

**NOMINATIONS OF CHAD F. WOLF,
JEFFREY C. BYARD, TROY D. EDGAR,
JOHN M. BARGER, AND B. CHAD BUNGARD**

HEARING

BEFORE THE

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

FIRST SESSION

NOMINATIONS OF CHAD F. WOLF TO BE UNDER SECRETARY FOR
STRATEGY, POLICY, AND PLANS, U.S. DEPARTMENT OF HOMELAND
SECURITY, JEFFREY C. BYARD TO BE ADMINISTRATOR, FEDERAL
EMERGENCY MANAGEMENT AGENCY, U.S. DEPARTMENT OF HOMELAND
SECURITY, TROY D. EDGAR TO BE CHIEF FINANCIAL OFFICER,
U.S. DEPARTMENT OF HOMELAND SECURITY, JOHN M. BARGER TO BE
A GOVERNOR, U.S. POSTAL SERVICE, AND B. CHAD BUNGARD TO BE A
MEMBER, MERIT SYSTEMS PROTECTION BOARD

JUNE 12, 2019

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Printed for the use of the
Committee on Homeland Security and Governmental Affairs



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CONTENTS

Opening statements:	Page
Senator Johnson	1
Senator Peters	3
Senator Rosen	15
Senator Hassan	18
Senator Scott	20
Senator Carper	23
Senator Hawley	26
Senator Portman	29
Prepared statements:	
Senator Johnson	37
Senator Peters	40

WITNESSES

WEDNESDAY, JUNE 12, 2019

Hon. Richard C. Shelby, A United States Senator from the State of Alabama ..	
Testimony	1
Prepared statement	42
Chad F. Wolf to be Under Secretary for Strategy, Policy, and Plans, U.S. Department of Homeland Security	
Testimony	3
Prepared statement	43
Biographical and financial information	45
Letter from the Office of Government Ethics	60
Responses to pre-hearing questions	63
Responses to post-hearing questions	90
Jeffrey C. Byard to be Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security	
Testimony	5
Prepared statement	116
Biographical and financial information	119
Letter from the Office of Government Ethics	135
Responses to pre-hearing questions	138
Responses to post-hearing questions	169
Letters of support	183
Troy D. Edgar to be Chief Financial Officer, U.S. Department of Homeland Security	
Testimony	7
Prepared statement	194
Biographical and financial information	196
Letter from the Office of Government Ethics	215
Responses to pre-hearing questions	221
Responses to post-hearing questions	238
John M. Barger to be a Governor, U.S. Postal Service	
Testimony	8
Prepared statement	247
Biographical and financial information	250
Letter from the Office of Government Ethics	266
Responses to pre-hearing questions	271
Responses to post-hearing questions	296
B. Chad Bungard to be a Member, Merit Systems Protection Board	
Testimony	10
Prepared statement	308
Biographical and financial information	311

IV

	Page
B. Chad Bungard to be a Member, Merit Systems Protection Board—Continued	
Letter from the Office of Government Ethics	330
Responses to pre-hearing questions	333
Responses to post-hearing questions	371
Letter of support	381

**NOMINATIONS HEARING OF
CHAD F. WOLF, JEFFREY C. BYARD,
TROY D. EDGAR, JOHN M. BARGER, AND
B. CHAD BUNGARD**

WEDNESDAY, JUNE 12, 2019

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

The Committee met, pursuant to notice, at 3:28 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Ron Johnson, Chairman of the Committee, presiding.

Present: Senators Johnson, Portman, Lankford, Romney, Scott, Hawley, Peters, Carper, Hassan, Harris, Sinema, and Rosen.

OPENING STATEMENT OF CHAIRMAN JOHNSON

Chairman JOHNSON. Good afternoon. This nomination hearing will come to order.

We are very honored to have the powerful Chairman of the Senate Appropriations Committee present here to introduce one of our nominees—Senator Shelby. I think what we want to do is be respectful of your time because I want you getting back and working on that emergency supplemental spending request for the Department of Homeland Security (DHS) and the Department of Health and Human Services (HHS) having to do with the crisis on the border. So I think without further ado I will just ask Senator Shelby to make his introduction.

TESTIMONY OF HONORABLE RICHARD C. SHELBY, A UNITED STATES SENATOR FROM THE STATE OF ALABAMA

Senator SHELBY. Thank you. Thank you, Mr. Chairman, Ranking Member Senator Peters, and other Members.

Thank you very much for holding this hearing today, and I appreciate the opportunity to appear before this Committee, the Senate Homeland Security and Governmental Affairs Committee (HSGAC), to introduce a fellow Alabamian, Mr. Jeffrey Byard, from Prattville, Alabama. He has been nominated by President Trump to serve as Administrator of the Federal Emergency Management Agency (FEMA), which is part of the Department of Homeland Security.

A lot of you have looked at his resume. He currently serves as the Associate Administrator for the Office of Response and Recov-

ery (ORR) at FEMA, having stepped into the role during the height of the Agency's response to Hurricane Harvey and Hurricane Irma.

Jeff Byard is a loyal Alabamian and loyal American. Prior to joining FEMA in 2017, he worked for the Alabama Emergency Management Agency in various roles and led multiple high-profile operations, including recovery efforts following the Deepwater Horizon oil spill in the Gulf of Mexico. He also assisted in various tornado disaster efforts in the Southeast where we have, like the Midwest, our share.

Mr. Byard began his emergency management career in 2002 as the Mitigation Division Planner for Alabama's Emergency Management Agency where he oversaw the creation and the implementation of the Alabama field response structure which resulted in several improvements to the response and recovery model for the State of Alabama.

Before entering the field of emergency management, Mr. Byard earned his bachelor's degree from Troy University, which is located in southeast Alabama. He is also a graduate of the Alabama Public Safety Leadership Academy, and prior to earning his degree, Mr. Byard honorably served our Nation in the U.S. Marine Corps (USMC) from 1990 to 1994.

He has vast knowledge, experience, and dedication to protecting Americans, and responding to hazards that our Nation may face will enable him to serve at the highest caliber in this new capacity. This is a very important job, and he brings a lot of experience to it, and I support his nomination without any reservation and hope that the Committee will look favorably on him after your hearing and investigation, and we will confirm him in the U.S. Senate.

Mr. Chairman, I appreciate your courtesy and that of Senator Peters and other Members of the Committee.

Chairman JOHNSON. Well, thank you, Senator Shelby. That is an excellent introduction. We certainly appreciate you taking the time to do that.

Senator SHELBY. Mr. Chairman, I would like my full statement to be made part of the record.¹

Chairman JOHNSON. Without objection, absolutely. Thank you for coming.

Now I would like to welcome all of our nominees. Those that have served this country in the past, I want to thank you for your past service, and I want to thank all of you for your willingness to serve in the positions you have been nominated for.

I also want to thank your family members and your friends. These jobs are serious responsibilities. They take an awful lot of time. They will take a lot of time away from your family and friends, so it is really kind of a shared act of service and sacrifice. So I do want to acknowledge that.

I want to apologize for the tardiness of the hearing. We had votes to take. But because of the tardiness, I will just ask that my opening statement be entered into the record.² Without objection.

Now I will turn it directly over to Senator Peters, if you have opening comments.

¹ The prepared statement of Senator Shelby appears in the Appendix on page 42.

² The prepared statement of Senator Johnson appears in the Appendix on page 37.

OPENING STATEMENT OF SENATOR PETERS

Senator PETERS. Well, just to concur with the Chairman. Thank you, all of you, for your willingness to serve in this capacity, and in the interest of time I would ask that my comments, without objection, be entered into the record¹ as well.

Chairman JOHNSON. So ordered.

It is the tradition of this Committee to swear in witnesses, so if you will all stand and raise your right hand. Do you swear that 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. WOLF. I do.

Mr. BYARD. I do.

Mr. EDGAR. I do.

Mr. BARGER. I do.

Mr. BUNGARD. I do.

Chairman JOHNSON. Please be seated. I will encourage all the nominees to introduce your family and friends that are attending the hearing here as part of your opening statements. But we will begin with the President's nominee for Under Secretary for Strategy, Policy, and Plans. This is an important position. It is responsible for Department-wide policy development and strategic planning, coordinating the policies and programs utilizing risk-based analysis to improve operational mission effectiveness, and managing the Department's leadership councils, and international engagement. The nominee is Mr. Chad Wolf, who is currently serving as Acting Assistant Secretary for Strategy, Plans, Analysis, and Risk at DHS and previously served in several leadership roles at DHS. Mr. Wolf.

TESTIMONY OF CHAD F. WOLF,² NOMINEE TO BE UNDER SECRETARY FOR STRATEGY, POLICY, AND PLANS, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. WOLF. Good afternoon, Chairman Johnson, Ranking Members Peters, and other distinguished Members of the Committee. It is an honor to appear before you today as the President's nominee to be the first Under Secretary for Strategy, Policy, and Plans at the U.S. Department of Homeland Security. I am grateful to the President, former Secretary Nielsen, and Acting Secretary McAleenan for the trust and confidence that they have placed in me.

Over the past 2½ years, my family has made tremendous sacrifices so that I can serve at the Department. I would like to take this time to recognize them for their ongoing support, patience, and love as I continue my journey at the Department.

Please allow me to introduce my wife of 15 years, Hope, who is my rock, and without her support I would not be here today.

Senator CARPER. Would Hope raise her hand? Thank you, ma'am. Seven women raised their hands. I just noticed that. [Laughter.]

Mr. WOLF. I would also like to introduce my two sons, Tucker and Preston, who have expressed equal excitement for coming to Capitol Hill and getting out of school early today as well.

¹ The prepared statement of Senator Peters appears in the Appendix on page 40.

² The prepared statement of Mr. Wolf appears in the Appendix on page 43.

Finally, my parents, Jim and Cinda, who were unable to travel to D.C. today, but I know both are proudly watching today's proceedings in real time. They have instilled in me a sense of service and commitment and have been tremendously supportive of my desire to pursue public service.

I would also like to thank the Members of this Committee and their staffs for the important work that you do each and every day. While I had the privilege to meet a number of you during this process, if confirmed, I look forward to the opportunity of working closely together to advance the mission of the Department.

For me, the call to service began on September 11, 2001 (9/11) when I was evacuated from the Russell Senate Office Building along with hundreds of my other colleagues. At that time, I had no idea the events of that morning would forever shape my future. I was extremely fortunate to join the Transportation Security Administration (TSA) during its inception and its integration into the Department of Homeland Security. During my last year of service at TSA, it was my privilege to lead the agency's policy shop, working with a dedicated staff and determined stakeholders to develop national policies, standards, and regulations governing aircraft, airport, and cargo security. Together, I believe we made America's skies safer.

During my time in the private sector, I assisted a number of companies helping them to understand both the homeland security and national security sectors. Working on public policy issues from outside the government gave me a greater appreciation for the role of the private sector and the robust partnerships necessary to secure the homeland.

In 2017, I was fortunate to again receive the opportunity to serve with the great men and women of DHS. Over the last 2½ years, I have held a number of positions at the Department, including TSA's Chief of Staff, Deputy Chief of Staff of the Department, and Chief of Staff of the Department. Through these positions, I have had a front-row seat in understanding how the Department operates, the challenges it faces, and the need for a strong, dynamic, and repeatable policy process that informs leadership decision-making. I have had the opportunity to develop strong working relationships with senior leadership throughout the Department, as well as our many stakeholders within and outside of government. If confirmed, I look forward to tackling the myriad of issues facing the Department and the country with these partnerships in mind.

Most recently, I serve as the Assistant Secretary of Strategy, Plans, Analysis, and Risk as well as the Senior Official Performing the Duties of the Under Secretary. These positions have enabled me to both focus on challenges facing the Department today as well as the longer-term vision for the Department and the issues on our strategic horizon. Today I would say our Nation faces persistent threats and a dynamic threat environment that requires a whole-of-DHS approach. The talented and dedicated staff within the Policy Office of the Department have an essential role in this mission, and I look forward to our continued work to safeguard the Nation.

If confirmed, I commit to addressing the Department's challenges with diligence, transparency, and hard work, as I have done throughout my career.

Serving alongside the 240,000 dedicated men and women that make up DHS has been the honor of my lifetime, and if confirmed, I look forward to continuing our progress to secure the homeland. Thank you again for your consideration. I look forward to answering your questions.

Chairman JOHNSON. Thank you, Mr. Wolf.

Our next nominee has been nominated to be the Administrator for the Federal Emergency Management Agency. The FEMA Administrator is the principal advisor to the President, the Secretary of Homeland Security, and the Homeland Security Council for Emergency Management on the Federal Government's preparation for, mitigation of, response to, and recovery from all-hazard incidents.

The President's nominee is Jeff Byard. He currently serves as the Associate Administrator for FEMA's Office of Response and Recovery and has over 17 years of experience at the State and Federal level in emergency management. Mr. Byard.

TESTIMONY OF JEFFREY C. BYARD,¹ NOMINEE TO BE ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, U.S. DEPARTMENT OF HOMELAND SECURITY

MR. BYARD. Good afternoon, Chairman Johnson, Ranking Member Peters, and Members of the Committee. My name is Jeff Byard. I would like to take a quick moment to thank Senator Shelby for taking time out of his day to introduce me and his support.

I would also like to thank my wife, Sara, and my daughters Brooke, Kate, Caroline, and Zoe, who are sprinkled throughout the audience behind us, for their support over my years and career as an emergency manager. Being an emergency manager often requires long hours away from home, long nights away from home, and I could not have been as successful as I am now without their continued support.

I also have many friends and family. My mother back home, who I know is watching, I want to thank her for all that she has done throughout my life and throughout my career.

I am honored to appear before you today as the nominee to be the Administrator of FEMA. I am extremely thankful to the President and the Acting Secretary for their faith that they have in me and have placed in me in this position. I have a strong commitment to duty, public service, and integrity. This started young in my life, but was definitely hammered home in my time as a United States Marine. These qualities, coupled with years of experience in emergency management, have prepared me for the position which I am now nominated for, and if confirmed, I look forward to tackling the many challenges that lay ahead.

I began my emergency management career as an entry-level planner with the Alabama Emergency Management Agency. I was promoted through the ranks. I spent a total of 14 years at the agency. In those last 10 years, I was senior career emergency manager for the agency. I had the opportunity to lead a great group of professionals through many disasters in the State and obviously helping our local governments recover from disasters, not all the

¹The prepared statement of Mr. Byard appears in the Appendix on page 116.

time raised to the level of FEMA assistance, but disasters all the same.

One of the most devastating disasters that I witnessed in Alabama was the super tornado outbreak of 2011, which caused 238 fatalities as a result of 64 tornadoes in one day. During my time with the State of Alabama, I held senior leadership positions for 14 presidentially-declared major disasters and, as I said, many states of emergency that did not rise to the level of Federal involvement.

Since 2017, I have served as the Associate Administrator for FEMA's Office of Response and Recovery. In this position, I have been the senior agency official responsible for all matters of disaster operations. While serving in this capacity, I have managed operations in over 100 presidentially-declared disasters and emergencies, including the historic hurricane seasons of 2017 and 2018, as well as the unprecedented Western wildfires.

The most rewarding part of my experience as the Associate Administrator has been working alongside the men and women of FEMA. FEMA's workforce has time and time again exhibited their tireless and selfless dedication to the service of others, and I firmly believe that there is no better workforce in the Federal Government today. They truly do not receive the credit which they deserve.

If confirmed, I will continue to focus on addressing resource requirements to rapidly stabilize community lifelines in the wake of any disaster. A key aspect of this requirement is the inclusion of the private sector during emergency response, and I will seek to expand on our existing efforts in this space.

I am also committed, if confirmed, to continuing to reduce the complexity of FEMA's programs, paying close attention to our recovery programs.

A top priority of mine will be the overall well-being of our workforce. FEMA currently has staff deployed to some of the Nation's most devastating and complex disasters that stretch the globe, from Saipan to the U.S. Virgin Islands (USVI). We have several thousand staff in Puerto Rico, and they will be assisting the Commonwealth for years to come. Many of these dedicated personnel have been deployed for extended periods of time, in some cases longer than military deployments. The nature of this work is filled with pressure. The nature of this work and deployments can create at times low morale and affect the quality of life. And if confirmed, I want to take a deep look at how we ease the burdens of our workforce.

It is important to note that 85 percent of the workforce believes their mission impacts the others, and that is a good component to have.

I look forward to working with the Committee and working with all aspects to better what we do at FEMA, if confirmed, and I welcome any questions the Committee may have. Thank you.

Chairman JOHNSON. Thank you, Mr. Byard.

Our next nominee, Troy Edgar has been nominated to be the Chief Financial Officer (CFO) of the Department of Homeland Security. The CFO provides oversight of the financial management systems, budgeting and accounting, program analysis and evaluation, and internal controls, cash, credit, and debt management poli-

cies of the Department. Mr. Troy Edgar has spent over 30 years in the private sector, currently serving as the president and Chief Executive Officer (CEO) of Global Conductor, Incorporated, a management consulting firm, and previously served in the U.S. Navy. Mr. Edgar.

TESTIMONY OF TROY D. EDGAR,¹ NOMINEE TO BE CHIEF FINANCIAL OFFICER, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. EDGAR. Thank you. Chairman Johnson, Ranking Member Peters, distinguished Members of the Committee, it is an honor for me to appear before you today as the President's nominee to be Chief Financial Officer of the Department of Homeland Security. I am grateful to the President, former Secretary Nielsen, and Acting Secretary McAleenan for the trust and confidence that they have placed in me, and I thank the Committee for considering my nomination. This process has enabled me to better appreciate the high honor bestowed upon me to serve and to better understand the critical expectations that this Committee may have for me, if confirmed.

Thanks to my Lord for the grace in my life and for the opportunity to serve my country. My family is very important to me. Although they are not here, I would like to recognize them. Mat, Tyler, and Ethan are my sons. Tracy is my brother. And I honor the memory of my late Mom and Dad, Ralph and Maxine.

I would like to introduce my wife, who is here, Betty. She is right behind me in white. Betty embodies the American dream in a manner that enables me to understand the hopes and aspirations of millions of people who come to America. Her story helps me understand the true weight of public service. I not only come to this nomination with technical skills and business experience, but I come with a conscience informed through the personal experiences of my wife. Betty is an immigrant from Iran who spoke only Farsi and Aramaic growing up in Tehran. Her family fled to the United States after the Shah was overthrown in 1979. She is now a French teacher in Little Saigon in our area in Orange County for over 20 years. Betty rises every morning believing that she herself has the ability to change another student's life the way this country has changed hers. Thank you, Betty, for being here and supporting me today.

My background has prepared me for this opportunity. After my tour of duty in the Navy, I have spent over 30 years working for over 40 Fortune 500 and Global 1000 companies as an executive, as a CFO, and as an adviser across many industries, including aerospace defense, government, and technology. Providing executive leadership support to establish and achieve operational goals as well as leading finance transformation improvements are areas in which I have significant experience. These include modernizing financial systems, enhancing cost management and budget processes, establishing program management offices, and improving audit and financial controls to meet statutory and regulatory compliance.

¹ The prepared statement of Mr. Edgar appears in the Appendix on page 194.

I also have implemented large-scale global enterprise resource planning and financial management systems, corporate headquarters restructuring and consolidations, shared services and significant finance transformations for Fortune 500 companies. I believe this experience is relevant to current needs of the Department's CFO position. If confirmed, I will use these skills meaningfully to address the challenges the Department may face.

Working in corporate America has not been my only main focus. Serving in nonpartisan elected, appointed, and nonprofit board positions where I provide finance and operational leadership to many public organizations is of great importance to me.

I believe in public service and in answering the call of our great country. If confirmed, I look forward to being a trusted adviser to the Secretary, the Deputy Secretary, the Under Secretary of Management, and the Department's senior leaders, providing leadership through my experiences and expertise to support the mission, maximize efficiency and effectiveness of available resources, and protect taxpayer dollars.

If confirmed, I will quickly engage with the Office of the Chief Financial Officer and the Component CFOs to gain a comprehensive view of the current situation, status, and resourcing. I am committed to create a positive workplace culture and improve teamwork, raise morale, and enhance retention of our valuable workforce.

Last, if confirmed, I look forward to working with this Committee and other Members of Congress to assist you in the important role of oversight and support for the Department. I am committed to investing the time to build critical working relationships needed to significantly advance DHS.

Thanks again for the opportunity to appear before you, and I look forward to answering your questions. Thank you.

Chairman JOHNSON. Thank you, Mr. Edgar.

Our next nominee, John Barger has been nominated to be a Governor of the United States Postal Service (USPS) Board of Governors. The USPS Board of Governors oversees the financial decisions of the Postal Service and is managed similar to the board of directors of a private company, but also represents the public interest in ensuring the Postal Service meets obligations to its customers and the American people. Mr. Barger has over 30 years of leadership in finance, entrepreneurship, and public governance, currently serving as the managing director of Northern Cross Partners, LLC. Mr. Barger.

TESTIMONY OF JOHN M. BARGER,¹ NOMINEE TO BE A GOVERNOR, U.S. POSTAL SERVICE

Mr. BARGER. Thank you, Mr. Chairman. And before I begin, I want to acknowledge my son, Christopher, is in the audience, who just moved here to Washington and is looking for a job. So good to have you here, Chris. [Laughter.]

Mr. BARGER. Unfortunately, my wife could not be here. We are foster parents, and so she has some work to do at home. And our daughter, Sophia, is up in Canada. She is a dancer, and so she can-

¹ The prepared statement of Mr. Barger appears in the Appendix on page 247.

not be here. But they are very supportive of what we are doing here, so I thank them also.

Chairman Johnson, Ranking Member Peters, and Members of the Committee, it is an honor to be here today. Thank you for considering my nomination to the Board of Governors of the United States Postal Service, and thank you to President Trump for nominating me. I am humbled and, if confirmed, I will do my level best to guide this vital American institution as it faces challenges in today's technology-driven world.

Our Founders understood and created institutions that would enable Americans to unite and thrive while inhabiting a vast territory. One vital institution remains the United States Postal Service. Historically, it has enabled us to develop a common identity as citizens of one Nation.

The Postal Service's goal for the 21st Century must be to ensure that all Americans—whether urban or rural, rich or poor—have universal access to mail service that is modern, affordable, and relevant. Today, however, the post faces profound challenges. Technology has changed how people communicate and conduct commerce. Email and online bill payment have eroded one key revenue source: First-Class mail delivery. These and other changes will continue to have a direct impact on the Postal Service's economic model. Artificial intelligence (AI), robotics, advance supply chain management, 3D printing, and drone technology are but a few of the developments likely to impact the Postal Service. How the Postal Service adapts to these innovations will determine its future success. Furthermore, success is of vital importance given the universal service obligation (USO) and its role in our national identity.

The Postal Service has assets to help meet this challenge, including its unique and extraordinary delivery network connecting practically every American. Building on that, the Postal Service must better understand customer demands, competitive forces, and technological developments that will allow it to reform its business model, ensure universal service, and meet retiree and employee obligations without assurance from the taxpayer.

My educational background has prepared me to serve as a Postal Service Governor. A history and philosophy graduate of Ohio Wesleyan University, I received my J.D. from the University of California Hastings College of Law and my M.S.C. in accounting and finance from the London School of Economics.

After briefly clerking for a Federal judge and practicing law, I worked with Citibank and Bankers Trust in New York and London financing large, complex companies and transactions. More recently, I have been a director of private companies facing changing markets and complex supply chain issues.

One is an e-commerce and supply chain company that has changed the way its customers—in this case, wineries—sell and deliver to their consumers. Using cutting-edge logistics technology, it will fulfill 7 million transactions and ship approximately \$1.7 billion in product this year.

I also serve on the board of a light emitting diode (LED) visual display technology company with complex supply chain problems and customers in the United States, Asia, and Europe. I have also

partnered with SAP in the past, an international market leader in supply chain technology and enterprise software.

My public service includes 7 years as a director on the Investment and Retirement Boards of the Los Angeles County Employees Retirement Association (LACERA). LACERA is the largest county pension fund in the United States, managing over \$60 billion in assets and overseeing the benefits for approximately 160,000 current and retired Los Angeles County employees. Three times my peers elected me Investment Board Chair of that body, indicating an ability to earn the trust and successfully build consensus among labor, government, and the private sector.

Finally, I am a successful entrepreneur, being a founder, former director, and managing director of AXA/XL Group-Latin America, before selling my interest in that firm. More recently, I co-founded turn-around management/consulting firm, Sierra Constellation Partners, which I exited in 2016.

In conclusion, I try to be a consensus builder and collaborative problem solver with a sense of urgency. As an experienced executive and board member, I have also learned that good governance is essential and works best when all board members are encouraged to lend their varied experiences and best ideas. If confirmed, I will endeavor to bring this approach to the United States Postal Service Board.

I thank this Committee for allowing me to be before you, and I am prepared to answer any questions you have.

Chairman JOHNSON. Thank you, Mr. Barger.

Our final nominee, Chad Bungard, has been nominated to be a member of the Merit Systems Protection Board (MSPB). The MSPB is an independent agency that adjudicates Federal employee appeals, conducts research, and issues reports on various issues related to the Federal workforce. Mr. Bungard served as the Chief Legal Officer of three Federal entities and has dedicated more than 20 years of his career to cultivating an efficient Federal workforce. He currently serves as the Deputy Commissioner for Analytics Review and Oversight at the Social Security Administration (SSA). Mr. Bungard.

**TESTIMONY OF B. CHAD BUNGARD,¹ NOMINEE TO BE A
MEMBER, MERIT SYSTEMS PROTECTION BOARD**

Mr. BUNGARD. Thank you. Chairman Johnson, Ranking Member Peters, and Members of the Committee, I would like to thank you very much for inviting me here today.

I would also like to thank my wife, Emma, who is here with us; our children, Max, Harry, Molly, and Beckett. I dragged them all with me today. And my father and mother are also here, Max and Kathy Bungard; and my father-in-law and mother-in-law, Marilyn and Tony Fitzgerald. I would also like to thank the rest of my family who are scattered throughout.

I would also like to thank MSPB Legislative Counsel Rosalyn Coates and MSPB General Counsel Tristan Leavitt for their assistance in preparing me for this hearing.

¹ The prepared statement of Mr. Bungard appears in the Appendix on page 308.

Throughout my Federal career, I have been devoted to fighting corruption, increasing the efficiency and effectiveness of agencies and their programs, promoting the efficiency of the service, and fighting and preventing fraud, waste, and abuse.

I believe that my experience has equipped me with a unique perspective from which to carry out the responsibilities of a member of the Board and insight into the absolute importance of protecting the merit system principles and promoting an efficient and effective workforce, free of prohibited personnel practices.

Following my time in private practice, my Federal career began on the Hill in 2001, where I primarily focused on oversight, government reform, and Federal civil service policy.

I moved to the Executive Branch in 2006, as the General Counsel for the Merit Systems Protection Board. In that role, I acquired a thorough knowledge of MSPB's practices and procedures. In addition to serving as the chief legal officer there, I oversaw the MSPB's heavy litigation docket before the U.S. Court of Appeals for the Federal Circuit and oversaw the preparation of dozens of draft decisions for the Board.

I later went on to serve as the Counsel to the Inspector General (IG) for the Social Security Administration. In that role, I was the chief legal officer for SSA's Office of the Inspector General (OIG) for almost 5 years, where I served as SSA's first Whistleblower Protection Ombudsman (WPO) for over 65,000 employees at SSA.

I then served for a few years as the General Counsel for the Office of the Special Inspector General for the Troubled Asset Relief Program at the Department of Treasury.

During my 12 years as a chief legal adviser for three different Federal entities, I performed complex legal analysis and provided advice on a wide range of legal issues, and I routinely provided supervision of legal advice and representation on agency personnel matters.

I currently serve as the Deputy Commissioner for the Office of Analytics, Review, and Oversight at the Social Security Administration. In that role, I am responsible for providing executive leadership to more than 2,000 employees, including leading the Office of Anti-Fraud Programs, the Office of Quality Review, the Office of Analytics and Improvements, and the Office of Appellate Operations, where SSA's Administrative Appeals Judges (AAJ) adjudicate appeals from SSA's Administrative Law Judge (ALJs).

The Federal Government has a unique role. The business of government is to serve the American people. We must have a Federal workforce that the American people can count on, and key to that is protecting merit system principles and promoting a workplace free of prohibited personnel practices.

The MSPB is central to the application of the merit system principles to the Federal workforce. The Federal workforce needs to be able to recruit, retain, pay, and promote the best and the brightest solely based on their skill and performance in carrying out the many Federal services for the American people. The Federal workplace must be free of arbitrary action, free of favoritism of any sort, and be committed to the highest standards of conduct and integrity. It must also be a workplace where employees are encouraged

to come forward with ideas for improving business practices and to report fraud, waste, and abuse, without fear of retaliation.

Effective stewardship of taxpayer funds is a crucial responsibility of government, from preventing fraud to maximizing impact. That is why the MSPB'S mission is so important. If confirmed, I commit to reviewing and adjudicating each case with an open mind, good judgment, and impartiality. I will fully and fairly analyze the arguments and decide every case based on the facts in the record and in accordance with the law. I will decide matters independently, without fear or favor, and to the best of my ability. It is absolutely essential that the Board inspire public confidence in its independence, integrity, and impartiality. I will also strive to ensure, if confirmed, that the MSPB's studies and review of the Office of Personnel Management (OPM) rules contribute to the management of the Federal workforce free of prohibited personnel practices.

I would be happy to answer any questions that you may have. Thank you.

Chairman JOHNSON. Thank you, Mr. Bungard.

The Committee always asks nominees three questions. I will ask them to each of you, and if you can start with Mr. Wolf, each responding to the question in order.

First of all, to all of you, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated? Mr. Wolf.

Mr. WOLF. No.

Mr. BYARD. No.

Mr. EDGAR. No.

Mr. BARGER. No, sir.

Mr. BUNGARD. I do have a management support staff that I oversee, and there are some personnel matters that could potentially come before the Board. We are talking about a handful of cases, so they are keeping a list for me. But, otherwise, no, I would be recused from those cases if they came to the Board.

Chairman JOHNSON. OK. The Committee will follow up to find out what those might be.

Mr. BUNGARD. Alright.

Chairman JOHNSON. Second question. 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. Wolf.

Mr. WOLF. No.

Mr. BYARD. No, sir.

Mr. EDGAR. No.

Mr. BARGER. No, sir.

Mr. BUNGARD. No.

Chairman JOHNSON. Finally, 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? Mr. Wolf.

Mr. WOLF. Yes, without reservation.

Mr. BYARD. Yes, without reservation.

Mr. EDGAR. Yes, without reservation.

Mr. BARGER. Yes, without reservation.

Mr. BUNGARD. Yes, absolutely.

Chairman JOHNSON. OK. Well, thank you. I really do appreciate the attendance by so many Committee Members, so out of respect for their time, I will defer my questions to the end and go to Senator Peters.

Senator PETERS. Thank you, Mr. Chairman. And thank you again to each of you for your willingness to serve.

This Committee is the Senate's primary oversight body, and we have a constitutional duty to conduct oversight of government-wide operations and ensure that Federal agencies and programs are serving the American people both effectively and certainly spending taxpayer dollars responsibly.

However, we cannot fulfill that mission of critical oversight if we do not have the cooperation of Federal agencies, and I know that you addressed this in your written responses, but I am also going to ask you to reiterate those answers, and starting with Mr. Wolf. This is for all of you, and, of course, you are under oath in the Committee here.

If confirmed, will you commit to responding to oversight requests from Members of Congress, and particularly from Members of this Committee, in a consistent and timely manner and regardless of party? Mr. Wolf.

Mr. WOLF. I do.

Mr. BYARD. Yes, sir.

Mr. EDGAR. Yes, sir.

Mr. BARGER. Yes, sir.

Mr. BUNGARD. Yes, absolutely.

Senator PETERS. Alright. Thank you.

Mr. Wolf, as we were discussing this morning, I am extremely concerned by how the Federal Government is prioritizing its resources to prevent domestic terrorism, especially given the disturbing rise in white supremacist violence that we have seen across our country. DHS and the Federal Bureau of Investigation (FBI's) own joint intelligence bulletins have noted that white supremacist extremists were responsible for more murders and attacks from 2000 to 2016 than any other domestic extremist group, and they continue to pose a threat of lethal violence in the years ahead.

My question to you, sir, is: What trend lines are you seeing in regards to domestic terrorism? And if you could give me a sense of what you believe based on your experience may be motivating these attacks.

Mr. WOLF. Yes, absolutely. Thank you for the question. The trend lines that we see working through my colleagues at the Intelligence and Analysis Directorate within the Department and their colleagues at the Department of Justice (DOJ) and others is the trend that you mentioned, Senator. So, as we look at attacks since 2014, what we see is four-fifths of those are domestic terrorism-related attacks here in the homeland. About one-fifth, or a little under one-fifth are what we call homegrown violent extremist (HVE) attacks, that deal more with a foreign ideology.

So as we look at, specifically as I look at the growing trend and the growing threats facing the homeland, as I indicated this morning, this is one that certainly is on my radar. I have talked with the Acting Secretary numerous times about it, and we continue to look at ways that we can bolster our efforts in the Department, me

specifically in the Policy Office, but then largely all of the efforts between FEMA, the Cybersecurity and Infrastructure Security Agency (CISA), and the other Components in the Department.

Senator PETERS. Given your responsibilities, if confirmed, to develop policy, what data points are we collecting now—or I should say that we are not collecting right now, what data points are we not collecting that could provide perhaps more critical insight into domestic terrorism and to those extremist groups that you referenced?

Mr. WOLF. So I think overall, from a Policy Office standpoint, we are consumers of information both from our Intelligence and Analysis Directorate who, again, pulls that information either from the Department of Justice, FBI, and others.

When we talk about domestic terrorism and racially motivated extremists and the like, I think it is getting to their intention, specifically how they are radicalized, the method of radicalization. When we talk about Internet, the ease of social media and the like. So I think those are the challenges the Department, specifically the Policy Office, is looking at. How do we identify these individuals early? How do we intervene? How do we counter the narratives that are out there moving forward?

We do that a couple of different ways. We work with our State and local partners and ensure that they have the resources at the local level, the training, development standpoint, grants, Federal resources; and from a Federal level, making sure that we are sharing the threat information with our State and local partners so that they understand what that is. Then, of course, with the social media companies and making sure that we take down terrorist content in a quick way.

Senator PETERS. So you mentioned additional resources for State and local activities. What additional resources does DHS need in your estimation to combat domestic terrorism?

Mr. WOLF. I think the one that I am focused on is our grant program. It is a 2-year grant program that the money was obligated in 2016, launched in 2017, and we are having an assessment of the results at the end of July. There are a number of grants within the 25 grantees that are focused on State and local partners, focused on law enforcement agencies that go out and deliver training, to look at de-radicalization and the like. So I am very interested in the assessment coming out of that. Early indications are it is having an effect. Again, I have talked with the Acting Secretary, and I think we are going to be very forward-leaning on that grant program going forward.

Senator PETERS. Could you give the Committee a better sense of, if confirmed, how you plan to work with the White House and Congress to better address this issue?

Mr. WOLF. Sure. For me, it is all about listening to the experts, and I do that from a Policy Office standpoint. I have experts in my office that have handled this issue for years, handled this issue for years. So understanding what has worked, what have we looked at in the past that has not worked, as well as looking at new ideas. The Policy Office is the main interface with the interagency, so we talk with the White House, but we also talk with, again, FBI, DOJ, and others on this issue.

My policy staff currently does that today and will continue to do that, and there are robust discussions occurring in the interagency moving this issue forward.

As you know, domestic terrorism is mentioned in the National Counterterrorism Strategy from the White House. It is also going to be a key component of the Department's counterterrorism strategy, which will be released this fall. And our preventative framework will be outlined in that as well.

Senator PETERS. Chairman Johnson and I sent a letter to DHS requesting data related to domestic terrorism activities throughout the Department, as you know. We spoke this morning, and I asked you—I was told it is ongoing, the collection of data is ongoing. And I asked for a more specific timeline, and I mentioned to you I will ask you at the hearing today. So do we have a specific timeline as to when we will have a full answer to the letter that the Chairman and I wrote?

Mr. WOLF. Yes, Senator. So as you are aware, we have provided some initial documents that are responsive to that request. It is a complex request that we are pulling. It is my understanding that you will receive the next set of documents in early July, so that is about 2, 2½ weeks from now. We have communicated that with your staff, and I think you will receive the majority of those materials.

Senator PETERS. That will be the complete record by the beginning of July or a majority?

Mr. WOLF. To my understanding, that will be mostly complete. Again, not all of that information falls within the Policy Office, we certainly provide a lot of it, and we have done that. However, there are other elements and other document pools throughout the Department that I am closely monitoring, but I do not have particular oversight on that.

Senator PETERS. Alright. But we would certainly like your continued assistance.

Mr. WOLF. Yes, and you have it.

Senator PETERS. Thank you.

Chairman JOHNSON. Senator Rosen.

OPENING STATEMENT OF SENATOR ROSEN

Senator ROSEN. Thank you, Mr. Chairman. Thank you, Ranking Member. I want to thank all of you for being here today, for your families coming, your parents, and your willingness to step up and serve. We appreciate that.

I would like to start with Mr. Byard, if I will. There is no shortage of, unfortunately, disasters, natural disasters happening around our country, and so I would like to focus on that for a minute because this past August the South Sugarloaf fire scorched over 230,000 acres in northeastern Nevada. It prompted the evacuation of about 300 people, and it threatened infrastructure such as our State Route 225, lots of power lines, numerous cell and radio towers. The fire destroyed not only private lands but public lands. It affected ranchers, recreation, and wildfire. In Nevada, we have a lot of frontier territory. We are one of the most mountainous States of the lower 48, so we have a lot of wide open spaces.

So despite this devastation and despite me and my Nevada colleagues fighting for funding, FEMA denied the State of Nevada's request for a fire management assistance grant because a fire did not threaten such destruction as would constitute a major disaster because it was in a rural area. The current criteria that FEMA uses to evaluate applicants for grants makes it very difficult for rural communities not just in Nevada but across this country to receive funding, despite the fact that these communities rely heavily on the land for their income, whether it be through ranching, farming, outdoor recreation, or energy development.

According to our State forester, fires in rural Nevada, even when they do not destroy structures, can be devastating to our landscape. It has a major economic impact that is often difficult to quantify.

So my question to you is this: How will you ensure that FEMA is better equipped to assist remote and rural communities like mine in dealing with wildfires and other similar emergencies?

Mr. BYARD. Yes, Madam Senator, and thank you for the question. As you know, the fire management assistance grant is there to reimburse the cost of the firefighters as they fight the fire and to also provide resources to, as you stated, prevent a major disaster declaration.

As the Stafford Act, the law that guides us, the agricultural impacts of that are not a factor that we look at under the law. I do not mean to say that is not an important factor. It is.

Senator ROSEN. My next question, really: Should we change these eligibility standards for fire management assistance grants so they take these things into consideration and what matters most to the families that are involved here?

Mr. BYARD. Yes, ma'am, what I would focus on any changes is I would focus on the economic impacts and maybe look at certain aspects of what builds the economic impacts, but the economic impacts as a whole. I want to reiterate, I am not saying that that is not important from an economic standpoint or the family life of a farm. I am from a rural State. I understand the complexities and the challenges that a rural State faces when disaster does strike in that magnitude. So, looking at placing more emphasis, if there was a change, on what are the economic impacts of the fire and not necessarily specifically looking at certain aspects, because there are other grant programs available through farm services and others that I am not an expert in by any means. But I do know there are other grant programs available. That is another aspect of the Stafford—

Senator ROSEN. Well, perhaps you might consider coordinating, because families, when they are in trouble, when there has been a natural disaster like a hurricane in Louisiana, a wildfire out West, they often do not have the time or resources to contact multiple agencies, so they look to FEMA for direction and guidance.

