issued two guidance documents that will help agencies to protect privacy as they adopt new, web-based technologies to engage with the public. These new policies reflect OMB's full commitment to guarantee that privacy is protected across the Federal Government. As part of this commitment, OMB continues to gauge the need for new resources and to consider any changes that are necessary to help it meet new challenges.

Regarding a senior-level position on privacy, such a position was valuable in the 1990s. I do not have an opinion at this time on whether there is presently a gap in this area. If confirmed, I will assess whether such a position is needed.

Inspectors General

113. This Committee has strongly supported the work of the federal Inspectors General and recently passed significant legislation that improves the independence and accountability of these critical oversight officials within the federal agencies. What do you believe is the importance of the IGs in enforcing ethics rules, minimizing waste, and preventing conflicts of interest, and what would you do, if confirmed, to help them fulfill this function? What role, if any, should OMB play in helping resolve conflicts between an Inspector General and his or her agency head?

Inspectors General conduct important work in helping to ferret out waste, fraud and abuse in the Federal government. OMB has traditionally played an important role in supporting the work of IGs. OMB's Deputy Director for Management, for example, serves as the Executive Chair of the Council of Inspectors General on Integrity and Efficiency (CIGIE), and serves as a key liaison between the Executive Branch as a whole and the IG community. I am committed to supporting the IGs' work.

With respect to conflicts between an Inspector General and his or her agency head, I believe that OMB can play a role in helping to resolve such conflicts, but only if OMB is requested to play such a role by both parties or by CIGIE. Because OMB has a budgetary role with regard to IGs, it could be perceived as inappropriate or threatening to the IG if OMB were to step into a conflict situation where the affected IG had not invited OMB's involvement.

114. The Inspector General Reform Act of 2008 (P.L. 110-409) included language designed to ensure that the IGs are adequately funded and not subject to retaliation

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via budgeting. Among other things, it specifies that agencies transmit an IG's comments regarding its proposed budget to OMB along with the agency budget request, and that the President's budget request to Congress include the comments of an IG if that IG believes that the budget submission "would substantially inhibit the Inspector General from performing the duties of the office." During the FY2010 budget cycle, the first since the law's enactment, some IGs encountered obstacles in having their comments transmitted to OMB and presented to Congress as the statute requires. Following those challenges, the Committee sent a letter to the former OMB Director, stating that the form and context of the IG's comments about their budget requests should not be prescribed by OMB or the affected agency and that the comments should reflect the views of the affected IG.

a. Are you committed to fully supporting the letter and intent of this provision?

Yes, I am committed to continuing OMB's work with CIGIE and with IGs to ensure smooth implementation of the IG Reform Act in the next budget cycle and beyond.

b. Do you believe there is any ambiguity concerning this provision that needs further clarification?

I understand that the prior Administration, in President Bush's signing statement on the IG Reform Act, expressed some constitutional concerns about that statute's requirement that the President include particular information in his budget recommendation to Congress. Despite this continuing constitutional concern, the Obama Administration has nevertheless decided as a matter of policy to implement the budget-related provisions of the IG Reform Act and OMB undertook a number of proactive steps toward implementation.

Notwithstanding these proactive steps, there was an instance of confusion among, and mishandling by, budget staff concerning the IG Reform Act's requirements during its initial year of implementation. CIGIE surveyed IGs and concluded that this instance was an isolated one. OMB has worked actively with CIGIE during this past year to conduct training of all OMB budget examiners in order to avoid instances of such confusion or mishandling by budget staff in the future. OMB and CIGIE also have made presentations to IGs about how best to support their budget requests to OMB.

In light of these steps toward improved implementation, and the fact that there has been only one full budget cycle since enactment of the IG Reform Act, I believe it is premature to seek legislative clarification of the Reform Act's requirements at this time. Should any ambiguities requiring legislative clarification be identified in the future, I am committed to working with Congress to address them.

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V. Relations with Congress

115. Do you agree without reservation to respond to any reasonable request or summons to appear and testify before any duly constituted committee of the Congress, if confirmed?

Yes.

116. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress, if confirmed?

Yes.

VI. Assistance

117. Are these answers your own? Have you consulted with OMB or any other interested parties? If so, please indicate which entities.

These answers are my own. I consulted with staff from the Administration and from OMB in developing them.

AFFIDAVIT

I, Jacob J. Lew, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Subscribed and sworn before me this 7th day of September, 2010.

Notary Public

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SENATE HSGAC QUESTIONNAIRE
Questions from Sen. Voinovich

1. **In March 2009, the Senate Committee on Homeland Security and Governmental Affairs approved by voice vote S. 303, the Federal Financial Assistance Management Improvement Act (FFAMIA) of 2009. This legislation would reauthorize and enhance the original FFAMIA, which this Committee authored in 1999. S. 303 has since passed the Senate, and has passed the House in an amended form. The Office of Management has been invited to comment on S. 303 on a number of occasions, and these comments have proved useful to House and Senate Committee staff. If confirmed, will you continue to work with this Committee and the House Committee on Oversight and Government Reform to advance this important legislation? Do you share the views of former Director Peter Orszag and current Controller Daniel Werfel, both of who have emphasized the importance of reauthorizing and enhancing the FFAMIA of 1999?**

If confirmed as Director of OMB, I am committed to working with this Committee and the House to advance this important legislation. Improving grants management is a priority of the Administration. We should continue implementing standards and process improvements that lower costs and reduce burdens on government agencies and Federal funding recipients.

2. **The Congress will know shortly whether the President's National Commission on Fiscal Responsibility and Reform will successfully adopt effective budget reforms to resolve our Nation's fiscal crisis, but as you know the Commission could fail to recommend such solutions. Rather than rely solely on the Commission to provide recommendations to solve our fiscal crisis, do you believe the Administration itself should take the lead—as recommended by independent budget experts—to create a specific Plan B in next year's budget to close our deficits and restrain our growing national debt; that is, a plan that includes specific recommendations about spending cuts and revenue raisers?**

I know Erskine Bowles and Alan Simpson, and I know how serious they and the other members of the Commission are about the work they are now doing. I have every confidence that the Fiscal Commission will produce recommendations to achieve medium-term fiscal sustainability and meaningfully improve the long-run fiscal outlook.

3. **On January 30, 2009, President Obama issued a Memorandum on Regulatory Review. Among other things, this Memorandum required the Director of the Office of Management and Budget to produce within 100 days "a set of recommendations for a new Executive Order on Federal regulatory review."**

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On February 26, former Director Orszag published in the Federal Register a Request for Comment on a new Executive Order for Federal Regulatory Review. A subsequent Federal Register publication extended the deadline for submission of public comments to April 20, at which time more than 180 comments were received by the Office of Management and Budget. Almost nineteen months have passed since the President's initial Memorandum on Regulatory Review was issued, and little apparent activity has occurred on this issue since the close of the comment period. What are your views on the appropriate role of the Office of Management and Budget in reviewing rules proposed by executive agencies? How can current regulatory review roles or practices be improved?

Pursuant to Executive Order 12866, which remains in effect, OIRA conducts interagency review of significant regulations to ensure that they are consistent with the law and with the President's principles and priorities, while maximizing net benefits and decreasing unnecessary burdens on the public.

If the President believes that it is necessary and fitting to issue a new Executive Order that changes the current regulatory review roles and practices, I expect that the numerous public comments received would help inform that effort. I believe that any effort to modify the existing regulatory review process should be appropriately inclusive and transparent.

