

**NOMINATIONS OF BROCK LONG, RUSSELL
VOUGHT AND NEOMI RAO**

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

NOMINATIONS OF BROCK LONG TO BE ADMINISTRATOR, FEDERAL
EMERGENCY MANAGEMENT AGENCY, U.S. DEPARTMENT OF
HOMELAND SECURITY, RUSSELL VOUGHT TO BE DEPUTY
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, AND NEOMI
RAO TO BE ADMINISTRATOR, OFFICE OF INFORMATION AND
REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET

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NOMINATIONS OF BROCK LONG, RUSSELL VOUGHT AND NEOMI RAO

WEDNESDAY, JUNE 7, 2017

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

The Committee met, pursuant to notice, at 10:02 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Ron Johnson, Chairman of the Committee, presiding.

Present: Senators Johnson, Portman, Lankford, Hoeven, Daines, McCaskill, Carper, Tester, Heitkamp, Peters, Hassan, and Harris.

OPENING STATEMENT BY CHAIRMAN JOHNSON¹

Chairman JOHNSON. Good morning. We will call this hearing to order. We are going to be waiting for Senator Hatch, who will make an introduction.

I want to welcome the nominees. I want to thank you for your willingness to serve this country. Coming from the private sector myself, and this is absolutely true, I have been very impressed with the quality of individuals that work for the Federal Government. This nomination process is not easy, as you are well aware, but the fact that we have so many patriots that are willing to step up to the plate, subject themselves to this process, and serve in the Federal Government for probably a whole lot less than you can make in the private sector, says an awful lot about your dedication to this country. I truly want to thank you for that.

I know, in your opening statements, you will introduce your family members. Specifically, I want to welcome all of them, and I will leave it to you—do not forget to introduce your family members.

For my opening statement, all I really want to do is to quick read a description of the jobs, basically, you are going to be filling, what the agencies do, and then I will turn it over to my Ranking Member, Senator McCaskill, and then hopefully Senator Hatch will be here to make an introduction. Otherwise, we will proceed.

We are considering three nominations, one for the Administrator of the Federal Emergency Management Agency (FEMA), one as Deputy Director for the Office of Management and Budget (OMB), and then the third is the Administrator of the Office of Information and Regulatory Affairs (OIRA).

The FEMA Administration serves as the principal advisor to the President and the Secretary of Homeland Security on emergency

¹The prepared statement of Senator Johnson appears in the Appendix on page 39.

management. The Administrator's duties include the operation of the National Response Coordination Center (NRCC), the effective support of all emergency support functions, and more generally, preparation for and protection against, response to, and recovery from all hazard incidents.

The Administrator is also responsible for management of the core Department of Homeland Security (DHS) grant program supporting homeland security, and for providing an annual estimate of the resources needed for developing the capabilities of Federal, State, and local governments necessary to respond to a catastrophic incident. FEMA is 22 percent of DHS's overall budget. A pretty simple job. I mean, not much to it, so I appreciate you are willing to take it on.

The Deputy Director of Office of Management and Budget, the role of that individual varies from Administration to Administration, but is viewed as a general deputy to the Director, assisting the Director in carrying out the President's budget and management agendas across the Executive Branch. The Deputy Director is primarily responsible for budget development and execution. In addition, the Deputy Director oversees eight OMB offices: General Counsel (GC), Legislative Affairs, Strategic Planning and Communications, Economic Policy, Legislative Reference, Budget Review, and Performance and Personnel Management. The remainder of OMB is overseen by the Deputy Director of Management.

From my own standpoint, the reason I came here is we literally are mortgaging our children's future. We are \$20 trillion in debt. The projected deficit over the next 30 years is \$129 trillion. These figures are incomprehensible, so, Mr. Vought, you have some real challenges ahead of you as well.

Finally, the Office of Information and Regulatory Affairs, was created as part of the 1980 Paperwork Reduction Act (PRA), a law intended to curb the amount of, and duplication in paperwork requirements imposed by regulatory agencies on the public. The Administrator oversees requests from agencies for any new information and collections in paperwork requirements. The Administrator also oversees and coordinates proposed regulations from agencies.

OIRA also conducts a regulatory review of so-called significant rules, ensuring the analysis and legal basis used to justify proposed rules is sound and consistent with criteria established in relevant Executive Orders (EO) going back to 1993. This may include ensuring that cost-benefit analysis uses well-established methods, that the agency considered potential non-regulatory alternatives like market mechanisms, and that the agency clearly identified a problem which justifies regulatory action. The Administrator ultimately may decide to either approve the rule or return it to the agency, with recommended changes.

From my standpoint, I think the number one component of a solution of whatever problem we are talking about within this Nation is economic growth. I think the number one impediment to growth is overregulation. A \$2 trillion per year regulatory burden, almost \$15,000 per year per household. Ms. Rao, you have your challenges ahead of you as well, making sure that we only issue regulations to provide certainty to the private sector. Hopefully we can start rolling back overregulation that harms economic growth.

With that I see our esteemed colleague, Senator Hatch, has arrived. To be respectful of your time, Senator Hatch, I think you would like to make an introduction and we will let you do so right now.

**OPENING STATEMENT OF THE HONORABLE ORRIN HATCH, A
UNITED STATES SENATOR FROM THE STATE OF UTAH**

Senator HATCH. Well, thank you so much, Mr. Chairman. It is my distinct pleasure to introduce Professor Neomi Rao at today's hearing, and to fully commend her confirmation to the Committee.

I have known Professor Rao for some time now, ever since she worked as a counsel to the Senate Judiciary Committee. Since then, Professor Rao has distinguished herself in private practice, government service, and academia. Her experiences have prepared her well for what will be an important and challenging task ahead.

The position of Administrator of OIRA may not receive as much fanfare as other nominations but it plays a critical role in modern policymaking. This Administration has said that it would get serious about regulatory reform. Republicans in Congress have said the same. Professor Rao's confirmation will be an important step forward in fulfilling that promise.

Professor Rao's qualifications speak for themselves. After graduating from Yale, Professor Rao attended the University of Chicago Law School. She then clerked for Judge Harvie Wilkinson III on the Fourth Circuit, and Justice Clarence Thomas on the Supreme Court. After spending a few years in private practice, she served as an Associate Counsel and Special Assistant to the President, and then began a career in academia. She currently teaches at the Antonin Scalia Law School at George Mason University, where she is also the Founder and Director of the Center for the Study of the Administrative State.

Mr. Chairman, there is little doubt at this point that our present system for formulating and implementing Federal regulatory policy is simply unacceptable. For years, citizens and businesses have complained about an administrative process that is opaque and unresponsive, and for years this process has produced results that too often harm economic growth while rarely improving public health and welfare.

Accordingly, over the span of several past Administrations, a consensus has formed that an important step in streamlining and improving the administrative process is to empower an OIRA administrator. Professor Rao is supremely and uniquely qualified to step into this role. Under her watch, we can expect OIRA to carefully scrutinize rules to assure that they satisfy cost-benefit analysis.

But, of course, as Professor Rao gets to work, we cannot take our eye off the ball here in Congress. We will need more than just exceptional candidates like Professor Rao at OIRA. The Legislative branch must do its part. That is why I was pleased to co-sponsor the Regulatory Accountability Act (RAA), along with Senators Portman, Lankford, Manchin, and Heitkamp. The Committee reported the legislation to the full Senate last month, and I am hopeful that the rest of our colleagues on both sides of the aisle will join us in making it law.

The RAA is a carefully negotiated bipartisan effort to codify existing policy that streamlines and improves the rulemaking process. Further, I will be introducing legislation later this month, the Separation of Powers Restoration Act, that will begin a conversation about the growth of Federal regulation enabled by the Chevron Doctrine and abetted by broad legislative delegation.

Just like the confirmation of Professor Rao, these efforts at regulatory reform are not about politics. Regardless of which party controls the presidency, regardless of which controls Congress, our administrative process is broken. The time to fix it is now.

In conclusion, Mr. Chairman, I will say one more time that I am very pleased to be here today to introduce and recommend Professor Rao for this important post. The Federal policymaking process and Federal policy, generally, will stand to benefit from her leadership. I want to thank you very much for this opportunity to testify today and for your kindness in allowing me to go forward. And I wish you the best. You will do just great.

Ms. RAO. Thank you, Senator Hatch.

Senator HATCH. Thanks, Mr. Chairman.

Chairman JOHNSON. Thank you, Senator Hatch. We certainly appreciate that.

I do want to recognize the fact that Senator Burr had a conflict so he is unable to attend, but he wanted to introduce Mr. Long, and I will ask consent to enter his written statement and recommendation into the record.¹ Also that Representative Hensarling was going to introduce Mr. Vought but also had a conflict and we will enter his written statement and recommendation into the record² as well. We also have some other letters of recommendation for the nominees, which I would also ask consent to enter into the record.

With that I will turn to our esteemed Ranking Member, Senator McCaskill.

OPENING STATEMENT OF SENATOR MCCASKILL

Senator MCCASKILL. Thank you very much. Thank you, Mr. Chairman, and thank you for the three of you, and it was a pleasure to meet all of your families. I am painfully aware that public service is a family affair, and so I want to make sure that they get the recognition they deserve.

At today's hearing we will consider three nominees for three very different jobs, but they are all three very important, to our country and to our government.

I will start with Mr. Long and the Federal Emergency Management Agency. Mr. Long, we are holding this hearing 1 week into hurricane season. So far this year we have already had several floods in Missouri and surrounding States, as well as devastating tornadoes across the country. We have seen an uptick in the number of serious disasters in our State, especially flooding. I do not think the pace of response to natural disasters in this country are going to slow down. I think that pace is going to increase because of what is going on with our environment.

¹ The prepared statement of Senator Burr appears in the Appendix on page 105.

² The prepared statement of Representative Hensarling appears in the Appendix on page 171.

You have had a career in emergency management, seeing the process from all sides, at FEMA, at a State emergency management agency, and consulting for cities, counties, and private entities. I think you bring a wealth of experience to this responsibility. If you are confirmed I look forward to working with you as Missouri continues to recover from flood damage, having very recently guided the disaster declaration submitted to the Federal Government for the many counties that were devastated by the recent floods.

Mr. Vought, you have been nominated to serve as Deputy Director for the Office of Management and Budget. You have been at OMB since January as a member of the beachhead team and as a senior advisor working on the development of the budget proposal.

Without knowing as much about you as I may in the future, that alone raises concerns for me. The budget released by the President 2 weeks ago is highly problematic. The core assumptions underpinning it are financial fantasy. Representative Sanford, a conservative Republican from South Carolina, put it kindly at the first hearing following the release of the budget, stating that "it presumes a Goldilocks economy and is based on assumptions that the stars perfectly align with regard to economic drivers." And since the budget was released, key members of the Administration have been unable to agree on exactly how it accomplishes the growth and the revenue that it projects, the very underpinnings of that budget.

On top of that, the budget cuts key programs that dramatically impact rural Missouri and rural America. It slashes Medicaid, which will hit rural hospitals and limit access to nursing care for the elderly poor. It targets cuts to programs that have paid for infrastructure development in small cities and towns across Missouri. And it cuts the budgets of Inspectors General (IG), the front line for identifying and eliminating waste, fraud, and abuse in government spending.

Mr. Vought, the most essential role of a budget officer is to get the numbers right. This budget simply does not do that, and I speak as a former auditor, and it is not honest with the American people about the impacts it will have. I would like to hear that you will bring a new level of openness to the budget process, but knowing that you were closely involved in the drafting of this one, it causes me great concern.

If anything else, I would hope that there would be a reconsideration of some of the fundamental assumptions in the budget where numbers seem to have been counted twice, where assumptions that are made have no evidentiary backing, and where, if you actually believe what is being put on paper, it still has devastating impacts to the rural areas in my State.

If you are confirmed, I will continue to watch OMB closely. Particularly, I know my colleague is going to talk about this, but we are particularly frustrated that we worked hard on a bipartisan basis to get a permitting bill passed that will ease permitting regulations for projects across the country. The Obama Administration failed to stand that up. So far there has been no inclination of the Trump Administration to stand that up, and the irony is the President has called a press conference for Friday, talking about how

they are going to ease permitting in public projects. And we are wondering, "Hello? We passed the law. Stand it up. Make it happen."

I know, along with my colleague, who was in this Committee, who got that bill passed, we will be watching closely to make sure that law is implemented quickly and efficiently.

Ms. Rao, the Office of Information and Regulatory Affairs, is an extremely powerful office that tends to stay out of the public eye. OIRA has a significant and determinative role in the rulemaking process for most Federal agencies. It coordinates agency work and ensures that regulations are properly developed, is responsible for reviewing regulations to ensure they do not put an undue burden on the public, and ensures that agencies' rules reflect the priorities and policies of the President.

As we discussed yesterday, I am the first to say I am supportive of reforms of regulatory process, to make it work better for both consumers and businesses. I am proud of the efforts that I have made, along with my colleagues, to clean out some of the silly regulations that caused so many problems, or to stop other regulations from coming to pass. And I will not argue that the process in place today is not anywhere near perfect. I know that many Americans, especially small business owners and farmers in my State, feel like regulations keep getting piled on them and making it harder every year to make a living. Community banks fall in that same category.

That being said, I have deep concerns about this Administration's efforts to simply dismantle regulations in ways that do not seem to have underlying policy considerations, and to disregard the importance of consumer protections and public safety. Your academic writings display a healthy distrust of regulatory agencies and disregard for the complex reasons why regulations can be necessary in a market-based economy.

I hope that if confirmed as the Administrator of OIRA that you keep an understanding in mind that public safety and consumer protection is very important, as you examine and scrutinize regulations that come across your desk.

Thank you, Mr. Chairman, and I look forward to questioning the nominees.

Chairman JOHNSON. Thank you, Senator McCaskill. It is the tradition of this committee to swear in witnesses, so if you will all rise and raise your right hand.

Do you swear the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. LONG. I do.

Mr. VOUGHT. I do.

Ms. RAO. I do.

Chairman JOHNSON. Our first nominee is Brock Long. Mr. Long has more than 16 years of experience working in emergency management at the local, State, and Federal level. Mr. Long is currently the Vice President at Hagerty Consulting, an emergency management consulting firm in Illinois. From 2008 to 2011, he was the Director of Alabama's Emergency Management Agency. He also gained experience serving as FEMA's Region IV Hurricane Planner

and Response Team Leader, and Georgia's State-wide Hurricane Program Manager and School Safety Coordinator. Mr. Long.

TESTIMONY OF BROCK LONG¹ TO BE ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. LONG. Chairman Johnson, Ranking Member McCaskill, Members of the Committee, it is truly an honor to be nominated by the President for this job.

First I would like to take a minute to recognize my wife, Mandi, of 14 years and my boys, Jonah and Isaac, 11 and 7. I do not know if sleeping is allowed— [Laughter.]

Senator MCCASKILL. It happens up here sometimes. [Laughter.]

Mr. LONG. Thank you. I have almost two decades' worth of experience in emergency management, and it is a unique experience. It is not just in the public sector. It is also in the private sector. I started with Georgia Emergency Management. I excelled. I proudly served with FEMA Region IV previously. I saw the agency at its best time and at its worst. I also served as the Director of Alabama Emergency Management Agency, which allowed me to actually visualize and see how Federal resources can be maximized at the State level and passed down through to our State partners who are dealing with disasters.

I also hold my private sector experience very valuable. For the last 6 years I feel like this experience has truly helped me to put my fingers on the pulse of emergency management in the community, and not just emergency management but the first responders which we serve.

Not only have I been a part of teams to help communities design emergency operations plans, test, train, and evaluate those plans, I have also helped them to interpret FEMA guidance, whether it is on the preparedness side or helping them to navigate disaster recovery.

This agency has one of the most important missions inside the Federal Government, and I believe the staff inside that agency are the most important assets. I look forward to working with them. I think they are very service-oriented individuals, regardless of the criticism they may receive. They get up, dust themselves off, go to work, and try to truly protect America, save lives, and help people in time of their greatest need. If confirmed I look forward to working with them very closely, leading them, and helping the Nation to achieve resilience to a much higher standard than where we currently are.

With that I will stand by for your questions. Thank you.

Chairman JOHNSON. Thank you, Mr. Long.

Our next nominee is Russell Vought. Mr. Vought is currently a senior political appointee at OMB. Prior to joining OMB, he was a Vice President at Heritage Action for America, and prior to that worked as the Policy Director for the House Republican Conference, the Executive Director for the Republican Study Committee, was a staffer for several Members of Congress, including, most recently,

¹The prepared statement of Mr. Brock appears in the Appendix on page 43.

Representative Jeb Hensarling and Senator Chuck Hagel. Mr. Vought.

**TESTIMONY OF RUSSELL VOUGHT¹ TO BE DEPUTY DIRECTOR,
OFFICE OF MANAGEMENT AND BUDGET**

Mr. VOUGHT. Thank you, Mr. Chairman. I want to thank you, the Ranking Member, the Members of this Committee for the honor of appearing before it. I also want to thank and introduce my family, who has endured this process with me and the long hours that come with serving your country in public roles. My wife, Mary, is here, my daughter, Ella, my two sisters, and many friends are here in support.

It is a joy to come home to the U.S. Senate. I worked for my first 4 years of my career in this distinguished body, mostly for Senator Phil Gramm. I spent hours on the Senate floor, in committee, and at my desk, learning how the Senate works its will, how an institution protects the rights of a minority to be heard, and how statesmen ought to debate their colleagues to move the vote and shape public opinion. It was here that I developed a love for public policy, seeing how it could be used to help the people of this country live freer and more prosperous lives.

It is an honor to be nominated to serve as the Deputy Director of the Office of Management and Budget. It is a job that comes with great responsibility, and I am humbled that President Trump and Director Mulvaney asked me to serve. I know the quality of the men and women who have previously served in this particular role, and I want to contribute to that long line of distinguished public service.

My career has readied me for this moment. I spent over 12 years working in the House and Senate, with a specific emphasis in budget policy. I was the Republican Study Committee's (RSC's) Budget Director, writing its budget resolutions and advising on budget policy. I went on to be the Executive Director of the RSC, and then the Policy Director of the House Republican Conference, under then Chairman Mike Pence.

All of these roles afforded me an opportunity to handle a wide range of policy issues and to manage policy development processes that ensured a wide variety of viewpoints were heard. That is very much the job of the Deputy Director of OMB, to build and further a policy process that ensures that the President and his advisors receive all of the best analysis so that the best decision can be made.

I also have experienced managing a large organization. I spent the last 7 years managing many aspects of Heritage Action for America, including staff and 17,000 volunteers across this country. Volunteers are, in fact, volunteers. They have their own viewpoints and ideas and you do not get very far working with them if you do not have an appreciation for them as leaders in their own right. That experience has prepared me well for managing the men and women at OMB, who are career experts in their field and have years of institutional knowledge for this new Administration to draw upon.

¹The prepared statement of Mr. Vought appears in the Appendix on page 111.

As for the job to be done, it is immense. Our country faces a \$20 trillion national debt. That debt will wreck our country if it is not tackled. That burden will fall on my children and grandchildren if today's policymakers do not change the current path. It will mean a lower standard of living for them and less time for the truly important things in life, such as family and community. That is not the American way.

I have spent my entire career caring about taxpayers and families. I have fought to save them money and ensure that their tax dollars are well spent. I come from a blue-collar family. I am the son of an electrician and a public school teacher. I know what they went through to balance their budget and save for the future. My parents worked really long hours to put me through school, but they also worked long hours to pay for the high levels of government in their own life.

My old boss called them the wagon-pullers in our country. Others have referred to them as the forgotten men and women. They have always been my test for Federal spending. Did a particular program, or spending increase, help the nameless wagon-pullers across our country, working hard at their job, trying to provide for their family and future without the luxury of watching C-SPAN at that particular moment to know that we might increase their burden at that minute? How would they vote—yea or nay? I believe that as a country we have too often failed that simple test and it is the reason that we are facing a \$20 trillion debt.

If the Senate confirms me, I am ready to take up that work again. Thank you for considering my nomination and I look forward to answering your questions.

Chairman JOHNSON. Thank you, Mr. Vought.

Our final nominee is Professor Neomi Rao. Professor Rao is currently an Associate Professor of Law at George Mason University. She founded the school's Center for the Study of the Administrative State, and serves as the center's Director. From 2005 to 2006, Professor Rao served as Associate Counsel and Special Assistant to President Bush, and prior to that was an Associate at Clifford Chance LLP in London. Professor Rao worked as a Counselor for Nominations and Constitutional Law on the Senate Committee on Judiciary, clerking for the Honorable Justice Clarence Thomas on the U.S. Supreme Court. Professor Rao.

TESTIMONY OF NEOMI RAO¹ TO BE ADMINISTRATOR, OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET

Ms. RAO. Thank you very much, Chairman Johnson, Ranking Member McCaskill, and Members of the Committee. It is an honor to appear before you as the President's nominee to be the Administrator of the Office of Information and Regulatory Affairs. I am grateful to the President and Director Mulvaney for their trust and confidence.

I would first like to thank Senator Hatch for taking the time to be here and for his generous introduction. Working on the Judiciary Committee for then Chairman Hatch I learned about law-mak-

¹The prepared statement of Ms. Rao appears in the Appendix on page 173.

ing, and music-making, and living a good life. It means a lot for me to have the support of such a distinguished and respected member of this body.

I would also like to thank the Members of the Committee and their staff for taking the time to meet with me. I appreciate your graciousness and the chance to connect and to discuss issues about regulatory policy. For those of you I did not have a chance to meet, I hope that we may have an opportunity after the hearing. If confirmed, I look forward to working closely with Members of the Committee on issues relating to regulatory and information policy.

If you will indulge me, I will take a moment to recognize and thank my family. I am here today with my husband, Alan Lefkowitz, and my two children, Isabella and Ezra. Alan's unwavering support has made it possible for me to even consider the demands of public service.

My father, Dr. Jehangir Rao, is also here, and has believed in me at every stage of my life. I remember also my mother, Dr. Zerine Rao, who died too young of cancer and I wish she could have been here to share this day.

Leaving India in January 1972, my parents arrived in Detroit in the middle of a snowstorm, without winter jackets, but with their medical degrees, \$16, and the optimism of the recently married. They always imparted by example the importance of integrity, perseverance, kindness, and a commitment to service.

I would also like to share some information about my background. For the past 10 years I have been a law professor at the Antonin Scalia Law School at George Mason University, where I have taught constitutional law and legislation and statutory interpretation. My scholarship has focused on the framework of constitutional accountability for administrative agencies. About 2 years ago I founded the Center for the Study of the Administrative State. The center commissions academic research and hosts public policy conferences that bring together scholars, practitioners, and government officials to analyze and debate difficult questions of administrative law.

Prior to my academic career, I worked in the Office of the White House Counsel, where I oversaw the legal work of a number of agencies and helped to coordinate interagency discussions of law and policy. I have also served on the Senate Judiciary Committee as a Counsel for Nominations and Constitutional Law.

My other experience includes working for several years at a law firm in London and clerking for Justice Clarence Thomas of the U.S. Supreme Court, and Judge J. Harvie Wilkinson of the U.S. Court of Appeals for the Fourth Circuit.

My academic background and practical experience in all three branches of the Federal Government have helped me to understand the regulatory process and the respective roles of Congress, the President, and the Courts in Administration.

Since Congress established OIRA and the Paperwork Reduction Act of 1980, OIRA has operated with a consistent mission to improve the quality of decisionmaking in administrative agencies through regulatory review and the coordination of information policy. OIRA plays a vital role within the Executive Branch to ensure that administrative agencies follow the law, base their decisions on

the best possible economic and technical analysis, and fulfill Presidential priorities.

Within the requirements set by Congress, OIRA works with an overarching goal of creating the greatest benefits for the American people while minimizing regulatory burdens. Reading through OIRA's statutory authority, as well as Executive Orders and OBM guidance, I have been struck by the consistency of the principles guiding the work of the office across Administrations. Perhaps this is one reason why so many talented professionals work at OIRA and often stay for many years, serving Presidents of different parties.

I am humbled to be nominated for this role. If confirmed as Administrator, I would work to ensure the continuity of OIRA's principles, updating and refining when necessary, but maintaining the integrity of the process that has developed. I would also look forward to working with Members of this Committee and other Members of Congress on legislation relating to regulatory reform and other issues within OIRA's purview.

Thank you for your consideration. I look forward to answering your questions.

Chairman JOHNSON. Thank you, Professor Rao. There are three questions the Committee asks every nominee, for the record. I will read each question and then ask for a verbal response from each of you.

Is there anything you are aware of, in your background, that might present a conflict of interest for the duties of the offices to which you have been nominated. Mr. Long.

Mr. LONG. No.

Chairman JOHNSON. Mr. Vought.

Mr. VOUGHT. No.

Chairman JOHNSON. Professor Rao.

Ms. RAO. No.

Chairman JOHNSON. 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. Long.

Mr. LONG. No.

Chairman JOHNSON. Mr. Vought.

Mr. VOUGHT. No.

Chairman JOHNSON. Professor Rao.

Ms. RAO. No.

Chairman JOHNSON. Do you agree, without reservation, to comply with any requests or summons to appear and testify before any duly constituted committee of Congress if you are confirmed? Mr. Long.

Mr. LONG. I do.

Chairman JOHNSON. Mr. Vought.

Mr. VOUGHT. I do.

Chairman JOHNSON. Professor Rao.

Ms. RAO. Yes.

Chairman JOHNSON. Good. I appreciate it. I appreciate your anxiousness to answer the question. [Laughter.]

Let me start with you, Mr. Long. Last Congress the Committee passed legislation known as the Integrated Public Alert and Warn-

ing System (IPAWS), that would authorize and enhance the public alert warning system. The key parts of the law have not been implemented and deadlines have been missed. This includes the requirement to create a mandatory training program on how to use the system and to form a subcommittee comprised of Federal, State, and local agencies to consider improvements to the system.

This responsibility falls under FEMA. Will you commit to the Committee that if confirmed you will ensure that these provisions are fully implemented?

Mr. LONG. Thank you, Chairman Johnson. I am very familiar with the IPAWS program and I believe that making sure that we have clear lines of communication and multiple ways of communicating and redundancy is the key to getting through response in disasters. I have also, with my previous experience as the State Director of Alabama Emergency Management worked through a couple of pilot programs with the IPAWS program. It is an incredibly important program. Obviously, at this point, respecting the nomination process, if confirmed I would be happy to evaluate where we are, but I am not familiar at this time about the deadlines that we are missing.

Chairman JOHNSON. OK. Well, one of the reasons I am bringing it up is I was with Chairman Pai in Wisconsin on Monday with broadcasters and they brought this up. Obviously they are very supportive of IPAWS. They want to make sure it gets implemented. Again, I realize you are the nominee but I just want that commitment that you will follow the law and implement these procedures.

Professor Rao, in President Trump's Executive Order regarding the "one-in, two-out" rule—this Committee has held two hearings on it, one in conjunction with the Budget Committee. Certainly what I have seen coming from the private sector, and talking about that regulatory burden, everything in Washington that you see is basically additive. You have regulators; they regulate. You have legislators; they legislate. Everything is additive. The problem we have is layer upon layer of rules, regulation, law—we spend billions with procurement procedures so we do not waste a buck, and it just does not work, and we were unable to update our computer systems.

Can you speak a little bit in terms of how you would view the "one-in, two-out" rule and how that would be implemented?

Ms. RAO. Thank you, Senator. I think the "one-in, two-out" is an important step for considering how to reduce the overall regulatory burden that you are speaking of, and I think it can work. OMB has issued guidance on this matter, and the way I think it will work, in practice, is that agencies will identify regulations to eliminate, and those regulations might be ineffective ones, or excessively burdensome, and those regulations will have to meet a cost-benefit analysis for deregulation before they are going to impose any new regulatory burdens.

Chairman JOHNSON. This would actually be a subtractive process. I do not know how many regulations I see on the books that are just, basically gathering dust but doing real harm to our economy. I would think every Senator on the dais here, at almost every meeting we take with constituents, the number one concern on

their minds is, one regulation after the one that is putting them out of business.

We had the Chancellor of the University of Wisconsin-Madison come in and testify. They issued a study. Forty-two percent of researcher time at research universities is spent complying with Federal regulations, the paperwork, which is just an unbelievable burden. But again, I really encourage you to take a look at that seriously and utilize that executive authority to remove two regulations for every new one, and hopefully the new one overwrites some of the bad ones as well.

Mr. Vought, I appreciated, in your testimony, how much you concentrated on the \$20 trillion in debt. As I mentioned in my opening comments, the projected deficit over the next 30 years is \$129 trillion. You spoke of your responsibility primarily providing the analysis for good policymaking.

I have been here 6 years, going into year 7 now. It is depressing how very few people are focusing on and talking about that \$20 trillion debt burden and the projected deficit. We budget for now less than 30 percent of what the Federal Government spends. Seventy percent is completely out of control.

Can you just speak to, how you intend to convey that to the White House, to the Administration, so we start getting serious about not mortgaging our children's future?

Mr. VOUGHT. Thank you, Senator. I think this budget is a great example of this Administration's commitment to dealing with deficits and debt over the next 10 years and into the future. This budget has more reductions in entitlement savings, which are the type of savings that you mentioned in your question, than any budget that has ever been proposed by a President, from a nominal standpoint. It has more reductions in the rate of growth to entitlement spending, as a percentage of the base, than any President's budget since President Reagan's.

I think it shows that this Administration is very serious about tackling the debt and dealing with the deficits that are projected to rise greatly over the next 10 years, if nothing is done. As an Administration, the fact that it balances—we have begun to get back to having a conversation, as a country, about what it takes to balance our books, and I think that is another aspect of this as well.

I have noticed, being a participant in compiling some of the options for the director to decide upon presenting to the President, that the whole focus on balance leads to a commitment to finding savings and reductions wherever you can, and then finding a way to justify them and to be able to think through what are the trade-offs with a given policy proposal. I think that is healthy and I think that is one of the ways that we begin to tackle the debt.

Chairman JOHNSON. As my closing thought to all of you, what we are trying to do, this Committee, is through a hearing process lay out realities, is the first step in this problem-solving process, which starts with gathering information, defining the problem, do a root cause analysis, things like strengths, weaknesses, opportunities and threats (SWOT) analysis, that type of things. Lay out that reality. Based on that reality, set achievable goals, and once you have done all that work, then you start working on the regulations, the rules, the legislation.

If confirmed, in your roles, I really want you to utilize this Committee to help lay out those realities that you are seeing within your agencies. I want to be a real partner with you here, and I think all of us do. We have enormous challenges, but it starts with that information, and laying out those realities.

With that I will turn it over to Senator McCaskill.

Senator MCCASKILL. Thank you, Mr. Chairman. My background is as a prosecutor and an auditor, and so when I came to the Senate I began doing what has been the meat and potatoes of my work here, which is oversight. I was really moved, frankly, Mr. Vought, in your opening statement, that you expressed such affection for the Senate. It was appreciated that you talked about what makes the Senate so important in our constitutional framework, which is the way the Senate protects the rights of a minority to be heard.

So you can imagine, if I have done oversight from day one—and, by the way, talking about saving money, billions and billions of dollars in wartime contracting, that we worked on and accomplished, in terms of changing the way we do procurement within a contingency operation in our military—I can give you lists and lists of examples of where we have ferreted out billions of dollars being poured down rat holes in the Federal Government. You can imagine my concern when I hear that the White House is telling executive agencies to not respond to ranking members' requests for information.

We ask that question of all of you, and we ask, do you agree, without reservation, to reply to any reasonable request for information from a ranking member of a duly constituted committee of Congress? Mr. Long, you said yes?

Mr. LONG. Yes.

Senator MCCASKILL. Unequivocally. Thank you for that answer.

Mr. Vought, you said "subject to the discretion of the director and advice of legal counsel." As a lawyer, do you agree with legal counsel's decision that just because I am a Democrat I am not entitled to information that allows me to do oversight as a member of the U.S. Senate, and as the Ranking Member of the Government Oversight Committee?

Mr. VOUGHT. Thank you, Senator. I have not actually read Office of Legal Counsel (OLC's) opinion on that, but as an Administration, it is controlling right now, in terms of the guidance that has been given out as to how the agency should respond to oversight requests and having them go through the Chairman, and to have the oversight process flow that direction.

Senator MCCASKILL. Are you aware, in the history of the Senate, that there has been an Administration that has said, "We will not provide information to the Ranking Member of the Committee on Government Oversight"? Are you aware of that ever occurring before? Did you ever work for a Senator that was in the minority?

Mr. VOUGHT. I did work for a Senator in the minority.

Senator MCCASKILL. And do you think that Senator would have taken that sitting down, if an Administration said, "I am sorry. You cannot request information from the government to find waste, fraud, and abuse if you are a Democrat, or if you are in the minority?"

Mr. VOUGHT. Senator, I look forward to working with you in a transparent manner. I am looking forward to working with you in ferreting out waste, fraud, and abuse. In terms of formal communications that are sent to the Administration, I am merely reflecting the Administration's policy in regard to the OLC opinion.

Senator MCCASKILL. Well, we have had one nominee say yes, unequivocally. I have had the Secretary of Homeland Security say yes, on the record, unequivocally, in this Committee hearing room, and to me personally, and his rank, frankly, is higher than yours. So if you cannot give me a straight answer, do you think—let me ask you this. Do you think it is right that an Administration would say that the Ranking Member of the Oversight Committee in the U.S. Senate is not entitled to oversight information? Do you think that is a correct decision?

Mr. VOUGHT. Senator, I think the rule of law is important and if OLC has—

Senator MCCASKILL. So you think it is the rule of law.

Mr. VOUGHT. OLC has an opinion, Senator, in which it has put forth a position for this Administration as it pertains to responding to oversight requests, and that is merely what I am responding to.

Senator MCCASKILL. OK. Well, we have a huge problem, if you cannot even say out loud—even though the Secretary of Homeland Security has unequivocally said, “Absolutely, we will get you information,” and does so on a regular basis. We have a huge problem if you cannot even say whether you think it is right or wrong. You cannot say whether you think it is right or wrong?

Mr. VOUGHT. Senator, again, I have said I am looking forward to, if the Senate confirms me, working with this Committee in an open and transparent way. Again, I am reflecting the fact that this Administration is under an OLC opinion that has instructed the agencies on how best to engage with formal oversight requests from the various committees.

Senator MCCASKILL. Well, the people that elected me did not send me here to take that answer lying down, and I have to tell you, I will punch above my weight on this. If this Administration thinks they are going to withhold important government information from the Ranking Member of the Oversight Committee of government, because they want to make sure we never find out anything—by the way, I did oversight in the Bush Administration and I think the Chairman will back me up; I know Senator Portman will back me up—I did aggressive oversight of the Obama Administration. The notion that we are going to our partisan corners on oversight is disgusting.

I am disappointed with your answer, and let me ask you, Ms. Rao, how do you feel about providing information to the Ranking Member of the Oversight Committee of the U.S. Senate?

Ms. RAO. Senator McCaskill, if confirmed I would do my best to provide information. The Office of Legal Counsel memorandum that was spoken about I think speaks to whether there is a requirement to do that but it leaves discretion within agencies, and I am committed to working with this Committee on their requests.

Senator MCCASKILL. I would love your analysis, as somebody who has spent a great deal of time with the law, as to the underlying legal basis for that opinion. I think it is hogwash. I have

looked at it. It is just trying to shut off information to people who want to find problems. Welcome to the big leagues, administration. This is what happens. You get oversight. It is the function of the Congress to do oversight.

I am hopeful that—so far I have not—we have had a few problems, but not to the extent many of my colleagues have on other committees, and it would be really bold for this Administration to cutoff information to this Committee, no matter whether it is a Republican or a Democrat.

I know I am out of time. I did not expect that to take as long as it did, but I will come back to ask you about FEMA and the budget cuts and then some more questions for you, Mr. Vought, about the budget.

Thank you, Mr. Chairman.

Chairman JOHNSON. Senator Portman.

OPENING STATEMENT OF SENATOR PORTMAN

Senator PORTMAN. Thank you, Mr. Chairman. I appreciate the nominees' willingness to serve and distinguished backgrounds, all three of you.

Just a brief comment. I have not looked at the OLC legal opinion and I probably should not speak, but I will. As Associate Counsel in the first Bush Administration and then as OMB Director in the second one, it was often frustrating dealing with Congress, but I felt it was my responsibility to provide information. The branch that you are now before has the opportunity to confirm you or deny your confirmation, and that is because that is the way the founders set it up. They also set it up so that we would have the opportunity to do oversight, and the elected representatives, each of us representing, in my case over 11 million people, expect us to do that oversight.

I do hope that the information will be forthcoming to this Committee, and I know the Chairman feels the same way, that, this is our responsibility.

I have so many questions, but let me just start, if I could, with you, Mr. Vought. Again, you are stepping up to take on a very tough job. I relied heavily on the deputy at OMB when I was there. As you know, there is a deputy for management and also one more for the budget functions, and you have a lot of interaction with OIRA, should you be confirmed, so it is good you guys are sitting close together. That may not be true in a couple of years, after you have some clashes. No, just kidding. I am sure you will get along great.

But let me focus on one thing that was mentioned earlier, and that is infrastructure. Today the President is in my hometown of Cincinnati talking about infrastructure. I am delighted he is doing that. He is going to talk about locks and dams on the Ohio River and he is going to talk, I hope, about broader infrastructure questions. On Friday he is supposed to be talking about permitting.

I know you are not there yet, and when you were at Heritage Action you guys actually opposed the highway bill that passed the Senate. I hope you did not oppose the permitting reform. I do not think you did. I think, in fact, you would have been supportive of that had you been asked to opine on that separately.

But Title 41 of the FAST Act has the permitting reform that was talked about earlier, and it is absolutely needed. We have projects, on the Ohio River, as an example, including some of our dams that have taken 6, 7, 8, 9, 10 years, and capital is not that patient anymore. It goes somewhere else, and it does not just go to other State, it goes to another country.

Our reform effort, and Senator McCaskill and I did this together on a bipartisan basis, for 5 years worked on it. We had the Chamber of Commerce, the manufacturers, and others with us. We also had the AFL–CIO Building Trades Council with us, because they all wanted jobs, and they saw what was happening. We took the statute of limitations, for instance, from 6 years down to 2 years, after a National Environmental Policy Act (NEPA) review. Our original bill, actually, was even shorter than that, but that is a huge change right there. We have this dashboard now where citizens are able to get transparency to be able to see what the status is of a project, and it puts one agency in charge, which is really important because the right hand often does not know what the left hand is doing. We have energy projects in Ohio where 35 different permits are sometimes required, sometimes sequentially. So the effort is just to make it more efficient.

We set up this thing called the Federal Permitting Improvement Steering Council (FPISC). It sits at OMB, and I fought hard to get it to OMB, and not to Council on Environmental Quality (CEQ), where some other folks wanted it, because we believed OMB had some leverage. I think Senator McCaskill will tell you—we went back and forth on this quite a bit and she took some heat on it, but we wanted to put it somewhere where you had part of the government, OMB, that actually has some leverage over the other agencies and departments, partly because of the budget function that you will be very involved with.

Are you, one, aware of this issue of the permitting reform, the need for it, and the legislation that we have already passed, and are you aware of the fact that this FPISC organization has not been stood up, that we do not have an executive director. There is an acting person there now. Do you have thoughts on why that is and why we cannot get this going?

Mr. VOUGHT. Thank you, Senator. I am aware of the Permitting Council. I am aware it is a priority for the Administration. Funding was included in the President's budget for it, specifically in regard to the impact that it has in order to leverage the types of reforms and spending that we need, as an Administration, to be able to get \$1 trillion of investment into infrastructure spending.

I cannot speak to why there has been a delay in setting up the council, but from a funding aspect, it has been a priority of the Administration.

Senator PORTMAN. Well, I am glad to hear you say that, and I hope you personally will roll up your sleeves and get involved in this, because I do think it is incredibly important, as we are trying to figure out how to spend tax dollars more efficiently. The dollar is going to be much more valuable if it is in the context of a permitting reform effort, where we do not have to go through these long delays and additional costs.

Are you looking for any additional authorities on this, do you know? Any other thing we need to do, in Congress, to be helpful?

Mr. VOUGHT. It is not something that I have inquired on yet, because I have not been confirmed, but if confirmed, Senator, it would be something that I would want to inquire upon and to seek advice within the OMB as to ways that we can improve the statute.

Senator PORTMAN. OK. I appreciate that, and what I am asking for today is your personal commitment that should you be confirmed that you will be supportive of getting FPISC set up and using the authorities we have already given you, on a bipartisan basis, which is rare around here, to actually make a difference, and not just talk about it but actually implement it.

Mr. VOUGHT. You have that, Senator.

Senator PORTMAN. I appreciate that.

Ms. Rao, thank you very much again for your willingness to serve. Wow, what a background. You have been involved in regulatory affairs for a long time. Senator Heitkamp and I have legislation that Senator Hatch talked about—he is one of the original co-sponsors—called the Regulatory Accountability Act. I assume you are aware of the Regulatory Accountability Act. Have you followed that?

Ms. RAO. Yes, I have.

Senator PORTMAN. I know that there is a lot of interest in trying to find some way to get the independent agencies into a more systematic cost-benefit analysis, like the Executive Branch agencies. Do you support what we are trying to do there, to tell the independent agencies they, too, have to go through a cost-benefit analysis?

Ms. RAO. Thank you, Senator. I think that the question about the independent agencies is a very important one, and has been considered over the years, pretty much since the inception of OIRA, should we be including the independent agencies. I think that, in principle, it makes a lot of sense to have the independent agencies follow the same cost-benefit analysis as other agencies, and that was a position reflected in the Obama Administration, and it is a position, that is in the Regulatory Accountability Act as well.

Senator PORTMAN. With regard to lookback, Senator Heitkamp improved the legislation by putting a retrospective review in, requiring agencies to review the most expensive regulations they already have on the books at least once every 10 years. How do you feel about that?

Ms. RAO. Senator, I think retrospective review is a really important issue, because at the outset, when a regulation is proposed, even with the best analysis there is only a prediction about costs and benefits. Being able to look back to see how a regulation has actually worked, what its actual effects were, its costs and benefits, is very important, especially to reducing the regulatory burden of ineffective or out-of-date regulations.

Senator PORTMAN. My time is up. I have already stolen Senator Heitkamp's question, so she is already mad at me. But my question to you—would you commit to working with us, on a bipartisan basis, to try to get this Regulatory Accountability Act through this process? This was marked-up by this Committee, Chairman, what, 2 weeks ago, with your support and help, and thank you. It is com-

mon-sense stuff, and we need help from the Administration to ensure that we can get this done.

Do you make that commitment today?

Ms. RAO. Senator, I would be happy to commit to working with the Committee on your regulatory reform proposals.

Senator PORTMAN. Thank you, Mr. Chairman.

Chairman JOHNSON. Senator Heitkamp.

OPENING STATEMENT OF SENATOR HEITKAMP

Senator HEITKAMP. Thank you, Mr. Chairman. Mr. Vought, I am going to give you a second chance here, and I think we all kind of sat stunned because we certainly expected a different answer to the question that Senator McCaskill asked you. You heard Professor Rao's response to the same question, saying, in her opinion, that legal opinion gave her discretion and that she was going to use that discretion to be cooperative with this Committee. Do you want to restate your position? Is your position you are never going to deal with the minority and that that legal opinion prevents you from dealing with the minority?

Mr. VOUGHT. Of course not, Senator. That is not my position at all. I look forward to working with this Committee if confirmed in an open and transparent way. Senator McCaskill was asking me specifically with regard to response to formal oversight letters, and as it pertained to the OLC memorandum, and that is what I was referring to.

Senator HEITKAMP. Right. Let us get to that. So you are saying that as it relates to formal requests from the minority party, from this Committee, that you have no intention to responding to those requests?

Mr. VOUGHT. Senator, I am going to look to the direction of our legal team and the director in how we respond to various oversight levels, and one of the things that we will be looking to is the OLC opinion.

Senator HEITKAMP. My question is, do you think that yesterday, when Secretary Kelly gave us an unequivocal answer that he intends to cooperate with the minority party, respond to any requests, that he is violating that legal opinion and doing something illegal in making that commitment to us?

Mr. VOUGHT. Senator, I do not know what Secretary Kelly said. He is running his department and agency—

Senator HEITKAMP [continuing]. Under the same legal guidelines from the Office of Legal Council. Correct? That opinion applies equally to you and Secretary Kelly.

Mr. VOUGHT. Correct.

Senator HEITKAMP. Is that correct?

Mr. VOUGHT. Yes, ma'am.

Senator HEITKAMP. Then why is your distinction different than Secretary Kelly's?

Mr. VOUGHT. We have been given direction from OLC, in terms of how we should deal with formal oversight requests.