So can you commit to being that funnel of information for people in their greatest time of need to put their lives back together?

Mr. BYARD. Yes, ma'am, if confirmed through my questionnaire and through both my oral statement and written statement, one of our priorities is to reduce the complexity of FEMA. Part of that complexity is the multiple programs, not just within FEMA, that are available for assistance. All the programs are intended to do

good. I am a believer of that. You are a believer of that. But, when you are sitting on the other end of that disaster, you need clear, concise avenues of approach. So I would definitely commit to working to streamline those and to make those understandable and digestible by the disaster victims.

Senator ROSEN. I look forward to seeing that.

Mr. BYARD. Yes, ma'am.

Senator ROSEN. My next question is for you, Mr. Wolf. Of course, we met the other day, and when you were at DHS in 2018, when the Attorney General (AG) announced their zero tolerance policy, that led to thousands of children being separated from their parents at the U.S. border. During your time as Chief of Staff for Secretary Nielsen, what was your involvement in developing and implementing the so-called zero tolerance policy?

Mr. WOLF. Senator, my job as Chief of Staff generally—and then I will talk specifically about this—was to make sure that the Secretary was properly staffed, she had the right experts in the room to answer her questions and to address whatever the issue might be. It was also to balance both her time and her—

Senator ROSEN. Did you help develop that policy?

Mr. WOLF. No, ma'am. Again, we were given direction both through an Executive Order and the Attorney General's zero tolerance policy at the time. The discussions that were underway at the Department at that time were how to operational—

Senator ROSEN. Let me ask it this way: As her Chief of Staff, then how did you become aware of this policy?

Mr. WOLF. Through discussions with staff, discussions leading up to the Attorney General's announcement, I believe in April 2018. And then I was involved sitting in on various discussions with our operators. That would have been Customs and Border Protection (CBP), U.S. Citizenship and Immigration Services (USCIS), and Immigration and Customs Enforcement (ICE), as well as General Counsel on how to operationalize the decision made by both the President and the Attorney General.

Senator ROSEN. As Chief of Staff and a senior adviser, did you have concerns with that policy? And if so, did you bring those concerns to the Secretary at that time?

Mr. WOLF. My job was not to determine whether it was the right or wrong policy. My job at the time was to ensure that the Secretary had all the information that she needed. Again, she relied on her operators to discuss the options on how to operationalize, the Executive Order as well as the AG—

Senator ROSEN. So let me ask you another question then. Do you agree with the actions taken by the Department, including the treatment of young children?

Mr. WOLF. I agreed with the President's decision through an Executive Order to end that practice, and the goal is to—

Senator ROSEN. To end the practice of separation?

Mr. WOLF. To end the practice of and keep families together during their immigration proceedings.

Senator ROSEN. So you are against a zero tolerance and family separation and for keeping families together?

Mr. WOLF. I agree with and I support the President's decision, again, through an Executive Order that ends that policy for fami-

lies and keeps families together through the pendency of their immigration proceedings. It is why the Department has been reaching out to Members of this Committee and to Congress on some of the new authorities that we need to address this issue.

Senator ROSEN. Thank you.

Mr. WOLF. Thank you.

Chairman JOHNSON. Senator Hassan.

OPENING STATEMENT OF SENATOR HASSAN

Senator HASSAN. Thank you, Mr. Chair, and thank you to all the nominees and their families for begin willing to serve.

Mr. Byard, I am going to start with you. As you well know, the Federal Emergency Management Agency is struggling with serious problems relating to sexual harassment of its female employees. Last year, FEMA Administrator Brock Long called sexual harassment at the Agency a “systemic problem going back years”—that is his quote—and said that one of his biggest challenges would be the “eradication of this cancer.”

It will be imperative that the next FEMA Administrator and any future FEMA Administrators have the highest integrity on this matter, that they lead by example and adopt a zero tolerance policy for sexual harassment. Simply put, changing an agency’s toxic culture requires that the top agency officials set the tone for the entire agency.

To help set that tone and to assure FEMA’s workforce of your commitment to changing the culture, I want to get your answers to a few questions.

First, have you ever been accused of or disciplined for sexually harassing your colleagues in any previous positions?

Mr. BYARD. No, ma’am.

Senator HASSAN. Have you ever been accused of or disciplined for any inappropriate behavior with a colleague?

Mr. BYARD. No, ma’am.

Senator HASSAN. Thank you. In your opinion, have you adopted a zero tolerance policy for sexual harassment in the workplace in all of your previous positions?

Mr. BYARD. Yes, ma’am.

Senator HASSAN. Finally, will you commit to taking swift action against any future instances of sexual harassment perpetrated by employees of FEMA?

Mr. BYARD. Yes, ma’am.

Senator HASSAN. Thank you.

To Mr. Wolf, first of all, I appreciated visiting with you, as I did with Mr. Byard. Over the years the Department of Homeland Security has struggled to identify its appropriate role of preventing homegrown terrorism. I want to follow up a little bit on some of the issues that Senator Peters was talking to you about.

First, the Department created a Coordinator for Countering Violent Extremism. Then it established an Office of Community Partnerships. In the Trump administration, the new Office of Terrorism Prevention Partnership (OTPP) was created as a replacement for the Community Partnerships Office. These offices have all suffered from a lack of funding, lack of personnel, and lack of internal support.

In April, Acting Secretary McAleenan announced the creation of a new office, the DHS Office for Targeted Violence and Terrorism Prevention (OTVTP), which will be housed in your Directorate. The Acting Secretary's comments indicate that this new office is a top priority for the Department, which I would welcome and strongly support, as we talked about yesterday.

However, the public information provided by DHS uses the same buzz words and descriptors as the office's predecessors, and from what I can tell, the office's functions are nearly identical to the past versions. Moreover, DHS Assistant Secretary Elizabeth Neumann seemingly confirmed this when she testified before the House last week that the current office is a rebranding of previous versions of the DHS' homegrown terrorism prevention efforts.

I am concerned that the Department spends a lot of time rebranding old initiatives instead of working to get better results. I fear that this focus on rebranding reflects a failure of the Department, a failure to learn critical lessons about underfunding and understaffing, that underfunding and understaffing undermine our homegrown terrorism prevention efforts. So to prove that the Department is serious about this effort, it would be helpful to know the following:

First, how much new funding has the Department given this office?

Mr. WOLF. Senator, the funding level for the Office of Targeted Violence and Terrorism Prevention (TVTP) has remained pretty much the same, so we have a base funding and then we have, as I believe we talked about, a \$10 million grant program that concludes in July of this year.

Senator HASSAN. But that is still no new funding?

Mr. WOLF. That is correct. That funding was allocated in 2016, and then it has been a 2-year cycle, started in 2017, and ending in 2019.

Senator HASSAN. And how many new staff have been assigned to this office?

Mr. WOLF. From my recollection—again, as you indicated, that office has transferred just recently into the Policy Office—there are 12 Federal employees dedicated. I believe we have seven to eight of them on board, but there are additional billets in that office.

Senator HASSAN. So will that be staff in addition to what—

Mr. WOLF. So that is a slight increase over 2018, but it is just a slight increase.

Senator HASSAN. And does this office have a strategic plan?

Mr. WOLF. We are currently at work on that. As you mentioned, it is not only a rebranding. It goes beyond that. So, yes, we are taking lessons learned of the previous iterations of the office. But as the name indicates, we are also widening the aperture. So we are looking at targeted violence as well as terrorism prevention. When we talk to our State and local partners, they are worried about terrorism, but they are also worried about general mass shootings, school violence, and the like. We are looking at targeted violence. Overall, the prevention framework that we are hard at work on will be in our overall counterterrorism strategy, which, as I indicated, will be out this fall.

Senator HASSAN. And you will commit to providing a written copy of the Office of Targeted Violence Strategic Plan to include its staffing model, policy objectives, and the metrics by which it will evaluate its effectiveness by the end of—you said this fall?

Mr. WOLF. Yes, ma'am.

Senator HASSAN. OK.

Mr. WOLF. Yes, Senator.

Senator HASSAN. Thank you.

One other thing. I am going to move to a quick question with Mr. Byard, but I would like to follow up on if the grants are expiring this July, what your plans are not only to deal with Islamic State in Iraq and Syria (ISIS)-and al-Qaeda-inspired domestic terrorism, but also white nationalist-inspired domestic terrorism as well.

Mr. WOLF. Absolutely.

Senator HASSAN. Thank you.

Mr. Byard, in New Hampshire, we are seeing the impact of extreme weather events firsthand, as I am sure every one of my colleagues is in their State. A few years ago, New Hampshire experienced devastating flooding as a result of Hurricane Irene. In fact, the U.S. Interagency National Climate Assessment last year reported that the Northeast is seeing the largest uptick in heavy rain events, and our infrastructure is taking a toll as these weather events become more intense and more frequent. In 2018, a FEMA-sponsored report indicated that every dollar spent on Federal mitigation grants saves society \$6 overall.

Mr. Byard, what steps will you take to improve hazard mitigation efforts? And what resources do you need from Congress? And I realize, Mr. Chair, I am over time, so, Mr. Byard, I will urge you to be brief, and you can always follow up with written answers.

Mr. BYARD. Yes, ma'am. Thank you, Senator. Mitigation is the cornerstone for emergency management. The more we spend up front, the more we can harden our infrastructure, the better that infrastructure will be, and the least reliance there will be on FEMA and our response and recovery.

What I will do, one, is thank this Committee for the Disaster Recovery Reform Act (DRRA), which puts more dollars up front, a 6-percent set-aside up front that we are currently moving through the process to implementation on that. So that is going to give us a greater amount of funding before a disaster hits.

I am fully committed, if confirmed, to bettering mitigation across the board. One of my goals will be to have the current position that I sit in not needed anymore at some point. Now, that is a lofty goal, which is response and recovery. But I believe the FEMA Administrator in any capacity should be looking at that as he or she moves forward. So I am fully committed to mitigation.

Senator HASSAN. Alright. Thank you very much.

Mr. BYARD. Yes, ma'am.

Senator HASSAN. Thank you for your indulgence, Mr. Chair.

Chairman JOHNSON. Senator Scott.

OPENING STATEMENT OF SENATOR SCOTT

Senator SCOTT. Thank you, Mr. Chairman.

First of all, I want to thank each of you for your willingness to serve, and I want to thank your families for being here and watch-

ing. You should be very proud of your family members for positions you have already gotten into and being nominated, and I wish you the best of luck.

So, FEMA, Mr. Byard. FEMA did a great job in our hurricanes. They were an outstanding partner. I could not ask them to do more than what they have done. Gracia Szczech in the Southeast, she was always there and just did a great job, so I want to thank you for that.

The thing that surprised me, though, about FEMA was this: This debris cleanup, how could we get contracts at the State level for \$7 and \$8.50 a cubic yard on average and then the Corps of Engineers have a contract, sometimes the exact same company, for \$72? I have never understood how that could happen, and I never understood why there was a different reimbursement system based on who is contracted with. So if I turn it over to the Corps, there was a higher reimbursement level than if I left it to just get reimbursed by FEMA, which also did not seem to make much sense to me. And while it worked for us really well, because we had a good working relationship especially with Gracia, it did not seem like the programs for housing were set in stone, and maybe that is good or maybe that is bad. I do not know. I just would like to get your thoughts on—those things always seemed—did not seem logical to me the way government would work.

Mr. BYARD. Thank you, Senator, and I might add, when we first met, at the time you were Governor of the State, the State also did a great job and really set us up from the way the system operates in a way it should, which is supporting those State-led efforts and those locally led efforts.

Senator Lankford—I know you and have had conversations. When I met with him individually, he brought up the debris issue, and I cannot speak on how the Corps or how they go about their contracting. What I do know is the Corps of Engineers is a great partner for FEMA. They get the lion's share of our mission assignments when we do that.

So as far as how we can ensure that our local governments are doing what we ask them to do, which is pre-event contracts, one aspect of that is we need to look at how we assign the Corps to do debris. I know FEMA gets pressure from all sides when we do an operation. We get it from the oversight, which we need it. We get it from the Governors, which we need it. And we get it from our citizens, which is most important who we need to listen to.

The pressure sometimes to do a Corps mission assignment for debris is requested by a State, and that debris mission, the reimbursement does not go through our public assistance program. So to a mayor or a county commissioner or to State government, they do not have to go through some of the complexities of public assistance to get the reimbursement. It is all done on the Federal dollar, and then a cost share is then set to the State to reconcile the billing.

Now, the purpose of the Corps' mission assignment, if you look at it, it is to do those things that the State and local government do not have the capability to do. And a lot of times, mission assignments cover a lot of different areas, for example, the food, the meal ready to eat (MREs), the water, the fuel deliveries, the urban

search and rescue (USAR) teams that we deploy into our local and State governments, all necessary to save lives. They are done, they are managed at the Federal level. The logistics is done at the Federal level. Debris is part of that.

There are certain situations where I feel the Corps of Engineers or a local or State would not have the capability to do debris. An example would be specifically in your State very recently, Mexico Beach, very heavily construction debris, not the typical wood debris. I look back at even Hurricane Andrew down in Homestead, a lot of home debris, technical debris. What we are doing in Paradise, California, as we speak, very hazardous debris.

So it takes a specialty. It takes a certain different way of doing debris than just—and I say “just” lightly, but then picking up the vegetative debris and so forth.

So one area, as I was in a discussion with Senator Lankford, was that FEMA needs to maybe say no to the mission assignments, because if a State or local has a pre-event contract, that should be an indication that they have the capability to do the work. But you are exactly right. We met in Florida. I know it all too well. You have X dollars, pre-negotiated, ready to go. Another company that is contracted by a Federal entity in the Corps has a considerably higher debris rate. It is business. Those companies want to get on the higher debris rate, and it caused problems down range. It delayed housing. It delayed services that we needed to get to Floridians in the time of need.

I will be happy, if confirmed, to work with anybody on how we level that, but, again, I would ask that we look at the pressure that will come from a Governor when FEMA says no. It can be intense at times, but that would be my role as the Administrator to explain you have the capability to do that and you have a pre-event contract, let us initiate the contracts for speed of delivery.

Senator SCOTT. Why is there a different reimbursement rate? Not just price but the percentage. Why would there be—because my understanding, the pitch to me was, “Turn it over to the Corps because you immediately go to 90 percent just like that, and you do not have to worry.” In Hurricane Irma, the Feds deal with 75 percent unless we got to a certain level.

Mr. BYARD. Right.

Senator SCOTT. But, immediately, if I turn it over to the Corps, I got to 90 percent. Why would we do that? Why would the Federal Government do it that way?

Mr. BYARD. So, Senator, when we talk about mission assignments as a whole, we do not look at the differences of a USAR team versus a debris contract. That is done when the President authorized an increase cost share like that, early on in a disaster. It is really done to take that burden off a State and to take that decisionmaking off a State. So you will see language of a 90-percent cost share for direct Federal assistance missions, and there, again, that is—I do not want to say a “loophole,” but that is an area where we need to look at, because debris under the Corps falls under direct Federal assistance mission. But we do not want a Governor worrying about dollars if he or she needs a USAR team or food, water, and commodities.

Now, it equals out in the end, as it has in Florida. They are all 90–10 whether you went with the Corps or whether you went private contractors over time. But that is an area, as the third goal in our strategic plan, that is a complexity that we have to address. So, again, I think working not only with the Committee, if confirmed, but, sitting down with the National Governors Association and saying, “Hey, how do we get you what you need but also understand that we have to be good stewards of the taxpayer dollars on other ends?” And if you have a debris contract, we should expect you to enact that debris contract before you request the Federal Government come in and do that for you.

Senator SCOTT. Thank you.

Mr. BYARD. Yes, sir.

Chairman JOHNSON. Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thanks again to all of you and to your family members who have joined you, in person or by remote sources.

I want to start off, if I could, with a question for Mr. Edgar. I used to be State treasurer for Delaware. I was State treasurer when we had the worst credit rating. We had the worst credit rating my first month as State treasurer. I do not know if it was because I was the State treasurer or not, but that is the way we started off. And Pete du Pont was our Governor, great Governor, and 6 years later we got a AA. About 15 or 16 years later, we had AAA and still have it. So we are very proud of that.

But one of the things I have done as a Member of this Committee is to work with leaders of departments to make sure that they are working closely with the Government Accountability Office (GAO) in order to, among other things, earn clean opinions in terms of the way their finances are being run.

But at DHS, there was a gal who used to be the Deputy Secretary under Janet Napolitano, Jane Holl Lute. Jane Holl Lute was Deputy Secretary about 10 years ago. She used to go to meet with the person who ran GAO every month and say, “What do I have to do to get off”—Gene Dodaro, “What do I have to do to get off your list of problem agencies?” And finally they got a clean audit. We are trying to get the Department of Defense (DOD) to get a clean audit, all the different pieces of that.

But now DHS has been issued a clean audit for their financials for a number of years, including by independent auditors. If confirmed as CFO, how do you plan to maintain a clean audit opinion for DHS?

Mr. EDGAR. Thank you, Senator, for the question.

Senator CARPER. You are welcome.

Mr. EDGAR. Although I am not with the Department at this point, I did a lot of research and evaluated—it and it seems that the Office of the CFO, even though there has not been a CFO there, has done a good job of coordinating with GAO and the IG and making sure that all of the items that get identified and evaluated through the audits are taken care of.

If you look a little bit deeper, the one area of opportunity is in the internal controls. A big issue there with the internal controls is the weaknesses potentially in the financial reporting. I think

that with my background I would be able to go through and focus on that. That has been a project that has been out there and has been dependent on replacing the financial management systems. You see a lot of the audits that point to that as being one of the areas of remediation. So, I hope to be able to jump in there and help out, if confirmed.

Senator CARPER. There is a fellow who works at the Department named Chip Fulghum. I do not know if you know him. He now I think serves as the Acting Under Secretary for Management, a guy that has been around for a while, very knowledgeable. I would urge you to talk to him.

Mr. EDGAR. OK, great. Thank you, Senator.

Senator CARPER. I have a question for Mr. John Barger. How are you, sir? A question about health care for postal employees and more particularly for their retirees. I think my next to the last year I was Governor, I was talking about trying to get better credit ratings from the rating agencies, and the year that we went to AAA—I think it was 1999. We earned AAA credit ratings from all the agencies, major agencies. And they said to us, “We are going to award you AAA credit ratings, but you still have liabilities that you have not recognized, and you are not beginning to set money aside.” And we said, “Well, what is that?” And they said, “You have a pension fund fully funded for your retirees, but you have not set aside any money to meet the liability of health care for your present and future retirees.” And we said, “Well, have other States done that?” “Well, no.” “Have other cities and counties done that?” “No, not really.” “How about big companies?” “No. But they have the liability.”

So it is a real liability, and it is a real liability for the Postal Service. The Postal Service began in about 2007 to set aside money to meet what was about a \$100 billion liability, and they have set aside, I think, over the years maybe \$50 billion, about half of that, to meet that liability. And given the drop in First-Class Mail, which is how the Postal Service makes their money, a terrific drop in First-Class Mail because a lot of stuff moved to the Internet, as you know, and electronic mail, they have had a hard time meeting what was really an accelerated payment plan to meet this health care liability for their pensioners.

In any event, have you ever heard of, are you at all familiar with this issue? Is this something you have heard anything about?

Mr. BARGER. I have heard about it, Senator, yes.

Senator CARPER. There have been a number of proposals made to address, help address the Postal Service’s health care. One of those is Medicare integration, something that every large company of any consequence does, if they offer health care help for the pensioners, they integrate it with Medicare so that Medicare—their retirees sign up for Medicare Part A, Part B, and Part D. And then the company provides some kind of wrap-around plan. But the Postal Service is not allowed to do that, and it is unfair. They actually pay more into Medicare than their competitors, which is not a fair thing.

So I would just ask you to keep an eye on this. If you are confirmed, we will want to talk to you some more.

Mr. BARGER. I would be pleased to. These are some of the most difficult issues not only for the Postal Service, but we grappled with those in California, also. We will definitely be looking at that and studying it.

Senator CARPER. Thank you.

An immigration question for Mr. Wolf. Which of you is a former Marine?

Mr. WOLF. That was Mr. Byard.

Mr. BYARD. Senator, that was me.

Senator CARPER. OK, good. Thank you. Navy salutes Marines. Other military?

Mr. EDGAR. Navy.

Senator CARPER. Navy, good. But, Mr. Wolf, when people ask me what kind of Democrat I am, I say I am one who believes in strong border security. I also believe in the Golden Rule: Treat other people the way we want to be treated. I believe in Matthew 25, "When I was a stranger in your land, did you welcome me?"

But migrants now arriving at our Southern Border are some of the world's most vulnerable people. The Chairman and I talked about this in a forum earlier today. They have in many cases undertaken a dangerous journey, as you know, in search for a better life here. The last couple of months we have seen the numbers just surge. Part of the reason is drought and economic conditions, particularly in Guatemala and Honduras. Worse, smugglers work overtime to capitalize on their misery. There have been incredible, unbelievable bad election activities that are going on in Guatemala even today. Some of the best, most qualified, honest people are not going to be allowed to run for President of that country. They are actually kept out of the country. In Honduras, we have seen very concerning assertions going around about the President of the country and that President's family.

But to you, the Department of Homeland Security occupies a key role in enforcing our immigration laws and sharing intelligence with our partners and neighbors in Mexico and Central America, interdicting drugs and illicit goods and so on. As Chief of Staff, I think you were present at some of DHS' darkest moments, including the zero tolerance policy that led to family separation last year at our Southern Borders and the decision to end Temporary Protected Status for Haiti and El Salvador.

Do you believe that these decisions were constructive to reducing irregular migration to the U.S. Southern Border? That is my question. Do you believe those decisions were constructive to reducing irregular migration to the U.S. Southern Border?

Mr. WOLF. Senator, thank you for the question.

Senator CARPER. Sure.

Mr. WOLF. To the earlier point, when we talk about both push and pull factors, I certainly agree with you regarding understanding the environment in Central America, and both myself and the Acting Secretary, who just made a recent trip to the Northern Triangle, are focused on what are the push factors and then what are the pull factors.

Senator CARPER. Right.

Mr. WOLF. So I think you have to address both. You cannot do one and not the other. So we are certainly focused on that. There

are certain reforms that we are talking to Members of this Committee and others here in Congress about: new authorities, supplemental dollars to address the crisis, the overwhelming crisis on the Southern Border.

When we talk about both temporary protected status (TPS) and zero tolerance, we talk about following the law, looking at the law, what the law states, and then enforcing that. So, again, as Chief of Staff my job was to make sure that the Secretary had all the experts in the room. When we talk about TPS, to making sure that she had the current conditions from the State Department, but also talked to her experts at USCIS, and then, of course, made the decision that she did.

The same as I mentioned earlier—I am not sure if you were here—the same on zero tolerance. As we looked at the Executive Order from the President and the AG’s determination on the policy forward, how do we operationalize that? So making sure that our law enforcement officers on the Southern Border could do just that.

Senator CARPER. Alright. Thank you.

Chairman JOHNSON. Senator Hawley.

OPENING STATEMENT OF SENATOR HAWLEY

Senator HAWLEY. Thank you, Mr. Chairman. And congratulations to each of you on your nomination.

Mr. Byard, let me start with you. I enjoyed our conversation, yesterday I guess it was. We talked about the fact that my home State is suffering from very significant flooding as well as other significant natural disasters—tornado disasters most recently. But let me just focus on the flooding for a moment because 30 communities—actually over 30 communities in Missouri are currently suffering from significant flooding, but without any individual assistance. And I am concerned about this, and I am concerned about decisions that may have been made at FEMA that are preventing that individual assistance from flowing. So let me just get some of these facts on the record because I think this is important.

From March 11th to April 16th, communities in my State—in the northwest, in particular—were hit with terrible floods. Those water levels began to abate on April 17. But then on April 29, the waters rose again, and they have stayed high ever since. So many families that were forced to evacuate their farms, their homes, etc., have never been able to get back in. The water never went down sufficiently enough for them to actually go back to their homes. And yet FEMA has, at least thus far, not been willing to award or recommend any individual assistance.

Now, I do understand that a lot of these homes are inaccessible because of the floods, and I understand that FEMA is now working with the State’s Emergency Management Agency to conduct aerial assessments, aerial damage assessments, which we talked about, across Missouri. But I just want to be sure that no family that needs relief is denied it because of a decision that FEMA may have made.

I am particularly concerned about the fact that FEMA appears to be treating, appears to be saying that these families are victims of two separate flooding events rather than one continuous event

and that is why they are perhaps ineligible, according to FEMA, for individual assistance.

So with all of that in mind, as you know, I have joined a letter with my colleagues in the Missouri delegation asking the Administration to please provide individual assistance to families in Andrew, Atchison, Buchanan, Holt, and Platte counties. And what I would like to get from you is your commitment that, if and when you are confirmed, I will have your partnership in working toward a resolution on this situation and then trying to get individual assistance flowing to the people of Missouri who are struggling in this really difficult time.

Mr. BYARD. Senator, you and every Member of this Committee and every Governor in our country, if confirmed, will have my commitment that FEMA will always do what we can. There are certain criteria that are looked at in any storm, and there are certain areas where States have good capabilities to provide resources where FEMA is not the end answer of that.

In the case of Missouri, it is very devastating. This is historic flooding we are seeing throughout the middle of our country, as you well know, and then to get hit very soon after that with tornadoes.

As we discussed yesterday, there are FEMA teams currently on the ground. On the original Governor's submission, all the damage was not captured, and that is very important. That is a very fundamental necessity in emergency management, is to make sure that damage is captured. There are homes that are not accessible, and that happens in floods. I am not saying that that is specific to Missouri. That happens in floods.

But as you know, we have teams on the ground now. We have great communications with the Governor. The Governor has appealed that decision, and we look forward to processing that in a very expedited manner. But the State wants to make sure that they get all the damage captured in this appeal. So, yes, you have that commitment.

Senator HAWLEY. Great. Thank you for that, and thank you for the work you are doing in helping to get those damage assessments, and I look forward to working with you to get the assistance that the families in my State need and get it flowing, so thank you for that.

Mr. Wolf, let me turn to you. A number of my colleagues have mentioned today children and the border. I am glad they did. I want to ask you about the plight of children on the border. Are you familiar with the existence of child smuggling rings on the Southern Border?

Mr. WOLF. I am.

Senator HAWLEY. Tell us about what these rings are doing and how they are using children in order to pad the profits of the cartels and of human smugglers using children as human shields. Can you tell us what that is about?

Mr. WOLF. So we see that in two different ways. Again, both from the experience of CBP as well our ICE Homeland Security Investigations (HSI). It would be children being smuggled up, so being paired with an adult of some kind who is not their family member, is not a legal guardian to be their family member, as a way to get into the country as they cross the Southwest Border. We

also talk about child recycling rings, and, this is extremely disturbing, as we have seen case after case of children, the same child coming across the Southwest Border again with an adult who is not their family member being recycled. They get passed off, and they get sent back to different parts of Central America, and we see the same child recycled time and time again. So we see it in a couple of different ways, the latter being probably the most disturbing.

Senator HAWLEY. The Acting Secretary testified yesterday about children being rented, actually rented. I think it was \$89 to rent a child and to take this child across the very dangerous border crossing in order to try and claim asylum or otherwise get into the country. Are you familiar with that as well?

Mr. WOLF. I am familiar with that as well.

Senator HAWLEY. Is it safe to say that we have a serious humanitarian crisis on our Southern Border, a humanitarian crisis that is putting the lives and safety of children at very extreme risk? Is that fair to say?

Mr. WOLF. I would even go a step further, Senator. It is an unprecedented crisis, and it is straining the resources of the Department in the very worst way.

Senator HAWLEY. Is it fair to say that every day that this Congress refuses to act, the lives of children are further endangered and the crisis grows worse? Is that fair to say?

Mr. WOLF. I would agree with that. We have engaged Congress both from a funding standpoint in a supplemental request that would look at transportation needs on the Southwest Border, humanitarian needs as well as engaged Congress on different authorities needed to address the crisis on the border.

Senator HAWLEY. It just seems to me that everybody should be concerned about the plight of children on the Southern Border. Everybody should be concerned about the exploitation of children by drug cartels, by human smuggling rings, in order to pad the profits of criminal enterprises. And everybody who cares about children should have a real sense of urgency in doing something, fixing this problem at the Southern Border. That means this Congress needs to act.

Mr. WOLF. I would agree, Senator, and what we are concerned with at the Department are a lot of things, but we have over 10,000 unaccompanied alien children (UAC) every day that arrive at the border, and caring for them is becoming a huge challenge for CBP officers. We continue to do that because that is our mission, but we do need help from the Congress.

Senator HAWLEY. Thank you.

Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you, Senator Hawley. By the way, I appreciate your raising that point. When I was down on the border a couple weeks ago with Senator Hassan and Senator Peters, one of the stories we heard was about a 3-year-old little boy abandoned in a hot field in Texas. The phony parent just abandoned the child. I guess they had the integrity to jot a phone number on his sandal.

I think initial indications, too, from some initial studies are that about 25 percent to a third of the families are potentially fraudulent. So this is a huge problem, and I appreciate your raising that issue.

Senator Portman.

OPENING STATEMENT OF SENATOR PORTMAN

Senator PORTMAN. It has been a long hearing, I know, Mr. Chairman.

First, thanks to each of you for your willingness to step up and to serve, and some of you are stepping into some really tough jobs. I know, Mr. Wolf, you have already been there, but it is getting tougher. And you say unprecedented in terms of the crisis. Just to put a finer point on it, we have had huge numbers of people come over the border before. They tended to be single men. They tended to be from Mexico. But we have never had a situation where we have had so many children and families coming over the border, and we have never had the asylum process be misused in this way.

So we have in Ohio a strong interest in this, as all Americans do, because of the children and the human trafficking, but also because of the drugs that are coming over. And, specifically, crystal meth is our new concern in Ohio. We are finally getting the opioid crisis somewhat under control, although we have a long way to go, but at least we have seen some progress for the first time in 8 years. Now directly from Mexico, pure crystal meth is coming in and, in essence, creating an even more difficult problem for some of our law enforcement, and that is a psychostimulant as opposed to opioids, which is causing great harm.

So part of the challenge we have is: How do you get people back on the border protecting our border from the drugs coming across? And the funding we have provided has been helpful, but not if the personnel are dealing with the humanitarian crisis. I hope we can pass the supplemental to provide some help on the humanitarian side quickly.

Mr. Byard, you are being nominated for another really important job, FEMA. It seems like they never end. There is a disaster every couple of weeks, it seems like, and my home State of Ohio got hit hard recently. As you know, we had flooding in Southern Ohio a couple of months ago. Now we have had these hurricanes that touched down. We had 21 recorded tornadoes touched down throughout the State. Twenty-one tornadoes, all in the space of one night, one evening from about 10 p.m. until about 1 a.m. I was there in the vicinity, about 20 miles away from where some of them touched down, so I was right there the next morning, and I saw the damage firsthand and met with the first responders and thanked them, met with the residents, went to a shelter, took food and water. The damage is unbelievable. You look at the numbers, and you will not see the deaths that you would expect from such a disaster. It is a miracle. And thank God it happened at night when people were not at the shopping malls because there were shopping malls that were totally destroyed. People would have been killed by the dozens.

But we do have incredible damage, and as you know, perhaps, Governor DeWine has recently made a request for a national disaster. I am strongly supporting that. I have sent a letter in support of it.

My question to you today is: Do you commit, should you be confirmed, to responding quickly to these kinds of requests so people can begin to rebuild their lives?

Mr. BYARD. Senator, I do. Thank you for the question. Thank you for the comment. 21 tornadoes in one night, that is devastating destruction, no matter what State it is. The way I approach that is I am asked a lot, "what is the worst disaster you have seen?" And I have seen, unfortunately, or fortunately, as an emergency manager, I have seen a lot of disasters. It is the one that I am sitting in the living room and everything the family owns is destroyed. It is their worst disaster.

So we get caught up in numbers a lot. We get caught up in unprecedented and then it is there. But what Ohio saw, and the citizens of Ohio, is devastating to them.

There is nothing that we look at, there is nothing from a FEMA standpoint that we do not actually have—we have units set up to address when a declaration comes in. We have teams on the ground, as you know, with Ohio now. But, we do—and, yes, I will commit to very expeditiously processing disaster declarations from Governors.

Senator PORTMAN. Thank you. We need to help quickly. The small businesses and individuals that are impacted are hurting, and communities respond. It has been incredible. But we have to have some help, and we need it now.

Mr. BYARD. Yes, sir.

Senator PORTMAN. Another program that you would have responsibility for, should you be confirmed, will be the Nonprofit Security Grant Program. This is really important. Mr. Wolf was talking earlier about the increase in the domestic threat, and, in particular, there is a domestic threat on a number of our nonprofits and faith-based organizations. This is a grant program that is meant to help them, provide them with some of the best practices and advice and counsel, but also provide them with some hardening for their facilities.

I have heard a lot from the Jewish community in Ohio and been to some of the synagogues and community centers and schools that have been affected with graffiti and a lot of death threats, bombing threats. They depend on this grant program to be able to secure those facilities and to train the employees. I am very pleased to see that security personnel can now be used with Federal grant money to contract with security personnel.

It is a carveout in our annual appropriations bill. It is not established as a separate program. It is not authorized. So I have introduced legislation, along with Gary Peters—the real Gary Peters who just arrived—of this Committee—I will tell you about that later—to try to be sure that we can actually authorize this program and have some certainty about it.

So we would appreciate your support on that. We have authorized it at 75 million bucks a year. That is 15 million bucks more than is now being appropriated. The reason is it is not going to our smaller communities, many of whom need it badly.

So my question for you today and for Mr. Wolf as well: Will you support this vitally important program and commit to help us to get it actually into law, into statute?

Mr. BYARD. Senator, again, a good question. Currently the grants within FEMA reside in the Resilience Directorate, which is not currently under my portfolio, if you will, but I do believe it has been a recipient of Federal preparedness grants of various nature. I do believe in the importance of them, and I would be happy to work with you, if confirmed, to better that program.

Senator PORTMAN. Mr. Wolf.

Mr. WOLF. From a policy perspective, Senator, there is great benefit both in the Nonprofit Security Grant Program as well as the grant program that is run out of the Policy Office when we talk about terrorism prevention. So from a policy perspective, there are many benefits to supporting that in the long term.

Senator PORTMAN. Thank you. This is the Nonprofit Security Grant Program, and, again, it is one that is working, and we want to get it into statute to make sure that there is some certainty for it.

Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you, Senator Portman.

Now we will turn it over to the real Senator Peters.

Senator PETERS. Thank you, Mr. Chairman.

Mr. Wolf, as you know, Michigan is home to a number of very diverse communities, and, unfortunately, some members of these communities, when they travel, they are frequently subjected to secondary screenings on a regular basis, which can be lengthy and intrusive. So my question to you is: What would you say to a Michigander who travels frequently for business or just to see family and who already has a redress number, but they are still regularly subjected to secondary screenings without explanation or any path toward resolution?

Mr. WOLF. So they have certainly taken the right first step, which is to go through the DHS redress process.

Senator PETERS. And they have that.

Mr. WOLF. As long as they provide that number each and every time when they fly, they increase their chances of not being screened, secondary screened.

Now, getting screened, in that secondary process, there are many different factors that lead to that—travel patterns, the way you buy your ticket, any number of reasons. However, if they have a redress number and use it when they fly, should take care of 95 or 96 percent of their issue. So if they continue to have the redress number, use it when they fly, and are still getting secondary screened time and time again that is concerning to me. That should not be occurring. So if confirmed, I am happy to take a look at that and understand if there is a large systemic problem in the system.

Senator PETERS. Well, I appreciate that because I am hearing this constantly from folks that are having that issue, and we have to—obviously, safety and security of the country, all that is important, but the way this is being implemented is raising lots of concerns for good, law-abiding Americans, and we want to make sure we are doing this correctly. So I appreciate your willingness to work with that.

TSA and CBP have told me that they do not keep any data on wait times for passengers pulled aside for secondary screenings and inspections. They also do not keep data on how long these sec-

ondary screenings take or the number of secondary screenings that a specific individual has to undergo. I will acknowledge that there are operational reasons. Data collection can be difficult, without question. But this seems to present some serious challenges to developing and implementing some departmentwide policies that you will be involved that affect travelers.

So my question is: Do you think that it is important for the DHS to build a more robust data environment around these issues to improve oversight and accountability? And a follow up question to that: With your background at TSA, how would you recommend us doing that?

Mr. WOLF. So I would say yes to the first question. Across the Department, we need better data systems. We need components talking to one another so that they provide information to policy-makers like myself that present options to senior leadership.

From a TSA perspective, of course, they produce wait times on the normal checkpoint process. I am unaware that they produce wait times on secondary screening. I am happy, if confirmed, to look into and talk with TSA officials to understand what would be the issues of collecting that information. If it is a resource issue, or manpower issue or if it is more of a security concern that they have I have not had those discussions with them to date, but am happy to follow up on that.

Senator PETERS. I appreciate that. Thank you.

Mr. Edgar, in your response to prehearing questions, you said that Global Conductor Inc. (GCI), that you "always ensure that any whistleblower does not face retaliation in accordance with all applicable laws." Do you stand by that?

Mr. EDGAR. I do. Thank you, sir.

Senator PETERS. Do you value the role that whistleblowers play in the public as well as in the private sector?

Mr. EDGAR. Yes, I do.

Senator PETERS. If employees and contractors of your companies have information that bears on your qualification for office, do you think they should share that information with this Committee?

Mr. EDGAR. Yes.

Senator PETERS. I assume, then, that you would agree that any nondisclosure agreements that are signed by employees or contractors with your companies do not prohibit them from sharing relevant information with this Committee?

Mr. EDGAR. Senator, I just would like to get a little bit of a better idea of the kind of the direction of this. I think the short answer is that you guys should have all the information you need to make a good decision on me, so I am open to that. I would also say that, if this is information not provided through this process, it would be fair to me to be able to have a better understanding of what it might be.

Senator PETERS. Well, if there are employees that have information that we want to get from them but they feel that they have a nondisclosure agreement that prevents them, would you be willing to still allow them to communicate with us?

Mr. EDGAR. I would be open to that. I would have to see what the issues are. The specifics are that we have a lot of agreements with clients, Fortune 500 clients, where we are not allowed to dis-

close information about them. So it is a situation that could put the corporation that I own into a situation. So I think that is one of the reasons why we have that.

Senator PETERS. You have also disclosed, as you were obliged, that GCI was sued civilly in an employment matter and that arbitration is ongoing. Would you commit to working with the Committee in advance of any vote on your nomination to provide relevant information related to this or any other allegations and address any concerns that come up as a result of that?

Mr. EDGAR. Yes, sir.

Senator PETERS. Great. Thank you so much.

Mr. EDGAR. Thank you.

Chairman JOHNSON. As usual, my colleagues have asked a good set of questions here, so let me just close this out. I will go down, starting with you, Mr. Bungard. I know in testimony you have provided some of this information, but just for clarity and to have it on the record, if confirmed for your position, what would be your top priority?

Mr. BUNGARD. Thank you for the question, Chairman. I think the biggest challenge facing MSPB currently is the backlog. So without having a quorum for a very long time, if confirmed, I would work with the Chairman and the other Board member to reduce that backlog as quickly as possible while ensuring quality of the decisions.

Chairman JOHNSON. Thank you, Mr. Bungard. Mr. Barger.

Mr. BARGER. Thank you, Senator. The Postal Service has a universal service obligation, which is historical and still very, very relevant and important to our country. Trying to figure out how best to meet that obligation and also balance that against the costs and the revenue of the system and try to determine the best, most viable economic model for the Postal Service so that, again, we preserve the universal service obligation but at the same time we have something that is economically viable and does not overburden the taxpayers.

Chairman JOHNSON. Thank you, Mr. Barger. Mr. Edgar.