4. **On July 23, the Office of Management and Budget released the Fiscal Year 2011 Mid-Session Review, which contained an upward revision of the estimated budget deficit for the coming fiscal year from the $1.267 trillion estimate included in the February 2010 budget submission to $1.416 trillion, an 11.7 percent increase. This revised estimate represents one of the largest projected deficits as a percentage of Gross Domestic Product since World War II, and is expected to be followed by deficits that will remain significantly above the post-war average through Fiscal Year 2020. Such fiscal realities require Congress and the Administration to carefully scrutinize and target expenditures to fulfill the essential obligations of the Federal government. However, based on the Department of Homeland Security's Fiscal Year 2011 budget request for FEMA preparedness grant programs, it is not clear that this charge is being fulfilled. For example, DHS requested $810 million for the Assistance to Firefighters Grant Program, despite not having disbursed any of the fiscal year 2010 funds made available for this program and having an unobligated balance of $150 million in fiscal year 2009 funds for this program. In addition, DHS requested nearly $2 billion for the State Homeland Security Program (SHSP) and Urban Areas Security Initiative (UASI) even though, as a June 2008 Government Accountability Office (GAO) report stated, allocation of these grant funds in previous years has not been entirely based on risk, as**

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required—specifically no vulnerability assessments were conducted, and there are no outcome-based performance measures to assess the effectiveness of these, as well as all other, DHS preparedness grant programs at enhancing state and local capacity to prepare for, protect against, and respond to catastrophic events, including terrorists attacks.

The Administration is committed to addressing the budget deficit in the coming fiscal years and to improving program evaluation in order to better identify which Federal programs are effective. In funding decisions, programs deemed more effective will take precedence over less effective programs. Efforts are ongoing to measure the effectiveness of the more than $30 billion awarded in DHS State and local grants since 2003. The Administration has also committed to increasing the use of risk analysis in guiding DHS resource allocation.

5. **If you were to be confirmed as the next OMB Director, in order to reduce the budget deficit, would you be willing reduce funding for any homeland security programs, such as certain FEMA grant programs, that are not risk-based and do not have performance measures in place to demonstrate whether or not the program is achieving its intended purpose?**

As I mentioned previously, the Administration is committed to program evaluation; effective programs will be funded before less effective programs. Efforts are ongoing to measure the effectiveness of the more than $30 billion awarded in DHS State and local grants since 2003. The Administration has also committed to increasing the use of risk analysis in guiding DHS resource allocation.

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Senator Thomas R Carper
Additional Questions for the Record
Nomination Hearing for Jacob Lew
September 16, 2010

1. **The Congressional Budget Office recently released an updated estimate for this year's budget – the deficit is expected to be more than $1.3 trillion for fiscal year 2010, which is $71 billion less than last year's deficit, but still quite high. With that in mind, if confirmed, how do you plan to work to lower that number in the short and medium term, without endangering the continued economic recovery? What policies would you put in place as the Director of OMB to ensure the right amount of deficit reduction is achieved over the next few years while simultaneously ensuring that employment and economic activity do not suffer as a result?**

   Answer:

   The President's 2011 Budget outlines an appropriate transition from economic recovery to fiscal discipline. It lays out a path that brings deficits as a share of the economy from 10 percent of GDP this year to 4 percent of GDP in 2013. This happens as the economy recovers, stimulus measures like the Recovery Act rapidly phase out, and our deficit reduction measures phase in. The recent CBO update estimates that this year's deficit will be slightly lower than projected in the President's Budget, but the challenge in the years ahead remains fundamentally the same.

   Recognizing that we need to bring deficits down further, the President created the bipartisan on Fiscal Responsibility and Reform, which is charged with recommending policies that will balance the budget excluding interest payments on the debt by the middle of the decade and meaningfully improve the long-run fiscal outlook. If confirmed, I will look forward to receiving the recommendations of the Commission in December. If confirmed, I will also be working with the President's economic team and Cabinet secretaries to identify cost savings and other opportunities to reduce the deficit and restore fiscal discipline.

2. **The President recently signed a bill that I authored that would force agencies to be more aggressive in identifying, collecting and eventually preventing improper payments. At the same time, the President and your predecessor committed to halve the amount of improper payments agencies make. How do you plan to implement the new improper payments law and what steps you would take to make sure that agencies meet and exceed the President's goals in this area?**

   Answer:

   Effective execution of the recently enacted Improper Payments Elimination and Recovery Act (IPERA) is critical to the Administration's efforts to remediate payment errors. IPERA requires agencies to deploy more robust approaches for identifying, reporting, preventing, and

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recovering payment errors. OMB, working closely with Federal agencies and the Inspectors General community, has begun to lay the groundwork for successful implementation of these objectives.

Specifically, as a result of Executive Order 13520, signed by the President in November of 2009, there is now a senior accountable official for all programs with significant errors, a public dashboard (www.paymentaccuracy.gov) with information on the status of agency efforts, and new recommendations from government experts and other stakeholders on strengthening improper payment audits and providing incentives for states and local governments to reduce improper payments. The President has also directed Federal agencies to increase recoveries of payment errors by leveraging the use of specialized auditors who are paid based on the amount of improper payments recovered. Also, the President directed the implementation of a "Do Not Pay List" to increase access to databases such as the Social Security Administration's master file that records when beneficiaries die and the General Service Administration's Excluded Parties List System to reduce payments to clearly ineligible recipients, such as deceased or incarcerated individuals and excluded contractors.

I believe these steps align with and reinforce IPERA objectives. Therefore, if confirmed, I will work to ensure that these activities continue to be executed in a manner that achieves the intended result of preventing and recapturing payment errors. In addition, I will work with the OMB team, Federal agencies, and the Inspectors General community to implement additional measures necessary to achieve the objectives of IPERA.

3. **I understand that during your first tour of duty at OMB – in July of 1998 – you issued a government wide memorandum asking agencies to pursue Energy Savings Performance Contracts. I'm told that you urged agencies to allow the savings generated by these contracts to be retained at the site or source where they were achieved in order to provide incentives for facility managers. I happen to think that this was a great idea and I wanted to know whether or not this is something you might want to consider doing again if confirmed. I'd also like to hear about any other ideas you might have to cut the federal government's energy bill.**

Answer:

It is my understanding that the 1998 Memo that I issued on ESPCs is still in force. If confirmed, I will work to ensure that agencies implement the directives contained in Executive Order 13514 signed by President Obama to save energy, reduce water use, and promote sustainability, and will look for additional opportunities for the Federal government to promote wise and sustainable use of our energy and other resources.

4. **If confirmed, how will you help enable the Chief Information Officer and his team to do more with respect to cutting information technology costs and making agencies more efficient, and more secure? Further, what more do you think needs to be done to move the ball forward in these areas.**

Answer:

The Federal Chief Information Officer is leading a government-wide effort to develop recommendations to improve the procurement and management of IT in the government. If confirmed, I look forward to working with the Federal CIO to implement those recommendations to improve IT program management results in the Federal government in the future.

I would also work with the Federal CIO to reduce costs and improve agency IT efficiency and security by supporting efforts such as data center consolidation, cloud computing, and cybersecurity monitoring systems through the budget process.

5. **On March 23, 2010, Amtrak President and CEO Joseph Boardman testified before a House committee that the replacement, expansion and modernization of locomotives and rail cars are Amtrak's "most urgent unfunded need." The average age of Amtrak's rolling stock is approaching 25 years. Over the next 14 years, Amtrak needs to buy 780 single-level cars, 420 bi-level cars, 70 electric locomotives, 264 diesel locomotives, and 25 high-speed trainsets. Amtrak has requested that the initial purchases be financed through a Railroad Rehabilitation & Improvement Financing (RRIF) Program loan. Do you support efforts to utilize the RRIF program to modernize Amtrak's aging fleet? What is the current status of discussions with Amtrak about this issue?**

Answer:

The Administration believes passenger rail is an important component of the Nation's transportation system, and is committed to improving intercity passenger rail service. The President's recent proposal for an upfront $50 billion investment in infrastructure reaffirmed support for rail, including support for funds to begin modernizing Amtrak's fleet. Federal credit assistance can be a useful and appropriate tool for activities like rail car fleet modernizations, as long as potential loans are credit-worthy, can show repayment ability, and are consistent with Federal credit policies. Given Amtrak's unique structure as a private company whose operations are supported with Federal appropriations, it is critical that any potential loan be consistent with Federal credit policies.