Senator HEITKAMP. The opinion itself, as outlined by Professor Rao, gives you discretion. We are asking you to make the commitment today that in your discretion you will deal equally with the minority and majority party of this Committee.

Mr. VOUGHT. Senator, I would be willing to commit to working equally in dealing with you to cooperate in oversight as it pertains to certain formal oversight letters. If confirmed, in my responsibilities as the deputy director, I am going to seek our legal team's advice and the advice from the director.

Senator HEITKAMP. I think anyone, on either side of the aisle—because I have been both in a situation where I have served where the President was of my political party. Now I am serving where the President is—I think what you are saying is absolutely outrageous. I just have to tell you that it is very troubling, and it should be troubling not just for the minority party today, but that party that could be minority party in 2 years, 4 years, or 6 years. I am very troubled by your response to this line of questioning, and find it almost disqualifying in supporting your nomination, quite honestly.

Now I was going to ask you a series of questions on cost-benefit analysis. I will save those for the Office of Management and Budget. But I do not think that you can come here and say you respect the Senate and take the position that you have just taken as a matter of law, when other people, as Senator McCaskill said, who outrank you, have taken a different position.

I am going to turn to Professor Rao. We had a very enjoyable meeting and I have to tell you, I cannot see your families but I certainly could see your family on this side. The pride and love that they have for you is so overwhelming. As somebody who lost her father at a very young age, I want you to know I am pretty sure your mom knows what a great success and what a great pride she has in you also.

I am going to run through just a series of questions, because I do not have a lot of time, on cost-benefit analysis. As Senator Portman has said, we want to continue to work on this effort. As I have told you in my office, I believe that the gimmicks of “two-in, one-out” are not going to be particularly successful. We need to be more surgical. I also have told you that I am very concerned about ongoing regulation that has to exist as a result of outdated law, that we really expect you to come to us with a list of statutory changes that need to be made to eliminate burdensome and unnecessary regulation. We have to be in this together.

In your personal opinion, do you believe that cost-benefit analysis is appropriate for deregulation actions?

Ms. RAO. Yes, Senator Heitkamp, I do.

Senator HEITKAMP. Thank you. Do you believe that cost-benefit analysis for deregulation actions deserve the same level of scrutiny as if you were enacting a major legislation?

Ms. RAO. Yes, Senator, and that has been the position that OMB has taken in its guidance on the new Executive Orders.

Senator HEITKAMP. Correct. Do you believe that indirect costs and benefits should be taken into consideration when conducting cost-benefit analysis?

Ms. RAO. I do, and that is, again, part of the long-standing practice of OIRA and the agencies, to take those effects into account.

Senator HEITKAMP. Do you believe that there is a role for qualitative and non-monetized benefits in cost-benefit analysis?

Ms. RAO. Yes, I do believe they can play a role.

Senator HEITKAMP. Thank you. Do you believe in the principles set forth in Executive Order 12866 should be reaffirmed by the Administration?

Ms. RAO. Yes. I think that those principles are very solid and have, in fact, been reaffirmed by this Administration.

Senator HEITKAMP. The same thing with Circular A4, given that the circular is only guidance and not technically the law of the land, if tasked with drafting a new guidance to instruct agencies on how to conduct cost-benefit analysis. Would you reaffirm the same principles that are in Circular A4?

Ms. RAO. Again, I think those principles are very solid and, may require some updating, but I think the basic core of that is solid.

Senator HEITKAMP. I have just one more question, and this goes to the very important work. There is no one on this dais who does not rely—we have great bipartisan interaction with former heads of OIRA. You are really stepping into a critically important position. I have long maintained that you are understaffed. Can you tell me what you are going to do to try and either manage this important job with the staff that you have or advocate for a few more folks who I think could actually save you money in the long run? This is the push-pull of investments.

Ms. RAO. Thank you, Senator. I think the President's budget does call for an increase in resources in OIRA.

Senator HEITKAMP. Do you think it is adequate?

Ms. RAO. I am not sure as to the precise resource needs. I understand that former administrators believed that the office could use some more support, and so I commit to looking into that.

Senator HEITKAMP. We commit to helping you. Senator Lankford is not here but we certainly commit to helping you in the future. And just so you know, we expect that we are going to see you a lot in our Subcommittee. We are very excited about the expertise that you bring to this job and excited about getting to work with you going forward. Thank you so much for agreeing to accept this position.

I have a lot of questions for FEMA. I will reserve those, maybe if we get to a second round. Thank you.

Chairman JOHNSON. Senator Hassan.

OPENING STATEMENT OF SENATOR HASSAN

Senator HASSAN. Thank you, Mr. Chairman, and thank you to all the nominees for being here, and also a special thank-you to the families who are here, because it is a family affair to serve and we are very grateful.

Just at the outset, Mr. Vought, I will add my concern about your answer on the OLC's guidance. We were elected to represent Republicans and Democrats, and it is my view that the Administration serves members of both parties in their oversight role, and I am hoping that you will rethink your response.

I wanted to spend some time on issues concerning FEMA, and, Mr. Long, it was so nice to meet with you yesterday. I want to talk a little bit about pre-disaster mitigation, something we touched on yesterday. I think we can all agree that the frequency and intensity of natural disasters are on the rise. If we are going to blunt the effects of these disasters we are going to have to make effective and

sustained investments in our infrastructure prior to the disasters happening.

As Governor, I often found myself dealing with the same flooded areas in New Hampshire, year after year. We would clean it up and then it would flood again. Federal support came only in the aftermath of these crises, leaving it up to our State to address the front-end investments in infrastructure that would have helped to mitigate the crisis in the first place. Consequently, we took steps to launch a hazard mitigation initiative in New Hampshire that would help us to inventory our most at-risk locations during natural disasters and help us to develop a way to target our limited resources more effectively.

From my experience, our Federal programs may not be properly incentivizing our States to make the necessary investments in our infrastructure that will help to mitigate the long-term consequences after these disasters. I should note that one of the key FEMA programs that actually does encourage this kind of investment, the Pre-Disaster Mitigation Grant Program, was cut in half in the President's Fiscal Year (FY) 2018 budget.

Mr. Long, can you talk to me about your approach to pre-disaster mitigation investments and whether you support a Federal role for incentivizing these kinds of investments?

Mr. LONG. Thank you, Senator. I believe that mitigation is the foundation of emergency management, or let us just say the cornerstone of emergency management. If we ultimately want to reduce costs in the future for disasters we have to do more mitigation. I believe that mitigation is a community effort. It cannot just be upon the Federal Government to supply funding to our State, local, and tribal partners. We have to all take action as the whole community.

From my own experience as a former Director of Alabama Emergency Management Agency, I was director of a State that continuously seemed to be hit with disasters, and we had several disaster declaration. For us, mitigation funding came in the form of post-disaster, 404, 406 funding as we call it in the field. We had much more post-disaster mitigation funding, which seems regressive to me, than really we wanted on the pre-disaster side of the house. We focused mostly on the post-disaster funding to put that to work, according to the mitigation plans that we have designed.

If confirmed, I would like to work with the Committee to evaluate all of the mitigation funding, not just pre-disaster mitigation funding but how do we possibly budgetize, all of it, up front, to do more work to reduce disaster costs, rather than basically have to get hit to be accessing the mitigation funding that is there.

Senator HASSAN. Great. Thank you. We talked a little bit yesterday, as well, about employee morale at FEMA. In 2016, the Partnership for Public Service released the results of its annual Best Places To Work In the Federal Government survey, and FEMA came in 284th out of 305 Federal agencies. We talked a little bit about it, but could you just briefly touch on what your thoughts are about how to improve the morale there, because, obviously, the employees at FEMA do such critical work for our country and we want them to have high morale.

Mr. LONG. Thank you, Senator. Yes, they do.

First of all, with my own experience within FEMA, previously working for Region IV and reflecting back on that experience, I believe that we have to be able to immediately, upon on boarding and hiring with staff, to make sure that they fully understand the mission of the agency but where their job specifically fits in. They also need to be able to see a career ladder, and I also believe that the agency, over the past 8 years, has done a great job of not only providing a blue sky day job when they are not responding but also the response job. I believe that the response piece is very important to making people feel a part of the overall mission.

If confirmed, my type of leadership is very diplomatic. I like to get out, be out with the staff that is there, to understand how we can open up lines of communication from all parts of the agency to make sure that, if confirmed, my team would be able to understand how to improve the agency from all parts of it.

Senator HASSAN. OK. Thank you very much. And Professor Rao, again, I enjoyed our conversation yesterday very much and I appreciated you taking the time to meet with me, and I appreciated very much your answers to Senator Heitkamp's line of questioning, and particularly your affirmation of Executive Order 12866 as good precedent for OIRA.

I want to turn, in the little bit of time I have left, to something we talked about yesterday, which was, we spoke about the importance of allowing agencies to be agile and more quickly if the needs arise, and that is one of the great challenges as we talk about regulation, and when we look at bills that, in some ways, perhaps could increase transparency but could also slow things down. An example I think of is in terms of the ongoing opioid epidemic. We need to be sure the public health and safety rules can keep up, for instance, with the entry of new synthetic drugs into the illicit marketplace, and ensure that old rules are not holding us back when it comes to responding effectively to other public health challenges.

If confirmed as OIRA Administrator, how will you ensure that agencies are able to move quickly to change or implement needed rules as the need arises?

Ms. RAO. Thank you, Senator. Yes, I think one of the ways that OIRA can do that is to provide its review process in an expeditious manner, so when agencies bring their rules to OIRA to make sure that we are moving through them quickly and appropriately, based on the need for the regulation.

Senator HASSAN. Thank you very much, and again, thank you all for being here today.

Chairman JOHNSON. Senator Peters.

OPENING STATEMENT OF SENATOR PETERS

Senator PETERS. Thank you, Mr. Chairman, and Ranking Member McCaskill for bringing the meeting together, and to each of you, it is good to have an opportunity to ask you some questions, and I am happy to say that if you are confirmed by the Senate I look forward to working with all three of you on some very important issues that you will be confronted with.

But I serve as the Ranking Member on the Subcommittee on Federal Spending Oversight and Emergency Management, so, Mr. Long, I am going to start with you for my first question, because

we will probably be interacting more than with the other two. I am sure you are well aware of the ongoing crisis that we are experiencing in my State, in Flint, a water crisis of really unimaginable proportions, as a result of some very bad decisions made by the State of Michigan that led to lead contamination throughout the city, and which children are going to be suffering from for the rest of their lives.

While I was pleased that Michigan received an emergency declaration, I was very disappointed that they did not receive a major disaster declaration from the President, because the disaster was "not a result of a natural catastrophe nor caused by fire, flood, or explosion." But certainly by any other definition, this was major disaster, looking into the eyes of a child who is suffering from lead poisoning and will be dealing with that their whole life. That child does not care whether or not it was man-made or natural. It is a disaster. The parents and grandparents of those children do not care what caused it. It is still a disaster.

I know you note in your written statement FEMA is charged with helping communities recover in times of their greatest need and major disaster declaration could have been critical in certainly getting more timely help for the people of Flint.

I was just curious, what is your view on allowing the President to issue a major disaster declaration for man-made disasters not caused by fire, flood, or explosion? I bring this up because we have actually proposed some legislation that I have co-sponsored in the past, dealing with lead in drinking water, and that is an extraordinary situation and we may find other communities across the country that are going to be faced with this type of crisis as well, going forward, which will have unimaginable impacts, just as it has had in Flint.

I know you are concerned about opening up the floodgates to all sorts of assistance, which is always an issue that we have to be concerned about, but I think if we set some strong parameters and perhaps craft it in a way to help folks like future Flints, or in cities like Flint, we may be able to make sure that the American people stand behind other Americans who are suffering their greatest need.

So what are your thoughts?

Mr. LONG. Senator, thank you for your question. I have a lot of thoughts about this. First of all, I believe that the Stafford Act is a very general document that was designed to be very scalable, zoomable to help communities overcome many different types of disasters. Regarding this specific situation with Flint, I was not privy, obviously, to why the decisions were made for just an EM declaration, or why the Department of Health and Human Services (HHS) was put in charge as a public health emergency. Regarding that, I would be happy to sit down with you, if confirmed, to be able to understand your concerns more deeply, but also to work with the staff within FEMA to understand the decisions that were made, ultimately, that you have received, the EM declaration.

Personally, I have been through several non-Stafford Disaster Acts events, one of those being Deepwater Horizon, one of those being an H1N1 public health emergency event, and I have grown to realize that at the local and State level, that emergency man-

agers and first responders cannot afford to sit one out, just because we delineate whether it is Stafford Act or non-disaster Stafford Act.

So, if confirmed, I do have direct experience with similar events that were not caused by nature, and I would be happy to evaluate the situation and meet with you.

Senator PETERS. Well, I appreciate that. It sounds as if you do have concerns with the way the Act may be written now, to respond to some extreme emergencies.

Mr. LONG. Senator, yes. I would be willing to sit down with you to understand your concerns.

Senator PETERS. Right. I appreciate that, Mr. Long.

Mr. LONG. Yes.

Senator PETERS. Mr. Vought, I will concur with some of my colleagues who are very concerned about your comments in terms of responding to requests, Senator McCaskill's questioning, that if we really are doing our job, as oversight, and my job as Ranking Member of the Federal Spending Oversight Subcommittee is to make sure the taxpayer money is being spent properly, that the appropriations made by Congress are done in a way that makes sense, and in order to do that we need information. So I am extremely troubled by comments that if you are in the minority party that questions related to specific documents that I may need in order to do my job, and my colleagues need to do our jobs, in Federal spending oversight or technical comments, briefings, for some reason would not be made available to us.

I represent the entire State of Michigan. My colleagues represent the whole country. The people of this country expect us, and rightly so, to work in a non-partisan way when it comes to overseeing the Federal Government, asking the tough questions, making sure that money is being spent appropriately.

I am extremely troubled that you believe if a minority member asks those kinds of questions you are not under any obligation to give that information. Is that accurate?

Mr. VOUGHT. I do not think it is accurate, Senator. I believe strongly in the oversight process. I believe strongly in working on a bipartisan basis and transparently to reform programs and find waste, fraud, and abuse where we find them, and to participate in as many of these processes that the Congress sees fit to initiate. What I was merely responding to was the question about OLC's memorandum as it pertains to certain forms of oversight requests, in which I would seek legal counsel within our agency about how to respond to those.

Senator PETERS. I hope, if confirmed, that you fully appreciate the need for us to work in a cooperative way. The only way we are going to do this job appropriately for the American people is if we work in that manner. I am also concerned about a statement made by Director Mulvaney, recently suggesting that one of the agencies that we have always looked at in Congress as being a non-partisan policy analysis shop is the Congressional Budget Office (CBO), and I believe that Director Mulvaney suggested that "the day of the CBO has come and gone," and that he may not be looking to analysis done by the CBO.

In your role as deputy director, would you consider the CBO scores as an integral part of the OMB's toolkit in making policy decisions? What is your view of CBO?

Mr. VOUGHT. CBO is a very important institution within the legislative process. OMB works very closely with CBO. It relies on its information. I think the director's comments go to when there are very big legislative packages in which the CBO's non-partisan analysis ends up causing political ramifications based on some of its conclusions that, in this case, we disagree with as an Administration. But that is not in any way to suggest that CBO does not have a valuable role in the legislative process. As a congressional staffer I relied on it heavily to assess a bill's cost and the impact of what the bill would do if it was enacted.

Senator PETERS. If I hear your comments correctly, the CBO is a valuable, non-partisan policy analysis organization, unless you disagree with their conclusions and therefore it is illegitimate.

Mr. VOUGHT. No, sir. I do not think that is what I said. I think that CBO, like any other organization and institution, needs to be able to defend its methodology and its analysis, and what this Administration has been engaged in is a conversation with the American people about what CBO's conclusions are with regard to the American Health Care Association (AHCA). This Administration feels that those conclusions are wrong, and have put forward its analysis for why that is the case with regard to various coverage numbers and some of the other impacts that CBO has said the AHCA would have on our health care system.

Senator PETERS. If confirmed, I hope that you treat facts as facts and not being merely inconvenient and not supporting your opinions. Thank you.

Mr. VOUGHT. Yes, sir.

Chairman JOHNSON. Senator Hoeven.

OPENING STATEMENT OF SENATOR HOEVEN

Senator HOEVEN. Thanks, Mr. Chairman. Mr. Long, I want to commend you on your service in Alabama, and your work on behalf of the people there. I look forward to working with you at FEMA, and it is great that your family is here. They look pretty awesome.

In North Dakota we have a number of flood projects. We flood up there pretty regularly, although this year it is looking like drought, unfortunately. And in the Fargo-Moorhead area, which is North Dakota/Minnesota, Red River to the north, we have Roy Wright up there who directs the FEMA insurance operations and he is very good. We really coordinated the flood mapping and the FEMA insurance with building the flood project.

Mr. LONG. Right.

Senator HOEVEN. In Minot, where we had a flood in 2011, and 4,000 homes were flooded, so that is a lot more people—we are building flood protection in phases. We need you all to work with us on the remapping, so that people do not really get hammered with increasing FEMA premiums. I am asking for your commitment to work with us. I understand you have a job to do and you have to do it by law and regulation, but we need a problem-solver. We need your help now to do kind of the same thing that we have

done in the Red River valley, in the Souris River valley, to help those people. OK? I am asking for your commitment to do that.

Mr. LONG. Yes. I can commit to working with you to understand.

Senator HOEVEN. Good. Then you are going to get off easy. [Laughter.]

Ms. Rao, We are now doing P3 projects—public-private partnerships. The President wanted to do P3 projects. We have been working on this for a while. We have passed into law P3 projects. Again, for the Red River valley, this is a \$2.2 billion flood protection project that affects both North Dakota and Minnesota. It is underway. The Federal share was originally \$900 million but now it is \$450 million. How does that sound? Does that sound good? In other words, the cost to the Federal Government now has been cut in half. Does that sound like a good thing or not?

Ms. RAO. I think that sounds like a good thing.

Senator HOEVEN. Particularly when the Corps has a huge backlog in projects. Right? If we could cut that backlog in half like that would be a good thing, would it not?

Ms. RAO. Yes, it would.

Senator HOEVEN. We need some help to do that. Right now that \$2.2 billion project is \$450 million to the Federal Government, and the State and local financing is in place, because it is a public-private partnership. But, OMB still scores projects. When they come up from the Corps, even projects the Corps really wants to do, like this one, they still use the benefit-cost ratio without taking into effect, or account the P3 benefit.

When they score our project, they are scoring it as if the Federal Government has to come up with \$900 million, when they only have to come up with \$450 million. Do you think that makes sense?

Ms. RAO. Senator, that is an interesting issue. I am not familiar with that particular form of scoring but it is something that I would be happy to look into if I am confirmed.

Senator HOEVEN. Good, because both the OMB Director and the White House have committed to me that they will do it, and the Corps, in fact, is working on it, and I want your support for it.

Ms. RAO. Yes. I am happy to work with OMB.

Senator HOEVEN. Again, I commend you on your outstanding experience and look forward to working with you, and thank you for coming by to visit with me. I appreciate it very much.

Ms. RAO. Thank you.

Senator HOEVEN. Mr. Vought, thanks for being here. I appreciate it. I just want to ask you about the Consumer Financial Protection Board (CFPB). I have serious concerns about the CFPB. I am on Appropriations, and we do not have jurisdiction over their appropriations. That makes no sense to me. I cannot fathom why we would not have authority when it comes to appropriating over the CFPB.

Can you give me your thoughts on that?

Mr. LONG. Thank you, Senator. I agree with you. I think that the CFPB is something that should be subject to the appropriations process. I think one of the reasons why it has the perception of being unaccountable is that it is not accountable to the annual appropriations process. That is one of the reasons why the President's

budget calls for that specific reform, and I think it is a very important issue that you raise.

Senator HOEVEN. I want to thank all three of you for being here and I look forward very much to working with you. Thank you.

Chairman JOHNSON. Senator Daines.

OPENING STATEMENT OF SENATOR DAINES

Senator DAINES. Thank you, Mr. Chairman, Ranking Member McCaskill. Thank you to each nominee for your testimony. Overseeing the budget, management, regulation, and information policy, OMB is a cornerstone of the Trump Administration's "drain the swamp" initiatives. I hope you are all investing in very large pumps. There is a lot of swamp that needs to be drained, whether it is the government reorganization, or rolling back these Obama-era regulations that are truly inhibiting economic growth. It is a boot on the neck of small businesses across this country.

No less important, the FEMA Administrator will be responsible for assisting those in times of crisis and serve to get our communities back on their feet when a disaster strikes. We saw that happen, in fact, in Southeast Montana last summer, June 2016, when a tornado came through Fallon County. We are not known for our tornados in Montana, like Oklahoma might be, but it was devastating to our community and we were grateful for the support of FEMA.

It is my hope that each of you will receive speedy confirmation.

I want to start and talk about the budget process reform. I spent 28 years in the private sector before coming to Washington. In fact, the last election I won prior to winning the congressional election in 2012, was as student body president of my high school. I am the only MSU Bobcat in Congress. I am also the only chemical engineer. I spent 28 years managing businesses held accountable for producing a budget each year, and then ensuring that we did not spend more than we were taking in. In fact, in the private sector, you have to take in more than you spend because that is called profit, but we are a long ways from that here in Washington, D.C.

There is a growing sentiment in Congress that the congressional budget process is broken, from start to finish. I think using the word "broken" is a kind word. According to January 2017 CBO report, by this September 30th, well over half of our discretionary spending, \$648 billion, will be appropriated to unauthorized programs. Congress has not passed all 12 appropriation bills since 1996. For those of you playing at home, that is 21 years. In addition, the process leads to brinkmanship, with do-or-die passage of an annual, if we are lucky, omnibus bill, that does not allow for targeted congressional oversight.

Thirteen of my 28 years I spent in the private sector was with a company called Procter & Gamble. In fact, I was part of the shampoo operations for a number of years. On the back of a bottle of shampoo, it oftentimes will say, "Lather, rinse, repeat." It sure feels a lot that way here in Washington, D.C. I will put a lot of money on the table that we back to a CR kind of discussion here, coming soon, as we approach the end of our fiscal year, and we go through this repeated cycle of insanity in this country, and the people of our great country deserve much better.

Mr. Vought, you have seen the shortcomings of our budget processes first-hand in Congress. Do you agree that congressional budget process is in need of an overhaul?

Mr. VOUGHT. Yes, Senator, I do.

Senator DAINES. Where will budget process reform fall in your priorities at OMB, and can we count on OMB to actively participate in these reform efforts?

Mr. VOUGHT. You can, Senator. It is a very important issue for OMB to think through. Typically, the OMB Analytical Perspectives has an entire chapter about budget process reforms that it intends to propose. This year our budget process reform chapter was smaller because the Administration was so new and the priority was Senator Rounds getting the budget done. But next year, if the Senate confirms me, I really do want to have a much broader conversation, internally and with this Committee, about ways that we can reform the budget process, ways that we can remove brinksmanship from the budget process, ways that we can get at unauthorized spending, which is actually banned in the House but they waived the rule almost on every appropriations bill. It is a major problem and we need to have new and creative ways to address it.

Senator DAINES. I was struck by D.C.'s continuing ineptitude, and this institution's failure, just this last budgeting cycle—I am on the Appropriations Committee—we were 7 months into this current fiscal year before an omnibus was passed. I just cannot imagine. In my days of working for a Fortune 20 company and then I worked in a family construction business, then I was part of cloud computing startup. We took the company public and grew a lot of jobs. But I cannot imagine. Imagine the Chief Financial Officer (CFO) showing up at the board meeting and saying, "Well, first, we do not have a budget," and we are 7 months into the fiscal year before you even basically authorize the funds.

It is ludicrous. This broken process has produced \$20 trillion of debt and the projections are, frankly, ominous as we go forward now, in terms of the fiscal condition of this country, because of the inability of this institution to let alone balance a budget, but to even pass one in a timely fashion.

I want to shift gears and talk about the debt ceiling reforms. Recently, Treasury Secretary Mnuchin indicated that Congress may need to lift the debt ceiling by the end of July. I am a strong believer we need to continue to consider budget reforms with any debt ceiling increase to get to the crux of the issue, and that the next Administration will play an important role in making that happen.

Mr. Vought, do you believe we should pursue budget reforms in the context of lifting the debt ceiling?

Mr. VOUGHT. Senator, thank you for that question. I do believe that that also tracks with history in terms of many of the times that we have raised the debt limit, we have included budget process reforms, other spending reductions over time. My old boss authored Gramm-Rudman-Hollins. That was attached to a debt limit increase.

We certainly do not want brinksmanship in the legislative process, but in terms of using the debt limit increase as an opportunity

to take account of where we are, fiscally, as a country, when we are \$20 trillion in debt and we are being asked to, once again, raise the debt limit, the debt limit needs to be raised but it does not seem smart, at the same time, to then not take account and try to fix the problem.

Senator DAINES. Yes, and I am going to squeeze in a quick question to Ms. Rao. You are going to spearhead the Administration's deregulatory efforts, rolling back some of these Obama-era regs. We have got a gross domestic product (GDP) growth of under 1.5 percent during the tenure of the last Administration.

Specific question—would you support legislative efforts to streamline the retractions of regulations?

Ms. RAO. Well, Senator, that is an interesting proposal and it is one I would be interested to consider working with you on.

Senator DAINES. All right. Thank you. I am out of time.

Chairman JOHNSON. Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. I just want to take a minute. I was not going to mention this. I just want to go back in time, if we could. Harry Truman used to say the only thing that is new in the world is the history we forgot or never learned.

Let us just back up a little bit. We actually had balanced budgets about 16 or 17 years ago. In fact, we had four of them. We had not balanced budgets since 1968. We had four balanced budgets in a row, and one of the ways we did it, we matched—I am a recovering Governor, OK? I governed in Delaware from 1993 to 2001. We had 8 years of balanced budgets. We cut taxes 7 out of the 8 years. We paid down some of our debt. We got a triple-A credit rating. I know a little bit about balancing budgets. I was State treasurer for 6 years before that.

The last 4 years of the Clinton Administration, what did we do? We balanced the budget. We matched revenues and we matched expenditures. We grew the economy. More jobs created in those 8 years than any 8 years in the history of this country. We did exciting things on environmental reforms. And we did a number of things in terms of regulatory reforms that some of us may not have liked, but we sure grew the heck out of the budget.

The guy who helped drive the budget deal, during those years was Erskine Bowles. President Clinton asked him to do the deal, and to negotiate with the Republicans, and he did. One of the key Republicans was the Chairman of the House Budget Committee, a guy named John Kasich. He was a personal friend of mine. I was elected, came to the Congress with him, served with him for many years. He is still my friend.

What happened there, you had Democrats and Republicans working together who are determined to balance the budget, and they succeeded, because of bipartisan support.

This Administration, I will tell you, and I know that some others have been asking questions about responsiveness, this is the worst responsiveness I have ever seen. If we had a Democratic Administration and Republicans were trying to get information through oversight over this Democratic Administration, and got the kinds

of responses that we have been getting, non-responses, you guys would shut the place down. We probably ought to do that as well.

And so talking about draining the swamp, give me a break. They are creating the swamp. These folks are creating the swamp, and that is not a dispersion on the people that are before us today. But I just cannot sit here and listen to what I have just heard and say nothing in response.

Barack Obama—everybody makes mistakes. What did Richard Nixon used to say? The only people that do not make mistakes are people who do not do anything, and the last President, whether you like him or not, he did a lot. One of the things that I am proudest of, that they did, you can look at 8 years, almost without a scintilla of scandal. He is a very moral person, tried to make sure that the people around him understood that and behaved accordingly.

One of the big mistakes that he made, he did not embrace Bowles-Simpson. If he had embraced Bowles-Simpson, I think the rest of us would have fallen in line, and finally, when it got to the point of actually negotiating on a Bowles-Simpson with John Boehner, Speaker of the House, and they negotiated basically a Bowles-Simpson deal—restraint on spending, entitlement reform, and revenues. Those are the three corners of the agreement. The Speaker took the deal back to the House—you were probably there—and could not sell it. He came back, tried to renegotiate it, and could not sell it. I give John Boehner credit. I give President Obama credit. But if we had somehow been able to do that deal, we would not be having to negotiate this situation now with \$20 trillion in debt.

I just want to say again, and I do not know who to direct this to—Mr. Vought, maybe to you—if this kind of lack of responsiveness continues, I hesitate to think what we are going to do in response. It is just unacceptable. I am a big believer in the Golden Rule—treat other people the way we want to be treated. But if we had a Democratic House, a Democratic Senate, and we had a Democratic President, and the Republicans were trying to do oversight from the House and the Senate to oversight on a Democratic Administration, and you got no responses, the Republican Congress got no responses to their inquiries, or lack of responses, pitiful responses, you guys would go nuts, and you should. Maybe we should as well.

I guess it is a message that I would share with you. I do not mean to take out anything on you, but my friend from Montana has got me excited this morning, more excited than I usually am.

Senator DAINES. Would the gentleman yield?

Senator CARPER. I am happy to yield.

Senator DAINES. I am grateful for Governors who serve in the U.S. Senate, on both sides.

Senator CARPER. And I am grateful for business leaders who serve.

Senator DAINES. Well, I will say, I think the—

Senator MCCASKILL. How about auditors? [Laughter.]

Chairman JOHNSON. Not so much about auditors.

Senator DAINES. I would just say I think our path forward here, and the swamp here has been created over years and years and years, and you cannot, I think, point to any one Administration.

We are at where we are at. But Governors that come to the Senate I think bring a very pragmatic approach, and I think our solution forward is going to be to get our Democratic and Republican former Governors in the Senate to work on some of these budget reforms, because you have had to produce a balanced budget, truly. And I appreciate the comments from the gentleman.

Chairman JOHNSON. First of all, I want to stop the clock so we do not take any from Senator Carper's time, but I need to respond, because the truth is we have done about 80 percent of Simpson-Bowles, and it barely made a dent.

Senator CARPER. No. With due respect we have not done the entire reform. We have not done that—

Chairman JOHNSON. But not—

Senator CARPER [continuing]. Through revenue increases.

Chairman JOHNSON. We have done about 80 percent.

Senator CARPER. I just do not agree.

Chairman JOHNSON. I will give you the figures. About \$700 billion in tax increased the fiscal cliff. I think Simpson-Bowles wanted \$900 billion. Then we got \$2.1 billion with the Budget Control Act. I think Simpson-Bowles was calling about \$1.9 trillion for discretionary. We did not do the quarter of a trillion dollars on entitlement reforms. That was about the only thing we left off the table there, and again, it has not even made it down. I just wanted to challenge that. Simpson-Bowles barely made a dent. We have done 80 percent of it. Now we do need to do entitlement reform, but Simpson-Bowles barely did anything. That was about a quarter of a trillion dollars.

Senator CARPER. I want to reclaim my time.

Chairman JOHNSON. We have kind of done it. We did not call it Simpson-Bowles but Budget Control Act, the fiscal cliff, we got the revenue, we got the discretionary spending. We actually reduced—

Senator CARPER. Let me reclaim my time.

Chairman JOHNSON. OK.

Senator CARPER. Those 4 years when we had balanced budgets, spending as a percentage of GDP was about 22 percent. Those 4 years that we had balanced budgets, revenues as a percent of GDP was about 22 percent, maybe 20 percent, and today revenue as a percent of GDP is 17 or 18 percent, spending is about 22. And that is part of the problem.

In any event, somewhere down the line we will have a President and a Congress that want to work together, leaders of the Congress and the Administration will want to work together, and I hope that is sooner rather than later.

I will say this. One of the things that we, as our to-do list around here, is the GAO High Risk List. I do not know how familiar you are with it, Mr. Vought. Are you?

Mr. VOUGHT. I am familiar with it, Senator. I have read previous reports. I have not taken a look at the latest report, but, unfortunately, one of the problems with the GAO High Risk series—

Senator CARPER. I was just asking if you were familiar with it. OK? Hold your fire.

They give us all these ways, ideas of saving money, and some of them are defense spending, some of them are non-defense spend-

ing. But I will say, I spent 23 years in the Navy, retired Navy captain. I loved the military. I loved the Navy. But we spend more money on defense than the next six, seven, or eight nations combined, and the Administration's President is asking for an enormous increase, over \$50 billion more for defense spending.

Meanwhile, you have one of the GAO recommendations, on the High Risk List you have \$400 billion cost overruns in major weapons systems. Department of Defense (DOD), after all these years, after, what, 70 years being around, they still have not gotten a clean bill of health on their audit—70 years. The Department of Homeland Security, they did it in like 6 or 7 years and they are still at it. Three of them now. Is not that right, about three of them? And Defense—what you cannot measure you cannot manage. We need to do some work there and I hope that this Administration will say, rather than just giving the Department of Defense another \$55 or \$60 billion, maybe we should go to that GAO High Risk List and see how we can save some money while we do this kind of thing.

But I wanted to mention the High Risk List. I think there is a lot of interest here on this side, Democrat and Republican, to work that list, and save a ton of money.

I will ask you this question—one of the recommendations they made is—from GAO—and, Mr. Chairman, just cut me off when you are ready. But I would like to mention this because we have discussed this before. We had John Koskinen in before the Finance Committee. We had him there several times. They tried to impeach him in the House, and as Commissioner of the Internal Revenue Service (IRS) I think he is one of the most decent people I have met in government. He is honorable, smart, business person. He spent a career just basically taking businesses that were wrecked and making something of them, and I think he is doing a workman-like job into the IRS, and a thankless job.

But one of the recommendations of GAO, is we could actually raise some revenues if we would give IRS the tools that they need, the people, the budget, and the technology that they need, and for every dollar that we would spend in that we would get back \$5, \$6 or \$7, and we would provide a lot better customer service for the people that we are serving. People call our offices all the time and say, "I cannot get anybody in IRS to help me." Your thoughts on that?

Mr. VOUGHT. I think in the grand scheme of the budget, the IRS was basically protected in terms of the amount of reductions that it was asked to live under for fiscal year 2018. About 95 percent of all filers are now doing it online, and this budget increases operation support by 6 percent. Now, obviously, there are reductions elsewhere, but we felt that trying to modernize and continue to make efficiencies to move people toward filing their taxes online can help. We certainly agree that the IRS is crucial in being able to collect the necessary amount of revenue that people owe in paying their taxes, and it is one of the reasons we were very careful, as we were with the rest of the budget, to allocate reductions where they made the most sense.

Senator CARPER. All right. Thanks so much. Let me say, in closing, Mr. Long, very nice meeting you this morning, and was that your daughter I met?

Mr. LONG. No. My wife.

Senator CARPER. Oh, I am sorry.

Mr. LONG. She would appreciate that comment though, right? [Laughter.]

Senator CARPER. And I met your two sons. They are handsome guys. He went to Appalachian State University. My father-in-law taught there for 40 years. My wife grew up there, on the campus, so it is kind of a home game. Good luck. We are anxious to get to work with you.

Ms. Rao, I do not know you well. I appreciate the time that we spent together and if you get confirmed I look forward to having a chance to work with you down the line.

Mr. Vought, thank you so much. Thank you for your kind note as well. Thank you.

Mr. VOUGHT. Thank you.

Ms. RAO. Thank you.

Chairman JOHNSON. Thank you, Senator Carper, and I hope you do not think I cut you off. I was just responding. I stopped the clock and gave you extra time. By the way, what I would love to do, and we will do this, I want to hold a hearing, and we will go through the budgetary history of what all has happened, where spending was as a percentage of GDP, where revenue was, why we were able to balance the budget for a brief moment in time, what has happened since that time. We will lay out the facts, lay out the reality. I am happy to do it. I think it is going to be crucial.

I know Senator McCaskill has some more questions so I will turn it over to Senator McCaskill.

Senator MCCASKILL. Yes. Before I get to my FEMA question, I was struck, Mr. Vought, on your comment a minute ago where you said "we are being asked to raise the debt limit." Who is asking you to raise the debt limit?

Mr. VOUGHT. Senator, I know the Administration has asked Congress to raise the debt limit.

Senator MCCASKILL. So you are asking us to raise the debt limit.

Mr. VOUGHT. Correct. The debt limit—

Senator MCCASKILL. When you say "we are being asked," it is you. You, Mr. Vought, are asking us to raise the debt limit. Correct?

Mr. VOUGHT. The debt limit does need to be raised, Senator.

Senator MCCASKILL. OK.

Mr. VOUGHT. I think there is—

Senator MCCASKILL. I think there seems to be a little bit of disconnect around here, in that, for years the debt limit was something that nobody wanted to raise, and it was being used as a political two-by-four, even though everybody understands. Now that you guys are in charge, it is painful, but you have to face the reality that this is an inappropriate political two-by-four. The debt limit has to be raised. The President of the United States is asking us to raise the debt limit. The Republican leadership is asking us to raise the debt limit. I want to make sure that is on the record clearly, and if anybody has somebody else who asking them to raise

the debt limit, they need to let us know, because the only people I know that are asking to raise the debt limit, at this point, is your Administration and the Republican leadership in Congress.

Are you aware of anybody else who is asking to raise the debt limit?

Mr. VOUGHT. No, Senator.

Senator MCCASKILL. OK. Mr. Long, on Friday, President Trump issued a major disaster declaration for 48 of Missouri's 114 counties—so that gives you some idea of the massive amount of flooding that we had, and the real problem that we are facing in Missouri, that is way beyond the capability of State and local governments. What we had, we had a number of bridges completely wiped out. We had roads washed out. We had homes completely washed away.

By the way, let me give you these statistics. 2016 was a major year for flooding. Nationwide flood losses last year were six times greater than 2015, and the number of Presidential disaster declarations has tripled over the past decade, compared to 20 years prior. So your business is going to be going up, not down.

Given that statistic, and given that reality, are you concerned about the \$600 million in budget cuts that have been proposed for FEMA in 2018?

Mr. LONG. Ranking Member McCaskill, thank you for the question. First, I fully support the President's budget, but, if confirmed, I do realize that as FEMA Administrator I have to make sure that the agency can meet the demands, particularly when it comes to saving lives and sustaining life after each disaster. I have to be able to work with my staff, once confirmed, to go in and evaluate where we are, measure out the increasing demands placed upon the agency, and if I do perceive a problem I look forward to diplomatically working with this Committee to address those issues.

Senator MCCASKILL. I think you are going to get a lot of support on a bipartisan basis for the FEMA budget, because all of our States, I will never forget. Whether it was Hurricane Katrina or whether it was Hurricane Sandy or whether it was flooding, there are actual examples of people who voted against funding for those disasters until their State had a disaster, and then all of a sudden it was like, "OK, we need more Federal money." I am hopeful that we can work on that budget because I do not think it is realistic, in light of the uptick that we see in the data.

Mr. Vought, I hope that—and I do not mean to be—I know I am coming on very strongly with you this morning but I am frustrated, as you can probably tell. I am particularly upset about a lawyer in the Justice Department telling the entire Executive Branch I have no authority to do oversight. I think it is outrageous, and so I am also ginned up about the fact that we have two important people in the government saying exact opposite things about the budget.

Director Mulvaney emphatically asserted that "the budget assumes a deficit-neutral tax plan that does not rely on economic growth to achieve that deficit neutrality." Secretary Mnuchin said, in a Finance Committee hearing, "We are not far along in tax reform to have modeled the impact. Again, just to be clear, when the budget came out we overlaid the Administration's plan for growth, which were incorporated, and that is what is shown here. We do not have tax changes so we did not model tax changes."

We now have, on the same day, at two separate hearings, the Secretary of Treasury stating, unequivocally, that the tax cuts in the budget were not offset by tax policy changes, but instead by economic growth, and on the same day the Director of OMB saying we went through a list of exclusions that are reduced—loopholes that are closed and deductions that are removed, and calculated that those would offset the tax cuts in the proposed budget.

So, under oath, I have the Secretary of the Treasury saying that this is just economic growth and I have the head of OMB saying that it is the tax policy changes that are, in fact, neutralizing the revenue losses. What is going on here? Are they not talking to each other, because clearly they are saying 180-degree, polar opposite in hearings about the same budget.

Mr. VOUGHT. Thank you, Senator. I do not think that is the case. We have been very clear, as an Administration, that this budget does not double-count the revenue increase from economic growth twice. You can either use it once, for deficit reduction, or you can use it to pay for the tax cut. This budget uses the revenue from economic growth and contributes it toward deficit reduction. The tax cut is assumed to be deficit-neutral, and what we did in the assumption that we made, with regard to the tax proposal, was to take the guidelines that were put forward by Secretary Mnuchin and Director Cohn which included, in those guidelines, or paying for the tax increase, or the tax decreases with getting rid of special deductions and credits and loopholes, broadening the base. That is what is meant to pay for the tax cut.

Senator MCCASKILL. So, the Secretary of the Treasury is wrong. This is not revenue growth that will pay for the tax cut. It is revenue growth that will, in fact, reduce the deficit. So what I need from you, Mr. Vought, is where is the money coming from in the reduction of loopholes that is paying for the tax cut? What are they?

Mr. VOUGHT. Again, that is where we get to the fact that the tax proposal has not been developed yet.

Senator MCCASKILL. Wait. You are saying it is going to pay for itself but you have no idea how it is going to pay for itself.

Mr. VOUGHT. The tax proposal has—which is based on a number of guidelines that were put forward by Secretary Mnuchin and Director Cohn—

Senator MCCASKILL. Give me one example. Give me one example of how you are going to pay for this tax cut with closing loopholes.

Mr. VOUGHT. Again, I would go back to the guidelines in which they said—

Senator MCCASKILL. Well, give me an example. You have to know it. You drew up the budget. What are they?

Mr. VOUGHT. Again, the policy development process is not at that point where we are ready to say specifically which deductions and credits are proposed for elimination. It is part of—

Senator MCCASKILL. OK. So you do not have any idea how you are going to pay for the tax cuts then.

Mr. VOUGHT. Again—

Senator MCCASKILL. You are going to pay for it within the tax cut bill by closing loopholes, but you cannot give me one example of a loophole that you put in the budget is having made—and that

is what makes it balance? You are willing to stand by that, that you are going to tell the American people you are balancing the budget and you cannot give me one example of how you are paying for the tax code?

Mr. VOUGHT. Senator, the budget is a set of assumptions. The assumption that we had when we wrote the budget was based on the policy development process that was where it was at that point, which was a set of guidelines and specifics as it was reflected in those guidelines. The rate reductions are obviously something that the President wants—

Senator MCCASKILL. Well, those are specific.

Mr. VOUGHT. Correct.

Senator MCCASKILL. The only thing that is not specific is how you pay for it, and you are telling me now you do not have any idea.

Mr. VOUGHT. I do not have any further specifics on the tax plan. No, Senator.

Senator MCCASKILL. You do not even have an idea about what one might be, what category it might be?

Mr. VOUGHT. Not at this point, Senator.

Senator MCCASKILL. Yes. How can you expect us to take this document seriously? It sounds like a novel.

Mr. VOUGHT. It is a set of policy assumptions based on what we know currently. Obviously—

Senator MCCASKILL. You cannot say something balances on policy proposals when you are not even willing to say out loud what the policy is. How can you have the straight face to say to the American people, “We balanced the budget,” when you cannot even step up to the microphone and give me some idea of how that happens.

Mr. VOUGHT. Senator, the policy development process is underway and I understand your desire to have clarity on that point, and we hope that it materializes soon.

Senator MCCASKILL. OK. Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you, Senator McCaskill. I would ask, or give you a sheet here, and ask consent to enter this into the record.¹ I did a little spreadsheet on what I was talking to Senator Carper about, and we will give his staff a similar chart showing that, in fact, we have done about 81 percent of Simpson-Bowles. I was pretty close to the \$700 billion in the revenue from the fiscal cliff, \$2.1 trillion of discretionary savings. Simpson-Bowles had less than that but they also had about \$795 billion of savings in terms of health care savings, mandatory savings, and some Social Security reforms. Total difference, \$3.4 trillion of savings under Simpson-Bowles. We have done about \$2.8. The rest is savings on interest.

I will enter that into the record, but again, my point being is we have done 81 percent of Simpson-Bowles and we still have a massive debt problem and a massive projected deficit.

¹The chart referenced by Senator Johnson appears in the Appendix on page 246.

The nominees have made financial disclosures¹ and provided responses to biographical and pre-hearing questions² submitted by the Committee. Without objection, this information will be made part of the hearing record,³ with the exception of financial data, which are on file and available for public inspection in the Committee offices.

I want to thank the nominees for your willingness to serve. As you can see, we have enormous challenges, some divisions. We want to work through those things. I want to really thank the families. I know, unfortunately, you will see probably less of your loved ones here, so this is a sacrifice for the entire family as well. Thank you for your willingness to serve.

With that the hearing record will remain open until noon tomorrow, June 8th, for the submission of statements and questions for the record.

This hearing is adjourned.

[Whereupon, at 11:53 a.m., the committee was adjourned.]

¹The information for Mr. Long appears in the Appendix on page 45.