Mr. EDGAR. I think the biggest challenge right now is if you look at the DHS budget of over \$90 billion, there is a tremendous amount of money. You heard today a lot of the operational issues on the ground are changing in real time. Budgets are made 2 to 3 years ago, and then we come across these issues, and we have to kind of take a look at the reprogramming.

I think at this time in history it would be really important to have a Chief Financial Officer that would help with the Office of the CFO to do the coordination both with the operators and with the White House and senior staff within DHS.

I would also say that, again, as I shared with Senator Carper, as an outsider looking in at DHS, they must focus on controls. The clean audit that this organization has accomplished has been really good to be able to have completed. What is left of the financial controls and the weaknesses in the controls that potentially affect the financial reporting of a \$90 billion agency would seem to be a big priority. Given my background in financial management system implementations for some of the largest Fortune 500 companies, I

think I could really jump in and help and try to get those back on track. Thank you.

Chairman JOHNSON. Thank you. Mr. Byard.

Mr. BYARD. Thank you, Mr. Chairman. A top priority would be to address the needs of our disaster workforce. We have to continue to build our workforce, predominantly on the recovery end of that, to just sustain the historic past two seasons and the recovery we had. We have 61,000 project work sheets in the works now, individual project work sheets. That is a tremendous workload. If confirmed, I would like to see the Agency ensure that we do more to recruit, retain, and promote those areas of underrepresented populations within emergency management. I think that you have to have a diverse workforce. The Agency has to be representative of the community in which we serve, and that would be my priority for the workforce.

Chairman JOHNSON. I appreciate your pointing out the workforce. I think many Members of the Committee have seen firsthand, during these disasters, just the 24 hours, 7 days a week type of nature of this, the volunteers coming from around the Federal Government, quite honestly, to kind of help man the stations. Again, we truly appreciate the work the men and women of FEMA do, but also, quite honestly, the Department of Homeland Security on the border. We were just down there. The growing crisis is overwhelming the system, but we do see the compassion and care that the men and women of the Border Patrol and ICE are demonstrating as they try and grapple with that.

Mr. Wolf, what would be your top priority?

Mr. WOLF. Well, thank you for those comments about the men and women of DHS. My top priorities are to continue to respond to the crisis on the Southwest Border. It is "all hands on deck," as the Acting Secretary has said. Updating and rationalizing our immigration system I think is badly needed. To address the growing threat of domestic terrorism is a high priority that I also have, as well as to institutionalize some of the cyber efforts across the Department. We have CISA, but we have other equities in the Department that also have cyber issues, from U.S. Coast Guard (USCG) to TSA and others, so making sure that we institutionalize and look at that threat and vulnerability across the Department is also high on my list.

Chairman JOHNSON. You just listed the top priorities of this Committee, oddly enough.

Well, again, I really want to thank all the nominees for your past service and for your willingness to serve in the future. Again, thank your families. These are important responsibilities that take a lot of time. They will take a lot of time from the families. We really are aware of the fact that this is a family act of service and sacrifice. So thank you very much.

The nominees have made financial disclosures and provided responses to biographical and pre-hearing questions¹ submitted by the Committee.² Without objection, this information will be made

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

² The information for Mr. Byard appears in the Appendix on page 119.

a part of the hearing record¹ with the exception of financial data,² which is on file and available for public inspection in the Committee offices.³

The hearing record will remain open until 5 p.m. tomorrow, June 13, for submission of statements and questions for the record.

This hearing is adjourned.

[Whereupon, at 5:06 p.m., the Committee was adjourned.]

¹The information for Mr. Edgar appears in the Appendix on page 196.

²The information for Mr. Barger appears in the Appendix on page 250.

³The information for Mr. Bungard appears in the Appendix on page 311.

A P P E N D I X

Opening Statement of Chairman Ron Johnson

Nominations Hearing to Consider Chad Wolf to be Under Secretary for Strategy, Policy, and Plans, Department of Homeland Security; Jeff Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy Edgar to be Chief Financial Officer (CFO), Department of Homeland Security; John Barger to be a Governor of the United States Postal Service; and Chad Bungard to be a Member and Vice Chairman of the Merit Systems Protection Board.

June 12, 2019

As prepared for delivery:

Today, the Committee will consider five well-qualified nominees who have been selected to serve in critical leadership positions across the federal government.

Under Secretary for Strategy, Policy, and Plans, DHS

The Under Secretary for Strategy, Policy, and Plans assists in development, coordination, and implementation of Department-wide policy and programs related to border security, counter-terrorism, and cybersecurity, among others. The Policy Office is also in charge of issuing the Quadrennial Homeland Security Review, a congressionally-mandated outlook of the Department's long-term strategy and priorities in securing the homeland. The Under Secretary is also responsible for leading the Department's efforts in international affairs and engagements.

Administrator, Federal Emergency Management Agency, Department of Homeland Security

The FEMA Administrator is the President's and Secretary of Homeland Security's principal advisor 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.

Chief Financial Officer, DHS

The Chief Financial Officer is the lead financial manager of DHS. The position is tasked with providing guidance and oversight of the DHS budget request, resource management, grant awards, and financial operations at the component level. DHS has been without a Senate-confirmed Chief Financial Officer since January 2017.

Governor, United States Postal Service Board of Governors

The Postal Service's Board of Governors is similar to the board of directors of a private company's board of directors. It oversees the operational and financial decisions of the Postal Service, but also represents the public interest—ensuring that the Postal Service continues to meet its obligations to its customers and the American people.

The Board should consist of nine Senate-confirmed Governors. But due to the dysfunction in Washington, D.C., the Board has gone without a quorum—a minimum of four Senate-confirmed Governors—since 2014. The Board did not have any Senate-confirmed Governors between December 2016 and August 2018, when this Committee worked to confirm Mr. Robert Duncan and Mr. David Williams. They were the first new Governors confirmed since 2010. While progress has been made, the Board still lacks a quorum.

Member, Merit Systems Protection Board

The Board hears and adjudicates federal employee appeals and also conducts research and issues reports on various issues related to the federal workforce. Since January 2017, the Board has been without a quorum to adjudicate appeals, and the Board has been without any Senate-confirmed members since March of this year.

This Committee has already voted on two nominees to the Board, Mr. Dennis Kirk to be Chairman and Ms. Julia Clark to be a Member, back in February. I am pleased the White House worked to expeditiously submit a third nomination.

Chad Wolf

Mr. Chad Wolf was nominated by the President to be Under Secretary for Strategy, Policy, and Plans. He has been serving as the Senior Official Performing the Duties of the Under Secretary since February 2019. Mr. Wolf has extensive homeland security policy experience gained through serving in various senior leadership positions throughout the Department. For instance, Mr. Wolf helped stand up the Transportation Security Administration and later became Chief of Staff to the Administrator. After working in the private sector on aviation and homeland security policy, he became Chief of Staff for Secretary Nielsen in 2018.

Jeff Byard

The Committee will consider Jeffrey Byard to be the next FEMA Administrator. Mr. Byard's extensive experience working in emergency management at both the state and federal level will be vital as we shift to a locally executed, state managed, and federally supported model of disaster recovery and response. If confirmed, this Committee looks forward to working with Mr. Byard and FEMA as the agency continues to implement the Disaster Recovery Reform Act that Congress passed last October.

Troy Edgar

Mr. Troy Edgar has been nominated to be the Chief Financial Officer of DHS. Mr. Edgar has spent his career in the private sector, most notably as President and CEO of Global Conductor, Inc. He also has experience working in financial management and federal contracting throughout the private sector. Mr. Edgar served in the U.S. Navy as a sonar technician. We thank you for your service to this country.

John Barger

Mr. John Barger has been nominated to be a Governor of the Postal Service's Board of Governors. Mr. Barger's career spans over 30 years of leadership in finance, entrepreneurship, and public governance. Since 2005, Mr. Barger has served as the Managing Director of NorthernCross Partners, LLC, an investment and advisory firm to small and middle market companies and private equity funds based in Los Angeles California. In addition, he currently serves on the board of NanoLumens, a visual display and technology company, and WineDirect, a supply chain and logistics company. Mr. Barger previously served as Director and Former Chairman of the Los Angeles County Employees Retirement Association (LACERA) responsible for the pensions and health care benefits of approximately 160,000 active and retired employees of Los Angeles County and approximately \$60 billion in funds.

Chad Bungard

Mr. Chad Bungard has been nominated to be Vice Chairman of the Merit Systems Protection Board. Mr. Bungard has extensive relevant experience having served as the chief legal officer in three federal entities. From 2006 to 2010, Mr. Bungard oversaw the MSPB Office of General Counsel and gained a thorough understanding of the Board's practices and procedures. He has devoted more than 20 years of his career to helping develop an efficient and effective federal workforce.

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

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Nominations of Chad F. Wolf to be Under Secretary for Strategy, Policy, and Plans, U.S.
Department of Homeland Security; Jeffrey C. Byard to be Administrator, Federal Emergency
Management Agency, U.S. Department of Homeland Security; Troy D. Edgar to be Chief
Financial Officer, U.S. Department of Homeland Security; John M. Barger to be a Governor,
U.S. Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board**

June 12, 2019

Senator Gary C. Peters, Ranking Member

Opening Statement As Prepared for Delivery

Thank you, Mr. Chairman, and thank you to all of the nominees for being here and for your willingness to serve.

Today we are considering five nominees for positions at the Department of Homeland Security (DHS), the U.S. Postal Service, and the Merit Systems Protection Board – a range of roles that truly reflects the wide-ranging jurisdiction of this Committee.

As the Committee charged with oversight of the efficiency of government operations, it is our responsibility to look across agencies and consider how well the federal government is doing its job on behalf of the American people. It is our responsibility to find out what is – and importantly, what is *not* – working. It is our duty to tell agencies, the Administration, and the President – if you can do better, you must do better. Taxpayers across the country deserve a federal government that is effective and accountable – to them.

An effective and efficient federal government requires capable, principled leaders who are committed to serving the American people. Unfortunately, throughout this Administration we have seen too many critical positions go unfilled. We have seen unprecedented levels of turnover and vacancies among cabinet-level posts. We have seen a President declare a troubling preference for “acting” officials because “it gives [him] more flexibility.”

The Constitution charges the Senate with giving Advice and Consent to the President on his choices for key positions. By carrying out this constitutional duty, we ensure that the individuals who hold the most powerful and influential positions in government are accountable – not only to the President – but to Congress and the American people.

Vacancies and acting officials are a part of every administration. However, this President has demonstrated a willingness to abandon the foundational principle of Advice and Consent – and to test the limits of his legal authority to install acting officials of his choosing.

This approach has been particularly common at DHS – where, earlier this week – the President named Ken Cuccinelli as acting head of U.S. Citizenship and Immigration Services (USCIS) – the latest exercise of presidential appointment gymnastics.

Currently, more than half -- 10 of 18 -- DHS positions requiring Senate confirmation are vacant. I am glad that we have nominees for three of those positions here today, and I appreciate that you all have

engaged with the members of this Committee and our staff as we perform the due diligence required to fulfill our constitutional responsibilities.

However, I remain concerned about the absence of permanent leadership in the highest ranks of DHS. The top three Department positions currently do not have Senate-confirmed permanent leaders – and the President has yet to name nominees to fill any of these roles. Similarly, the President has not nominated permanent leaders for two critical DHS components – USCIS and ICE.

DHS is the third largest executive agency – with a 240,000 person workforce, a budget of over \$75 billion – and the momentous responsibility to safeguard the American people. The Department cannot successfully tackle the serious challenges it currently faces without strong, steady leadership—at the top and across the components.

To the three DHS nominees – Mr. Byard, Mr. Edgar, and Mr. Wolf – each of the positions you have been nominated to is challenging in its own right. If confirmed, you may be required to carry out the responsibilities of your office in the face of significant upheaval and uncertainty. I will be listening carefully to your testimony today to determine whether you are each up to the challenge.

I urge the President to nominate qualified, dedicated leaders to fill these vacant positions – and I am committed to working with the Chairman to carry out our constitutional duty to provide advice and consent – by promptly, fairly, and thoroughly vetting any nominee before this Committee.

Turning to our other nominees – Mr. Bungard, who has been nominated to serve as Vice Chairman of the Merit Systems Protection Board (MSPB), and Mr. Barger, nominated to the U.S. Postal Service Board of Governors – thank you both for working with us throughout this process.

The MSPB is an independent, quasi-judicial agency, dedicated to upholding the merit systems principles that are at the heart of the federal civil service. This bipartisan three-seat board has been without a quorum for over a year, and has been completely vacant since March. In February, this Committee approved a bipartisan pair of nominees to the Board -- I am hopeful that after we consider your nomination today, it will not be long before we see a fully functioning three-member Board.

Similar to the MSPB, the Postal Service Board of Governors is a bipartisan body that has been stymied in recent years by extended vacancies and the absence of a quorum. We recently held a hearing to consider a bipartisan pair of nominees for the Board of Governors -- and after this Committee approved both last month, I had hoped to have a quorum restored in short order. I am disappointed that this pair of well-qualified nominees appears to be stalled as they await approval by the full Senate. This is not a partisan issue -- I believe that every member of this Committee understands the importance of confirming qualified, dedicated individuals to this Board. I hope that the Chairman will join me in urging our colleagues to support advancing this bipartisan pair for a vote on the Senate floor. Mr. Barger, I look forward to your testimony.

Thank you.

**Senator Richard Shelby Introduction for Jeffery C. Byard to be Administrator, Federal
Emergency Management Agency, U.S. Department of Homeland Security
Senate Homeland Security and Governmental Affairs Committee
June 12, 2019**

As prepared for delivery:

Mr. Chairman, thank you very much for holding this hearing. I appreciate the opportunity to appear before the Senate Homeland Security and Government Affairs Committee today to introduce Mr. Jeffrey Byard from Prattville, Alabama.

Mr. Byard has been nominated by President Trump to serve as the Administrator of the Federal Emergency Management Agency under the Department of Homeland Security.

He currently serves as the Associate Administrator for the Office of Response and Recovery (ORR) at FEMA, having stepped into the role during the height of the Agency's response to Hurricanes Harvey and Irma.

Jeff Byard is a loyal Alabamian. Prior to joining FEMA in 2017, Jeff Byard worked for the Alabama Emergency Management Agency in various roles and led multiple high-profile operations, including recovery efforts following the Deep Water Horizon Oil Spill.

He also assisted in various tornado disaster efforts in the Southeast in 2011.

Mr. Byard began his emergency management career in 2002 as the Mitigation Division Planner for Alabama's Emergency Management Agency, where he oversaw the creation and implementation of the Alabama Field Response Structure – which resulted in several improvements to the response and recovery model for the state of Alabama.

Before entering the field of emergency management, Mr. Byard earned his Bachelor's degree from Troy University, which is located in southeast Alabama. He is also a graduate of the Alabama Public Safety Leadership Academy.

Prior to earning his degree, Mr. Byard honorably served our nation in the U.S. Marine Corps from 1990-1994.

Mr. Byard's vast knowledge, experience, and dedication to protecting Americans and responding to hazards our nation may face enable him to serve at the highest caliber in this new capacity.

I believe he will use this opportunity as a way to improve our government-wide emergency relief efforts.

I support Mr. Byard's nomination to lead FEMA.

I urge my colleagues on this Committee to join me, and favorably report this nomination to the full Senate.

Statement of Chad F. Wolf

**Nominee for Under Secretary of Strategy, Policy, and Plans
U.S. Department of Homeland Security**

**Before the
U.S. Senate Committee on Homeland Security and Governmental Affairs**

June 12, 2019

Good afternoon, Chairman Johnson, Ranking Members Peters, and distinguished Members of the Committee. It is an honor to appear before you as the President's nominee to be the first Under Secretary for Strategy, Policy, and Plans at the U.S. Department of Homeland Security (DHS). I am grateful to the President, former Secretary Nielsen, and Acting Secretary McAleenan for the trust and confidence they have placed in me.

Over the past two and half years, my family has made tremendous sacrifices so that I may serve at DHS. I would like to take this time to recognize them for their ongoing support, patience, and love as I continue my journey at the Department.

Please allow me to introduce my wife of 15 years, Hope, who is my rock and without her support I would not be before you. I would also like to introduce my two sons, Tucker and Preston, who have expressed equal excitement for coming to Capitol Hill and for not attending school today. Finally, my parents, Jim and Cinda, who were unable to travel to D.C., but I know both are proudly watching today's proceedings in real time. They instilled in me a sense of service and commitment and have been tremendously supportive of my desire to pursue public service.

I would also like to thank the Members of this Committee and their staffs for the important work you do every day. While I had the privilege to meet with several of you during this process, if confirmed, I look forward to the opportunity of working closely together to advance the mission of the Department.

For me, the call to service began on 9/11 when I evacuated from the Russell Senate Office Building among hundreds of colleagues. At the time, I had no idea the events of that morning would forever shape my future. I was extremely fortunate to join the Transportation Security Administration (TSA) during its inception and its subsequent integration into DHS. During my last year of service with TSA, it was my privilege to lead the agency's policy shop – working with a dedicated staff and determined stakeholders to develop national policies, standards, and regulations governing aircraft, airport, and cargo security. Together, we made America's skies more secure.

During my time in the private sector, I assisted a number of companies by helping them understand and navigate the homeland and national security sectors. Working on public policy issues from outside the government gave me a deeper appreciation for the role of the private sector and the robust partnerships necessary to secure our homeland.

In 2017, I was fortunate to receive the opportunity to again serve with the great men and women of DHS. Over the last two and half years, I have held a number of positions, including TSA's Chief of Staff, Deputy Chief, and Chief of Staff for the Department. Through these positions, I have had a front-row seat in understanding how the Department operates, the challenges it faces, and the need for a strong and dynamic policy process that informs leadership decision making. I have also had the opportunity to develop strong working relationships with senior leadership throughout the DHS enterprise, as well as our many stakeholders within and outside of government. If confirmed, I look forward to tackling the myriad of issues facing the Department and the country with these partnerships in mind.

Most recently, I serve as the Assistant Secretary of Strategy, Plans, Analysis, and Risk and the Senior Official Performing the Duties of the Under Secretary of Strategy, Policy, and Plans (PLCY). These positions have enabled me to focus on challenges facing the Department today as well as the longer-term vision for the Department and the issues on our strategic horizon. Today, our nation faces persistent threats and a dynamic threat environment that requires a whole-of-DHS approach. The talented and dedicated staff within PLCY have an essential role in this mission, and I look forward to our continued work to safeguard the nation.

If confirmed, I commit to addressing the Department's challenges with diligence, transparency, and hard work – as I have throughout my career.

Serving alongside the 240,000 dedicated public servants that make up DHS has been the honor of my lifetime and, if confirmed, I look forward to continuing our progress of securing the homeland.

Thank you again for your consideration, and I look forward to answering your questions today.

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>
Under Secretary Office of Strategy, Policy and Plans Department of Homeland Security	February 23, 2019

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Chad	Fredrick	Wolf	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 2707 Martin Luther King Avenue, SE		
City: Alexandria	State: VA	Zip: 22302	City: Washington	State: DC	Zip: 20528

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Middle Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
N/A	N/A	N/A	N/A		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	Jackson, Mississippi

<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
Hope	Solomon	Wolf	

<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)
Hope	Marie	Solomon		X	April 1976	July 2004

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

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>
Villanova University	University	Est 2012 X	Est 2013 X	Master Certificate in Government Contract Management	2013
Naval War College	Military College	Est 2000 X	Est 2001 X	Selected courses covering National Security	N/A
Southern Methodist University	University	September 1996	December 1998	Bachelor of Arts, History	December 1998
Collin College	Community College	September 1994	May 1996	Selected courses	N/A

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, USPHS 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)
Other Federal Employment	U.S. Department of Homeland Security (DHS)/Office of Strategy, Policy, and Plans	Senior Official Performing the Duties of the Under Secretary, Office of Strategy, Policy and Plans	Washington, DC	February 2019	Present
Other Federal Employment	DHS/Office of Strategy, Policy, and Plans	Assistant Secretary for Strategy, Plans, Analysis & Risk	Washington, DC	February 2019	Present
Other Federal Employment	DHS	Chief of Staff	Washington, DC	January 2018	February 2019
Other Federal Employment	DHS	Acting Chief of Staff	Washington, DC	August 2017	December 2017
Other Federal Employment	DHS	Deputy Chief of Staff	Washington, DC	July 2017	December 2017
Other Federal Employment	DHS/Transportation Security Administration (TSA)	Chief of Staff	Washington, DC	March 2017	June 2017
Other Federal Employment	DHS/TSA	Advisor	Washington, DC	January 2017	March 2017
Non-Government Employment	Wexler Walker	Vice President & Senior Director	Washington, DC	October 2005	March 2017 (I took an unpaid leave of absence from January 2017-March 2017)
Other Federal Employment	DHS/TSA	Assistant Administrator, Transportation Security Policy	Washington, DC	September 2004	October 2005

Other Federal Employment	DHS/TSA	Deputy Assistant Administrator, Transportation Security Policy	Washington, DC	May 2004	September 2004
Other Federal Employment	DHS/TSA	Chief of Staff, Transportation Security Policy	Washington, DC	April 2002	May 2004
Other Federal Employment	U.S. Senate	Legislative Assistant	Washington, DC	January 2001	March 2002
Other Federal Employment	U.S. Senate	Deputy Legislative Assistant	Washington, DC	December 1999	December 2000
Other Federal Employment	U.S. Senate	Legislative Correspondent	Washington, DC	June 1999	December 1999
Other Federal Employment	U.S. Senate	Staff Assistant	Washington, DC	January 1999	May 1999
Non-Government Employment	Container Store	Associate	Dallas, TX	Est. X 1997	Est X 1998
Non-Government Employment	Sixth Floor Museum	Intern (paid)	Dallas, TX	Est. X June 1997	Est. X August 1997
Non-Government Employment	Abercrombie & Fitch	Associate	Dallas, TX	Est. X December 1996	Est. X May 1997
Non-Government Employment	Stonebriar Country Club	Waiter	Dallas, TX	June 1996	August 1996
Non-Government Employment	Sears	Sales Associate	Plano, TX	Est. X December 1994	Est. X December 1995

NOTE: Any breaks in employment activity from December 1994 through December 1998 are a result of employment activity associated with school and/or breaks during school.

(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)
N/A	N/A	Est <input type="checkbox"/>	Est Present <input type="checkbox"/> <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.

In connection with the nomination process, I have consulted with the U.S. Office of Government Ethics and the U.S. Department of Homeland Security's Designated Agency Ethics Official (DAEO) to identify any potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I signed and transmitted to the Department's DAEO, which 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.

During my time with Wexler | Walker, a bipartisan public policy consultancy, I advocated for a range of clients on various issues before the U.S. Congress. Most often, that engagement included educating Members of Congress and their staff as to the capabilities and/or issues confronting a specific client. From time to time, I did participate, as part of a team, to specifically advocate for and against legislation.

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.

- U.S. Secretary of Homeland Security Distinguished Service Medal (April 2019)

- U.S. Secretary of Transportation September 11th Service Medal (February 2003)
- Transportation Security Administration's "Transportation Security" Silver Medal (November 2003)
- Partial Academic Scholarship, Southern Methodist University (1996-1998)
- Golden Key National Honor Society, Southern Methodist University (1996-1998) **estimate dates*
- Two Year Academic and Athletic All-American, Collin College (1994-1996)

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>
Army Navy Country Club	2006 – Present	N/A

7. Political Activity

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

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service</u> (if applicable)
N/A	N/A	N/A	N/A

(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>
Alexandria Republican City Committee	Volunteer services – poll watcher	Oversaw voter roll integrity at Alexandria voting location	2008

(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.

In 2014, 2015, and 2016, I was an employee of Wexler | Walker, a bipartisan public policy consultancy. I contributed to the Wexler | Walker PAC each of those years through a regular deduction of my paycheck during the course of the calendar year. The amounts listed below reflect the aggregate totals for each respective calendar year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Wexler Walker PAC	\$3,450	2016
Wexler Walker PAC	\$2,200	2015
Wexler Walker PAC	\$1,600	2014

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>
N/A	N/A	N/A

(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>
N/A	N/A	N/A

(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>
N/A	N/A	N/A

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? Yes
- 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).

A) Date of offense: August 2000

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

Description of the specific nature of the offense: Expired vehicle tags in Washington, DC

B) 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: No

- 2) Firearms or explosives: No
- 3) Alcohol or drugs: No

- C) Location where the offense occurred (city, county, state, zip code, country): Washington, DC, United States

- D) 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
 - 1) Name of the law enforcement agency that arrested/cited/summoned you: DC Metropolitan Police
 - 2) Location of the law enforcement agency (city, county, state, zip code, country): Washington, DC, United States

- E) 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: No
 - 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country): N/A
 - 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: N/A

- F) If no, provide explanation: I paid a fine (\$200-\$300) and was released within hours. Washington, DC has since repealed its law that allows for the arrest of an individual for expired vehicle tags only.

- G) Were you sentenced as a result of this offense: No

- H) Provide a description of the sentence: N/A

- I) Were you sentenced to imprisonment for a term exceeding one year: N/A

- J) Were you incarcerated as a result of that sentence for not less than one year: N/A

- K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated: N/A

- L) If conviction resulted in probation or parole, provide the dates of probation or parole: N/A
- M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: N/A
- N) Provide explanation: N/A

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>
N/A	N/A	N/A	N/A	N/A

(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.

<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>
N/A	N/A	N/A	N/A	N/A

(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.

<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>
N/A	N/A	N/A	N/A

(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?

I left my job as a waiter (Stonebriar Country Club) during college when my employer and I agreed that my skill set was not that of a waiter.

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).

Yes, I was a registered federal lobbyist from 2005-2017.

I would also note that, in conjunction with TSA and DHS legal counsel, I put in place two recusal arrangements on issues that I was involved in when I departed Wexler | Walker. The first recusal was specific to TSA and aviation security equipment and the second recusal concerned my work on H1-B visa issues. Both of those recusals ran from March 2017 – March 2019.

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)
N/A	N/A	N/A	N/A	N/A	N/A

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)
N/A	N/A	N/A

16. Additional Financial Data

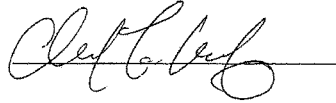
All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

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, appearing to be "Cliff C. Culp", written over a horizontal line.

This 17 day of May, 2019

UNITED STATES OFFICE OF
GOVERNMENT ETHICS

March 1, 2019

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 Chad F. Wolf, who has been nominated by President Trump for the position of Under Secretary for Strategy, Policy, and Plans, 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,

DAVID APOL

Digitally signed by DAVID
APOL
Date: 2019.03.01 17:06:07
+05'00'

David J. Apol
General Counsel

Enclosures

February  2019

Joseph B. Maher
Designated Agency Ethics Official
U.S. Department of Homeland Security
Washington, DC 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 Under Secretary for Strategy, Policy, and Plans of the U.S. Department of Homeland Security.

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 spouse is employed at the Berkeley Research Group (BRG), and she holds BRG stock. 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 BRG, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1).

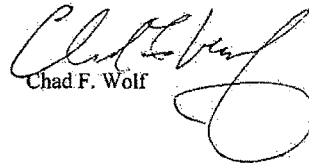
If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment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

I understand that as an appointee I must continue to abide by the Ethics Pledge (Exec. Order No. 13770) that I previously signed 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 Under Secretary 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,


Chad F. Wolf

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Chad Wolf to be
Under Secretary of Homeland Security – Office of Strategy, Policy, and Plans
Department of Homeland Security**

I. Nomination Process and Conflicts of Interest

1. Did the President give you specific reasons why he nominated you to be the next Under Secretary of Homeland Security – Office of Strategy, Policy, and Plans (PLCY) at the Department of Homeland Security (DHS or the Department)?

No—I have not had a conversation with the President regarding my nomination.

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 Under Secretary? If so, what are they, and to whom were the commitments made?

No. My only commitment, if confirmed, is that I will lead by example and with integrity while exercising my duties within the parameters of the law.

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.

In connection with the nomination process, I have consulted with the U.S. Office of Government Ethics and the U.S. Department of Homeland Security's (DHS) Designated Agency Ethics Official (DAEO) to identify any potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I signed and transmitted to the Department's DAEO.

I am not aware of any possible conflict of interest or appearance of a conflict of interest for any business relationship, dealing, or financial transaction. However, if confirmed, I will ensure that any financial interests or those imputed to me will not come before me and, if they do, I will not participate and immediately consult with Departmental ethics officials. From March 2017-March 2019, I had recusals in place for issues dealing with aviation screening equipment and H1-B visas. In an abundance of caution, I will continue to recuse myself from particular matters related to Analogic Corporation and

NASSCOM, the clients on whose behalf I worked on related to H1B and aviation screening.

II. Background of the Nominee

5. What specific background, experience, and attributes qualify you to be Under Secretary?

My homeland security subject matter expertise, leadership positions at the Department, experience leading and managing large staffs, and my experience in the private sector qualify me for the Under Secretary position. I have held a number of senior positions at the Department that provide me with a unique view into how the Department operates, the challenges it faces and the need for a strong and dynamic policy process that informs leadership decision making. I have had the opportunity to lead and participate in inter-departmental and interagency policy processes and have worked with congressional committees to ensure the Department has the resources and authorities to succeed in its mission.

Additionally, having worked at the Transportation Security Administration (TSA), I come equipped with experience working in a component, which broadened my perspective on how headquarters can properly provide needed support. At TSA, I had the privilege of heading the agency's Policy Office and subsequently serving as the Chief of Staff of the agency. Both positions provided me with the opportunity to manage large teams, work closely with Departmental leadership, construct budget requests, participate in interagency policy making and engage both private sector and state and local partners.

6. Please describe:

a. Your leadership and management style.

I lead by articulating a clear vision, setting both short and medium term goals and holding personnel accountable. I am a strong believer in setting clear expectations up front that include deliverables and timelines. I empower team members to be creative and determine alternative paths to identified issues. While I do not micromanage, I do hold personnel accountable for progress and action.

My management style is based on setting expectations and ensuring roles and responsibilities are clear from the outset. I value open communication with personnel and are always looking for smarter, more creative ways to accomplish goals and objectives.

b. Your experience managing personnel.

I have had the privilege to manage and lead large organizations in the Department at the component and headquarters level. In both instances, my responsibilities included hiring, performance evaluation, strategic oversight, daily operations, and integration of new capabilities and personnel.

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

As DHS Chief of Staff, I had the ultimate responsibility of overseeing all DHS personnel (240,000+) but directly managed 40-45 personnel in the immediate Office of the Secretary. As TSA Chief of Staff, I directly managed 30-35 employees and as TSA Assistant Administrator of Policy I directly managed 130-145 employees.

III. Role of the Under Secretary - PLCY

7. Please describe your view of the agency's core mission and the Under Secretary's role in achieving that mission.

DHS has a complex mission with broad responsibility to prevent terrorist attacks on the homeland, mitigate threats, respond to national emergencies, preserve economic security, enforce immigration laws and secure federal civilian networks.

The Under Secretary's role is to be the Secretary's primary policy advisor in developing policies, plans and procedures to fulfill these responsibilities and to achieve the strategic goals of the Department.

8. In your opinion, is PLCY currently fulfilling its responsibilities? If not, what would you do differently as Under Secretary?

Although I believe that PLCY is currently fulfilling its statutory responsibilities, there is additional work to be done in an effort to better institutionalize the role and functions of the office.

9. If confirmed, what would be the highest priority items you would focus on? What do you hope to accomplish during your tenure?

If confirmed, my highest priority would be to ensure the Department has a repeatable process to identify, develop, and adjudicate Department-wide policy decisions in a timely, integrated fashion. Major decisions at the Department are complex and require close coordination with operational components. A strong policy process is necessary to ensure such decisions are thoroughly researched, operational equities are accounted for, and thoughtful options are presented to Department leadership.

I would also seek to ensure that the office is properly organized and resourced to fully support the Department's priorities.

10. If confirmed, what steps will you take to ensure component-level involvement in the development of department-wide strategies, policies, or plans?

Policies cannot be developed in a vacuum. Ensuring that we have operational input and involvement in strategies, policies and plans is critical to fulfilling the mission of PLCY. As referenced in question #9, having early input from operational components is critical to developing successful policies and plans. Having served at TSA, I am keenly aware of the invaluable input and perspective components provide regarding operational effectiveness and viability.

11. There are a number vacancies and officials in acting positions within PLCY. If confirmed, what actions will you take ensure that PLCY's workforce is sufficiently aligned with its priorities?

At this time, all of PLCY's Assistant Secretary positions are filled as well as the vast majority of the Deputy Assistant Secretary positions. In a large office such as PLCY, there will always be some level of attrition that will need to be managed. If confirmed, one of my top priorities will be to ensure that the office is properly aligned and resourced to fulfill our responsibilities. This includes ensuring that the office has the right talent in the right positions.

IV. Policy Questions

12. Please describe your understanding of the Administration's strategic and policy priorities across the homeland security enterprise.

Overall, the strategic priorities for the homeland security enterprise include—countering terrorism and homeland security threats, securing U.S. borders and approaches, securing cyberspace and critical infrastructure, preserving and upholding the Nation's prosperity and economic security, and strengthening preparedness and resilience. Within each of these strategic areas there are a wide array of policy priorities, to include—combating terrorist recruitment and radicalization, constructing border wall systems, reforming outdated immigration laws, protecting the 2020 election, and implementing community resilience programs.

13. If confirmed, how will you ensure PLCY is positioned to engage with relevant components to develop policies to address emerging threats?

If confirmed, one of my top priorities would be to strengthening coordination with the Department's components through a more formalized and established policy process.

14. If confirmed, how would you communicate and resolve any potential areas of disagreement with the Administration's stated policy goals and priorities?

If confirmed, I would continue to build collaborative relationships with Administration officials to resolve disagreements on policy positions or the ways and means of achieving a strategic outcome. In my experience, the most successful initiatives involve routine communication, clear decision points, and collective input. These principles will guide any engagement I have with my colleagues to meet the Administration and Department's goals.

Additionally, if confirmed, I would maintain an open dialogue with Congress on areas of potential disagreement.

15. If confirmed, how will you approach the balance between the need for strong homeland security and protecting individuals' privacy, civil rights, and civil liberties when developing the Department's strategies, policies, and plans?

If confirmed, I will approach my duties with a strong belief of the importance of privacy protections, civil rights, and civil liberties. These constitutional rights are defining features of American democracy and are a fundamental consideration in all homeland security policies. I do not consider these rights to be obstacles in developing strong homeland security strategies, policies, and plans. Rather, they are foundational issues that are integral to the policy process and therefore should be accounted for from the onset.

Strategy, Plans, Analysis, and Risk

16. PLCY plays a key role in improving Departmental cohesiveness and operational effectiveness by ensuring that there is alignment between strategic objectives, budgeting, acquisition decisions, operational planning and mission execution. If confirmed, how will you ensure that the DHS continues to build and mature into a Department that is greater than the sum of its parts?

If confirmed, I would continue to ensure that PLCY, alongside MGMT, promotes the continued maturation of the Department by developing up-front guidance, such as the annual DHS Resource Planning Guidance, and overseeing implementation of this guidance through Departmental collaboration and its business and operations management processes. I will work to ensure that the Department develops and maintains a formal policy process with routine mechanisms that coordinate, develop, and implement strategies, policies, and plans by leveraging the Department's existing leadership council structure with renewed support and emphasis.

17. If confirmed, how will you engage with component-level officials to ensure that Department-wide policies, programs, and plans are implemented in a manner that strengthens our nation's homeland security?

If confirmed, I will work to strengthen PLCY's role as executive agent for the Department's senior leadership councils, including the Senior Leaders Council and the Deputies Management Action Group. In addition, I will work toward the continued

development of a formal policy process—that incorporates all relevant components—based on topic-specific policy issues. Through these governance structures, PLCY will work to advance and implement key policies, programs, and plans.

18. The *Homeland Security Act of 2002* (P.L. 107-296) requires DHS to conduct a quadrennial review of the homeland security strategy of the federal government. This review is referred to as the Quadrennial Homeland Security Review (QHSR).
 - a. The Department has released two previous QHSR reports in 2010 and in 2014. However, these reports have typically given an overview of the current security landscape instead of outlining specific strategies and priorities necessary for DHS to protect against long-term threats. Do you think that the QHSR is a useful tool for DHS and its components?

Yes—though I would point out that the Department has matured considerably since the enactment of the original QHSR requirement. Like all other federal departments and agencies, DHS produces an agency strategic plan to define the agency mission, long-term goals, and strategies. This document is consistent with interagency best practices and provides clear leadership guidance on the long-term strategy and policy priorities for the homeland security mission.

- b. As of now, DHS has not completed this review mandated by law. If confirmed, will you commit to working to release the 2018 QHSR as soon as possible?

Yes.

19. Protecting whistleblower confidentiality is of the utmost importance to this Committee.
 - a. During your career, how did you address whistleblower complaints?

During my tenure as TSA and DHS Chief of Staff, I received and was made aware of various whistleblower complaints. In all instances and on the advice and counsel of attorneys in TSA's Office of Chief Counsel (OCC) and DHS's Office of General Counsel (OGC), I ensured all complaints were forwarded to the appropriate officials in TSA OCC or DHS OGC. I believe that any illegal or unethical wrongdoing within an organization should be reported and investigated immediately.

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

I believe it is critical to foster a positive workplace culture where there is frequent communication and transparency on matters of interest and importance to the staff. This type of culture encourages employees to bring constructive suggestions forward. Since arriving in PLCY, I have made it a priority to communicate with the entire staff through in-person town-hall meetings, recurring staff meetings, and frequent employee e-mails. If confirmed, I will continue to foster this type of

workplace and adhere to the existing Department policies dealing with employee relations.

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

Yes.

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

Yes.

Border, Immigration, and Trade Policy

20. Please describe how you view PLCY's role in developing strategies, policies, and analyses across the Department's border security and immigration mission space; including but not limited to, promoting foreign investment, trade, transportation security, and lawful immigration. If confirmed, how will you ensure that any policies developed are executed in accordance with existing laws and international agreements?

PLCY ensures the development and implementation of policy decisions across the homeland security enterprise through Department-wide coordination, collaboration and communication that draws on the expertise of each operational component. If confirmed, I commit to continuing and further solidifying PLCY's seamless relationship with headquarter offices (MGMT, OGC, CRCL, Privacy) to ensure decisions are compliant with existing laws, regulations, international agreements, and management processes.

21. In February 2019, Secretary Nielson announced the Department's intent to enter into a regional compact with the Northern Triangle countries of Honduras, Guatemala and El Salvador to address the "root causes of irregular migration" at their source. What role, if any, will PLCY play in the development and execution of the forthcoming regional compact?

PLCY plays a central role in the development and execution of the forthcoming regional compact. PLCY's Office of International Affairs (OIA) has developed strong relationships with regional partners which allowed for negotiation of the compact. Once signed, PLCY's work shifted to implementing the strategic outcomes outlined in the agreement. PLCY is accomplishing this by working with components to operationalize the compact. As work progresses, PLCY will monitor the status of implementation and provides assistance as needed.

22. The National Defense Authorization Act for Fiscal Year 2017 required PLCY with validating and maintaining all immigration statistical information from Customs and

Border Protection, Immigration and Customs Enforcement, and U.S. Citizenship and Immigration Services. If confirmed, will you commit to providing consistent and reliable immigration-related data to Congress so this Committee and others can conduct proper oversight and make informed decisions regarding legislation?

If confirmed, I will provide consistent and reliable immigration-related data to Congress.

Cyber, Infrastructure and Resilience Policy

23. DHS is charged with coordinating efforts to protect Federal networks and our nation's critical infrastructure from cyber-attacks and related incidents. If confirmed, how will you work across DHS components to strengthen the Department's efforts to implement effective policies to protect and secure Federal networks and our nation's critical infrastructure against the cyber threats?