Since the RRIF program is administered by Department of Transportation, questions on the status of loan applications would be best answered by the Department.

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Senator Mary Landrieu
Additional Questions for the Record
Nomination Hearing for Jacob Lew
September 16, 2010

1. **Offshore oil and gas has generated over $165 billion in revenue for the Federal Treasury since 1933 – making it the second largest source of Federal revenue after income tax. In the past, that revenue has bypassed Gulf States and gone directly to the Federal Treasury, while states that host onshore energy production receive 50 percent of the revenues as compensation for their impacts. The Gulf of Mexico Energy Security Act of 2006 (GOMSEA) (P.L. 109-432) resolved this inequity, but doesn't go into effect until 2017. The 37.5 percent of bonuses, rents and royalties derived from oil and gas leases off the Gulf Coast authorized in GOMESA should be dedicated to coastal protection and restoration in Gulf States today, not seven years from now.**

   a. **What is your position on coastal states receiving their fair share of revenues from hosting offshore oil and gas drilling?**

   Answer:

   It is important to recognize both the benefits and the risks of offshore oil and gas drilling both to the hosting regions and to the nation as a whole. I understand that the Administration has not taken a position on expanded sharing of revenue with coastal states from oil and gas leases in the Federal waters of the Outer Continental Shelf. However, any legislation to do so would need to take into account the impact on future deficits.

   b. **Do you agree that the best and most logical method of funding hurricane protection and coastal restoration in South Louisiana is through the sharing of revenues from the oil and gas production that takes place off our coast?**

   Answer:

   The Administration is currently evaluating a number of ways to fund hurricane protection and coastal restoration in the Gulf, and if confirmed, I look forward to working with the Congress on this in the very near future. However, I think it is important to note the significant progress that has been made on hurricane protection, as well as increased collaboration among agencies and local partners—particularly since the start of this Administration.

2. **Under the Clean Water Act, BP will have to pay a penalty for each barrel spilled from the Deepwater Horizon disaster. Depending on whether BP is found to be simply negligent or grossly negligent, these penalties could range from $5 billion up to $20 billion. I have led an effort to dedicate 80 percent of any penalties or fines collected under the Clean Water Act for the BP Oil Spill to the long-term**

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conservation, restoration and protection of the Gulf Coast under the direction of a multi-state task force comprised of Federal, State and local representatives.

Would you support using 80% of the Clean Water Act's penalties resulting from the Deepwater Horizon oil spill for long-term conservation, restoration and protection of the Gulf Coast?

Answer:

The responsible parties should pay for costs to remove the oil and restore economic damages from the Deepwater Horizon spill, and they are in the process of paying these immediate costs. Under the Clean Water Act, fines and penalties to be paid by the responsible parties go to the Treasury and the Oil Spill Liability Trust Fund. I understand that Secretary of the Navy Ray Mabus will be issuing a report offering a framework for recovery from the BP Deepwater Horizon Oil Spill. I think it is important to defer comment on the specifics of recovery issues until we hear the recommendations of that report. The Administration has been committed to conservation and restoration efforts in the Gulf since long before the spill. For example, OMB and the Council on Environmental Quality co-chair a Gulf Coast Ecosystem Working Group, established over a year ago. Post-spill restoration efforts are already underway, including the Natural Resources Damages Assessment process, which is intended to remediate and restore environmental resources to their pre-spill baseline levels.

3. **The Natural Resource Damage Assessment is a process which Natural Resource Trustees conduct to calculate the monetary cost of restoring injuries to natural resources that result from releases of hazardous substances or discharges of oil. NRDA regulations are promulgated under the Oil Protection Act (OPA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund. In the near future, NRDA will direct BP funds to restore areas damaged by the spill.**

Do you agree that this down payment should be proportionally allocated among States based on actual damages?

Answer:

The Natural Resource Damage Assessment process is well established to ensure that responsible parties pay for injuries to natural resources. The "NRDA Trustees," which include both Federal and State experts and scientists, will evaluate the ecological injuries caused by the spill and determine the best means to address those injuries. In most cases restoration will occur where the actual damages occurred. There are situations where offsite restoration projects will be more effective, such as restoring wetlands not impacted by the spill to mitigate for the permanent loss of wetlands damaged by the spill.

4. **The Interior Department's own economic forecasts estimate that the drilling moratorium will cost 9,000 direct jobs and 13,797 indirect jobs, along with a freeze**

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in $10.2 billion in industry spending. For the sake of the Gulf Coast economy, do you support the issuance of permits to companies that demonstrate their compliance with the new safety regulations that came out in June 2010?

Answer:

The Administration understands well the enormous importance of oil and gas to the Gulf region and the Nation's economy. As we have learned from recent experience, we have a responsibility to make sure that offshore drilling is regulated appropriately in the future. I understand that DOI is implementing appropriate guidelines and requirements for safe offshore energy development and is evaluating whether to make any modifications to the scope or duration of the current deepwater drilling suspensions.

5. **As you know, Northrop Grumman's Avondale Shipyard in Westwego, Louisiana is scheduled to close. We need the full power of your office to help remedy this reduction in U.S. defense manufacturing capacity. Currently, the shipbuilding industry, both private and public, accounts for 20 percent of all manufacturing jobs in Southeast Louisiana. On average, the Avondale Shipyard directly employs some 5,000 workers. That amounts to about $660 million in labor income and almost $2 billion in economic output that helps fuel our state economy. Clearly, the closure of a shipyard at this time threatens the economic recovery of the Gulf Coast.**

Solutions exist that would utilize the capacity of the Avondale shipyard and fix a serious safety issue looming within the Navy. The Navy's T-AO 187 Class Fleet Oilers currently operate with single-hull cargo tanks. Under the Oil Pollution Act of 1990, the United States led the effort to ensure that both new and existing oil tankers would have double-hulls. Spurred on by US leadership, the International Maritime Organization imposed double-hull standards for large tankers. One of the few entities not complying with this rule is the U.S. Navy, whose single-hulled fleet oilers must operate under a conditional waiver. The 30-Year Shipbuilding Plan would not remedy this problem until 2017. That is too long to wait. The recent oil spill in the Gulf highlights the damage that can occur from oil pollution.

We propose utilizing the Avondale yard to complete its currently planned work on the LPD-26 and LPD-27 and then using the facility to replace our outdated fleet of oilers through a Fee-for-Service Program. This plan would assure the Navy's compliance with the Oil Pollution Act, and eliminate its need to operate under conditional waivers. In addition, this proposal has the opportunity to save $4 billion in defense spending and reduce these ships' fuel usage by 29% (700 million gallons).

Given the importance of Avondale Shipyard to the State of Louisiana and the Nation's shipbuilding capacity, would your office support this initiative?

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Answer:

I support the Navy's efforts to build a balanced and capable fleet and will work with them to build the ships they need, consistent with the President's policies and the resources available.

I understand your concern about the potential employment challenges that could be associated with the closure of the Avondale facility—a private facility of the Northrop Grumman company. I share your concern about the risks associated with job loss at a time when unemployment rates are too high to satisfy any of us. I also share the Administration's commitment to creating and saving jobs across the country during these difficult economic times.