²The information for Mr. Vought appears in the Appendix on page 113.

³The information for Ms. Rao appears in the Appendix on page 175.

A P P E N D I X

**Opening Statement of Chairman Ron Johnson
Nomination Hearing to Consider Brock Long to be Administrator, Federal Emergency
Management Agency, U.S. Department of Homeland Security; Russell Vought to be Deputy
Director, Office of Management and Budget; and Neomi Rao to be Administrator, Office of
Information and Regulatory Affairs, Office of Management and Budget.
June 7, 2017**

Today the Committee will consider three nominations within its jurisdiction that are integral to the efficient functioning of government and the safety of the American people.

Administrator, Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS)

The FEMA Administrator serves as the principal advisor to the President and the Secretary of Homeland Security (Secretary) on emergency management. The Administrator's duties include the operation of the National Response Coordination Center; the effective support of all Emergency Support Functions; and, more generally, preparation for, protection against, response to, and recovery from all-hazards incidents. The Administrator is also responsible for management of the core DHS grant programs supporting homeland security, and for providing an annual estimate of the resources needed for developing the capabilities of federal, state, and local governments necessary to respond to a catastrophic incident. FEMA is 22 percent of DHS's overall budget.

Deputy Director, Office of Management and Budget (OMB)

The role of Deputy Director of OMB varies from administration to administration, but is viewed as a general deputy to the Director, assisting the Director in carrying out the President's budget and management agendas across the executive branch. The Deputy Director is primarily responsible for budget development and execution. In addition, the Deputy Director oversees eight OMB offices: General Counsel, Legislative Affairs, Strategic Planning and Communications, Economic Policy, Legislative Reference, Budget Review, and Performance and Personnel Management. The remainder of OMB is overseen by the Deputy Director of Management.

Administrator, Office of Information and Regulatory Affairs (OIRA), OMB

The OIRA was created as part of the 1980 Paperwork Reduction Act, a law intended to curb the amount of and duplication in paperwork requirements imposed by regulatory agencies on the public. The Administrator oversees requests from agencies for any new information collections and paperwork requirements. The Administrator also oversees and coordinates proposed regulations from agencies.

OIRA also conducts a regulatory review of so-called "significant" rules, ensuring the analysis and legal basis used to justify proposed rules is sound and consistent with criteria established in relevant Executive Orders (going back to 1993). This may include ensuring that cost-benefit analysis uses well-established methods, that the agency considered potential non-regulatory alternatives like market mechanisms, and that the agency clearly identified a problem which justifies regulatory action. The Administrator ultimately may decide to either "approve" the rule or "return" it to the agency with recommended changes.

Brock Long

Brock Long has more than 16 years of experience working in emergency management at the local, state, and federal level. Mr. Long is currently the Vice president at Haggerty Consulting, an emergency management consulting firm in Illinois. Prior to joining Haggerty Consulting, he was the director of Alabama's Emergency Management Agency from 2008 to 2011. While heading Alabama's emergency response, he coordinated 14 disasters and 8 presidentially-declared events. He also helped develop Alabama's response to the H1-N1 influenza, and served as the on-scene State Incident Commander during the Deepwater Horizon oil spill.

Prior to heading Alabama's emergency agency, he spent years as FEMA's Region IV Hurricane Planner and Response Team Leader, and Georgia's statewide Hurricane Program Manager and School Safety Coordinator. Mr. Long received a Bachelor of Science and Masters of Public Affairs from Appalachian State University and an Executive Leaders Certificate from Naval Post Graduate School.

Russ Vought

Mr. Vought is currently a senior political appointee at OMB. Most recently, he was a Vice President at Heritage Action for America, and prior to that worked as the Policy Director for the House Republican Conference and Executive Director for the Republican Study Committee (RSC). Prior to joining the RSC, he worked as a congressional staffer to several members of Congress, including Rep. Jeb Hensarling, Senator Chuck Hagel, Senator Phil Gramm, and Senator Dan Coats.

Mr. Vought received his J.D. from George Washington University Law School and his Bachelor of Arts from Wheaton College.

Neomi Rao

Ms. Rao is currently an associate professor of law at George Mason University. She founded the school's Center for the Study of the Administrative State, and is now the Director of the Center. From 2005 to 2006, Ms. Rao served in George W. Bush White House Counsel's office as Associate Counsel and Special Assistant to the President, and prior to that was an associate at Clifford Chance LLP in London. Ms. Rao also spent a year working as a counsel for nominations and constitutional law on the Senate Committee on the Judiciary.

Ms. Rao clerked for the Honorable Justice Clarence Thomas on the United States Supreme Court, and Judge J. Harvie Wilkinson III on the United States Court of Appeals for the Fourth Circuit. She received her J.D. from the University of Chicago Law School and her Bachelor of Arts from Yale University.

I'd like to thank the nominees who have volunteered to serve in these important positions, and I look forward to hearing their testimony.

Introduction of Professor Neomi Rao
Homeland Security and Government Affairs Committee
Senator Orrin G. Hatch
June 7, 2017

Mr. Chairman, it is my distinct pleasure to introduce Professor Neomi Rao (*Nay-o-Me Raow*) at today's hearing, and to fully commend her confirmation to the committee. I've known Professor Rao for some time, ever since she worked as a counsel to the Senate Judiciary Committee. Since then, Professor Rao has distinguished herself in private practice, government service, and academia. Her experiences have prepared her well for what will be an important and challenging task ahead.

The position of Administrator of OIRA may not receive as much fanfare as other nominations, but it plays a critical role in modern policymaking. This administration has said that it would get serious about regulatory reform. Republicans in Congress have said the same. Professor Rao's confirmation will be an important step forward in fulfilling that promise.

Professor Rao's qualifications speak for themselves. After graduating from Yale, Professor Rao attended the University of Chicago Law School. She then clerked for Judge Harvie Wilkinson III on the Fourth Circuit and Justice Clarence Thomas on the Supreme Court. After spending a few years in private practice, she served as an Associate Counsel and Special Assistant to the President, and then began a career in academia. She currently teaches at the Antonin Scalia Law School at George Mason University, where she is also the founder and director of the Center for the Study of the Administrative State.

Mr. Chairman, there is little doubt at this point that our present system for formulating and implementing federal regulatory policy is simply unacceptable. For years, citizens and businesses have complained about an administrative process that is opaque and unresponsive. And for years, this process has produced results that too often harm economic growth, while rarely improving public health and welfare.

Accordingly, over the span of several past administrations, a consensus has formed that an important step in streamlining and improving the administrative process is to empower an OIRA Administrator. Professor Rao is supremely and uniquely qualified to step into this role. Under her watch, we can expect OIRA to carefully scrutinize rules to assure that they satisfy cost-benefit analysis.

But, of course, as Professor Rao gets to work, we can't take our eye off the ball here in Congress. We will need more than just exceptional candidates like Professor Rao at OIRA. The legislative branch must do its part. That's why I was pleased to co-sponsor the Regulatory Accountability Act, along with Senators Portman, Lankford, Manchin, and Heitkamp. The committee reported this legislation to the full Senate last month. I'm hopeful that the rest of our colleagues, on both sides of the aisle, will join us in making it law.

The RAA is a carefully negotiated, bipartisan effort to codify existing policy that streamlines and improves the rulemaking process. Further, I'll be introducing legislation later this month, the Separation of Powers Restoration Act, that will begin a conversation about the growth of federal regulation enabled by the *Chevron* doctrine and abetted by broad legislative delegation. Just like the confirmation of Professor Rao, these efforts at regulatory reform are not about politics. Regardless of which party controls the Presidency, regardless of which controls Congress, our administrative process is broken. The time to fix it is now.

In conclusion, Mr. President, I'll say one more time that I am very pleased to be here today to introduce and recommend Professor Rao for this important post. The federal policymaking process, and federal policy generally, will stand to benefit from her leadership. Thank you very much for the opportunity to testify today.

Opening Statement
W. Brock Long, Nominee
Administrator, FEMA
United States Senate
Committee on Homeland Security and Governmental Affairs
June 7, 2017, 10:00 a.m., 342 Dirksen Senate Office Building

Introduction:

Good Morning Chairman Johnson, Ranking Member McCaskill, and Members of the Committee. My name is Brock Long, and I'd like to start by thanking Senator Burr for his kind introduction. I'm a North Carolina native, a dedicated husband and father, and a passionate emergency manager that has worked in the field my entire career. I am honored by the President's nomination, Secretary Kelly's support, and thankful for the Committee's time and consideration of me to potentially serve as the Nation's next Administrator of FEMA.

I believe that FEMA's mission is one of the most important within the Federal government, and it is a privilege to be considered to lead this agency ultimately charged with saving and protecting lives, and helping communities recover in times of their greatest need. Americans rightfully have high performance expectations of FEMA, and I desire to help the agency further our Nation's collective levels of readiness and resiliency for future disasters. I realize leading FEMA is not an easy task; however, I do not fear the challenge ahead, but rather welcome the opportunity to work with you and our partners to transform our field and make America safer.

Background/Experience:

I'm a diplomatic leader that has dedicated nearly two decades of service to helping communities and organizations prepare for, respond to, and recover from disasters. My career experience in emergency management is unique. Not only have I held leadership positions in both the public and private sector emergency management organizations, I have also served at the State and Federal levels of government within the field. For the past six years I have been working in the private sector helping communities and private organizations across the Nation achieve a variety of emergency management, public health, and Homeland Security, goals and project initiatives. As a result of my evolving experience, I have my fingers on the pulse of local and state emergency management needs and issues.

I began my career helping the Georgia Emergency Management Agency craft one of the Nation's first innovative school safety programs, and assisted local governments across the state with hurricane and emergency operations planning. I supported statewide response efforts in the State Emergency Operations Center during one of the nation's largest evacuation and mass care events as a result of Hurricane Floyd in 1999.

On the morning of 9/11, I interviewed with FEMA, and eventually was selected to serve as the Region IV Hurricane Program Manager in charge of helping states and local governments design life safety evacuation plans and working directly with the National Hurricane Center to help jurisdictions

interpret risk and vulnerabilities when threatened by tropical systems. I was a part of FEMA when it was at its best in 2004, responding to four major hurricanes in six weeks. I was also a part of FEMA during its worst moment in 2005 when the agency learned that it is only as good as its weakest link and its last disaster.

In 2007, I was appointed by Governor Bob Riley to serve as the Cabinet level Director of the Alabama Emergency Management Agency. During my tenure, the agency responded to 14 disasters (8 of these were Presidentially Declared Events). In 2009, Alabama had more Presidentially declared disasters than any other state in the Nation, and the agency successfully responded to an average of one disaster every three months during my tenure. In addition to natural disasters, I also helped lead Alabama's response during the Deepwater Horizon Oil Spill Event of National Significance, and was charged with establishing and maintaining the State's Forward Emergency Operations Center and leading Citizen Individual Assistance disaster claims operations. As Director of the Agency, I also served on the Central United States Earthquake Consortium and as a member of the National Advisory Council's Robert T. Stafford Act Subcommittee. Finally, I was in charge of making sure key state agencies developed Continuity of Operations Plans for pandemic events, and managed logistical movement of vaccines to regional distribution sites during the H1N1 Public Health Emergency.

In 2011, I entered the Private Sector as Executive Vice President of Hagerty Consulting, a nationally recognized emergency management and homeland security firm. My private sector experience has been invaluable. Specifically, I was provided an opportunity to roll up my sleeves and work side by side with local, state, and federal emergency managers and private organizations across the Nation to develop and evaluate concepts and planning solutions for, but not limited to, the following areas: Complex attacks, cyber security, Public Health emergencies, evacuations, mass care, Access and Functional Needs, special events, school safety, disaster recovery, mission ready packaging, and program accreditation. This experience has helped me to witness firsthand the issues challenging emergency managers, and exposed ideas for improving our profession from a Whole Community perspective.

Conclusion:

I understand the complexities and expectations involved with serving as FEMA administrator. I believe that the staff inside FEMA and emergency managers around the country ultimately enter the field as a great form of service to their country. Despite the unfortunate and constant criticisms emergency managers often face, I have witnessed them working diligently to collectively strengthen national preparedness and resilience while organizing capabilities to ultimately save lives and help people in time of their greatest need. If confirmed, I look forward to working closely I hope I'm given the chance to lead this extremely dedicated community and improve our field.

Should I be confirmed, I commit to being the agency's biggest champion and to work with Congress, state, local, and private sector partners to innovatively support our first responders to ensure we work together to build, sustain, and improve the Nation's capability to prepare for, protect against, respond to, recover from, and mitigate all hazards. Thank you for your consideration and I look forward to answering any questions you may have.

REDACTED

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
Name of Position	Date of Nomination
FEMA Administrator	5/11/2017

<i>Current Legal Name</i>			
First Name	Middle Name	Last Name	Suffix
William	Brockmann	Long	

<i>Addresses</i>					
Residential Address (do not include street address)			Office Address (include street address)		
			Street: (works from home)		
City: Hickory	State: NC	Zip: 28601	City: Hickory	State: NC	Zip: 28601

<i>Other Names Used</i>						
First Name	Middle Name	Last Name	Suffix	Check if Maiden Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
"Brock"		Long			Since Birth <input type="checkbox"/> Est <input type="checkbox"/>	Present <input type="checkbox"/> Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1975	Greensboro, North Carolina

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married	Married	Separated	Annulled	Divorced	Widowed
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Amanda	Grimes	Long	

<i>Spouse's Other Names Used (current spouse only)</i>						
First Name	Middle Name	Last Name	Suffix	<small>Check if Maiden Name</small>	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
"Mandi"	Ingrid	Grimes				Since Birth <input type="checkbox"/> Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
First Name	Middle Name	Last Name	Suffix
N/A	N/A	N/A	

2. Education

List all post-secondary schools attended.

Name of School	Type of School (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	Date Began School (month/year) (check box if estimate)		Date Ended School (month/year) (check box if estimate) (check "present" box if still in school)			Degree	Date Awarded
		Est <input type="checkbox"/>	Present <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>	Present <input type="checkbox"/>		
Appalachian State University	University	8/1993	Est <input type="checkbox"/>	5/1997	Est <input type="checkbox"/>	Present <input type="checkbox"/>	BS	5/1997
Appalachian State University	University	8/1997	Est <input type="checkbox"/>	5/1999	Est <input type="checkbox"/>	Present <input type="checkbox"/>	MPA	5/1999
Naval Post Graduate School	Post Graduate School, Center for Homeland Defense and Security, Executive Leaders Program	5/2009	Est <input type="checkbox"/>	2/2010	Est <input type="checkbox"/>	Present <input type="checkbox"/>	Certificate	2/2010

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

Type of Employment (Active Military Duty Station, National Guard/Reserve, USPS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other	Name of Your Employer/ Assigned Duty Station	Most Recent Position Title/Rank	Location (City and State only)	Date Employment Began (month/year) (check box if estimate)	Date Employment Ended (month/year) (check box if estimate) (check "present" box if still employed)
Non - Governmental Employee	Hagerty Consulting, Inc.	Executive Vice President	Hickory, North Carolina	2/2011	Present
State Government	Alabama Emergency Management Agency	Director	Clanton, Alabama	1/2008	2/2011 est.
Non-Governmental Employee	Beck Disaster Recovery Inc.	Southeast Region Director	Hickory, North Carolina	2/2007	1/2008
Federal Government	Federal Emergency Management Agency, Region IV	National Hurricane Program Manager	Atlanta, Georgia	1/2004	2/2007

Federal Government	Federal Emergency Management Agency, Region IV	National Hurricane Program Specialist	Atlanta, Georgia	11/2001	1/2004
State Government	Georgia Emergency Management Agency	Statewide Hurricane Program Manager and School Safety Coordinator	Savannah, Georgia	9/1999	11/2001
City Government	City of Ashville	Budget and Personnel Intern/Analyst	Ashville, North Carolina	6/1999	9/1999

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
National Advisory Council/FEMA	Response and Recovery Subcommittee Member	4/1/2011	4/1/2012
University Corporation For Atmospheric Research – NOAA: NCEP, OPC, TPC Evaluation Panel	Review Panelist/Evaluator	4/2009	12/2009
Department of Homeland Security, Science and Technology Directorate	First Responder Research Development Testing and Evaluation Working Group Member	7/2010	7/2011
Central United States Earthquake Consortium IS THIS A GOV AGENCY?	Board Member	1/2008	1/2011

4. Potential Conflict of Interest

(A) 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 Department of Homeland Security'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 the Department's Designated Agency Ethics Official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

(B) 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.

None.

5. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

FEMA Region IV, Awards "For Outstanding Contributions and Dedication to the Region during FY 2002, 2003 & 2004

Presented a "Key To the City" Heflin, AL for tornado support by the Mayor (2009)

Inducted into Pi Gamma Mu, Honor Society, May 1999 (Top 20% of Graduate School Class) Appalachian State University

6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
First Presbyterian Church, Hickory, North Carolina	Dec 2012 to Present	Member

Lake Hickory Country Club	May 2015 (estimated) to Present	Member
Catawba Valley YMCA	9/2012 to 5/2015 (estimated)	
Friends of Hickory	10/2014 to 11/2014 (estimated)	Board Member
Appalachian State University Local Government Alumni Association	1/2014 to Present (estimated)	
Catawba Country Club	7/2013 to 2/2015	
Sigma Phi Epsilon, Appalachian State University	Inducted 1/1995	

7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

None.

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

None.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

None.

8. Publications and Speeches

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
Facing the Nation's Largest Active Disaster: Liquid Asset Poverty	Hagerty Consulting, Inc.	March 1, 2017
Repost - The Recovery Timeline: Short Term Decisions with Long Term Effects on Community Recovery	Hagerty Consulting, Inc.	February 2, 2017
Revisiting Sandy Hook: Three Considerations for Reunification of Schools after an Active Threat Event	Hagerty Consulting, Inc.	December 22, 2016
Five Practical Recommendations to Improve Hurricane Evacuation	Hagerty Consulting, Inc.	October 11, 2016
Governor's Guide to Mass Evacuation	National Governors Association	November 24, 2014
School Safety Essentials: Performing Daily Safety Sweeps 2002	LRP Publications	November 4, 2002
Encyclopedia of Terrorism, "School Site Analysis" (Contributing Author)	Checkmark Books	September 2003
After the Next Sandy Hook	GOVERNING Magazine	December 13, 2016

(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Alabama Emergency Management Agency, Chatham County Presentation	Savannah, GA	December 5, 2014
"The Disaster of Mass Evacuation"	Keynote Speaker at the National Evacuation Conference 2012, New Orleans, LA	February 9, 2012

Evacuation Planning, "The Disaster of Mass Evacuation"	2015 National Homeland Security Conference	June 11, 2015
"The Disaster of Mass Evacuation"	2016 American Public Transportation Association (APTA) Risk Management Seminar, Albany NY	June 2016
Keynote Address	The French High Committee for Civil Defense, Mass Evacuation Planning Meeting, Paris, France	July 5, 2012
"Rave Presents: Hurricane Preparedness & The Disaster of Mass Evacuation"	Rave Mobile Safety Webinar	May 29, 2014
1) BP Deepwater Horizon Oil Spill 2) Mass Evacuations – Improvements In Evacuation Planning and Sheltering Capability	Minnesota Department of Public Safety, Homeland Security and Emergency Management, 48 th Annual Governor's Homeland Security and Emergency Management Conference	February 12 – 14, 2013
"The Disaster of Mass Evacuation"	Emergency Preparedness & Hazmat Response Conference, Sponsored by Southeastern Pennsylvania LEPCs, U.S. Department of Homeland Security/Infrastructure Protection	October 29, 2014
"Transportation Decision Making"	The State of Massachusetts Functional Needs Support Services Workshop, New England Regional Catastrophic Preparedness Initiative	July 17, 2014
"The Disaster of Mass Evacuation"	Rave Mobile Safety, Fifth Annual Whole Community Preparedness Summit	May 6-7, 2014
Moderator: Business Emergency Operations Centers – Maximizing Coordination at the State and Local Level	4th National Conference on Building Resilience through Public-Private Partnerships, U.S. Chamber of Commerce Association, Washington DC	October 15, 2014

(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.

<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
"Building a Stronger Rhode Island: Hurricane Lessons Learned & Best Practices"	Keynote Speaker at the Rhode Island Emergency Management Agency 2011 Hurricane Conference	May 31, 2011
"Ensuring Strong FEMA Regional Offices: An Examination of Resources and Responsibilities"	111 th Congress, Hearing before the House Committee on Homeland Security, Subcommittee on Emergency Communications, Preparedness, and Response	March 16, 2010

9. Criminal History

Since (and including) your 18th birthday, has any of the following happened?

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you?
(Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.)
No.
- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official?
No.
- Have you been charged, convicted, or sentenced of a crime in any court?
No.
- Have you been or are you currently on probation or parole?
No.
- Are you currently on trial or awaiting a trial on criminal charges?
No.
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation?
No.

If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known).

N/A

A) Date of offense:

- a. Is this an estimate (Yes/No):

B) Description of the specific nature of the offense:

C) Did the offense involve any of the following?

- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: **Yes / No**
- 2) Firearms or explosives: **Yes / No**
- 3) Alcohol or drugs: **Yes / No**

D) Location where the offense occurred (city, county, state, zip code, country):

- E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: **Yes / No**
- 1) Name of the law enforcement agency that arrested/cited/summoned you:
 - 2) Location of the law enforcement agency (city, county, state, zip code, country):
- F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: **Yes / No**
- 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):
 - 2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:
 - 3) If no, provide explanation:
- G) Were you sentenced as a result of this offense: **Yes / No**
- H) Provide a description of the sentence:
- I) Were you sentenced to imprisonment for a term exceeding one year: **Yes / No**
- J) Were you incarcerated as a result of that sentence for not less than one year: **Yes / No**
- K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:
- L) If conviction resulted in probation or parole, provide the dates of probation or parole:
- M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No**
- N) Provide explanation:

10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

No.

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? 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.

No.

(C) For responses to the previous question, 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.

N/A

11. Breach of Professional Ethics

(A) Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group? Exclude cases and proceedings already listed.

No.

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

No.

12. Tax Compliance

(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.)

REDACTED

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).

No.

14. Outside Positions

X See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

15. Agreements or Arrangements

X See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

Status and Terms of Any Agreement or Arrangement	Parties	Date (month/year)

16. Additional Financial Data

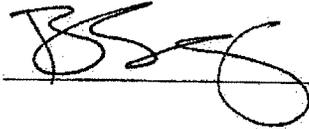
All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



A handwritten signature in black ink, consisting of stylized initials and a surname, is written over a horizontal line.

This 20th day of May, 2017

REDACTED

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



May 19, 2017

The Honorable Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by William B. Long, who has been nominated by President Trump for the position of Administrator, Federal Emergency Management Agency, Department of Homeland Security.

We have reviewed the report and have 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,
WALTER
SHAUB

Digitally signed by WALTER SHAUB
DN: c=US, o=U.S. Government, ou=Office of
Government Ethics, cn=WALTER SHAUB,
#1.2.840.113549.1.4141.1.1=us100006463
Date: 2017.05.19 15:49:01 -0400

Walter M. Shaub, Jr.
Director

Enclosures **REDACTED**



ATTACHMENT A

1. Atlanta Urban Area Security Initiative
2. Chatham County Emergency Management Agency
3. Chelsea, MA Public Schools
4. Cook County Department of Homeland Security and Emergency Management
5. Center for Transportation and the Environment
6. City of Fort Worth, TX Office of Emergency Management
7. Georgia Department of Natural Resources
8. Lee County, FL Emergency Management Agency
9. Long Beach, CA Department of Health and Human Services
10. Houston, TX METRO
11. New England Catastrophic Planning Initiative
12. Prince William County, VA Emergency Management Agency
13. Rhode Island Emergency Management Agency
14. San Diego County, CA Emergency Management Agency
15. Santa Barbara County, CA Emergency Management Agency
16. Tarrant County, TX Public Health Department
17. City of Danville, VA City Manager's Office
18. Brantley County, GA County Manager's Office
19. Horry County, SC County Manager's Office
20. NYC Office of Emergency Management
21. Brunswick/Glynn County, GA Water and Sewer Commission
22. Rhode Island Department of Environmental Management

April 24, 2017

Joseph Maher
Designated Agency Ethics Official
Department of Homeland Security
Washington, D.C. 20528-0485

Dear Mr. Maher:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Administrator of the Federal Emergency Management Agency.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will resign from my position with Hagerty Consulting, Inc. If Hagerty Consulting, Inc. decides to pay me a bonus for work I performed during 2017, I will not accept the bonus and will forfeit it, unless I receive the bonus before I assume the duties of the position of Administrator. If I receive the bonus, I will not participate personally and substantially in any particular matter involving specific parties in which I know Hagerty Consulting, Inc. is a party or represents a party for a period of two years from the date on which I receive the bonus, unless I first receive a written waiver pursuant to 5 C.F.R. § 2635.503(c). If I do not receive the bonus, I will not participate personally and substantially in any particular matter involving specific parties in which I know the Hagerty Consulting, Inc., is a party or represents a party for a period of one year from the date of my resignation, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, I will not participate personally and substantially in any particular matter involving specific parties in which I know a former client of mine is a party or represents a party, for a period of one year after I last provided service to that client, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I will have a "covered relationship" under 5 C.F.R. § 2635.502 with the state and municipal entities that were my clients while I was employed at Hagerty Consulting, Inc. See Attachment A. I will have a covered relationship with each entity for a period of one year after I last provided service

to that entity. Pursuant to 5 C.F.R. § 2635.502(d), I will seek written authorization to participate in particular matters involving specific parties in which any of these entities is a party or represents a party.

My spouse is employed by Viewmont Pharmacy in a position for which she receives a fixed annual salary. For as long as my spouse continues to work for Viewmont Pharmacy, I will not participate personally and substantially in any particular matter involving specific parties in which I know Viewmont Pharmacy is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Within 90 days of confirmation, I will divest my interests Merck & Co., Inc., Pfizer Inc., and AbbVie Inc. With regard to each of these entities, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the entity until I have divested it, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

I understand that I may be eligible to request a Certificate of Divestiture for qualifying assets and that a Certificate of Divestiture is effective only if obtained prior to divestiture. Regardless of whether I receive a Certificate of Divestiture, I will ensure that all divestitures discussed in this agreement occur within the agreed upon timeframes and that all proceeds are invested in non-conflicting assets.

If I rely on a *de minimis* exemption under 5 C.F.R. § 2640.202 with regard to any of my financial interests in securities, I will monitor the value of those interests. If the aggregate value of interests affected by a particular matter increases and exceeds the *de minimis* threshold, I will not participate personally and substantially in the particular matter that to my knowledge has a direct and predictable effect on the interests, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1).

If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the exemption at 5 C.F.R. § 2640.201(a), or obligations of the United States.

I will meet in person with you during the first week of my service in the position of Administrator in order to complete the initial ethics briefing required under 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will also document my compliance with this ethics agreement by notifying you in writing when I have completed the steps described in this ethics agreement.

I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order no. 13770) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this ethics agreement.

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. B. Long', with a large, stylized flourish extending to the right.

William B. Long

U.S. Senate Committee on Homeland Security and Governmental Affairs
 Pre-hearing Questionnaire
 For the nomination of Brock Long to be
 Administrator, Federal Emergency Management Agency,
 Department of Homeland Security

I. Nomination Process and Conflicts of Interest

1. *Did the President or the Secretary of the Department of Homeland Security (DHS) give you specific reasons why you were nominated to be the next Administrator of the Federal Emergency Management Agency (FEMA), and, if so, what were they?*

During the interview process for my nomination to this position with Secretary Kelly, he was clearly interested in my knowledge, experience, and abilities to lead before, during, and after disasters. I believe my proven track record experience in both the public and private sector, coupled with strong leadership in times of crisis were the primary factors in my nomination to the position of FEMA Administrator.

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

No.

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

No.

4. *Are you aware of any business relationship, dealing, or financial transaction that could result in a possible conflict of interest for you or the appearance of a conflict of interest? If so, please explain what procedures you will use to recuse yourself or otherwise address the conflict. And if you will recuse yourself, explain how you will ensure your responsibilities are not affected by your recusal.*

I have consulted with the Office of Government Ethics and The Department of Homeland Security Designated Agency Ethics Official to identify any and all 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 the DHS Designated Agency Ethics Official. Outside of the items provided in this agreement, I am not aware of any additional conflict of interest(s).

II. Background of the Nominee

5. *What specific background, experience, and attributes qualify you to be Administrator of FEMA?*

I am a proven leader with nearly two decades of service helping communities and organizations

prepare for, respond to, and recover from disasters, and mitigate future disaster damage. Since beginning my career in 1999, I have held positions of increasing responsibility in both public and private sector emergency management organizations, proudly serving as an emergency management professional at both the state and federal levels.

Throughout my career, I have successfully and ethically executed the authorities associated with each leadership position, including but not limited to, serving as a Governor's Authorized Representative, Incident Commander, and/or State Coordinating Officer for 14 disasters. My experience includes managing both Robert T. Stafford Act and non-Stafford Act disasters of national significance.

6. *Please describe:*

a. *Your leadership and management style.*

I believe in upholding a high ethical standard and surrounding myself with strong, capable, and principled advisors who are not afraid to challenge my assumptions or those of the Agency. I believe it is imperative to build relationships with citizens and leaders at all levels of government, and if confirmed, I will continue the work of the Agency in this space.

b. *Your experience managing personnel.*

Throughout my career, my management responsibilities progressively increased. As a FEMA Hurricane Program Manager, I supervised and maintained two operational support teams and managed project teams charged with executing Hurricane Evacuation Studies and Post Storm Assessments. The largest team I managed was the Hurricane Liaison Team, which forward deployed to the National Hurricane Center any time a tropical system threatened the Nation.

As the Director of the Alabama Emergency Management Agency (AEMA), I managed all day-to-day operations, program staff, grant programs, and disaster response/recovery mission activities for the Agency. In this role, I also served as an Incident Commander in charge of coordinating all state human capital assets to support local response efforts.

As the Executive Vice President of Hagerty Consulting, a national emergency management firm, I provide strategic direction and leadership to the firm's full complement of programs and professionals.

c. *What is the largest number of people that have worked under you?*

As the Executive Vice President of Hagerty, I have provided leadership direction to 150 full time and part time staff in response to client standby recovery contracts. In addition to active staff, I also manage Hagerty's independent consultant cadre, which consists of several hundred staff who are on call for deployment as needed.

As Director of AEMA, I managed 100 full-time employees. During the State's response to the Deepwater Horizon incident, I served as the State Incident Commander over the

Forward Emergency Operations Center that was charged with coordinating hundreds of staff members representing numerous state agencies and volunteers.

7. *Please describe your experience working in federal and/or state emergency management.*

In 1999, I was initially hired by the Georgia Emergency Management Agency (GEMA) to help design an innovative and comprehensive school and university safety program. I was promoted to the position of Area School Safety Coordinator and Hurricane Program Manager. During my tenure with GEMA, I supported one of the Nation's largest mass evacuation and mass care events as a result of Hurricane Floyd.

I interviewed with FEMA on the morning of the 9/11 terrorist attack. I was hired as a Region IV Hurricane Program Specialist, and quickly promoted to Hurricane Program Manager. In this capacity, I led FEMA's Hurricane Liaison Team, helped design the Federal Highway Administration's Evacuation Liaison Team, charged with monitoring multi-state evacuation issues, led evacuation training classes at the National Hurricane Center for local coastal emergency managers, and managed both Hurricane Evacuation Study and Post Disaster Assessment project efforts.

In 2008, I was hired to serve as the Director of AEMA, where I managed the "blue sky day" operations, programs, and grants as authorized for the State. I also served as the Governor Riley's Authorized Representative, State Incident Commander, and/or State Coordinating Officer for 14 disasters. Two of these disasters were non-Stafford Act events of national significance: the H1N1 outbreak and the Deepwater Horizon oil spill.

As the Executive Vice President of Hagerty Consulting, I have been as a subject matter expert or Project Executive helping states, FEMA, and numerous local governments with designing and executing emergency management projects, plans, exercises, training classes, and concepts that involve all hazards.

a. *How have you successfully managed and responded to large-scale disasters during your career?*

While I have had a meaningful role in numerous disasters throughout my career, the following examples highlight some of my most memorable experiences:

1. As FEMA's Region IV Hurricane Program Manager, I successfully led the Agency's Hurricane Liaison Team during the 2004 hurricane season when the Nation sustained four major (Category 3 or higher) hurricane impacts in a six-week period.
2. In 2008, as Director of AEMA I led the State's effort to evacuate citizens from the Alabama coast during Hurricane Gustav while simultaneously hosting and repatriating approximately 13,000 evacuees from the New Orleans. This was one of Alabama's largest humanitarian mass care missions and the State operated over 70 shelters for displaced residents.
3. As Director of AEMA, I served as a State Incident Commander in charge of Citizen Claim Outreach Teams and the State's Forward Emergency Operations Center

(within the Unified Incident Command) in response to the BP Deepwater Horizon oil spill.

8. ***How has serving as Director of the Alabama Emergency Management Agency prepared you to serve as FEMA Administrator?***

As Director of AEMA, I worked closely with 67 county agencies and helped to organize approaches to achieve their preparedness, response, recovery, and mitigation goals. This experience allowed me to learn how to effectively coordinate state assets down to the local incident command level, and the importance of properly calling upon and utilizing the support provided by FEMA, the Department of Homeland Security, and other U.S. Federal Agencies. This position exposed me to all facets of emergency management including, but not limited to: public health emergencies, strategic national stockpile, mass evacuation and mass care, functional and access needs, crisis communications, disaster cost recovery management, arbitration and appeals, pre- and post-disaster mitigation programs, the importance of volunteer/non-governmental organizations, and all aspects of terrorism. Additionally, it taught me how to implement span of control and effectively utilize a multidiscipline workforce in a manner to protect lives and property.

III. Role of the FEMA Administrator

9. ***Why do you wish to serve as FEMA Administrator?***

Simply stated, I am passionate about serving my country and doing what I can to transform and improve the field of emergency management in a manner that ultimately saves lives and effectively helps citizens in times of their greatest need. I believe this goal can be achieved by continuing much of the work FEMA is already undertaking, while also increasing our engagement and partnership with local, tribal, state, and federal leaders who live in, and know best the needs of their impacted communities.

10. ***What do you consider to be the mission of FEMA? What do you see as FEMA's principal strengths and weaknesses in its ability to accomplish that mission?***

In addition to the stated Post-Katrina Emergency Management Reform Act (PKEMRA) of 2006 Agency mission, I believe FEMA's role is to unify local, tribal, state, federal, non-governmental, and private sector efforts to prepare for, prevent, mitigate, respond to, and recover from disasters. I believe FEMA has a duty to help identify and solve nationwide preparedness and response gaps, as well as to serve as an enabler for state, tribal, and local partners to achieve their unique goals across all phases of emergency management.

11. ***What do you anticipate will be your role and responsibilities as FEMA Administrator?***

In addition to being ready to execute all authorities as established by the Robert T. Stafford Act, PKEMRA, the Sandy Recovery Improvement Act (SRIA) of 2013, and FEMA's other enabling authorities, if confirmed, I believe my role will be to advance the Agency's mission and to continue to enable state, tribal and local partners, while building a true culture of preparedness within our Nation's communities.

In addition to ensuring that the Agency is ready to respond to any disaster, I believe the role of the Administrator is to set the vision, goals, and tone each year for how the Agency will identify and tackle internal and external issues relating to all cycles of emergency management. Most importantly, the Administrator must build and maintain solid relationships with Federal leaders included within the National Response Plan Framework and make sure that each agency fully understands its role and is ready to execute it. FEMA is strongest when it maintains effective partnerships at all levels of government and consistently seeks feedback from state, tribal and local partners as well. If confirmed, my primary role is to build, maintain, and foster a network of key partnerships that prepare the nation to respond to and recover from disasters.

12. *What do you anticipate will be your greatest challenges as FEMA Administrator, and what do you expect will be your top priorities? What do you hope to accomplish during your tenure?*

If confirmed, I look forward to receiving detailed programmatic briefings from FEMA staff in a manner that allows me to fully understand the greatest challenges and risks facing the Agency currently.

As a consultant in the field supporting primarily state and local clients, I believe I have my fingers on the pulse of the field of emergency management. As an outsider looking into the Agency, I initially believe that the greatest challenges facing FEMA are, but not limited to:

1. Reauthorizing the National Flood Insurance Program (NFIP) in a manner that provides a sound financial framework, offers space for private market growth, and continues the important work of mitigating risk.
2. Rising disaster costs and a lack of consistency in customer service when executing recovery programs.
3. Quickly and effectively supporting our state, tribal, and local partners when responding to the increasing risk of low to no-notice man-made and technological events.
4. Gather a fresh perspective on how to best project a true culture of preparedness nationwide.
5. Effectively recruiting, retaining, and utilizing FEMA's workforce.

Given the scope of FEMA's mission, I expect other challenges may be identified by Congressional and other stakeholders. Among the principles I would bring to addressing the challenges I've listed as well as those I will come to understand if confirmed: reducing complexity of FEMA programs and orienting them toward meeting customer needs; pushing authority and capability to execute the mission out of Washington, D.C., and closer to our state, tribal and local partners; and seeking efficiency, effectiveness, and accountability across our programs to maximize FEMA's available resources.

13. *Has the President or the Secretary of DHS discussed his priorities for FEMA with you? If so, what were they?*

No, but it has been made very clear to me that the Department of Homeland Security will operate as a cohesive unit to protect Americans and I believe that FEMA has a very clear mission within the Department to achieve that goal.

IV. Policy Questions

Federal Disaster Costs and Programs

14. ***How do you view the role of the federal government in funding the response and long-term recovery to major state and local disasters, and what steps would you take to decrease the federal government's future fiscal exposure to disasters and extreme weather?***

I believe the Federal Government should bring resources and capabilities in response to disasters that states/tribes do not have at their disposal. However, the cost of recovery should be shared across all levels of government, and while FEMA should play a strong supporting role in recovery, state, tribal, and local governments should be in the lead as they know best what their communities need.

I am aware of and share concerns about rising disaster costs and if confirmed, I will begin a holistic review of FEMA's with the hopes of reducing them through mitigation, planning, and engagement with our local, tribal, and state partners. Additionally, recovery costs are generated by other federal agencies outside of FEMA, such as HUD, SBA, USACE, HHS, and FHWA. Reducing disaster cost will require working across the federal government to collectively reduce its overhead and find ways to efficiently use funds in concert with one another to best help its local partners impacted by disaster.

15. ***How can FEMA effectively work with state, local, and tribal governments to ensure they are prepared to meet their emergency management responsibilities?***

If confirmed, I will work to ensure that all levels of government are prepared to carry out their responsibilities in response to citizen needs during a disaster. I largely believe that FEMA's role is to support and enable, not supplant or dictate those responsibilities.

State, local, and tribal governments may have different goals based upon their geographical location, existing human capital, and physical capabilities. Understanding this, I believe that FEMA Regional offices and staff should be used more proactively to identify specific needs and themes within their jurisdiction, and be empowered to influence how the Agency as a whole administers future grants, technical assistance, and develops guidance. FEMA should ultimately organize efforts to address nationwide gaps, but more importantly enable our state, local, and tribal partners to achieve their goals.

In addition to potentially evaluating and adjusting the active programs and initiatives that support the Agency's partners currently, FEMA should consistently be working, planning, and training, side by side with our partners on a daily basis. If confirmed, I would like to explore embedding multi-disciplined integration teams in state agencies to enhance planning integration, increase customer service, speed up approval process, and double down on communication.

16. ***The largest share of DHS's budget authority is provided to FEMA to carry out its mission. But the DHS Inspector General and other watchdogs have identified problems with FEMA's management of its grant programs.***

- a. *If confirmed, what initial actions would you take to improve FEMA's management of its grant programs?*

If confirmed, I will commit to working with the DHS Inspector General to fully understand their findings and recommendations, as well as work with FEMA leadership to understand the issues from all sides before implementing improvements for grant program management and oversight.

- b. *What qualities will you look for in those that will manage FEMA's disaster assistance and preparedness grant programs?*

Strong working knowledge of emergency management and FEMA, large grant program management experience, ethical leadership, savvy business sense, and the ability to stay neutral to avoid conflicts of interest.

- c. *If confirmed, will you commit to doing a full review of open DHS Office Inspector General (OIG) recommendations and directing program offices to work with the DHS OIG on closing outstanding recommendations?*

Yes.

17. *How would you strike a balance between effective working partnerships with state and local governments and being a good steward of taxpayer dollars by holding them accountable for monitoring subgrantees?*

This is a complicated issue and one which I have a strong interest in. If confirmed, I will take a fresh look at how grants are utilized to buy down risk with an eye towards identifying clear, measurable metrics and ensuring grant dollars are spent appropriately and ethically.

18. *FEMA has had challenges closing out disasters. What do you think contributes to disasters not being closed out in a timely manner? If confirmed, how would you address this problem?*

Closing out a disaster requires federal, state, tribal, and local levels of government to work together, and individually, to meet deadlines and project worksheet requirements. If confirmed, I would like to take a fresh look at how to simplify disaster administration and closeout processes.

19. *If confirmed, will you commit to updating the FEMA website so it includes useful and usable information regarding disaster and preparedness grants funding?*

Yes.

The Stafford Act

20. *The Robert T. Stafford Disaster Relief and Emergency Assistance Act authorizes the President to issue "major disaster" or "emergency" declarations before or after*

catastrophes occur. Are there any changes you think Congress should make to the Stafford Act?

I believe the Stafford Act provides the President the appropriate level of flexibility to use their best judgement when it comes to declaring an area as a "major disaster" or "emergency."

21. *The Stafford Act provides for federal assistance when the severity of an incident is beyond the capacity of state and local governments.*
- a. *What weight, do you believe, should be given to the estimated per capita damage costs in a state or locality when determining whether a disaster declaration should be issued?*

If confirmed, I will ensure that the factors used to inform recommendations are routinely reviewed for accuracy and effectiveness.

- b. *Do you believe that enough weight has been given in the past to the localized impacts of a disaster when determining whether a disaster declaration should be issued?*

I would support the regular review of the factors used for determining a disaster declaration on a local level to ensure they accurately reflect the region to which they apply.

National Flood Insurance Program

22. *The National Flood Insurance Program (NFIP) has been on the Government Accountability Office's (GAO's) high-risk list since 2006. If confirmed, what steps would you take to address this problem?*

The National Flood Insurance Program is not financially viable in its current form. If confirmed, I would engage stakeholders on ways to increase the private sector's participation in the flood insurance program.

- a. *What steps would you take to address the fact that structures in designated Special Flood Hazard Areas are required to have flood insurance, yet only approximately 53 percent do?*

I am aware of this issue and if confirmed, I will take a hard look at leveraging private insurers and government partners to address this concern as well as engaging with Congress if any legislation is required to assist in this effort.

- b. *Do you believe there are problems with the amount of NFIP premiums collected from policyholders? If so, what steps would you take to address them?*

I believe the NFIP in its current form is inherently flawed, however it is a critical resource for individuals living in flood zones. Any reforms must be thoughtful and consider unintended consequences as a result of any changes to the program.

c. What steps would you take to ensure the Flood Insurance Risk Maps are updated to properly inform buyers and sellers of the risk?

If confirmed, I would engage stakeholders from the public and private sector to examine where NFIP can be improved. I believe that accurate mapping is a central part of NFIP reform.

Hazard Mitigation and Disaster Resilience

23. How could FEMA better design pre-and post-disaster mitigation grant programs to increase incentives for states, localities, businesses, and individuals to invest in disaster resilience?

Mitigation is central to reducing costs of future disasters. FEMA must first understand what risks will cause the most amount of lives lost and property damage, and work with state, tribal, and local partners to support implementation of whole community mitigation strategies designed to buy down those risks. Mitigation is a shared responsibility, and if confirmed, I would like to take a fresh look regarding how FEMA can incentivize pre-disaster mitigation activities proactively initiated by state, local, and tribal partners.

Unfortunately, mitigation has largely become a post disaster recovery effort based upon how and when a majority of funds are made available to state, local, and tribal governments. Simply put, communities must experience a declared disaster to access significant amounts of mitigation funds to make a difference. If confirmed, I would like to work with Congress to increase opportunities for pre-disaster mitigation and I will review all mitigation programs administered by FEMA to help communities reduce disaster losses.

24. What actions would you take to help FEMA lead and implement the development of consistent and meaningful indexes across the whole-of-community to measure the state of disaster resilience and preparedness and the return on investment for specific hazard mitigation activities?

If confirmed, I would engage stakeholders for recommendations on how to maintain meaningful indexes and other metrics to measure disaster resilience.

25. What role do you think hazard mitigation will have in addressing federal disaster cost issues?

As stated earlier, I believe that pre-disaster mitigation coupled with education is the key to reducing future disaster costs and, if confirmed, I will focus on identifying ways to measure the return on investment.