Multiple DHS entities contribute to the security of federal networks and critical infrastructure, including the Cybersecurity and Infrastructure Security Agency (CISA), U.S. Coast Guard (USCG), U.S. Secret Service (USSS), Immigration and Customs Enforcement (ICE), and TSA as well as the DHS Office of Chief Information Officer. To better coordinate these responsibilities, DHS developed the DHS Cybersecurity Strategy and implementation plan and PLCY is working with components and headquarters offices to identify and measure progress against milestones that will inform future program activities, budgeting, and resource decisions. This implementation involves routine engagement with components and the interagency. If confirmed, I will ensure PLCY continues this effort and make improvements as warranted.

24. If confirmed, what strategies and policies would you pursue to bring together the public and private sector in strengthening our nation's cybersecurity and build infrastructure resilience?

The protection of critical infrastructure from cyber and other risks is a shared responsibility that will require more than traditional notions of public-private partnership. Managing cyber risks will require more extensive collaboration with a broad range of public and private stakeholders. Although efforts throughout the Department are underway, DHS needs to improve integration and collaboration to leverage all possible opportunities to engage relevant stakeholders. PLCY is also collaborating with other DHS elements to prioritize policies that remove existing barriers to collaboration and increase information sharing.

25. The 2018 DHS Cybersecurity Strategy includes seven goals for the agency. If confirmed, what do you believe is PLCY's role in ensuring that DHS and its components achieve the goals outlined in the Strategy? What role, if any, do you anticipate PLCY playing in developing the implementation plan?

PLCY led the development of the 2018 Cybersecurity Strategy and its corresponding implementation plan and plays a critical role in coordinating component activities aligned to each goal and objective. PLCY is currently assessing ongoing efforts to implement the strategy by identifying and measuring progress against milestones that will guide component activities, budget development, and resource allocation decisions.

Threat Prevention and Security Policy

26. If confirmed, what strategies and policies would you pursue to prevent terrorism and counter homegrown violent extremism?

The Department is committed to preventing all forms of targeted violence and terrorist attacks. Homegrown Violent Extremists continue to be a high threat, but we have recently seen a rise in domestic extremist ideologies that adopt the tactics of ISIS – promoting radicalization to violence via social media and the Internet. The Department recently undertook an assessment of its programs and policies in this area and found that a recalibration was needed to ensure all forms of terrorism—both international and domestic—along with targeted violence was being addressed.

If confirmed, I will ensure that the new Office of Targeted Violence and Terrorism Prevention (TVTP) continues to adopt an all-threats approach to serving the needs of our state and local partners. This approach will involve direct training and education that identifies and promotes best practices to counter radicalization, recruitment, and recidivism. PLCY and other elements of the Department are also actively working with social media companies to combat terrorist's use of the Internet.

Although the Department has made progress on this issue, it has lacked a strategic approach to prevention. As TVTP assets and responsibilities were recently moved into PLCY, I would ensure, if confirmed, that the office fully develops a prevention framework that represents an all-of-DHS approach focusing on building local capacity and enhancing federal coordination and support for our partners.

27. If confirmed, what policies would you pursue to mitigate against the threat of chemical, biological, radiological, and nuclear materials?

The Countering Weapons of Mass Destruction Office (CWMD) was established in December 2017 (and officially authorized in 2018 thanks in large part to this Committee's efforts) to elevate and streamline DHS efforts to prevent terrorists from using weapons of mass destruction against the United States. CWMD has primary responsibility over policies that mitigate the threat of chemical, biological, radiological, and nuclear materials. However, if confirmed, I would continue to work closely with CWMD to ensure it collaborates with the relevant stakeholders within the Department to manage the risk of WMD incidents and effectively protect the U.S. from WMD attacks.

28. Events such as an electromagnetic pulse attack or a geomagnetic disturbance pose a low-probability, but potentially catastrophic-level threats to the homeland. DHS often has the

responsibility of coordinating the planning and response for many of these low-risk, high-consequence events across multiple Federal agencies and components within the Department. If confirmed, how will you ensure Federal agencies and DHS components remain committed to the implementation and execution of strategies and plans developed by PLCY to mitigate these threats?

PLCY is working with DHS components—including CISA and the Science and Technology (S&T)—to ensure implementation of the DHS Strategy for Protecting and Preparing the Homeland Against Threats of Electromagnetic Pulse and Geomagnetic Disturbance and EO 13865. Generally, PLCY recently established a new policy coordination process and launched a Risk and Resilience Policy Council that ensures we are tracking these risks, sharing best practices, and coordinating implementation of our strategies.

29. The Government Accountability Office and the DHS Office of Inspector General frequently site the need for DHS to prioritize resources and efforts based on risk, such as the Federal Emergency Management Administration's grant funding allocations or Transportation Security Administration's layers of security. The DHS Fiscal Years 2014-2018 Strategic Plan also calls for the use of a risk-based strategy when implementing security policies.

- a. If confirmed, how will you ensure that appropriate risks are considered and incorporated into department-wide strategies?

As part of the coordination process for developing strategies, the Department evaluates existing threats, vulnerabilities, and consequences on particular homeland security equities. This analysis informs guidance and decision making, while framing operational solutions and resource considerations.

- b. If confirmed, how will you encourage operational and support components to more effectively incorporate risk-based analysis when setting homeland security priorities?

Working with the Secretary's Office and component leadership, PLCY helps establish the Department's priorities across the enterprise. Among the array of factors that influence these priorities, risk-based decisions that consider threats, vulnerabilities, and consequences are critical. If confirmed, I will ensure that PLCY continues to apply evidence-based methodologies and procedures to help guide decisions.

Office of International Engagement

30. Based on your current and prior experiences within the Department, how do you view the role of the Office of International Engagement?

PLCY's OIA role is to manage the Department's international coordination and engagement with foreign partners. In addition, OIA has relevant subject matter experts

that can provide strategic advice on DHS engagements with foreign partners. If confirmed, I will continue to empower OIA to lead Secretarial initiatives and engagements with foreign partners and international organizations to fulfill the Department's missions. I will also ensure that OIA subject matter experts are properly engaging with the interagency to support whole-of-government efforts across the globe.

31. Many operational components work with international partners to ensure the safety of U.S. citizens domestically and abroad. If confirmed, how will you ensure that PLCY continues to foster strategic and policy relationships with our foreign partners?

OIA is currently involved in a variety of initiatives with our foreign counterparts, including information sharing, screening and vetting, increased aviation security measures, strengthening counterterrorism cooperation, curbing illegal immigration, addressing cyber threats, and more. If confirmed, I will ensure that PLCY's OIA continues to lead Departmental efforts that foster strategic and policy relationships with foreign partners through continued bilateral and multilateral engagements.

V. Relations with Congress

32. 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?

If confirmed, I will comply.

33. 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 agree without reservations.

34. 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 would comply without reservation.

VI. Assistance

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

Yes—I have written and reviewed all the answers in this document and they are my own. During preparation, I consulted with senior staff in PLCY and with legal counsel and the Office of Legislative Affairs at DHS.

**Minority Supplemental Pre-hearing Questionnaire
For the Nomination of Chad Wolf to be
Under Secretary of Homeland Security – Office of Strategy, Policy, and Plans
Department of Homeland Security**

I. Nomination Process and Conflicts of Interest

1. Has the President or his staff asked you to sign a confidentiality or non-disclosure agreement?

No.

2. Has the President or his staff asked you to pledge loyalty to the President, Administration, or any other government official?

No.

II. Background of Nominee

3. Why do you want to serve as Under Secretary of Homeland Security – Office of Strategy, Policy, and Plans (SPP or PLCY) at the Department of Homeland Security (DHS or the Department)?

I strongly believe in the mission of PLCY. The DHS Enterprise is complex and delivering solutions requires coordination across the Department and its components. Leading that effort is integral to the success of the Department and its mission.

4. Please give examples of times in your career when you disagreed with your superiors and aggressively advocated your position. What were the outcome of your attempts to change a superior's position? Were you ever successful?

In the private sector, I disagreed with my firm's management to bring on a potential client. The potential client—a foreign government—did not have a good reputation but was willing to pay the firm well. I was against taking the potential client on and others in the firm had a different view. I encouraged firm management to take the longer view and assess the public policy issues at play as well as the reputational issue for the firm. In the end, we did not take on the client and I like to think my advocacy was a contributing factor.

At DHS, I have advocated for sharing more information with the media, Congress and other outside stakeholders on new immigration initiatives or programs in an effort to better explain the Department's positions. At times, I was successful in reaching out earlier in the development process, which I believe built more credibility for the Department.

5. Do you seek out dissenting views and encourage constructive critical dialogue with subordinates? Please provide examples of times in your career when you have done so.

I seek dissenting views and critical examination of issues on a daily basis. I strongly believe that understanding alternative viewpoints on policy issues provides an opportunity to strengthen or adjust an argument or position. From immigration policy discussions to terrorism prevention, I encourage multiple viewpoints to fully understand the complexities of an issue and provide options for senior DHS leadership.

6. 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 time as TSA Chief of Staff, we were faced with immediate threats regarding laptops on commercial aircraft. Given the limitation of technology at the time, I was part of a team that advocated for strong mitigation measures that required the commercial airline industry to take immediate steps, which resulted in lost revenue for the airlines. While such a decision was not popular with the airline stakeholder community or certain interagency partners, it was the right step to take to keep the traveling public safe and secure.

7. What would you consider your greatest successes as a leader?

I am most proud of how TSA responded to the laptop threat in 2017 (see answer to question #6). Such a significant threat at the beginning of an Administration was a test of leadership and the ability to work with new colleagues and team members. My decision-making, leadership, and ability to lead a large team at TSA was challenged during this stressful time period. However, I am extremely proud of the end result, which is a series of measures that have raised the baseline of aviation security globally.

I am also proud of my ability to recruit and retain senior leadership and staff during my time as the Department's Chief of Staff. From unprecedented natural disasters to immigration reform and numerous other crisis at the Department, I was able to attract and keep staff focused and motivated during exceedingly stressful times.

8. What do you consider your greatest failure as a leader? What lessons did you take away from that experience?

In 2005 during my time leading the TSA Policy Office, we developed an enhanced pat-down procedures of airline passengers in response to current threat information. However, in doing so, I failed to fully involve our airline and airport stakeholders as well as passenger advocacy groups. As a result, the enhanced procedure was largely panned and ultimately not accepted by policymakers and the traveling public. The lesson I learned was that homeland security policies are not made in a vacuum and that privacy norms and civil liberties of the American people are important considerations during the development of security policy.

9. During your career, has your conduct as a federal employee ever been subject to an investigation or audit by Council of Inspectors General on Integrity and Efficiency (CIGIE), Office of Special Counsel, Department of Justice, agency Equal Employment Opportunity office or investigator, or any other federal investigative entity? If so, please describe the nature of the allegations/conduct and the outcome(s) of the investigation(s) or audit(s).

No—not to my knowledge.

III. Role of the Under Secretary - SPP

10. Over the years, the Management Directorate has assumed greater significance in headquarters. Please delineate the responsibilities of the Management components as they relate to SPP.

PLCY and MGMT share interdependent functions for the Department's planning, programming, budget and execution (PPBE) process. POLCY is responsible for the planning phase, which includes long-term strategic guidance, such as the QHSR, Strategic Plan, and Resource Planning Guidance. MGMT implements this guidance—with support from POLCY—through annual budget formulation and administrative processes.

- a. What mechanisms are in place to ensure Management and SPP coordinate the development and implementation of policies across the Department?

POLCY maintains a close partnership with MGMT on several business management councils, working groups and committees—including the Joint Requirements Council, Acquisition Review Board, and Chief Financial Officer Council.

- b. Will the current Under Secretary for Management vacancy at DHS impact your efforts to coordinate with the Management Directorate? How will you overcome such challenges?

No—MGMT currently has capable acting leadership and lines of business chiefs. POLCY is well versed in maintaining relationships and operations during leadership changes.

11. Currently, both the Secretary and Under Secretary of the Department are acting officials and the Administration has not nominated anyone to permanently fill these positions. Which officials will provide you with guidance and direction on policy so that you will be able to lead the SPP?

I have regular interaction with both the Acting Secretary and Acting Deputy Secretary who provide guidance and direction on various policies under development at the Department. Having worked with both officials during my time as DHS Chief of Staff, I am fully comfortable with their approach to issues, leadership style, and perspective on

the role of PLCY. We continue to have open and frank conversations on the myriad of challenging issues facing the Department.

12. In September 2018, the Government Accountability Office (GAO) found that PLCY had encountered challenges leading and coordinating efforts to develop, update, or harmonize policies that affect multiple DHS components because the Department does not have clearly-defined roles and responsibilities with accompanying processes and procedures to help PLCY lead and coordinate policy in a predictable, repeatable, and accountable manner. What steps, if any, will you take to ensure DHS can develop and harmonize policies across components?

I agree with GAO's report that PLCY has encountered challenges in leading and coordinating efforts across the Department. In my current role, I am committed to addressing these issues and clearly defining PLCY's role in developing and harmonizing policies within the Department. If confirmed, I will ensure we continue this effort and make improvements as warranted.

There are several steps that can accomplish this important effort. First, PLCY must finalize a comprehensive delegation of authority document. This will ensure that all of PLCY's statutory and delegated authorities are fulfilled. Second, PLCY should develop and publish directives, instructions, and other guidance needed to implement the PLCY delegation of authority. Finally, PLCY should improve communications and collaborations with other headquarters offices and components and develop a more routine mechanism for doing so.

- a. Do you agree with the recommendations made in GAO's September 2018 report on DHS PLCY (GAO-18-590)? If not, what alternative actions would you take to address issues regarding the development and harmonization of policies within the Department?

Yes—I agree with the recommendations.

IV. Policy Questions

Strategy, Plans, Analysis, and Risk

13. SPP plays a key role in improving the Department's cohesiveness and operational effectiveness by ensuring that there is alignment between strategic objectives, budgeting, and operations. However over the past decade, SPP's role and authority appears to have eroded, with policy functions devolving to the Secretary's office, Management and/or other components based on personality and relationships. What reforms will you undertake to build SPP's institutional strength across the Department and what mechanisms do you propose to utilize to accomplish that?

As indicated in question #12, I agree that there is room for improvement in solidifying and strengthening PLCY's role within the Department. I believe the steps indicated above – finalizing a delegation of authority, developing supporting directives and guidance documents, and improving communications across the entire DHS-wide enterprise – will ensure PLCY plays a key role in improving the Department's cohesiveness and operational effectiveness.

14. Please explain the role and the mission of SPP (besides advising the Secretary and the Deputy Secretary) and what should it be? What steps will you take to get it from its current state to the optimal future state?

The role and mission of PLCY is to lead, conduct and coordinate the development and implementation of Department-wide strategies, policies, and plans to ensure quality, consistency, and coordination across the Department on a wide range of issues, including international affairs and engagement; immigration and border security; screening, vetting, credentialing and identity management; preventing and countering threats from domestic and international terrorists and other threat actors; trade and foreign investment; cyber security; and immigration statistical analysis.

From my observations, PLCY needs leadership with a vision, a close connection to the Secretary, and the ability to drive initiatives to completion throughout the Department. If confirmed, my goal would be to provide that leadership and work with the DHS Front Office to further cement the roles and responsibilities of PLCY and to work toward fully resourcing the office appropriately.

15. Most think of the Department of Defense Office of Policy as a strong model for DHS. Is there a model in an executive branch Department that lends itself to DHS?

From my perspective, OSD Policy is an appropriate model for DHS. Much like DoD, DHS has a variety of semi-autonomous components that come together to achieve one mission to protect the homeland. This mission requires extensive coordination and the need for a strong office to lead and conduct Department-wide policies while allowing operating components to focus on their day-to-day responsibilities of securing the homeland.

16. Based on your tenure at the Department to date, what is your assessment about the capabilities of SPP as it currently exists? Are the staff appropriately trained to do the work of the Office and is the Office sufficiently resourced in order to carry out its responsibilities without relying on detailees from components?

Currently, PLCY is fulfilling its statutory responsibilities but the office's roles and responsibilities could be better institutionalized to ensure proper coordination across the Department. Additionally, ensuring the office is appropriately resourced to support the third largest federal department in the U.S. Government is critical to its long-term success. If confirmed, I will ensure the PLCY team is appropriately resourced and receives the tools, time and training necessary to be successful.

17. Have the operational components across the Department been an impediment to building strong headquarters components? Explain why or why not.

Generally, operational components understand the role of PLCY. However, at times the lack of clear communication and expectations has interrupted the smooth execution of PLCY's duties. In addition, many of DHS's operational components have specific statutory roles and responsibilities—some of which conflict with PLCY. If confirmed, I will continue to my efforts to ensure that PLCY is viewed as a “value add” element to the policy making process of the Department.

18. What Secretarial and Management Directives provide SPP with the internal backing to carry out the mission of the office? In your assessment are these directives sufficient? What more is needed?

In addition to Department-wide policies, PLCY has major responsibilities in delegations, directives, or instructions on a variety of issues including—joint task forces, operational planning, international affairs, foreign investment, leadership councils, requirements development, and management processes. Currently, PLCY is finalizing an internal delegation to further delineate the office's roles and responsibilities.

19. In May 2019, GAO found that DHS did not fully track the Securing the Cities program spending and performance, and had not addressed challenges to sustaining these programs over time (GAO-19-327). GAO and DHS OIG have identified numerous programs throughout DHS over time that experienced similar issues regarding tracking spending and performance information. How would you go about addressing the issues GAO has identified and ensure that DHS has policies and procedures that are needed to track spending and performance information throughout the Department?

I am aware that this program is administered and managed by the Department's CWMD Office. At this time, PLCY has no role implementing the various GAO recommendations.

20. Would you take a tweet issued by the President of the United States regarding DHS's policies or procedures as a directive from the President?

If confirmed, I would take direction directly from the (Acting) Secretary of DHS. In my view, any White House direction should come to the Secretary or Deputy Secretary to determine the policy and operational impacts on the Department.

Border, Immigration, and Trade Policy

21. Please describe how you view SPP's role in developing strategies and policies related to immigration and border security and how you plan to work with the leadership of each critical component to achieve results?

I believe it is PLCY's role to lead, coordinate and de-conflict on immigration and border security issues that crosscut numerous components. As discussed elsewhere in this questionnaire, having a robust policy process to ensure all relevant components have a seat at the table is a key element. If confirmed, I plan to recommend such a policy process to the Acting Secretary and will continue to hold regular meetings with key components to ensure that the strategies and policies are effective and efficiently implemented to achieve results.

22. As DHS's lead in the coordination of international engagement and negotiations as SPP, what more do you think the Department can do to engage our international partners and neighbors on immigration and trade policy?

- a. What strategy will you employ to ensure that efforts on better engagement with our international partners and neighbors are successfully implemented?

PLCY's OIA will continue to robustly engage foreign partners on variety of issues, including immigration and trade policy—as they do today. I strongly believe that having defined deliverables and metrics to gauge implementation is critical. Engagement without defined goals and outcomes is not productive.

23. Please identify any current gaps and inconsistencies you believe exist in current immigration programs.

Currently, the existence of several gaps in our immigration system create pull factors that put vulnerable populations at risk. They include:

- The inability to allow families to remain together during their immigration proceedings;
- The inability to return Central American children—who are not victims of trafficking or persecution—back home to be reunited with their families; and
- The low standard for claiming asylum, which leads to high levels of fraud and abuse.

- a. How would you propose to resolve each of these inconsistencies?

The Administration and Department has provided Congress a specific set of legislative recommendations to address each of these gaps and inconsistencies in our laws.

24. What DHS immigration initiatives do you believe are the most critical at the moment?

The Department continues to work with Congress to address an immigration system that is in need of reform. The Department and Congress must continue to work together to address the pull factors—mostly our vulnerable legal immigration framework—or children will continue to be put at risk enduring a dangerous journey to our border. Key legislative changes include – granting DHS the ability to hold families through an

appropriate and fair immigration proceeding; the ability to safely repatriate children who do not have a valid asylum claim back to Central America (the same way we do children from Mexico and Canada); and to address the low asylum standard.

While we continue to work with Congress on these actions, the Department is in a robust effort to address both a security and humanitarian crisis on our southwest border by providing medical services, housing capabilities, additional personnel and other humanitarian needs.

25. Please list any new immigration initiatives you believe DHS should be pursuing.

In addition to the legislative changes we are discussing with Congress, the Department will continue to pursue all available options to address the immediate crisis on our border. I believe it is critical to continue to engage our Central American partners to bolster regional security through more robust information sharing to enhance enforcement efforts and the targeting of high-value transnational criminal and smuggling organizations. We must also work with the Department of State to prioritize and target programs that have demonstrated and effective results in the most vulnerable regions to address the root causes that are contributing to the current migration crisis.

26. In leveraging data to inform DHS strategy development, how can the collection and dissemination of immigration statistics be improved?

Although much work has been done to improve the collection of immigration statistics to date, I believe current initiatives underway (and discussed below) will further cement more robust evidence-based decision making.

a. To what extent do you believe immigration data should drive the development of immigration enforcement and border security policies?

I strongly believe that objective and validated immigration data is important in the development of sound policy making.

b. What gaps in information and statistics, if any, do you believe currently exist?

The Department currently maintains distinct (component-specific) immigration systems. To improve fidelity across components and gain operational efficiencies, DHS needs to continue work to unify such systems.

c. How do you propose improving data collection across DHS' various operational components?

PLCY's Office of Immigration Statistics (OIS) is carrying out the implementation of the Immigration Data Integration Initiative (IDII) as well as developing a Unified Immigration Portal (UIP), which will build an enterprise wide operational data

warehouse that will make it easier to track aliens through the enforcement lifecycle and accelerate reporting under IDH.

27. Do you believe the Immigration Cohort Outcomes methodology used by the DHS Office of Immigration Statistics accurately captures end-to-end enforcement lifecycles?

PLCY's OIS Cohort Outcome methodology is a powerful tool to explain the end-to-end enforcement lifecycle, which is important because it identifies loopholes in the current immigration system.

a. Should this methodology be improved, and if so, how?

The methodology influences and informs the Department's ability to coordinate with components, develop legislative proposals, and provide technical assistance to Congress. At this time, the methodology only covers border arrivals. Over time and in consultation with ICE, the methodology should include interior enforcement efforts.

28. What do you believe are the main safety and security challenges along the southern border?

The primary security challenges along the southern border include the surge of unaccompanied alien children (UACs) and family units from the Northern Triangle countries of Guatemala, Honduras and El Salvador. The vast majority of entries across the southern border are illegal entries between ports of entry. Fueled in part by legal immigration pull factors, the current crisis and overwhelming numbers of illegal entries are problematic as it incentivizes a dangerous journey north, finances transnational criminal organizations, and allows unknown individuals into the country.

a. How do these differ from the northern border?

The Department's most recent assessment of the Northern Border indicated that it remains an area of limited threat, when compared to the southern border. Common threats along the Northern Border include the bi-directional flow of illicit drugs and potential threats from homegrown violent extremists currently residing in Canada.

b. What type of policies would you propose to address each?

In 2018, the Department released its Northern Border Strategy, which articulates three strategic goals—enhance border security operations, facilitate and safeguard lawful trade and travel, and promote cross-border resilience. By identifying and measuring progress against these milestones, the Department—through its components—can adjust program activities, budget development and resource allocation.

- c. What specific roles do infrastructure, personnel, and capability improvements play in solving these challenges?

Improvements to DHS infrastructure, personnel and capabilities are crucial to addressing the challenges along the Northern Border. The Department's Northern Border Strategy contains several key objectives to confront these challenges. They include:

- Protect and enhance the security and resilience of critical infrastructure through improved threat and risk awareness, vulnerability reduction and mitigation;
- Use intelligence, risk assessments, and capability gap assessment to inform placement of surveillance and detection assets; and
- Promote the utilization of trusted traveler and prescreening programs and continue to develop and enhance inspection and screening capabilities, processes, and technologies to enable rapid processing of travelers.

29. How do you believe DHS can improve the analysis of the impact of migrant flows on border security?

Departmental components currently generate numerous statistical datasets that helps leadership understand the impact of migrant flows. Component and headquarter leadership meet continuously to assess and discuss the impact of cross-border flows. When fully developed, the UIP is expected to provide real-time dashboards of conditions and trends on the border.

30. As DHS's lead in the development of operational and resource allocation guidance, what do you see as the optimal allocation of resources in response to surge migration events in the southwest border?

The President's Budget Request for Fiscal Year 2020 reflect the Department's allocation of resources based on the current threat environment across the homeland security enterprise. Although the 2020 budget will help address security needs, the Department also requires additional funding sooner. Given the scale of the current humanitarian crisis at the southern border, the Department will exhaust its resources before the end of this FY. As such, DHS—through the recently submitted Supplemental request—is requesting immediate funding for the care of UACs, humanitarian assistance, temporary processing facilities, surge border personnel, and other necessities to fulfill our border security and immigration responsibilities.

Cyber, Infrastructure and Resilience Policy

31. What role, if any, do you anticipate SPP playing in developing the implementation plan for the President's recent Executive Order on America's Cyber Workforce?

PLCY is working closely with the White House and DHS components—including CISA and MGMT—with respect to implementation of EO 13870. PLCY will ensure that component implementation efforts are aligned and identify any outstanding policy gaps and challenges.

Domestic Terrorism Prevention

32. What role should SPP play in developing and assessing the Department's approach to preventing and responding to domestic terrorism?

In 2018, PLCY leveraged the Department's federally funded research and developmental center—the Homeland Security Operational Analysis Center—to conduct a comprehensive assessment of the Department's terrorist prevention. PLCY is leveraging the results of that study and coordinating within the Department and our stakeholders (state and local partners, community organizations, NGOs, think tanks and our federal agency partners) to develop a strategic prevention framework that will guide our work in future years. The newly announced TVTP Office resides in PLCY; this is a major line of effort for the office.

33. Do you believe that DHS should play a larger role in developing policies and plans to prevent terrorism and counter homegrown violent extremists?

Yes—the Department has a wide variety of activities in this area, including prevention, protection, mitigation, response and recovery. It is important to note that FBI and DOJ are the lead agencies for investigating and prosecuting terrorist threats and hate crimes.

34. Do you believe that DHS is currently devoting sufficient resources to combating domestic terrorism?

Although the TVTP Office resides in PLCY, the Department has a whole-of-DHS approach to prevention—to include CISA's Soft Targets and Crowded Places Task Force and other critical infrastructure programs; USSS's National Threat Assessment Center; I&A's National Threat Evaluation and Reporting Program; FEMA's grant programs; and CRCL's engagement roundtables and other training and education programs for state and local partners. DHS employs all these programs and tools to address all forms of violence, including domestic terrorism.

Of course, more work can and should be done. DHS established the TVTP Office within PLCY to improve coordination of the existing DHS terrorism prevention enterprise and identify any gaps or unfilled capabilities.

35. How does DHS measure the effectiveness of its domestic terrorism prevention efforts? Are there additional metrics or data points the Department should be using to assess the effectiveness of its efforts?

As noted above, the tools and programs the Department uses are designed to address all forms of violence. Through research conducted by the USSS's National Threat Assessment Center, we know that there are common behavioral indicators of attackers regardless of the ideology.

The Countering Violent Extremism grant program required grantees to establish measures of effectiveness. For a subset of grantees, S&T is providing a comprehensive evaluation of the grantee's work. As part of the evaluation effort, the TVTP Office and S&T developed and implemented a comprehensive approach to measurement. TVTP is just beginning to receive information from grantees to create a baseline of activities and measures.

36. What steps, if any, do you believe are required to develop and integrate a whole-of-government effort across departments to prevent violent extremism in the United States?

DHS is working towards a whole-of-society approach for preventing violent extremism. True violence prevention occurs at the state and community level. State and local governments, local law enforcement, community organizations, mental health professionals, educators and social services are all an important part of the prevention framework. The federal government is critical to convene, coordinate, equip, train, and empower our local communities. DHS is working with NCTC, DOJ, FBI, and HHS to ensure the Federal Government's approach to prevention is consistent.

37. On April 19, 2019, DHS announced the creation of the Office for Targeted Violence and Terrorism Prevention (OTVTP). This followed the 2017 creation of the Office of Terrorism Prevention Partnerships (OTPP), which followed the Office for Community Partnerships, which coupled with the Office of Intelligence and Analysis, and several other DHS offices, all play a role, or at one time played a role, in domestic terrorism prevention.

- a. Please describe your involvement, if any, in the decisions to create OTPP or OTVTP, and your role in implementing the related organizational changes (i.e. standing up the new offices).

I was involved in the overall development of the TVTP Office and its transfer from the Office of Partnership Engagement to PLCY. I am currently working with PLCY leadership to determine staffing and resource needs and working with MGMT to ensure the office has the resources it needs to fulfill its mission.

- b. How, if at all, has the creation of OTVTP impacted the Department's efforts to combat domestic terrorism? What metrics does DHS use to assess OTVTP's effectiveness?

The name change of the office alone has allowed us to become more appealing to our state and local partners, who rank concerns associated with "terrorism" low but are

very interested in violence reduction. By incorporating “targeted violence” into the name our goal was to send a clear and strong signal to all of our partners that we are looking to support their prevention efforts in a way that works best for their community. We believe it also gives the Department an opportunity to further explain that we are concerned about the current trends of rising white supremacist violence and that we will work to equip our state and local partners with the tools they need to effectively counter this and any future threat of violence.

38. Recent DHS and FBI joint intelligence bulletins have noted that white supremacist extremists were responsible for more murders and attacks from 2000 to 2016 than any other extremists group and would continue to pose a threat of lethal violence in the coming year.
- a. Do you believe that the Department is taking sufficient steps to combat the threat of violence perpetrated by white supremacist extremists? What additional actions, if any, should DHS pursue?

Let me be clear—white supremacist violence is abhorrent. DHS is committed to countering this and other forms of violent extremism. If confirmed, I can assure you that I will prioritize TVTP’s efforts to counter domestic terrorism, including white supremacist violence. This means doing everything I can to ensure the office has what it needs to succeed, and ensuring the rest of the Departments’ efforts are coordinated to ensure these offices are resourced appropriately.

As mentioned earlier, the Department is developing a prevention framework. The framework will identify the lines of effort necessary to effectively counter this threat and identify roles and responsibilities for carrying out the implementation of the framework. We plan to continue to engage Congress as we develop this framework to ensure any additional authorities or appropriations needed are discussed with you.

Threat Prevention and Security Policy

39. In September 2018, the U.S. issued a new National Biodefense Strategy. What steps, if any, do you plan to take to ensure this strategy is properly implemented and incorporated into the strategies and policies of the Department?

Within DHS, the CWMD Office has the lead on the National Biodefense Strategy. However, if confirmed, I would work closely with CWMD leadership to ensure it collaborates with the relevant stakeholders within the Department to manage the risk of biological incidents and effectively protect the American people from biological attacks.

40. Given the evolution of the Screening Coordination Office in Policy, what role do you think SPP should play in coordinating policies, programs, operations and implementation of biometrics across the Department?

PLCY is the appropriate entity within the Department to lead, develop, and coordinate crosscutting initiatives. As such, PLCY is directly involved in the coordination, development, and implementation of biometric policies to ensure consistency and interoperability across the DHS enterprise. Beyond policy guidance, PLCY collaborates with MGMT's Office of Biometrics and Identity Management for decisions concerning programs, operations, and implementation.

41. What role should SPP play in evaluating the application of new and emerging technologies to programs across the Department?

PLCY leads the identification and evaluation of emerging threats and risks, leveraging the expertise of the components, and developing and coordinating our strategies and activities. Under the newly formed Risk and Resilience Policy Council, PLCY has launched an initiative called the Emerging Risk Matrix. This initiative is intended to evaluate emerging risks, coordinate visibility across the Department, and will allow prioritization of activities, policies and programs. PLCY will work with S&T to ensure we are taking advantage of emerging technologies to better accomplish our mission.

42. In 2018, Congress enacted legislation to provide DHS and DOJ with authorities to counter drones. SPP has been leading the Department's efforts in this area. Explain whether it would be helpful to designate SPP as the CUAS Coordinator for the Department for an initial 3-5 year time period?

The Department is very grateful to the Committee for its leadership in providing DHS the much need authorities to counter unmanned aerial systems. As you are aware, the threat from drones continues to increase and DHS is working quickly to implement the authorities consistent with the requirements in the law. After the law passed, the Secretary established a Program Management Office within PLCY to coordinate the Department's CUAS implementation across the Department. I believe strengthening the office's authority and role to coordinate across the Department would benefit the mission. If confirmed, I look forward to working with the committee to ensure the CUAS Program Office is appropriately authorized and resourced to carry out this important mission.

V. Relations with Congress

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

If confirmed, I will comply with all Congressional requests for information in a timely manner by ensuring PLCY staff understand the importance of such requests and devote the needed time and attention to fulfill such requests.

44. 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?

If confirmed, I would comply without reservation.

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

If confirmed, I would comply without reservation.

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

If confirmed, I would take all reasonable steps to comply with such deadlines.

47. 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?

If confirmed, I will ensure subordinates are protected from reprisal or retaliation for communications with Members of Congress.

48. 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?

If confirmed, I will ensure that PLCY staff promptly provide all appropriate documents to the GAO and CRS.

49. If confirmed, will you agree to work with representatives from this Committee and the GAO to promptly implement recommendations for improving MSPB's operations and effectiveness?

If confirmed, I agree to work with representatives from this Committee and GAO to promptly implement recommendations for improving MSPB's operations and effectiveness.

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

If confirmed, I will ensure that PLCY staff take all reasonable steps to respond to requests submitted by the American people.

51. If confirmed, will you ensure that political appointees are not inappropriately involved in the review and release of Freedom of Information Act requests?

If confirmed, I will ensure that political appointees are not inappropriately involved in the review of FOIA requests.

VI. Assistance

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

Yes—I have written and reviewed all the answers in this document and they are my own. During preparation, I consulted with senior staff in PLCY and with legal counsel and the Office of Legislative Affairs at DHS.

I, CHAD E. WOLF, hereby state that I have read the foregoing Pre-Hearing Questionnaire and Supplementary Questionnaire that the information provided therein is, to the best of my knowledge, current, accurate, and complete.


(Signature)

This 3 day of June, 2019

**Ranking Member Gary C. Peters
Post-Hearing Questions for the Record
Submitted to Chad F. Wolf**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

1. In connection with the Committee's review of your experience and qualifications, Committee Minority Staff transmitted a supplemental request for information to DHS on June 10, 2019.
 - a. Do you commit to fully responding to this request? When do you anticipate providing a complete response?

 In accordance with the relevant opinions of the Office of Legal Counsel of the Department of Justice (DOJ), I commit to responding appropriately to this request. I am working diligently on providing my response to the Minority Staff's June 10, 2019 supplemental questionnaire. It is my understanding that some of the information requested may be in the custody of other Department of Homeland Security (DHS) Components and programs. I will continue to work with them to identify and produce any items they may have which are responsive to your request.
 - b. Do you commit to providing all documents requested in a complete and unredacted manner to the maximum extent permitted by law?

 Please see response to 1a.
 - c. If any of the requested information or documents are withheld (including partial redactions), do you commit to providing this Committee with an explanation that includes the specific legal authority relied upon and the specific office or official responsible for the decision to withhold the requested document(s) or information?

 Please see response to 1a.
2. On May 8, 2019, Chairman Johnson and I sent DHS a bipartisan request for information and documents related to the Department's efforts to combat domestic terrorism. On May 23, 2019, DHS provided a limited partial response. In your testimony, you stated that it is your understanding that the Committee "will receive the next set of documents in early July."
 - a. Is it your understanding that the entirety of the documents responsive to our request will be produced by early July?

The Office of Strategy, Policy, and Plans (PLCY) is producing all responsive documents and information in its possession to be responsive to your May 8, 2019 letter. As you are aware, the Department provided an interim response and document production on May 23, 2019. DHS staff have maintained consistent lines of communication with your and the Chairman's staff on this request. While my office is not responsible for all of the information you are seeking, I can commit to providing the responsive documents in the possession of PLCY by early July 2019. I cannot comment on the production of documents that are not associated with PLCY.

- b. Do you commit to providing all documents requested in a complete and unredacted manner to the maximum extent permitted by law?

Please see the response to 2a.

- c. If any of the requested information or documents are withheld (including partial redactions), do you commit to providing this Committee with an explanation that includes the specific legal authority relied upon and the specific office or official responsible for the decision to withhold the requested document(s) or information?

Please see the response to 2a.

- 3. You have been serving as the "senior official performing the duties of the Under Secretary" since February 2019.

- a. Are you aware of any statutory limitations to your current authority that will no longer apply if you are confirmed?

Because of the requirements of the Federal Vacancies Reform Act, I presently cannot use the title Acting Under Secretary. Additionally, if confirmed by the Senate as the Under Secretary, I would be authorized to sign certifications for completion of foreign investment reviews and investigations pursuant to the Foreign Investment and National Security Act of 2007.

- b. In your view, is Senate confirmation necessary for you to achieve your goals as the leader of PLCY?

Yes—while I am an effective leader because of my personal abilities and knowledge of the Department, being confirmed by the Senate would enable me to drive meaningful change, build coalitions, and bring leadership to an office that has had individuals overseeing the office in an acting capacity. I have found that staff respond differently if you are the permanent head of the office vice acting.

- c. Other than any differences attributable to statutory restrictions, do you expect your approach to leading PLCY to change if confirmed? If so, please explain.

Yes—I do not currently feel empowered to make structural reforms that are necessary for the long term success of the office. I also believe that being confirmed will aid in my endeavor to build coalitions with my Senate-confirmed counterparts in other cabinet departments.

4. Currently, more than half of the positions at DHS requiring Senate confirmation are vacant and are being filled temporarily by acting officials.

- a. Based on your experience serving in various roles within DHS, do you believe that the Department benefits from having Senate-confirmed leaders in its top positions? Please explain.

Yes—I believe having Senate-confirmed leaders in the senior levels of any cabinet agency is a benefit to the morale of the workforce and success of the agency.

- b. Having served under both Senate-confirmed and Acting DHS Secretaries, do you believe that Senate confirmation impacts the relationship between the Department and either Congress or the White House? Please explain.

Yes—I believe having Senate-confirmed leaders in the senior levels of any cabinet agency is a benefit to the function of the Department and its relationship with both the White House and Congress.

5. Please describe your overall knowledge of and involvement in any DHS efforts related to election integrity beginning in 2017.

During my tenure as Chief of Staff, I was aware – through briefings and memos coming to the DHS Front Office – of the work being performed, largely through the then National Protection and Programs Directorate/now the Cybersecurity and Infrastructure Agency/CISA and the Office of Intelligence and Analysis (I&A). During this time period I sat in on discussions on a range of election security matters – to include infrastructure integrity, countering foreign influence and operational response.

During my time in the PLCY office, I have been involved in internal and interagency planning and preparations for the 2020 elections.

6. What responsibilities, if any, does PLCY currently have with respect to coordinating and overseeing Department-wide efforts to enhance election integrity? If confirmed, what changes, if any, will you pursue with respect to PLCY's role in enhancing election integrity?

DHS is committed to protecting the security of our election infrastructure and continues to build and refine processes across the homeland security enterprise as we take a risk based approach in addressing threats to the homeland. PLCY works with CISA and other stakeholder programs within DHS to conduct assessments, identify policy gaps, and improve election security moving forward.

7. In your responses to the Pre-Hearing Questionnaire, you discussed your role in handling whistleblower complaints within DHS and stated that you “ensured all complaints were forwarded to the appropriate officials in TSA OCC or DHS OGC.” What role, if any, did you have in ensuring that appropriate steps were taken to fully investigate and address any allegations made through whistleblower complaints?

As Chief of Staff, I discussed and consulted with the Department’s Office of General Counsel (OGC) on the appropriate actions that I should take when I received what I believed were whistleblower complaints. Typically, such allegations were provided to the Office of Inspector General for review and investigation.