6. **FEMA issued $1.2 billion in loans to local governments after Hurricanes Katrina and Rita to replace lost revenue and sustain increased operating costs. On January 15, 2010, Vice President Biden pledged to forgive all Special Community Disaster Loans. Despite legislative authority to forgive these loans for applicants who demonstrate a three-year operating deficit after the storms, the federal government may require repayment of between $239 and $497 million from dozens of hard-hit communities. Maximum flexibility is required to count all eligible expenses, exclude non-applicable revenues, and classify mixed-use expenses as operating rather than capital costs.**

I know you are aware of the hardships Gulf Coast residents have endured over the last five years. Do you agree that four hurricanes, a global recession, and now the Deepwater Horizon disaster create exceptionally rare and difficult circumstances in which affected communities should be granted as much flexibility as possible when reviewing applications for Community Disaster Loan forgiveness?

Answer:

There is no doubt that the Gulf Coast has faced a unique set of challenges over the past several years—combined with a difficult set of economic circumstances across the country and the world. In conjunction with State, local, and congressional partners, I am aware that this Administration has taken a fresh approach to recovery in the Gulf Coast, committing to restore long-term vitality and sustainability previously unseen in the region. My understanding is that FEMA Administrator Fugate committed to Senator Landrieu to revisit the initial findings of the Special Community Disaster Loan (CDL) cancellation evaluation, and that this review is underway. If confirmed as Director, I will work with FEMA to bring the issue to resolution.

7. **As a Senator, the aggregate federal spending on children is valuable information to have in order to make policy decisions. According to research by First Focus, the President's Fiscal Year 2011 budget increases spending on children by over 10 percent. However, I am sure many in the Administration do not know this fact. As Director of OMB, would you be willing to provide Congress with a separate analysis**

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of all spending on children's programs in the annual budget? Currently, federal law mandates that the President's budget include many specifics, such as an analysis of all spending on homeland security. A similar accounting for children's spending will categorize the diverse sources of funding in a unified place, providing a clear picture of the federal resources benefiting America's young people.

Answer:

I agree with you that information about trends in Federal spending on children could be helpful. However, I would also note that it could be difficult to capture such data in the account-level information collected as part of the President's Budget, because a large portion of such spending benefits children only indirectly, such as income support or tax benefits to families, or health research on diseases that affect both children and adults. I am not familiar with the First Focus estimates, but if confirmed, I would analyze their research and assess how it could be adapted to provide meaningful data as part of the President's Budget.

63830.108

Senator Claire McCaskill
Additional Questions for the Record
Nomination Hearing for Jacob Lew
September 16, 2010

1. **I believe that government contracting should be as fair and competitive as possible. This is the main reason that I have been so outspoken about the unlimited no-bid contracts that can be obtained by Alaska Native Corporations, including holding hearings on this issue in the Subcommittee on Contracting Oversight. Last year, the Senate Armed Services Committee, of which I am a member, took a small step towards limiting this preference by requiring that federal agencies justify and approve all sole-source contracts over $20 million. I was a strong supporter of this provision.**

   The implementation of this law through the federal rule-making process has been delayed by OFPP's decision to hold a series of meetings with Alaska Native Corporations and tribes regarding this provision. While I admire the commitment to outreach, I am frustrated by the continued delay. Do you commit to moving forward as quickly as possible with the implementation of this law? When do you anticipate that the rule will be finalized?

   Answer:

   I understand that the Office of Federal Procurement Policy, working with the FAR Council and the Small Business Administration, has committed to a series of outreach meetings with Alaska Native Corporations and tribes in October, and if confirmed, I will ensure that the feedback from these meetings is considered appropriately and in a timely manner so this statutory requirement can be implemented as soon as practicable.

2. **Do you believe that additional steps should be taken to improve competition and transparency in government contracting? Please explain.**

   Answer:

   Yes. Competition and transparency are critical in government contracting - competition promotes cost effective and innovative solutions, while transparency provides a powerful defense against fraud, waste, and abuse. The President's Memorandum on Government Contracting directed agencies to maximize their use of competition, and OMB has taken action to increase both competition and transparency through the implementation of the Recovery Act and the Federal Funding Accountability and Transparency Act. OMB has also called on all Executive Branch agencies to reduce their use of un-competed contracts by 10 percent in FY 2010. I view these initiatives as important steps in a continuous

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improvement effort to increase competition and transparency and ensure taxpayer dollars are well spent.

3. **You stated that you believe that now is the wrong time to reduce the federal deficit, because of the economic downturn. You also stated that it is critically important that we take action now that will reduce the deficit in the future, in order to demonstrate the commitment to fiscal discipline that our creditors will expect if they are to continue to finance our debt. As you know, the Sessions-McCaskill proposal would impose caps on discretionary spending for the next three fiscal years. Those caps would allow for spending increases of about 1%. In your view, would implementing the Sessions-McCaskill spending caps threaten economic growth or the recovery? Would they send a message to creditors that the United States, despite partisan disputes in Congress, is serious about addressing the deficit?**

Answer:

The United States is recovering from the worst economic downturn since the Great Depression. Under such circumstances, immediate deficit reduction would be counterproductive, and it is important to continue to make targeted investments necessary to spur economic growth.
I believe that the President's 2011 Budget outlines an appropriate transition from economic recovery to fiscal discipline. It lays out a path that brings deficits as a share of the economy from 10 percent of GDP to 4 percent of GDP in 2013, and includes a three-year freeze on non-security discretionary spending which would bring that spending to its lowest level in nearly half a century. Recognizing that we need a bipartisan process to bring deficits down further, the President created the bipartisan Commission on Fiscal Responsibility and Reform, which is charged with recommending policies that will balance the budget excluding interest payments on the debt by the middle of the decade and meaningfully improve the long-run fiscal outlook.

In this context, discretionary caps can be an important tool for reducing deficits, but they can only be one component of a deficit reduction package. The bipartisan budget consensus reached in the 1990's helped to bring the budget back into balance and included caps on discretionary funding to help meet this goal. But that consensus also included bipartisan agreement on both mandatory spending restraints and increased revenues to combat the deficit. Moreover, experience with discretionary caps strongly suggests that caps must be realistic and achievable or they will not hold.

Achieving an overall deficit reduction agreement would send an even stronger message to creditors we are serious about confronting our long-term deficit problem than would discretionary caps alone. That is why the charge of the Fiscal Commission is so important. The men and women serving on the Commission

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take this task very seriously, and, if confirmed, I look forward to their policy recommendations in December.

4. **On March 9, 2009, President Obama issued an Executive Memorandum to all federal departments and agencies declaring his intent to adopt policies that protect scientific integrity, which will prevent political officials from suppressing or altering scientific or technological findings and conclusions. That order directed the White House Office of Science and Technology Policy Director to develop recommendations for Presidential action designed to guarantee scientific integrity throughout the executive branch by July 9, 2009. However, this deadline has come and gone. It is my understanding that all directives must be cleared by OMB before they can be released. Can you assure me that you will do all in your power to ensure that the Scientific Integrity directive is issued as quickly as possible, and that the directive is strong and comprehensive?**

Answer:

I share the view that scientific findings should be handled in a manner that preserves their integrity. I am not familiar with this specific issue, and if confirmed, I will look into this issue promptly.

5. **OMB has procedures for ensuring and maximizing the quality, objectivity, utility, and integrity of information prior to government-wide dissemination. However, it is crucial that the OMB not interfere in federal agency science and that the science that is the foundation for regulatory decisions be transparent. Do you agree? How will OMB ensure this transparency in the process?**

Answer:

Under Executive Order 12866, agencies have primacy in reaching scientific judgments and OIRA has a reviewing and coordinating role. With respect to transparency, if confirmed I will be happy to work with the OIRA Administrator to explore ways in which OMB can further promote transparency in the decision-making process.