26. What could FEMA do to help states, localities, and individuals better assess their own disaster risk?

I believe state, local, and tribal governments understand their own disaster risk better than FEMA in many cases. While FEMA can provide loss estimation tools and technical expertise to its partners, I believe that the Regional offices must be empowered to communicate their territorial risk up to headquarters in a manner that helps the Agency as a whole better design and administer grant and technical assistance programs.

- a. Do you believe FEMA should encourage the use of credible science information to assess future risk? If so, how could FEMA help ensure that such information is accessible, understandable, and usable by all interested parties?*

I believe credible science and accurate information is the key to informing planning, mitigation, and preparedness initiatives. If confirmed, I will explore making the credible science FEMA uses accessible to the public in a digestible and informative manner. If confirmed, I will evaluate how FEMA currently makes information accessible and usable by all interested parties.

Disaster Preparedness

- 27. What is your assessment of our nation's preparedness today, both at the federal level and at the state, local, and tribal level? What are your top priorities in improving our nation's preparedness, and what measures will you take to implement those priorities?*

I believe, as a nation, our public awareness campaigns have fallen short of creating a true culture of preparedness within our citizenry. Citizen preparedness is the key to future disaster resiliency, and serves as the primary driver of how the emergency management community designs and implements greater overarching preparedness efforts. Specifically, we must realize that citizens are often the "First True Responder" for any event, and we need to redesign our Incident Command processes to reasonably include citizens rather than just assuming they are victims or survivors. If confirmed I would like to revise existing "Ready Campaign" efforts. I would also like to evaluate and implement ways to get citizens and business owners more involved in our daily training and exercise efforts (within reason). Finally, we need to further understand how to effectively communicate our campaign efforts in a manner that creates public interest and excitement.

Regardless of our nation's levels of preparedness, I realize that FEMA must be ready to support our partners for any type of event, and I will do my best to ensure the Agency is ready if confirmed.

- 28. What is your position on the effectiveness of preparedness grant programs to state, local, and tribal governments to help prepare for terrorism and other hazards?*

If confirmed, I would like to engage in more detailed conversations with FEMA staff regarding how the Agency does or does not measure grant return on investment before determining effectiveness. I believe grants should be designed as an initial bridge to help communities jump start preparedness initiatives and/or buy down risk. I do not believe that federal grants should be used to supplant entire programs.

29. *To what extent do you believe more quantitative assessments of preparedness and grants are possible?*

If confirmed, I would like to take a fresh look at quantitative assessment strategies to be considered when measuring grant effectiveness.

30. *What are your plans to strengthen FEMA's federal coordination efforts and partnerships on the development and implementation of national preparedness efforts?*

As I previously noted, FEMA Regional offices need the authority to make critical response and recovery decisions in the event of a disaster. FEMA should consider giving its regional offices more autonomy to manage Federal grants and programs to ensure that funds support the specific needs and priorities of a state/tribe or region.

I believe it is also important to engage our partners regarding future improvements to the National Incident Management System guidance to understand if communities can reasonably achieve or attain a higher level of compliance.

Additionally, communities should be incentivized to achieve Emergency Management Accreditation Program (EMAP) accreditation (with regular evaluations of those standards as threats and vulnerabilities change). I would engage stakeholders for input on how these incentives should be structured to be most effective.

31. *Recent surveys have continued to show that many citizens are unprepared for a disaster.*

a. *Do you believe it is important for FEMA to promote personal preparedness? If so, how would you do so if confirmed?*

Yes. As previously noted, I believe FEMA's public awareness campaigns could and should be improved. I am not confident that the majority of people are aware of the significant impact that investing in mitigation and resiliency has on recovery efforts.

If confirmed I would like to review existing "Ready Campaign" efforts and explore ways to better utilize social media networks in FEMA's public awareness campaigns.

b. *Please describe any efforts you engaged in as Director of the Alabama Emergency Management Agency to encourage personal preparedness.*

As director of AEMA, I was responsible for all aspects of the Ready Alabama program and often served as the State's public voice about individual preparedness. Additionally, I led the creation of an innovative set of tools to provide citizens with a digital risk analysis through our public website. The tool was designed to help them understand their vulnerabilities based upon location, alert them of real time warnings, and educate them about key contacts within their community. If confirmed, I would like to consider adapting FEMA.gov to have similar but expanded capabilities.

32. *What do you see as FEMA's most important management challenges, and what steps will you take to address these challenges?*

I believe employee recruitment and retention are very real concerns that must be addressed for FEMA to operate to at full capacity. If confirmed, I would make it a priority to meet with staff from all the Agency's programs to hear their perspective on where there are opportunities to increase employee engagement and job satisfaction.

Before making decisions regarding how to correct these perceived problems, I must verify them. If confirmed, I plan to travel to FEMA Regional offices to meet with staff and state, tribal, and local agency leaders to collect ideas for improving upon all facets of FEMA. It is also important to meet with the leadership representing various associations and non-governmental organizations that support the emergency management community to understand issues and solutions to better our field.

Most importantly, I will instill within my senior leadership team that, as a whole, we will be approachable and double down on internal communication. We will clearly voice the vision and goals of the Agency to our staff and partners, help employees understand the importance of their roles and where they fit in, and make incremental, but effective, changes to solve problems that we identify. We will avoid making decisions in vacuum and collect ideas and solutions to issues from many good advisors and all levels of staff.

33. *What changes, if any, in culture and leadership tone at FEMA are needed, and what would you do to make progress in these areas?*

If confirmed, I will first verify existing culture and leadership tones, and will then implement any needed changes.

34. *In the most recent Best Places to Work in the Federal Government survey, FEMA was ranked 284 out of 305 federal agencies for employee morale. In your view, what factors drive morale and employee engagement at FEMA? What steps are needed to make progress in this area?*

Staff must understand where their role fits in to the entire Agency's mission. Additionally, employees must be able to envision a career ladder within the Agency, receive constructive feedback, and be able to voice ideas and issues up the chain of command. Most importantly, they must feel connected to Agency leaders.

35. *What changes, if any, in FEMA's existing workforce are needed, and what would you do to make progress in this area?*

If confirmed, I plan to review how FEMA's workforce is designed and utilized.

36. *Coordination between FEMA's regional offices and headquarters has been repeatedly identified as a management issue by the GAO and others and has sometimes created*

internal conflict and inconsistent application of policies and procedures to states and locals.

- a. To what extent are you aware of this situation and what steps do you plan to improve coordination between FEMA's regional offices and headquarters?*

I believe in fostering strength in the FEMA Regional offices, and the philosophy that Incident Command decisions should be made closest to the incident. Regional staff are the eyes and ears of the Agency, and should be empowered to make decisions with strategic oversight from Headquarters. If confirmed, I would like to evaluate options for strengthening FEMA Regions incrementally and allow them to assume more response and recovery authorities without compromising the Agency's ability to support our partners.

- b. Do you believe FEMA's current regional structure is the most efficient and effective way to organize and implement FEMA's various missions and programs? Please explain.*

If confirmed, I would like to explore extending the reach of regional offices by embedding full time integration teams inside state agencies to improve pre-disaster coordination and post disaster response.

- c. What do you see as the appropriate role of the regional offices with respect to headquarters?*

Regional offices are a key capability for coordinating and maintaining relationships with states, tribes, and local leaders and communities.

37. *Protecting whistleblower confidentiality is of the utmost importance to this Committee.*

- a. How do you plan to implement policies within the agency to encourage employees to bring constructive suggestions forward without the fear of reprisal?*

If confirmed, I would support and encourage employees to share their ideas and suggestions with FEMA leadership on where they see opportunity for improvement within the Agency.

- b. If confirmed, what avenues will be available to employees to report waste, fraud, or abuse within FEMA?*

I would make certain FEMA policy fully protects whistleblowers, and make any changes necessary to the current policy to achieve such protections.

- c. Do you commit without reservation to work to ensure that any whistleblower within FEMA does not face retaliation?*

Yes.

- d. *Do you commit without reservation to take all appropriate action if notified about potential whistleblower retaliation?*

Yes.

V. Relations with Congress

38. *Do you agree without reservation to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed?*

Yes.

39. *Do you agree without reservation to make any subordinate official or employee available to appear and testify before, or provide information to, any duly constituted committee of Congress if you are confirmed?*

Yes, in accordance with all Administration policies and laws.

40. *Do you agree without reservation to comply fully, completely, and promptly to any request for documents, communications, or any other agency material or information from any duly constituted committee of the Congress if you are confirmed?*

Yes, in accordance with all Administration policies and laws

VI. Assistance

41. *Are these answers your own? Have you consulted with DHS or any other interested parties? If so, please indicate which entities.*

Yes. In an effort to be forthright and responsive to the Committee, I have participated in a few high level pre-confirmation briefings with FEMA staff and the Department of Homeland Security. These consultations were generally used to inform my answers at a high level, but these answers are my own.

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Supplemental Minority Pre-hearing Questionnaire
For the Nomination of Brock Long to be
Administrator, Federal Emergency Management Agency,
Department of Homeland Security**

I. Background of Nominee

1. *What improvements has FEMA made since you last worked at the agency?*

The Agency has made significant changes since I was last employed there over ten years ago. Most significantly, FEMA has made great strides to fulfill requirements set forth by the Post Katrina Emergency Management Reform Act and the Sandy Recovery Improvement Act. The Agency has also tremendously increased its comprehensively trained workforce and worked to implement a national preparedness system. FEMA has also concentrated heavily upon its ability to respond and assist communities with preparing for catastrophic events.

2. *Please describe the nature of your work in the private sector, including your experience with Beck Disaster Recovery Inc. and Hagerty Consulting. Who were your top five clients at Hagerty by contract amount?*

Since 2011, I have served as the Executive Vice President at Hagerty Consulting, where I provide strategic direction and leadership to the firm's full complement of emergency management programs and professionals. I directly supported approximately 50 projects as a Project Executive/Subject Matter Expert, ranging from complex attack scenario exercises to designing multi-jurisdictional, all-hazard evacuation plans. A majority of Hagerty's clients are state and local government agencies; however, the firm has supported FEMA and several private sector/non-governmental organizations since inception in 2001. The firm's top five clients during my tenure include:

1. New York City Office of Management & Budget
2. Chicago Bridge & Iron Company (CBI)
3. Nationwide Infrastructure Support Technical Assistance Contractors (Joint Venture) – FEMA PATAC Support
4. City of Longmont, Colorado – CDBG-DR flood recovery management support
5. Cook County Department of Homeland Security & Emergency Management

Regarding Beck Disaster Recovery (BDR) Inc, I briefly served as the Southeast Regional Program Director over emergency management programs. BDR was acquired by SAIC, and sold again to Tetra Tech. I do not recall BDR's top five clients during my tenure nor do I have access to this information.

3. *Please give examples of times in your career when you disagreed with your superiors and aggressively advocated your position.*

As Director of the Alabama Emergency Management Agency, on a small number of occasions I made recommendations regarding how the state should change several processes to improve large scale evacuation response plans to the Governor. My recommendations were not accepted despite several efforts to advocate my position.

4. *Please list and describe examples of when you made politically difficult choices that you thought were in the best interest of the country?*

During my career I have never been in a position that impacts the best interest of the country as a whole; however, my experience in emergency management has taught me to remain as apolitical as possible and always focus upon life-saving and life sustaining missions. Never in my career have made safety decisions based upon politics. Protecting all Americans is my priority.

5. *Do you seek out dissenting views, and how do you encourage constructive critical dialogue with subordinates?*

I am a diplomat by nature and I believe in surrounding myself with capable advisors. My leadership style includes regularly engaging staff members at all levels of any organization. I believe in establishing sound lines of communication and building an approachable leadership team. During my career, I designed and implemented numerous “discovery change” listening sessions to identify internal issues, solutions, and the best path forward that includes staff representing all parts and levels of the organization.

II. Policy Questions

6. *Provide us with examples of a few changes or improvements you believe need to be made to FEMA's existing regulations, policies, and practices.*

If confirmed, I would like to potentially evaluate or address the following, but not limited to, items;

1. Implement a “Reduce the Complexity of Recovery” campaign designed to reduce disaster costs, improve FEMA recovery customer services, and help communities understand how to use all federal disaster funds in concert with one another to increase resiliency.
2. Strengthen FEMA Regions and incrementally allow them to assume more response and recovery authorities without compromising the Agency’s ability to respond. Also, increase regional involvement with an ongoing dialogue on their grant priorities and initiatives.
3. Increase customer service to constituents by potentially positioning FEMA personnel on a temporary or semi-permanent basis inside state agencies and UASI jurisdictions (in coordination with those jurisdictions).
4. Review and transform the “Ready Campaign” in manner that provides citizens with simple skill sets designed to increase individual resilience and establish a true culture of preparedness.
5. Evaluate and potentially improve the existing disaster workforce structure.

6. Ensure that communities are building sustainable capabilities and buying down risk with existing grant programs, rather than relying on grants to supplant day-to-day operations.
7. Take a fresh look at how to quickly and cost effectively close out existing disasters that received FEMA disaster funding.

Federal Disaster Costs and Programs

7. ***According to FEMA, there were 252 federally declared disasters in the United States from 1980 through 1989 and 558 disaster declarations in the 1990s. During the next decade, from 2000 through 2009, the number of declarations increased to 1,265. Already, between 2010 and 2017, there have been 822 federally declared disasters. What factors, in your opinion, are driving the increase, and what actions, if any, would you take as the Administrator of FEMA, to address the rising number of disaster declarations?***

There are many contributing factors for the increasing number of disaster declarations. First, I believe that many citizens are increasingly facing asset poverty (a household's inability to access wealth resources that are sufficient to overcome small emergencies) and have less financial means to overcome disaster events, which increases the need for Individual Assistance support. Second, various climate variability cycles, such as Thermohaline Circulation, have contributed to the increased number of disasters declared. Third, a lack of proper building codes coupled with inadequate insurance policies has played a significant role. These are just a few of many contributing factors.

Pre-disaster mitigation and education is the key to reducing the future number of disasters and associated costs. I would like to review how FEMA can better incentivize state, tribal and local governments to take more pre-disaster mitigation actions as well as revising public awareness campaigns to educate citizens and business owners about the importance of insurance and how make proper preparations based upon the unique risks they face.

8. ***In 2010 testimony before the House Homeland Security Committee's Subcommittee on Emergency Communications, Preparedness, and Response, you were critical of the length of time, in some cases, that it took for the President to issue a disaster declaration, and you criticized FEMA's regional offices for being unable to provide detailed information on the status of requests for assistance.***
 - a. ***Do you believe, generally, that it takes too much time for the President to decide whether to issue a disaster declaration, and, if so, what would you do as the FEMA Administrator to expedite the process?***

I believe that disaster declaration decisions should be made as quickly as possible so FEMA's state and tribal partners have a better understanding of how to move forward to address disaster impacts with, or without, federal support. If confirmed, I will assess FEMA's internal process for evaluating these requests and work to improve the clarity in response provided to Governors when a declaration request is denied.

- b. *How do you rate communications between state emergency management agencies and FEMA offices currently, and, what, if anything, would you do to improve communication?*

Having served as a private consultant for the past 6 years, I am not in a position to accurately rate communications between state agencies and FEMA offices. However, if confirmed, I fully plan to assess existing relationships to understand if the Agency is communicating effectively with states on a daily basis. One initiative I hope to explore and implement, if confirmed, is to expand the regional office(s) reach by embedding full time staff, in coordination and discussion with these entities within state agencies, to truly increase integration levels within all phases of emergency management.

Response and Recovery

9. *What, if any, changes do you believe need to be made to FEMA's response and recovery programs?*

I think FEMA has made great strides to increase its ability to support its state, tribal, and local partners during the response phase. If confirmed, I plan to continue to build upon the existing foundation and move the needle forward. I would like to explore incrementally increasing response/incident command decision making authorities within the Regional offices if confirmed.

Regarding recovery, if confirmed, I would like to examine ways to reduce disaster costs and improve FEMA customer service to partners through the entire recover process.

FEMA Grant Programs

10. *In 2011, FEMA began reengineering its Public Assistance (PA) program, which provides grants to state and local agencies for repairing, replacing, and restoring publicly-owned damaged facilities. In 2015, program officials launched a new model for delivering PA to increase the simplicity, accuracy, and efficiency of the process and to make it more accessible and timely. To what extent do recent proposed changes address your understanding of the longstanding challenges associated with PA?*

I believe the current reengineering effort is a necessary and bold move by FEMA. It is my understanding that the PA Reengineering program is currently being piloted for the first time in various communities. I have not been briefed regarding the initial successes or failures experienced as a result of this ongoing pilot. If confirmed, I plan to fully evaluate the effectiveness of this effort, and make changes to ultimately improve how the Agency administers all facets of the PA program.

11. *FEMA is currently testing the new PA model in selected disasters before scaling it up prior to full implementation by 2018. What evidence of success would you want to see if confirmed as FEMA Administrator before implementing the new process nationwide for all future disasters?*

Initially, I would want to make sure the reengineered process ultimately helps our state, local, and tribal partners achieve their recovery goals, that it provides consistent customer service, and that the streamlined effort reduces overhead operating cost comparatively. In the long term, I would want to make sure it results in a reduced number of OIG negative audit findings and quicker closeout times. Most importantly, I would want to ensure the process strengthens state, tribal, and local abilities to manage disasters with decreased support from FEMA in the future.

12. *FEMA also provides Individual Assistance (IA) to victims of disasters. What do you see as FEMA's role in providing long-term IA to families and individuals?*

The various forms of Individual Assistance are vitally important and should serve as an initial bridge to recovery. The program is not designed to make people whole and if confirmed, I would like to evaluate how FEMA informs recipients of the entire scope of support they may be eligible for, to include Other Needs Assistance, and what those programs are intended to do for them.

13. *The six primary factors FEMA uses to assess the severity, magnitude, and impact of a disaster in evaluating whether IA should be provided have not changed since 1999. The current factors include concentration of damages, trauma, special populations, voluntary agency assistance, insurance, and average amount of IA by state. In 2013, Congress passed the Sandy Recovery Improvement Act, which required FEMA to review, update, and revise factors considered when evaluating the need for IA. In response, FEMA issued a proposed rule with new factors.*

- a. *How have your experiences shaped your views of the effectiveness of FEMA's IA program?*

I have not been directly involved with FEMA's IA program execution since entering the private sector over 6 years ago, and cannot in good faith provide my views regarding the effectiveness of the IA program. If confirmed, I will take a fresh look at how the new objective criteria is impacting our state, local, and tribal partners.

- b. *To what extent do you agree with the potential benefits of more objective criteria, the need for clarity in the threshold for eligibility, and the need to speed the declaration process?*

Increased transparency regarding how FEMA establishes its decisions on a declaration request in any capacity is good customer service. Increased transparency, coupled with clear guidance, helps our partners to understand how to better communicate their need for support and to understand when their capacity has truly been exceeded to respond to an event. Individual Assistance is designed to help Americans suffering after a disaster. A decision to provide (or not) this type of assistance should be made as quickly as possible so that our partners understand how to best move forward to support their citizens with or without FEMA support. Regarding the new objective criteria proposed, FEMA needs to work with its partners to better understand how to effectively measure a state's fiscal capacity and resource capability.

- c. *To what extent do you think FEMA's proposed changes will help or hinder the IA declaration process?*

I believe that it may be too early in the process to assess the effectiveness of these changes; however, if confirmed I will evaluate feedback from our state and tribal partners.

14. *FEMA has a number of grant programs to assist local fire departments with staffing and training resources and to ensure communities have adequate protection from fire hazards.*

- a. *If confirmed, how will you ensure that FEMA, through the U.S. Fire Administration and Grant Programs Directorate, widely disseminates information about grant opportunities, so the likelihood of procuring grant funding does not depend on a department's access to a full-time grant writer?*

At this time I have not been briefed regarding how FEMA currently disseminates information or provides grant writing support. If confirmed, I commit to looking at this issue further.

- b. *How can FEMA's U.S. Fire Administration and Grant Programs Directorate better coordinate with local fire departments to ensure they get the grant administration training they need?*

At this time I have not been briefed regarding how the Directorate currently coordinates grant administration training. If confirmed, I commit to looking at this issue further.

- c. *What do you see as the unique needs of volunteer and rural fire departments in the context of FEMA's fire grant programs?*

If confirmed, I will work with the U.S. Fire Administrator and associations, such as IAFC and the NVFC, to better understand needs and issues. I believe that volunteer and rural fire fighters in many parts of the United States are the backbone of a community's ability to respond, and I recognize that demands being placed upon them are increasing.

Hazard Mitigation and Disaster Resilience

15. *According to the Pew Charitable Trusts, future losses are reduced by as much as \$4 for every \$1 that is spent on mitigation. What do you see as the proper role of FEMA in mitigation against disasters, both man-made and natural?*

I believe FEMA plays a vital role that enables state, local, and tribal partners to execute their strategies for building resiliency. I also believe implementing effective mitigation strategies is a "whole community" responsibility.

Pre-disaster mitigation is the key to reducing disaster cost and potential loss of life in the long term for man-made and natural disasters.

16. *GAO reported last year that the U.S. Army Corps of Engineers and FEMA have made little progress in implementing key national levee-safety activities required in the Water Resources Reform and Development Act (WRRDA) of 2014. The Corps has been working to develop a national levee inventory, but the agencies have taken no action on other levee-safety activities for which they are responsible, including the development of national standards for levee safety and the building of state oversight capabilities. What actions do you believe FEMA should take to fund and implement the levee safety program as laid out in the 2014 WRRDA?*

If confirmed, I will review and evaluate this issue.

Disaster Preparedness

17. *What do you view as FEMA's role in promoting state, local, and tribal preparedness, so that there are no weak links in our national preparedness for terrorist attacks and natural disasters?*

I agree that FEMA's role in preparedness is to serve as the Nation's principal coordinator as clearly articulated by statutory authorities and the National Incident Management System and Preparedness Guidelines.

18. *In your opinion, should the federal government shift more of the financial responsibility for preparedness to state and local governments?*

Proper preparedness is a shared "whole community" responsibility.

FEMA Management

19. *According to the Post-Katrina Emergency Management Reform Act of 2006, the Administrator of FEMA is required to have "a demonstrated ability in and knowledge of emergency management and homeland security," including at least five years of executive leadership and management experience. If confirmed, will you commit to only recommending to the President Regional Administrators who meet the same criteria?*

If confirmed, yes. Regional Administrators must be strong communicators and familiar with the region's hazards as well as all aspects of emergency management. Most importantly, the Regional Administrator should have a proven track record in emergency management and be respected by our state and tribal partners.

20. *FEMA has one of the oldest and most outdated financial management systems in the Department of Homeland Security (DHS) and is also undergoing a grants management modernization effort to better integrate numerous and fragmented grant management systems. Given the amount of grant dollars that FEMA manages, implementation of these systems will be critical to effective agency operations in the future.*

- a. How have you pursued the implementation of these kinds of systems in your previous positions?*

As the Executive Vice President of Hagerty Consulting, I indirectly worked with clients to implement disaster Financial Management Systems to track disaster funds and provide total asset visibility. Most importantly, we helped clients implement systems to help them understand how to prioritize recovery projects based upon cash flow factors and the timing of receiving funds from various agencies within the federal government. These systems helped to fully account for all funds, forecast project completion, alert for issues and problems, and ensure grant compliance.

National Flood Insurance Program (NFIP)

- 21. The National Flood Insurance Program (NFIP) is a key component of the federal government's efforts to limit the damage and financial effect of floods. However, it likely will not generate sufficient revenues to repay the billions of dollars borrowed to cover claims from Hurricane Katrina in 2005, Hurricane Sandy in 2012, or potential claims related to future catastrophic losses.**

- a. Are you concerned about the long-term solvency of the NFIP?*

Yes

- b. What do you see as the proper balance between NFIP solvency and property owner affordability?*

From the outside looking in, it appears that the system is out of balance in this area – solvency of the program is critical and I believe it can be achieved in a measured way that doesn't cause people to lose their primary homes.

- 22. The NFIP is not just an insurance program. It is also a mitigation, mapping, and sound floodplain management program. How will you ensure that FEMA prioritizes these aspects of the NFIP to promote less risky development and to encourage more mitigation action before flooding occurs?**

The NFIP program can no longer reward risk by writing new business in vulnerable areas under the existing business framework. FEMA must work diligently with the private insurance industry to map out the best way forward for insuring the uninsured. If confirmed, I will work with the private sector and FEMA NFIP stakeholders to evaluate and prioritize efforts to reduce risk. Proper mitigation is the foundation of all emergency management.

Public/Private Partnerships

- 23. Please explain the importance of partnerships with non-governmental organizations to FEMA's overall mission.**

NGOs and National Voluntary Organizations Active in Disaster are the cornerstone for supporting Americans impacted by disaster. These organizations are rarely bound by detailed regulations, allowing them to adapt their support in a supplemental manner to government assistance. If confirmed, I would also like to evaluate how FEMA can better engage private sector firms in a meaningful manner to increase the agencies staff and technical assistance capabilities.

24. *What role do you believe the private sector should play in emergency management? How can the private sector best assist federal, state, and local governments in emergency management, and what specific steps will you take, if confirmed, to foster, improve, and/or expand public-private partnerships?*

I believe that private sector emergency management, engineering, accounting, and technology firms are the unsung heroes within the emergency management community. These firms are often charged by communities across the country to help them understand, implement, and follow all FEMA guidance, policies, and best practice concepts. Most importantly, many firms assist communities with understanding what they are entitled to after a disaster and how to properly navigate disaster policy while maximizing funds.

If confirmed, I would like to implement an effective process to proactively invite our private sector partners to share feedback, ideas, and issues directly with the Agency on a regular basis. I have found current processes to introduce the Agency to new technology or alert them of issues are not entirely effective. Private sector firms often create best practices and have ideas to better policies, and I believe that FEMA has an obligation to collect this information to help inform the Agency's future efforts.

III. Relations with Congress and the Public

25. *If confirmed, how will you make certain that you will respond in a timely manner to Member requests for information?*

Yes. I am committed to responding in a timely manner and will express the importance of responsiveness to the leadership within the Agency.

26. *If confirmed, do you agree without reservation to reply to any reasonable request for information from the Ranking Member of any duly constituted committee of the Congress?*

Yes.

27. *If confirmed, do you agree without reservation to reply to any reasonable request for information from members of Congress?*

Yes.

28. *If confirmed, do you commit to take all reasonable steps to ensure that you and your agency comply with deadlines established for requested information?*

Yes.

29. *If confirmed, do you commit to protecting subordinate officials or employees from reprisal or retaliation for any testimony, briefings or communications with members of Congress?*

Yes.

30. *If confirmed, will you ensure that your staff will fully and promptly provide information and access to appropriate documents and officials in response to requests made by the Government Accountability Office (GAO) and the Congressional Research Service?*

Yes.

31. *If confirmed, will you direct your staff to fully and promptly respond to Freedom of Information Act requests submitted by the American people?*

Yes.

IV. Assistance

32. *Are these answers your own? Have you consulted with DHS or any other interested parties? If so, please indicate the individuals or entities with whom you have consulted and the nature of the assistance they provided.*

Yes, I take full responsibility for all responses. In an effort to be forthright and responsive to the Committee, I have participated in high level pre-confirmation briefings with FEMA staff and the Department of Homeland Security. These consultations were generally used to inform my answers at a very high level.

I, William Brockmann Long, hereby state that I have read the foregoing Pre-Hearing Questionnaire and Supplemental Questionnaires and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.


(Signature)

This 31 day of May, 2017

**Chairman Ron Johnson
Post-Hearing Questions for the Record
Submitted to Mr. Brock Long
Nomination of Brock Long to be Administrator, Federal Emergency Management Agency
U.S. Department of Homeland Security
Wednesday, June 7, 2017**

As we discussed at your confirmation hearing, last Congress the Committee passed legislation known as the Integrated Public Alert and Warning System (IPAWS) that authorizes and enhances the public alert warning system.

Key parts of the law have not been implemented and deadlines have been missed. This includes the requirement to create a mandatory training program on how to use the system and to form a subcommittee comprised of Federal, state, and local agencies to consider improvements to the system. Some have suggested that this shortcoming is due to requirements that fall outside the IPAWS Program Management Office and rests in others offices within the Federal Emergency Management Agency (FEMA).

1. If confirmed as Administrator, do you commit to fully implementing IPAWS?

Issuing timely critical public alerts and warnings is vital to protecting people. If confirmed, I commit to gaining a better understanding of the issues confronting IPAWS, and to helping the agency comply with all requirements.

2. How will you coordinate throughout FEMA to ensure that the IPAWS legislation is fully implemented?

If confirmed, I will need to be briefed on all outstanding requirements, and will work with FEMA staff and stakeholders to design and execute a corrective action path forward so the agency is in compliance with the law. Should I identify shortfalls and need support to implement all facets of the program as required, I will also inform and work with the Committee to address them.

**Questions for the Record
Senator Rand Paul**

**On the Nomination of Mr. Brock Long to be
Administrator, Federal Emergency Management Agency
June 8, 2017**

1. FEMA has historically been resistant to criticisms and needs for change. Last year, I held a hearing to assess FEMA's progress, performance, and preparedness, where I highlighted IG findings that, despite hundreds of recommendations for reform to the grant programs at FEMA, only four permanent changes had been made over the time these recommendations had come forward.¹

- a. If confirmed, how will you be responsive to recommendations for improvements to FEMA, and what changes will you make to FEMA's grant programs?

First, I believe the IG has a critical role in ensuring that the federal government protects the tax payer. If confirmed, I will carefully evaluate all the IG's recommendations to improve FEMA's grant programs and make necessary changes to better the Agency's business processes.

If confirmed, I will work with staff to fully understand how the agency currently administers, tracks, and measures return on investment for all pre-disaster and post-disaster grant funds and work with stakeholders on any potential changes to ensure FEMA is fully aware of any unintended consequences to program changes.

- b. Which recommendations will you prioritize?

Out of respect for the nomination process, I have not been fully briefed regarding the IG findings in regards to recommendations for reforming FEMA's grant programs. If confirmed, I will review and evaluate the findings and meet with you and other members of Congress to better understand concerns in this area.

2. FEMA is more than \$20 billion in debt because of the National Flood Insurance Program (NFIP). In fact, GAO determined that as of March 2017, FEMA owed almost \$25 billion to the Department of Treasury for money borrowed to pay claims and other expenses, including over \$1.5 billion that FEMA borrowed following floods in 2016 alone. This year, even as FEMA has noted its debt is becoming so large from NFIP borrowing that it is looking to buy down the debt, FEMA has also made one of the highest NFIP requests in history.²

- a. How do you reconcile these, and what will you do to address this problem?

If confirmed, I would welcome the opportunity to work with Congress to transform NFIP into a more sustainable program that minimizes the reliance on taxpayers to finance recovery costs from future floods. I realize it will not be an easy task to fix the existing business framework and to design a way forward to cover new policy holders.

I believe FEMA should provide the private insurance industry with a mechanism to clearly voice their ideas and potential solutions for improving NFIP. If confirmed, I would like to quickly engage private insurers to collect

ideas regarding how the NFIP and Congress can potentially expand the private marketplace.

If confirmed, I would also like to work with Congress to make sure the NFIP is consistently reauthorized in a manner that avoids potential disruptions to the housing market and to consider options to improve compliance with existing mandatory purchase requirements. Additionally, I would like to investigate incentives for residents to implement mitigation measures. Finally, we must work together to formulate a sound financial structure that helps drive down existing debt but in a manner that upholds affordability.

3. In general, what is your position on federal funding, both pre and post disaster, to state and local governments?
- a. What is the proper role of the federal government in disaster response relative to state and local, as well as private stakeholders?

I believe the federal government plays a vital role in supporting state, local, and tribal partners before, during, and after disasters and that it should continue to do so while finding ways to help its partners become more self-sufficient.

- b. What are your plans to ensure that federal funds are utilized when necessary, and conversely, that federal taxpayers are not given a bill for services that are more appropriately performed by state and local jurisdictions?

I believe the federal government should bring resources and capabilities in response to disasters that states/tribes do not have at their disposal. However, the cost of recovery should be shared across all levels of government, and while FEMA should play a strong supporting role in recovery, state, tribal, and local governments should be in the lead as they know best what their communities need. If confirmed, I will work with Congress and stakeholders on how to best utilize federal funding.

- c. Please identify any functions currently performed by FEMA that you believe could be performed by a state/local government or by a private entity.

If confirmed, I would like to work with FEMA staff and the Agency's partners to identify areas of the collective mission that could be performed by state, local, and tribal governments as well as the private sector.

Initially, I believe state, local, and tribal governments should explore private consulting to help them navigate FEMA disaster recovery programs and manage large grants when impacted by disasters.

Additionally, I believe there are numerous "off the shelf" information technology products that could be utilized to manage disaster grants, produce maps, and conduct risk analyses. However, I would need to be further briefed on the regulations that may stand in the way of using these private capabilities.

4. According to GAO, FEMA has provided well over \$40 billion in homeland security grants through the preceding 15 years.³ All too often, state and local governments are using federal dollars to purchase things they would not otherwise, including past examples such as snow cone machines and armored vehicles.
- a. Do you believe that the list of allowable costs and equipment is too expansive?

If confirmed, I will fully review this list and make recommendations for refining it. Out of respect for the nomination process, I have not been involved or briefed regarding how the list is currently evaluated, expanded, or reduced.

- b. How will you approach any future additions or subtractions to the allowable costs and equipment lists?

I believe the list should remain dynamic and be evaluated year to year as threats to the country can change, thus changing readiness needs. If confirmed, I will work with DHS and FEMA's state, local, and tribal partners to understand their needs, but also, how we can collectively measure return on investment for grant expenditures.

¹ <https://www.gpo.gov/fdsys/pkg/CHRG-114shrg21181/pdf/CHRG-114shrg21181.pdf>

² GAO-17-425, *Comprehensive Reform Could Improve Solvency and Enhance Resilience*, Apr 27, 2017 (<https://www.gao.gov/products/GAO-17-425>)

³ GAO-16-560T, *Progress and Continuing Challenges in National Preparedness Efforts*, April 12, 2016 (<https://www.gao.gov/products/GAO-16-560T>)

- c. What will you do to better prioritize grant funds and ensure that expenditures are for the most appropriate and needed acquisitions?

If confirmed, I must be fully briefed on how FEMA and DHS measure return on investment. The prioritization of grants involves many factors including the frequency of actual disaster events and changing threats. If confirmed, I would also be happy to meet with you and other members of Congress to understand your ideas.

5. FEMA has historically been criticized for poor planning and mismanaged priorities. At a recent hearing of the House Oversight and Government Affairs Committee, there was a discussion of evidence that FEMA officials designated negative publicity—or the suppression of negative information prior to the last election—as the number one priority, while FEMA’s lowest priority (down in “Tier 3”) was a case of housing and medical care for disabled children. FEMA was asked to stop focusing on political motivations and to instead focus on the people.⁴
- a. What will you do to recalibrate priorities and prevent such misguided or mismanaged priorities from ever happening again anywhere within FEMA?

If confirmed, saving lives, protecting the Nation, and helping communities in the time of their greatest need will be my top priority. I will reconfirm this position with FEMA staff and I commit to being as transparent as possible about the Agency’s actions and direction. Disasters do not discriminate, and the agency must diplomatically and expeditiously support its partners when called upon.

6. Last year, GAO found deficiencies in the governance and oversight of the review board FEMA created to review its Information Technology (IT) investments, including that the board had not fully defined roles and responsibilities of key members, working groups, and individuals; and, does not have clearly defined procedures for selecting and overseeing investments. It concluded that, as a result, FEMA lacks adequate visibility into and oversight of IT investment decisions and activities.⁵
- a. Given these deficiencies, do you believe it was wise for FEMA to move forward in requesting funding for, or on the acquisition of new IT investments, and what will you do to ensure that the right plans and decisions have been made up to this point, prior to encumbering federal dollars improperly or unwisely?

I believe protecting taxpayer dollars and using them wisely is of upmost importance. If confirmed, I will look into this issue and evaluate the best way forward.

7. FEMA has advised its plans to create a new grants management system. However, cost savings that will result are thus far prospective, aspirational and unknown.⁶
- a. Please advise how this acquisition and program will increase effectiveness and save money, and what you will do to ensure such.

I have not received a full briefing on FEMA’s plans to create a new grants management system and therefore do not have adequate information to answer this question. If confirmed, I will work with staff to learn about the proposed system and the potential cost savings

associated with it.

8. As I have noted in previous hearings, I have heard concerns that flood maps are not clear enough for local officials to make fully informed decisions.⁷
- What will you do to increase the efficacy and usability of FEMA's flood maps, and ensure better buy-in from communities?

I believe accurate mapping and analysis is necessary to properly assess risks, and the system currently used must be user friendly. If confirmed, I will need to be fully briefed by staff regarding how the existing platform is designed versus how it should be designed to promote efficacy and usability. I would like to explore how we can bring down the cost of mapping and analysis by allowing states to seek lower cost "off the shelf" mapping solutions that meet industry standards and requirements. Driving down the cost of mapping and analysis may reduce fee rates necessary to reduce the debt associated with the existing NFIP framework.

- How will you address community map disputes?

If confirmed, I need to come up to speed regarding how these disputes are currently managed; however, I believe that the Agency must do all it can to render timely decisions and diplomatically find common ground in a manner that accurately reflects the life safety dangers associated with a policy holder's potential flood exposure.

9. What are your thoughts on the ability for homeowners to satisfy flood coverage requirements with private flood insurance policies (if approved by a state), to satisfy the mandatory purchase requirement under the Flood Disaster Protection Act of 1973?

While I believe that policy holders should pay rates and fees for insurance that reflect their true flood risk, I'm not interested in a reauthorization that would cause Americans to lose their homes due to affordability issues. The right balance must be struck. I believe FEMA, Congress, and the private insurance industry must come together to fix the existing framework and create a reasonable path forward that reduces debt, but allows affordable coverage for existing and new policy holders.

- What about other reforms to improve access to otherwise expensive flood insurance coverage, such as community bulk plans or high-deductible plans?

If confirmed, I would need to come up to speed regarding all sides of the issue. I am committed to working with Congress and the insurance industry to reauthorize NFIP in a meaningful way that helps the program resolve solvency issues.

⁴ HOCR Hearing, *Oversight of FEMA's Response to the Baton Rouge Flood Disaster: Part II*, April 5, 2017 (<https://www.youtube.com/watch?v=EiBv4-dONBM>)

⁵ GAO-16-306, *FEMA Needs to Address Management Weaknesses to Improve Its Systems*, May 5, 2016. (<https://www.gao.gov/products/GAO-16-306>)

⁶ FY18 Budget, and FEMA Budget Briefing to HSGAC, May 30, 2017

⁷ <https://www.gpo.gov/fdsys/pkg/CHRG-114shrg21181/pdf/CHRG-114shrg21181.pdf>

- b. Would these help this program financially or improve coverage in your view?

If confirmed, I will look into various ways to improve coverage and NFIP's overall business framework and effectively communicate these to the Committee.

10. Please provide an update on FEMA's efforts to reform its practice of paying legal fees for private insurers participating in NFIP—particularly as it pertains to claims denial. What is FEMA's long-term plan with regard to government assumption of private legal fees?

I have not been briefed on FEMA's policy regarding this issue. If confirmed, I will investigate this issue.

11. On January 12, 2017, FEMA published a Supplemental Advance Notice of Proposed Rulemaking (SANPRM) in the Federal Register with a model of an updated Public Assistance deductible concept. It was reportedly designed to incentivize greater state resilience to future disasters, thereby reducing future disaster costs at all levels nationally.⁸
- a. Please advise your plans for this.

I believe disaster response and recovery costs are a shared responsibility at all levels of government. I am aware of the proposed deductible concept. At this point I believe that more work needs to be put into the idea as well as more outreach to partners to understand whether the concept will ultimately reduce disaster costs.

If confirmed, I would like to work with FEMA's stakeholders, such as the National Emergency Management Association, to fully evaluate the merits of the program, changes that need to be made, and whether or not the program in its entirety is the best way forward.

12. In FY17, FEMA moved major amounts of money from the DRF to its general operating expenses, and even FEMA apparently recognizes that it should not have taken millions of dollars from the DRF that it did.⁹

- a. Do you believe it appropriate to use DRF funds in this manner?

I believe that funds should be used efficiently and effectively according to the rules and regulations that accompany them as set forth by Congress and the law. I have not been briefed regarding this exact issue and cannot answer the question at this time.

- b. Please advise your position on moving money under FEMA's control, and what you will do to ensure fiscal compliance and accountability in FEMA.

If confirmed, I will do everything in my power to uphold fiscal compliance and accountability.

13. Not only is the NFIP on GAO's 2017 High Risk list, but the IG recently released the report of a major accounting firm who they contracted to audit the NFIP's internal controls for financial reporting. As a result of that accounting audit, nine observations relating to internal

controls and other matters were noticed. These included: internal control deficiencies and the need for improvement in calculating written premiums; reviewing paid claims; monitoring third party service providers; and recording investments. Though the IG advised that “these deficiencies were not considered significant”, any remediable mismanagement of federal spending is of significance.¹⁰

- a. What will you do to remedy these and other related deficiencies?

IG plays a very important role on behalf of the taxpayer, if confirmed, I will evaluate and consider all recommendations and work to make meaningful changes to internal FEMA business processes.

14. FEMA has been criticized for Public Assistance policies which have allowed burdensome changes to communities or outright waste. Recent reports include everything from permitting schools to completely relocate and purchase new land and facilities they did not have before to building many miles outside the locality in which they were located and damaged. As a result of practices like that, citizens might have to travel to completely separate cities, and local communities or their economies might be devastated by the loss of facilities or infrastructure.

- a. What is your position on such usages of Public Assistance funds?

Each disaster and the communities they impact are unique and I believe that local, state, and tribal governments should be in charge of their own disaster recovery and that FEMA plays a support role. FEMA should make sure Public Assistance funds are allocated and utilized in manner that is compliant with all laws and regulations, while allowing local communities to guide how they will reach a “new normal” after disaster.

- b. What will you do to improve or change these practices, to mitigate or eliminate negative effects?

Again, I believe that FEMA should be an enabling agency to help local communities achieve their recovery goals. If confirmed, I will work to support local and state priorities within what the law allows.

15. Following Hurricane Sandy, the New York City (NYC) Department of Environmental Protection received \$537.94 million in FEMA Public Assistance grant funds. Despite that it

⁸ <https://www.gpo.gov/fdsys/pkg/FR-2017-01-12/pdf/2017-00467.pdf>

⁹ FEMA Budget Briefing to HSGAC, May 30, 2017

¹⁰ OIG-17-53, *NFIP's Management Letter for DHS' FY16 Financial Statements Audit*, May 8, 2017 (<https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-53-May17.pdf>)

has been over three years since the funded work was completed, the IG recently advised that FEMA still had not identified and recovered Federal funds NYC spent on repairs to commercial residential properties. The IG found that not only were FEMA's records incomplete, but FEMA has no procedures to independently identify commercial residential properties NYC had assisted with Federal funds.¹¹

- a. What will you do to remedy this, and prevent further issues from such systemic deficiencies?

If confirmed, I will look into this issue. I have not been briefed upon specific disaster programmatic management issues at this point.

16. In late 2016, the IG released its report on FEMA's 2014 and 2015 grants and programs. Of particular concern, the IG found that of the \$1.55 billion disaster relief funds they audited, there were \$457 million in questionable costs, such as duplicate payments, unsupported costs, improper contract costs, and unauthorized expenditures. The IG concluded that the approximately 30 percent questioned-cost rate indicated that FEMA continues to fail at adequately managing disaster relief funds.¹²

- a. What will you do to remedy this, and prevent further occurrences of waste and mismanagement by FEMA?

If confirmed, I will meet with internal staff as well as the IG to understand all sides of the questionable expenditures before recommending corrective action remedies.

17. Last year, GAO found that FEMA and the U.S. Army Corps of Engineers made little progress in implementing key national levee-safety-related activities required in the Water Resources Reform and Development Act of 2014.¹³

- a. What will you do to address and remedy this failure?

If confirmed, I will first meet with internal staff familiar with this issue. I will also meet with the USACE to understand all side of the issue before recommending a way forward that helps both agencies collectively avoid similar failures.

18. There have been complaints from numerous sources that FEMA intervention slows down state, local, and private responses because of all the extra bureaucracy, and much of this was highlighted with Hurricane Katrina.¹⁴

- a. What are your perceptions regarding this, and what will you do to reduce the bureaucracy both, within FEMA, and for disaster response and recovery by State, local and private stakeholders?

If confirmed, I plan to make it a priority to review all business processes related to recovery management programs. I believe there are several potential solutions for reducing program management complexity that will result in less bureaucracy and needless administrative burdens to our partners.