8. In your responses to the Pre-Hearing Questionnaire, you list several gaps in our immigration system, including “the inability to allow families to remain together during their immigration proceedings.” Please elaborate on what you mean by this statement.

- a. Which families are not being allowed to remain together and why?

Under the *Flores* Settlement Agreement and subsequent court decisions interpreting that agreement, DHS generally cannot hold families together for longer than 20 days. This time limitation essentially guarantees that families illegally entering the country will be released into the United States, many not filing for asylum or appearing at their duly scheduled removal hearings. This fact serves as a key “pull” factor that has precipitated the current surge of families arriving along the southern border.

- b. What policies or process would you recommend instead?

DHS has asked Congress for the authority to keep families together in detention during their immigration proceedings while promoting a uniform standard of care and accommodation—including medical services, nutrition, education, activities, religious services and other needs.

- c. What analysis supports your recommendations?

The increase in families at the southern border in recent years is well documented. Please refer to the links below:

<https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/bp-total-monthly-family-units-sector-fy13-fy18.pdf>

<https://www.cbp.gov/newsroom/stats/sw-border-migration>

- d. Please provide any documents associated with this analysis.

Please refer to <https://www.cbp.gov/newsroom/stats/sw-border-migration> addressed in 8c.

9. With respect to reuniting Central American children with their families in their country of origin:

- a. How many and what percentage of Central American UACs have expressed the desire to be reunited with their families in their country of origin?

While that number is unknown at this time since the current law does not provide for Unaccompanied Alien Children (UACs) from contiguous countries to be reunited with their families since they must be placed in U.S. Department of Health and Human Services (HHS) care and put in removal proceedings. What we do know is that the First Ladies of the Northern Triangle countries have requested that the United States treat their children like Mexican children and repatriate them back home as quickly as possible.

- b. Who in DHS is collecting this data that allows you make this conclusion?

Please see response to 9a.

- c. Please provide this data.

Please see response to 9a.

10. You stated that the “low” standard for claiming asylum leads to high levels of fraud and abuse.

- a. What percentage of asylum applications currently in proceedings are fraudulent or frivolous due to the standard for claiming asylum? Please provide the data and analysis that supports your answer.

Based on available data, the Office of Immigration Statistics estimates that approximately 84 percent of credible fear claims approved by U.S. Citizenship and Immigration Services (USCIS) ultimately fail to result in asylum claims approved by the Executive Office of Immigration Review (EOIR) within DOJ (see table below).

FY 2017 SW Border Encounters	415,788
Fear Claims	76,964
Fear Claims as Share of Total	19%
EOIR Decisions	8,460
EOIR Decisions as Share of Fear Claims	11%
EOIR Grants of Permanent Relief	1,324
Permanent Relief as share of Decisions	16%

This table provides the underlying data for the above estimate: 19% of all southwest border encounters made a fear claim; EOIR reached decisions in 11% of fear claimants' cases by the third quarter of FY 2018; and 16% of EOIR decisions resulted in a grant of asylum or another form of permanent relief from removal.

- b. In your view, what should the standard be? Should it be higher than a more likely than not possibility of eligibility screening standard?

DHS has requested Congress improve the credible fear standard to ensure that aliens who are more likely than not to succeed on their asylum claim are placed into removal proceedings before an Immigration Judge, while those who fail to meet this standard are expeditiously removed.

- c. How should an applicant meet this standard with testimony alone in comparison to the current USCIS guidelines?

Aliens can meet their burden of proof with credible statements and any other kind of evidence they wish to submit. Asylum Officers evaluating credible fear consider the totality of the circumstances, which presumably will include any evidence the alien submits.

- d. Do you agree with the Supreme Court decision in *INS v. Cardoza-Fonseca* that establishes asylum eligibility?

I recognize that the Supreme Court's holding in *Cardoza-Fonseca* is binding legal precedent on the Department.

11. What other important gaps exist among our immigration system?

In addition to providing a meaningful solution to the credible fear screening regime, and addressing the impact of the *Flores* Settlement Agreement, DHS has also requested Congress provide DHS with the authority to address the remaining gaps in our immigration laws, to include:

- Amending the Trafficking Victims Protection Reauthorization Act (TVPRA)—DHS has requested the ability to ensure the safe and prompt return of UACs so they can safely and expeditiously return home and reunite with their families, regardless of their country of origin.
- Provide for In-Country Processing—DHS has requested the authority to create a process through which certain Central Americans may seek protection relief close to home or in a neighboring country. This would obviate the need for these aliens to line the pockets of cartels and make the dangerous journey to the United States.

- Properly define Special Immigrant Juvenile (SIJ)—DHS has requested the authority to require an applicant for SIJ status to provide that reunification with *both* parents is not viable due to abuse, neglect, or abandonment.

12. In your responses, you state that we need to work together to address pull factors. In your view, what are all the pull factors?

The primary pull factors I referenced during my staff interview include: (1) the inability to keep families together during the pendency of their immigration proceedings; (2) the inability to promptly return UACs from non-contiguous countries to their country of origin; and (3) the low credible fear standard.

a. What specific data or analysis supports your view that these are pull factors?

It is commonly recognized that primary pull factors for migrants are the ability to find employment and join family members already in the United States, and the ability to remain in the United States without being removed.

One supporting data point can be found in the Homeland Security Advisory Council (HSAC), CBP Families and Children Care Panel Subcommittee, Final Emergency Interim Report issued on April 16, 2019. The Report found that “*delays in the adjudication of asylum claims, means that these migrants are guaranteed several years of living (and in most cases working) in the U.S. Even if the asylum hearing and appeals ultimately go against the migrant, he/she still has the practical option of remaining in the U.S. illegally, where the odds of being caught and removed remain very low.*”

By far, the major “pull factor” is the current practice of releasing with a [notice to appear] most illegal migrants who bring a child with them.”

b. Please provide this data and analysis.

The report can be found at –
https://www.dhs.gov/sites/default/files/publications/19_0416_hsac-emergency-interim-report.pdf

c. You mention that “children will continue to be put at risk enduring a dangerous journey to our border” as a result of these pull factors. Do you believe children may also be at risk in their home countries?

I understand that the parents of these children feel that they are better off in the United States than in their home countries. Unfortunately, these parents are risking their children’s lives by making a long and hazardous journey to the United States border, during which they are exposed to criminal and environmental hazards.

Once they arrive, these families – to include the children – live on a false promise. The vast majority of families do not qualify for asylum. Instead, they are entering the United States illegally, failing to appear before an Immigration Judge, and living in the shadows.

- d. Is this risk less or more than the one in the journey?

I believe putting a minor under the command and control of human smugglers, narco-traffickers, and/or transnational criminal organizations dramatically increases the level of danger to the minor. As the HSAC Subcommittee found in its report, the *“crisis is endangering children. In too many cases, children are being used as pawns by adult migrants and criminal smuggling organizations solely to gain entry into the U.S.”*

13. You state that DHS should have “the ability to safely repatriate children who do not have a valid asylum claim back to Central America the same way we do [with] children from Mexico and Canada.” Please walk us through process to repatriate a child without a valid asylum claim back to Mexico. How does this process differ from that of a Central America child in the same situation?

When repatriating UACs to Mexico, arrangements are made with the local Mexican Consulate who are posted at designated ports of entry in which local repatriation agreements have been negotiated. The Mexican consulate makes arrangements with child welfare agencies of the Government of Mexico to accept the UACs upon their return to Mexico.

Modifications to TVPRA to remove the exemption for Central American UACs would allow DHS to similarly repatriate UACs to Central America. Today, DHS is unable to do so because the TVPRA requires DHS to transfer UACs from countries other than Mexico and Canada to the care and custody of HHS within 72 hours.

14. You mention that DHS “is in a robust effort to address both a security and humanitarian crisis on our southwest border by providing medical services, housing capabilities, additional personnel and other humanitarian needs.” Please explain your involvement in planning and execution of each of the components of this effort.

- a. What measures has the Department taken in response to the first instances of deaths in custody in 2018?

Any death in U.S. government custody is a tragedy. As Chief of Staff, I was aware of actions the U.S. Customs and Border Protection (CBP) Commissioner took in response to the deaths in custody in 2018—to include, secondary medical checks, and requesting U.S. Coast Guard, Federal Emergency Management Agency, and HHS medical corps to assist U.S. Border Patrol with supplemental medical capabilities.

Subsequent actions are being taken at the Component level (e.g., CBP). PLCY maintains situational awareness of these actions but does not develop or issue any separate policies.

- b. Have any directives or policy memoranda been issued?

I am aware that on January 28, 2019, CBP issued Directive No. 2210-003, entitled *CBP Interim Enhanced Medical Efforts (January 2019)* to “address growing public health concerns stemming from the increase in UAC and FMUA encountered and in CBP custody along the SWB.” Among other things it directed CBP subcomponents to enhance “protection of individuals in its custody, with a special emphasis on juvenile (under the age of 18) aliens.”

<https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/CBP-Interim-Medical-Directive-28-January-2019.pdf>]

- c. Please provide us with any associated documents.

Please refer to the link in 14b.

- d. What additional improvement in medical services contracting and policies are needed to address the numerous deaths in and post-DHS custody?

This is an operational matter being addressed by U.S. Immigration and Customs Enforcement (ICE) and CBP officials. I would refer you to CBP for an appropriate response. Medical services handled post-DHS custody would be an HHS responsibility. I would refer you to HHS for an appropriate response.

- e. What housing capabilities initiative are you involved or aware of?

I am aware that on June 12, 2019, Acting Secretary McAleenan and HHS Secretary Azar wrote a letter to Congress seeking emergency supplemental funding to address the current crisis at our southern border, and specifically address the issue of increasing capacity to process migrants. See attachment.

- f. How has DHS prioritized sending additional personnel to the southwest border?

It is my understanding that DHS – as a whole – is surging personnel to the southwest border. A Volunteer Force Coordination Cell (VFCC) administratively manages the flow of DHS personnel to and from the southern border to meet CBP and ICE requirements. While PLCY plays a supportive role, the Office of the Acting Deputy Secretary is overseeing this effort.

- g. Is there a directive or policy that determines specific personnel sources and geographical assignments? How was that developed?

Determinations regarding specific personnel sources and geographical assignments are operational matters handled by DHS Components. I would refer you to them for an appropriate response.

- h. Please provide any associated documents.

The Department is currently preparing summary information on the volunteer force and will provide it to the Committee shortly.

- i. What limits exists on the Department's ability to reassign USCIS employees to support southwest border surge efforts?

I am aware of general limitations on the use of the Immigration Examinations Fee Account (IEFA) that provides the majority of funding for USCIS operations. Decisions to reassign DHS employees (including USCIS staff) to support southwest border surge efforts, are made in concert with the DHS OGC and with all applicable laws.

- 15. In your responses, you state that "the vast majority of entries across the southern border are illegal entries between ports of entry."

- a. Were any specific guidance, memoranda, or directives issued from DHS and CBP leadership to ports directors about metering?

I am not aware of any directives issued from DHS Headquarters to port directors regarding queue management. PLCY is not responsible for issuing such directives. I would refer you to CBP for the corresponding field guidance.

- a. Please provides us with any associated documents.

See response to answer 15a.

- 16. How could DHS increase its capacity to process migrants at ports of entry?

Due to the current crisis, it is my understanding that CBP officers spend a significant portion of their time caring for vulnerable populations who enter illegally between the ports of entry. On June 12, 2019, Acting Secretary McAleenan and HHS Secretary Azar wrote a letter to Congress seeking emergency supplemental funding to care and house UACs. If such funding is provided by Congress, CBP resources could be freed up and reassigned back to ports of entry.

- 17. You state that "the current crisis... [is] problematic as it incentivizes a dangerous journey north..." Do you believe that the current Administration could have foreseen the current crisis? What could the Administration have done better to adapt to the increase in apprehensions of UACs and families?

The Department first engaged Congress and requesting additional authorities regarding the increasing numbers on the southern border in late 2017. While we continue to engage Congress on both authorities and supplemental funding assistance, the Department will continue to apply all available resources and legal authorities to effectively and efficiently secure the U.S. border and administer the immigration process.

18. The State Department has a Level 3 travel advisory for the Mexican state of Chihuahua where Migrant Protection Protocols (MPP) are in effect. The advisory states, “violent crime and gang activity are widespread. While most homicides appear to be targeted assassinations carried out by criminal organizations, turf battles between criminal groups have resulted in violent crime in areas frequented by U.S. citizens.” Was Secretary Nielsen aware of these conditions when MPP was initially considered and implemented?

As MPP is implemented and expands, DHS continues to be in close coordination with the Government of Mexico (GOM). In its December 20, 2018 and June 7, 2019 statements GOM reiterated that it will authorize the entrance of all of MPP individuals into Mexico and offer support such access to jobs, healthcare and education.

19. Acting Secretary McAleenan recently stated that one of the goals of MPP was to process more people at ports of entry. The most recent CBP statistics show a drop in inadmissible migrants at ports of entry as much as 51% for UACs compared to last year at this point. Is MPP meeting its objectives? If not, why not?

CBP resources continue to be strained. When MPP began, CBP apprehended an average of 2,000 people a day. Today, we average 4,600 a day. We believe that implementing MPP across the entire border will both: (1) ensure that those with legitimate claims are rapidly adjudicated and (2) deter those with frivolous claims from attempting to use our immigration court system against us. Currently, Mexican nationals, UACs, and other vulnerable populations are not subject to MPP.

20. When family units are separated due to criminal background concerns, is the Office of Refugee Resettlement informed of the specific criminal concern that justified the separation?

It is my understanding that CBP will inform the HHS Office of Refugee Resettlement (ORR) that criminal concerns are the reason for the separation of a family unit, but that CBP will not disclose law-enforcement sensitive information to ORR.

21. A recent DHS OIG report regarding dangerous overcrowding conditions among single adults at El Paso Del Norte Processing Center states that the Secretary’s office have a target date of November 30, 2020, to alleviate overcrowding. Why does it take DHS 18 months to develop a solution?

It is my understanding that determinations regarding the detention of foreign nationals are operational matters handled by CBP and ICE. I would refer you to them for an appropriate response.

22. ICE has been engaged in an aggressive expansion of detention facilities and beds. Please explain the authorization and justification of this expansion.

DHS seeks to expand capacities for detention facilities and beds due to the significant increase of crossings at our southern border in recent years. More than 144,000 migrants were encountered at the southern border in May 2019 alone, representing a 32 percent increase over the previous month and the highest monthly total since 2006. This 4,650 daily average follows two months exceeding 100,000 – levels not seen in over 12 years. This current influx is putting our system well beyond capacity, and in order to process and provide appropriate care to migrants, additional facilities and beds are needed.

23. Can you affirm that any significant regulatory changes that are being considered by the Department will be made with a normal notice and comment period as opposed to issuing interim final rules?

I can affirm that I will continue to engage DHS OGC and senior leadership regarding regulatory decisions. Generally, I believe that notice and comment rulemaking is the appropriate way to implement significant regulatory changes, absent a finding of good cause that notice and public procedure is impracticable, unnecessary, or contrary to the public interest.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 1, 2019

The Honorable Michael R. Pence
President of the Senate
United States Senate
Washington, DC 20510

Dear Mr. President:

We are continuing to experience a humanitarian and security crisis at the southern border of the United States. Apprehensions are expected to surpass one million by the end of the year, more than doubling those compared to last year. The number of large-scale groups of family units and unaccompanied alien children (UAC), primarily from El Salvador, Guatemala, and Honduras, seeking to enter the country and claim asylum has increased dramatically.

The situation becomes more dire each day. The migration flow and the resulting humanitarian crisis is rapidly overwhelming the ability of the Federal Government to respond. Only halfway through this fiscal year (FY), the U.S. Border Patrol has apprehended more than 360,000 migrants. This is over 187,000 more than during the same period in FY 2018, and just 35,500 below the number apprehended for all of FY 2018.

The demographics of migrants arriving at our border has changed dramatically, from single adult males to family units and UAC. This year, over 52 percent of apprehensions have been migrant families. The number of UAC referred to the Department of Health and Human Services (HHS) has increased by almost 50 percent over last year. This shift in demographics has stressed a system mainly designed for single adults. These increased flows are exacerbated by Mexico's inability and unwillingness to curb the illegal migration flow through its own southern border. In addition, the speed with which illegal migrants transited through Mexico to reach the United States continues to challenge America's best efforts to keep pace with the overwhelming numbers of migrants arriving at the southern border. The historic influx of families and UAC is challenging the capacity of the Federal Government to shelter, care for and protect those we encounter, and presents child welfare concerns beyond the treacherous journey that these vulnerable migrants undertake to reach our southern border.

In February, U.S. Customs and Border Protection (CBP) encountered more than 76,000 illegal border crossers and inadmissible aliens, and in March that number exceeded 100,000 – the highest monthly level in more than a decade. Despite heroic efforts, the United States Government's ability to humanely and compassionately care for vulnerable populations and to expeditiously process and detain those who should not be admitted is stressed to the breaking point. Alarming numbers of UAC and families are crowded into U.S. Border Patrol stations that were never intended to be long-term shelters. U.S. Border Patrol personnel no longer have the ability to identify, process, and transport all of those apprehended at the border to safe and secure facilities designed to house them, but have instead been increasingly pressed into providing critical humanitarian, medical, and transportation services for this population.

Additionally, immediate emergency action is required to ensure that the Federal Government can provide the infrastructure and personnel required to safely, securely, and humanely process and care for this at-risk migrant population. At the direction of the President, and under available authorities, numerous Federal agencies are coordinating and contributing resources and personnel in response to the overwhelming humanitarian crisis at the United States southern border. As the situation continues to unfold and escalate, the Administration believes additional Federal resources are necessary to sustain critical and life-safety missions.

At this time, the Administration requests an appropriation of \$4.5 billion in emergency funding to respond to the humanitarian and security crisis at the southern border of the United States. This amount includes \$3.3 billion for humanitarian assistance, \$1.1 billion for border operations, and \$178 million for mission support.

The humanitarian assistance request includes \$2.8 billion for HHS to ensure that its Office of Refugee Resettlement (ORR) is able to provide all UAC with critical child welfare services and high-quality shelter care, in accordance with programmatic and legal requirements. The funding will enable ORR to increase shelter capacity to approximately 23,600 total beds in order to accommodate the high number of UAC anticipated to be referred to ORR through the remainder of the fiscal year. Given that current referral trends are likely to continue into next fiscal year, this amount also provides ORR the ability to maintain a high bed capacity through December.

There is a significant likelihood that the UAC program will exhaust all of its resources in June. If Congress fails to provide HHS this additional funding, the expected continuation of current trends may require HHS to divert significant resources from other programs that serve vulnerable populations – such as refugees and victims of trafficking and torture. In addition, UAC services that are not necessary for protection of human life, such as education and legal services, as well as recreational activities, would likely need to be canceled or scaled back. Should reallocated funds be exhausted, it is highly unlikely that HHS would be able to acquire the additional shelter capacity it would likely need to continue to accept UAC referrals from DHS in a timely manner, meaning that children would likely stay in DHS facilities for longer than 72 hours following a determination that the child is a UAC. In the worst-case scenario, thousands of children might remain for lengthy periods of time in facilities that were never intended to be long-term shelters, rather than being expeditiously transferred to HHS custody, where they would receive case management and other services that address their unique needs.

The request also includes \$1.1 billion for the Department of Homeland Security. It would provide \$391 million for humanitarian assistance, including for temporary, semi-permanent, and permanent migrant processing facilities at the southern border where families and UAC will receive timely and appropriate medical attention, food, and temporary shelter before being transferred to other residential locations; \$530 million for border operations, including surged personnel expenses, as well as increased transportation and detainee housing and processing capacity; and \$178 million for operations and support costs, including pay and retention incentives for critical operational personnel, and for information technology (IT) support and upgrades to improve the performance of and help alleviate stress on overtaxed IT systems.

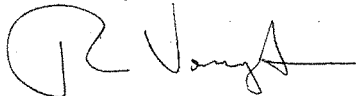
The request also includes \$377 million for the Department of Defense, National Guard for Operation Guardian Support and for active components to provide logistical and administrative, aerial surveillance and other border-related intelligence support to CBP. Finally, the amount includes \$155 million for Federal Prisoner Detention at the Department of Justice to accommodate significant increases in detained populations, including criminal aliens.

The additional resources hereby requested will enable Federal agencies to address the immediate humanitarian and security crisis at the southern border of the United States. Because the need for this funding arises from an unprecedented rise in the numbers and composition of the migrant population, consisting largely of families and UAC, these resources should be provided as emergency funding.

Further, during his April visit to our southern border, the President emphasized that he is anxious to work with the Congress to close loopholes in the United States immigration system and secure meaningful asylum reform, without which border security will deteriorate and immigration enforcement costs will soar. Overall, President Trump is committed to working with the Congress to enact legislation that will give our Nation a secure, coherent, rational, and merit-based immigration system.

Thank you for your consideration of these funding needs. I urge the Congress to take swift action to provide the additional funding requested to address the humanitarian and border security crisis at the United States southern border. I also urge the Congress to complete its work to provide supplemental funding for disaster recovery to get those affected regions and military installations the support they need to rebuild. I stand ready to work with you to achieve these goals.

Sincerely,



Russell T. Vought
Acting Director

Identical Letter Sent to:

The Honorable Michael R. Pence
The Honorable Nancy Pelosi
The Honorable Mitch McConnell
The Honorable Charles E. Schumer
The Honorable Kevin McCarthy
The Honorable Richard C. Shelby
The Honorable Nita Lowey
The Honorable Patrick J. Leahy
The Honorable Kay Granger

**Senator Tom Carper
Post-Hearing Questions for the Record
Submitted to Chad F. Wolf**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

Dissenting Views from Subordinates (for Mr. Wolf)

1. If confirmed to serve as Under Secretary for Strategy, Policy, and Plans, you will be faced with making tough policy decisions in a time of great division on many issues, and one would hope that your subordinates will feel comfortable expressing views and opinions that may differ from your own.

- a. This administration, and in particular this Department, have seen high turnover, some of it seemingly based on the President's whims. Given that environment, do you believe subordinates at the Department will feel comfortable bringing dissenting views forward?

Yes.

- b. How will you maintain a culture that promotes speaking truth to power, and how will you yourself speak truth to power?

I believe it is critical to foster a positive workplace culture where there is frequent communication and transparency. This type of culture encourages employees to bring constructive suggestions forward. I seek dissenting views and critical examination of issues on a daily basis. I strongly believe that understanding alternative viewpoints on policy issues provides an opportunity to strengthen or adjust an argument or position. From immigration policy discussions to terrorism prevention, I encourage multiple viewpoints to fully understand the complexities of an issue in order to provide options for senior DHS leadership.

This is the model I have used throughout my career and, if confirmed, would continue to utilize moving forward.

Responsiveness (for Mr. Wolf)

2. Will you be responsive to Congress's requests for information?

Yes.

Immigration Decisions (for Mr. Wolf)

3. Given the current migration surge, policy development involves coordinating and communicating with many disparate actors involved in immigration policy.
 - a. How do you plan to de-conflict or harmonize the varying viewpoints that may come from Customs and Border Protection, United States Citizenship and Immigration Services, Immigration and Customs Enforcement, the Acting Secretary of DHS, and the White House?

The role and mission of the Office of Strategy, Policy, and Plans (PLCY) is to lead, conduct and coordinate the development and implementation of Department-wide strategies, policies, and plans to ensure quality, consistency, and coordination across the Department on a wide range of issues, including immigration.

In my current capacity, I lead efforts to adjudicate conflicting issues across Components. I also interact with the interagency on immigration issues, where I seek to educate and inform them on operational considerations to any future policy actions.

If confirmed, my highest priority would be to establish a repeatable process to identify, develop, and adjudicate Department-wide policy decisions in a timely, integrated fashion. This will help de-conflict and harmonize major decisions at the Department, which are often complex and require close coordination across the DHS enterprise.

A strong policy process is necessary to ensure such decisions are thoroughly researched, operational equities are accounted for, and thoughtful options are presented to Department leadership.

- b. What role do you see your office playing in releasing consistent immigration policies to the public of both DHS, and of the White House?

As indicated above, the role of the PLCY is to serve as a coordinating function for policies that cut across the entire DHS enterprise, including immigration. PLCY's Office of Immigration Statistics produces annual statistics that assist officials – both in the Executive and Legislative branches – with relevant and accurate data to make policy decisions.

If confirmed, I will work with Operational Components and Department leadership to ensure that the policy products released to the public by the Department are consistent and that access to information about these products is timely and complete in accordance with the law.

**Senator Maggie Hassan
Post-Hearing Questions for the Record
Submitted to Chad F. Wolf**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

1. As we discussed in my office, Congress and the Department of Homeland Security must work together to increase the ability for the Department of Homeland Security to adequately conduct outbound or southbound screening at U.S. land ports of entry along the southern border with Mexico. The drug trafficking organizations in Mexico that have success smuggling narcotics into the United States are empowered by the reciprocal smuggling of firearms and proceeds from their drug sales from the US into Mexico. Currently, US Customs and Border Protection screens southbound or outbound traffic on a risk-based or ad-hoc basis, often engaging in temporary searches known as “pulse and search”. Even with these limited and infrequent searches, the Department is seizing an alarming number of firearms and currency from southbound smugglers. According to statistics provided by the Office of Field Operations at US Customs and Border Protection, in Fiscal Year 2018, \$37.95 million dollars, 895 weapons and 189,000 rounds of ammunition were seized by port officers along the southern border. Please answer the following –

- What is DHS’s current policy with respect to increasing southbound/outbound inspections at the US southern border?

U.S. Customs and Border Protection’s (CBP) mission to stem the outbound flow of firearms, currency, stolen vehicles, and fugitives departing the country is critical. In many cases, CBP’s efforts prevent cartels south of our border from receiving funds, weapons and support.

It is my understanding that CBP is allocating six million dollars in Fiscal Year 2019 for additional Non-Intrusive Inspection (NII) equipment that will be dedicated to screening outbound vehicles to Mexico.

- Does the Department agree that stopping the flow of guns and money to drug trafficking organizations in Mexico will damage these organizations’ ability to traffic narcotics northward?

Yes—combatting transnational criminal organizations requires a multi-pronged approach that (1) disrupts illicit flows into the United States., (2) prevents the outbound flow of illicit firearms and proceeds that support criminal activity, and

(3) dismantles transnational criminal organizations through international partnerships.

- How many US Customs and Border Protection officers are currently manning southbound inspections lanes along the US-Mexico border and have southbound/outbound inspections as their primary responsibility?

I am aware that this information changes based on operational decisions within CBP and outbound staffing in most CBP locations is based on overall workload and resources. However, such staffing decisions are not within the purview of the Office of Strategy, Policy, and Plans.

- How many ports of entry perform non-intrusive inspections of 100 percent of outbound vehicle traffic along the US-Mexico border?

It is my understanding that CBP currently conducts sporadic outbound inspection operations at all southern border ports of entry. With the addition of drive through NII technology, CBP will be able to significantly increase the number of cars and trucks scanned. However, such operational decisions are not within the purview of the Office of Strategy, Policy, and Plans.

- Has the Department established a strategy for increasing southbound inspections of outbound vehicle traffic along the US-Mexico border?

To my knowledge, there is no Department-wide strategy that specifically focuses on increasing southbound inspections of vehicles departing the United States bound for Mexico. However, I am aware that the CBP NII Division is in the process of procuring mobile drive through NII equipment specifically designed for quick blitz operations requisite for outbound enforcement.

- Can you please provide the Committee with the cost estimate for increasing the Department's southbound inspections capabilities in order to achieve non-intrusive inspections of all southbound vehicle traffic along the U.S. southern land border?

I am unaware of an existing Department cost estimate for increasing southbound inspections for all outbound vehicles at the southern border. If confirmed, I will engage with CBP to see if such a cost estimate can be conducted and provided to the Committee.

**Senator Kyrsten Sinema
Post-Hearing Questions for the Record
Submitted to Chad F. Wolf**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

1. The Under Secretary for Strategy, Policy, and Plans plays a critical role in developing strategies to deal with crises at our nation's southern border. As part of that, it is critical that DHS share appropriate information with the public and Congress so that we can better understand the challenges DHS faces and its plans to solve them.

- a. How can DHS's capability to provide accurate information to Congress and the public be improved?

Providing timely and accurate information to Congress and the public is a cornerstone of good governance and can be improved. See response to 1(b) for further information.

- b. What steps have you taken in your present role, or contemplate taking once you are confirmed, to improve the sharing of information?

If confirmed, I will work with Departmental Components to ensure that information is shared in a timely fashion. As the Senior Official Performing the Duties of the Under Secretary, I am overseeing an initiative underway within our Office of Immigration Statistics that will help standardize immigration data collection and reporting across the Department's immigration statistic systems. The goal of this initiative is to produce more timely and accurate sharing of information.

In addition, if confirmed, I would make it a priority to improve the Department's internal policymaking processes, which will ultimately improve DHS's responsiveness to congressional requests.

- c. Will you commit to reviewing DHS's capability to provide my office accurate information on the number of migrants being released into Arizona by DHS on a weekly basis and getting back to me on what you find?

Yes—I have already consulted with the relevant DHS Components and will respond to you with additional information in the near future.

2. One of the key challenges we face at the Southern Border is improving the credible fear determination process so our nation can more quickly determine who is eligible for asylum.
 - a. As head of the Office of Policy, do you think we need to improve the credible fear process?

Yes.

- b. If yes, what specific steps would you recommend DHS take to make improvements to the credible fear process?

The current credible fear process was instituted when the migratory patterns looked much different than they do today. Instead of single-adults from Mexico, now we are seeing an astronomical growth of family units from the Northern Triangle countries of El Salvador, Guatemala, and Honduras. This demographic change combined with the very low credible fear standard has made the credible fear screening process an ineffective tool.

DHS continues to engage Congress to amend the relevant statute to close the “asylum gap” that has acted as a pull factor, drawing vulnerable populations to our border who ultimately do not qualify for asylum.

In his June 11, 2019 testimony, Acting Secretary McAleenan provided the Senate Judiciary Committee with the Department’s recommendations for addressing the humanitarian and border security crisis. Among those recommendations are targeted proposals to improve the credible fear standard. These include:

- 1) Improving the credible fear standard to ensure that only aliens who are more likely than not to succeed on their asylum claim are promptly placed into immigration proceedings, while those who do not meet this standard are expeditiously repatriated to their home countries.
- 2) Improving the integrity of the asylum system by providing that those who are ineligible for asylum are not found to have a credible fear of removal, but instead are placed into withholding of removal proceedings.

The Acting Secretary has also asked Congress to support a process that would allow certain Central Americans to seek refugee status closer to home, such as in a neighboring country, thus obviating the need for these aliens to make the dangerous journey to the United States and drastically reducing the opportunity for drug cartels and smugglers to profit off of human smuggling.

3. During your testimony, you mentioned the Administration’s legislative proposals that you believe would help solve some of the challenges the southern border is seeing with the current flow of migrants from Central American nations. A key part of these proposals is changes to the Flores Agreement. These proposed changes to Flores would allow for the lengthier detentions of children.

- a. As the acting head of the Office of Policy, what steps have you taken to determine the impact of lengthier detentions on children and what do you think should be done to mitigate any negative impact?

When making any policy determination, the Office of Strategy, Policy, and Plans assesses a variety of operational, legal, and practical considerations. DHS takes its responsibility to provide appropriate care for children in its custody seriously, particularly when it comes to children who have recently endured a dangerous and traumatic journey to the U.S. southern border.

It is the Department's goal to hold children for the least amount of time possible while ensuring our immigration laws are enforced. U.S. Customs and Border Protection (CBP) prioritizes the processing of minors in its custody. It is my understanding that with few exceptions, family units (FMUA) with minor children are processed first to expedite placement with U.S. Immigration and Customs Enforcement's (ICE) or the Office of Refugee Resettlement (ORR), as appropriate.

After being processed by CBP, children who enter the country as part of a FMUA may be placed in an ICE Family Residential Center (FRC), specifically tailored to the needs of children. These include, but are not limited to: education services (pre-K through high school); indoor and outdoor activities (sports, arts and crafts, movie nights, etc.); three "all you can eat" meals a day as well as 24-hour snacks and juice; and comprehensive medical care (physician, dental care, etc.). Evidenced by the above, it is the intent of CBP and ICE to enforce the law while maintaining the highest quality of life for minors.

- b. If such efforts to determine the impact of lengthier detentions on children have not taken place through the Office of Policy during your tenure, are you aware of other such efforts taking place inside the Department of Homeland Security and will you provide my office information on what the outcome of that research was and how DHS assesses the impact of detention by Tuesday, June 18, Close of Business?

While I am aware of third-party stakeholder studies regarding the impact of detention on children, I am not aware of any specific studies conducted by the Department.

- c. If Congress does not make legislative changes to Flores and no federal court revises the Agreement, would you support efforts to allow for lengthier detention of children in DHS custody through regulatory or executive action?

The Department, including its Office of Strategy, Policy, and Plans, supports the Acting Secretary in exploring all solutions, including statutory and regulatory changes that enhance the efficiency and effectiveness of our immigration system.

This includes exploring additional policy actions that enforce the law in a manner that is legal and humane.

**Senator Jacky Rosen
Post-Hearing Questions for the Record
Submitted to Chad F. Wolf**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

Questions for Chad Wolf

1. Between the time you started your employment at DHS in 2017 and the date that President Trump signed an executive order rescinding his administration's "zero tolerance" policy on June 20, 2018, were there any discussions involving DHS officials on how to reunify families separated pursuant to the policy?

- Please describe the nature of those discussions, including the names of the participants.

DHS has consistently maintained policies and practices to reunify families in circumstances where separation was necessary for the health, safety and well-being of a child. As a result of the President's Executive Order and the Attorney General's guidance on zero tolerance, I am aware that the Acting Deputy Secretary, along with numerous other Departmental officials from U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement and Office of the General Counsel (OGC), engaged in numerous and regular discussions to discuss family reunification and compliance with court orders directing the same. I did not participate in those discussions in my role as Chief of Staff.

I became aware of developments as the Secretary was advised or briefed on reunification efforts by the Acting Deputy Secretary and others.

2. There have been serious allegations of improper political interference in the decision-making process surrounding the termination of Temporary Protected Status for people from El Salvador, Nicaragua, and several other countries, including thousands of individuals in Nevada. I'm concerned that this is part of a pattern of politically-motivated decision-making at DHS.

- What was your role or involvement in the decision to terminate TPS status for those countries?

My role as the Chief of Staff regarding TPS determinations was to ensure that the information package received by the Acting Secretary and Secretary had all relevant and

up-to-date information from the Department of State (current conditions report), input from subject matter experts from U.S. Citizenship and Immigration Services (USCIS), the formal recommendation from the USCIS Director, and legal advice from OGC. I ensured that all questions the Acting Secretary and Secretary asked of DHS staff were researched and answered during the course of their decision-making process.

**Confirmation Hearing Testimony
Jeffrey Byard
Nominee for Administrator, FEMA
United States Senate
Committee on Homeland Security and Governmental Affairs
June 12, 2019, 2:30 p.m., 342 Dirksen Senate Office Building**

Introduction:

Good Afternoon Chairman Johnson, Ranking Member Peters, and Members of the Committee. My name is Jeffrey Byard. I would like to begin by thanking Senator Shelby for taking the time to introduce me. As an Alabama native, it is an honor to have you here today and I thank you for your endorsement.

I would also like to thank my wife, Sara, and my daughters, Brooke, Kate, Caroline, and Zoe for their support over the past seventeen years. The life of an emergency manager often requires long hours and extended periods away from home and I could not have been successful in my pursuits without their support.

I am honored to appear before you today as the nominee for the position of Administrator of the Federal Emergency Management Agency (FEMA). I am extremely thankful for the President and Acting Secretary's faith in me as the nominee. As a United States Marine, I have a strong commitment to duty, public service, and integrity. These qualities, coupled with years of experience in emergency management have prepared me for the position for which I am now nominated and, if confirmed, I look forward to tackling the challenges that lay ahead.

I began my emergency management career as an entry level planner with the Alabama Emergency Management Agency where I was promoted through the ranks and held positions spanning the full spectrum of emergency management. I gained valuable experience while working in leadership positions during some of the largest disasters in our Nation's history. I led recovery efforts for the State of Alabama following Hurricane Ivan in 2004 and Hurricane Katrina in 2005. After those events, I was the senior career emergency manager for Alabama from 2007-2017. During that ten-year span, I led a great team of professionals in response and recovery operations for Hurricane Gustav in 2008, the H1N1 pandemic outbreak in 2009, Deepwater Horizon in 2010, and the Super Tornado Outbreak in 2011 which caused 238 fatalities as a result of 64 tornadoes in a 24-hour period. During my time with the State of Alabama, I held senior leadership positions for 14 Presidentially declared major disasters and many states of emergency.

Since 2017, I have served as the Associate Administrator for FEMA's Office of Response and Recovery (ORR). In this position, I have been the senior agency official responsible for all matters of disaster response and recovery. While serving in this capacity, I have managed operations in over 100 Presidentially declared disasters and emergencies including the historic hurricane seasons of 2017 and 2018, as well as the unprecedented western wildfires.

The most rewarding part of my experience as Associate Administrator for ORR has been working alongside the men and women of FEMA. FEMA's workforce has time and time again exhibited their tireless and selfless dedication to the service of others and I firmly believe that there is no better workforce in the Federal Government. They truly do not get the credit that they deserve for their unwavering commitment to the mission.

Priorities:

I believe that FEMA's mission of helping people before, during, and after disasters is critical to the national security of the United States. In fact, I believe that helping people is one of the core foundations of government. In 2018, FEMA adopted a new Strategic Plan to help enhance the Nation's levels of preparedness and resilience. This plan is comprised of three major goals: 1. Build a Culture of Preparedness 2. Ready the Nation for Catastrophic Disasters and 3. Reduce the complexity of FEMA. If confirmed, I plan on continuing the implementation of this plan as I believe all three goals will collectively address many of the challenges that face the Agency and the Nation from a preparedness and resilience perspective. If confirmed, I will continue to implement measures that better prepare the Nation and allow it to become more resilient. A key component will be to implement Section 1234 of the Disaster Recovery Reform Act as quickly as possible. This section provides greater funding for mitigation measures before a disaster strikes, making our communities more resilient.

I will continue to focus on addressing resource requirements to rapidly stabilize community lifelines in the wake of any disaster. A key aspect of this requirement is the inclusion of the private sector during emergency response and I will seek to expand on existing efforts in that space.

I am also committed to continuing to reduce the complexity of FEMA's programs, paying close attention to our recovery operations. We must build on efforts to make it easier for communities to rebuild after disasters by streamlining FEMA's Public Assistance program. Recovery should shift from a dollar for dollar, project by project cost reimbursable program to a more flexible and expedient cost estimate direct grant program. This approach will better align the responsibilities of recovery to a locally executed, state managed, and federally supported model.

If confirmed, a top priority of mine will be the overall well-being of our workforce. FEMA currently has staff deployed to some of the Nation's most devastating and complex disasters that stretch the globe, from Saipan to the US Virgin Islands, with several thousand in Puerto Rico alone. Many of these dedicated personnel have been deployed for extended periods of time, some longer than military deployments. The nature of the work, length of deployments, and pressure to perform in these stressful environments can result in negative morale, fatigue, and challenges with overall quality of life. I would like to take a close look at how the agency currently manages these difficulties and seek to ease the burdens that are placed on our workforce. It must be noted that despite these obstacles, 85 percent of FEMA employees understand how their important work fits into the overall mission of the agency.

I believe that a key component for FEMA's success is diversity in our workforce. As an agency, we must be reflective of the communities that we serve, and as such, we must be comprised of individuals from all walks of life. If confirmed, I would like to see the agency do more to encourage recruitment, retention, and promotion of historically underrepresented groups of people within emergency management.