63830.111

Senator Jon Tester
Additional Questions for the Record
Nomination Hearing for Jacob Lew
September 16, 2010

1. **Earlier this summer, G-20 leaders committed to halve deficits by 2013. Is that a realistic and achievable goal for the United States?**

   Answer:

   Last year's deficit was 9.9 percent of GDP, and cutting that in half by 2013 is an achievable goal as the economy recovers and the temporary stimulus measures phase out. However, the remaining deficit would still be too large, and would not stabilize the debt as a percent of GDP. The President's 2011 Budget included deficit reduction policies that have exceeded the G-20 goal, bringing the deficit to around 4 percent of GDP going forward, and the President created the National Commission on Fiscal Responsibility and Reform to propose further policies to reduce the deficit down to sustainable levels. If confirmed, I look forward to receiving the recommendations of the Commission as we develop the 2012 Budget.

2. **Some economists have suggested that we need to establish a credible long-term plan to reduce deficits but that we continue to stimulate the economy in the short term. What is your view - what is the appropriate timing to pursue deficit reduction measures? Are there specific indicators that we should be monitoring?**

   Answer:

   The President's 2011 Budget outlines an appropriate transition from economic recovery to fiscal discipline. It lays out a path that brings deficits as a share of the economy from about 10 percent of GDP last year to 4 percent of GDP in 2013. This happens as the economy recovers, stimulus measures such as the Recovery Act rapidly phase out, and deficit reduction measures phase in.
   The key indicators we should be monitoring to determine when policy should shift are real GDP growth, job creation, and the unemployment rate. However, I want to emphasize that I believe we don't need to wait to pursue long-term deficit reduction. We can act now, by enacting policies that are scheduled to take effect not immediately, but once the recovery is well established. If confirmed, I look forward to the opportunity to construct a 2012 President's Budget that meets the dual imperatives of supporting economic recovery and making meaningful proposals for long-term deficit reduction.

3. **We have had an incredibly difficult time getting FEMA and the Army Corps to work together to address a serious problem facing many communities – the issue of certifying their levees for the National Flood Insurance Program. I am talking about levees that were built by the Corps and are periodically inspected by the Corps. But then FEMA says you need to hire a private engineer to have them**

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accredited for the Flood Insurance Program. And for the last year, anytime small cities in Montana would ask for help from the two agencies, all they would get is finger pointing. Only FEMA can do this. Only the Army Corps can do that. And all that our communities hear when this happens is "Our government is not working." The good news is some of that bureaucratic fighting has lessened recently. But it is by no means settled.

What will you do to ensure that federal agencies coordinate their activities – for example, when Army Corps inspects a levy that the information that they gather meets FEMA standards and that when FEMA writes requirements, they take into account what information the Army Corps is already gathering?

Answer:

I can assure you that I understand the need for these two agencies to work together on the Flood Insurance Program and, if confirmed, will work to ensure that happens.

4. **In May, I was proud to introduce S.3321, the Public Online Information Act which mandates that the Executive Branch make public records permanently available on the Internet and establishes a committee to issue government-wide guidelines on making public information available on the Internet. How can OMB be most effective in ensuring that agencies are as transparent as possible in posting their public records online? Does the OMB offer any best practices to agencies to make information available online?**

Answer:

Although I am not familiar with this legislation, I join the President in supporting the public dissemination of government information as way to promote government transparency and accountability. I understand that OMB has played a key role in the Administration's Open Government Initiative, which has encouraged agencies to increase the amount of information they make public. If confirmed, I will review the issue and explore ways in which OMB can further promote government transparency, using the Internet and information technology.

5. **Does OMB post all public documents online? What percentage of the OMB's documents are considered to be public documents? Is that posting permanent, or is the posting for a limited time?**

Answer:

Based on the information provided on OMB's website, my sense is that OMB publishes a tremendous amount of information about the President's budget and the various management activities for which OMB is responsible. I do not know what percentage of OMB's documents is considered public, or whether every public document is posted

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online, permanently or temporarily. Should I be confirmed, this is a matter I will review carefully.

6. **Energy development on Indian lands has the potential to provide a long-term foundation for many reservation economies while substantially increasing domestic energy supplies. It is estimated that Indian reservations contain 10% of the United States' traditional and renewable energy resources, despite the fact that reservations comprise less than 5% of the total land area of the U.S. In addition, while there are 2.1 million acres of leased coal, oil, and gas in various phases of exploration and development on Indian lands, there are an estimated additional 15 million acres of undeveloped energy resources on Indian lands. Renewable wind, solar, and biomass potential on Indian lands are among the greatest in the Nation. However, the Department of Energy's tribal programs are consistently never funded, underfunded or the demand far exceed the available funding.**

How will you work with the Department of Energy to help unlock the potential for energy development on Indian lands, which will in turn, provide a sustainable economy to many Indian tribes?

Answer:

If confirmed, I will examine the issue of funding for the Department of Energy's tribal programs and will work with the Departments of Energy and the Interior to ensure that there is proper coordination between the Departments and appropriate consultation with Tribes with respect to energy development on Indian lands.

63830.114

Senator Susan M. Collins
On behalf of Senator Richard G. Lugar
Additional Questions for the Record
Nomination Hearing of Jacob Lew
September 16, 2010

1. **As Deputy Secretary of the Department of State, you adopted a thoughtful approach to toward the use of the reflows from phased-out Enterprise Funds to permit resulting Foundations to continue to foster the free enterprise and open-market goals of the American people. If confirmed, how would you instruct the Office of Management and Budget to handle the reflows of those Enterprise Funds that will be winding down?**

Answer:

The Enterprise Funds in Eastern Europe and the former Soviet Union have been a largely successful program to promote free enterprise and democratic reforms while also earning a return on their investments in some cases. It is important that the U.S. taxpayer see some return on these original Enterprise Fund grants. But there are also circumstances in which it serves our national interest to promote ongoing interests in these areas. Some of the reflow proceeds from the Enterprise Funds should continue to be returned to the Treasury, while certain reflows may be reprogrammed to support U.S. legacy foundations that promote economic reform and sound policies to foster economic growth and stability. If confirmed, I would work to try to reconcile the views of our foreign policy and fiscal policy teams on this issue.

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Senator George V. Voinovich
Additional Questions for the Record
Nomination Hearing for Jacob Lew
September 16, 2010

1. **Congress will know shortly whether the President's National Commission on Fiscal Responsibility and Reform will successfully adopt effective budget reforms to resolve our Nation's fiscal crisis. There is a chance that the Commission could fail to recommend such solutions. Rather than rely solely on the Commission to provide recommendations to solve our fiscal crisis, will you – as recommended by independent budget experts – create a specific Plan B in next year's budget undertake a review of the entire federal budget, cut spending, reduce our deficits, and restrain our growing national debt?**

   Answer:

   OMB staff are constantly evaluating different approaches and plans as part of the Budget process. But let me say that I know Erskine Bowles and a number of Commissioners very well, and I know how serious they and the other members of the Commission are about the work they are now doing. I have every confidence that they will produce recommendations to achieve medium-term fiscal sustainability and meaningfully improve the long-run fiscal outlook.

2. **The personnel security clearance program has been on GAO's high-risk list since 2005 due to concerns about the timeliness and quality of security clearance investigations and adjudications. Several efforts have been made to improve timeliness. What contributions do you think OMB could make to improving and assessing the quality of security clearance investigations and adjudications, and encouraging reciprocity among agencies so that employees who transfer from one agency to another do not have to be reevaluated for a security clearance, which would result in significant cost savings for the federal government?**

   Answer:

   As Chair of the Security Clearance Reform Performance Accountability Council (PAC), OMB plays a critical leadership role in coordinating and overseeing security clearance reform efforts across the Federal government. The decades-old backlog of investigations, which as recently as October 2006 stood at almost 100,000 cases, has been eliminated. The timeliness of investigations and adjudications has also improved. Whereas initial security clearances took an average of 81 days in fiscal year 2008, they took an average of 45 days last quarter. As a result, the Federal government is now meeting the timeliness requirements established by the Intelligence Reform and Terrorism Prevention Act of 2004.