19. If confirmed, what will you do to make FEMA a better place to work; one that is more compliant with law, and one that does not retaliate against its own employees for reporting unlawful activities to you, the IG, or Congress?¹⁵

If confirmed, I will first assess how the agency currently responds and addresses whistleblower complaints. Whistleblower policies are critical tools for protecting staff and external stakeholders who report activities believed to be illegal, dishonest or unethical. I plan to review and uphold these policies to the fully extent.

20. Please advise your positions regarding adjustment of the per capita indicator cost share adjustment, given that it has not been adjusted since 1986.¹⁶

If confirmed, I would like to review the per capita indicators to understand if the indicator is truly a clear marker for state capability to deal with disasters in its entirety. It is my understanding that the indicators have not been adjusted on an annual basis since inception to account for inflation and therefore the indicator may be lagging way behind. Despite this, I do not believe that simply raising the per capita indicator is the only way to reduce overall federal disaster costs in a meaningful manner for the future.

Based upon data from a House Transportation and Infrastructure Committee hearing in 2016, 25% of all disasters cost more than \$41.8 million and account for 93% of federal disaster spending. While raising the per capita indicator may reduce the number of disaster declarations, it would most likely not have a meaningful cost reduction impact overall since a quarter of the disasters experienced each year are typically so far above any realistic or proposed per capita limit.

I believe pre disaster mitigation is the key to reducing future disaster costs.

¹¹ OIG-17-38-D, FEMA Needs to Improve Its Oversight of the Sheltering and Temporary Essential Power Pilot Program, February 10, 2017 (<https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-38-D-Feb17.pdf>)

¹² OIG-17-13-D, *Summary and Key Findings of Fiscal Year 2015 FEMA Disaster Grant and Program Audits*, November 29, 2016 (<https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-13-D-Dec16.pdf>)

¹³ GAO-16-709, *Army Corps and FEMA Have Made Little Progress in Carrying Out Required Activities*, July 26, 2016 (<https://www.gao.gov/products/GAO-16-709>)

¹⁴ Hurricane Katrina: Remembering the Federal Failures, CATO Institute (<https://www.cato.org/blog/hurricane-katrina-remembering-federal-failures>)

¹⁵ FEMA Budget Briefing to HSGAC Staff on May 30, 2017, and Partnership for Public Service rankings (<http://bestplacestowork.org/BPTW/rankings/detail/HS18>)

¹⁶ <https://www.federalregister.gov/documents/2017/02/01/2017-02071/notice-of-adjustment-of-statewide-per-capita-indicator-for-recommending-a-cost-share-adjustment>

21. Secretary Kelly has mentioned to the Committee in testimony that it might be prudent to at least rethink DHS/FEMA grants, going so far as to say “we are in a different place” today in terms of needing federal grants to build capacity at the state and local level.¹⁷

- a. Please provide your perspective on where preparedness (e.g. UASI, etc.) grants fit into the larger set of federal priorities, given the significant funds invested since 9/11.

I believe grants are vitally important for helping state/tribal/local governments to protect America. Grants should be designed as an initial bridge to help communities jump start preparedness initiatives and/or buy down risk. I do not believe that federal grants should be used to supplant entire programs. If confirmed, I look forward to working with the Secretary to maximize and administer all grants in a meaningful format.

- b. How will you measure the effectiveness of these grants?

If confirmed, I need to understand if and how this is currently being done by DHS and FEMA. I'd also like to review the risk formula as well.

- c. Is there any quantitative measure to determine whether these grants are successful?

I have not been briefed regarding quantitative measures actively being utilized by DHS or FEMA to measure success.

- d. At what point is it appropriate to reassess our capacity-building posture, given the follow-on costs to maintain equipment that the communities must now bear?

I'm not sure I understand the root of this question. I'm happy to evaluate reassessing capacity building posture if confirmed on an annual basis.

¹⁷ HSGAC FY18 DHS Budget Hearing with S1, June 6, 2017.

Senator Heidi Heitkamp
Post-Hearing Questions for the Record
Submitted to Mr. Brock Long
Nomination of Brock Long to be Administrator, Federal Emergency Management Agency
U.S. Department of Homeland Security
Wednesday, June 7, 2017

1. As you know, the Federal Emergency Management Agency (FEMA) administers grant programs to help states prepare for and mitigate potential disasters. By investing in mitigation efforts, communities are more resilient and better prepared, which can mean significant cost savings to the federal government in future disasters. Unfortunately, the President's budget request calls for the elimination or reduction of a number of FEMA grants designed to help states prepare for future disasters.
 - a. During your nomination hearing, you recognized the importance of investing in mitigation. If federal investments in mitigation are reduced, are you concerned that communities will have fewer resources to prepare for, respond to, recover from, and mitigate against emergencies and disasters?

I continue to believe mitigation is the foundation of emergency management. Mitigation efforts implemented before disasters will ultimately be the key to reducing future impacts and disaster recovery costs.

Currently, FEMA provides a tremendous amount of mitigation funds in the post disaster phase to states that receive major disaster declarations. I have often felt that offering states mitigation funds after a disaster is a regressive approach. In many cases, post disaster mitigation funding offered to states impacted by disasters is exponentially higher than existing levels of pre-disaster mitigation funding.

I believe that as a community, we need to evaluate how we can budget all mitigation funds reserved for Stafford Act 404 and 406 activities for pre-disaster activities for all state, local, and tribal partners to access. I realize this is a significant shift in how the agency structures mitigation funding, but doing so would increase opportunities for pre-disaster mitigation and reduce some of the complexities of managing disaster recovery.

Currently, mitigation is a recovery function, rather than a proactive process to save lives and reduce impacts to communities. Moving post disaster funds into a pre-disaster realm would increase mitigation opportunities for all nationwide.

- b. If federal investments in mitigation efforts are reduced, what steps can FEMA take to encourage states to continue investments in mitigation efforts?

In addition to my answer in part (a.) of this question, mitigation must be a "Whole Community" effort and cannot completely rely upon federal

funding. If confirmed, I would like to work with this Committee and state, local, and tribal governments to understand how the agency can incentivize pre-disaster mitigation activities.

2. In your questionnaire and during your staff interview and hearing, you mentioned your interest in embedding multi-disciplined integration teams in state agencies to enhance planning, integration, increase customer service, speed up the approval process, and double down on communications.
 - a. Could you elaborate on the role multi-disciplined integration teams would play at FEMA and what steps you would take to imbed teams in state agencies?

I believe FEMA can provide better customer service to its partners by being onsite on a daily basis, and not waiting until the response and recovery phase to work side by side with its partners. If confirmed, I would first work with our state and tribal partners to design a scaled team concept that can support all facets of pre-disaster technical assistance needs, and initial response and recovery liaison support. For example, I would like to explore the possibility of a pilot program that would move existing staff out of headquarters and regional offices into state and tribal emergency management agencies to support active emergency operations planning, training, and exercise efforts and to expedite mitigation plan approval processes. I would also like this team to provide response and recovery technical expertise onsite to help with both pre-disaster plan development, and real-time operational support should the partner agency be impacted by a disaster.

3. The National Flood Insurance Program (NFIP) has failed to generate sufficient revenues to repay the billions of dollars borrowed from the Department of the Treasury to cover claims from the 2005 and 2012 hurricanes, and it is unlikely that sufficient revenues will be generated to cover potential claims related to future catastrophic losses. As a result, some have called for a private sector option for flood insurance.
 - a. Could you elaborate on the steps you would take to address the solvency of the NFIP and what role, if any, private flood insurance would play in this effort?

If confirmed, I would like the opportunity to work with Congress to transform the NFIP into a more solvent program that minimizes the reliance on taxpayers to finance the recovery from future floods. NFIP needs a sound financial structure that drives down existing debt in a manner that upholds affordability.

I believe FEMA should provide the private insurance industry with a mechanism to clearly voice their ideas and potential solutions for improving NFIP. If confirmed, I would like to quickly engage private insurers to collect ideas regarding how the NFIP and Congress can potentially expand the private marketplace.

If confirmed, I would also like to work with Congress to make sure NFIP is consistently reauthorized in a manner that avoids potential disruptions to the housing market and to consider options to improve compliance with existing mandatory purchase requirements. Additionally, I would like to investigate incentives for residents to implement mitigation measures. Finally, we must work together to formulate a sound financial structure that helps drive down existing debt in a manner that upholds affordability.

4. The NFIP developed its flood mapping and rating methods in the 1970s and 1980s. In order to continue meeting the growing challenges, those systems need to be modernized and brought into the 21st century.
 - a. Will you provide the new NFIP administrator the full support and resources he or she needs to get the job done?

If confirmed, yes.

Senator Gary Peters
Post-Hearing Questions for the Record
Submitted to Mr. Brock Long
Nomination of Brock Long to be Administrator, Federal Emergency Management Agency
U.S. Department of Homeland Security
Wednesday, June 7, 2017

1. You may know that Michigan has the longest freshwater coastline in the United States. As a result, my constituents are particularly affected by flood risk mapping and the costs of flood insurance premiums. For example, one of my constituents in Clay Township in St. Clair County, Michigan pays \$2794 for his annual flood insurance premium for a \$300,000 home. I am concerned that the President is proposing to add a surcharge for mapping flood risks and a surcharge to pay down the NFIP debt, which will be added to flood premiums. While I am also concerned about the \$24.6 billion debt of the program and plan to support reforms that will address it, I do not agree that we should shift the cost of mapping from all taxpayers to just policyholders because these maps are used by a wide range of public and private stakeholders. What are your plans for getting NFIP on a sound financial footing while not drastically increasing premiums for policy holders? Do you think it is fair to place the entire burden of flood mapping on policy holders when maps are used by public and private stakeholders alike? Do you believe that surcharges are a sustainable way to raise funds for mapping or to pay down the debt?

If confirmed, I would like the opportunity to work with Congress to transform NFIP into a more sustainable program that minimizes the reliance on taxpayers to finance the recovery from future floods. I realize it will not be an easy task to fix the existing business framework and design a way forward to cover new policy holders.

While I believe that policy holders premiums should be reflective of their true flood risk, I would not support a reauthorization that would cause Americans to lose their homes due to affordability issues. We must work together to strike the right balance. I believe that FEMA, Congress, and the private insurance industry must come together to fix the existing framework and create a reasonable path forward.

Regarding flood plain mapping, I would like to explore how we can bring down the cost of mapping and analysis by allowing states to seek lower cost "off the shelf" mapping solutions that meet industry standards and requirements. Driving down the cost of mapping and analysis may reduce fee rates necessary to reduce the debt associated with the existing NFIP framework.

Regarding surcharges, I'm not fully familiar with the existing or proposed structure and would need to further explore the issue, if confirmed.

2. In June 2016, DHS's Office of the Inspector General released a report that found that Disaster Recovery Centers were not properly handling Personally Identifiable Information (PII) as Federal guidelines require. The report also found that some FEMA officials are not fully aware of Federal privacy standards and that FEMA management

lacks an effective method to track employee compliance with privacy training. I understand that FEMA is still working on closing out the recommendations in the GAO report. What are your plans to ensure that GAO's recommendations are fully implemented and that FEMA takes appropriate steps to protect the privacy of those relying on the agency for help? Will you agree to update me on the steps you implement to ensure that PII is protected?

If confirmed, I will review the GAO report and recommendations. I believe FEMA must do all that it can to ensure PII is properly protected and if confirmed, I will update the Committee on the steps the agency is taking.

Written Statement of Senator Burr

Nomination Hearing to Consider Brock Long to be Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Russell Vought to be Deputy Director, Office of Management and Budget; and Neomi Rao to be Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

June 7, 2017

Chairman Johnson, Ranking Member McCaskill, members of the Senate Committee on Homeland Security and Governmental Affairs, and other distinguished guests, I'm pleased to appear before this committee to voice my strong support for and introduce my fellow North Carolinian William B. "Brock" Long as the nominee to be Administrator of the Federal Emergency Management Agency (FEMA). I believe that after careful examination that this Committee will come to the same conclusion as I have that he is an exceptional nominee.

Mr. Long has had a distinguished career in emergency management in both the public and private sector. He attended Appalachian State University in Boone, North Carolina, where he earned both his undergraduate and graduate degrees.

Following completion of his academic work, Mr. Long worked for the Georgia Emergency Management Agency where he served as the statewide school safety coordinator. After his tenure in Georgia, he continued his emergency management work with FEMA Region IV in Atlanta. While at FEMA, Mr. Long was a Regional Hurricane Program Manager and Hurricane and Evacuation Liaison Team Leader.

After leaving FEMA, Mr. Long was selected by Governor Bob Riley of Alabama to serve as Director of Alabama's Emergency Management Agency. Mr. Long served in that position from 2007 to 2011, where he led the state's efforts to respond to 14 disasters, including eight presidentially declared events. Mr. Long was charged with leading the state's response to the Deepwater Horizon oil spill in 2009.

More recently, Mr. Long has worked as Executive Vice President at Hagerty Consulting where he provides emergency management advice and expertise to the firm's clients. Mr. Long has also served as the private sector chairman for the National Emergency Management Association and as board member for the Central United States Earthquake Consortium.

Let me again reiterate my support for Brock Long and thank him for being here today and his willingness to serve his country in this important role. I hope the committee will agree with me that that this a well-qualified nominee and he will be confirmed swiftly as the Administrator of the Federal Emergency Management Agency.

Thank you.



Alabama Association of Emergency Managers

May 10, 2017

Honorable Ron Johnson
Chairman, Committee on Homeland Security and Government Affairs
U.S. Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

Honorable Claire McCaskill
Ranking Member, Committee on Homeland Security and Governmental Affairs
U.S. Senate
340 Dirksen Senate Office Building
Washington D.C. 20510

Dear Chairman Johnson and Senator McCaskill,

The Alabama Association of Emergency Mangers is very pleased to let you know of our support for Brock Long as the next Administrator of the Federal Emergency Management Agency (FEMA). His long and commendable experience in emergency management at the federal, state and local levels will serve the nation well.

Brock Long's distinct and straightforward leadership style as Alabama's Director of Emergency Management was clearly demonstrated through eight Presidential Declarations and as the On-Scene State Incident Commander for the Alabama Unified Command during Deepwater Horizon Oil Spill. Brock Long's sole mission is to save lives and assist the citizens in need.

As the state association of emergency management professionals we are deeply committed to preparing and ensuring our citizens are prepared for future threats and disasters. We are pleased that an experienced and nationally recognized emergency management professional is being nominated by President Trump to lead this nation's emergency management agency. His leadership, technical knowledge, practical skills and strong emergency management experience will lead this nation's largest emergency response agency.

It is my honor to provide the support of the Alabama Association of Emergency Managers for the nomination of Brock Long as the FEMA Administrator. With hurricane season just around the corner, we respectfully urge a speedy confirmation of Brock Long as the FEMA Administrator.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Gaddy".

Jonathan Gaddy
President



Office of the President and
Chief Executive Officer

National Headquarters
430 17th Street, N.W.
Washington, DC 20006

June 14, 2017

The Honorable Ron Johnson
Chairman
Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Claire McCaskill
Ranking Member
Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Johnson and Ranking Member McCaskill:

It is my pleasure to represent the American Red Cross in supporting President Trump's nomination of Mr. Brock Long to serve as the Administrator of the Federal Emergency Management Agency (FEMA).

The Red Cross works closely with FEMA, state and local emergency management partners to carry out the mandates of our Congressional Charter and our core mission to alleviate human suffering in the face of emergencies. We have worked extremely well with Mr. Long for many years – not only in his capacity as the Director of the Alabama Emergency Management Agency (AEMA), but also in his earlier service as FEMA's Regional Hurricane Manager and when he began his career as a School Safety Coordinator in Georgia. I am enthusiastic about the possibilities of now working with him on a national level as the FEMA Administrator.

Mr. Long has a proven history in public safety and meets the skill and experience requirements for FEMA Administrator as prescribed in the Post Katrina Emergency Management Reform Act (PKREMA). Throughout his career he has been involved in numerous disaster response operations. During his tenure as the Director of AEMA, he provided executive leadership in 14 disasters, 8 of which were Presidentially declared. He also served as the State Incident Commander for Alabama Unified Command in response to the Deepwater Horizon Oil Spill.

Additionally, Mr. Long has a private sector background. He understands the importance of public-private partnerships and will encourage greater integration of the private sector into disaster response and recovery given the vast amount of resources and expertise that can be brought to bear – oftentimes beyond that of government. His established relationships with state and local partners will be critical in helping FEMA effectively fulfill its mission of providing federal assistance when needed.

Mr. Brock Long is a highly regarded emergency management professional. The American Red Cross stands in support of his nomination and encourages Congress to confirm him as FEMA Administrator as swiftly as possible. If you have any questions, please do not hesitate to reach out to me or to the American Red Cross Government Relations unit.

Sincerely,

A handwritten signature in cursive script that reads "Gail McGovern". The signature is written in black ink and is positioned above the printed name.

Gail J. McGovern

May 17, 2017

The Honorable Ron Johnson
Chairman, Committee on Homeland Security and Governmental Affairs
Dirksen Senate Office Building 340
Washington, DC 20510

The Honorable Claire McCaskill
Ranking Member, Committee on Homeland Security and Governmental Affairs
Dirksen Senate Office Building 340
Washington, DC 20510



IAEM Headquarters
201 Park Washington Court
Falls Church, VA
22046-4527 USA
Ph. 703-538-1795
Fax 703-241-5603
E-mail iaem.com
www.iaem.com
www.EMEX.org

Dear Chairman Johnson and Ranking Member McCaskill:

The U.S. Council of the International Association of Emergency Managers (IAEM-USA), the nation's largest emergency management professional association with approximately 5,000 members across the country, is pleased to strongly support the nomination of Brock Long to be Administrator of the Federal Emergency Management Agency (FEMA). IAEM-USA represents THE profession dedicated to protecting America's local communities from all hazards and threats, natural and man-made.

Mr. Long brings extensive leadership experience assisting and supporting local, state, and federal governments with building robust emergency management and public health preparedness programs. His areas of expertise include strategic planning, exercise, evacuation, public safety, school safety, recovery management, and response logistics. Throughout his career, Mr. Long has managed the response to numerous natural disasters, including eight presidentially-declared events. As Director of Alabama's Emergency Management Agency, he developed Alabama's response to the H1N1 influenza and served as the on-scene State Incident Commander for the Alabama Unified Command during the Deepwater Horizon oil spill.

Of great importance to IAEM-USA, Mr. Long recognizes the value of all the emergency preparedness, response, and mitigation grants administered by FEMA. In addition, he has the statutorily-mandated experience and credentials required under the Post Katrina Emergency Management Reform Act for a FEMA Administrator, and he understands and respects the role of FEMA as a partner with state and local stakeholders.

Mr. Long has built his career in helping local, state, and federal governments prepare for, protect against, respond to, recover from, and mitigate our nation's natural and man-made disasters. Therefore, we strongly believe Mr. Long's experience qualifies him to be confirmed as Administrator of FEMA, and IAEM-USA urges a speedy confirmation.

Sincerely,

A handwritten signature in cursive script that reads "Lanita Lloyd". The signature is written in black ink and is positioned above the printed name and title.

Lanita Lloyd
President, International Association of Emergency Managers



INTERNATIONAL ASSOCIATION OF FIRE CHIEFS

Providing leadership for the fire and emergency services since 1873
 4025 FAIR RIDGE DRIVE • FAIRFAX, VA 22033-2868 • TEL: 703/273-0911 • FAX: 703/273-9363 • www.iafc.org

June 5, 2017

The Honorable Ron Johnson
 Chairman
 Committee on Homeland Security
 and Governmental Affairs
 United States Senate
 Washington, DC 20510

The Honorable Claire McCaskill
 Ranking Member
 Committee on Homeland Security
 and Governmental Affairs
 United States Senate
 Washington, DC 20510

Dear Chairman Johnson and Senator McCaskill:

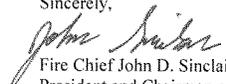
On behalf of the nearly 12,000 fire and emergency service leaders of the International Association of Fire Chiefs (IAFC), I express our support for the nomination of Mr. Brock Long to be Administrator of the Federal Emergency Management Agency (FEMA). Mr. Long is an experienced emergency manager, who we believe would be well-qualified to lead FEMA.

Mr. Long has more than 16 years of experience in the field of emergency management, including serving as the director of the Alabama's Emergency Management Agency (AEMA) from 2008-2011. As the AEMA Director, Mr. Long served as the state coordinating officer for 14 disasters and served as the state incident commander during the Deepwater Horizon spill. He also has previous experience working at FEMA as a regional hurricane planner and response team leader.

Mr. Long has demonstrated experience in responding to all-hazards. Besides his roles in planning for hurricanes, he also has experience in planning for school safety and response to complex coordinated attacks. He also has worked with jurisdictions covered by the Urban Areas Security Initiative to develop multi-jurisdictional, all-hazard evacuation plans. In addition, Mr. Long is a graduate of the Executive Leadership Program at the U.S. Naval Postgraduate School's Center for Homeland Defense and Security.

The IAFC looks forward to working with the committee to ensure that Mr. Long's nomination is considered in a timely manner. As the nation prepares to respond to an escalating number of natural and human-made threats, it is important that FEMA is led by someone with Mr. Long's experience. He understands the importance of building up morale at FEMA and developing a trained and experienced core of disaster management experts within the FEMA staff. He also understands the roles of federal, state and local communities during a major disaster and how they should work together for an effective response. America's fire and emergency service are on the front line of disaster response, and we know the importance of having a nominee with Mr. Long's experience leading FEMA.

Sincerely,


 Fire Chief John D. Sinclair
 President and Chairman of the Board

: kpl

Testimony of Russell T. Vought
To Be Deputy Director, Office of Management and Budget
June 7, 2017

Thank you, Mr. Chairman. I want to thank you, the Ranking Member, and the Members of this Committee for the honor of appearing before this committee.

I also want to thank and introduce my family who has endured this process with me and the long hours that come with serving one's country in public roles. My wife, Mary, is here, and my daughters Ella and Porter...if you can't see them it's because they are coloring on the floor...I'm also thrilled that my sisters and many friends could be here in support.

It is a joy to "come home" to the United States Senate. I worked the first four years of my career in this distinguished body, mostly for Senator Phil Gramm. I spent hours on the Senate floor, in committee, and at my desk, learning how the Senate works its will with great deliberation. How an institution protects the rights of a Minority to be heard, and how statesmen ought to debate their colleagues to move votes and shape public opinion. And it was here that I developed a love for public policy, seeing how it could be used to help the people of this country live freer and more prosperous lives.

It is an honor to be nominated to serve as the Deputy Director of the Office of Management and Budget. It is a very important job, and I am humbled that President Trump and Director Mulvaney asked me to serve. I know the quality of the men and women who have served previously in this particular role, and I want to join and contribute to that long line of distinguished public service.

My career has readied me for this moment. I spent over 12 years working in the House and Senate, with a specific emphasis in budget policy. I was the Republican Study Committee's Budget Director, writing its budget resolutions. I then served as the Executive Director and the Policy Director of the House Republican Conference under then-chairman Mike Pence. All of these roles afforded me an opportunity to handle a wide range of policy issues and manage policy development processes that ensured a wide variety of viewpoints shaped a final policy proposal. That is very much the job of the Deputy Director of OMB...to build and further a policy process that ensures that the President and his advisors receive the best analysis possible and that everyone is heard so that the best decision can be made.

I also have experience managing a large organization. I spent the last seven years managing many aspects of Heritage Action for America, including staff and 17,000 volunteers across the country. Volunteers are in fact volunteers. They have their own viewpoints and ideas, and you don't get very far working with them if you don't have an appreciation for them as leaders in their own right. That experience has prepared me well for managing the men and women of OMB, who are career experts in their fields and have years of institutional knowledge for this Administration to draw upon.

As for the job to be done, it is immense. Our country faces a \$20 trillion national debt. It will eventually wreck our country if not addressed. That burden will fall on my children and grandchildren if today's policy makers do not change the current trajectory of spending. It will mean a lower standard of living for them and less time for the truly important things in life as more and more of their salary is consumed by government. Their families and communities will be weaker, and they may be the first generation that gets a worse deal than their parents. That is not the American way.

I have spent my entire career caring about taxpayers and their families. I have fought to save them money and ensure that their tax dollars were spent well. I come from a blue collar family. I'm the son of an electrician and a school teacher. I know what they went through to balance their budget and save for the future. My parents worked really long hours to put me through school. But they also worked long hours to pay for the government in their lives, and I often have wondered what they would have been free to build and give without such a high burden. My old boss called them the wagon-pullers in our country. Others have referred to them as the country's forgotten men and women. They have always been my test for federal spending. Did a particular program or spending increase help the nameless wagon pullers across our country, working hard at their job, trying to provide for their family and future, without the luxury of watching CSPAN to know that we might be increasing their burden at that very moment? How would they vote? Yay or nay? I believe that as a country we have too often failed that simple test, and it is the reason that we face a \$20 trillion debt that needs to be dealt with. If the Senate confirms me, I am ready to take up that work again.

Thank you for considering my nomination, and I look forward to answering your questions.

REDACTED

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Deputy Director, Office of Management and Budget	

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Russell	Thurlow	Vought	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 245 Eisenhower Executive Office Building		
<u>City:</u> Arlington	<u>State:</u> VA	<u>Zip:</u> 22204	<u>City:</u> Washington	<u>State:</u> DC	<u>Zip:</u> 20502

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Maiden Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1976	Mount Vernon, NY

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married	Married	Separated	Annulled	Divorced	Widowed
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<i>Spouse's Name</i> (current spouse only)			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Mary	Grace	Vought	

<i>Spouse's Other Names Used</i> (current spouse only)						
First Name	Middle Name	Last Name	Suffix	Check if Maiden Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
Mary	Grace	MacLean		<input checked="" type="checkbox"/>	11/1982 Est <input type="checkbox"/>	03/08 Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
First Name	Middle Name	Last Name	Suffix

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
The George Washington University Law School	Law	09/00 <input type="checkbox"/> Est <input type="checkbox"/>	05/04 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>	JD	5/23/04
Wheaton College	College	09/94 <input type="checkbox"/> Est <input type="checkbox"/>	05/98 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>	BA	8/31/98

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other)	<u>Name of Your Employer/Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
Other Federal Employment	Office of Management and Budget	Beachhead Team Member/Senior Advisor	Washington, DC	Est 1/17 <input type="checkbox"/>	Est <input type="checkbox"/> Present <input checked="" type="checkbox"/> X
Non-Federal Employment	Heritage Action for America	Vice President, Grassroots Outreach & Policy Initiatives	Washington, DC	08/10 Est <input type="checkbox"/>	01/17 Est <input type="checkbox"/>
Other Federal Employment	House Republican Conference	Policy Director	Washington, DC	01/09 Est <input type="checkbox"/>	07/10 Est <input type="checkbox"/>
Other Federal Employment	Republican Study Committee	Executive Director	Washington, DC	05/04 Est <input checked="" type="checkbox"/> X	12/08 Est <input type="checkbox"/>
Other Federal Employment	Rep. Jeb Hensarling	Policy Director	Washington, DC	02/03 Est <input type="checkbox"/>	12/06 Est <input type="checkbox"/>
Other Federal Employment	Senator Chuck Hagel	Legislative Assistant	Washington, DC	09/02 Est <input checked="" type="checkbox"/> X	01/03 Est <input type="checkbox"/>
Other Federal Employment	Senator Phil Gramm	Legislative Assistant	Washington, DC	01/99	08/02 Est <input type="checkbox"/> X
Other Federal Employment	Senator Dan Coats	Staff Assistant	Washington, DC	07/98 Est	12/98
Non-Federal Employment	B. Dalton Bookseller	N/A	Washington, DC	09/98	12/98 Est <input type="checkbox"/> X
Other Federal Employment	Rep. Chris Shays	Intern	Washington, DC	05/98	07/98 Est <input type="checkbox"/> X

Non-Federal Employment	Deerfoot Lodge	Section Chief	Speculator, NY	06/94- 97 (Summers)	08/94-97
Non-Federal Employment	Safe and Sound Security	N/A	Wheaton, IL	09/97 Est	05/98 Est

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

None

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)	
		Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
		Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
		Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
		Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>

4. Potential Conflict of Interest

(A) 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.

None

(B) 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.

Although I was not a registered federal lobbyist, I spent 7 years engaged in grassroots lobbying at Heritage Action for America for the purpose of directly influencing the passage, defeat, and modification of a wide array of legislation, based on the research of The Heritage Foundation.

5. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

The Heritage Foundation Leadership Development Program, 2016

Lincoln Fellowship, The Claremont Institute, 2011

Kingsmen Alumni Award, 2007

6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
Cherrydale Baptist Church	2011-Present	Elder, Deacon, Member
Capitol Hill Baptist Church	2002-2011	Member

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7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

No.

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>

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(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Cordasco for Delegate	\$300	2016
Cordasco for James City Supervisor	\$200	2015
Scalley for Delegate	\$200	2014
Mike Lee (via Senate Conservative Fund)	\$100	2015

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8. Publications and Speeches

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
House Republicans Need a Bold Spending Proposal	Redstate	8/2/10
Time to Go After Democrats on Repeal of Obamacare	Redstate	8/3/10
"Historic" and "Bipartisan" Normally Means It's Bad	Redstate	8/9/10
Walt Minnick is Not Willing to Repeal Obamacare	Redstate	8/9/10
Senate Republicans Getting Played on the Russian-Friendly Strategic Arms Treaty	Redstate	8/16/10
Congress Needs Reforms, but Committees Don't Need More Power	Redstate	9/6/10
Only 31 House Democrats Willing to Offer Soft Support for Small Businesses	Redstate	9/16/10
Who Dares to be the Next Democrat Defection on Obamacare Repeal?	Redstate	9/16/10
Senator Bob Corker, Unacceptable	Redstate	9/17/10
Idaho Congressman Misleads Constituents on Repeal... Again	Redstate	9/29/10
It's Time to Make GOP Leadership Less Powerful	Redstate	8/26/10
Mike Pence is Ready for the Next Fight	Redstate	11/3/10

Senate Republicans Must Not Use National Security as a Bargaining Chit	Redstate	12/1/10
Bowles-Simpson is a Massive Tax Hike	Redstate	12/2/10
Stop Start: Whip List	Redstate	12/3/10
Senate Republicans and the Lost Art of Negotiation	Redstate	12/6/10
House Rules Package is a Nice First Step to Control Spending	Redstate	12/30/10
The Return of the Lunch Bunch	Redstate	1/19/11
YouCut Can't Cut \$100 Billion?	Redstate	1/31/11
House Republicans Attempt to Extend "Stimulus" Trade Benefits	Redstate	2/7/11
How House Leadership Can Fix Their Mess	Redstate	2/9/11
Movement Towards \$100 Billion, But Not There Yet	Redstate	2/10/11
Parsing the Pledge, House Leadership Still Not Compliant	Redstate	2/10/11
Speaker Boehner Throws Down the Gauntlet	Redstate	2/18/11
House Leadership Let Obamacare Expansion Pass	Redstate	3/9/11
Rep. Tim Huelskamp Stands Tall in Budget Showdown	Redstate	3/12/11
The Problem with One Last Vote for Flawed Strategy	Redstate	3/14/11
This is What Leadership Looks Like	Redstate	3/15/11
The Strategy of Short-Term CR Opponents: A Response to Keith Hennessey	Redstate	3/16/11

Stop the Natural Gas Streaker	Redstate	5/11/11
Corporate Welfare Gets New Life in the House	Redstate	7/5/11
Message to RSC Members: Get In or Get Out	Redstate	7/27/11
House Republicans Ram Highway Bill Through Without a Roll Call Vote	Redstate	9/13/11
Darrell Issa and the Ongoing Fight Against Postal Bailouts	Redstate	9/14/11
The Crusade to Cave	Redstate	9/15/11
Reid Goes Nuclear to Block the President's Stimulus Plan	Redstate	10/6/11
Debunking the Election Myths of the Republican Establishment	Redstate	12/6/11
Ramesh Ponnuru Moves the Goal Posts	Redstate	12/7/11
House Conservatives Need to Block the Coming Highway Bailout	Redstate	1/30/12
Why Every House Conservative Should Oppose the Highway Bill	Redstate	2/14/12
Incrementalism Doesn't Work for the Right, Look at the Food Stamp Bill	Redstate	7/12/12
Our Daughter was Born with Cystic Fibrosis, We Can't Imagine Life Without Her	Daily Signal	7/30/14
Wheaton College and the Preservation of Theological Clarity	Resurgent	1/17/16

(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
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Building Dedicated Leaders with Relentless Optimism	Sentinel Summit, Atlanta, GA	11/13/14
Untitled Opening Comments (transcript lost)	Sentinel Summit, Greenville, SC	9/19/15
Statesmanship at the Local Level; The Sentinel Program	Sentinel Summit, San Antonio, TX	11/18/16

(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.

<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Know, Grow, Go	Values Voter Summit	12/22/11
Kingsmen Alumni Award Acceptance	Trumbull, CT	12/5/07

- Have you been or are you currently on probation or parole?
No
- Are you currently on trial or awaiting a trial on criminal charges?
No
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation?
No

If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known).

- A) Date of offense:
- a. Is this an estimate (Yes/No):
- B) Description of the specific nature of the offense:
- C) Did the offense involve any of the following?
- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: Yes / No
 - 2) Firearms or explosives: Yes / No
 - 3) Alcohol or drugs: Yes / No
- D) Location where the offense occurred (city, county, state, zip code, country):
- E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: Yes / No
- 1) Name of the law enforcement agency that arrested/cited/summoned you:
 - 2) Location of the law enforcement agency (city, county, state, zip code, country):
- F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: Yes / No
- 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):
 - 2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:

3) If no, provide explanation:

G) Were you sentenced as a result of this offense: Yes / No

H) Provide a description of the sentence:

I) Were you sentenced to imprisonment for a term exceeding one year: Yes / No

J) Were you incarcerated as a result of that sentence for not less than one year: Yes / No

K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:

L) If conviction resulted in probation or parole, provide the dates of probation or parole:

M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: Yes / No

N) Provide explanation:

10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
9/99	Circuit Court of the 18 th Judicial Circuit, Dupage County, IL	Fernando O. Ruiz vs. Russell Vought	Lawsuit arising from a motor vehicle accident	Settled on 2/25/00

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation?

No.

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.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>

(C) For responses to the previous question, 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.

11. Breach of Professional Ethics

(A) Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group? Exclude cases and proceedings already listed.

No

<u>Name of Agency/Association/Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

No

12. Tax Compliance

(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.)

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).

No

14. Outside Positions

X See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

15. Agreements or Arrangements

X See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for:
(1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred

compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

16. Additional Financial Data

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.)

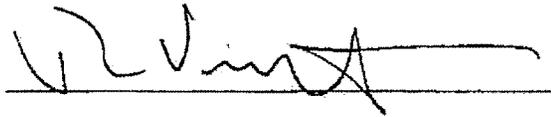
REDACTED

REDACTED

SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

134

A handwritten signature in black ink, appearing to be "W. V. King", is written over a horizontal line.

This 21st day of April, 2017

REDACTED

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



May 4, 2017

The Honorable Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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

We have reviewed the report and have 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,

DAVID APOL

Digitally signed by DAVID APOL
DN: c=US, o=U.S. Government, ou=Office of
Government Ethics, cn=DAVID APOL,
DN: cn=, o=U.S. Government, ou=Office of
Government Ethics, cn=DAVID APOL,
Date: 2017.04.10 15:26:40-0400

David J. Apol
General Counsel

Enclosures: **REDACTED**



May 3, 2017

Yasaman Sutton
Alternate Designated Agency Ethics Official
Office of Management and Budget
725 17TH Street, NW
Washington, D.C. 20503

Dear Ms. Sutton:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Deputy Director of the Office of Management and Budget.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

My employment with Heritage Action for America ended in January 2017. For a period of one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which I know Heritage Action for America is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

My spouse is currently a member with Vought Strategies LLC. For as long as my spouse continues to work for Vought Strategies LLC, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of Vought Strategies LLC, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). I also will not participate personally and substantially in any particular matter involving specific parties in which I know a client of my spouse is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, for the duration of my appointment to the position of Deputy Director, my spouse has agreed not to communicate directly with the Office of Management and Budget on behalf of Vought Strategies LLC or any client.

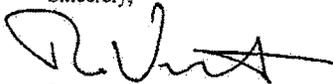
If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the exemption at 5 C.F.R. § 2640.201(a), obligations of the United States, or municipal bonds.

I understand that as an appointee I am required to sign the Ethics Pledge (Exec. Order No. 13770) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this and any other ethics agreement.

I will meet in person with you during the first week of my service in the position of Deputy Director in order to complete the initial ethics briefing required under 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will also document my compliance with this ethics agreement by notifying you in writing when I have completed the steps described in this ethics agreement.

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely,



Russell Vought

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Russell Vought to be
Deputy Director, Office of Management and Budget**

I. Nomination Process and Conflicts of Interest

1. Did the President or the Director of the Office of Management and Budget (OMB) give you specific reasons why you were nominated to be the next Deputy Director of OMB, and if so, what were they?

No.

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

No.

3. Have you made any commitments with respect to the policies and principles you will attempt to implement as Deputy Director? If so, what are they, and to whom were the commitments made?

No.

4. Are you aware of any business relationship, dealing, or financial transaction that could result in a possible conflict of interest for you or the appearance of a conflict of interest? If so, please explain what procedures you will use to recuse yourself or otherwise address the conflict. And if you will recuse yourself, explain how you will ensure your responsibilities are not affected by your recusal.

No.

II. Background of the Nominee

5. What specific background, experience, and attributes qualify you to be Deputy Director?

I spent 12 years working on public policy in Congress, including senior, cross-cutting roles such as the Executive Director of the Republican Study Committee and the Policy Director for the House Republican Conference. I have a background specifically in budget policy and process, having served as the RSC's Budget Director and compiling its budget resolutions. And I have managed all aspects of a large national organization with staff and volunteers spread out across the country.

6. Please describe:

- a. Your leadership and management style.

My leadership style is to set a vision, encourage people to buy into that vision through coaching, and lead by example. I am a hands-on manager, getting into the details and asking questions, while at the same time giving employees the space to be creative. I highly value receiving feedback from people up and down an organization about what they think is or is not working.

b. Your experience managing personnel.

I managed the Grassroots Department at Heritage Action for America, a policy team at the House Republican Conference, and the entire Republican Study Committee.

c. What is the largest number of people that have worked under you?

I managed roughly 20 employees, including a number of field staff across the country, at Heritage Action.

7. You have held the position "Beachhead Team Member/ Senior Advisor" at OMB since January 2017. What have your responsibilities been in this role?

I have largely been responsible for advising the Director on the composition of the FY 2018 budget proposal and preparing decisions for him to make.

8. Please describe your experience working on matters relating to the federal budget or to other matters within the purview of the OMB Deputy Director.

As stated, I have advised the Director on the composition of the FY 2018 budget and helped prepare decisions for him to make.

III. Role of the Deputy Director of OMB

9. What do you consider to be the mission of OMB, and what would you consider to be your role and responsibilities if confirmed as the Deputy Director? Have you and OMB Director Mick Mulvaney discussed what your role would be? If so, please describe how you view your role in light of those discussions.

The mission of OMB is to serve the President by providing the necessary information and analysis to properly assess policy options and then to execute those policy decisions government-wide. I have discussed my role with Director Mulvaney, and if confirmed, I would serve as a true deputy of OMB overseeing all aspects of the organization. However given the Deputy Director for Management (DDM) and the OIRA Administrator, my focus will be on the budget portfolio.

10. In many agencies, the Deputy is charged with internal management of the agency. Do you expect to take on this role at OMB? If so, what do you see as the major internal management challenges there, and how would you plan to address them?

Yes. The major internal management challenge is to meet the competing demands on OMB career staff in the midst of tight resources.

11. What do you anticipate will be your greatest challenges as OMB Deputy Director, and what will be your top priorities? What do you hope to accomplish during your tenure?

A top priority will be infusing in OMB a spirit of “one OMB” that ensures against a silo mentality within the organization that can inhibit bottom-up collaboration across the agency.

12. How do you view the role of Deputy Director in the context of the Deputy Director of Management as well as OMB’s three main offices the Office of Information and Regulatory Affairs, the Office of Federal Procurement Policy, and the Office of Federal Financial Management?

The Deputy Director of Management (DDM) is the primary deputy for all of the management issues and oversees the other statutory offices, including the Office of Federal Procurement Policy and the Office of Federal Financial Management. The OIRA Administrator operates in similar fashion for regulatory matters, essentially as a de-facto Deputy of Regulation.

13. If confirmed as Deputy Director, do you anticipate having a role in overseeing or assisting OMB with facilitating cooperation or coordination between agencies in areas such as information technology, financial management, procurement, performance, reducing waste, increasing governmental efficiency, and human resources? If so, what in your background has helped prepare you for this role?

As stated, the DDM will be the primary deputy for these areas.

IV. Policy Questions

Budget

14. Do you support biennial budgeting? Please explain.

- a. Do you foresee any obstacles for OMB in implementing biennial budgeting if it chose to do so in the future? How could those obstacles be overcome?

I support making the budget process more efficient, and biennial budgeting is an idea that deserves consideration. I think it would lead to restrained and better spending where more oversight is done. It could lead to more supplementals and a longer list of “anomalies” heading into the second year as there is currently with any long-term CR. However, one way to overcome this concern would be to anticipate and budget for such expected spending in the second year.

15. If confirmed, what preparatory steps will you take to minimize risks surrounding debt-ceiling negotiations and ensure the federal government does not threaten default?

I have found that one of the challenges involved with debt-ceiling negotiations is that there is too little attention paid to the issue until the last minute, specifically what are the sorts of reforms or reductions that should be carried or considered as part of increasing the debt ceiling. I will help ensure there is a policy development process where principals have the information needed to make wise decisions early enough to minimize risks.

16. What criteria will you employ when determining whether to propose an increase, decrease, or maintain funding to a federal program?

I will consider a number of factors when proposing funding levels, including: a) does the program work? b) is there a pattern of waste, fraud, and abuse? c) what are the larger budget constraints?, and d) is there an appropriate federal role? All of these questions are necessary to allocate scarce resources in federal spending.

17. What steps will you take to communicate to Congress and the public the realities of the long-term fiscal picture? Does this include issuing a 30-year projection?

I will take every opportunity to encourage OMB to provide the Administration and the broader public the realities of our long-term fiscal picture, including 30-year projections where available and reliable.

Regulatory Affairs

18. Please describe how you view the mission of OMB with respect to coordinating and reviewing agency regulatory activity? Do you believe OMB has adequate resources and structure to meet that mission? Please explain.

OMB has a crucial and central role in coordinating regulatory activity and ensuring that agencies take seriously their duty to consider the costs, as well as the benefits of proposed regulations. OMB is also the driver of the unified regulatory agenda to ensure that agencies are forecasting where they intend to take regulatory action.

I do not believe that OIRA has adequate resources to properly advance the President's regulatory agenda.

19. How do you intend to support the Administration's retrospective review efforts as outlined in Executive Order 13777? In your view, have previous retrospective reviews of existing policies been successful? Please explain why or why not.

I would encourage OIRA to be in constant communication with the agency regulatory task forces being set up to ensure that their reports are consistent with the President's de-regulatory agenda and work with the DDM to ensure that the agencies' annual performance plans under the Government Performance and Results Act incorporate these

regulatory goals. With regard to past retrospective reviews, my understanding is that they have been largely unsuccessful in that they have led to lists of prospective de-regulatory action, but are rarely acted on. While these lists now come in handy as OIRA implements the “1 in, 2 out” rule, they represent the shortcomings of past reviews.

Management

20. What are the most important steps that OMB can take to enable the federal government to perform its essential functions more efficiently and for less cost? Please explain any system or standard you intend to use to measure success or identify problems.

OMB is in the midst of a comprehensive review of the federal government as directed by a Presidential executive order. This review will include an assessment of the essential functions of each federal agency. Guidelines have already been issued to agencies on how to approach this review in their submissions to OMB later this year, and OMB will then issue a report that previews the FY19 budget submission.

21. What are the top management challenges facing the federal government, and if confirmed, what would you do to address them?

In my opinion, the top management challenge continues to be the size and scope of the federal government. The government engages in so many activities, in so many different places, that it is difficult to manage it all well. This is why the President’s executive order to reorganize the federal government, and hopefully do less of some things, is so important.

22. The Bush Administration created and implemented the Performance Assessment Rating Tool (PART) for assessing performance at federal agencies. The system was replaced with an approach created by the Government Performance Review Modernization Act (GPRAMA). What is your opinion of the current status of government performance management and how do you believe it can be improved? Please explain.