Lastly, if confirmed, developing and fostering relationships with state, local, tribal, and territorial officials will remain an important area of focus for FEMA. Maintaining an open and direct dialogue with these individuals on "blue sky days" is critical to the agency's success during times of crisis. These open lines of communication have been a common practice of mine since my earliest days in the emergency management profession.

Conclusion:

Having the opportunity to serve at both the federal and state levels in various emergency management capacities, I believe that I am uniquely suited to serve as FEMA Administrator. If confirmed, it will be my honor to lead the incredibly dedicated men and women of FEMA. The FEMA Administrator is one of the most challenging and demanding positions in government. If confirmed, I welcome the challenge and I commit to the President, the Acting Secretary, FEMA, this committee, and most importantly the American people that I will work every day for the betterment of emergency management. Thank you for allowing me to appear before you today and I look forward to 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	5/14/2019

<i>Current Legal Name</i>			
First Name	Middle Name	Last Name	Suffix
Jeffrey	Curtis	Byard	

<i>Addresses</i>					
<u>Residential Address</u> <small>(do not include street address)</small>			<u>Other Address</u> <small>(include street address)</small>		
			Street: 500 C Street, SW		
City: Arlington	State: VA	Zip: 22207	City: Washington	State: D.C.	Zip: 20472

<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)
Jeff	Curtis	Byard			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
1972	Montgomery, Alabama

<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
Sara	Jane	Byard	

<i>Spouse's Other Names Used (current spouse only)</i>							
First Name	Middle Name	Last Name	Suffix	From (Date)	To (Date)	From (Date)	To (Date)
Sara	Jane	Parlieri		2/15/00	8/00	2/15/00	8/00

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

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>
Troy University	University	9/1994 Est <input type="checkbox"/>	5/2000 Est <input type="checkbox"/> Present <input type="checkbox"/>	B.S.	5/2000

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)
US Marine Corps (Active)	Parris Island, Marine Corps Recruit Depot	E-2	Beaufort, SC	6/1990 Est <input type="checkbox"/>	8/1990 Est <input type="checkbox"/>
US Marine Corps (Active)	Marine Corps Base, Camp Lejeune	E-4	Jacksonville, NC	9/1990 Est <input type="checkbox"/>	6/1993 Est X
US Marine Corps (Active)	Parris Island, Marine Corps Recruit Depot	E-4	Beaufort, SC	6/1993 Est X	6/1994 Est <input type="checkbox"/>
Self-employment (Non-Government Employment)	Summer Work between USMC and beginning college.	Summer Work between USMC and beginning college.	Prattville, AL	6/1994 Est <input type="checkbox"/>	8/1994 Est X
Student Job (Non-Government Employment)	Troy University, Veteran Affairs	Student Worker	Troy, AL	9/1994 Est <input type="checkbox"/>	6/1995 Est X

Part-time (Non-Government Employment)	Hendricks Homecenter	Warehouse Employee	Troy, AL	6/1995	Est X	6/1998	Est X
Alabama Army National Guard (State Government)	131 st Armor, Abbeville, Alabama	E-4	Abbeville, AL	10/1997	Est <input type="checkbox"/>	10/2000	Est <input type="checkbox"/>
Student Job (Non-Government Employment)	Troy University, Golf Course	Attendant	Troy, AL	6/1998	Est X	9/1999	Est X
Internship (part-time) (Non-Government Employment)	Henderson, Black, and Green	Human Resources	Troy, AL	9/1999	Est X	5/2000	Est <input type="checkbox"/>
Non-Government Employment	Sentry Hospitality, The Legends at Capitol Hill	Human Resources Manager	Prattville, AL	6/2000	Est <input type="checkbox"/>	07/2002	Est <input type="checkbox"/>
Non-Government Employment	Alabama Children's Policy Council	Youth Development Facilitator	Prattville, AL	07/2002	Est <input type="checkbox"/>	11/2002	Est <input type="checkbox"/>
State Government	Alabama Emergency Management Agency	Emergency Program Coordinator, Recovery Branch Chief	Clanton, AL	12/2002	Est <input type="checkbox"/>	3/2006	Est <input type="checkbox"/>
Non-Government Employment	PBS&J	Project Manager	Vestavia Hills, AL Biloxi, MS	3/2006	Est <input type="checkbox"/>	5/2006	Est <input type="checkbox"/>
Federal Employment	(DHS) Federal Emergency Management Agency	Director, Alabama Transitional Recovery Office	Montgomery, AL	5/2006	Est <input type="checkbox"/>	3/2007	Est <input type="checkbox"/>
State Government	Alabama Emergency Management Agency	Executive Operations Officer	Clanton, AL	4/2007	Est <input type="checkbox"/>	8/2017	Est <input type="checkbox"/>
Federal Employment	(DHS) Federal Emergency Management Agency	Associate Administrator, Office of Response and Recovery	Washington, D.C.	9/2017	Est <input type="checkbox"/>	Present	Est <input type="checkbox"/>

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

Name of Government Entity	Name of Position	Date Service Began (month/year) (check box if estimate)	Date Service Ended (month/year) (check box if estimate) (check "present" box if still serving)
(DHS) Federal Emergency Management Agency	Member of the FEMA Region IV Regional Advisory Council (RAC)	January 2008 Est X	September 2017 <input type="checkbox"/> Est 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.

In connection with the nomination process, I have consulted with the U.S. Office of Government Ethics and the U.S. Department of Homeland Security's Designated Agency Ethics Official (DAEO) to identify any potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I signed and transmitted to the Department's DAEO, which has been provided to this Committee. I am not aware of any other potential 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.

N/A

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.

Combat Action Ribbon; Navy Unit Commendation; Good Conduct Medal; National Defense Medal; Southwest Asia Service Medal (w/3 stars); Sea Service Deployment Ribbon (w/1 star); Kuwait Liberation Medal; Meritorious Masts (2); Army Service Ribbon; Army Reserve Component Achievement Medal

Alabama Public Safety Leadership Academy- Cohort I (2015-2016)

FEMA Executive Leadership Academy- Cohort V (2016-2017)

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).

I am an affiliate member of the Sons of the American Revolution. I joined the organization in September 2011 and briefly held the position of Veteran Liaison. I am not a dues paying member at this time.

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
Sons of the American Revolution	09/2011 - 09/2012. I am currently a non-paying affiliate member.	Veteran Liaison

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</u> (If applicable)
N/A			

(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>
N/A			

(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>
N/A		

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>
N/A		

(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>
Crisis Leadership	2019 Spring Senior Leadership Conference, U.S. Coast Guard	April 26, 2019
Office of Response and Recovery Update	2019 Public Assistance Working Session	April 25, 2019
"Are We Ready? Recovering from the 2017 Disasters and Preparing for the 2018 Hurricane Season"	Transportation and Infrastructure Committee, Subcommittee on Economic Development, Public Buildings, and Emergency Management, U.S. House of Representatives	July 18, 2018
FEMA's Strategic Plan/Community Lifelines	Alabama Association of Emergency Managers Summer Conference	June 26, 2018
"Update on the Restoration of Puerto Rico's Electric Infrastructure"	Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, U.S. House of Representatives	April 11, 2018
Emergency Management and Municipalities	Alabama League of Municipalities, Transportation, Public Safety, and Communications Committee	March, 2017

Alabama Emergency Management Agency's 2017 Operational Priorities	State of Alabama Governor's 2017 Preparedness Conference, Hosted by the Alabama Emergency Management Agency	March 15, 2017
Partnerships and Relationships	Alabama Department of Education	2016
Role of the State Coordinating Officer	U.S. Army Northern Command, Joint Taskforce Commanders Course	August, 2016 April, 2015
Roles and Responsibilities of the Alabama Emergency Management Agency	City, County, and State Elected Officials (Elected Officials Brief)	In my role as the Executive Operations Officer for the Alabama Emergency Management Agency I presented this material annually.

(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.

Title	Place/Audience	Date(s) of Speech
Alabama Emergency Management Division Goals & Priorities	State of Alabama Governor's 2014 Preparedness Conference, Hosted by the Alabama Emergency Management Agency	April 1, 2014
Roles and Responsibilities of the Alabama Emergency Management Agency	Alabama Banking Security Conference	November, 2013
Helping Your Community Manage Disasters	Alabama League of Municipalities, Annual 2013 Convention	May 20, 2013
Roles and Responsibilities of the Alabama Emergency Management Agency	Alabama Rural Water Association	March, 2013

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? No (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.)
- 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.

<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>
06/2007	Autauga County Courthouse	Jeffrey Curtis Byard- Petitioner Natasha Byard-Respondent	Divorce Decree	Ordered, Adjudged, and Decreed Case No-DR-07-123
07/2015	Autauga County Courthouse	Jeffrey Curtis Byard- Petitioner Natasha Byard-Respondent	I petitioned the court to modify primary custody.	Primary custody of my oldest daughter was modified and granted to me. Case No- DR-2007-000123.01
06/2016	Autauga County Courthouse	Jeffrey Curtis Byard- Petitioner Natasha Byard-Respondent	I petitioned the court to modify primary custody.	Custody was modified and I was granted primary physical custody of my twin daughters. Case No- DR-2007-000123.02

(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

<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>
N/A				

(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? 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>
N/A			

(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? 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.

A handwritten signature in black ink, appearing to be "M. B.", is written over a horizontal line.

This 21 day of MAY, 2019

UNITED STATES OFFICE OF
GOVERNMENT ETHICS

REDACTED



May 17, 2019

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 Jeffrey Byard, 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,

DAVID APOL

Digitally signed by DAVID
APOL
Date: 2019.05.17 11:45:57
-0400

David J. Apol
General Counsel

Enclosures **REDACTED**

★ ★ ★ ★

May 14, 2019

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.

My spouse is employed by Central Alabama Regional Planning & Development Commission in a position for which she receives a fixed annual salary. For as long as my spouse continues to work for Central Alabama Regional Planning & Development Commission, I will not participate personally and substantially in any particular matter involving specific parties in which I know Central Alabama Regional Planning & Development Commission 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 also employed by RealStreet (KJMK Management Inc.) Staffing Firm in a position for which she receives a fixed annual salary. For as long as my spouse continues to work for RealStreet (KJMK Management Inc.) Staffing Firm, I will not participate personally and substantially in any particular matter involving specific parties in which I know RealStreet (KJMK Management Inc.) Staffing Firm 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 also a consultant to Central Alabama Electrical Cooperative. For as long as my spouse continues to work with Central Alabama Electrical Cooperative as a consultant, I will not participate personally and substantially in any particular matter involving specific parties in which I know Central Alabama Electrical Cooperative 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 also a consultant to Main Street Alabama, a nonprofit organization. For as long as my spouse continues to work with Main Street Alabama as a consultant, I will not

participate personally and substantially in any particular matter involving specific parties in which I know Main Street Alabama is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

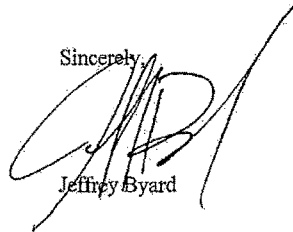
If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment 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 or another Department of Homeland Security ethics official during the first week of my service in the position of Administrator for the Federal Emergency Management Agency 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 understand that as an appointee I must continue to abide by the Ethics Pledge (Exec. Order No. 13770) that I previously signed 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,



Jeffrey Byard

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the nomination of Jeffrey Byard 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?

The President and former Secretary of Homeland Security Nielsen both indicated that I have significant management, leadership, and experience in emergency management and leading organizations during large disasters.

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?

If confirmed, I am committed to continuing the implementation of FEMA's Strategic Plan. In my position as the Associate Administrator, Office of Response and Recovery, I am currently responsible for implementing Goal 2, which is readying the nation for catastrophic disasters. I look forward to also executing goals 1 and 3 of the Strategic Plan to ensure the success of FEMA's mission, as well as promoting the nation's readiness.

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 Ethics Official. Outside of the items provided in this agreement, I am not aware of any additional conflicts of interest(s).

II. Background of the Nominee

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

I was instilled with a strong commitment to duty during my service as a United States Marine. I have seventeen years of experience in emergency management having served at both the state and federal level. I began my career as an entry level planner with the Alabama Emergency Management Agency where I was promoted through the ranks and held positions spanning the full spectrum of emergency management. I gained valuable experience while working in leadership positions during some of the largest disasters in our nation's history. I led recovery efforts for the State of Alabama following Hurricane Ivan in 2004 and Hurricane Katrina in 2005. After those events, I was the senior career emergency manager for Alabama from 2007-2017. During that ten-year span, I led response and recovery operations for Hurricane Gustav in 2008, the H1N1 pandemic outbreak in 2009, Deepwater Horizon in 2010, and the Super Tornado Outbreak in 2011 which caused 238 fatalities as a result of 64 tornadoes in a 24-hour period. During my time with the State of Alabama, I held senior leadership positions for 14 federally declared disasters.

I also have had extensive experience working with FEMA throughout the course of my career. In 2006, I served as the Director of FEMA's Alabama Transitional Recovery Office. In this position, I managed the federal recovery efforts for the state following Hurricane Katrina. I gained valuable experience in implementing federal processes and procedures. In 2017, I accepted an appointment as the Associate Administrator of FEMA's Office of Response and Recovery (ORR). As the Associate Administrator for ORR, I am the senior agency official responsible for all matters of disaster response and recovery for the agency. While serving in this capacity, I have managed operations in over 100 declared disasters and emergencies including the historic hurricane seasons of 2017 and 2018, as well as the unprecedented western wildfires.

I have many formal hours of emergency management training. I am a graduate of the Alabama Public Safety Leadership Academy (Cohort I) and the FEMA Executive Academy (Cohort V).

6. Please describe:

- a. Your leadership and management style.

I am a leader who believes in soliciting input from my entire team. I cherish the vast amounts of knowledge and extensive experience contained within FEMA's workforce. I know that the more informed a leader is the better decision he or she will make. As a leader, I do not shy away from making difficult decisions and I take responsibility for the impacts of those decisions.

I am wholly committed to the mission of FEMA. I can both effectively communicate the big picture at a high level, while still accomplishing the little tasks that need to be accomplished to meet our mission. I am approachable to all staff and appreciate that every employee has value and worth regardless of title. Above all, I treat everyone I encounter with civility and respect.

As a manager, I set goals and standards and hold staff accountable to those standards. I treat every day as a learning opportunity for staff and myself. I set the tone in my office by insisting that we do our jobs and try to enjoy the work that we do. I believe that if we invest in our people then the mission will get accomplished.

- b. Your experience managing personnel.

I have managed and led many individuals and teams throughout my seventeen years in emergency management. I have led as few as two individuals and as many as 3,148 staff. During my career with the Alabama Emergency Management Agency, my yearly performance appraisals consistently exceeded standards.

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

3,148.

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

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

Successful emergency management begins before disaster strikes by fostering relationships and forming partnerships at all levels of government and the private sector. During my time at the Alabama Emergency Management Agency, I prioritized engagements with local elected officials and emergency management professionals to ensure open lines of communication were established in advance of any potential crisis. On April 27, 2011, these engagements proved crucial when 64 tornadoes killed 238 Alabamians within a 24-hour period. This was the deadliest disaster in the state's history. During this incredibly difficult period, I was able to keep my team focused on accomplishing meaningful operational objectives while also providing sound guidance to a newly elected Governor and his staff. I communicated my intent to my staff in a clear and concise manner while maintaining composure and focus throughout the duration of the incident. We quickly mobilized resources, established a much-needed physical presence in the impacted communities, and provided aid to those in need. My years of training and experience also helped create a seamless connection with the

FEMA personnel who were deployed to assist the State of Alabama. My previously developed relationships with state, local, and tribal emergency management professionals allowed for a swift delivery of resources without delay. In total, I have held leadership positions at the state level during fourteen Presidentially Declared Major Disasters, the H1N1 pandemic outbreak, and the Deepwater Horizon Oil Spill.

I was sworn in as the Assistant Administrator for ORR on September 1, 2017, six days after Hurricane Harvey made landfall in Texas. Despite coming on board during a full activation of the National Response Coordination Center, I was able to capitalize on my prior experience as both a state and federal emergency manager to ensure that appropriate action was being taken to include the deployment of FEMA staff and delivery of life saving resources.

The next three weeks saw the landfall of both Hurricanes Irma and Maria, resulting in the need to balance three different large-scale responses and recovery operations simultaneously. FEMA was positioning itself to support the largest housing mission in the agency's history from Hurricane Harvey while simultaneously providing lifesaving support to the islands of Puerto Rico and the U.S. Virgin Islands (USVI).

Despite this challenge, FEMA was able to quickly provide a logistical base from which to provide support to Puerto Rico and USVI. FEMA's staff performed at a level not previously seen in the history of the agency and was able to stabilize both territories, despite limited local preparedness capabilities and outdated local infrastructure. FEMA's commitment to the recovery from the catastrophic hurricanes of 2017 is ongoing and we will remain engaged for years to come.

The 2018 hurricane season presented unique challenges for FEMA. The agency was and remains extremely engaged in recovery operations from Hurricanes Harvey, Irma, and Maria. Implementing numerous lessons learned from the 2017 season, notably focusing on the rapid stabilization of community lifelines and better incorporating private sector capabilities into response, the agency was able to successfully respond to Hurricane Florence, which caused historic flooding in the Carolinas, and Hurricane Michael, one of only four Category 5 storms to strike the U.S. mainland in history. During my time as the Associate Administrator of ORR, I have managed over 100 presidentially declared major disasters and emergencies to include the historic 2017 and 2018 hurricane and wildfire seasons.

8. How has serving as the Associate Administrator for the Office of Response and Recovery prepared you to serve as FEMA Administrator?

My time as the Associate Administrator for ORR has allowed me to gain better insight into how FEMA operates both operationally and administratively. I have fostered strong relationships with FEMA's workforce and our Federal partners while also developing new relationships with critical private sector entities. I know first-hand where the Administrator of FEMA can be most effective during response and recovery operations. In my current position, I routinely work with the staff of the National Security Council and the Office of Management and Budget and I have been fortunate to play an integral role in the largest operations in FEMA's history.

Additionally, I was involved from the outset in the development of FEMA's Strategic Plan and understand the importance of its implementation for the success of the agency. There is no better role within FEMA to prepare someone to become the Administrator than that of the Associate Administrator for ORR. In this role, beyond leading disaster readiness and operations, I have seen first hand the value of FEMA's resilience programs such as preparedness grants and flood insurance and I have seen how crucial FEMA's mission support organizations are to enabling FEMA to deliver its mission.

III. Role of the Administrator of FEMA

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

I have a steadfast belief in service to our country. I moved my family to Washington D.C. because I was asked to serve as the Associate Administrator for ORR. When asked by the President to accept the nomination to be FEMA Administrator, I understood that my commitment to public service requires me to serve in whatever capacity will allow me to do the most collective good for our country. If confirmed, I will continue to improve all facets of emergency management by fully implementing the agency's Strategic Plan. I am eager to provide positive, survivor-centric outcomes for disaster survivors. Of equal importance, I will continue to serve alongside the men and women of FEMA. I have been fortunate to witness their tireless dedication to the service of others. There is no better workforce. I know that there is still much to be accomplished for the benefit of emergency management and I want to lead and be a part of those positive outcomes.

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?

FEMA's mission is to help people before, during, and after disasters. The core strength of the agency is our staff. FEMA has a very knowledgeable and caring workforce with a positive, can-do attitude. Much can be accomplished with people who possess such qualities. FEMA has grown highly adaptive to any disaster situation. Our most critical weakness at present is meeting the staffing requirements necessary to effectively manage the ongoing and unprecedented recovery operations from the 2017 and 2018 hurricanes and wildfires.

- a. What actions would you take as Administrator to advance the 2018-2022 Strategic Plan?

If confirmed, I will continue to implement measures that better prepare the nation to be more resilient. A key component will be to implement Section 1234 of the Disaster Recovery Reform Act as quickly as possible. This section provides greater funding for mitigation measures before a disaster strikes, making our communities more resilient.

I will continue to focus on addressing resource requirements to rapidly stabilize community lifelines in the wake of any disaster. A key aspect of this requirement is the inclusion of the private sector during emergency response and I will seek to expand on existing efforts in that space.

I am also committed to continuing to reduce the complexity of FEMA's programs, paying attention to our recovery operations. We must build on efforts to make it easier for communities to rebuild after disasters by streamlining FEMA's Public Assistance program. Recovery should shift from a dollar for dollar, project by project cost reimbursable program to a more flexible and expedient cost estimate direct grant program. This approach will better align the responsibilities of recovery to a locally executed, state managed, and federally supported model.

We must also do all we can to provide assistance as rapidly as possible to eligible individuals and families in the wake of disaster.

Managing the nation's largest disaster recovery missions while continuing to prepare for catastrophic disasters remains one of FEMA's greatest challenges. We must better share the responsibility of disaster recovery with our state, local, tribal, and territorial (SLTT) partners.

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

The law is clear about the role of the FEMA Administrator, primarily as outlined in the Homeland Security Act, as amended by the Post Katrina Emergency Management Reform Act. More generally, the Administrator must work every day to identify opportunities to buy down risk through mitigation activities, ensure the nation is ready for a catastrophic disaster through readiness activities, expand critical partnerships, and continue to aid communities and citizens impacted by current disasters. The Administrator sets the tone for not only FEMA, but the emergency management community as a whole in this regard. The Administrator must create and maintain an open and direct dialogue with state elected officials and emergency management leaders. The Administrator must also advise the President and the Secretary of Homeland Security on all emergency management

issues. The Administrator also has a responsibility to advise Congress on pressing issues and identify any legislative changes that would enhance the nation's ability to prepare, respond, 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?

The greatest challenge for FEMA is meeting the health and morale of our dedicated workforce. FEMA is currently managing the largest recovery missions in our history. The nature of the work, length of deployments, and pressure to perform in a highly stressful environment can over time have negative impacts on employee moral and performance.

I believe in the goals of the strategic plan and if confirmed, I will continue to implement the plan. All three goals will collectively address the challenges that face our workforce. I will continue to drive the agency to meet the goals, this includes building the disaster workforce FEMA needs to sustain the unprecedented recovery operations that resulted from the 2017 and 2018 hurricane and wildfire season. FEMA leadership must also provide support, training, and the tools needed for success.

If confirmed, my top priority will always be the well-being and health of our workforce.

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

I have been given no specific priorities, but I know both the President and Acting Secretary have a strong commitment to the mission of FEMA and if confirmed, my guiding principle will be to help people before, during, and after disasters.

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?

In those cases where a disaster exceeds the state's capability to respond and/or a state doesn't have the capability to reduce the loss of life and suffering, I believe that the federal government should quickly provide resources and funding to assist. I believe that FEMA has a critical role during the response phase of such disasters

and emergencies to provide resources and assistance to our state partners in a timely manner.

If confirmed I would take the following steps to reduce the future fiscal exposure to disasters:

- 1. Smartly implement those sections of the DRRRA that involve investing in mitigation measures. The more we invest in reducing risk of infrastructure, the less recovery will cost.**
- 2. Continue to advocate for insurance coverage in both the public and private sectors.**
- 3. Work with the Congress to improve our existing authorities to allow for a cost estimate (fixed/capped) grant approach to funding damage to public infrastructure. This funding should be accompanied with actual insurance coverage requirements. This measure would reduce the need for additional recovery staff over time and therefore lower administrative cost over the life of a 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 continue to build partnerships and relationships with our SLTT partners. FEMA has embedded FEMA Integration Teams (FIT) with 18 states. FIT teams further build a daily partnership with our partners. FIT teams work with the states to identify gaps and build solutions to close those gaps. If confirmed, I will have regular contact with our SLTT partners to discuss FEMA's challenges and seek input. As stated previously I am a collaborative leader. If confirmed, I will direct a review of all training to ensure its relevant and enhancing current and emerging needs.

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 do everything within the authority of the Administrator to protect taxpayer dollars. The taxpayer expects that their money should be spent in accordance with the requirements of the grant. DRRRA provisions have increased the management cost to eligible applicants for post disaster grants. This increase will give our partners funding to build grant management capability and capacity. I will ensure FEMA has the appropriate policies and procedures to manage that capability and capacity.

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

Grant managers must have integrity, understand all relevant requirements, and show attention to detail.

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

I have fourteen years of emergency management experience at the state level where I spent countless hours with local elected officials in both response and recovery operations. As former Administrator Long often said, successful emergency management is a four-legged stool. Each leg of the stool must be able to hold their share of responsibility, otherwise the system will not work. The legs represent the 1) Federal government, 2) State/Local governments, 3) Non-governmental organizations to include the private sector, and 4) the citizens themselves. The best model for emergency management is one where both response and recovery is executed at the local level, is managed at the state level, and is supported at the Federal level.

If confirmed, I will work with all grantees to ensure that grant requirements are clearly articulated and understood. In 2018, FEMA deployed FEMA Integration Teams (FIT) to embed with our state partners to assist with operational, mitigation and recovery planning, and grants management. If confirmed, I will work with the FEMA Regional Offices and FIT teams to provide additional support to grantees and sub-grantees for grant management and compliance, while also providing corrective measures for grantees and sub-grantees when needed.

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?

There are multiple contributing factors such as complex eligibility and procurement requirements, multiple levels of approval done at different locations by different offices, and the availability of trained staff at all levels in the process. Disaster closeout requires many steps and processes at the local, state, and federal level. Each individual project must go through these steps. There can be thousands of individual projects for our larger disasters.

If confirmed, I will seek to transform all grants for permanent work to Section 428 fixed cost grants based on agreed upon estimates. This grant would be administered by the declared state and that state's eligible sub-grantees. FEMA would administer reimbursement for emergency work in the current manner, which is project by project and actual costs.

The Stafford Act

19. 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?

The Stafford Act should provide the Administrator with maximum flexibility to carry out his or her duties on behalf of the President. If confirmed, I will take a hard look at the relevant statutes of the Stafford Act that guide recovery operations. I believe that we need to streamline our processes for both Individual Assistance and Public Assistance. Traditionally, there is a strong partnership across federal, state, local, tribal, and territorial governments during response phase operations. I do feel, however, that regulations should focus on a more equal distribution of responsibility across all levels of government during the recovery phase. I believe that designing block grants based on damage estimates would allow for recovery to be more locally driven, more efficient, and ultimately reduce the level of staffing needed at the federal level. We need to continue to strive to reduce the complexity of our recovery programs.

20. The Stafford Act provides for federal assistance when the severity of an incident is beyond the capacity of state and local governments.
- a. The Disaster Recovery Reform Act requires FEMA to review and propose adjustments to the method used in assessing eligibility for major disaster declarations and in determining the estimated cost of assistance. 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?
- I believe that the per-capita indicator is just one of many factors that is taken into account when a declaration is considered; the per-capita indicator should not be the only indicator. We need to encourage states to recover from smaller, more recovery centric disasters at the state level. We should seek to transfer risk from the taxpayer to the private sector where the private sector is willing and able to absorb such risk at a reasonable cost.
- b. The Disaster Recovery Reform Act requires the Administrator to give greater weight and consideration to severe local impact or recent multiple disasters. 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?

Consistent with the DRRRA vision, I have directed that more weight be given to localized impacts during the disaster declaration review process. During my time as Associate Administrator of ORR, we have considered all factors as outlined in the Stafford Act and associated regulations.

National Flood Insurance Program

21. 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?

If confirmed, I will continue to focus the efforts of the Federal Insurance and Mitigation Administration (FIMA) on product redesign to better align with industry and demonstrate value to the policy holder, while modernizing our risk rating approach to deliver accurate, cost-effective ratings of flood risk to property owners. Partnership with the Congress will be critical to significantly reforming NFIP.

- a. According to a recent FEMA briefing, 8 out of 10 properties affected by Hurricane Harvey did not have flood insurance. Since Hurricane Maria, FEMA stated that the NFIP has doubled the number of insurance policies in Puerto Rico. If confirmed, what steps would you take as Administrator to address the fact in the highest-risk areas, only 35% currently hold flood insurance and only 4 out of 10 Americans on average hold flood insurance policies?

If confirmed, I will continue to promote the efforts to better educate property owners on their flood risks and the benefits of having proper flood insurance. It is undisputed that homeowners with flood insurance recover much more quickly than those without coverage. Continuing to promulgate this message will continue to be a part of our public outreach campaigns.

- 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?

In my current capacity as the Associate Administrator for ORR, I am not completely familiar with this issue. If confirmed, I will better educate myself on NFIP affordability issues and take appropriate action where necessary.

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

In my current capacity as the Associate Administrator for ORR, I am not familiar with this issue or process. I do believe that it is important to have

accurate risk maps. If confirmed, I will work to ensure maps are accurate and updated.

Hazard Mitigation and Disaster Resilience

22. 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?

FEMA is thankful for the passage of the Disaster Recovery Reform Act. As a result of DRRRA, specifically Section 1234, FEMA is developing the Building Resilient Infrastructure and Communities (BRIC) grant program. This new program will focus on risk, resilient infrastructure, and protecting and restoring community lifelines. Under the DRRRA, additional funds will be designated to fund the program based on previous year's disaster grants. This will allow for greater investments in mitigation at the local level before a disaster occurs.

23. 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 will continue to work with state, local, tribal, and territorial (SLTT) partners to identify hazard specific mitigation best practices. I cannot overstate the importance of Section 1234 of DRRRA that will allow communities the resources needed to better focus on resilient infrastructure. I will seek to develop indexes that identify risk to community lifelines and target the BRIC grant to buy down those risks.

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

According to the National Institute of Building Sciences every dollar spent on mitigation measures will save six dollars in federal recovery costs. Investing in mitigation before disaster strikes will not only save federal dollars but will also save lives and protect property. Mitigation is the cornerstone of emergency management.

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

Working with Cyber and Infrastructure Security Agency (CISA) within DHS, FEMA can further educate SLTT partners on how the National Critical Functions Lists and sixteen critical infrastructure sectors can impact their communities. Utilizing robust information that details the dependencies and interdependencies of critical infrastructure will allow our partners to better assess risk in their

communities. This will also allow our partners to develop plans and target mitigation dollars to buy down the risk.

Disaster Preparedness

26. 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 we are a better prepared nation because of recent disasters. However, I do not believe we are prepared for a catastrophic disaster that the nation has not experienced in modern times or at all. The impacts of an electromagnetic pulse (EMP) could cause prolonged power outages and disruption to many, if not all critical lifelines.

If confirmed, I will continue to implement the Agency's Strategic Plan. All three goals, if fully implemented, will create a more prepared nation and will ensure we are ready to effectively respond to a catastrophic disaster. Focusing on reducing the complexity of FEMA will allow for more time to prepare and plan for such disasters. If confirmed, I will work to further the concept of rapid stabilization at all levels of government. I will work to fully incorporate the private sector in all phases of emergency management.

27. 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?

As a former state emergency manager, I know first-hand the importance and effectiveness of FEMA's preparedness grants. If confirmed, I will continue to work with our partners to build capability that will focus on the rapid stabilization and restoration of community lifelines following a disaster. The Emergency Management Performance Grant Program (EMPG) is quite possibly the most critical grant program that FEMA administers. The EMPG program provides funding to support both staffing and planning for state and local emergency management agencies. Effective planning at the state, local, tribal, and territorial level are a critical component to a successful response and recovery following a disaster.

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

If confirmed, I will become more familiar with our current assessments. I believe that preparedness grants should focus on building capabilities to rapidly stabilize community lifelines.

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

Preparedness should enhance readiness at all levels. If confirmed, I will work to identify ways to be better prepared, both within FEMA and with our SLTT partners. For example, FEMA has produced a community lifelines toolkit that is tailored to state and local emergency management agencies. If confirmed, I will focus efforts on the preparedness of our critical private sector partners.

30. Recent surveys have continued to show that many citizens are unprepared for a disaster. In recent briefings, FEMA has stated that they are focused on promoting personal preparedness. If confirmed, how do you intend to further these efforts?

If confirmed, I will continue to advocate for personal preparedness. A prepared nation begins with prepared citizens. If confirmed, I will work with our Resilience Directorate to continue to develop partnerships with organizations that can help educate citizens on the need for financial preparedness.

FEMA Management

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

As previously stated, FEMA's greatest challenge is the health and morale of our workforce. This challenge is a result of the unprecedented recovery operations as a result of the historic 2017 and 2018 hurricane and wildfire seasons. If confirmed, I will continue to implement the Agency's strategic plan. Achieving the goals requires excellent well-managed human capital, procurement, facilities, and IT systems. If confirmed, I will place importance on high ethical conduct especially among the Agency's senior leadership.

32. Federal Continuity Directive 1 of the Presidential Policy Directive 40 (PPD-40), *National Continuity Policy*, directs the Administrator of FEMA to "develop and promulgate Federal Continuity Directives to establish continuity program and planning requirements for executive departments and agencies." How is FEMA implementing this directive and do you anticipate the need for additional resources or authorities to meet the requirements of this directive?

In my current capacity as Associate Administrator for ORR, I have not had the opportunity to engage on this issue. I do, however, believe that ensuring continuity functionality across government will be a critical component in effectively responding to disasters on our nation's worst day. If confirmed, I look forward to examining this issue further.

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?

First, I believe all FEMA employees want to help make a difference to those who have been impacted by a disaster. If confirmed, I look forward to continuing my

practice of frequently engaging with staff at all levels to ensure every employee is reminded that they play an important role in the Agency's mission.

I will spend time with the mid-level managers of the agency. I will listen to their concerns and work to make sure they have the tools, resources, and support to do their job. The overall health of the agency often rests with our mid-level managers.

I believe that exceptional performers should be recognized for their performance. I also believe that substandard performers should be quickly counseled and given corrective guidance. Managers must have accountability and be willing to act to correct low performers.

34. In the most recent Best Places to Work in the Federal Government survey, FEMA was ranked 316 out of 415 federal agencies. In your view, what factors drive morale and employee engagement at FEMA? What steps are needed to make progress in this area?

As previously stated, I firmly believe that all FEMA employees want to make a positive difference in the lives of those who have been impacted by a disaster. That said, the nature of the work that FEMA does cannot be overlooked when assessing the morale of the Agency. The survey referenced was likely conducted as FEMA was continuing to respond to some of the nation's most devastating disasters in our history. Working long hours on issues of gravity are no doubt taxing on the morale of FEMA's workforce. If confirmed, I look forward to spending time with our front line workforce to reinforce to them that, first and foremost, the Nation is grateful for their efforts, but to also ensure they are equipped with the resources that they need to accomplish their mission with a positive outlook on the work they are performing.

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

FEMA recently completed a Coordinated Workforce Review of our disaster workforce. The review indicated that we need to address shortfalls in areas such as Public Assistance Specialist and Operations Specialist. The review also indicated that certain areas have adequate staff to meet our present requirements. If confirmed, I will seek to develop a recruiting strategy to hire the best and the brightest individuals to join our ranks. I will also look down through the agency to ensure that we are properly aligned to meet our mission. If confirmed, I will work with our External Affairs staff to better define our "brand" to attract the right people to join us.

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 am not familiar with the GAO report that addresses this issue; however, I do agree that more needs to be done to ensure that policies are consistently applied across our regions and states. If confirmed, I plan to have direct interaction with regional leadership on a regular basis. In certain situations, there may be a need to apply different procedures from one region to another in order to meet the needs of disaster survivors. My goal will be to ensure that our entire team is moving in the same direction and that policies are applied consistently across all ten regions.

- 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.

I believe that during response and recovery operations you must decentralize decision making authority, and our regional offices allow FEMA to operate in this manner. Having geographical regions absolutely strengthens our SLTT partnerships.

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

The primary role of Headquarters is to provide overall direction and intent across all FEMA mission areas. Headquarters issues policy and procedures for the enterprise and serves as the interface with federal partners on national level plans. The regions act as FEMA's tactical arm to carry out the missions and to implement the overall direction of leadership.

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 will ensure that ideas are shared throughout the agency. I have always promoted collaboration. I will ensure that managers at all levels are approachable and employees will have no fear of reprisal.

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

If confirmed, I will encourage any employee to report waste, fraud, and abuse. Employees are encouraged to call the FEMA fraud hotline (1-866-223-0814) or the DHS Office of Inspector General hotline (1-800-323-8603) and

report abuse, waste, and fraud. I will encourage employees to report incidents to their supervisor as well.

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

I do.

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

I do.

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?

I do.

- 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?

I do.

- 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?

I do.

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. I wrote these answers and they are my own. In preparation for the confirmation process, I received several high-level briefings from several program offices and the Office of Legislative Affairs at DHS.

**Minority Supplemental Pre-hearing Questionnaire
For the nomination of Jeffrey Byard to be
Administrator, Federal Emergency Management Agency,
Department of Homeland Security**

I. Nomination Process and Conflicts of Interest

1. Has the President or his staff asked you to sign a confidentiality or non-disclosure agreement?

No.

2. Has the President or his staff asked you to pledge loyalty to the President, Administration, or any other government official?

No.

II. Background of Nominee

3. Please give examples of times in your career when you disagreed with your superiors and aggressively advocated your position. Were your efforts successful?

Following a major disaster that occurred in April 2011 which caused destruction in over half the state and killed 238 citizens in a 24-hour period, I wanted to institute a new concept of operations that would decentralize response operations from one central location to seven geographical regions of the state. I was told that it would not work by my supervisor at the time. I continued to build the concept by working with the state agencies that I believed should be represented within the regions. I continued to seek formal approval and aggressively presented the positives. I was then told to go ahead but also told that the needed state agencies would not "go for it". I spent several months meeting with state agencies and developing the procedures necessary to implement the structure. We exercised the concept and made additional revisions. The state experienced a winter storm that crippled the the northern half of the state. We activated the affected divisions and the concept proved a success. The Governor recognized the new concept and made the division structure the common operating structure for all disasters.

4. Do you seek out dissenting views and encourage constructive critical dialogue with subordinates? Please provide examples of times in your career when you have done so.

Yes, I am a collaborative leader who values my team's perspective. I routinely rely on the expertise of my career staff and provide an environment for open and honest dialogue. I hold daily meetings with the team on general response/recovery business where this type of interaction occurs.

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

Throughout my career, I have made countless difficult choices. As an emergency manager, all the decisions I make are based on two foundations 1) does it provide a better outcome for the survivor and 2) do we have the legal authority to execute such a course of action. I am fortunate that evaluating decisions in the field of emergency management does not require "politically difficult" choices, but rather making the most appropriate decision to save and sustain lives.

6. What would you consider your greatest successes as a leader?

The greatest successes in my career have been the development of highly functional teams. I believe that as a leader your success is determined by how you develop and treat staff, form teams, and by having a personal commitment to the mission.

7. What do you consider your greatest failure as a leader? What lessons did you take away from that experience?

My greatest failure during my career has been a lack of patience when instituting needed change. Early in my career, I struggled with delegating tasks and thus not empowering my team. What I learned is that both approaches will lead to failure. When implementing change, you must be forceful and unwavering in your commitment to that task. However, in order to successfully implement that change, you must gain consensus and take a more methodical approach. It is critical to empower your team and allow for mistakes. If your team isn't allowed to make mistakes, then they will take no risks. I have learned that my role is one of a gardener. I must consistently care for the team and teach, coach, and mentor during all aspects.

8. During your career, has your conduct ever been subject to an investigation or audit by Council of Inspectors General on Integrity and Efficiency (CIGIE), Office of Special Counsel, Department of Justice, an agency Equal Employment Opportunity office or investigator, or any other federal or state investigative entity? If so, please describe the nature of the allegations/conduct and the outcome(s) of the investigation(s) or audit(s).

No.

9. Please describe any experience you have with homeland security and specifically with preparedness for potential terrorist attacks.

I am a career emergency manager and I focus on the impacts of all-hazards, both natural and man-made. As a former recipient of FEMA's preparedness grants, I was able to put resources and training dollars into the hands of state and local responders that could be used to mitigate all types of crises, regardless of cause.