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These advances were made possible by ongoing improvements to security clearance procedures, training, information sharing, and technology support. One such improvement involves initiating new requirements for reciprocity that enable the elimination of unnecessary or redundant investigations. Further, in response to recommendations made by the Government Accountability Office (GAO), the PAC has developed quality measures that will enable confirmation that investigations and adjudications remain robust and reliable as clearance process timelines continue at an accelerated pace. If confirmed, I will work to ensure that we sustain and, where appropriate, expand the various new solutions that are enabling us to meet our security clearance reform objectives today.

3. **I supported enactment of the Weapons System Acquisition Reform Act of 2009, which calls for competition throughout the life cycle of major acquisition programs. Can you provide me with your view of the role competition should play in acquisition and procurement policy at the Department of Defense?**

Answer:

Competition is the cornerstone of Federal acquisition, including defense contracting. Competition helps our taxpayers save money, improves contractor performance, and promotes accountability for results. As the President's Memorandum on Government Contracting directs, all agencies must work harder to avail themselves of competition and reduce the risk of costly overruns associated with sole source contracting. In this regard, I was pleased to hear that the Defense Department recently reiterated the importance of "real competition" that harnesses the full energy of the marketplace. In particular, I believe the Department's renewed focus on how best to leverage the marketplace at each program milestone of major acquisitions is an important step forward. I will continue to work with OFPP and DOD on efforts to bring more competition and accountability to the Defense Department's contracting process.

4. **Given the President's recent announcement of his support for a multi-year transportation bill, what solutions, if any, do you believe Congress should consider when it comes to paying for such a bill?**

Answer:

The Administration intends to work in a bipartisan way to pass a multi-year reauthorization without increasing the deficit.

We are confident we can work with Congress to enact a multi-year reauthorization of Federal surface transportation programs in a way that does not negatively impact the deficit. We intend to work with Congress to restore solvency to the surface transportation trust fund and make certain all new transportation infrastructure investments are paid for. This may be achieved through a variety of mechanisms. For example, we believe that some new infrastructure investments can, in part, be financed by closing oil and gas loopholes, as the President proposed in the Budget. While we need to explore a broad

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range of options, there is a long tradition of funding surface transportation with fees associated with vehicle and fuel use.

5. **Do you support a continuation of a user-fee financed transportation system?**

Answer:

Most surface transportation infrastructure investments have been paid for by means of fuel taxes and other user fees paid into the Highway Trust Fund. However, this system has broken down, and the trust fund has been allowed to become insolvent. The Administration is committed to restoring fiscal responsibility in transportation programs and to paying for all new infrastructure investments in a manner that upholds the user-pays principles as much as possible. I believe, however, that it is important for us to look at a range of options.

6. **Do you support the continuation of the Highway Trust Fund as the mechanism to ensure that any user-fees collected from transportation users is, in fact, invested in transportation and not used for other purposes?**

Answer:

The Administration supports the principle that user-fees collected from transportation users should be invested in transportation and transportation-related infrastructure.

7. **What does "front-loading" transportation spending mean if it is not a new stimulus proposal?**

Answer:

In order to jumpstart growth now, the President believes that a significant portion—$50 billion—of total new infrastructure investments should be front-loaded in the first year in order to jump-start growth and put a down payment on investments in our future economic prosperity for decades to come. The President has outlined a framework that builds on the temporary measures in the Recovery Act and links them to a long-term plan to rebuild and expand this nation's infrastructure investment. Unlike ARRA, the President envisions the $50 billion in additional funding as the leading edge of a multi-year reauthorization of surface transportation. This will give states and localities the certainty to plan for sustained investments and consider more complex projects that require a longer time horizon.

8. **I know you share my strong commitment to scientific integrity, transparency, and data quality to support Federal policies. As OMB Director, you will have responsibility for OMB's oversight of the Information Quality Act (IQA). I understand that OMB has in the past has intervened with the US National Toxicology Program's (NTP) Report on Carcinogens in an attempt to bring its peer review, public comment response, and procedurals into compliance with the IQA. It is my understanding that concerns continue to be raised that NTP's current process fails to comply with the IQA. Given the Administration's stated goals for**

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transparency in Federal science and OMB's responsibility for the IQA, will you commit to have a senior member of OMB investigate these concerns with the NTP process and to seek the input of all stakeholders on this matter?

Answer:

Thank you for raising this issue to my attention. If confirmed, I will be happy to look into working with NTP to ensure that its process is compliant with the OMB and HHS Information Quality Guidelines.

9. **I am very concerned that the loan guarantee program authorized under Title XVII of the Energy Policy Act of 2005 is not being implemented by OMB to meet the unique needs of applicants to build new nuclear power plants. In addition, OMB is not transparent or communicative regarding its policies. This is now reaching a point where it is jeopardizing the future of nuclear energy in the U.S. I have spent a good portion of my time in the Senate putting in place the essential elements needed to enable a nuclear renaissance, and do not want to allow this situation to remain unaddressed. I, along with seven other Senators, signed a letter to OMB Director Peter Orzag and DOE Secretary Chu dated December 22, 2009, describing our concerns. We have yet to see a response to our letter. Can you commit to assessing the issues identified in this letter and responding within 1 month of your confirmation, including having your staff discuss the issues with my staff?**

Answer:

If confirmed, I will address both the substantive issues of the program raised in your letter and the process issues that you raise here, and will ensure that our responses are timely.

10. **The credit subsidy required by OMB and DOE for applicants to pay upfront includes the risk that the loan recipient will not be able to repay the loan. However, OMB has apparently capped the recovery rate at 55% for some applicants regardless of the financial assets that are part of the application. This artificially raises the amount of the credit subsidy, which can mean a billion dollars in extra costs for a loan guarantee (vice actual loan dollars that can be put to use in building a plant), and makes these projects untenable to investors. Why can't OMB and DOE use the project specific information in the loan applications to calculate the credit subsidy vice the current one-size-fits-all approach (e.g., a fixed recovery rate)?**

Answer:

It is my understanding that the recovery rates used in DOE's loan guarantee program are not capped or fixed, and are based on a number of project- and loan-specific factors. I can assure you that, if confirmed, I will look into the issue of the recovery rates used in this program.

11. **For several years now, the DOE and OMB have not budgeted for the 1 percent amount required to address CBO scoring of new loan volume. This means that Congress must cut the budget for other important programs when appropriating money for the loan guarantee program. This situation is unacceptable for an efficient budgeting and appropriation process. Why can't the Administration budget for this?**

Answer:

As I mentioned in the hearing, I am a firm believer that consistent budget scoring rules are an important tool in promoting fiscal responsibility. Occasionally, CBO and OMB have different opinions on the estimated budgetary cost of credit and other programs. I am not familiar with the details of this particular budget scoring issue, but, if confirmed, I will look into the source of the discrepancy between CBO and OMB scoring for these loan guarantees.

12. **The U.S. Enrichment Corporation (USEC) submitted an update to its loan application on July 30, which addressed the financial and technical criteria previously identified by DOE during the initial review of the application. The lack of transparency in the process is demonstrated by the fact that no estimated timeline for completing the review has not been promulgated by OMB and DOE, although the project means up to 8000 jobs in Ohio and surrounding states. When do OMB and DOE estimate the review of USEC's update to its application will be completed?**

Answer:

I am not familiar with the specifics of the USEC loan guarantee application. However, if confirmed, I will consult with DOE on the schedule for completing the USEC application.