I found the Bush Administration’s PART assessment to be a very helpful start in systematically evaluating federal programs and shining light on the fact that many programs either do not work or lack the necessary metrics or goals to make that determination. While the GPRA Modernization Act, as a replacement, may serve its purpose in emphasizing that agencies adopt and pursue wider strategic goals, I believe that it has led to an unfortunate de-emphasis on program-by-program assessments. My understanding is that PART consumed a great deal of OMB and agency time and resources so it may not be worth reviving, but if confirmed, I would want to thoroughly understand how to ensure the proper evaluation of federal programs.

23. How can OMB work to ensure that the federal government is more effective and supportive of economic growth?

OMB plays a central role in crafting the President’s budget and coordinating the inclusion of proposals that would lead to economic growth, whether they be cutting taxes,

encouraging energy development, or limiting federal spending. In addition, OIRA plays a central role in coordinating the President's regulatory agenda, which will lead to economic growth.

24. How do you view OMB's role in addressing agency high-risk or duplicative programs highlighted in GAO's biennial "High Risk List" and annual "Duplication" report?

I have not read GAO's latest report, but I have consistently used the High Risk List throughout my career to understand where government is not working well. If confirmed, I will study this year's report and encourage OMB examiners to incorporate GAO findings into their analysis of federal programs.

a. Of the areas identified as "high risk," which do you find to be most concerning and why?

See above.

b. Are there any specific recommendations from GAO's High Risk report that you plan to pursue if confirmed?

See above.

25. Protecting whistleblower confidentiality is of the utmost importance to this Committee:

a. How do you plan to implement policies within the agency to encourage employees to bring constructive suggestions forward without the fear of reprisal?

First, I hope to model a leadership approach that welcomes information about what is not working and that creates a culture where all employees, at every level, are rewarded for trying to make the agency better. Second, I will be sure to assess what whistle blower protections we have in place and make any needed improvements.

b. If confirmed, what avenues will be available to employees to report waste, fraud, or abuse within OMB?

See above.

c. Do you commit without reservation to work to ensure that any whistleblower within OMB does not face retaliation?

Yes.

d. Do you commit without reservation to take all appropriate action if notified about potential whistleblower retaliation?

Yes.

26. Federal inspectors general (IGs) face unique obstacles as they do their work, including budget challenges and disputes with agency heads over access to information. How do you view OMB's relationship to the statutory IGs, and if confirmed what efforts would you make to engage with this community and support their work?

I highly value the work of the IG community and spent much of my career gleaning information from their reports on areas of waste, fraud, and abuse. If confirmed, I would encourage OMB's Resource Management Organizations to read IG reports routinely and infuse their own analysis of federal programs with what they learn from the IG reports.

27. How can OMB efforts to improve government be integrated with the budget process and with the work of congressional authorizing and appropriating committees?

OMB proposals are often the basis for many congressional initiatives. Even if Congress refuses to vote for an exact replica of the President's budget, often many of the proposals and spending levels are assumed in the congressional budget resolutions and annual appropriations bills. Authorizers can also use these efforts to inform their oversight activities and vice versa.

28. The Digital Accountability and Transparency Act of 2014 (DATA), Public Law 113-101 (2014), was a priority for the Committee during the 113th Congress. Key implementation deadlines are approaching. What steps will you take to ensure that the DATA Act implementation stays on track?

OMB is working diligently with Treasury and other agencies to ensure that the newly required data and updated displays are ready for an updated USAspending.gov to be launched by the approaching deadline.

29. The Committee has worked to pass the Taxpayers Right-to-Know Act for several years now. In the past, OMB has opposed this legislation. The bill requires a list of all federal programs, including their administrative costs, expenditures, and beneficiaries. What is your opinion of the Taxpayers Right-to-Know Act?

I have always been frustrated with the difficulty in locating such information because there is currently not a government entity that keeps track sufficiently. Accordingly, I support the Taxpayers Right-to-Know Act and the information it requires OMB to collect. I also know that new responsibilities require tradeoffs, and that OMB is being asked to shoulder a number of new responsibilities. OMB has communicated these tradeoffs to Congress, and I would want to continue assessing what responsibilities would be displaced as we consider this legislation.

30. What do you believe OMB's role should be in improving financial management in the federal government?

OMB's Office of Federal Financial Management is the statutory leader in setting the standards for agencies' financial management.

31. The Department of Defense has been unable to complete and pass a financial audit as required by the Government Management Reform Act of 1994. If confirmed, what steps, if any, will you take to address DOD's longstanding financial management challenges?

Congress has set a number of statutory deadlines for the Department to be ready for an audit. The Department seems to be making progress to be audit ready by the end of the year, including working through some of the historic challenges that comes with attempting to audit classified information.

Acquisition and Federal Property Management

32. How do you view OMB's role in providing guidance to agencies on strategic sourcing?

OMB has a central role in driving agencies to achieve savings by using shared services in common functions, such as payroll management and information systems, and leveraging the federal government's enormous buying power for common goods. OMB can both provide guidance and track the result of the savings.

33. The Federal Property Management Reform Act was signed into law last year. If confirmed, how will you ensure that agencies are implementing the law and what additional steps do you think are necessary to improve the government's management of its property portfolio?

If confirmed, I would work with the DDM, who chairs the Federal Real Property Council established under the FPMRA, to ensure there is a strategy for the federal government to better manage its properties and reduce its costs.

34. What role do you believe OMB should play in determining the size of the federal government's property portfolio?

OMB is vital to the Administration's efforts in downsizing the federal government's property footprint by cataloging and recommending the disposal of unneeded properties. For instance, OMB is set to recommend to the Public Buildings Reform Board under FASTA a list of properties for disposal.

Cybersecurity and Information Technology

35. Congress has recently passed several laws aimed at increasing cybersecurity at federal agencies, including the Federal Information Security Modernization Act of 2014 and the Federal Cybersecurity Enhancement Act of 2015. OMB, too, has demonstrated an increased level of attention to the networks, systems, and data at civilian agencies.

- a. What is your assessment of OMB's role in defending against cyber attacks, like the 2015 cyber breach suffered at the Office of Personnel Management?

OMB plays a critical role, in conjunction with DHS, in securing Federal systems and information. OMB's role includes developing and overseeing agency implementation of policies to appropriately protect their information systems.

- b. If confirmed, how will OMB work with the Department of Homeland Security to further enhance cybersecurity at federal agencies?

OMB will continue to work with DHS in its role to ensure the implementation of Federal standards and guidelines.

- c. Do you support GAO's recommendations to OMB to: address agency cyber incident response practices in oversight of agency information security programs; and collaborate with stakeholders to enhance reporting guidance for the inspector general community? Please explain.

I am not familiar with GAO's recommendations to address agency cyber incident response rates, but I will request a briefing from the FCIO, if I am confirmed.

- 36. The Federal Information Technology Acquisition Reform Act (FITARA), empowered and made accountable agency Chief Information Officers (CIOs) for all major technology purchases and maintenance at agencies. While progress has been made, some CIOs remain walled off from the program side of the agency mission. What is your view of the role of the CIO in federal agencies?

The CIO should have the authority necessary to meet its responsibilities under FITARA.

- 37. The federal government collects and maintains significant volumes of Personal Identifiable Information (PII). What do you believe OMB's role should be regarding ensuring federal agencies are fully protecting the privacy of this information?

OMB should include the proper protection of PII in its guidelines to federal agencies on the security of their information systems.

- 38. What is your view of the role of the U.S. Digital Service and the General Services Administration's 18F in recruiting private sector technology talent to the federal workforce?

I am most familiar with USDS' role, and it appears that it has been very successful in recruiting private sector technology to the federal government.

- 39. The President recently announced the creation of the Office of American Innovation. Have you had a role in the creation or work of this Office in your current role at OMB? What do you believe OMB's role should be with respect to the work of this office?

I had no role in the creation of this Office, but it promises to be an important partner in OMB's efforts to both reorganize and modernize the federal government (pursuant to the President's EO).

Improper Payments and Government Transparency

40. In fiscal year (FY) 2014, GAO's government-wide estimate of improper payments was \$124.7 billion, attributable to 124 programs across 22 agencies. In FY 2015, improper payments rose to \$137 billion. If confirmed, how do you anticipate OMB ensuring agencies are in compliance with improper payments law and following OMB guidance in this area?

Improper payments continue to be an enormous problem. If I am confirmed, I would want to incorporate the feedback from OFFM on the Management side into the FY19 budget process and ensure that the agencies that are effectively combatting improper payments according to our guidance, have additional resources that can provide the incentive to achieve reform.

41. What role, if any, should OMB play in ensuring agency collaboration and greater sharing of data helpful for curbing waste and fraud? If confirmed how do you plan to carry out this role?

If confirmed, I will work with the DDM to ensure that OMB is utilizing the tools at its disposal – including cross-cutting agency guidance and the President's budget – to promote greater agency collaboration on the best practices to fight waste, fraud, and abuse.

42. Currently, information on recipients of federal grants, contracts, and loans is required to be posted online for public review, pursuant to the Transparency Act. Do you support making subcontracts and sub grants transparent in this same manner?

Yes.

43. Do you agree with the importance of publicly disclosing the federal government's performance goals and the results achieved?

Yes.

V. Relations with Congress

44. Do you agree without reservation to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Yes, subject to the discretion of Director Mulvaney and the advice of legal counsel.

45. Do you agree without reservation to make any subordinate official or employee available to appear and testify before, or provide information to, any duly constituted committee of Congress if you are confirmed?

Yes, subject to the discretion of Director Mulvaney and the advice of legal counsel.

46. Do you agree without reservation to comply fully, completely, and promptly to any request for documents, communications, or any other agency material or information from any duly constituted committee of the Congress if you are confirmed?

Yes, subject to the discretion of Director Mulvaney and the advice of legal counsel.

VI. Assistance

47. 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 have at times consulted with the OMB staff to inform my thoughts and responses.

**Minority
Supplemental Pre-hearing Questionnaire
For the Nomination of Russell Vought to be
Deputy Director, Office of Management and Budget**

I. Nomination Process and Conflicts of Interest

1. Has the President, his staff or anyone in the transition team asked you to sign a confidentiality agreement during your term as a Beachhead team member or through other work you conducted during the transition or during the President's term in office?

Yes.

II. Background of the Nominee

2. What was your role in drafting the "America First" budget blueprint submitted to Congress on March 13, 2017?

I participated in the development of the blueprint in my role as a Beachhead team member and Senior Advisor, preparing decisions for the Director to make.

3. What has been your role in preparing the 2018 budget submission expected to be sent to Congress in May 2017?

In similar fashion, I have participated in the development of the main budget expected to be sent to Congress later this month, preparing decisions for the Director to make.

4. Do you seek out dissenting views and how do you encourage constructive critical dialogue with subordinates?

Yes, actively. It is a priority.

5. Please give examples of times in your career when you disagreed with your superiors and aggressively advocated your position. Were you ever successful?

I have spent my entire career advocating for the federal government to do less and save taxpayers money, and to push whomever I have worked for away from "business-as-usual" governing. Thankfully, I have worked for employers who have the same desire, but decisions around the "art of the possible" are rarely black and white and often require a strong commitment to principals.

6. Please list and describe examples of when you made politically difficult choices that you thought were in the best interest of the country?

I made the decision to leave my work in Congress and devote seven years of my life to getting citizens more involved in the political process. Their increased attention and knowledge of how Congress works certainly led to challenges with many current and former relationships on the Hill.

7. What would you consider your greatest successes as a leader?

I helped envision, create, and lead the Heritage Action Sentinel Program, a network of 17,000 high-information citizens committed to encouraging their Members of Congress to support sound public policy.

III. Policy Questions

Regulatory Affairs

8. OMB Director Mulvaney was recently quoted as saying, "It is our position that the previous administration failed to follow the law in many, many circumstances.... And that they simply imposed regulation without proper regard to the cost side of that analysis." Do you agree with this statement? If so, which legal requirements do you believe were not followed by the previous administration and can you point to specific examples that support this allegation?

Cost-benefit analysis has been required for rulemaking by executive orders for decades, and agencies understand that they have to comply. In fact, courts often overturn rules if significant errors are made in the process. Pushing out many significant regulatory actions through guidance rather than rulemaking is an attempt to end-run around that process.

9. What role do you think OMB has when it comes to the substance of rules versus the budgetary impact?

I think OMB has a significant role in assessing all aspects of the purported costs and benefits of a proposed rule, not just its budgetary impact.

10. What are the main principles that you think should be taken into consideration in promulgating and issuing new regulations?

I think new regulations need to be formulated based on hard data and analyses that are transparent to the public and with an eye toward limiting costs on society.

11. What are the main principles that you think should be taken into consideration in removing a regulation from the U.S. code?

The main consideration for removing a regulation is whether it has worked, after experience and analyses, as intended. Has the regulation led to the benefits it promised? Has the regulation avoided the costs it promised? If it has not, it should be reconsidered.

Management

12. One of OMB's principal goals is to improve the effectiveness and efficiency of government programs. What OMB initiatives do you believe will make the greatest difference in government efficiency and effectiveness? How can those efforts be integrated with the budget process and with the work of the congressional authorizing and appropriating committees?

As stated above, OMB is in the midst of a comprehensive review of the federal government as directed by a Presidential executive order. This review will include an assessment of the essential functions of each federal agency. Guidelines have already been issued to agencies on how to approach this review in their submissions to OMB later this year, and OMB will then issue a government-wide reform plan with the FY19 Budget.

OMB proposals can, and often have, been the basis for many congressional initiatives. Even if Congress refuses to vote for an exact replica of the President's budget, often many of the proposals and spending levels are assumed in the congressional budget resolutions and annual appropriations bills. Authorizers can also use these efforts to inform their oversight activities and vice versa.

13. The Government Accountability Office (GAO) has recommended repeatedly that that OMB develop and implement a framework for conducting performance reviews of tax expenditures, which represent forgone revenue estimated at \$1 trillion. GAO has also recommended that OMB designate tax expenditures as a type of program and include relevant information about each expenditure in future iterations of the federal program inventory. Do you agree with GAO's recommendations? If not, why not?

The Congressional Budget Act requires OMB to list tax expenditures in its budget submission. Developing a performance review of these expenditures is something that I support in theory, but I recognize the sizable resource requirements that it would entail and a potential concern that it might prove redundant with the efforts of Treasury's Office of Tax Analysis.

Contracting and Procurement Policy

14. If confirmed, what specific changes will you make to federal procurement policy that will limit the federal government's responsibility for cost overruns on existing and future contracts?

If confirmed, I will ask for a briefing on the reasons for ongoing cost overruns and work with the DDM to propose improvements that save taxpayers' money.

15. On April 18, 2017, the President issued the "Presidential Executive Order on Buy American and Hire American". Please describe the role that you believe OMB should have in implementing this Executive Order. Please describe the role that you would expect to play as the Deputy Director in OMB's implementation of this Executive Order.

OMB is charged with working with several agencies to issue guidelines jointly with the Department of Commerce, pursuant to the EO. OMB is uniquely situated to coordinate this process.

16. Too often, agencies' contracting decisions – e.g., over reliance on noncompetitive contracts, or inappropriate use of “cost plus” contracts – have unnecessarily inflated contract costs. What are the most important steps that OMB should take to ensure that agencies' contracting decisions do not waste taxpayer dollars?

OFPP should continue to work with agencies to track and provide guidance on how to reduce the reliance on noncompetitive contracts and move towards fixed price contracts, as appropriate. In addition, it can work with both OIRA to identify regulatory burdens that might create the wrong incentives for competition and the private industry to gauge why companies choose not to submit bids on contracts that are competitively awarded.

17. What factors should OMB and the Office of Federal Procurement Policy (OFPP) consider when reviewing federal agencies' business cases for the award of new government-wide acquisition contracts?

Government-wide acquisition contracts are an import tool to leverage the Federal government's buying power and achieve efficiencies. These and other tools supported by OFPP should continue to be used whenever there are common requirements and administrative expenses and duplication can be limited.

18. What do you see as the appropriate relationship between OFPP and the acquisition policy functions of GSA?

I understand there to be a collaborative partnership between OFPP and GSA in the development and implementation of acquisition policy. For instance, while OFPP chairs the Federal Acquisition Regulatory Council, GSA is one of four members (along with NASA and DoD). This partnership is good for taxpayers.

19. The Obama Administration has focused on the use of shared services and category management to make federal procurement more efficient and cost-effective. If confirmed, will you support category management? If so, what specific steps do you plan to take to continue its implementation?

Yes, I would work with the DDM to consider expanding the number of categories and shared services where appropriate.

Real Property Management

20. What do you believe are the principal obstacles that the federal government faces in the management of, and where appropriate, disposition of federal real property?

My understanding is that some of the obstacles towards the disposition of federal real property is the overly burdensome regulatory process involved and the lack of incentives to build a culture at agencies that makes it a priority. Too often, agencies would rather save money in the short term rather than achieve long term savings.

Cybersecurity and Information Technology

21. What do you view to be the most significant current and potential cyber security threats facing our federal networks and critical infrastructure owners and operators? If confirmed, what steps do you intend to take to improve the nation's cyber security, both with respect to the government and private networks?

I believe the most significant vulnerability is the aging information systems that many agencies continue to operate. If confirmed, I would help advocate for H.R. 2227, the Modernizing Government Technology Act, proposed by Rep. Will Hurd that creates a revolving fund under GSA to fund (and receive reimbursements for) agency modernization projects in a manner that ensures effective oversight.

Improper Payments and Government Transparency

22. Sec. 1222 of GPRAMA instructs OMB to “issue guidance to ensure that such information is provided in a way that presents a coherent picture of all federal programs, and the performance of the federal government as well as individual agencies.” The statute also states that the standards set for transparency and frequency of updates are the minimum.

- a. If confirmed as Deputy Director, what steps will you take to ensure that disclosures to the public are provided in a coherent and easily accessible manner?

I completely support the intent behind these sorts of initiatives. If confirmed, I would work with the DDM to comprehensively assess how OMB is complying with this and any related statutes.

- b. If confirmed, would you support OMB using its website to provide transparency and accountability to the public, including beyond the statutorily required minimums if necessary for coherence and comprehensiveness?

I would be open to the idea if other sites proved insufficient and OMB had the resources to commit to such an endeavor without jeopardizing other key responsibilities.

Financial Management Systems

23. What is your view of the government's current financial reporting requirements? Would you suggest any revisions to OMB Circular A-136, *Financial Reporting Requirements*?

The current financial reporting requirements are an important part of ensuring that all agencies maintain a “clean” audit and therefore maintain the public’s confidence in their government. If confirmed, I would work with the DDM to look for opportunities to improve the requirements.

24. The Obama Administration has emphasized the importance of having appropriate risk management processes and systems to identify challenges early, to bring them to the attention of Agency leadership, and to develop solutions. As part of this effort, OMB updated Circular A-123 in July 2016, to adopt a more integrated risk management structure. The updated Circular A-123 requires Agencies to implement an enterprise risk management capability coordinated with the strategic planning and strategic review process established by the GPRA Modernization Act, and the internal control processes required by the federal Managers’ Financial Integrity Act (FMFIA) and GAO’s Green Book.

a. Do you support the integrated approach detailed in Circular A-123?

Enterprise risk management is an important tool to identify risks and design processes that avoid and mitigate against them. It is important that the federal government incorporate these practices from the private sector. If confirmed, I would work with the DDM to continually assess A-123.

b. If not, please explain your view on the appropriate approach to ensuring agencies maintain appropriate risk management practices?

See above.

Government Waste

25. What is your assessment of the oversight work performed by the IGs over the past decade? What do you view as the greatest challenges facing the IGs? What do you see OMB’s role in addressing these challenges?

As stated above, I highly value the work of the IG community. One of the challenges they face is getting policymakers to take seriously their findings, and OMB is well situated to incorporate their findings into the budget and oversight processes.

26. The Paperwork Reduction Act, the electronic amendments to the Freedom of Information Act (FOIA), the E-Government Act, and current OMB circulars, together have led to a government-wide policy that supports the dissemination of government information and access to that information via the internet. What standard should be applied in determining the circumstances under which the federal government should be proactive in its dissemination of information to the public or when the dissemination of information should require a FOIA request?

If confirmed, I will work with the DDM to review the appropriate amount of public information required under current law.

Whistleblower Rights

27. Please describe any previous experience—in the public or private sector—with handling whistleblower complaints, and what steps you took to ensure those individuals did not face retaliation and that their claims were thoroughly investigated?

I have no previous experience with handling whistleblower complaints, but I value whistleblowers and have always encouraged a leadership culture that seeks to alleviate the need for them because employees know they can communicate up the chain of command about what is being mismanaged.

28. How will you ensure that OMB whistleblower complaints are properly investigated?

If confirmed, I will be sure to assess what whistleblower protections we have in place and make any improvements. I will also personally ensure that complaints are made known to senior officials and investigated.

29. If confirmed, will you ensure officials in your agency do not retaliate against federal employees, officials and contractor employees who communicate with representatives from this Committee, the GAO, IGs, the Office of Special Counsel, and any other statutorily protected channels for disclosure?

Yes.

Executive Orders

30. Under Executive Order 11030, as amended, OMB substantively reviews and clears all draft Presidential Executive Orders and Memoranda to agency heads prior to their issuance. What, in your view, is the appropriate use of executive orders? What criteria should OMB use when evaluating proposed executive orders?

Executive orders are an effective tool for the President to drive his policy agenda throughout his Administration. Some of the criteria for evaluating proposed executive orders include whether what is written accomplishes the President's intent, as well as identifying whether they comport with existing statutes.

31. Are there any existing executive orders that you believe should be repealed or replaced? If so, describe which executive orders and your reasoning.

I have not performed a review of existing executive orders.

Personnel Management

32. What do you believe the biggest challenges are in addressing skill gaps in the federal government? What role should OMB play in efforts to improve human capital management across the federal government?

I have not considered this issue, but if confirmed I will be briefed and assess any skill gaps in the federal government and work with the DDM to address these gaps through the Office of Performance and Personnel Management and the Office of Personnel Management.

33. What do you believe the role of the Senior Executive Service (SES) should be in the federal workforce? If confirmed, what, if any, measures would you take to reform the SES system?

I have not considered any specific reforms to the SES system, but it is an important system for ensuring that the federal government has versatile senior executives that can overcome many different management challenges and run agencies that are efficient. It may need to be modernized since it was instituted in the 1970s.

34. In response to some questions that Senator McCaskill submitted to the Army after a 2012 hearing on the cost of contractors, the Deputy Assistant Secretary for Force Management, Manpower and Resources stated that, even when their analysis showed that using a federal employee was better from a cost and a mission perspective, the Army was under some circumstances forced to use a contractor instead because of a DOD-mandated freeze on civilian full-time equivalents, or FTEs for FY 2011 through FY 2013. This cap was later extended through FY 2018.

- a. Do you believe that hiring freezes lead to decreases in government spending?

I believe that hiring freezes can lead to decreases in government spending over time.

- b. If so, does this come at a cost to efficiency and productivity? Do you believe the use of contractors is necessary and cost effective?

As to whether contractors are necessary and cost effective, I think it depends on the agency involved and the particular job to be done. However, any assessment needs to consider the long-term costs of adding full-time civilian employees onto the rolls for purposes of federal benefits.

Budget and Economic Policy

35. At a March 13, 2013, Homeland Security and Governmental Affairs Committee hearing titled "The Costs and Impacts of Crisis Budgeting," witnesses discussed the numerous management and other challenges government shutdowns and continuing resolutions create for federal agencies, state governments, and government employees. If confirmed, you will play an important role in ensuring that agencies across government are effectively managing the resources entrusted to them. What steps would you take to avoid the waste and

inefficiency that can result from the kind of budget uncertainty agency managers have been forced to deal with in recent years?

If confirmed, I would encourage a return to regular order in the appropriations process and early planning to ensure that the Administration is working with Congress on its priorities in order to avoid crisis budgeting.

36. The debt limit, or debt ceiling, reached the end of its suspension on March 16, 2017. Existing obligations will require that the debt ceiling be raised in order to avoid breaching the debt limit.

a. Do you believe it is necessary to raise the debt ceiling? Why or why not?

Yes, I believe it is important to raise the debt ceiling in order to pay our bills. At the same time, I believe it is vital to consider reforms that force fiscal discipline and better enable the nation to deal with its debt problems.

b. What do you believe would be the impact of not raising the debt ceiling? Would there be impacts on the credit rating of the United States, on the stock market, on the national and global economy?

The debt ceiling has always been raised, and I do not envision a scenario where it will not be, nor can I anticipate what the impact would be.

37. OMB Director Mick Mulvaney has argued that, were the debt ceiling breached, the government could choose which obligations to pay and which not to pay, and therefore that the debt ceiling can be breached without the government going into default on its debts. Do you agree with that argument? If so, and if the debt ceiling were not raised at some future point, which government obligations would you prioritize for payment? Which would you prioritize for default?

Yes. As Director Mulvaney stated in his questionnaire, default is a technical term to describe the non-payment of interest or principle on debt. Since there is revenue sufficient to pay those particular bills, default would not immediately result. Prioritization would have to be informed by the available revenues for that particular month after debt payments have been made.

38. In your view, what actions should Congress and the Administration take to address long term structural budgetary imbalances? By what amount do you believe our deficit should be reduced in order to stabilize our finances, and by how much in the short term and by how much in the long term? What level of publicly held debt as a percentage of GDP do you believe would be appropriate to achieve by 2025?

I believe it is critical to address our nation's long-term structural budget imbalance. I think we should balance the federal budget and keep it balanced so that the debt can be eliminated over time.

IV. Relations with Congress and the Public

39. If confirmed, how will you make certain that you will respond in a timely manner to Member requests for information?

Yes, subject to the discretion of Director and the advice of legal counsel.

40. If confirmed, do you agree without reservation to reply to any reasonable request for information from the Ranking Member of any duly constituted committee of the Congress?

1. If confirmed, do you agree without reservation to reply to any reasonable request for information from members of Congress?

Yes, subject to the discretion of Director and the advice of legal counsel.

2. If confirmed, do you commit to take all reasonable steps to ensure that you and your agency complies with deadlines established for requested information?

Yes.

3. If confirmed, do you commit to protect subordinate officials or employees from reprisal or retaliation for any testimony, briefings or communications with members of Congress?

Yes.

41. Do you agree without reservation to identify to the Committee all Presidential appointments (regardless of Senate confirmation requirements) within OMB? Do you agree without reservation to allow Committee staff, as requested, an opportunity to interview such appointments?

Yes, subject to the discretion of the Director, advice of legal counsel, and if agreed to by Majority and Minority staff.

42. If confirmed, will you ensure that your staff will fully and promptly provide information and access to appropriate documents and officials in response to requests made by the Government Accountability Office (GAO) and the Congressional Research Service?

Yes, subject to the advice of legal counsel.

43. If confirmed, will you agree to work with representatives from this Committee and the GAO to promptly implement recommendations for improving OMB's operations and effectiveness?

Yes. If confirmed, I will study their recommendations to improve OMB.

44. If confirmed, will you direct your agency to fully and promptly respond to Freedom of Information Act requests submitted by the American people?

Yes, to the extent consistent with all applicable rules, regulations, exemptions and policies.

45. If confirmed, will you direct your staff to adopt a presumption of openness where practical, including identifying documents that can and should be proactively released to the public without requiring a Freedom of Information Act request?

Yes.

46. If confirmed, will you keep this Committee apprised of new information if it materially impacts the accuracy of information your agency's officials have provided us?

Yes.

V. Assistance

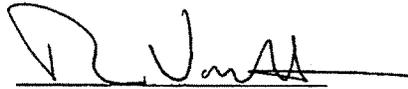
47. Are these answers completely your own? If not, who has provided you with assistance?

These answers are my own. I have at times consulted with the OMB staff to inform my thoughts and responses.

48. Have you consulted with OMB or any other interested parties? If so, please indicate which entities.

See question 47.

I, Russ Voshell, hereby state that I have read the foregoing Pre-Hearing Questionnaire and Supplemental Questionnaires and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



(Signature)

This 15th day of May, 2017

**Sen. Heidi Heitkamp
Post-Hearing Questions for the Record
Submitted to Russell Vought
Nomination for Russell Vought to be Deputy Director
Office of Management and Budget**

1. The Office of Management and Budget (OMB) utilizes a Benefit-Cost Ratio (BCR) for determining which U.S. Army Corps of Engineers Flood Risk Management projects are funded in the president's budget. In some instances, the BCR overstates the true cost to the federal government because it assumes that all dollars spent on a project are federal dollars, despite the fact that a substantial portion of the money spent may come from non-federal sources, such as public-private partnerships (P3). Unfortunately, OMB's method does not adequately capture P3 projects, such as the Fargo-Moorhead diversion in my state, where there is substantial non-federal investments, often far exceeding the typical 65/35 federal/non-federal funding split. In the case of the project in my state, the non-federal funding commitment to the project is nearly 80 percent versus 20 percent from the federal government due to the use of a P3 partnership. This innovative financing arrangement saves the federal government hundreds of millions of dollars and yields a substantial return on investment.

a. How can OMB best account for these types of projects in its budgeting deliberations when the standard BCR doesn't accurately reflect the true costs of the project to the federal government?

b. Will you commit to working with the U.S. Army Corps of Engineers to properly take non-federal investments into account?

I am committed to improving the way in which the Federal government works, in order to better serve the American people. In the Corps program, I would be interested in finding ways to work with non-Federal sponsors who are prepared to contribute more than the required amount for their water resources projects. Their willingness to contribute more demonstrates the importance of the project to them. If confirmed, I look forward to working with the Corps on how it evaluates its projects, including how it takes non-federal investments into account.

**Sen. Heidi Heitkamp
Post-Hearing Questions for the Record
Submitted to Russell Vought
Nomination for Russell Vought to be Deputy Director
Office of Management and Budget**

2. Last year, Congress passed the Program Management Improvement and Accountability Act (PL 114-264), which I was proud to cosponsor with Senator Ernst (R-IA). The law requires several actions by the Office of Management and Budget over the next year to improve the management of major programs and projects in the federal government. We owe it to the taxpayers of this country to make sure these programs and projects are completed on time and on budget.

a. Will you commit to ensuring this law is implemented successfully and according to schedule?

b. Will you commit to work with this committee on the implementation of the law?

Improving the management of programs and projects to ensure the government operates more effectively and efficiently is a priority for OMB, and a management priority of this Administration. I support efforts to improve program and project management and will work to ensure the law and its provisions are implemented successfully. If confirmed, I will ensure this legislation is implemented in a manner that will ensure program and project managers are held accountable for effective management using objective data and evidence, and that programs are regularly reviewed to ensure they are operating efficiently and addressing important outcomes. I welcome the opportunity to collaborate closely with the Committee as this legislation is implemented, and commit to providing regular updates both to Congress, key stakeholders, and the public.

Sen. Heidi Heitkamp
Post-Hearing Questions for the Record
Submitted to Russell Vought
Nomination for Russell Vought to be Deputy Director
Office of Management and Budget

3. The Justice Department's Office of Legal Counsel (OLC) recently determined that executive branch agencies have no legal obligation to respond to congressional requests for information from individual members or ranking members of committees. Oversight of the executive branch is a core tenet of Congress, and I have serious concerns that this ruling weakens the ability of Congress to hold government accountable. During your Senate nomination hearing, I expressed to you my concerns about your lack of commitment to responding without reservation to reasonable requests for information from members of the minority party.

a. Please elaborate on why you will not commit to responding without reservation to reasonable requests for information from members of Congress.

I take very seriously Congress' vital role in performing oversight of the Executive Branch. While the OLC opinion to which you refer describes the Executive Branch's affirmative obligations in responding to certain Congressional requests, it does not prohibit sharing information with individual members of Congress. I can assure you that, if confirmed, I am committed to working with Congress so that it has the information it needs to perform its oversight functions and accordingly will work with the Director to respond to reasonable requests for information that OMB receives from members of Congress.

**Ranking Member Claire McCaskill
Post-Hearing Questions for the Record
Submitted to Russell Vought
Nomination for Russell Vought to be Deputy Director
Office of Management and Budget**

1. During your confirmation hearing you testified that you believe the May 1, 2017, opinion issued by the Department of Justice Office of Legal Counsel (OLC) to be the controlling guidance regarding how executive branch agencies should respond to requests from ranking members of congressional committees.

The OLC opinion states that agencies have the "discretion" to respond to oversight requests from ranking members or individual members of Congress. The OLC opinion identifies that "the Executive Branch has historically exercised its discretion in determining whether and how to respond." If confirmed, would you commit to responding to any reasonable request for information from the Ranking Member of any duly constituted committee of the Congress?

The OLC opinion also states, "Whether it is appropriate to respond to requests from individual members will depend on the circumstances." Please describe the factors you will weigh in evaluating the circumstances that will warrant a response to a request by the Ranking Member of any duly constituted committee of Congress.

Yes, I respect the important role that Congress plays in performing oversight of the Executive Branch. If confirmed, I am committed to working with Congress so that it has the information it needs to perform its oversight functions and accordingly will work with the Director to respond to reasonable requests for information that OMB receives from members of Congress. In accommodating those requests, I will ensure OMB weighs all appropriate circumstances, including determining whether it can respond in a manner that is not overly burdensome and does not interfere with its ability to respond in a timely manner to duly authorized oversight requests.

**Ranking Member Claire McCaskill
Post-Hearing Questions for the Record
Submitted to Russell Vought
Nomination for Russell Vought to be Deputy Director
Office of Management and Budget**

2. In the past, OMB has not conducted coordinated reviews of tax expenditures with related federal spending programs. Such reviews could identify opportunities to reduce overlap and inconsistencies and direct scarce resources to the most effective or least costly methods to deliver federal support. As you begin reviewing programs areas and budgets, do you plan to include tax expenditures as part of those reviews? If so, how do you plan to approach these reviews?

Reviewing tax expenditures can have important benefits, such as aiding efforts to close loopholes and simplify the tax code. Reviewing tax expenditures and eliminating unnecessary or inefficient tax expenditures can also improve government efficiency. If confirmed, I will look at how OMB can incorporate more extensive review of tax expenditures as part of the annual budget process.

**Ranking Member Claire McCaskill
Post-Hearing Questions for the Record
Submitted to Russell Vought
Nomination for Russell Vought to be Deputy Director
Office of Management and Budget**

3. What are your views on how OMB should work with agencies to develop their reform plans, as well as crosscutting reform proposals, as Director Mulvaney laid out in his April 2017 memo? How would you engage the Congress and other key stakeholders in this reform effort?

Government reform is a critical endeavor to create a lean, more effective, efficient, and accountable government for the American people. OMB has been actively engaging agencies as they develop their reform plans in accordance with guidance M-17-22 "Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce." At a government wide level, OMB has been communicating steadily through the President's Management Council and with Senior Accountable Officials to help agencies understand the guidance, learn from one another's approaches, and consider issues with cross-agency implications. In addition, many OMB offices have been meeting individually with agencies in order to discuss early ideas and priorities. After agency high-level draft plans are submitted to OMB on June 30th, OMB will meet individually with each of the major agencies to discuss their draft plans and their path to develop a full plan for submission in September.

OMB has already begun to engage stakeholders in these efforts. Importantly, the public comment process alone has generated over 100,000 pieces of input that are being shared with each of the relevant agencies for consideration. OMB has also reached out to stakeholders to seek their crosscutting ideas, including Federal agencies, Congressional staff, GAO, and good government organizations such as the Congressionally chartered National Academy of Public Administration. As interested organizations reach out to OMB, OMB is also meeting with stakeholders to hear their ideas and understand the needs that they see. In the coming months, OMB will continue working across Federal agencies and with key stakeholders to further flesh out actionable crosscutting plans and proposals that complement the work of individual agencies.

If confirmed, I look forward to working with Congress to consider these reform proposals on our shared goal of making the Federal government more effective, efficient, and accountable government for the American people.

**Ranking Member Claire McCaskill
Post-Hearing Questions for the Record
Submitted to Russell Vought
Nomination for Russell Vought to be Deputy Director
Office of Management and Budget**

4. The President's fiscal year 2018 budget proposal includes an estimated savings of \$139 billion from reductions in improper payments. Please describe the specific plans OMB has to eliminate improper payments and what your role will be, if confirmed, in advancing these efforts.

I am committed to addressing this problem and preventing and reducing improper payments so that American taxpayers can rest assured that their hard earned money is being invested for the common good and not squandered needlessly. If I am confirmed, I will support OMB's efforts to:

1) Collaborate with the largest agencies with improper payments resulting in monetary losses to the Government and direct them to:

- 1) immediately identify and confirm the primary root causes for those payments;
- 2) establish and implement corrective actions that will accurately gauge their progress on an annual basis;
- 3) provide information as to any Federal policies or statutory constraints, which inhibit their ability to make those payments; and
- 4) provide Congress with a list of the necessary statutory changes to help us eliminate improper payments.

2) Work with Congress, GAO, and agencies to assess every federally funded, state administered program and determine what changes must be made to assess improper payments in those programs and correct the conditions that cause those payments.

3) Instruct all agencies with improper payments resulting from processing errors to revisit their existing procedures and amend those procedures to comply with existing payment practices or stop making these improper payments.

Senator Gary Peters
Post-Hearing Questions for the Record
Submitted to Russell Vought
Nomination for Russell Vought to be Deputy Director
Office of Management and Budget

1. The President's budget completely eliminates funding for the Great Lakes Restoration Initiative. This program helps communities throughout the Great Lakes by addressing several issues within the Great Lakes ecosystem, including clean drinking water, restoring habitat, and combatting invasive species that decimate our fisheries. The Great Lakes provide drinking water to 40 million people in North America and support multi-billion dollar tourism, commercial fishing, shipping and agricultural industries in Great Lakes states. A 2007 cost-benefit analysis of Great Lakes protection efforts by the University of Michigan and Brookings Institution concluded that every dollar invested in this restoration generated \$2 in economic return. What role did you have in the decision to eliminate funding for GLRI and how do you justify that decision? In preparing the FY18 budget, did you or anyone at OMB estimate the economic benefits of GLRI or the economic costs to eliminating it? What do you believe the long-term impact would be on our economy? As OMB Deputy Director, would you commit to looking into this long term impact, and impacts of similar programs?

During the formulation of the 2018 Budget, OMB worked closely with the Environmental Protection Agency (EPA) to set priorities and adjust funding accordingly. The 2018 Budget focuses the EPA's efforts on core, national environmental protection programs while continuing to encourage State, Tribal, and local stakeholders to sustain progress on the locally and regionally targeted geographic programs, such as the Great Lakes Restoration Initiative (GLRI). The GLRI program activities are primarily localized ecosystem restoration efforts and the responsibility for coordinating and funding these efforts generally belongs with the States and local stakeholders. State and local groups are engaged and capable of taking on management of the environmental restoration of these water bodies. OMB will continue to work with EPA to evaluate the impacts to these programs for future budget considerations.

**Senator Gary Peters
Post-Hearing Questions for the Record
Submitted to Russell Vought
Nomination for Russell Vought to be Deputy Director
Office of Management and Budget**

2. The President's FY18 budget appeared to contain significant math errors in calculating economic growth, assuming that very high rates of growth would generate over \$2 trillion in additional revenue. It also had no sufficient discussion of how its program cuts would affect long-term economic prospects or affect states and communities in the long term. What processes would you honor or put in place to ensure that OMB studies and considers long-term budget impacts? How would you give agencies and stakeholders, which have data and perspectives on the effectiveness of these programs, a seat at the table?

The Budget proposals represent a vision for balancing the Federal budget and avoiding the severe economic consequences for States, communities, and the nation as a whole of unsustainable increases in the debt. The Budget proposals were developed in consultation with agencies and other stakeholders to accomplish this fiscal objective while honoring the President's campaign commitments. The Budget shows the 10-year estimates of the Administration's proposals in detail. It also shows illustrative extensions of these policies over a 25-year horizon, as compared to the extension of the unsustainable current path, in the "Long-Term Budget Outlook" chapter in the Analytical Perspectives volume of the Budget.

**Senator Gary Peters
Post-Hearing Questions for the Record
Submitted to Russell Vought
Nomination for Russell Vought to be Deputy Director
Office of Management and Budget**

3. The President's FY18 budget eliminates funding for many programs with proven economic growth effects. For example, it would eliminate the Manufacturing Extension Partnership, which provides consulting services to small manufacturers. For every dollar of federal investment, MEP generates \$17.9 in new sales growth for manufacturers. For every \$1,501 of federal investment, MEP creates or retains one manufacturing job. As another example, it would eliminate the Economic Development Administration, which effectively leverages private investment. Two current EDA grants in Detroit will help bring manufacturing back to the city and create 5,000 jobs over 5 years. When deciding to eliminate programs like the Manufacturing Extension Partnership and the Economic Development Administration, did you or anyone at OMB take into account their short- and long-term effects on economic growth?

The eliminations of the Economic Development Administration (EDA) and Manufacturing Extension Partnership (MEP) are part of a broader effort to eliminate duplicative and unauthorized economic development programs across the Federal Government. While the Budget proposes to eliminate these programs, it also proposes tax reform and regulatory reforms that will provide short- and long-term economic growth across the country without using taxpayer dollars.

**Senator Gary Peters
Post-Hearing Questions for the Record
Submitted to Russell Vought
Nomination for Russell Vought to be Deputy Director
Office of Management and Budget**

4. One of your responsibilities at OMB would be ensuring that agencies fully document and justify their actions related to the budget. One important factor in making budget projections is accurate economic data. I am concerned about this administration's budget request to reduce funding for federal statistical agencies including the Bureau of Economic Analysis and Economic Research Service. How would you work to maintain rigorous economic analysis at OMB and ensure that agencies have accurate and complete accounting for their decisions?

I believe that rigorous economic analysis is critical, and the President's Budget expresses support for using evidence and analysis in decision making. The Budget reflects a series of hard choices, and most agencies did see reductions in funding. Nonetheless, I believe that Federal statistical agencies play an important role in collecting, analyzing, and disseminating high-quality data to accurately account for agency performance and to improve government effectiveness.

JEB HENSARLING
 TEXAS, 5TH DISTRICT
 FINANCIAL SERVICES COMMITTEE
 CHAIRMAN
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www.hensarling.house.gov



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House of Representatives
 Washington, DC 20515

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 ATHENS, TX 75751
 (803) 675-8288

June 7, 2017

Testimony of U.S. Representative Jeb Hensarling (TX-05)
 On the Nomination of Russell T. Vought to be the
 Deputy Director, Office of Management and Budget

I want to thank Chairman Enzi, Ranking Member Sanders, and the Members of the Senate Budget Committee for allowing me to submit testimony on behalf of Russell Vought.

Our nation faces a fiscal crisis as we are drowning in a sea of debt. This \$20 trillion price tag will smother future generations with its weight and magnitude – dooming them to a standard of living that is less than the one enjoyed by their parents.

President Trump has outlined a bold, forward-looking agenda to tackle the very serious problems that hardworking Americans and their families face – stagnant paychecks, shrinking savings and a skyrocketing debt burden racked up by their federal government.

I believe President Trump showed his strong commitment to addressing this dire debt situation when he nominated my former colleague, Mick Mulvaney, to be our nation's OMB Director. The President has further demonstrated leadership on our spending driven debt crisis by nominating Russ Vought as the Deputy Director of that office.

I personally know of Russ' commitment to our nation and the cause of liberty because I had the distinct honor of working with him.

Russ began his service to the American people and Congress immediately following his graduation from Wheaton College in 1998. After a brief stint with then-retiring Senator Dan Coats, Russ joined the staff of my political mentor, Texas Senator Phil Gramm. During those four years with Senator Gramm, Russ became a keen student of legislative procedure and a master of federal budget policy.

After I had the good fortune of being elected by the people of the 5th District of Texas, Russ joined my staff as Policy Director – where he served as my top adviser on budget issues and worked for several years providing invaluable counsel to me on tax, entitlement and spending policy. When I became Chairman of the Republican Study Committee in the 110th Congress, Russ served me and the 100-plus members of the committee as Executive Director with integrity and an unwavering devotion to the conservative cause we shared.

At the conclusion of my chairmanship, Russ went on to serve then-Conference Chairman Mike Pence as Policy Director at the House Republican Conference, where he served as principle adviser on budget, appropriations, Social Security, legislative procedure and entitlements.

Throughout his career, Russ' devotion to constitutional, limited government principles has always been second to none. I once said that I could take heart knowing that Russ' service to the cause of liberty would continue in whichever path he chooses for his life. As the Senate fulfills its constitutional duty of advice and consent, I ask that you truly recognize the impressive qualifications Russ Vought brings to this position and that you confirm him without delay.

Yours Respectfully,



Joe Hensarling
Member of Congress

**United States Senate Homeland Security and Government Affairs Committee
Hearing on the Nomination of Neomi Rao to be the Administrator of the Office of
Information and Regulatory Affairs, Office of Management and Budget**

Statement of Neomi Rao

June 7, 2017

Chairman Johnson, Ranking Member McCaskill, and Members of the Committee, it is an honor to appear before you as the President's nominee to be the Administrator of the Office of Information and Regulatory Affairs. I am grateful to the President and Director Mulvaney for their trust and confidence.