10. Please describe the nature of your previous work in the public sector, including your experience with FEMA, the Alabama Emergency Management Agency, and the U.S. Marine Corps.

In my current position as the Associate Administrator for Response and Recovery (ORR), I am responsible for all aspects of response, recovery, logistics, and field operations. I ensure the agency is always ready to respond to any disaster, maintain relationships and partnerships with our SLTT partners, and manage the overall recovery operations. I manage a full-time staff of over 3000 employees and an operating budget of over \$400 million annually.

During my time as the Director of the Alabama Transitional Recovery for FEMA's Office of Gulf Coast Recovery, I was responsible for the implementation of recovery programs as a result of Hurricane Katrina. The primary program I managed were the Public Assistance and the Individual Assistance programs. I managed a staff of over 100 employees.

During my time with the Alabama Emergency Management Agency, I was fortunate to hold a variety of positions. I began my career as a mitigation planner and left as the senior career official for the agency. I worked in preparedness, response, recovery, and mitigation during my tenure. When I left the agency, I was responsible for all response operations, recovery programs (to include mitigation), and field operations.

I served in the infantry during my time in the U.S. Marine Corps. Our duties were to locate, close with, and destroy the enemy by fire and close combat. During my final year, I was assigned to Marine Corps Recruit Depot Parris Island. During this assignment, I was a marksmanship instructor for the Basic Warrior Training range. I conducted training for recruits on all individual and crew served weapon systems.

III. Role of the Administrator

11. What do you believe are reasonable expectations for FEMA's roles and responsibilities? Do you believe the public and other stakeholders (e.g. state/local officials) have reasonable expectations regarding FEMA's roles and responsibilities? If not, what do you think can be done to address this problem?

The role of FEMA is to provide assistance when local and state capabilities are overwhelmed or insufficient to meet the needs of impacted citizens. I don't believe the public, and in certain situations our state and local partners, have a reasonable expectation of FEMA's responsibilities. During the recovery phase of a disaster, things can never happen fast enough. The expectation that entire communities and homes will be rebuilt or replaced in a matter of months is, unfortunately, not realistic. In many cases individuals have an expectation that FEMA will reimburse them for items they have lost in a disaster. This is not a reasonable expectation and the agency has sought to communicate this for many years. If confirmed, I will

continue to develop processes, procedures, and in certain cases make legislative recommendations to better support a true locally executed, state managed, and federally supported disaster response and recovery model.

12. What do you believe is the role of the FEMA Administrator in encouraging diversity across the FEMA workforce?

I believe the role of the Administrator should be to promote diversity not just within the FEMA ranks, but throughout the field of emergency management. If confirmed, I will be committed to promoting diversity at every level within FEMA and across the profession of emergency management.

13. What improvements has FEMA made since you first worked at the Agency (2006-2007)? If confirmed, how will you work to ensure that FEMA continues to improve?

FEMA has improved in all phases of emergency management since 2006-2007. If confirmed, I will continue to implement the current strategic plan. I will focus additional efforts in reducing the complexity of FEMA.

14. What is your plan to ensure that FEMA is responsive to all of DHS's Office of Inspector General (OIG) and the Government Accountability Office's (GAO) requests?

If confirmed, I will review our current process and make changes if and where needed. I am committed to being responsive to both GAO and OIG.

- a. If confirmed, will you commit to ensuring that FEMA is responsive, both in terms of timeliness and completeness, to DHS OIG and GAO requests?

Yes.

IV. Policy Questions

FEMA Management

15. What changes or improvements do you believe need to be made to FEMA's existing regulations, policies, and practices?

If confirmed, I will continue to implement the Agency's strategic plan. A key aspect of the plan is to reduce the complexity of FEMA. I believe that FEMA, working in conjunction with all necessary partners, should develop a more streamlined approach by better using technology to assess damage and provide more accurate estimates. This will further align with a locally executed, state managed, federally supported recovery model.

16. FEMA is currently experiencing significant staff deficits in a number of cadres. In fact, reporting from FEMA in the middle of May suggested that 13 FEMA cadres had below 25% availability for deployment. This is a significant concern as we enter the 2019 hurricane season. What steps do you believe need to be taken to ensure FEMA has the staff available to respond to major disasters?

The current staffing challenges are primarily in our recovery cadres. This is a concern and the Agency is currently hiring additional staff to meet the needs of our ongoing recovery operations. FEMA currently has sufficient response capabilities to meet the immediate needs of disaster survivors. I hold regular readiness meetings to ensure that we are managing the incident management and incident support workforce.

17. In 2017, there were reports that some employees (both in leadership and in frontline roles) believed there was a “boy’s club” mentality at FEMA that made it difficult to advance or be heard in meetings. There are very few women in top leadership roles at FEMA currently. Do you acknowledge the concerns of former employees, and how has FEMA addressed the concerns since 2017?

While I cannot speak to the specific concerns cited above, I take very seriously any allegations of discrimination or unfairness within any organization in which I am associated. A diverse workforce is a critical component of FEMA’s success as we interact with people of all types. To ensure that I am personally committed to understanding the concerns of a diverse workforce, I regularly attend employee resource groups that address the concerns of our workforce. Attendance in these meetings has allowed me to grow personally and professionally, and become a more effective and impactful leader. I have learned my own unconscious biases and now make it a point to identify when all voices are not being heard while in meetings. I have personally made commitments within ORR to ensure that our core values are something that we exercise on a daily basis. Compassion, fairness, integrity, and respect comprise our core values and they require listening to the perspectives of everyone at the table, not just those in leadership, and not just men. I am fully committed to fostering a culture of diversity and inclusion at FEMA and look forward to the opportunity to ensuring our core values continue to be a staple of the agency.

18. Currently, according to FEMA’s leadership website, women occupy only 25 of the Agency’s 99 top positions. What more do you plan to do to achieve a greater level of parity for women within the Agency?

As stated, I have always valued diversity and inclusion throughout my career. A recent study indicated that roughly 30% of emergency management positions in the US are occupied by women. By comparison, 50% of positions at FEMA are occupied by women. While I am proud that FEMA is ahead of the emergency management profession in this regard, we must do more as an agency to encourage recruitment, retention, and promotion for women within our ranks.

As I previously indicated, I support and participate in the myriad of employee resource groups within FEMA that promote women in leadership and seek to close the gap. I feel that these groups play an integral role in fostering communication and openness in the workplace. These valuable avenues help contribute to closing the gender gap within the agency. Diversity and inclusion is not merely about promoting women throughout the agency but also about cultivating an atmosphere that inspires and supports those rising stars within FEMA who see career advancement as an attainable and realistic opportunity.

19. Multiple allegations over the years against individuals within FEMA's management have raised concerns about alleged harassment and misconduct towards women within the Agency. If confirmed, what will you do to change the culture at FEMA and create a safe and secure working environment for all employees?

If confirmed, I will continue to support and resource the new Office of Professional Responsibility. This office was established late last year stemming from alleged instances of harassment and misconduct. If confirmed, I will continue to strive for all programs to adhere to our core values which are: compassion, fairness, integrity, and respect. I have led this effort within the Office of Response and Recovery by establishing a core values team led by a senior executive.

I believe all employees should have a safe and secure working environment. If confirmed, I will make this a top priority.

20. What are the greatest challenges for FEMA's effort to modernize its grants management and financial management systems? How do you plan to address these challenges if confirmed?

I am not familiar with all aspects of FEMA's grants management and financial systems. I do know first-hand from working as the State Public Assistance Officer while employed with the Alabama Emergency Management Agency that speedy, simple grants management contributes to communities recovering quickly. While not personally familiar with the modernization programs, I understand they are focused on streamlining, simplifying, and strengthening controls.

21. It is a fundamental principle that emergency management begins at the local level, moving to the State and then the federal level only as the local or State managers become overwhelmed. As former Director of the Alabama Emergency Management Agency, you have a thorough understanding that State, local, and tribal governments are critical partners in emergency management. If confirmed, how will you ensure coordination and communication with State, local, and tribal governments? How can FEMA best ensure the State, local, and tribal governments are capable of meeting their responsibilities for emergency management?

The best model is one where both response and recovery is executed at the local level, managed at the state level, and supported at the Federal level. FEMA has deployed FEMA Integration Teams or FIT Teams to numerous states across the country to embed with our state partners to assist with operational, mitigation and recovery planning and grants management. We must continue to identify critical gaps in capabilities and collectively develop solutions to close those gaps. Successful responses involve all levels of government. If confirmed, I will work with all our SLTT partners to ensure that the concept of operations focused on the stabilization of community lifelines is understood and adopted as standard practice. FEMA recently released the revised National Response Framework to incorporate this concept into doctrine.

22. It has been reported that DHS is requiring FEMA, CISA, TSA, and other components to contribute staff to various border security missions. The agencies are now asking staff to "volunteer" for deployments to the U.S.-Mexico border and components are being given target numbers of volunteers to hit.

- a. Do you believe that requiring FEMA to deploy staff to the border could undermine the agency's ability to respond to natural disasters and potentially save American lives?

No.

- b. What type of policy documents has FEMA developed to enable staff to deploy to the border? Will you provide these documents to the Committee to review?

I am not familiar with specific policy documents. An agency email was transmitted from the Office of the Administrator asking for volunteers. The Agency has assisted the Department in establishing a volunteer integration cell. If confirmed, I will provide requested documents through established channels.

The Stafford Act and the Disaster Recovery Reform Act

23. FEMA's implementation of some sections in the Disaster Recovery Reform Act (DRRA) have been slower than Congress and the emergency management community anticipated. What steps will you take to ensure FEMA implements all the DRRA in the most efficient and expeditious means possible?

FEMA is thankful to the Congress for the passage of DRRA. There are many provisions within the legislation and FEMA has implemented several provisions such as the increased management cost provisions. If confirmed, I will review the staff allocated to the implementation of all the provisions and make necessary changes where possible.

Response and Recovery

24. What do you see as the proper role of FEMA in response and recovery from disasters, both man-made and natural?

In those cases where a disaster exceeds the states capability to respond and/or a state doesn't have the capability to reduce the loss of life and suffering I believe that the federal government should quickly provide resources and funding to assist, and in as timely a manner as possible. I believe that during the recovery phase, FEMA should be in more of a support role by providing block grants to states. FEMA has the primary responsibility to assist individuals with little to no responsibility placed on the state and local governments. If confirmed, I will seek to shift this current model.

25. What are your goals and priorities for FEMA's response and recovery programs? What, if any, changes do you believe need to be made to FEMA's response and recovery programs?

If confirmed, I will continue to push mitigation measures that will reduce the need for FEMA deployments to smaller less impactful disasters. If confirmed, I will place maximum focus on FEMA's capability to manage large response and recovery operation as a result of catastrophic incidents.

If confirmed, I will focus preparedness, mitigation, and response efforts on the hardening and stabilization of community lifelines. If confirmed, I will make it a priority to reduce the complexity of our recovery programs.

26. Do you believe that any of FEMA's response and recovery programs need to be streamlined, and, if so, what ideas do you have for streamlining the agency's response and recovery process?

I believe FEMA should continue to incorporate the private sector led stabilization into public sector led emergency management. To rapidly stabilize community lifelines, all levels of government will need to fully engage the private sector. FEMA recently released the 4th edition of the National Response Framework to move this from the concept phase into doctrine.

I believe that both FEMA Public Assistance and Individual Assistance programs can be streamlined. I believe our Individual Assistance program is too layered and confusing to disaster survivors. I also believe we should shift to a fixed cost disaster grant for all permanent work within the Pubic Assistance program.

27. Do you believe FEMA should have different regulations, policies, and/or practices for response to and recovery from catastrophic disasters than for less destructive disasters?

No. I believe that any regulations, policies, and/or practices should give the President and the Administrator maximum flexibility to meet the needs of a particular disaster.

28. Recovery efforts in Puerto Rico are undeniably slower than recovery efforts in Texas and Florida for disasters that struck those states/territories in the same year. What do you believe has caused this difference in recovery efforts?

In my current position, I work to improve the speed and efficiency of the recovery operations in Puerto Rico. There are several factors that have caused some delays, including:

- 1. The response phase for Puerto Rico was the longest in FEMA's history.**
- 2. Puerto Rico had an already outdated and fragile infrastructure prior to Hurricane Maria which resulted in a prolonged focus placed on stabilizing power and water capabilities.**
- 3. Limited preparedness on behalf of the Commonwealth and the municipalities for a disaster of any size.**

- a. What can FEMA do to expedite recovery efforts in Puerto Rico?

If confirmed, I will continue to focus the Agency's efforts on the completion of the fixed cost estimates for the major sectors. I will also ensure that the tax dollars are being spent in an efficient and proper manner. FEMA is absolutely committed to helping communities recover as quickly as possible while still being a good steward of taxpayer funds in the wake of a disaster. However, FEMA is managing a complete rebuild of the power and water systems. Most schools on the island have been impacted. The hospital and medical infrastructure have major impacts. I am confident that collectively FEMA and the Commonwealth are making progress towards a common goal.

29. Providing housing for disaster survivors has been a longstanding challenge for FEMA and its federal, state, and local partners. What is your assessment of the various housing assistance programs currently available following a major disaster? If confirmed, what steps will you take to ensure that the housing needs of disaster survivors are met?

Housing assistance programs are some of FEMA's most complex and challenging programs. I believe that the number of different programs available often confuse the survivor and FEMA should seek to streamline its programs. I believe that states need to take a more active role in housing missions with FEMA providing financial support. If confirmed, I will provide the maximum assistance allowed by law to every eligible disaster survivor.

30. GAO recently identified several challenges related to FEMA's use of advance and post-disaster contracts. If confirmed, what steps will you take to address FEMA's contracting challenges?

If confirmed, I will review our current contracting procedure and make changes if and where necessary.

Hazard Mitigation and Disaster Resilience

31. According to the National Institute of Building Sciences, future losses are reduced by as much as \$6 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?

Mitigation is the cornerstone of emergency management. Provision 1234 of the DRRRA will allow for greater mitigation funding before disaster strikes. The proper role of mitigation is to be the first solution for emergency managers.

32. How could FEMA help states, localities, and individuals better assess their own disaster risk, including encouraging the use of credible science to assess future risk? How could FEMA help ensure that such information is accessible, understandable, and usable by all interested parties?

Working with Cyber and Infrastructure Security Agency (CISA) within DHS, FEMA can further educate SLTT partners on how the National Critical Functions Lists and the sixteen critical infrastructure sectors can impact their communities. Utilizing robust information that details the dependencies and interdependencies of critical infrastructure will allow our partners to better assess risk in their communities. This will also allow our partners to develop plans and target mitigation dollars to buy down the risk. If confirmed, I look forward to better understanding what types of scientific information FEMA currently utilizes to assess risk and to further educate our stakeholders on what resources may be available to them to better understand their individual risks.

33. Community-level understanding of flood risk is required for communities to reduce their flood risk through pre-disaster mitigation investments and an ongoing, long-term commitment to flood risk mapping. If confirmed, will you prioritize these cost and life-saving investments by requesting robust funding for the Pre-Disaster Mitigation and Flood Risk Mapping programs?

The passage of the DRRRA allows for additional pre-disaster funding under section 1234. I am unfamiliar with our current budget program for Flood Risk Mapping. If confirmed, I will review the budget and make informed recommendations.

34. In developed areas plagued by intense and repeated flooding, voluntary property acquisition can provide critical relief to homeowners who have suffered from repetitive flooding. Willing sellers, receiving compensation, have their property demolished and designated as open space, permanently mitigating the risk of flood damage to property. How will you strategically use what limited resources FEMA has for buyouts to target flood hot spots and areas that have repeatedly flooded over and over again?

The buyout program is a responsibility of state and local governments through grant programs provided by FEMA. If confirmed, I will review how we

communicate risk with our SLTT partners and make necessary changes where needed.

35. The deteriorating state of our nation's infrastructure has been highlighted by a D+ grade from the American Society of Civil Engineers. Estimates on the order of trillions of dollars are needed in infrastructure upgrades by 2020. Among the greatest threats to our infrastructure is flooding, given that approximately 85% of disaster declarations have been water-related. Clearly, our current infrastructure has not been built to withstand the strength and frequency of today's storms. If confirmed, what measures will you take to ensure taxpayer dollars are spent on infrastructure that can endure stronger storms and floods?

If confirmed, I will work with SLTT partners to focus mitigation measures that harden critical infrastructure. Additionally, I will continue to develop the procedures of the Building Resilient Infrastructure and Communities (BRIC) to focus on infrastructure.

36. FEMA's new strategic plan calls for new pathways to disaster risk reduction, including increased pre-disaster mitigation – and the Disaster Recovery Reform Act included a provision (now called Building Resilient Infrastructure and Communities, or BRIC) that will create a sizable fund for pre-disaster hazard mitigation by setting aside 6 percent of the total of other types of assistance grants that come out of the Disaster Relief Fund.
- a. How can the federal government best encourage individuals, communities, and regions to engage in hazard mitigation before disaster strikes?

This can best be accomplished by continued education and outreach. FEMA will work with SLTT partners as well as private sector partners to educate risk and show the value of mitigation.

- b. What are your thoughts about how FEMA should implement the BRIC to help ensure that communities across the nation have an opportunity to reduce their disaster risk while also ensuring that the overall result is a demonstrable reduction in national risk?

I believe that BRIC should focus on the hardening of critical community lifelines which are:

- 1. Safety and Security**
- 2. Food, water, and sheltering**
- 3. Health and Medical**
- 4. Energy (power and fuel)**
- 5. Communications**
- 6. Transportation**
- 7. Hazardous Material**

During any disaster large or small the ability to not lose the functions of the lifeline will provide for a more resilient community, state, and nation.

- c. What challenges do you anticipate in implementing the BRIC and what actions are needed to address them?

In my current role at ORR, I am not familiar with specific challenges, however, with any new program there will be challenges. If confirmed, I will work diligently to resolve any challenges that arise. Furthermore, I will do my best to anticipate where challenges may present themselves and address accordingly.

37. In March 2018, the Mitigation Framework Leadership Group (MitFLG), which FEMA chairs, released the draft National Mitigation Investment Strategy (NMIS). The NMIS contains six desired outcomes, including improved coordination across the federal government and with nonfederal players.

- a. What actions can federal agencies take to better harmonize their programs so that they are accountable and coordinated for seamless delivery of disaster assistance programs? How can they work together to remove unnecessary barriers to innovative resilience solutions?

In my current role at ORR, I am not familiar with the processes and procedures of the MitFLG. If confirmed, I will quickly review the six desired outcomes and make recommendations where necessary.

- b. What specific lessons learned from prior recoveries (like that of hurricanes Sandy, Harvey, Maria, Irma, and California Wildfires) can be applied to help ensure that federal resources are coordinated to achieve the greatest risk reduction?

In my current role at ORR, I am not familiar with any specific mitigation lessons learned from the referenced disasters. I do know that it is important to invest in mitigation measures prior to disasters. If confirmed, I will become familiar with lessons learned and include those lesson into our mitigation strategy.

38. Over the last 2 years, California has experienced major catastrophic wildfires, which have received billions of dollars in federal assistance. According to the U.S. Global Change Research Program, warmer and drier conditions have led to a greater incidence of large forest fires, a trend which is expected to continue, while human settlement and expansion into wildland and forest areas continues. What role do you see for DHS going forward in responding to fires and promoting hazard mitigation against wildfire damage in the coming years?

FEMA will continue to support any state impacted by wildfires that exceed their capabilities when requested by a Governor and authorized by the President. The Bipartisan Budget Act of 2018 authorizes the application of Hazard Mitigation

Grant program dollars to be made available for declared Fire Management Assistance Grants. FEMA will continue to support education and mitigation measures to help mitigate wildfires.

V. Relations with Congress

39. 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?

I do.

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

I do.

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

I do.

42. If confirmed, how will you make certain that you and your agency will respond in a timely manner to Member requests for information?

If confirmed, I will review current processes for inquiries and requests for information from Members of Congress and ensure that we are doing all that we can to respond in a timely and accurate manner.

43. 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?

I do.

44. 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?

I will.

45. If confirmed, will you agree to work with representatives from this Committee and the GAO to promptly implement recommendations for improving FEMA's operations and effectiveness?

I will.

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

I will.

47. If confirmed, will you ensure that political appointees are not inappropriately involved in the review and release of Freedom of Information Act requests?

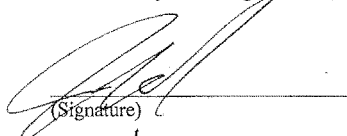
I will.

VI. Assistance

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

Yes. I wrote these answers and they are my own. In preparation for the confirmation process, I received several high-level briefings from several program offices and the Office of Legislative Affairs at DHS.

I, Jeffrey Byard, 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 3rd day of June, 2019

**Senator Rand Paul
Post-Hearing Questions for the Record
Submitted to Jeffrey C. Byard**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

1. FEMA has awarded well over \$40 billion in homeland security grants over the past 15 years¹; however, state and local governments are often using federal dollars to purchase items they otherwise would not (such as armored vehicles²), to handle routine expenses (such as salaries and overtime³), or to purchase items of questionable utility (such as snow cone machines⁴).
 - What will you do to improve the administration of these grant programs in order to eliminate wasteful and superfluous spending?

In my current capacity as Associate Administrator for the Office of Response and Recovery, I have had very little exposure to the preparedness grants referenced in the above question. With that being said, I am acutely aware of FEMA's duty to the American taxpayer when expending resources of any kind.

If confirmed, I look forward to learning more about the oversight and monitoring mechanisms that are in place for the preparedness grant programs and will make adjustments/enhancements if needed to ensure those funds are being spent in the most useful way possible to achieve high levels of preparedness at the state and local level.

¹ Page 2, *Progress and Continuing Challenges in National Preparedness Efforts*, April 12, 2016, U.S. Government Accountability Office, accessed Sept. 12, 2017 at: <https://www.gao.gov/assets/680/676484.pdf>

² Page 23, *Safety at Any Price: Assessing the Impact of Homeland Security Spending in U.S. Cities*, December 2012, Senator Tom Coburn, accessed Sept. 12, 2017 at: <https://info.publicintelligence.net/SenatorCoburn-UASI.pdf>

³ Ibid

⁴ *Montcalm County gets homeland security snow cone machine*, Dec. 3, 2011, The Daily News (Greenville, Mich.), accessed Sept. 12, 2017 at: <https://thedailynews.cc/articles/montcalm-county-gets-homeland-security-snow-cone-machine/>

- What are the key objectives, elements, and metrics of a more focused and risk-based approach to allocating FEMA preparedness grants, and how do you intend to implement these?

As referenced above, I have not had extensive exposure to the current metrics and objectives used to measure grant effectiveness.

However, if confirmed, I would like to explore ways, consistent with current law, that we can encourage grant recipients to utilize preparedness grants to focus on the resilience and stabilization of community lifelines before, during, and after disasters.

**Ranking Member Gary C. Peters
Post-Hearing Questions for the Record
Submitted to Jeffrey C. Byard**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

1. According to FEMA's leadership website – women currently occupy only 21 of the Agency's 89 top positions within the Agency – representing just 23% of top management. In your responses to your policy questionnaire, you stated that the field of emergency management is made up in large part by men, however, it is not acceptable that one in four Senior Executive Service (SES) employees at FEMA are women. If confirmed, will you commit to the recruitment and retention of more women to leadership roles in FEMA and specifically in the SES? How will you accomplish it?

I am committed to strengthening diversity not only in FEMA, but in the field of emergency management. A major part of this, in my opinion, is ensuring that FEMA's workforce and leadership reflects the people that we serve. Having more women in emergency management and more women in FEMA's leadership ranks will help us be more responsive to the needs of those we serve. If confirmed, I commit to developing recruiting initiatives from non-traditional fields and putting an increased emphasis on mentoring programs to ensure that we retain and develop promising employees who reflect those we serve.

2. It was recently reported that White House officials barred an intelligence agency from submitting written testimony to the House Intelligence Committee which warned that human-caused climate change is "possibly catastrophic." Did the White House or anyone within the Department of Homeland Security communicate any concerns or prevent you from mentioning climate change in your written or oral testimony?

No.

3. Are you aware that the U.S. Geological Survey has found that climate change will lead to increasing global surface temperatures which will likely lead to more droughts – increased intensity of storms causing more intense flash floods – warmer ocean surface temperatures that can lead to increased wind speeds in tropical storms – and rising sea levels which will expose higher locations to the force of the sea?

There is no question we are facing more extreme weather events and an increase in disaster declarations. If confirmed, I commit to ensuring FEMA is taking steps to

ready itself for all hazards and to ensuring we are supporting our state, local, tribal, and territorial partners in preparing the Nation for all hazards.

4. Please explain how you plan to lead an agency that Congress tasked last year with undertaking the mitigation of threats posed by natural disasters if you do not recognize the mechanism driving their increased frequency and intensity, specifically climate change.

I believe that the climate is changing and that risks do evolve over time. If confirmed, I plan on leading this agency by ensuring that FEMA, along with its state and local partners are prepared to respond to any disaster, regardless of cause. Mitigation plays a critical role in ensuring resilience at every level of government. If confirmed, I commit to implementing the provisions of the Disaster Recovery Reform Act of 2018, including the new authority provided to increase Federal investments in mitigation. I truly feel that Section 1234 lays the groundwork for a more resilient Nation.

5. My state of Michigan has seen a marked increase in the number of extreme flooding events over the past 2 years, both from flash floods and rising water levels in the Great Lakes. I recently held a field summit in Michigan discussing a report the Committee released on the increasing costs to the taxpayers of Michigan due to climate change. I believe it is vitally important that FEMA quickly implement the Building Resilience In Communities ("BRIC") program which will help our communities protect themselves against future disasters. Can I get your commitment that you will work to get BRIC money out to communities facing climate change dangers so that we can reduce future costs to taxpayers?

If confirmed, I commit to implementing BRIC as rapidly as possible. As mentioned previously, I am a major proponent of mitigation and believe in its ability to save lives and avoid losses caused by disaster. I look forward to working with you and the Committee to strengthen investments in mitigation at all levels.

**Senator Tom Carper
Post-Hearing Questions for the Record
Submitted to Jeffrey C. Byard**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

Inspector General (IG) and Government Accountability Office (GAO) Reports on the Federal Emergency Management Agency (FEMA) (for Mr. Byard)

1. As I'm sure you are aware, FEMA has been subject to many IG reports in the past couple of years. They have ranged from a lack of oversight and competency when awarding contracts, to revealing disaster survivors' sensitive personal identifiable information. The Government Accountability Office released a report that stated in the height of the 2017 disasters, 54% of the staff were serving in a capacity that they did not hold the title of "qualified" for, according to FEMA's qualification system standards. The GAO report noted that FEMA staff shortages, and a lack of trained personnel, led to complications in response efforts, particularly after Hurricane Maria.

- a. If confirmed, how will you ensure that when the next disaster hits, we have qualified individuals serving where we need them?

As I stated in my testimony, I believe that FEMA's greatest asset is its incredibly dedicated workforce. I am fortunate to have been given the opportunity to serve alongside these individuals during some of the most challenging disasters in our Nation's history.

The term "qualified" as used within the Federal Qualification System (FQS) does not necessarily capture the experience and expertise that FEMA employees bring to bear during a disaster. The Acting Administrator recently completed a coordinated workforce review that addresses the challenges GAO has identified with respect to FEMA's workforce. The results of this review will inform FEMA's actions going forward.

Since 2017, FEMA employees have deployed and managed some of the most complex and challenging disasters in the Nation's history. This has resulted in a very experienced and battle hardened workforce and I am confident that we are poised to continue to respond to any events that may arise.

**Senator Maggie Hassan
Post-Hearing Questions for the Record
Submitted to Jeffrey C. Byard**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

1. It is critical that FEMA not only responds to disasters quickly, but also spends tax payer dollars effectively. This year's annual Government Accountability Office (GAO) duplication report revealed that FEMA is currently engaging in wasteful practices by not making cost-effective acquisition decisions prior to a natural disaster. This is due, in part, to inadequate training of contracting personnel on the use of advance contracts that lock in prices for aid, supplies and relief services before a disaster strikes. When used effectively, advance contracts save money and aid in emergency preparedness. If confirmed, what steps will you take to train FEMA personnel on the effective use of advance contracts as a part of national and local emergency preparedness?

FEMA concurred with the GAO and its recommendations and has committed to updating our strategy and guidance to ensure the appropriate use of advanced contracts. If confirmed, I commit to ensuring that FEMA's advanced contracts position the agency to meet the needs of disaster survivors and affected communities effectively and efficiently. Additionally, I look forward to working with state and local governments to aggressively encourage the development of pre-event contracts to meet the needs of citizens before, during, and after disasters.

2. The 2017 hurricane season combined with the wildfire season was particularly hard on FEMA's employees on the ground. Staff was not fully recovered from one disaster response tour before being deployed for another. Additionally, Acting Administrator Gaynor testified that FEMA is short staffed by over 2,000 people heading into hurricane season. What is your plan for addressing FEMA's human capital challenges?

It is important to note that FEMA presently has adequate resources in place to respond to any potential events that may arise and we are confident in our ability to do so.

The most significant deficit in staffing lies within FEMA's recovery personnel, as the severity of the previous two years disasters have required extended commitments by our existing staff. FEMA is taking a multipronged approach to reducing the gap through a number of recruitment initiatives including special hiring authorities and targeting labor markets with relevant skillsets. We are cross training existing staff in recovery processes and leveraging expertise within our

Federal partners to fill needed skillsets. We do acknowledge that we have staffing deficiencies within our recovery workforce but we are confident that our current strategy coupled with post disaster hiring in impacted areas will allow us to meet our mission.

3. In October 2017, the Commonwealth of Puerto Rico elected to participate in the Public Assistance Alternative Procedures Pilot Program for permanent work projects. This program requires that FEMA complete fixed cost estimates for permanent work projects in Puerto Rico by October 1, 2019. Is FEMA going to meet this October 1 deadline to complete fixed cost estimates? If not, what is your plan to expedite this process?

FEMA is working with the Commonwealth to complete the fixed cost estimates on the major infrastructure sectors by October 1, 2019. In April, FEMA deployed a surge of Public Assistance experts from throughout the Agency to strengthen the collective ability of FEMA and the Commonwealth to meet this deadline. We remain in ongoing discussions with COR3 regarding progress on this matter.

**Senator Kamala Harris
Post-Hearing Questions for the Record
Submitted to Jeffrey C. Byard**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
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Politicization of FEMA funding and services:

As communities in California begin to prepare for another wildfire season, Californians across the state are still recovering from the catastrophic 2017 and 2018 wildfires. As these communities work to rebuild, the President has attacked California and threatened to cutoff federal aid to the state and its 40 million Americans.

1. If confirmed, how would you maintain FEMA's mission of "helping people before, during, and after disasters" against political attacks?

If confirmed, my singular focus will be meeting the needs of disaster survivors before, during, and after disasters. I commit to doing my job without regard to politics, as I did when I served as the senior career emergency manager in Alabama and as I have while serving as the Associate Administrator for Response and Recovery at FEMA.

Taking responsibility for the inadequate response in Puerto Rico:

You began your current tenure as FEMA's Associate Administrator for the Office of Response and Recovery on September 1, 2017, just after Hurricane Harvey hit Texas and almost three weeks before Hurricane Maria made landfall in Puerto Rico. Following these disasters, FEMA published its "After Action Report" and found that FEMA could have better anticipated that the severity of Hurricane Maria would cause long-term, significant damage to the territory's infrastructure. Sustained damage and disrepair to critical infrastructure can have a deadly impact on communities that rely on access to roads, hospitals, and electricity for services, public health needs, and more.

1. Do you agree that the preparations for Puerto Rico were insufficient in part due to FEMA's lack of adequate anticipation and that the resulting challenges added to the lives lost in the aftermath of Hurricane Maria?

Loss of life in any disaster is devastating and is the most challenging part of the mission we face as emergency managers. There is no question that the 2017 hurricane season, with its three successive land falling major hurricanes, culminating with Hurricane Maria's landfall in Puerto Rico, stretched capabilities at all levels of government, including FEMA's. The 2017 hurricane season yielded a

number of critical lessons learned for not only FEMA, but for the emergency management community as a whole.

The system of emergency management in the United States as defined by doctrine is that all disaster operations are executed locally. When resources at the local level are insufficient, the state (or Commonwealth) provides additional resources to meet needs. In cases where a state's resources are insufficient, the Federal Government provides support to the affected states to meet the needs.

As GAO noted in its September 2018 report, FEMA faced a number of challenges in response operations, including the remote distance of Puerto Rico and the U.S. Virgin Islands, limited local preparedness for a major hurricane, outdated local infrastructure, and FEMA workforce capacity constraints, among others. If confirmed, I commit to continue my efforts to strengthen FEMA's readiness for the threats and hazards we face as a Nation.

2. In your current role, what have you done since Hurricane Maria to mitigate against a similar outcome in the future?

If a major hurricane strikes Puerto Rico this hurricane season, FEMA has more than 2,000 staff in the Commonwealth that are able to turn their focus from current recovery operations to supporting life saving and life sustaining response operations.

Additionally, I have taken steps to increase the stockpiles of critical commodities in FEMA's distribution centers located outside the contiguous United States, including Puerto Rico, where we have five times the level of supplies as we did before Maria made landfall.

I have also directed completion of a review of FEMA's disaster workforce and identified a number of steps that, if confirmed, we will take to address the workforce capacity constraints GAO identified in its September 2018 report.

Disparities in distribution of FEMA aid:

Multiple recent reports have revealed that federal disaster aid disproportionately benefits wealthier individuals, either by providing greater sums of money following disasters, offering low-interest loans, or other mechanisms that low-income individuals may not be eligible for. A difference in benefits or delay in timing of assistance may result in increased burdens when these families are already in difficult circumstances. Furthermore, recovery for vulnerable families takes a different form than it does for more wealthy ones, and the difficulties in recovery can trickle down to other aspects of life.

1. Do you agree that FEMA has a responsibility to vulnerable communities to provide the resources they need to recover?

Yes. I believe that FEMA has a responsibility to help any community that has been impacted by a Presidentially declared disaster.

2. What would you do as Administrator to ensure that our most vulnerable communities' needs are met, understanding that their path to recovery might require additional assistance?

I believe that the best disaster recoveries are those that are managed at the local level. Having been a state emergency manager, I knew firsthand the specific needs of the state in which I worked. In that capacity, I also recognized that local leaders know their communities better than the state. There are no two communities alike, therefore there are no two recoveries alike. The role of the Federal Government in disaster recovery is at its best when it is in a support role to states and local communities. If confirmed, I will implement my full authority to help all people before, during, and after disasters.

Climate Change and Disaster Preparedness:

It is well known that climate change can act as a force multiplier when it comes to disasters, making them more severe or frequent. With every wildfire and severe storm, Americans are already experiencing this new reality. Incorporating the best scientific information into FEMA's planning and recovery efforts can save lives and increase resiliency of communities when they rebuild. Yet, the most recent FEMA strategic plan stripped all mentions of the term climate change.

1. Do you accept that human activity is the predominate cause of the climate crisis we are experiencing?

I am a career emergency manager and believe it is most appropriate to leave scientific judgments to those with scientific expertise. If confirmed, I will continue to focus FEMA's efforts on addressing future risks, such as those posed by extreme weather events regardless of their cause.

2. How can FEMA responsibly plan its response to future disasters without explicitly taking climate change into account, given that climate change may increase the likelihood or severity of these disasters?

In my experience, FEMA has taken an all-hazards approach to planning for current and future risks. Risks are dynamic and change over time. FEMA will continue to help communities consider and plan for the threats and hazards we all face before disaster strikes.

3. How might an All-Hazards approach fail when planning does not incorporate the fact that the hazards, and potential confluence of hazards, we will face in the future will be different from those in the past?

Response to disasters is about meeting the needs of the survivors and affected communities. FEMA will focus on rapid stabilization of community lifelines so that communities can provide essential services to their citizens in the aftermath of disasters.

4. Is FEMA incorporating projected risks to communities from climate change, as outlined in the administration's own National Climate Assessment, into its recovery efforts?

In my current position I am responsible for the response to and recovery from disasters. If confirmed, I will continue to focus FEMA's planning and mitigation efforts on addressing current and future risks. I will work with all stakeholders to ensure that the whole community better understands the risks and hazards communities face.

5. How has understanding of climate change and the increased risks it poses to communities changed FEMA guidance?

In my current position, I am responsible for the response to and recovery from disasters. However, when I worked at the state level I was a user and beneficiary of FEMA's guidance on identifying and managing risk. If confirmed, I look forward to continuing FEMA's longstanding efforts to help communities identify and understand the threats and hazards they face, think through the potential impacts that could be caused by those threats and hazards, and to develop capabilities to address those potential impacts. This basic framework has been consistent over many years across the emergency management community and allows all levels of government, the private sector, and non-governmental organizations to work together to understand and address a wide range of potential threats and hazards that are often specific to individual communities.

**Senator Kyrsten Sinema
Post-Hearing Questions for the Record
Submitted to Jeffrey C. Byard**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

1. The Urban Area Security Initiative (UASI) assists high-density and high-threat metropolitan areas in the prevention, mitigation, response and recovery from acts of terrorism. Nationwide, localities depend on funding from this grant program to keep their residents and visitors safe. The Phoenix- Mesa- Scottsdale Metropolitan Statistical Area (MSA) represents a region whose first responders are responsible for the protection of a population of 5,904,268, according to FEMA's own data. This number comprises residents, commuters and daily visitors to the region.

Unfortunately, the current metrics and methodologies that determine UASI funding fall short of accurately reporting the risks my First Responders face on a daily basis.

First, we have learned from stakeholders that the Federal Bureau of Investigation Field Office, located in Phoenix, has indicated that some of the databases utilized in the creation of the MSA Risk Profile are systems that have been subjected to sunset requirements, at the direction of the Department of Justice. These systems no longer provide up-to-date information. It is of critical importance that FEMA has access to all necessary threat information.

Second, proximity to an international border is not measured in the Vulnerability Component of the MSA Risk Profile. Under current practice, only those individuals who enter the United States through Phoenix Sky Harbor International Airport are counted towards this threat component, even though the United States – Mexico border is a mere thirty miles from the boundary of the UASI district. This blind spot creates a metric which does not fully recognize the threats facing the Phoenix-Mesa-Scottsdale UASI.

- a. As the Administrator of FEMA, what steps will you take to make sure that all non-FEMA databases utilized in the creation of MSA Risk Profiles are up-to-date and reliable sources of information?

In my current capacity as Associate Administrator of the Office of Response and Recovery, I have not had extensive involvement in the development or interpretation of MSA Risk Profiles. However, if confirmed, I will commit to being an advocate for accuracy and transparency in the data that comprises each MSA's risk profile. I understand that the profiles contain a

combination of both state and federal information and I agree that it is imperative to ensure that we are using the most up to date information possible.

- b. Considering the proximity of the Phoenix-Mesa-Scottsdale UASI to a highly active international boundary, what steps will you take to ensure that the activity at our border is considered and analyzed when creating MSA Risk Profiles?

As previously stated, I have had very limited experience with the preparedness grant program in my current capacity as Associate Administrator for the Office of Response and Recovery. I agree that a critical component in determining any grant allocations must be an accurate reflection of risk for that particular area. If confirmed, I commit to ensuring that all relevant data is considered when making funding determinations.

- 2. Wildfires pose significant risks to Arizona. This year, we have already experienced six major wildfires.

Arizona fire departments depend on grants from FEMA to ensure they have the tools they need to protect life and property. The President's FY20 budget proposed sweeping cuts to Federal Assistance grants that help our firefighters.

How will you protect Arizona first responders and make sure they have the resources to respond to wildfires and keep Arizona safe?