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Senator John Ensign
Additional Questions for the Record
Nomination Hearing for Jacob Lew
September 16, 2010

1. **In your previous position at the Department of State you had responsibility for implementing the Partner Vetting Program (PVS). Can you please provide a full and formal written update of the Partnership Vetting Program (PVS)?**

   Answer:

   Implementation of USAID's PVS program was significantly affected by the passage of the FY 2010 Appropriations Act, which prohibited the use of funds to implement PVS at USAID or State, but authorized a pilot program. The legislation also imposed requirements on the pilot program that substantially complicated the way forward by requiring that such a program be applicable equally to State and USAID programs and guidance in the conference report that such a pilot should only be undertaken in up to five countries. Since State and USAID programs are quite different, and since many countries do not have both a State and USAID program, designing a pilot program that meets the purposes of any vetting system while meeting the conditions directed by Congress has been quite challenging. State and USAID working groups have designed a risk-based pilot program that we would anticipate implementing in five countries. State now must prepare the necessary Federal Register notices for such a program. Although USAID had completed its Federal Register notice and comment procedures, the legislative language tying the State and USAID vetting together means that the USAID will need to wait until the State notice and comment procedures have been completed prior to its implementation of the pilot program.

2. **What is the current timeline for implementation? How has this changed over the last year?**

   Answer:

   As noted above, State and USAID working groups have been working to design a common pilot program. It cannot be implemented until the necessary notice and comment rulemaking has been completed. How long that process will take depends in large part on how much interest there is in the proposal from private entities, such as NGOs and contractors.

3. **As we discussed, and as you agreed in our meeting on September 15th, 2010, will you also provide the same update and timeline to House Committee on Foreign Affairs and the House Appropriations Subcommittee on State, Foreign Operations?**

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Answer:

Yes.

4. **CBO projects that debt at a share of our nation's economy will increase from 63percent in 2010 to nearly 90 percent in 2020. And these estimates exclude the cost of major policy changes. Do you feel that these numbers represent a sustainable fiscal course? Are you concerned that our net interest payments on debt are projected to reach 18 percent in 2020?**

Answer:

Yes, I am absolutely concerned about the projections you mention. Over the long term, the nation appears to be on an unsustainable fiscal course. Deficits last year stood at about 10 percent of GDP, due to the previous Administration's unpaid-for 2001 and 2003 tax cuts and prescription drug benefit, as well as the recession and the policy response required to prevent a second Great Depression.

President Obama's 2011 Budget proposes more than $1 trillion in deficit reduction—more deficit reduction than proposed in any Budget since I was OMB Director under President Clinton. This deficit reduction, in addition to the ongoing economic recovery and the phase out of temporary job creation measures, will reduce deficits by the middle of the decade to 4 percent of GDP.
Yet more needs to be done to put the country on a sustainable fiscal trajectory. Even with the deficit reduction proposed in the Budget, at this rate, debt will continue to grow as a share of the economy. At the same time, rising health care costs and the aging of the population will drive up Federal spending on Medicare, Medicaid, and Social Security.

This is why the President created the bipartisan Commission on Fiscal Responsibility and Reform. The Commission is charged with proposing policies that balance the budget excluding interest payments on the debt by 2015—deficits of roughly 3 percent of GDP—which is projected to stabilize the debt-to-GDP ratio. The Commission is also charged with proposing measures that will meaningfully improve our long-term fiscal outlook, which would begin to reverse the trend of growing interest payments. The men and women serving on the Fiscal Commission take this task very seriously, and, if confirmed, I look forward to their policy recommendations in December.

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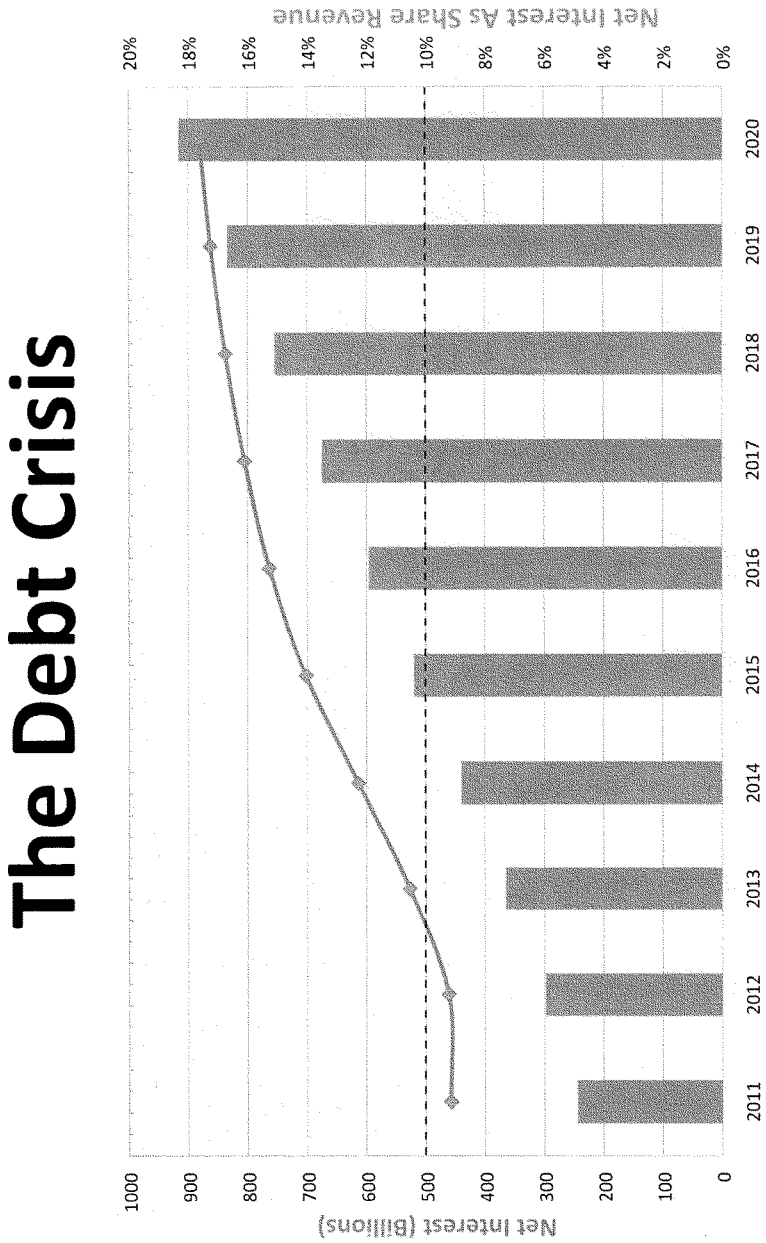