At the outset, I would like to thank the Members of this Committee and their staff for taking the time to meet with me. I appreciate your graciousness and the chance to connect and discuss issues about the regulatory process. For those of you I did not have an opportunity to meet, I hope we might have a chance after the hearing. If confirmed, I look forward to working closely with Members of the Committee on issues relating to regulatory and information policy.

If you will indulge me, I will take a moment to recognize my family. I am here today with my husband, Alan Lefkowitz, and my two children Isabella and Ezra. Alan's unwavering support has made it possible for me to even consider the demands of public service. My father, Dr. Jehangir Rao, is also here, and has believed in me at every stage of my life. I remember also my remarkable and loving mother, Dr. Zerine Rao, who died too young of cancer, and wish she could have been here to share this day. Leaving India in January 1972, my parents arrived in Detroit in the middle of a snowstorm without winter jackets, but with their medical degrees, \$16, and the optimism of the recently married. They always imparted by example the importance of integrity, perseverance, kindness, and a commitment to service.

Let me share some information about my background. For the past ten years, I have been a law professor at the Antonin Scalia Law School at George Mason University, teaching constitutional law and legislation and statutory interpretation. My scholarship has focused on the framework of constitutional accountability for administrative agencies. About two years ago, I founded the Center for the Study of the Administrative State. The Center commissions academic research and hosts public policy conferences, bringing together scholars, practitioners, and government officials to analyze and debate difficult questions of administrative law.

Prior to my academic career, I worked in the Office of the White House Counsel, where I oversaw the legal work of a number of agencies and helped to coordinate interagency discussions about law and policy. I have also served on the Senate Judiciary Committee as counsel for nominations and constitutional law. My other experience includes working for several years at a law firm in London and clerking for Justice

Clarence Thomas of the U.S. Supreme Court and Judge J. Harvie Wilkinson III of the U.S. Court of Appeals for the Fourth Circuit.

My academic background and practical experience in all three branches of the federal government have helped me to understand the regulatory process and the respective roles of Congress, the President, and the courts in administration.

Since Congress established OIRA in the Paperwork Reduction Act of 1980, OIRA has operated with a consistent mission to improve the quality of decisionmaking in administrative agencies through regulatory review and the coordination of information policy. OIRA plays a vital role within the Executive Branch to ensure that administrative agencies follow the law, base their decisions on the best possible economic and technical analysis, and fulfill presidential priorities. Within the requirements set by Congress, OIRA works with an overarching goal of creating the greatest benefits for the American people while minimizing regulatory burdens.

Reading through OIRA's statutory authorities as well as Executive Orders and OMB Guidance, I have been struck by the consistency of the principles guiding the work of the office across administrations. Perhaps this is one reason so many talented professionals work at OIRA and often stay for many years serving presidents of different parties.

I am humbled to be nominated for this role. If confirmed as Administrator, I would work to ensure the continuity of OIRA's principles, updating and refining when necessary, but maintaining the integrity of the process that has developed. I would also look forward to working with Members of this Committee and other Members of Congress on legislation relating to regulatory reform and other issues within OIRA's purview.

Thank you for your consideration. I look forward to answering your questions.

REDACTED

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
Name of Position	Date of Nomination
Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget	Intent to nominate: April 7, 2017

<i>Current Legal Name</i>			
First Name	Middle Name	Last Name	Suffix
Neomi	Jehangir	Rao	

<i>Addresses</i>					
Residential Address (do not include street address)			Office Address (include street address)		
			Street: 3301 Fairfax Drive		
City: Washington	State: DC	Zip: 20008	City: Arlington	State: VA	Zip: 22201

<i>Other Names Used</i>						
First Name	Middle Name	Last Name	Suffix	Check if Maiden Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
N/A					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1973	Detroit, Michigan

<i>Marital Status</i>						
Check All That Describe Your Current Situation:						
Never Married	Married	Separated	Annulled	Divorced	Widowed	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

<i>Spouse's Name</i> (current spouse only)			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Alan		Leikowitz	

<i>Spouse's Other Names Used</i> (current spouse only)						
First Name	Middle Name	Last Name	Suffix	Check if Maiden Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
N/A					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

Children's Names (if over 18)			
First Name	Middle Name	Last Name	Suffix
My two children are under 18.			

2. Education

List all post-secondary schools attended.

Name of School	Type of School (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	Date Began School (month/year) (check box if estimate)	Date Ended School (month/year) (check box if estimate) (check "present" box if still in school)	Degree	Date Awarded
Yale University	University	9/1991 <input type="checkbox"/> Est <input type="checkbox"/>	5/1995 <input type="checkbox"/> Est <input type="checkbox"/> <input type="checkbox"/> Present	B.A.	5/1995
University of Chicago	Law School	9/1996 <input type="checkbox"/> Est <input type="checkbox"/>	6/1999 <input type="checkbox"/> Est <input type="checkbox"/> <input type="checkbox"/> Present	J.D.	6/1999

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

Type of Employment (Active Military Duty Station, National Guard/Reserve, USPS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other)	Name of Your Employer/Assigned Duty Station	Most Recent Position Title/Rank	Location (City and State only)	Date Employment Began (month/year) (check box if estimate)	Date Employment Ended (month/year) (check box if estimate) (check "present" box if still employed)
State Government	Antonin Scalia Law School, George Mason University	Associate Professor	Arlington, VA	8/2006 <input type="checkbox"/> Est <input type="checkbox"/>	Present <input type="checkbox"/>
State Government	Antonin Scalia Law School, George Mason University	Founder and Director of the Center for the Study of the	Arlington, VA	9/2015	Present

		Administrative State				
Other Federal employment	White House	Associate Counsel and Special Assistant to the President	Washington, DC	4/2005	Est <input type="checkbox"/>	7/2006
Non-government employment	Clifford Chance LLP	Associate	London, England	11/2002	Est <input type="checkbox"/>	3/2005
Unemployment	Bar Exam; Temple Bar Fellow, American Inns of Court		Washington, DC	7/2002	Est <input type="checkbox"/>	10/2002
Other Federal employment	Supreme Court-Justice Clarence Thomas	Law Clerk	Washington, DC	7/2001	Est <input type="checkbox"/>	6/2002
Other Federal employment	U.S. Senate Committee on the Judiciary	Counsel for Nominations and Constitutional Law	Washington, DC	9/2000		6/2001
Unemployment			Washington, DC	7/2000		8/2000
Other Federal employment	U.S. Court of Appeals for the Fourth Circuit-Judge J. Harvie Wilkinson III	Law Clerk	Charlottesville, VA	7/1999		6/2000
Non-government employment	Gibson, Dunn & Crutcher	Summer Associate	Washington, DC	7/1998		8/1998
Non-government employment	Williams & Connolly	Summer Associate	Washington, DC	6/1998		7/1998
Non-government employment	Institute for Justice	Law clerk	Washington, DC	6/1997		8/1997
Non-government employment	The Weekly Standard (magazine)	Reporter	Washington, DC	7/1995		7/1996

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)

Administrative Conference of the United States	Public Member	8/2016	Est 2	Present	Est 2	Present 2
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4. Potential Conflict of Interest

(A) 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.

I do not believe I have any relationships or financial dealings that would constitute or result in a conflict of interest.

(B) 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.

None.

5. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

Temple Bar Fellowship, American Inns of Court

Order of the Coif, University of Chicago Law School

Cum Laude, High Distinction in Ethics, Politics, and Economics, and Philosophy, Yale University

Humane Studies Scholarship, Institute for Humane Studies

6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
Adas Israel Synagogue	9/2005 to present	None.
Federalist Society	9/1996 to present	Executive Committee, Separation of Powers and Federalism Practice Group; Executive Committee, International and National Security Law Practice Group; President, University of Chicago Law School Chapter
American Bar Association	9/2006 to present	Council Member, Administrative Law and Regulatory Practice Group (since 8/2016); Co-Chair, Regulatory Policy Committee (since 1/2016)

7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

No.

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

None.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Jeb Bush	\$1000	2015
Ted Cruz (Senate)	\$250	2012
Mitt Romney	\$500	2012
Mitt Romney	\$250	2012
John McCain	\$500	2008
John Adams for Attorney General (Virginia)	\$500	2016
Joan Larsen for Justice (Michigan)	\$250	2016

8. Publications and Speeches

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide

the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
Administrative Collusion: How Delegation Diminishes the Collective Congress	90 New York University Law Review 1463	2015
Removal: Necessary and Sufficient for Presidential Control	65 Alabama Law Review 1205	2014
The Trouble with Dignity and Rights of Recognition	99 Virginia Law Review Online 29	2013
The Choice to Protect: Rethinking Responsibility for Humanitarian Intervention	44 Columbia Human Rights Law Review 697	2013
Public Choice and International Law Compliance: The Executive Branch is a They Not an It	96 Minnesota Law Review 194	2011
American Dignity and Healthcare Reform	35 Harvard Journal of Law and Public Policy 171	2011
A Modest Proposal: Abolishing Agency Independence in <i>Free Enterprise Fund v. PCAOB</i>	79 Fordham Law Review 2541	2011
Three Concepts of Dignity in Constitutional Law	86 Notre Dame Law Review 183	2011
Gender, Race, and Individual Dignity: Evaluating Justice Ginsburg's Equality Jurisprudence	70 Ohio State Law Journal 1053	2009
The President's Sphere of Action	45 Willamette Law Review 527	2009
On the Use and Abuse of Dignity in Constitutional Law	14 Columbia Journal of European Law 201	2008
Background Information on the IBA Guidelines on Conflicts of Interest in International Arbitration	5 Business Law International 433	2004
Arbitration Meets the Class Action	6 International Arbitration Law Review 216	2003
A Backdoor to Policy Making: The Use of Philosophers by the Supreme Court	65 University of Chicago Law Review 1371	1998

John Roberts	Oxford Encyclopedia of American Political and Legal History, Oxford University Press	2012
Like Scalia, the law school at George Mason U. has a maverick streak	The Washington Post	April 5, 2016
Article I, Section 1: The Non-Delegation Principle Persists	National Constitution Center Interactive Constitution, available at https://constitutioncenter.org/interactiveconstitution/ .	2016
The Supreme Court's rule by talking points	The Washington Examiner	July 7, 2015
Real Drone Strike Accountability Requires Political Checks	The New York Times	April 25, 2015
A tale of two dignities	The Daily Caller	January 24, 2013
The Constitution: Not Just for Courts	Wall Street Journal	January 10, 2011
Elena Kagan and the 'Hollow Charade'	Wall Street Journal	May 11, 2010
Taking a Constitutional	Book review of The Citizen's Constitution by Seth Lipsky, Commentary	January 2010
Questions for Sotomayor	Wall Street Journal	May 27, 2009
One Writer's Battles	The Weekly Standard	November 10, 1996
Stonewalling at Yale	The Weekly Standard	June 24, 1996
The Hottest Duo in Academe	The Weekly Standard	April 22, 1996

(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Hearing on Examining Agency Use of Deference, Part II	U.S. Senate Committee on Homeland Security and Government Affairs, Subcommittee on	March 17, 2016

	Regulatory Affairs and Federal Management	
Hearing on The Administrative State v. The Constitution: Dodd-Frank at Five Years	U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution	July 23, 2015
Hearing on the Nomination of Sonia Sotomayor to be an Associate Justice of the Supreme Court	U.S. Senate Committee on the Judiciary	July 16, 2009

(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.

When speaking, I use only informal notes and therefore do not have the text to provide for these appearances. Most of the speeches and panel discussions relate to my scholarship discussed in greater detail in publications listed in (A). I have provided copies of all of these publications to the Committee.

<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Panel: Justice Thomas and the Administrative State, Conference on Celebrating Justice Thomas: 25 Years on the Supreme Court	Yale Law School	February 10, 2017
Panel: Article I Project	Capitol Visitor's Center, Washington, DC	January 12, 2017
Panel: Regulatory Overreach	State Farm Legislative Conference Chicago, IL	November 11, 2016
Panel: The Lone Jurist, Conference on The Jurisprudence of Clarence Thomas: 25 Years on the Court	Capitol Hill, Washington, DC	October 24, 2016
Panel: Parliaments, Presidents, and Prime Ministers	Transatlantic Legal Forum Hamburg, Germany	September 24, 2016
Roundtable: Congress, Delegation, and the Administrative State	American Political Science Association Philadelphia, PA	September 2, 2016
Panel: The Imperial Presidency?	American Constitution Society National Convention Washington, DC	June 12, 2016
Executive Overreach and Civil Justice	Lawyers for Civil Justice National Conference Washington, DC	May 6, 2016
Panel: Future of Judicial Deference	American Bar Association, Administrative Law & Regulatory Practice Institute	March 15, 2016

	Washington, DC	
Panel: Regulatory Capture in Rulemaking	Administrative Conference of the U.S., Regulatory Capture Forum Washington, DC	March 3, 2016
Congress and the Administrative State	Congressional Fellows Program in Constitutional Law Washington, DC	February 5, 2016
Panel: The Living Congress—Adaptation or Decline?	Federalist Society National Convention Washington, DC	November 13, 2015
Panel: The Constitutional Future of Administrative Law Judges	American Bar Association Administrative Law Conference Washington, DC	October 29, 2015
Panel: Administrative Law in Crisis?	Transatlantic Law Forum Arlington, VA	October 23, 2015
Panel: Supreme Court Preview	Heritage Foundation and Conservative Women's Network Washington, DC	October 9, 2015
Panel: Supreme Court Preview	New York University Law School New York, NY	September 30, 2015
Panel: The Incentives Behind Congressional Delegation	Federalist Society Executive Branch Review Conference Washington, DC	June 18, 2015
Panel: <i>Perez v. Mortgage Bankers Assoc.</i> —The Justices Answer One Question but Ask Another	American Bar Association Administrative Law Institute Washington, DC	April 30, 2015
The Executive: Unitary, Not Unilateral	University of Minnesota Federalist Society Minneapolis, MN	November 21, 2014
Interview with Damon Root on book, "Overruled: The Long War for the Control of the Supreme Court"	Washington, DC	November 18, 2014
Collective Congress	University of Chicago Alumni Breakfast, Federalist Society Washington, DC	November 15, 2014
Abolish Agency Independence?	University of Texas Law School, Federalist Society Austin, TX	October 13, 2014
Panel: Shedding Light on the PRISM of Government	American Constitution Society National Convention Washington, DC	June 21, 2014
Panel: Supreme Court Review	North American South Asian Bar Association National Convention Chicago, IL	June 20, 2014
Panel: Executive Power and the Role of the Coordinate Branches	Federalist Society Executive Branch Review Conference Washington, DC	May 7, 2014

Removal: Necessary and Sufficient for Presidential Control	University of Chicago Federalist Society Chicago, IL	April 25, 2014
Women's Law Association Breakfast	George Mason Law School Arlington, VA	April 9, 2014
Securing Rights	Fordham Law School, Conference on Citizenship, Immigration, and National Security after 9/11 New York, NY	September 20, 2013
Panel: The Roberts Court at Age Seven: The 2013 U.S. Supreme Court Term in Review	Virginia Bar Association Hot Springs, VA	July 19, 2013
Panel: Human Rights in Times of Conflict	American Association of Law Schools Annual Meeting	January 6, 2013
Panel: Human Rights and National Security Law Issues	American Bar Association 22 nd Annual Review of the Field of National Security Law Washington, DC	November 30, 2012
Panel: Supreme Court Review	North American South Asian Bar Association National Convention Philadelphia, PA	June 30, 2012
Is Universal Healthcare Compatible with the American Conception of Human Dignity?	South Texas Law School Federalist Society Houston, TX	April 12, 2012
Constitutional Interpretation	Denver University Federalist Society Denver, CO	March 14, 2012
Three Concepts of Dignity	University of Colorado at Boulder Law School, Federalist Society Boulder, CO	March 15, 2012
Is Universal Healthcare Compatible with the American Conception of Human Dignity?	University of Florida Law School Federalist Society Gainesville, FL	February 28, 2012
Panel: Habits of Compliance? International Law and the Executive	American Branch of the International Law Association, International Law Weekend New York, NY	October 21, 2011
Libya Intervention: Executive Power and National Security	Duke Law School Federalist Society Durham, NC	September 22, 2011
Libya Intervention: Executive Power and National Security	University of North Carolina Law School Federalist Society Chapel Hill, NC	September 21, 2011
Panel: Supreme Court Roundup	North American South Asian Bar Association National Convention Los Angeles, CA	July 25, 2011
Panel: Executive Power and National Security	American Constitution Society National Convention Washington, DC	June 18, 2011

Panel: Welfare State and American Exceptionalism	Federalist Society National Student Symposium Charlottesville, VA	February 26, 2011
Panel: Must U.S. Courts Enforce America's International Agreements? A Discussion of <i>Al-Bihani v. Obama</i>	American University International Law Journal Symposium Washington, DC	February 9, 2011
A Modest Proposal: Abolishing Agency Independence in <i>Free Enterprise Fund v. PCAOB</i>	Fordham Law Review Symposium on Presidential Influence over Administrative Action New York, NY	November 12, 2010
Panel: Responsibility to Protect—The Relationship between Human Dignity and State Sovereignty	American Branch of the International Law Association, International Law Weekend New York, NY	October 22, 2010
Use of Dignity in Constitutional Law	University of Chicago Law School Federalist Society Chicago, IL	May 2010
Should American Courts Consider Foreign and International Law in Trying to Interpret the American Constitution?	University of Virginia Law School Federalist Society Charlottesville, VA	March 3, 2010
Three Concepts of Dignity	Federalist Society Faculty Conference New Orleans, LA	January 9, 2010
Panel: Evaluating Justice Ginsburg's Equality Jurisprudence	Ohio State Law Journal Symposium on The Jurisprudence of Justice Ruth Bader Ginsburg Columbus, OH	April 10, 2009
Panel: India's Constitution and Individual Rights	George Washington University, Conference on Emerging India: Rights and Responsibilities Washington, DC	March 13, 2009
Panel: The President and the Law	Willamette Center for Law and Government, Symposium on Presidential Powers in the 21 st Century Salem, OR	September 12, 2008
Panel: Executive Discretion and the Rule of Law	Federalist Society Faculty Conference New York, NY	January 3, 2008
Panel: A Critique of the International Legal Academy	American Branch of the International Law Association, International Law Weekend New York, NY	October 27, 2007

9. Criminal History

Since (and including) your 18th birthday, has any of the following happened?

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.)
 - No.
- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official?
 - No.
- Have you been charged, convicted, or sentenced of a crime in any court?
 - No.
- Have you been or are you currently on probation or parole?
 - No.
- Are you currently on trial or awaiting a trial on criminal charges?
 - No.
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation?
 - No.

If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known).

Not applicable.

A) Date of offense:

- a. Is this an estimate (Yes/No):

B) Description of the specific nature of the offense:

C) Did the offense involve any of the following?

- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: Yes / No
- 2) Firearms or explosives: Yes / No
- 3) Alcohol or drugs: Yes / No

D) Location where the offense occurred (city, county, state, zip code, country):

E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: Yes / No

1) Name of the law enforcement agency that arrested/cited/summoned you:

2) Location of the law enforcement agency (city, county, state, zip code, country):

- F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: **Yes / No**
- 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):
 - 2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:
 - 3) If no, provide explanation:
- G) Were you sentenced as a result of this offense: **Yes / No**
- H) Provide a description of the sentence:
- I) Were you sentenced to imprisonment for a term exceeding one year: **Yes / No**
- J) Were you incarcerated as a result of that sentence for not less than one year: **Yes / No**
- K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:
- L) If conviction resulted in probation or parole, provide the dates of probation or parole:
- M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No**
- N) Provide explanation:

10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

No.

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? 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.

No.

(C) For responses to the previous question, 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.

Not applicable.

11. Breach of Professional Ethics

(A) Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group? Exclude cases and proceedings already listed.

No.

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

No.

12. Tax Compliance

(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.)

REDACTED

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).

No.

14. Outside Positions

See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

15. Agreements or Arrangements

See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

Status and Terms of Any Agreement or Arrangement	Parties	Date (month/year)

16. Additional Financial Data

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.)

REDACTED

REDACTED

SIGNATURE AND DATE

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I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Alfred Kent

This 27 day of April, 2017

UNITED STATES OFFICE OF
GOVERNMENT ETHICS

REDACTED



May 24, 2017

The Honorable Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Neomi Rao, who has been nominated by President Trump for the position of Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

We have reviewed the report and have 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,

DAVID APOL

Digitally signed by DAVID APOL,
DN: cn=DAVID APOL, o=U.S. Government, ou=Office of
Government Ethics, ou=DAVID APOL,
ou=2017, ou=191111-02495679, cn=,
Date: 2017.05.24 11:16:07 -0400

David J. Apol
General Counsel

Enclosures **REDACTED**



May 19, 2017

Ms. Yasaman Sutton
Alternate Designated Agency Ethics Official
Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

Dear Ms. Sutton:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will take an unpaid leave of absence from my tenured Associate Professor position at George Mason University and I will resign from my position with the Center for the Study of the Administrative State. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of George Mason University, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for either the exemption at 5 C.F.R. § 2640.203(b) or another regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

Upon confirmation, I will resign from my position with the Administrative Conference of the United States.

I will retain my position as trustee of my revocable living trust. I will not receive any fees for the services that I provide as a trustee during my appointment to the position of Administrator. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the trust, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

I will divest my interest in Audax Senior Loan Fund III, LP, as soon as possible after confirmation and not later than 90 days after my confirmation. Until I divest this fund, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the fund or its underlying assets, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

Within 90 days of confirmation, I will divest my interests in the entities listed in Attachment A. With regard to each of these entities, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the entity, until I have divested it, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

I understand that I may be eligible to request a Certificate of Divestiture for qualifying assets and that a Certificate of Divestiture is effective only if obtained prior to divestiture. Regardless of whether I receive a Certificate of Divestiture, I will ensure that all divestitures discussed in this agreement occur within the agreed upon timeframes and that all proceeds are invested in non-conflicting assets.

My spouse is employed by WIRB-Copernicus Group, a provider of regulatory and ethical review services for human research, and a subsidiary of WCG Holdco IV, LLC. He receives a fixed annual salary and a bonus tied to his performance, and holds an equity interest in the parent company, WCG Holdco IV, LLC. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of WCG Holdco IV, LLC, or its subsidiaries, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1).

My spouse is employed by Certara, a biosimulation and regulatory writing consultancy company. He receives a fixed annual salary and a bonus tied to his performance, and also holds vested profits interest units. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of Certara, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1).

My spouse is an independent contractor with TractManager, Inc., a healthcare technology company. He receives an annual salary and a bonus tied to his performance, and also holds vested profits interest units. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of TractManager, Inc., unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1).

My spouse is an independent consultant with BioReclamationIVT, a provider of biological products to life sciences and pharmaceutical companies. He works on an on-call basis, and also holds unvested profits interest units. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of BioReclamationIVT, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1).

I have been advised that the duties of the position of Administrator of the Office of Information and Regulatory Affairs may involve particular matters affecting the financial interests of Legends of Learning. The agency has determined that it is not necessary at this time for me to divest my interest in this entity because the likelihood that my duties will involve any such matter is remote. Accordingly, with regard to this entity, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the entity for as long as my spouse has an ownership interest in it, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1).

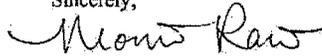
If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the exemption at 5 C.F.R. § 2640.201(a), or obligations of the United States.

I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13770) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this ethics agreement.

I will meet in person with you during the first week of my service in the position of Administrator of the Office of Information and Regulatory Affairs in order to complete the initial ethics briefing required under 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will document my compliance with this ethics agreement by notifying you in writing when I have completed the steps described in this ethics agreement.

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely,



Neomi Rao

ATTACHMENT A

1. Apple – AAPL
2. Amgen Inc. – AMGN
3. Amazon.com Inc. – AMZN
4. American Express Co. – AXP
5. Boeing Co. – BA
6. Bank of America Corp. – BAC
7. Biglari Holdings Inc – BH
8. Biogen Inc. – BIIB
9. Bristol-Myers Squibb – BMY
10. Berkshire Hathaway – BRK.A
11. Citigroup Inc. – C
12. Caterpillar Inc. – CAT
13. Comcast Corp – CMCSA
14. Conoco Phillips – COP
15. Cisco Systems Inc – CSCO
16. CVS Health Corp – CVS
17. Chevron Corp – CVX
18. DFA Commodity Strategy Port – DCMSX
19. E.I. du Pont de Nemours and Com – DD
20. Walt Disney Co. – DS
21. eBay Inc – EBAY
22. Twenty-First Century Fox, Inc – FOXA
23. General Electric Co. – GE
24. Gilead Sciences Inc – GILD
25. Alphabet Inc – GOOG
26. Goldman Sachs Group Inc – GS
27. Home Depot Inc – HD
28. Honeywell Intl Inc – HON
29. Intl Business Machines Corp – IBM
30. Intel Corp – INTC
31. Johnson & Johnson – JNJ
32. JP Morgan Chase & Co – JPM
33. Coca-Cola Co – KO
34. Lincoln National Corp – LNC
35. Macerich Co – MAC
36. McDonalds Corp – MCD
37. Merck & Co Inc – MRK
38. Microsoft Corp – MSFT
39. Oracle Corp – ORCL
40. Occidental Petroleum – OXY
41. The Priceline Group Inc – PCLN
42. PepsiCo Inc – P
43. Pfizer Inc – PFE
44. Proctor & Gamble – PG
45. Philip Morris International – PM
46. QUALCOMM Inc – QCOM
47. Schlumberger Ltd – SLB
48. AT&T Inc – T

- 49. Time Warner Inc – TWX
- 50. United Health Group – UNH
- 51. Union Pacific Corp – UNP
- 52. US Bancorp – UNP
- 53. United Technology Corp – UTX
- 54. Visa Inc – V
- 55. Verizon Communications Inc VZ
- 56. Wells Fargo & Co – WFC
- 57. Wal-Mart Stores – WMT
- 58. Exxon Mobil Corp – XOM

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**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Neomi Rao to be
Administrator, Office of Information and Regulatory Affairs**

I. Nomination Process and Conflicts of Interest

1. Did the President or the Director of the Office of Management and Budget (OMB) give you specific reasons why you were nominated to be the next Administrator of the Office of Information and Regulatory Affairs (OIRA) at OMB, and if so, what were they?

No.

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

No.

3. Have you made any commitments with respect to the policies and principles you will attempt to implement as Administrator? If so, what are they, and to whom were the commitments made?

No.

4. Are you aware of any business relationship, dealing, or financial transaction that could result in a possible conflict of interest for you or the appearance of a conflict of interest? If so, please explain what procedures you will use to recuse yourself or otherwise address the conflict. And if you will recuse yourself, explain how you will ensure your responsibilities are not affected by your recusal.

No. I will not participate personally and substantially in any particular matter that to my knowledge has a predictable effect on my financial interests or on the financial interests of the entities identified in my Ethics Agreement. I will work with OMB General Counsel and White House Counsel to ensure full compliance with ethics requirements. Should recusal be necessary, I would ensure that the Associate Administrator fulfill my responsibilities.

II. Background of the Nominee

5. What specific background, experience, and attributes qualify you to be Administrator?

As the founder and director of the Center for the Study of the Administrative State, I have brought together scholars, government officials, and practitioners to study and discuss important questions relating to administrative law and regulatory practice. For instance, recent conferences have examined "The Time for Regulatory Reform in Congress" and "Rethinking Due Process." I am a Public Member of the Administrative Conference of the United States, which is an independent federal agency committed to using research and non-

partisan expertise to improve federal agency procedures. As a Council Member of the American Bar Association Section on Administrative Law and Regulatory Practice, I have worked on a range of regulatory process issues. I have testified before Congress on regulatory reform relating to judicial deference and to regulatory structures created by the Dodd-Frank Act.

As Associate White House Counsel, my portfolio included a number of executive branch agencies, and I frequently coordinated interagency cooperation on matters of law and policy. My scholarship has focused on the constitutional structure of administration and measures to improve political accountability of agencies.

6. Please describe:

- a. Your leadership and management style.

If confirmed, I would strive to lead with a clear mission for the office and manage in a manner that is open and collaborative.

- b. Your experience managing personnel.

I work with other law professors, policy makers, and practitioners as a law professor and the Director of the Center for the Study of the Administrative State. In the White House Counsel's Office and as counsel to the Senate Judiciary Committee, I worked with colleagues and subordinates on legal and policy issues.

- c. What is the largest number of people that have worked under you?

As a scholar and government official I have primarily worked in collaborative environments.

7. Please describe your experience working on matters relating to regulatory review, interagency cooperation, government collection of information, or other matters within the purview of the OIRA Administrator.

Please see answer to question 5.

III. Role of the Administrator of OIRA

8. What do you consider to be the mission of OIRA, and what would you consider to be your role and responsibilities if confirmed as the Administrator? Have you and OMB Director Mick Mulvaney discussed what your role would be? If so, please describe how you view your role in light of those discussions.

The mission of OIRA is to coordinate and to improve the quality of decisionmaking in administrative agencies both with respect to regulation and information policy. OIRA works to ensure that regulation is necessary, consistent with the law, and reflects presidential priorities. OIRA plays an important role in ensuring agencies undertake rigorous cost-benefit analysis and base their decisions on sound evidence. Director Mulvaney has expressed to me his strong support for the longstanding role of OIRA in these areas.

9. What do you anticipate will be your greatest challenges as Administrator, and what will be your top priorities? What do you hope to accomplish during your tenure?

OIRA faces the challenge of implementing and institutionalizing Executive Orders 13771 and 13777, which require administrative agencies to reduce regulatory burdens and costs. My priorities will include: (1) ensuring that administrative agencies comply with the law; (2) working with agencies to develop regulations based on quality analysis and to further institutionalize retrospective review of the actual results of regulation; and (3) promoting presidential priorities for the benefit of the American people.

IV. Policy Questions

10. Do you believe OIRA has adequate resources to meet its mission? Are there organizational changes to OIRA and/or its place in OMB that you believe would help further its mission?

In my current capacity, I do not have a view about the specifics of OIRA's resources. I recognize, however, that Executive Orders 13771 and 13777 create coordination responsibilities for OIRA's regulatory review process. In its budget, the Administration has requested an increase of approximately \$1 million for OIRA for fiscal year 2018. If confirmed, I would work with OMB to assess whether the existing organizational structure and resources are adequate to meet OIRA's responsibilities.

11. What actions will you take to ensure that regulatory impact analyses have integrity, are accurate, and that potential impacts of proposed regulations are properly estimated?

I will follow longstanding regulatory review process principles reflected in executive orders and OMB guidance issued across administrations. I will collaborate with agencies to ensure they use the best available evidence and cost benefit analysis in their regulatory proposals.

12. Do you support undertaking a retrospective review process? If so, what role do you believe OMB should play in this process and how can you ensure agencies properly prioritize their own review efforts?

Yes, I support the retrospective review process, which is encouraged by Executive Orders 12866 and 13563. OIRA and OMB can play an important role in coordinating and providing guidance for agencies to engage in retrospective review. In addition, complying with Executive Orders 13771 and 13777 will create strong incentives for more thorough retrospective review to identify regulations that can be modified or repealed and to identify

regulations that are outdated, unnecessary, ineffective, or otherwise impose costs that exceed benefits.

- a. In your view, have previous retrospective reviews of existing policies been successful? Please explain why or why not.

I understand that retrospective review has had some success, but lacks consistency.

- b. Would you support, as a substitute or complement to retrospective review, establishing a task force outside the agencies to conduct a review and make recommendations for the repeal or improvement of old regulations? Please explain why or why not.

Retrospective review can serve an important role in understanding the actual costs and benefits of regulation and in providing information about whether and how a regulation should be modified. If confirmed, I would be open to considering a variety of institutional forms for ensuring more thorough and consistent retrospective review and to working with agencies and Members of Congress on such proposals.

13. What steps will you take to ensure the Unified Agenda is both completed on time and contains the most accurate information with respect to agencies' prospective regulatory plans?

Executive Order 12866 requires all agencies, including those considered to be independent regulatory agencies, to prepare an agenda of all regulations under development or review. The agenda must also include all significant regulatory actions that the agency expects to issue in the coming year. Executive Order 13771 gives further weight to this requirement by stating that an agency cannot issue a regulation unless it was included in the most recent published Unified Regulatory Agenda, with exceptions for regulations otherwise required by law. This requirement creates an incentive for agencies to complete their agendas on time and to provide accurate information about their forthcoming regulatory activities.

14. Are there any major reform proposals of the regulatory process for proposing, adopting, and reviewing federal regulations that you would like to see enacted by Congress or fulfilled through executive action or OMB guidance? Please explain.

The Senate and the House of Representatives are considering a number of legislative reform bills designed to improve the regulatory process and to increase accountability and transparency. If confirmed, I look forward to working with Members of Congress on these proposals.

15. If confirmed, what do you see as your specific responsibilities with respect to implementing Executive Order 13771?

If confirmed, my responsibilities would include ensuring that agencies complied with the presidential directives in Executive Order 13771 in so far as they are consistent with legal

requirements. It would also include providing centralized assistance and guidance for implementing the Order.

- a. Do you believe the Memo to agencies issued on April 5, 2017, provides sufficient direction to agencies to comply with the executive order? If not, what additional information is needed?

The OMB Guidance of April 5, 2017, provides definitions and further details about how to implement the Order. If confirmed, I would work with agencies and OIRA staff to evaluate whether further guidance is necessary as agencies have more experience implementing the Executive Order.

- b. What do you see as your role in developing regulatory cost caps for FY2018?

The OMB Memorandum to agencies of April 5, 2017, indicates that guidance on this topic is forthcoming. If confirmed, I would work with OMB to formulate that guidance and to consider OIRA's role in developing regulatory cost allowances.

- c. What criteria will you use in determining whether to grant an exemption to agencies, either under the FY2017 zero net cost cap or those that will be set for FY2018?

I do not have a view of this subject, but if confirmed, I will work with OMB to consider what criteria should be used for such decisions.

16. The process for developing regulations is meant to be transparent and to ensure that those who will be affected by a proposed rule will have their needs and opinions heard and considered. As Administrator, what would you do to ensure the rulemaking process is transparent and accessible?

Transparency is an important value in the regulatory process in order to ensure participation of relevant stakeholders. Under Executive Order 12866, OIRA meets with individuals and groups who wish to discuss rules under review and those meetings are made public on OIRA's website. Additional websites allow individuals and stakeholders to comment and to track the progress of regulations. I support maintaining these important transparency measures.

17. Protecting whistleblower confidentiality is of the utmost importance to this Committee.

- a. How do you plan to implement policies within the office to encourage employees to bring constructive suggestions forward without the fear of reprisal?

If confirmed, I would analyze existing policies and any concerns about those policies to ensure that employees can bring constructive suggestions forward without fear of reprisal. In general, I would also encourage an open door policy for employees to share their concerns with me directly.

- b. If confirmed, what avenues will be available to employees to report waste, fraud, or abuse within OIRA?

If confirmed, I would ensure there were effective mechanisms for employees to report waste, fraud, and abuse.

- c. Do you commit without reservation to work to ensure that any whistleblower within OIRA does not face retaliation?

Yes.

- d. Do you commit without reservation to take all appropriate action if notified about potential whistleblower retaliation?

Yes.

V. Relations with Congress

- 18. Do you agree without reservation to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Yes.

- 19. Do you agree without reservation to make any subordinate official or employee available to appear and testify before, or provide information to, any duly constituted committee of Congress if you are confirmed?

If confirmed, I will work to ensure that OIRA provides Congress with the information it needs in order to carry out its essential oversight functions.

- 20. Do you agree without reservation to comply fully, completely, and promptly to any request for documents, communications, or any other agency material or information from any duly constituted committee of the Congress if you are confirmed?

If confirmed, I will work to ensure that OIRA provides Congress with the information it needs in order to carry out its essential oversight functions.

VI. Assistance

- 21. 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 and were written in consultation with OMB.

U.S. Senate Committee on Homeland Security and Governmental Affairs
Minority
Pre-hearing Questionnaire
For the Nomination of Neomi Rao to be
Administrator of the Office of Information and Regulatory Affairs

I. Background of Nominee

1. Do you seek out dissenting views and how do you encourage constructive critical dialogue with subordinates?

I believe it is essential to have an open mind and to seek out a range of viewpoints. I would encourage subordinates to share with me their analysis and honest recommendations; and in turn would provide feedback and explanations about my decisions. As Director of the Center for the Study of the Administrative State, I invited scholars and practitioners with very different views and encouraged discussion and debate on matters of administrative law. Throughout my education and career, I have sought to have an open dialogue with friends and colleagues who have different perspectives.

2. Please give examples of times in your career when you disagreed with your superiors and aggressively advocated your position.

As Associate White House Counsel, my legal analysis would sometimes conflict with a proposed policy position. In those instances, I strongly advocated for a policy alternative that would be consistent with the law.

3. Were you ever successful? Please list and describe examples of when you made politically difficult choices that you thought were in the best interest of the country?

Yes, I believe that I was successful. I cannot discuss specific examples due to deliberative privilege.

4. What would you consider your greatest successes as a leader?

The Center for the Study of the Administrative State, which I founded and direct, has brought together over 100 accomplished speakers—scholars, government officials, and practitioners—in just over one year to analyze and to debate important questions of administrative law.

5. You are the founder and director of the Center for the Study of the Administrative State at George Mason University, Antonin Scalia School of Law.

- a. What are your responsibilities as Director of the center?

As Director, I develop and organize the programs of the Center, which includes commissioning scholarship and inviting speakers and discussants to the Center's research roundtables and public policy conferences.

b. What is the mission and goal of the center?

The Center's mission includes examining the constitutional foundations and political and economic impacts of administration. The Center studies administration from a variety of perspectives and coordinates, promotes, and funds top-quality research, and then links that research to public policy debates.

c. What type of research and scholarship does the center support?

The Center supports research and scholarship on a range of issues relating to administrative law. We have held conferences on issues such as financial regulation, judicial deference, and regulatory reform in Congress. A full list of the Center's events and participants can be found on its website, <https://administrativestate.gmu.edu>.

d. How is the center funded? (i.e. Grants, Charitable donations and/or contributions, University Funding).

The Center is funded through private grants and charitable donations.

II. Role of the Administrator of OIRA

6. What do you see as the most important challenges facing the federal government and if confirmed as Administrator, what would you do to address those challenges within your purview?

The federal regulatory system faces a challenge to ensure that policies are necessary, effective, and not unduly burdensome. OIRA plays an essential role in ensuring the quality of government decisionmaking with respect to regulation and information management. Through interagency coordination and thorough regulatory review, OIRA can improve the welfare of the American people.

7. OIRA is a small office within OMB, but its responsibilities impact the entire federal government. What are your views on the organization and allocation of resources for the various activities undertaken by the office? If confirmed, how would you want to reorganize or reallocate resources within the office?

In my current capacity, I do not have a view about the specifics of OIRA's resources. I recognize, however, that Executive Orders 13771 and 13777 create coordination responsibilities for OIRA's regulatory review process. In its budget, the Administration has requested an increase of approximately \$1 million for OIRA for fiscal year 2018. If confirmed, I would work with OMB to assess whether the existing organizational structure and resources are adequate to meet OIRA's responsibilities.

8. Please describe your approach to the rulemaking process and analysis.

In the rulemaking process, agencies should adhere closely to the law, including their particular statutory directives and the Administrative Procedure Act, and to the extent permissible, account for presidential priorities. Regulatory analysis and review should follow longstanding practices and principles expressed in Executive Orders and OMB Guidance. Regulatory decisions should be based on sound objective analysis and the best available scientific, technical, and economic information.

III. Policy Questions

Budget

9. What are your views on the best way to approach the analysis of a rule's budgetary impact?

If confirmed, I would seek to learn more about this issue. In general, I understand that rules often implement federal spending programs or can cause an increase in the resources used by federal agencies. Regulatory analysis often considers such costs.

10. Over the past decade, Members of Congress have introduced a number of bills that would place more analytical requirements onto both OIRA and regulating agencies. However, one of the greatest challenges for agencies and OIRA alike is that they are increasingly asked to do more with limited personnel and resources. Do you agree that OIRA and regulating agencies should have more analytical requirements? If so, how do we solve the challenge of asking agencies and OIRA to do more analysis without providing sufficient resources to conduct such analysis?

OIRA's responsibilities have increased over time with new statutory authorities and executive orders. If confirmed, I would work with Members of Congress and OIRA staff to analyze existing resources in light of new proposals and with regard to budget constraints.

Rulemaking

11. What is your opinion of the formal rulemaking process? What are some changes to the process, if any, you would like to see?

Agencies rarely use the formal rulemaking process and instead regulate largely through informal notice and comment rulemaking. In my current capacity, I do not have a view of whether this process should change.

12. OMB is tasked with review of agency work-product, but does not have the subject matter expertise possessed by agencies. When should OMB officials rely on their own expertise and when should they defer to the expertise at agencies?

Congress confers rulemaking authority on agencies in part because of their expertise. OIRA staff has also developed expertise through the process of regulatory review and interagency coordination. In a collaborative process, OIRA works with agencies and depends on interagency expertise to ensure regulations implement presidential priorities and advance the public interest within the requirements of the law.

13. If confirmed, how would you approach the interagency review process?

Interagency coordination is an important and longstanding part of OIRA's mandate, in part because agencies often have overlapping regulatory authority, interests, and expertise. Interagency coordination can improve the quality of analysis, account for interactions with other regulatory efforts, and prevent duplicative or incompatible regulation. If confirmed, I would approach interagency coordination in a manner that ensures all agency stakeholders were part of the process and able to provide meaningful input.

14. What are the main principles that you think should be taken into consideration in promulgating and issuing new regulations?

The principles for promulgating and issuing new regulations have remained relatively consistent since OIRA's inception and across administrations. Executive Order 12866, which remains in place, sets out broad regulatory principles including that the regulatory system should protect and improve the well-being of the American people without imposing unacceptable or unreasonable costs on society. EO 12866 further recognizes that the "private sector and private markets are the best engine for economic growth." More recently, Executive Orders 13771 and 13777 build on these principles, stating a policy of alleviating unnecessary regulatory burdens.

15. Do you believe OIRA should serve as a "gatekeeper" or as a "consultant" to administrative agencies during the rulemaking process? Please explain.

Agencies derive their regulatory authority from Congress. OIRA consults with agencies to ensure, among other things, that proposed regulations comply with the law, use the best available evidence and analysis, and implement alternatives that yield the greatest net benefits to the American people. Moreover, OIRA serves to ensure agencies implement presidential priorities consistent with the law.

16. In March 2017, as Director of the Center for the Study of the Administrative State, you sponsored a public policy conference on "The Time for Regulatory Reform in Congress," where panelists discussed the Congressional Review Act and the Regulations from the Executive in Need of Scrutiny Act of 2015 (REINS). Which principles within the legislative

items discussed at this conference do you support and would like to see implemented under the Trump Administration?

The Senate and the House of Representatives are considering a number of legislative reform bills designed to improve the regulatory process and to increase accountability and transparency. If confirmed, I look forward to working with Members of Congress on these proposals.

- a. A common objection to the REINS Act is that it would represent a legislative veto over executive branch action. Do you agree? Why or why not?

The REINS Act applies to economically significant rules with an impact of over \$100 million, and requires before such a regulation goes into effect that Congress enact a joint resolution approving the regulation, which must also be signed by the President. This does not represent a legislative veto, because the regulation cannot take effect without bicameral approval and the President's signature.

- b. If you do agree, do you support such a legislative veto? Why or why not?

I do not consider the REINS Act to operate as an unconstitutional legislative veto.

17. In November 2016, the American Bar Association's section on Administrative Law and Regulatory Practice, on which you serve as a council member, submitted a report to President-Elect Trump titled "Improving the Administrative Process." This report outlines strategies for improving and reassessing the process that "federal agencies use to make law and affect the lives of millions of Americans."

- a. Which recommendations within this report do you support?

I joined the Council after this report was substantially completed. I support a number of its common-sense recommendations, including continuing with the longstanding regulatory review process, using sound scientific risk assessment, and building on efforts of previous administrations with respect to retrospective review.

- b. If confirmed as Administrator of OIRA, which of these recommendations would you seek to implement during your tenure? Please explain why.

I have not formed a view of which of these recommendations should be implemented. If confirmed, I would work with OMB and members of Congress to address the recommendations raised by the report and consider possible mechanisms for implementation.

18. What are the main principles that you think should be taken into consideration when considering repealing or modifying an existing regulation?

OMB's April 5, 2017, guidance states that Executive Order 12866 "remains the primary governing EO regarding regulatory planning and review" and that its requirements apply to agency regulatory and deregulatory actions.

Cost – Benefit Analysis

19. What actions will you take to ensure that cost benefit analyses have integrity, are accurate, and that costs and benefits of proposed regulations are properly estimated?

If confirmed, I would work with OIRA staff to ensure that agency analysis complies with the requirements of Circular A-4, which is OMB's well established guidance to federal agencies on the best practices for regulatory analysis.

20. Do you support the use of non-administration or non-federal sources to ascertain costs and benefits of proposed regulations?

Longstanding executive branch policy requires agencies to use the best available sources of information about the costs and benefits of proposed regulation. Public comments and non-governmental sources might sometimes provide credible information that can help to identify the costs and benefits of proposed actions. The regulatory review process encourages the participation of affected parties and groups under Executive Order 12866 and Circular A-4 states that agencies should consult with individuals and organizations who "have special knowledge or insight into the regulatory issues."

21. How should cost benefit analyses account for non-monetizable costs and benefits of a proposed rule?

OMB's guidance to federal agencies in Circular A-4 states that agency analysis should identify non-monetized costs and benefits. The Circular further provides that if such non-quantified benefits and costs are likely to be important, then the agency should designate those factors as important and explain their significance in its analysis.

22. What is the appropriate scope for considering indirect costs and benefits of a proposed rule?

Agencies should consider both indirect costs and benefits, as explained in OMB Circular A-4, to the extent that these costs and benefits can be reasonably estimated and attributed to an impact of the proposed regulation.

23. How should the regulatory analysis process – including cost benefit analysis, examination of regulatory alternatives, and outreach to stakeholders – be different when an agency is working to repeal or modify an existing regulation rather than issuing a new one? Should the

cost benefit analysis consider indirect and non-monetizable costs and benefits in the same way they are considered in issuing a new rule?

OMB's Guidance of April 5, 2017, provides further clarification for how the costs and benefits of deregulatory actions should be measured and explains that cost savings estimates for deregulatory actions should follow the same conventions used for calculating costs of regulatory actions. The Guidance also follows OMB Circular A-4 for the treatment of unquantified costs and benefits.

24. What role should qualitative analysis play in the rulemaking process? Do you consider a qualitative analysis equal to that of a quantitative analysis in the rulemaking analysis? Why or why not?

Agencies should consider qualitative values and objectives when required by statute. Moreover, longstanding OMB practice emphasizes the importance of quantifying effects where possible, but also allows for the inclusion of qualitative effects in regulatory analysis.

25. Please provide an example of when you believe a regulation was necessary even though its cost benefit analysis showed that the costs would outweigh the benefits.

I do not have a specific example because I am not familiar with the cost benefit analysis of particular regulations. In general, however, a regulation might be necessary if required by law, even if analysis demonstrated that the costs would outweigh the benefits.

26. Is there ever a time when it is inappropriate to conduct a cost benefit analysis?

Some statutes may preclude the consideration of cost benefit analysis in regulatory decisionmaking and agencies must follow legal requirements with respect to the proper regulatory analysis. In rare circumstances, an immediate risk to safety or national security may make such an analysis infeasible.

27. Regulatory analysis represents a fundamental and important tool in the regulatory process to help agencies determine the best path forward, and OIRA plays a critical role in reviewing and helping agencies develop good regulatory analysis. What are the critical factors that you feel must be part of quality regulatory analysis?

The factors for quality regulatory analysis have developed over time with a wide measure of bipartisan consensus in executive orders and OMB guidance. Regulatory analysis begins with an assessment of the need for government action, the legal authority for regulation, an examination of alternatives, and an evaluation of the costs and benefits of proposed action.

28. What are your thoughts on including economic, pricing, or other models used during OIRA's evaluation of a proposed rule as part of the public rulemaking record?

I do not have a view on this subject, although I understand that pending legislative proposals would impose this requirement. If confirmed, I look forward to working with Members of Congress on considering such transparency measures.

29. Much of your scholarships focus on less delegation from Congress and less deference to agencies. Do you believe that these theories should apply to OIRA? If confirmed, how would you put these theories into practice during the rulemaking process as Administrator of OIRA?

The rulemaking process follows the law as it exists. My scholarship has focused on constitutional limitations on administrative action that do not necessarily reflect the existing state of the law. Based on my experience as an academic and also as a government official, I appreciate the distinction, and sometimes significant gap, between academic theory and practical government policy.

30. Should federal agencies, when developing a new rule, always have to pick the least-costly regulatory option? Why or why not?

When developing a new rule, agencies must follow their statutory directives. In so far as it is consistent with statutory authority, agencies should consider the costs and benefits of regulatory alternatives, aiming to maximize net benefits to the public. Moreover, Executive Orders 12866 and 13563 both require agencies to impose the least burden on society, consistent with regulatory objectives and taking into account the cumulative burden of regulations.

31. OMB Director Mulvaney was recently quoted as saying, "It is our position that the previous administration failed to follow the law in many, many circumstances.... And that they simply imposed regulation without proper regard to the cost side of that analysis." Do you agree with this statement? If so, which legal requirements do you believe were not followed by the previous administration and can you point to specific examples that support this allegation?

I am not aware of the context of the Director's comments. I agree that OIRA should ensure that agencies follow the law and take into account costs and benefits of regulation.

Transparency

32. In the past, OIRA has often had significant contact with the agencies regarding proposed regulations early in the rulemaking process, before the formal OIRA review.

- a. Do you think OIRA should consult with agencies prior to the formal review process?

Such consultation has been a longstanding practice across administrations as part of the deliberative process. Early interaction with agencies ensures that

agencies understand OIRA's expectations regarding the quality of information and analysis necessary to support a rulemaking.

- b. If so, what would you do, if confirmed, to ensure transparency in that early consultative process prior to formal review?

As a general matter, transparency is important for public understanding and accountability and OIRA provides significant transparency about the content of proposed and final rules once its review is complete. During the early stages of consultation, the values of transparency must be balanced with confidentiality for internal deliberation, which can encourage debate and full consideration of all alternatives.

33. Federal agencies are producing, collecting and storing more information than ever before. This flood of information allows agencies to better meet their missions, but it also comes with significant costs and challenges.

- a. What do you see as the biggest challenges that agencies face in managing information?

In consultation with OIRA staff, I understand that one of the challenges in managing information includes determining how to evaluate the quality of available data and its informative value. OIRA has also made efforts to improve efficiency by promoting agency sharing of data. Managing information also requires protecting personally identifiable data and other sensitive information, consistent with legal requirements.

- b. If confirmed, what would be your priorities in helping agencies manage their information?

If confirmed, I would work with the expert OIRA staff and agencies to develop policies for evaluating the quality of data for use in decisionmaking and guidance for balancing privacy interests with data transparency.

34. As Administrator of OIRA, you would play a role in the protection of personal privacy by the federal government and oversee numerous regulations that protect the privacy rights of millions of Americans. If confirmed, how would you approach the challenge of privacy and how would you balance the need to protect personal information with the need to ensure government transparency?

OIRA plays an important role in the coordination of privacy policy under various statutory authorities, including the Privacy Act of 1974, the Paperwork Reduction Act of 1995, the E-Government Act of 2002, and the Federal Information Security Modernization Act of 2014. Pursuant to these authorities, OMB has developed privacy policy over the years through guidance and memoranda issued to agencies. If confirmed, I would work with the recently

created Privacy Branch in OIRA to ensure that OIRA fulfills these mandates to protect privacy and to ensure information integrity and confidentiality.

35. OIRA also plays a role in coordinating and overseeing policies and practices across agencies that allow greater public access to information. What will be your priorities in fulfilling these functions of the office? Generally, what role do you believe OIRA should play in promoting greater transparency government-wide and what approach would you take to improving government transparency?

OIRA should continue to lead efforts to promote the release of appropriate government information and data and to release that information in more user-friendly formats.

36. Are there any major reform proposals of the regulatory process for proposing, adopting, and reviewing federal regulations that you would like to see enacted by Congress or fulfilled through executive action or OMB guidance?

If confirmed, I am open to working with Congress on reform proposals and to considering what reforms might be necessary and could be accomplished through OMB guidance.

Executive Orders

37. Of the practices listed in Executive Order 12866, both Republicans and Democrats agree that more emphasis should be placed on reviewing existing regulations to ensure they are achieving their regulatory objective.

- a. Do you support the Trump Administration undertaking a retrospective review process? If so, what role do you believe OIRA should play in this process?

I support the retrospective review process, which is encouraged by President Clinton's Executive Order 12866 and more recently, President Obama's Executive Order 13563. OIRA and OMB can play an important role in coordinating and providing guidance for agencies to engage in retrospective review. In addition, Executive Orders 13771 and 13777 create strong incentives for more thorough retrospective review as agencies work to identify regulations that should be modified or repealed because they are outdated, unnecessary, ineffective, or otherwise impose costs that exceed benefits.

- b. As OIRA Administrator, how would you ensure that retrospective reviews become an integral part of agencies' culture, and embedded as a regular part of the rulemaking process?

Executive Order 13777 requires agencies to designate a Regulatory Reform Officer and a Regulatory Reform Task Force. If confirmed, I would work with these officials and OIRA staff to assess the challenges of institutionalizing retrospective review and to consider how OIRA can collaborate with agencies to address these challenges.

- c. In your view, have previous retrospective reviews of existing policies been successful? Please explain why or why not.

I understand that retrospective review has had some success, but lacks consistency.

38. Executive Order 12866 requires regulations be adopted “only upon a reasoned determination that the benefits of the intended regulation justify its costs,” but recognizes that some costs and benefits are very difficult to quantify. How would you implement this requirement, especially in situations where costs and/or benefits cannot be easily reduced to monetary equivalents or cannot be quantified at all?

As discussed above, OMB Circular A-4 explains how to account for regulatory costs and benefits that might be difficult to quantify, and if confirmed I would follow that general approach.

39. Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” established a two-step regulatory process by agencies must adhere to before issuing a new “significant” regulation. First, it requires agencies to eliminate two old regulations for each new “significant” regulation. Second, the executive order requires that the cost of any “significant” regulation be fully offset by the cost savings of the eliminated regulations.

- a. What is your view or understanding of a “significant” regulation?

OMB Guidance Implementing Executive Order 13771 follows the definition of “significant” used by Executive Order 12866.

- b. If confirmed, are there any conditions under which you would apply the requirements of the Executive Order to regulations that do not meet this standard? If so, please explain.

The Executive Order applies to “significant” regulations and I would follow this definition.

40. In response to this executive order, the current OIRA Administrator issued interim guidance to agencies detailing how to implement the order. If confirmed, will you take additional action to assist agencies in implementing this order?

If confirmed, I would seek to understand and analyze agency concerns, and as necessary, provide guidance and support to assist agencies with the implementation of Executive Order 13771.

41. Executive Order 13777, “Enforcing the Regulatory Reform Agenda,” directs each federal agency to establish a regulatory reform task force, which would recommend which regulations the agency should simplify or eliminate. If confirmed, what role would you have OIRA play in working with these task forces?

While it is difficult to predict the precise relationship at this time when the task forces are in the process of being established, OIRA could follow its traditional role of supporting presidential priorities and collaborating with agencies to ensure compliance with executive orders and the regulatory review process.

42. Complying with both Executive Order 13771 and 13777 could be extremely time consuming and labor intensive for agencies as they will be required to go through a more intensive rule making process for both the regulations proposed to be weakened and eliminated, and for the proposed new rule. Please explain how you will work with agencies to streamline this process to reduce burdens on the agencies.

Executive Order 13777 establishes a task force within each agency charged with evaluating existing regulations and making recommendations for the modification and repeal of regulations, consistent with applicable law. If confirmed, I would work with the agencies and these task forces to understand any challenges they face and to work with OIRA staff to help agencies meet the requirements of the Executive Orders.

43. Of the existing Executive Orders concerning OIRA's responsibilities and operations, are there any you believe should be repealed or replaced?

I have not formed a view of this question.

- a. If so, describe which Executive Orders and your reasoning.
- b. If not (or if you do not yet have a view), describe what approach you will take to evaluating the current executive orders that apply to OIRA role in the rulemaking process.

I would work with OMB and the agencies to understand any concerns or problems with the implementation of existing Executive Orders and, as necessary, make recommendations for improving the rulemaking process through guidance or further Executive Orders.

- c. Do you see any conflict between the rulemaking requirements established by the new Executive Orders issued by President Trump and previously existing obligations on agencies? If so, how would you propose to resolve those conflicts?

President Trump's Executive Orders specify that they must be "implemented consistent with applicable law"; therefore, they do not create conflicts with existing legal obligations.

44. If confirmed, what is your plan to ensure implementation of the OIRA's new responsibilities under both Executive Order 13771 and 13777 are consistent with existing law and OMB guidance?

OIRA review includes ensuring that regulations are consistent with statutory requirements as well as Executive Orders and OMB guidance. If confirmed, I would ensure that regulatory and deregulatory actions complied with the law.

Protecting Existing Safeguards

45. If an agency proposes to weaken or eliminate a regulation designed to protect public health and safety, in your role as Administrator of OIRA, how would you work with the agency to ensure these existing public safeguards and/or standards remain protected?

If confirmed, I would work with agencies to ensure regulations are consistent with the law, maximize net benefits, and minimize burdens to the public. Moreover, as OMB Guidance has stated, deregulatory actions must follow the same legal and analytical standards as regulatory actions.

IV. Relations with Congress and the Public

46. If confirmed, how will you make certain that you will respond in a timely manner to Member requests for information?

If confirmed, I would work with OIRA staff to ensure timely responses to requests for information.

47. If confirmed, do you agree without reservation to reply to any reasonable request for information from the Ranking Member of any duly constituted committee of the Congress?

Yes, consistent with advice from OMB General Counsel.

48. If confirmed, do you agree without reservation to reply to any reasonable request for information from members of Congress?

Yes.

49. If confirmed, do you commit to take all reasonable steps to ensure that you and your agency comply with deadlines established for requested information?

Yes.

50. If confirmed, do you commit to protect subordinate officials or employees from reprisal or retaliation for any testimony, briefings or communications with members of Congress?

Yes.

51. If confirmed, will you ensure that your staff will fully and promptly provide information and access to appropriate documents and officials in response to requests made by the Government Accountability Office (GAO) and the Congressional Research Service?

Yes, consistent with advice from OMB General Counsel.

52. If confirmed, will you agree to work with representatives from this Committee and the GAO to promptly implement recommendations for improving OMB's operations and effectiveness?

Yes, I agree to work with the Committee and GAO on their recommendations for improving OIRA's operations and effectiveness.

53. If confirmed, will you direct your staff to fully and promptly respond to Freedom of Information Act requests submitted by the American people?

Yes, consistent with advice from OMB General Counsel.

I, _____ Neomi Rao _____, hereby state that I have read the foregoing Pre-Hearing Questionnaire and Supplemental Questionnaires and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

_____/S/ Neomi Rao _____
(Signature)

This ___26th___ day of ___May___, 2017

Ranking Member Claire McCaskill
Post-Hearing Questions for the Record
Submitted to Neomi Rao
Nomination of Neomi Rao to be Administrator of the Office of Information and Regulatory
Affairs, Office of Management and Budget
Wednesday, June 7, 2017

1. OIRA review often takes far longer than the 90 days established under EO 12866 for its consideration of regulations. How can this process be improved so that review is completed in a more timely fashion? Should there be consequences for not meeting the 90 day deadline?

I understand that delays in the OIRA review process could be caused by interagency consultation and the need for a full consideration of the issues and interests implicated by complex regulation. If confirmed, I would seek to learn more about the reasons for delay and to analyze what measures could be taken by OIRA and the agencies to ensure consistently prompt review of regulations.

2. Do you believe that the public should have access to the initial proposed rule that was submitted by an agency to OIRA once the final rule has been published in the Federal Register so that they can better understand the changes made during the review process? Will you commit to making that change?

OIRA currently shares copies of initial draft rules upon request by a member of the public. If confirmed, I would work with the OIRA staff to consider whether such materials could be made more easily accessible.

3. What will you do to increase transparency at OIRA? For example, will you consider ensuring that the public can see feedback that OIRA provides agencies as they consider regulations?

Transparency is an important value in the regulatory process and OIRA currently operates with significant transparency. Under Executive Order 12866, OIRA meets with individuals and groups who wish to discuss rules under review and those meetings are made public on OIRA's website. Additional websites provide opportunities for individuals and groups to track and to comment on the progress of regulations. I support these transparency measures. If confirmed, I would consider other mechanisms for improving transparency while also protecting the ability for OIRA and agencies to have candid deliberations with regard to proposed regulations.

Senator Gary Peters
Post-Hearing Questions for the Record
Submitted to Neomi Rao
Nomination of Neomi Rao to be Administrator of the Office of Information and
Regulatory Affairs, Office of Management and Budget
Wednesday, June 7, 2017

1. You have expressed that you would respect many longstanding principles of OIRA as Administrator, including agencies' regulatory cost-benefit analyses. Each agency has standards and processes for its cost-benefit analyses, many of which give substantial weight to non-monetizable benefits. **Can you discuss in more detail your thoughts on the role of cost-benefit analyses, and any of your work that has led you to think that OIRA should make changes in the way it views or uses cost-benefit analyses? You have said that how OIRA views each cost-benefit analysis, in making its recommendations on regulations, depends on the specific case. However, given your deep study of this issue and the fact that you will be responsible for this office's overall policy frameworks, can you give us an idea of how you would take these analyses into account? Would you commit to upholding OIRA precedents and processes for weighing cost-benefit analyses – including fully accounting for qualitative benefits? Or would you seek to change these practices as OIRA Administrator?**

If confirmed, I would work within the longstanding practices and policies in Executive Order 12866 and Circular A-4 that have guided OIRA with respect to regulatory review. These documents set forth guidelines for cost benefit analysis and specify factors that agencies should consider in the process of drafting regulations, including the qualitative effects of regulation.

2. In her confirmation hearing for Associate Attorney General, Rachel Brand made a striking admission that she was unsure whether federal agencies could comply both with the Executive Order 13771 (one in, two out) and the Administrative Procedures Act when issuing new regulations. While saying she had to "study it further" she did indicate that agencies must comply with the APA first and foremost. **Can you ensure this committee that if agencies comply with the EO, their rules will not be held "arbitrary and capricious" because they did not comply with the APA or the agency's authorizing statute? Which statutes authorize agencies to withhold issuing new regulations until they can repeal existing regulations to offset the costs? If agencies do not have adequate rules to repeal to provide offsets for new rules, they are likely to pick the "least costly" rule to industry stakeholders in order to meet budget caps under the EO. Doesn't that violate EO 12866's directive, followed by Republican and Democratic presidents, that agencies pick rules that "maximize net benefits" to the public? If the point of the EO is to compare the costs of old rules to the cost of new rules, doesn't that throw the benefits of regulation out the window and turn "cost-benefit" analysis into "cost-cost" analysis?**

Executive Order 13771 requires that deregulatory actions must be “in accordance with the Administrative Procedure Act and other applicable law.” OIRA works with agencies to ensure that their actions are consistent with legal requirements, which include the APA and other statutory authorities.

Executive Order 12866 directs agencies to “maximize net benefits” and also to “tailor [their] regulations to impose the least burden on society.” Within any particular budget allowance, agencies should be able to identify regulatory and deregulatory actions that together maximize net benefits. OMB Guidance on April 5, 2017, states that deregulatory actions must follow the same cost benefit calculations as regulatory actions. Therefore, the benefits of existing rules must be taken into account when proposing their modification or repeal.

3. I am concerned that the Trump Administration’s Executive Order on regulations will make it harder, not easier, for the FDA to use its regulatory authority to help stop the opioid epidemic. Specifically, it is concerning that potential new FDA attempts to regulate opioids may be contingent on the removal of other important FDA regulations that may be entirely unassociated with the drug crisis. **Can you ensure this committee that any FDA attempts to regulate opioids to stop this crisis will not be slowed down, blocked, or weakened by the President’s Executive Order?**

OIRA can work with agencies such as the FDA to meet the requirements of the President’s Executive Order. Moreover, an agency such as the FDA, which is within the Department of Health and Human Services, can also offset its regulations against other deregulatory actions within HHS. If confirmed, I would work with agencies on the expeditious approval of important regulations.

4. In the Congressional debate to improve and reform the federal regulatory system, there have been a number of proposals that call for all federal agencies to adhere to the “best available science standard.” First referenced in the Endangered Species Conservation Act of 1969, the “best available science standard” has since been codified in some other federal wildlife and pollution control laws. Should the standard be statutorily applied to all agencies, there is a concern that agencies may rely on the most cautious scientific approaches and ignore new techniques or information for fear of litigation. Considering the agencies’ incentives to be cautious, and the disincentive for researchers to share new techniques and information with regulators, there is a real issue with how regulators can adapt when the science is constantly changing. Though the courts currently provide a great deal of deference to their review of agency actions under the “best available science standard,” it is uncertain how that will apply when the “best science” may not be shared with regulators and what is “available” is quickly outdated. **How would you implement a “best available science standard” so agencies are not incentivized to disregard novel techniques or information when making their regulatory decisions? What is your view on the most effective way to regulate emerging and fast-advancing industries?**

This is a complex question and, if confirmed, I would seek to learn more about the interpretation of “best available science” and how agencies have been implementing this standard. In the context of regulatory choices, some general considerations in emerging industries might include using performance standards rather than prescriptive requirements, which would allow industries to innovate to meet regulatory standards. With respect to standards for developing and identifying the best available science, in 2004 OMB issued a “Final Information Quality Bulletin for Peer Review,” which provides detailed guidance on processes for enhancing the quality and credibility of the government’s scientific information.

Senator Heidi Heitkamp
Post-Hearing Questions for the Record
Submitted to Neomi Rao
Nomination of Neomi Rao to be Administrator of the Office of Information and Regulatory
Affairs, Office of Management and Budget
Wednesday, June 7, 2017

Cost Benefit

1. Although cost-benefit analysis plays an important role in much of agency rulemaking, it is often inconsistent with the authorizing statutes that agencies operate under. For example, when Congress enacted the Clean Air Act, we specifically prohibited the EPA from using cost-benefit analysis to set its National Ambient Air Quality Standards. One can agree or disagree with the wisdom of that policy choice, but Congress and the courts have clearly determined that is the law.

- a. If confirmed, how would you make sure that OIRA does not force agencies to make changes to the rules they promulgate that would otherwise be prohibited by their authorizing statutes?

If confirmed, I would ensure that agencies follow the law when promulgating regulations and comply with any specific statutory requirements or limitations on agency decisionmaking and authority.

- b. For example, how would you ensure that OIRA does not improperly rely on cost-benefit analysis considerations to force an agency to revise a rule that is being issued under a statute that prohibits the use of such considerations when designing the rule?

An agency must follow statutory requirements and standards, including any limits on cost benefit analysis, when designing a regulation. If confirmed, I would work with OIRA staff and agencies to make certain that regulations followed the policies and processes required by law.

Resources

2. In addition to OIRA's regulatory review responsibilities, OIRA also has a number of specific functions related to the regulatory process which include paperwork review, information resources and technology management, statistical policy oversight, under the Paperwork Reduction act; collecting agency statements and reporting them to Congress under the Unfunded Mandates Reform Act; organizing "advocacy review panels" under the Small Business Regulatory Enforcements Fairness Act; and preparing and submitting an accounting statement and report containing an estimate of the cost and benefits of federal rules and paperwork in the OMB budget, just to name a few. How do you plan to balance and prioritize these and other statutory requirements with implementing the

President's "2 for 1" Executive order, which seems to be a labor and resource intensive endeavor?

Three of OIRA's six branches focus on these statutory requirements, including branches dedicated to Privacy, Information Policy, and Statistical and Science Policy. If confirmed, I would work with these branches to meet statutory requirements and address new challenges with respect to information management.

Executive Order – "2 for 1"

3. In your capacity as OIRA Administrator, how would you advise agencies to implement the "2-for-1" EO as it relates to issuing and repealing rules that are statutorily mandated by Congress?

OMB has already issued detailed guidance on the implementation of Executive Order 13771, which includes important principles such as that deregulatory actions must be consistent with an agency's underlying statutory authority and must meet the same requirements as regulatory actions, and that Executive Order 12866 remains the "primary government EO regarding regulatory planning and review." As agencies work to implement the new Executive Order, I would seek, if confirmed, to collaborate with agencies on potential deregulatory actions and also to consider whether further guidance may be necessary

4. In your pre-hearing policy questionnaire, you stated that Executive Orders 13771 and 13777 build upon the principles established under EO 12866. When you say that they "build upon" the principles with 12866, are you suggesting that those executive orders are *consistent* with the same principles established in 12866?

I understand Executive Orders 13771 and 13777 to highlight and expand upon specific requirements in Executive Order 12866.

- a. Would you agree that EO's 13771 and 13777 are primarily focused on deregulating, while 12866 is focused on implemented best practices to improve rulemaking?

Executive Order 12866 sets forth the general process for regulatory planning and review. While the recent Executive Orders 13771 and 13777 focus specifically on requirements for reducing overall regulatory burdens, these are consistent with principles in Executive Order 12866 to regulate "without imposing unacceptable or unreasonable costs on society" and to ensure that regulations impose "the least burden on society" by taking into account "the costs of cumulative regulations." Moreover, Executive Order 12866 also requires agencies to "examine whether existing regulations (or other law) have created, or contributed to, the problem that a new regulation is intended to correct and whether those regulations (or other law) should be modified to achieve the intended goal of regulation more

effectively.” In these respects, the new Executive Orders reinforce longstanding principles.

- b. Additionally, EO 13771 uses the word “cost” 17 times, while only mentioning the word benefit once (and in the context of the EO not creating any *benefit* against the United States). How are EOs 13771 and 13777, which are keenly focus on cost reduction, consistent with EO 12866, an executive order that is focused on developing regulations to “maximizing net benefits”?

As OMB Guidance has clarified, Executive Order 12866 remains the primary government executive order regarding regulatory planning and review. Executive Orders 13771 and 13777 operate within that framework to require agencies to focus on eliminating regulations that are duplicative, inconsistent, obsolete, and unnecessarily burdensome. Administrations of both parties have emphasized the importance of retrospective review of existing regulations to make sure they continue to maximize benefits for the American people.

5. In her confirmation hearing for Associate Attorney General, Rachel Brand made a striking admission that she was unsure whether federal agencies could comply both with the Executive Order 13771 (one in, two out) and the Administrative Procedures Act when issuing new regulations. While saying she had to “study it further” she did indicate that agencies must comply with the APA first and foremost. Can you ensure this committee that if agencies comply with the EO, their rules will not be held “arbitrary and capricious” because they did not comply with the APA or the agency’s authorizing statute?

Executive Order 13771 requires that deregulatory actions must be “in accordance with the Administrative Procedure Act and other applicable law.” OIRA works with agencies to ensure that their actions are consistent with legal requirements, which includes the APA and other statutory authorities.

6. If agencies do not have adequate regulatory savings from repealed or modified rules to provide offsets for new rules, they are likely to pick the “least costly” regulatory option in order to meet budget caps under the EO.
 - a. Doesn’t that violate EO 12866’s directive, followed by Republican and Democratic presidents, that agencies pick rules that “maximize net benefits” to the public?

Executive Order 12866 directs agencies to “maximize net benefits” and also to “tailor [their] regulations to impose the least burden on society.” Within any particular budget allowance, agencies should be able to identify regulatory and deregulatory actions that together maximize net benefits for the American people.

- b. If the point of the EO is to compare the costs of old rules to the cost of new rules, doesn't that throw the benefits of regulation out the window and turn "cost-benefit" analysis into "cost-cost" analysis?

OMB Guidance states that deregulatory actions must follow the same cost benefit calculations as regulatory actions. Therefore, the benefits of existing rules must be taken into account when proposing rules for deregulation.

Executive Order – Regulatory Budget

7. A key feature of the EO 13771 is that it makes the costs of regulations the overriding focus in agency regulatory decision-making, while making any considerations of regulatory benefits irrelevant, or at best a distant afterthought. After all, an agency can only issue a new rule if it has room in its budget of regulatory costs to do so, and this is true no matter how much the benefits of that rule may outweigh its costs. At the same time, agencies must clear space in their budget of regulatory costs by removing existing rules. Here, too, the costs of the existing rules take precedence since they must be large enough to offset the costs the new rule. By definition, under this equation, consideration of regulatory benefits plays no role. Do you support this regulatory budgeting approach enshrined in the administration's "2-for-1" executive order which fundamentally puts the regulatory focus on costs?

In complying with Executive Order 13771, agencies must continue to account for both the benefits and costs of regulatory and deregulatory actions, consistent with longstanding regulatory principles. Executive Order 13771 recognizes the problems of cumulative regulatory burdens and requires agencies to focus on eliminating unnecessary, obsolete, and ineffective regulations. This emphasis on the cumulative cost of regulation is also consistent with the principles articulated in Executive Order 12866.

8. As OIRA Administrator, one of your primary responsibilities will be to implement the 2-for-1 executive order, and work with the OMB Director to set the regulatory budget of new incremental regulatory costs for future fiscal years. Under the executive order, this year's regulatory budget calls of \$0 in incremental cost, and each subsequent year, you will work with the OMB Director to establish a new level of total incremental cost. How will you work with OMB to determine the "appropriate" level of incremental cost necessary to adequately preserve the public health and safety of the American citizens, especially when there is no mention or consideration of benefits in the President's executive order?

This is an important and complex issue that requires agencies to act within their statutory obligations while also promoting presidential priorities to reduce the overall regulatory burden. If confirmed, I would work with Director Mulvaney, the expert OMB and OIRA staff, and administrative agencies to develop an appropriate level of total incremental regulatory costs within the context of specific regulatory requirements.

9. Much of your academic writings focus on the “non-delegation doctrine” and how Congress has delegated much of its legislative authority to the Executive branch. In these writings, you have been very critical of the amount of centralized power that has been ceded to the Executive branch. Under EO 13771, OMB is given the authority to determine the appropriate level of total regulatory cost, and forces agencies to make policy decisions based on what regulations they perceive are more important than others. This type of deliberation seems better suited for Congress. In fact, it should be presumed that Congress weighed the necessary societal factors when they decide to pass the authorizing statute – as well as the executive branch when the President signs an authorizing bill. Is this not a prime example ceding too much legislative power to the Executive branch, which you refer to in your writings?

Executive Order 13771 focuses on priorities of execution and considers the impact of particular administrative decisions. As these decisions must be undertaken within the laws enacted by Congress, they pertain not to legislative power, but to traditional discretion regarding the execution of the laws.

Guidance

10. Guidance is a fundamental, and often welcomed, part of an efficient and effective regulatory system. If used appropriately, it helps provide clarity and certainty to regulated entities on a wide variety of compliance issues. However, agencies can misuse guidance as a way to issue rules without going through notice-and-comment requirements. As OIRA Administrator, how would you ensure that agency do not misuse guidance as a way to forego notice-and-comment rulemaking?

If confirmed, I would first ensure that agencies complied with the requirements of OMB’s “Final Bulletin for Agency Good Guidance Practices,” which sets forth requirements for “significant” guidance documents, including notice and comment requirements, specific elements for such guidance, and public access to guidance. In addition, if I am confirmed, I would like to evaluate whether and how OIRA and OMB can further work with agencies to develop best practices for non-significant guidance.

Longstanding Regulatory Principles

11. You reiterated in your pre-hearing questionnaire that you will run OIRA and guide agencies consistently with the law. You also stated that President Trump’s Executive Orders related to regulatory reform do not create conflicts with existing legal obligations.
- a. Do the principles and processes outlined by EO 12866 and Circular A-4 constitute legal obligations?

The principles and processes in Executive Order 12866 and Circular A-4 by their terms are designed to “improve the internal management of the Federal Government.” They are directives from the President and OMB respectively and therefore must be followed by agencies in so far as they are consistent with statutory requirements.

- i. If yes, do these principles and processes apply to both regulatory and deregulatory action?

These principles and processes apply to both regulatory and deregulatory action, as explained in further detail in the April 5, 2017, Guidance Implementing Executive Order 13771.

- ii. If no, what weight do you assign to these documents in the regulatory and deregulatory review process?

12. Your answers to the pre-hearing indicate that you agree that agencies must abide by the principles set forth in EO 12866 and Circular A-4 for both regulatory and deregulatory actions. What specific steps will you take, as OIRA Administrator, to review agency deregulatory actions to ensure the same principles outlined for rulemaking under EO 12866 and Circular A-4 are adhered to in the rule modification or repeal process?

As OMB Guidance has stated, the modification or repeal of regulations must go through the same process as regulatory actions. If confirmed, I would work with agencies and the OIRA staff to apply the standards of Executive Order 12866 and Circular A-4 to the modification and repeal of regulations.

13. Administrative agencies create rules based on Congressional directives in Federal law. These authorizing statutes often give broad discretion to agencies to create, modify, repeal, and implement rules in line with those directives. Other authorizing statutes, however, provide more narrow guidelines for agencies to follow when crafting and implementing a rule.

- a. Do you believe that agencies have authority to create, modify, or repeal rules made based on their own discretion or agenda?

As part of the Executive Branch, administrative agencies have no independent regulatory authority. What authority agencies possess is granted by Congress through statutory directives. At times Congress confers regulatory authority in capacious terms, which leaves agencies with discretion about how to achieve statutory objectives, including through the creation, modification, and repeal of rules.

- i. In what circumstances do agencies have the ability to initiate regulatory or deregulatory action without Congressional authority?

Agencies cannot initiate regulatory or deregulatory action without statutory authority. Within their statutory authority, however, agencies often have discretion to make specific regulatory choices, including assessing when existing regulations no longer serve statutory goals and should be modified or repealed.

- b. What steps will you take to guide agency rulemaking according to Congressional directives?

If confirmed, I would work with agencies and the OIRA staff in the regulatory review process to ensure that proposed regulatory action is undertaken within statutory directives.

- c. How do you plan to work with Congress, specifically members of HSGAC, to address the modification or repeal of regulations where no statutory authority exists to do so?

When an agency lacks statutory authority to take a regulatory action, it must work with Congress to obtain the appropriate authority through legislation. If confirmed, I look forward to working with Members of HSGAC and other Members of Congress on regulatory reform proposals.

Role as OIRA Administrator

- 14. Under your leadership, how will OIRA review regulations in a way that respects agencies' expertise and alignment with statutory standards?

Congress confers regulatory authority on administrative agencies, in part because of their subject matter expertise. If confirmed, I would follow longstanding practice at OIRA to respect agency authority and expertise while ensuring that agencies follow the law and use the best available technical and economic analysis.

**Questions for the Record
Senator Rand Paul**

**On the Nomination of Ms. Neomi Rao to be
Administrator, Office of Information and Regulatory Affairs,
Office of Management and Budget
June 8, 2017**

1. In response to question 16 (a.) of the Pre-hearing questionnaire you completed for the Committee (“A common objection to the REINS Act is that it would represent a legislative veto over executive branch action. Do you agree? Why or why not?”), you indicated that you do not believe that the REINS Act established a legislative veto. As a follow-up question to your response: Do you support the overall premise of the REINS Act? That is, do you believe that it is proper for the Congress—as the people’s representatives—to weigh in on the most costly and consequential regulations being promulgated by Executive Branch agencies?

Article I, Section 1, of the Constitution vests all legislative power of the federal government in Congress. Congress at times enacts statutes that give rulemaking authority to executive branch agencies to implement legislative programs. Such authority is often expansive and leaves important policy decisions in the discretion of executive agencies. The REINS Act proposes one mechanism for ensuring that before a significant regulation goes into effect that Congress approves the regulation and also takes responsibility for its enactment. As I have written elsewhere, there are important reasons the Constitution vests lawmaking with Congress and the people’s representatives, and I support Congress exercising the legislative power more directly. If confirmed, I would look forward to working with Members of Congress on proposals, such as the REINS Act, that could improve the accountability of administrative agencies to Congress and to the Executive.

Former Administrators of the Office of Information and Regulatory Affairs

June 6, 2017

The Honorable Ron Johnson, Chairman
Senate Committee on Homeland Security and Governmental Affairs
340 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Claire McCaskill, Ranking Member
Senate Committee on Homeland Security and Governmental Affairs
340 Senate Dirksen Office Building
Washington, DC 20510

Dear Mr. Chairman and Mme. Ranking Member:

The Office of Information and Regulatory Affairs (OIRA) has helped presidents, both Democratic and Republican, ensure that federal regulations are designed to provide the greatest value to the American people. Objective evaluation of regulatory benefits and costs and open, transparent, and responsive regulatory procedures are essential to the development of effective public policy free from the undue influence of narrow interests. The undersigned are former OIRA Administrators who have worked to achieve these essential goals under administrations of both parties. We respectfully request that the Senate move as quickly as possible to ensure that OIRA has strong leadership in place as the new administration and Congress confront a range of difficult and complex regulatory challenges.

We commend the nomination of Neomi Rao to fill the position of OIRA Administrator. Professor Rao has experience in all three branches of government. She is currently an associate professor at the Antonin Scalia Law School where she founded and directs the Center for the Study of the Administrative State. She is also a member of the Administrative Conference of the United States and serves on the Governing Council of the American Bar Association's Section on Administrative Law and Regulatory Practice. We are pleased that the Senate Committee on Homeland Security and Government Affairs will this week hold Professor Rao's hearings. Given the important role that OIRA has to play in policy initiatives already under way, we urge the Committee to proceed expeditiously with its report and recommendation so that the full Senate can vote on Professor Rao's nomination.

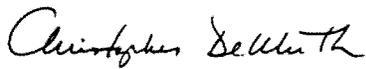
Sincerely,



James C. Miller III
(January 1981 – September 1981)



John T. Spotila
(July 1999 – December 2000)



Christopher C. DeMuth
(October 1981 – May 1984)



John D. Graham
(July 2001 – March 2006)



Wendy Lee Gramm
(October 1985 – February 1988)



Susan E. Dudley
(April 2007 – January 2009)



Sally Katzen
(June 1993 – February 1997)



Howard Shelanski
(June 2013 – January 2017)

Please note: Former Administrators Douglas H. Ginsburg (June 1984 – September 1985) and S. Jay Plager (February 1988 – November 1989) are now United States Circuit Judges. Canon 7 of the Code of Conduct for United States Judges provides that a "judge may not endorse...a candidate for public office."

June 2, 2017

Sen. Ron Johnson
Chairman
U.S. Senate Committee on
Homeland Security &
Governmental Affairs
340 Dirksen Senate Office Bldg.
Washington, DC 20510

Sen. Claire McCaskill
Ranking Member
U.S. Senate Committee on
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340 Dirksen Senate Office Bldg.
Washington, DC 20510

Dear Senators Johnson and McCaskill,

We, the undersigned scholars of administrative law, constitutional law, and regulation, write in support of Professor Neomi Rao's nomination to be Administrator of the Office of Information and Regulatory Affairs (OIRA).

As scholars, we hold diverse views on administrative law, constitutional law, and regulatory policy. But we agree that Professor Rao is well qualified to administer OIRA, under the statutes and executive orders that govern the office.

Professor Rao's scholarship is well regarded within the academy, even by those who may disagree with aspects of it. She is an intelligent, thoughtful, and careful scholar who knows a great deal about how federal agencies function and the relevant laws within which they operate.

Professor Rao has also contributed to public understanding of these issues as an appointed member of two important bodies: the Administrative Conference of the United States, and the governing council of the American Bar Association's Section of Administrative Law and Regulatory Practice. And she will no doubt bring important experience to the office from having worked in all three branches of the federal government as well as in private law practice.

Finally, the Center for the Study of the Administrative State, which Professor Rao founded and directs, has fostered dialogue among scholars and policymakers, by supporting the development of legal scholarship by scholars from widely diverse viewpoints, by hosting workshops where scholars can debate and collaborate on these papers, and by holding policy conferences open to the public to further explore this scholarship and current issues in administrative law and regulatory practice. Many of us have participated directly in the Center's work, as authors or discussants, and even more of us have benefited from the dialogue created by her Center's efforts.

Scholars Letter re Rao Nomination
June 2, 2017
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Our nation would be well served by Professor Rao's open-mindedness, her intellectual seriousness, and her dedication to collaboration and dialogue.

Sincerely,*

Jonathan H. Adler
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Director, Center for Business Law and Regulation
Case Western Reserve University

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Associate Professor of Law
University of Virginia School of Law

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June 2, 2017
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Presidential Scholar
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University of Utah

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Distinguished Fellow
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OIRA Administrator, 1981–1984

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University of Virginia Law School

June 1, 2017

The Honorable Ron Johnson
Chairman
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United States Senate
Washington, DC 20510

The Honorable Claire McCaskill
Ranking Member
Committee on Homeland Security & Governmental Affairs
United States Senate
Washington, DC 20510

Re: Nomination of Neomi Rao for Administrator of the Office of Information and Regulatory Affairs (OIRA)

Dear Chairman Johnson and Ranking Member McCaskill:

We worked as law clerks for various Justices of the Supreme Court of the United States during the year Neomi Rao served as a clerk for Justice Clarence Thomas, and we all support her nomination to serve as Administrator of the Office of Information and Regulatory Affairs. We have diverse political and ideological viewpoints, and we have had a wide array of professional experiences. Many of us have worked in government, at both the federal and state levels, some for Democrats and some for Republicans. Many of us also have worked in the private sector. Several of us are law professors. While our professional and personal paths have thus diverged, one of the things we always have shared is admiration for Neomi. We are confident she will serve our country well at OIRA.

During our year on the Court, Neomi exemplified the legal skills and collegiality the Justices need from their clerks. Neomi expressed Justice Thomas's views in ways that were cogent, forceful, and persuasive, yet also respectful to everyone involved. She did her work with appropriate discretion and confidentiality, and she demonstrated all the qualities the Government would want in a person holding an important Executive Branch position.

Both during that year and in the time since, Neomi gained experience that makes her uniquely qualified to be OIRA Administrator. Many of the cases the Court decided during our year implicated important questions of administrative law, and it has been no surprise to any of us that Neomi has become a leading scholar in this field. After she joined the faculty at what is now the Antonin Scalia Law School, Neomi founded and directed its Center for the Study of the Administrative State, which has brought together scholars, judges, and practicing attorneys to examine important administrative-law issues. Neomi has been a prolific scholar in this area, publishing more than a dozen articles since she joined the faculty.

Despite all the success she has enjoyed, Neomi has remained the same level-headed, down-to-earth person we all liked and respected during our year on the Court. We feel confident

that she will remain that way at OIRA, and our country will be better for her service. We wholeheartedly recommend her for this position.*

Respectfully submitted,

Matthew Berry

Law Clerk to Justice Clarence Thomas

Shay Dvoretzky

Law Clerk to Justice Antonin Scalia

Heather Elliott

Law Clerk to Justice Ruth Bader Ginsburg

Susan E. Engel

Law Clerk to Justice Antonin Scalia

Brian T. Fitzpatrick

Law Clerk to Justice Antonin Scalia

Carolyn J. Frantz

Law Clerk to Justice Sandra Day O'Connor

Jeremy Gaston

Law Clerk to Justice Sandra Day O'Connor

Risa Goluboff

Law Clerk to Justice Stephen G. Breyer

Benjamin Gruenstein

Law Clerk to Justice David H. Souter

Kathleen Hartnett

Law Clerk to Justice John Paul Stevens

Mirah A. Horowitz

Law Clerk to Justice Stephen G. Breyer

Thomas Lee

Law Clerk to Justice David H. Souter

Michael Leiter

Law Clerk to Justice Stephen G. Breyer

Anup Malani

Law Clerk to Justice Sandra Day O'Connor

Brett McGurk

Law Clerk to Chief Justice William H. Rehnquist

Troy McKenzie

Law Clerk to Justice John Paul Stevens

Edward Morrison

Law Clerk to Justice Antonin Scalia

John Neiman

Law Clerk to Justice Anthony M. Kennedy

David O'Neil

Law Clerk to Justice Ruth Bader Ginsburg

Joseph Palmore

Law Clerk to Justice Ruth Bader Ginsburg

Nicholas Quinn Rosenkranz

Law Clerk to Justice Anthony M. Kennedy

Monica Washington Rothbaum

Law Clerk to Justice David Souter

Aaron Saiger

Law Clerk to Justice Ruth Bader Ginsburg

Heidi Doerhoff Vollett

Law Clerk to Chief Justice William H. Rehnquist

Alexander J. Willscher

Law Clerk to Justice Anthony M. Kennedy

* Please note that professional ethics rules prevented certain members of our clerkship class from signing this letter.

We've done 81% of Simpson-Bowles

(dollars in billions)

	Simpson- Bowles	Actual	% of Sim-Bwls
Revenue	\$996	\$700	70%
Discret savings	\$1,661	\$2,100	126%
H care savings	\$342		
Mandat savings	\$215		
Social Security			
Revenue	\$138		
Benefits	\$100		
Total Social Sec	\$238		
	\$3,452	\$2,800	81%
Interest savings	\$673	\$545	81%
	\$4,125	\$3,345	81%

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