Source: Congressional Budget Office

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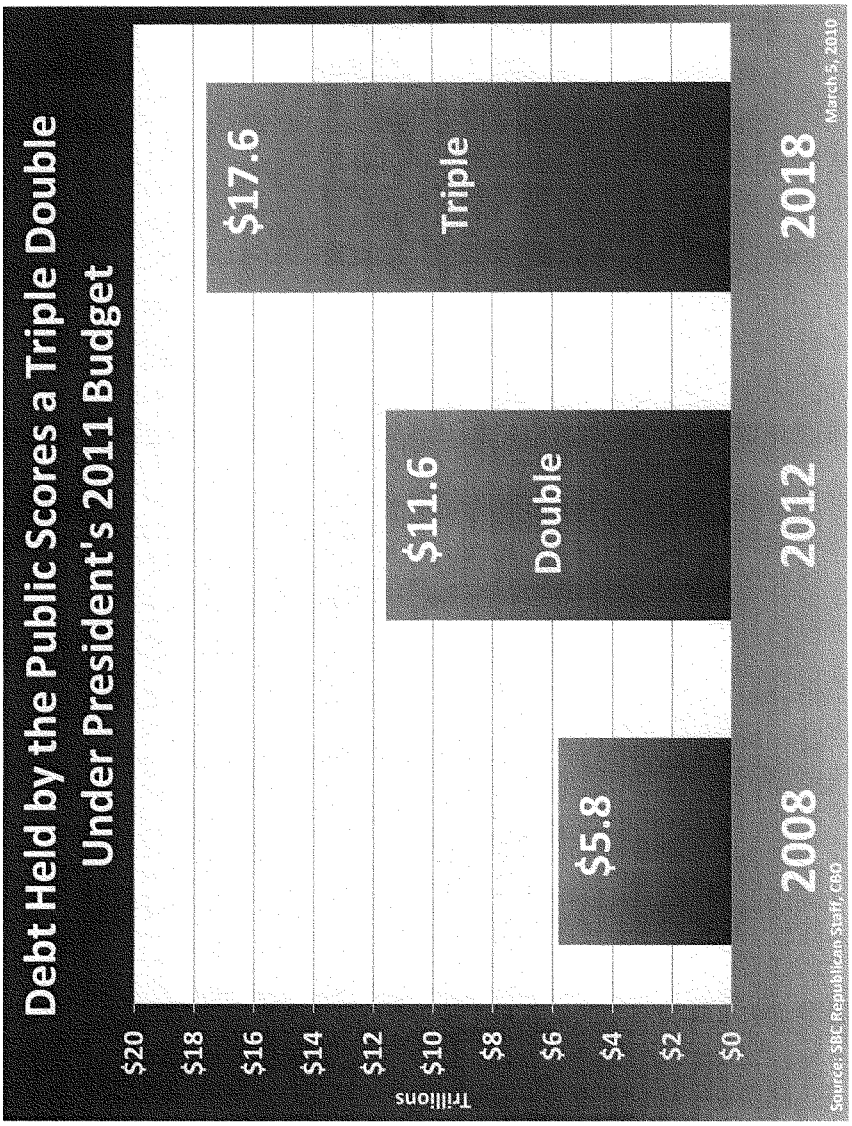

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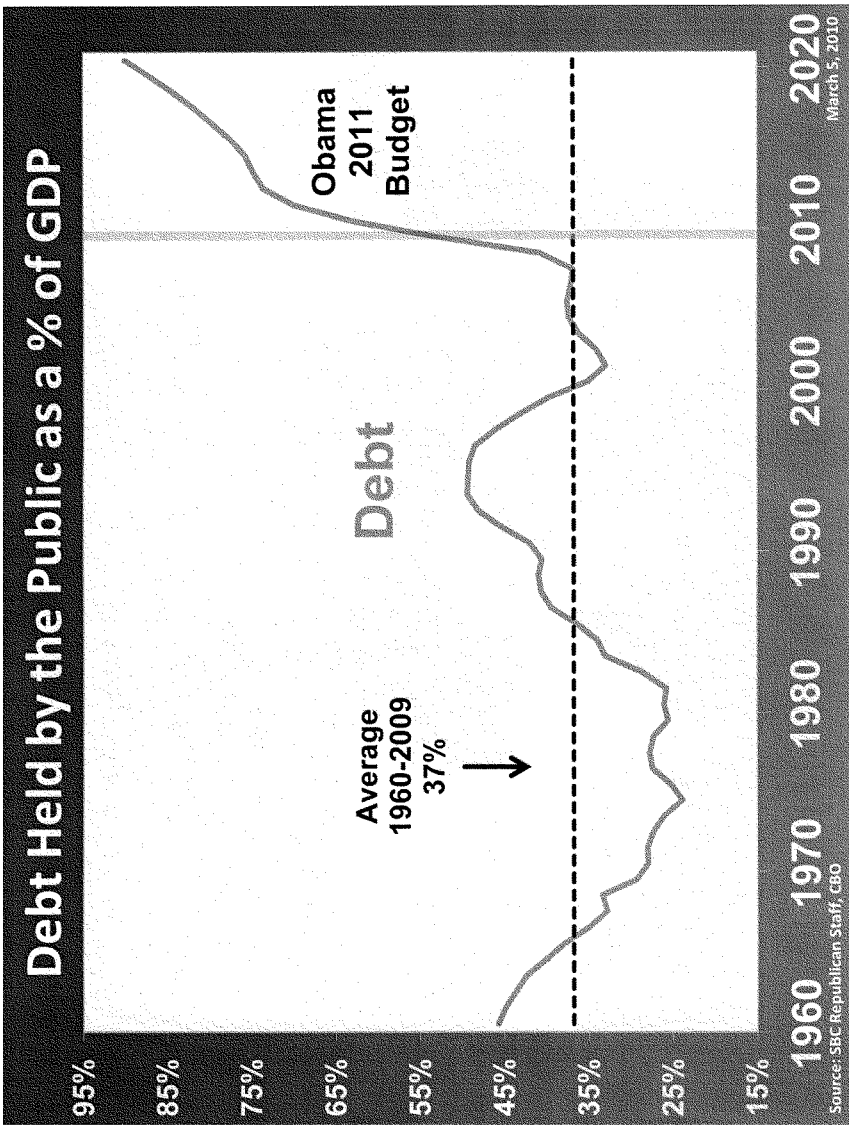
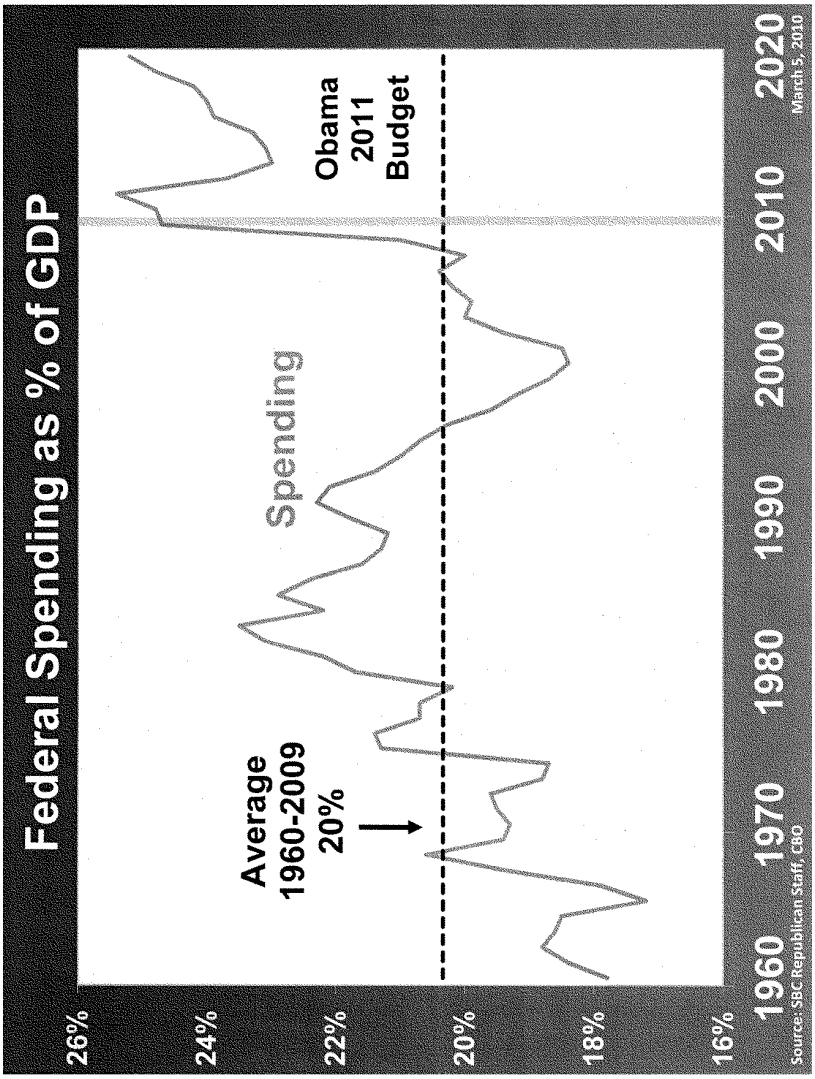
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