Having come from a state that was largely dependent on fire assistance grants, I am very familiar with the value of these critical programs to front line first responders. In addition to supporting continued funding for first responders, I am committed to continuing FEMA's training programs at the National Fire Academy and building a stronger partnership with the fire community.

- 3. Border communities in Arizona are facing impossible choices in the wake of the current migrant crisis. Whenever families are released from Department of Homeland Security custody, they are dropped directly into these small towns and cities. Non-Governmental Organizations (NGO) have gone above and beyond to provide services and limit the costs to these communities, but I hear regularly from NGOs and local leaders that they are stretched thin, and desperately need the assistance of the Federal government.

Within 60 days of your confirmation, will you meet with me to discuss how FEMA can take a larger role in helping these communities and be prepared to discuss what legislative options, if any, are necessary to make sure that our local governments and NGOs can recover from their significant financial burdens?

FEMA has provided support to various components within the U.S. Department of Homeland Security in response to the ongoing crisis on the Southwest border. If confirmed, I would welcome the opportunity to meet with you to further discuss this

issue and better understand the current financial burdens at the local level to determine what, if any, resources from FEMA may be available to assist.



Office of the Fire Chief

City of Roseville Fire Department • 316 Vernon St., Suite 480 • Roseville, California 95678-2618
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June 10, 2019

The Honorable Ron Johnson
U.S. Senate
Chairman, Homeland Security &
Governmental Affairs Committee
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Gary C. Peters
U.S. Senate
Ranking Member, Homeland Security &
Governmental Affairs Committee
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Johnson and Ranking Member Peters:

As the elected National Task Force Representative of the Federal Emergency Management Agency's (FEMA) 28 Urban Search and Rescue (US&R) Task Forces, I feel it is important that the committee know that all 28 Sponsoring Agency Chiefs and myself fully support the nomination of Jeffrey Byard as the next FEMA Administrator.

Please know that the members of the FEMA National US&R Response System are grateful for your consistent support of this important program and thank you for your continued leadership in representing our great country.

Our elite task forces, comprised of almost 6,000 trained and experienced responders, are at the ready to conduct round-the-clock rescue operations following natural disasters, acts of terrorism, large scale accidents and catastrophic structural collapses. Within four hours of notification, our highly-skilled responders can be deployed and in transit anywhere in the nation when disaster strikes to serve as a supplement to local and/or state resources.

Over the last two years under Associate Administrator for the Office of Response and Recovery Byard's direction, the National US&R Response System has been deployed by FEMA to Hawaii, North and South Carolina, Texas, Florida, Puerto Rico and the U.S. Virgin Islands to assist with the federal response to the devastating hurricanes that made landfall. In 2018, the direct impact of the task forces resulted in thousands of lives saved or assisted by the 28 FEMA US&R task forces deployed during the significant search and rescue operations following Hurricanes Olivia, Florence, and Michael. In 2017, 27 of the 28 FEMA US&R task forces were deployed during massive water rescue operations following Hurricane Harvey in Texas. Several of those task forces were immediately re-deployed as part of the 15 US&R task forces that responded to Hurricane Irma in Florida

Chairman Johnson & Ranking Member Peters
June 10, 2019
Page 2

and the Caribbean, before being able to return to their home stations. As a result of those deployments, 1,590 lives were saved or assisted by the National US&R Response System. Immediately following the response to Hurricane Irma, 12 US&R task forces were deployed to Puerto Rico and the U.S. Virgin Islands to conduct search and rescue operations as well as humanitarian missions in response to Hurricane Maria.

Mr. Byard has shown tremendous leadership in making decisions to move US&R task forces into position as soon as possible and by directing FEMA resources to be in place before and as these natural disasters occur. His competent and professional actions are well-respected by the US&R System's Sponsoring Agency's Chiefs and their task force's leadership.

Mr. Byard's has experience and proven performance in a significant leadership role at FEMA over the past two years. When that experience is combined with the knowledge gained in his past positions in the Alabama Emergency Management Agency, while serving as a member of the FEMA Region IV Regional Advisory Council, and in his service to the country in the United States Marine Corps, it clearly demonstrates that Mr. Byard has many unique and desirable qualities to lead the Federal Emergency Management Agency.

Sincerely,

Rick Bartee

Rick Bartee, Fire Chief
Roseville FD/CA-TF7
National Task Force-Rep



June 13, 2019

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

The Honorable Gary C. Peters
Ranking Member, Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, D.C. 20510



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Dear Chairman Johnson and Ranking Member Peters:

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 support the nomination of Jeffry Byard 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. Byard brings extensive leadership experience assisting and supporting local, state, and federal governments with building robust emergency management programs. His areas of expertise include strategic planning, exercise, evacuation, public safety, school safety, recovery management, and response logistics.

As you know, he is currently serving as the Associate Administrator for the Office of Response and Recovery at FEMA. Prior to joining FEMA, he worked his way up through the Alabama Emergency Management Agency (AEMA), most recently as the Executive Operations Officer, before coming to FEMA with Brock Long. The members of IAEM who worked with him in Alabama all speak highly of Mr. Byard and vouch for his credentials and two decades of experience.

Of great importance to IAEM-USA, Mr. Byard 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. Byard 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 believe Mr. Byard's experience qualifies him to be confirmed as Administrator of FEMA, and IAEM-USA urges a speedy confirmation.

Sincerely,

A handwritten signature in black ink that reads "Marty Shaub". The signature is written in a cursive, flowing style.

Marty Shaub

President, U.S. Council of the International Association of Emergency Managers



International Association of Fire Chiefs

4795 Meadow Wood Lane, Suite 100 • Chantilly, VA 20151
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June 10, 2019

The Honorable Ron Johnson
Chairman
U.S. Senate Committee on Homeland Security
and Governmental Affairs
Washington, DC 20510

The Honorable Gary Peters
Ranking Member
U.S. Senate Committee on Homeland Security
and Governmental Affairs
Washington, DC 20510

Dear Chairman Johnson and Ranking Member Peters:

On behalf of the approximately 12,000 members of the International Association of Fire Chiefs (IAFC), I would like to express our support for the nomination of Jeffrey Byard for Administrator of the Federal Emergency Management Agency (FEMA). Mr. Byard is a skilled emergency manager with experience at both the federal and state levels of government. The IAFC believes that Mr. Byard is well-qualified to be FEMA Administrator.

Mr. Byard currently serves as FEMA's Associate Administrator at the Office of Response and Recovery. He was sworn into office during the massive response to Hurricanes Harvey and Irma in 2017. His previous experience includes service with the Alabama Emergency Management Agency, where he helped coordinate FEMA's disaster recovery assistance after Hurricane Katrina. Mr. Byard is a proponent of mutual aid systems that help first responders mobilize resources both within a state and nationally to respond effectively to disasters. He also understands the importance of volunteer fire departments to helping communities respond to major disasters, especially in rural communities.

The IAFC believes that Mr. Byard is an excellent choice to be FEMA Administrator. We look forward to working with the committee to ensure his confirmation in an efficient manner. Please contact Mr. Ken LaSala, IAFC Director of Government Relations and Policy, at 703.537.4847, if we can be of further assistance.

Sincerely,

Fire Chief Dan Eggleston, EFO, CFO, CMO
President and Chairman of the Board

:kpl



North Carolina Department of Public Safety
Emergency Management

Roy Cooper, Governor
Erik A. Hooks, Secretary

Michael A. Sprayberry, Director

June 7, 2019

The Honorable Ron Johnson, Chairman
Committee on Homeland Security and Government Affairs
United States Senate
Washington, D.C. 20510

The Honorable Gary Peters Ranking Member
Committee on Homeland Security and Government Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Johnson and Ranking Member Peters:

As the Director of the Division of North Carolina Emergency Management, the Office of Recovery and Resiliency and the State Deputy Homeland Security Advisor, please accept this endorsement of the recent nomination of Mr. Jeffrey Byard for Administrator of the Federal Emergency Management Agency (FEMA).

The State of North Carolina has worked closely with Mr. Byard in his capacity as FEMA's Associate Administrator for the Office of Response and Recovery. He is knowledgeable, motivated and solutions oriented. Associate Administrator Byard assisted the State of North Carolina as we implemented several difficult recovery programs together. He was constantly searching for ways to deliver services to disaster survivors in a more efficient manner.

I have personally observed Mr. Byard when he was serving as the Executive Officer for the Alabama Emergency Management Agency. He volunteered to deploy to South Carolina and work in their Emergency Operations Center during Hurricane Joachin operations. It was obvious that he was a hands-on teammate and an outstanding leader who was a program expert. South Carolina was grateful to have him.

Associate Administrator Byard's appointment as Administrator of FEMA will be a great gain for the Nation's emergency management team. His experience at the state and federal level will serve him well in this most critical of positions. Please feel free to contact me at 919/369-4174 with any questions regarding this recommendation.

Sincerely,

Michael A. Sprayberry
Director
NC Division of Emergency Management
NC Office of Recovery and Resiliency

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(202) 624-5459 | f: (202) 624-5875

June 11, 2019

The Honorable Ron Johnson, Chairman
Committee on Homeland Security and Government Affairs
United States Senate
Washington, D.C. 20510

The Honorable Gary C. Peters, Ranking Member
Committee on Homeland Security and Government Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Johnson and Ranking Member Peters:

Regarding your confirmation hearing tomorrow, the National Emergency Management Association (NEMA), representing the nation's state emergency management directors, urges swift action in securing the leadership of the Federal Emergency Management Agency (FEMA) as we enter hurricane season.

The administration's nominee, Jeffrey C. Byard, is currently the Associate Administrator for the Office of Response and Recovery at FEMA. Prior to joining FEMA, he served in several capacities with the Alabama Emergency Management Agency (AEMA), most recently as the Executive Operations Officer. His emergency management experience dates back nearly two decades, and his colleagues in AEMA speak highly of his credentials and time with their agency.

The ongoing recoveries across the country requires a steady hand of leadership, for which we applaud Mr. Byard and the currently Acting Administrator, Pete Gaynor, in providing during this time. The recent changes in leadership in FEMA and throughout the Department of Homeland Security are of concern as we enter hurricane season. Given the criticality of this timing, we urge you to support the confirmation of Mr. Byard.

Therefore, we encourage you to use this confirmation hearing to affirm your support of FEMA and the nation's state emergency management directors in completing the FEMA leadership team as quickly as practicable.

Sincerely,

Brad Richy
President

President: Mr. Brad Richy, ID | **Vice President:** Ms. Sima Merick, OH | **Secretary:** Mr. Michael Dossett, KY
Treasurer: Mr. Robert Ezella, WA | **Past-President:** Mr. Mike Sprayberry, NC | **Executive Director:** Ms. Trina Sheets



DOING THE
MOST GOOD

William Booth, *Founder*
Brian Peddle, *General*
Commissioner David E. Hudson, *National Commander*

June 4, 2019

The Honorable Ron Johnson, Chairman
Committee on Homeland Security and Government Affairs
United States Senate
Washington, D.C. 20510

The Honorable Gary Peters Ranking Member
Committee on Homeland Security and Government Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Johnson and Ranking Member Peters:

On behalf of The Salvation Army USA National Headquarters, I write to strongly support the nomination of Mr. Jeff Byard as the next Administrator for Federal Emergency Management Agency (FEMA). Mr. Byard is a straightforward, experienced emergency manager who is highly qualified and will serve our country well as we must collectively prepare for and respond to both natural and manmade disasters.

Disaster relief is just one of the many services The Salvation Army provides to those in need through a national network of local units whose reach extends to nearly every zip code in our country. We have been responding to disasters for more than 100 years, beginning with the great Galveston hurricane of 1900, and Salvation Army personnel have been at the site of nearly every major disaster since then. While we are proud of our service record, we also realize no one entity - be they government, national charity, or private sector corporation - can meet all the needs of a community after a disaster. It must be a team effort, and for decades, we have counted on FEMA's support and cooperation to help us aid others during a catastrophe. We are confident that Mr. Byard will continue this tradition, bringing charitable relief providers into the emergency management process and building a team of disaster relief providers across all sectors that will work together to serve those suffering from disaster events.

Mr. Byard has served in different capacities in emergency management throughout his extensive career. From the time he served in the Marines Corps to working with Alabama Emergency Management Agency (AEMA) and then FEMA, Mr. Byard has the experience, knowledge and compassion to lead FEMA. He profoundly understands the importance of strong federal, state and local government partnerships for disaster management. More importantly, he wants to see the job done right and has huge respect for the voluntary sector. In the times The Salvation Army has worked with him, Mr. Byard has gone out of his way to ensure our inclusion and ensure recognition of our efforts.

On behalf of The Salvation Army, I offer my sincere support of Mr. Jeff Byard and trust your committee will carefully consider this nomination.

We thank the committee for its hard work and appreciate its diligence in the conformation process.

Sincerely,

David E. Hudson, Commissioner
National Commander

THE SALVATION ARMY USA NATIONAL HEADQUARTERS
615 Slaters Lane | Alexandria, VA 22314 | PO Box 269, 22313 | www.SalvationArmyUSA.org

June 3, 2019

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

The Honorable Gary Peters Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Johnson and Ranking Member Peters:

As the former Chief of Boston Emergency Medical Services, Assistant Director of the Boston Public Health Commission, and Deputy Administrator of the Federal Emergency Management Agency (FEMA), please accept my full endorsement of the nomination of Mr. Jeffrey Byard for FEMA Administrator. I am currently a Distinguished Senior Fellow and on the Faculty at Harvard University, National Preparedness Leadership Initiative. During my time in Boston, at FEMA and also at Harvard I have had the opportunity to encounter many leaders, Mr. Byard is by far one of the best.

Mr. Byard served as Alabama Emergency Management Agency's (AEMA) Executive Operations Officer, and currently serves as FEMA's Associate Administrator for the Office of Response and Recovery. His extensive state and federal experience has prepared him well for service as Administrator of FEMA.

As AEMA's Executive Operations Officer, Mr. Byard led emergency management operations for the country's first large-scale state evacuation during Hurricane Gustav, response and recovery operations for the Deepwater Horizon Oil Spill, and the 2011 Super Outbreak – the largest, costliest, and one of the deadliest tornado outbreaks ever recorded. Through this role he gained a strong respect for the interdependent relationship between state, local, and federal emergency managers.

In his present role, Mr. Byard serves as FEMA's senior executive charged with overseeing disaster response, recovery, logistics, and field operations. In 2017 and 2018, two of the costliest disaster seasons in modern US history, he oversaw response to disasters such as Hurricanes Harvey, Irma, and Maria, as well as the California Wildfires. Additionally, he oversees recovery to over 700 disasters.

Mr. Byard's seasoned record and tested leadership ability coupled with his thorough knowledge of FEMA's processes and policies make him an ideal candidate to lead the Agency. I am pleased to give Mr. Byard my full endorsement for the next Administrator of FEMA and would like to thank you for the opportunity to write on his behalf. Please feel free to contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Serino', with a stylized, cursive script.

Richard Serino
Distinguished Senior Fellow
Harvard University
National Preparedness Leadership Initiative
A joint program of the Harvard T. H. Chan School of Public Health
8 Story St. Suite 310
Mailing Address: PO Box 381488
Cambridge, MA 02238-1488
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serino@hsph.harvard.edu

Paul Stockton
1602 Longfellow St.
McLean, VA 22101-4429
703.945.6574

June 3, 2019

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

The Honorable Gary C. Peters
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Johnson and Ranking Member Peters:

I strongly support the nomination of Jeffery Byard to be the next Federal Emergency Management Agency (FEMA) Administrator. He offers a rare combination of strategic vision, leadership skills, and operational expertise that perfectly matches FEMA's requirements at a time of intensifying manmade and natural hazards to the Nation.

Before explaining why I believe Mr. Byard is such a compelling nominee, let me first describe my expertise in incident management and the direct opportunities I have had to witness his capabilities. I served as Assistant Secretary of Defense for Homeland Defense from 2009-2013. In that capacity, I served as DOD's Domestic Crisis Manager, and (in support of Secretary Gates and Secretary Panetta) led the Department's support for FEMA in Superstorm Sandy and over a dozen other disasters. I witnessed first-hand the skills that FEMA Administrators need to effectively implement the National Response Framework, and deal with the difficult operational challenges that FEMA's missions entail.

Mr. Byard is superbly qualified to meet these challenges. However, my extensive personal experience with him lies in a different realm. During my service as Assistant Secretary, and in the many disasters that have occurred since, it has become increasingly clear that improvements are needed in US preparedness for severe events. Mr. Byard has a clear and persuasive strategic vision for these improvements and how to achieve them. As a consultant for FEMA, I have seen Mr. Byard personally lead the charge on two critical initiatives.

First, he is updating and strengthening the National Response Framework (NRF) to meet the Nation's emerging disaster response challenges. Having arrived at FEMA in the midst of the Agency's response to Hurricanes Harvey and Irma, Mr. Byard helped conduct a candid and

thorough assessment of lessons learned from those disasters (as well as from Hurricane Maria and other incidents) to identify priorities for future improvements in the response and recovery system. One such priority: in collaboration with state emergency management leaders and the private sector, Mr. Byard has helped FEMA build a vision for focusing on “community lifelines” as a critical means to help save lives in severe events. Being able to sustain and restore these lifelines (including energy and other essential services) will require key contributions from the private sector. Indeed, Mr. Byard recognized that because private and public sector owners and operators of critical infrastructure have primary responsibility for managing their systems in emergencies, and unparalleled expertise to do so, the NRF should be revised to account for their critical roles and more effectively support their contributions to preparedness. Mr. Byard’s vision for these expanded private-public partnerships lie at the heart of the 4th Edition of the NRF that is now under stakeholder review.

I have also had the opportunity to see how Mr. Byard is effectively implementing this vision through another key initiative: his development of Emergency Support Function (ESF) #14, “Cross-Sector Business and Infrastructure.” Mr. Byard’s key insight is that the provision of community lifeline services typically requires multiple infrastructure sectors and subsectors, each of which depends on the others to function. ESF #14 charts the way forward for FEMA, DHS, and other agencies to collaborate with emergency managers at all levels of government – and with the private sector – to deal with these complex interdependencies in severe events.

Of course, Mr. Byard has not developed all of these initiatives on his own. He deserves great credit for helping assemble a leadership team at FEMA that is effectively building out and advancing his strategic vision. I have also seen Mr. Byard forge a collaborative partnership with DHS’ Cybersecurity and Infrastructure Security Agency that is unusually effective, as are his relationships with a broad range of other public and private sector stakeholders in national preparedness.

Thank you for the opportunity to support Mr. Byard’s nomination, and please let me know if you would like any additional details on why I believe he would be an outstanding FEMA Administrator.

Very Respectfully,

A handwritten signature in black ink, appearing to be 'P. Stockton', written over a faint, stylized graphic that resembles a large, abstract letter 'A' or a triangle.

Paul Stockton

Statement of Troy D. Edgar
On his Nomination to Serve as
Chief Financial Officer of the U.S. Department of Homeland Security
Before the
U.S. Senate Committee on Homeland Security and Governmental Affairs
June 12, 2019

Chairman Johnson, Ranking Member Peters and distinguished Members of the Committee, it is an honor for me to appear before you today as the President's nominee to be the Chief Financial Officer (CFO) of the Department of Homeland Security (DHS). I am grateful to the President, former Secretary Nielsen, and Acting Secretary McAleenan for the trust and confidence that they have placed in me, and I thank the Committee for considering my nomination. This process has enabled me to better appreciate the high honor bestowed upon me to serve and better understand the critical expectations that this Committee may have for me, if confirmed to be the next CFO for DHS.

Thanks to my Lord for his grace on my life and for the opportunity to serve my country. My family is very important to me and I want to introduce them to you. Mat, Tyler, and Ethan are my sons. Tracy is my brother. And I honor the memory of my late mom and dad, Ralph and Maxine.

The love of my life is my precious wife, Betty. She embodies the American dream in a manner that enables me to understand the hopes and aspirations of millions of people who come to America. Her story also helps me understand the true weight of public service. I not only come to this nomination with technical skills and business experience, but with a conscience informed through the personal experiences of my wife. Betty is an immigrant from Iran who spoke Farsi, Aramaic and French growing up in Tehran. Her family fled to the United States after the Shah was overthrown in 1979. She was required to wait in France for almost two years until she was able to immigrate to the United States. When she arrived, she mastered English and Spanish fluently and then attained a bachelor and master's degree in French. She has been a French teacher at La Quinta High School for over 20 years. Betty rises every morning believing that she herself has the ability to change another student's life the way this country has changed hers. Thank you, Betty, for being here to support me today.

My background has prepared me for this opportunity. After my tour of duty in the Navy, I have spent over 30 years working for more than 40 Fortune 500 and Global 1000 companies as an executive and as an advisor across many industries, including Aerospace/Defense, Government and Technology. Providing executive leadership support to establish and achieve operational goals as well as leading finance transformation improvements are areas in which I have significant experience. These include modernizing financial/management reporting systems, enhancing cost management and budgeting processes, establishing program management offices and improving audit and financial controls to meet statutory and regulatory compliance.

Other areas of achievement include my track record of solving complex problems and driving efficiency in other functional areas of operations, procurement, human resources, payroll, and information technology. Moreover, I have implemented many large-scale global enterprise resource planning and financial management systems, corporate headquarters consolidations, shared services and other significant finance transformation projects. This experience is relevant to many of the important roles and responsibilities of the Department's CFO, and, if confirmed, I will use these skills to meaningfully address challenges the Department may face.

Working in corporate America has not been my only focus. Serving in non-partisan elected, appointed, and non-profit board positions where I provide finance and operational leadership to many public organizations is of great importance to me.

I believe in public service and in answering the call of our great country. If confirmed, I will partner with the outstanding staff of the Office of the Chief Financial Officer and provide the leadership through experience and the expertise needed to continue its critical mission, maximize the efficiency and effectiveness of available resources, and protect taxpayer dollars.

If confirmed, I also look forward to assisting this great organization's focus on continuous improvement and transformation to provide the highest level of attainable national security while controlling cost. This must also be done while creating a positive workplace culture that improves teamwork, raises the morale, and enhances retention of our valuable workforce.

Lastly, if confirmed, I look forward to working with this Committee and other Members of Congress to assist you in your important role of oversight and support for the Department. I am committed to investing the time to build critical working relationships needed to help significantly advance DHS.

Thanks again for this opportunity to appear before you, 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> Chief Financial Officer, Department of Homeland Security	<u>Date of Nomination</u> March 14, 2019

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Troy	Dean	Edgar	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			<u>Street:</u> 5555 Garden Grove Blvd. Suite 375		
<u>City:</u> Los Alamitos	<u>State:</u> CA	<u>Zip:</u> 90720	<u>City:</u> Westminster	<u>State:</u> CA	<u>Zip:</u> 92683

<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)
N/A	N/A	N/A	N/A	N/A	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
1966	Long Beach, CA

<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>			
<u>Spouse's First Name</u>	<u>Spouse's Middle Name</u>	<u>Spouse's Last Name</u>	<u>Spouse's Suffix</u>
Betnaz (Betty)		Sarkis	

<i>Spouse's Other Names Used (current spouse only)</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)
N/A	N/A	N/A	N/A	N/A	Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Ethan	Dean	Edgar	
Tyler	Douglas	Edgar	
Mathew	Allen	Edgar	

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>
Long Beach City College	Navy Campus Naval Station Long Beach	January 1987	June 1987	Transfer units	N/A
Long Beach City College	City College	January 1989	July 1993	Transfer units	N/A
California State Long Beach	University	September 1990	May 1991	Transfer units	N/A
University of Southern California	University	September 1991	May 1993	B.S. Business Administration	May 1993
University of Southern California	University	September 1995	May 1998	M.B.A.	May 1998

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)
Non-Government Employment	Los Alamitos Medical Center (Tenet Healthcare), Los Alamitos, CA	Board Member	Los Alamitos, CA	January 2019	Present
Non- Government Employment	Global Conductor, Inc. Westminster, CA	CEO, President	Westminster, CA	January 2002 Note: Began founding of Global Conductor, Inc. in January 2002. The Articles of Incorporation were approved March 2002.	Present
Non- Government Employment	Global Conductor Construction Corporation, Westminster, CA	CEO, Licensed Engineer	Westminster, CA	June 2004	Present
Non-Government Employment	Avery Dennison Pasadena, CA Cork, Ireland Las Vegas, NV London, England Leiden, The Netherlands	1099 -Contract Executive	Pasadena, CA	October 2001	February 2002
Non-Government Employment	PricewaterhouseCoopers Los Angeles, CA	Principal Consultant	Los Angeles, CA	December 1997	October 2001

Federal Contractor	The Boeing Company Long Beach, CA	CFO C17 Sustainment, Merger Leader, Military Transport Aircraft – Product Support	Long Beach, CA	August 1997	November 1997
Federal Contractor	McDonnell Douglas Aircraft Corporation Long Beach, CA	CFO, Military Transport Aircraft – Product Support	Long Beach, CA	June 1989	August 1997
Non-Government Employment	Valin Corporation Carson, CA	Logistic Support	Carson, CA	December 1988	May 1989
Active Military Duty Station	U.S. Navy Pearl Harbor Sub Base	Sonar Technician – Submarine (E4)	Pearl Harbor, HI	July 1987	November 1988
Active Military Duty Station	U.S. Navy Naval Station Long Beach (Hums Assign)	Sonar Technician – Submarine (E4)	Long Beach, CA	December 1986	June 1987
Active Military Duty Station	U.S. Navy Portsmouth Naval Shipyard	Sonar Technician – Submarine (E4)	Portsmouth, NH	June 1986	December 1986
Active Military Duty Station	U.S. Navy Fleet ASW Training Center	Sonar Technician – Submarine (E3, E4)	San Diego, CA	August 1985	May 1986
Active Military Duty Station	U.S. Navy Submarine School	Sonar Technician – Submarine (E2)	Groton, CT	July 1985	August 1985
Active Military Duty Station	U.S. Navy Naval/Recruit Training Center	Sonar Technician – Submarine (E1)	Great Lakes, IL	February 1985	July 1985

(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)
San Gabriel and Lower Los Angeles Rivers and Mountain Conservancy	Board Member	March 2009	December 2017

Orange County Sanitation District	Chairman / Board Member	March 2009	June 2014
Groundwater Replenishment System Steering Committee - Orange County Water District and Orange County Sanitation District	President / Board Member	May 2012	June 2014
Orange County Fire Authority	Board Member	January 2009	December 2009
WestComm 911 Dispatch	Board Member	March 2009	December 2009
Southern California Association of Governments (SCAG) – Regional Metropolitan Planning Agency	Regional Councilmember – District 21	January 2007	March 2008
Orange County Association of Governments (OCCOG)	Board Member	January 2007	December 2008
Orange County Public Library Advisory Board	Board Member	January 2007	December 2008
Orange Line High Speed Rail Authority	Vice Chairman / Board Member	January 2007	December 2008

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 U.S. Office of Government Ethics and the U.S. Department of Homeland Security's Designated Agency Ethics Official (DAEO) to identify any potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I signed and transmitted to the Department's DAEO, which 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.

As Mayor and City Councilmember, I supported my city's legislative platforms as well as the other municipalities I represented. I worked with other city, county, state and federal officials to support legislation and signed letters of neutrality, opposition, and support usually coordinated with the California League of Cities. I also served on various board legislative affairs committees and would assist in policy review and make frequent visits to Sacramento, CA and Washington D.C.

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.

Certificate of Appreciation – California National Guard – 2018 – MG Baldwin, BG Lathrop

Certificate of Recognition – California State Assembly – 2018 – Assemblyman Diep (AD72)

Certificate of Recognition – Orange County Board of Supervisors – 2018 – Supervisor Steel (2nd District)

Orange County Register – Top 100 Influencers 2018

News Enterprise – Top Elected Official 2017 and 2018

Certificate of Recognition for Outstanding Dedicated Service – State of California, Rivers and Mountains Conservancy 2017

Inc. Magazine – Inc. 5,000 Fastest Growing Firms 2017 (#1,824)

Consulting Magazine – Fastest Growing Firm for 2017 (#25)

Consulting Magazine – Fastest Growing Firm for 2016 (Top 30)

Honor Walk Recipient – Orange County Sanitation District – Inducted May 2016

U.S. Congressional Record, Chairman of the Orange County Sanitation District – June 2014

2014 U.S. Water Prize – Groundwater Replenishment System (GWRS), Orange County Water District (OCWD) and Orange County Sanitation District (OCSD) – April 2014

Certificate of Recognition for Leadership and Building a New Relationship – Santa Ana Watershed Project Authority (SAWPA) – March 2014

Malcolm Baldrige Quality Award – McDonnell Douglas Aerospace Corporation – 1996

Golden Eagle Award – McDonnell Douglas Aerospace Corporation – 1996
MMAS (Material Management & Accounting Systems) DCMA Government Compliance (Defense Contract Management Agency)

Golden Eagle Award – McDonnell Douglas Aerospace Corporation – 1996
Bid Versus Actuals Systems

California Quality Award – McDonnell Douglas Aerospace Corporation – 1995

Dean's List – University of Southern California, 1993

Commanding Officer Endorsement for BOOST Program (Broadened Opportunity for Officer Selection and Training) – November 1987

Submarine Qualified and earned "SS" designator in months (normally takes 6 months to 1 year) – August 1987

Honor Graduate – Sonar Technician "A" School – Finished #1 – September 1986

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>
Casa Youth Shelter	June 2009 - Present	Treasurer, Board Member
St. Isidore Historical Plaza	June 2009 - Present	Strategic Advisor, Board Member
Los Alamitos Chamber of Commerce	September 2003 – Present	Member

7. Political Activity

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

<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>
Mayor/ City Councilmember	Elected	2006 – 2018	12 years
California State Assembly – District 72	Candidate Only	2012	N/A

(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>
California Republican Party	Delegate (for Rep. Royce and Sen. Tom Harman)	Voting Delegate	2007 – 2012

(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>
Janet Nguyen (R) for CA State Senate	\$500	2013
John Moorlach (R) for CA State Senate	\$1,000	2015
Janet Nguyen (R) for CA State Senate	\$500	2017
Janet Nguyen (R) for CA State Senate	\$500	2018
Dana Rohrabacher for U.S. Congress	\$500	2018
Jeff Barke for Los Alamitos Unified School Board	\$200	2018
Diana Hill for Los Alamitos Unified School Board	\$200	2018

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>
Cities in Support of ICE (OpEd)	Orange County Register	August 30, 2018
Cal Chiefs Role in SB54	Orange County Register	January 03, 2019

(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.

I have not given any formal, external speeches relevant to this position in the last five years.

(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.

In 2012, as the Mayor of Los Alamitos and candidate for California State Assembly (AD-72), I made many speeches in regards to city and district issues from February 2012 to November 2012.

<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
State of the City – 2018 City of Los Alamitos	Joint Forces Training Base, Los Alamitos, CA Business Community/Military/Cities	April 2018
Various Water Industry Groups on topics including: Infrastructure Finance, Government Agency Partnerships, Biosolids Management Programs	California Association of Sanitation Agencies (CASA), National Associations of Clean Water Agencies (NACW), CalReuse San Diego, Washington D.C., Sacramento, Newport Beach, Palm Springs	2013, 2014
California State Legislature – Testimony in Support for SB 946 (Huff) District Act	CA State Capitol, Sacramento, CA Senate Governance and Finance Committee Hearing	April 2014
Building Sustainable Infrastructure – 2014	UAE Sustainability Conference Abu Dhabi, Dubai, UAE	January 2014

State of the District – 2014 Orange County Sanitation District	Mile Square Park Country Club, Fountain Valley, CA Business Community/Water District/Cities	October 2014
State of the District – 2013 Orange County Sanitation District	Mile Square Park Country Club, Fountain Valley, CA Business Community/Water District/Cities	October 2013
State of the City – 2012 City of Los Alamitos	Navy Golf Course, Los Alamitos, CA Business Community/Military/Cities	November 2012
State of the City – 2009 City of Los Alamitos	Old Ranch Country Club, Los Alamitos, CA Business Community/Military/Cities	November 2009

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).

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:
- Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No**

M) 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>
3/17/14	Superior Court of Orange County, CA	Troy Edgar v. Neal Kelley, OC Registrar of Voters	Writ of Mandate, Candidate Filing Case #30-2014-00710804	Judgement in favor of OC Registrar 10/31/14
4/17/03	Superior Court of Orange County, CA	Troy Edgar v. Janna Edgar	Dissolution of Marriage Case #03D003488	Granted 12/18/03
1/21/88	1 st Circuit Court of Honolulu, HI	Troy Edgar vs Jo Lynne Edgar	Dissolution of Marriage Case #87-4159	Granted 6/21/88

(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.

<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>
12/17/18	Superior Court of San Diego, CA	Nicole Smith v. Global Conductor, Inc.	Civil – CU-OE Other Employment Case # 37-2018-00063490-CU-OE-CTL	Lawsuit Stayed - Moved to Arbitration – 3/7/19

9/28/18	Superior Court of San Bernardino, CA	Global Conductor Construction v. City of Redlands	Other – Tort (Down Time) Case # CIVDS1825344	Pending 11/28/18
7/18/18	Superior Court of San Bernardino, CA	Global Conductor Construction v. City of Big Bear	Appeal – CIVD1703347 Case # ACIAS1800045	Pending 11/26/18
12/19/17	Superior Court of Orange County, CA	Southern California Edison v. Global Conductor Construction	PI/PD/WD - Other (Property Damage) Case # 30-2017-00962386-CU-PO-CJC	Dismissed - 1/24/18, No action/defendant filed papers, turned over to insurance.
4/19/17	Superior Court of San Bernardino, CA	Global Conductor Construction v. Utilquest LLC	Other – Tort (Down Time) Case # CIVDS1707793	Dismissed – 10/31/18, Favorable Settlement
2/21/17	Superior Court of San Bernardino, CA	Global Conductor Construction v. City of Big Bear	Other – Tort (Down Time) Case # CIVDS1703347	Pending 5/23/18
1/5/17	Superior Court of Orange County, CA	Global Conductor Construction v. Exxon/Mobil Pipeline	Non-PI/PD/WD Tort Other (Downtime) Case # 30-2017-00896718-CU-NP-CJC	Dismissed – 4/18/18 - Favorable Settlement
1/5/17	Superior Court of Orange County, CA	Global Conductor Construction v. Southern California Gas Co.	Non-PI/PD/WD Tort – Other (Down Time) Case # 30-2017-00895754-CU-NP-CJC	Dismissed – 7/2/18 – Favorable Settlement
12/14/16	Superior Court of Orange County, CA	Global Conductor Construction Corporation v. City of Huntington Beach, CA	Other – Tort (Down Time) Case # 30-2016-00892294-CU-NP-CJC	Dismissed - 1/31/18, Related to the Sentinel case. Mis-marked utility.
11/28/16	Superior Court of Los Angeles, CA	Global Conductor Construction v. City of Long Beach	Other – Tort (Down time) Case # 16K14262	Dismissed – 9/6/17, Favorable Settlement
10/26/16	Superior Court of Orange County, CA	Sentinel Insurance v. City of Huntington Beach, CA Global Conductor	Other – PI/PD/WD - Other (Property Damage) Case # 30-2016-00892294-CU-NP-CJC,	Dismissed - 3/5/18, Insurance Settlement

		Construction named as one of the listed defendants.		
8/30/16	Superior Court of Orange County, CA	Global Conductor Construction v. City of Fountain Valley	Non-PI/PD/WD – Other (Down Time) Case # 30-2016-00872337-CL-NP-CJC	Dismissed 12/15/17 – Favorable Settlement
6/22/15	Superior Court of Orange County, CA	Michael Gallagher, v. Global Conductor Construction	Wrongful Termination Case # 30-2015-00794522-CU-WT-CJC	Case Dismissed - 7/26/16
8/3/11	Superior Court of Los Angeles, CA	Global Conductor Construction v. James G. Thompson	Other – Petition Case # 11K12784	Pending 12/12/11
3/18/11	Superior Court of Los Angeles, CA	Global Conductor Construction v. Merrinack Telecom, James G. Thompson	Other –Breach of Contract, Fraud Case # BC457712	Default Judgement – Favorable 9/6/17

(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.

<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>
4/18/18	Superior Court of Orange County, CA	Henry Josefsberg, Rev. Samuel Pullen, Los Alamitos Community United, City of Los Alamitos, ACLU Foundation, Los Alamitos Police Department, Brett M Plumlee, Troy Edgar in my official capacity as Mayor,	Writ of Mandate – Sanctuary Lawsuit, California Constitution City Rights Case #30-2018-00987018-CU-WM-CXC	Parties Agree to Suspend Action (10/30/18)

		Latham & Watkins LLP		
10/27/10	Superior Court of Orange County, CA	Citizens for Fair Trash Contract v. City of Los Alamitos Troy Edgar listed as a respondent in his official capacity.	Writ of Mandate – Citizens for a Fair Trash Contract Case #30-2010- 004420414-CU-WM-CJC	Dismissed –5/25/12, Settlement -- adjust purchasing ordinance, lawyer fees.

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

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)
Los Alamitos Medical Center (part of Tenet Healthcare)	3751 Katella Ave, Los Alamitos, CA 90720	Corporation	Board Member	January 2019	Present

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.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)
I began serving on the Los Alamitos Medical Center as a Board of Director. I am compensated \$200 per meeting. Per my Ethics Agreement, I will resign this position upon my confirmation.	Los Alamitos Medical Center (Tenet Healthcare) and Troy D. Edgar	January 2019 – Present

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.

_____

This 29th day of April, 2018

UNITED STATES OFFICE OF
GOVERNMENT ETHICS

REDACTED



March 20, 2019

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 Troy D. Edgar, who has been nominated by President Trump for the position of Chief Financial Officer, 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,

DAVID APOL

Digitally signed by DAVID
APOL
Date: 2019.03.20 18:24:59
+0400

David J. Apol
General Counsel

Enclosures **REDACTED**

★ ★ ★ ★

March 15, 2019

Joseph B. 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 Chief Financial Officer, U.S. Department of Homeland Security.

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.

I have an ownership interest in Global Conductor, Inc. and its subsidiary Global Conductor Construction Company. Upon confirmation, I will resign from my positions with these entities. I will direct both entities to remove any references to my affiliation with the organization in any advertising or promotional material, publications, including invoicing forms, firm letterhead, and client documentation, or on any public-facing website. During my appointment as Chief Financial Officer, I will retain a passive equity investment in both entities; however, I will not provide any services material to the production of income to either entity or to any client of either entity. Additionally, management of both entities will be transferred to an officer or corporate director. I will also transfer or suspend any voting rights and I will not have any right to control, direct, or supervise the operations of these entities or any person employed by these entities or acting on their behalf, for the duration of my appointment. I also 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 these entities, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). Finally, 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).

If Global Conductor, Inc. decides to pay me a bonus for work I performed during 2019, I will not accept the bonus and will forfeit it, unless I receive the bonus before I assume the duties of the position of Chief Financial Officer. If I receive the bonus, I will not participate personally and substantially in any particular matter involving specific parties in which I know Global

Conductor, 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).

My term as Mayor for the City of Los Alamitos, California expired on December 10, 2018. I will not participate personally and substantially in any particular matter involving specific parties in which I know the City of Los Alamitos, California 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).

Upon confirmation, I will resign from my positions with the Casa Youth Shelter, Los Alamitos Medical Center (Tenet Healthcare), and the St. Isidore Historical Plaza. Following my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which I know these entities are a party or represent 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).

I will retain my position as a trustee of the Edgar Family Trust and my revocable Family Trust. I will not receive any fees for the services that I provide as a trustee for either trust during my appointment to the position of Chief Financial Officer. 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 Edgar Family Trust, or my revocable Family 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).

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

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 Chief Financial Officer 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 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,

 3/15/19

Troy D. Edgat

UNITED STATES OFFICE OF
GOVERNMENT ETHICS

REDACTED

April 26, 2019

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

Dear Mr. Chairman:

By letter dated March 20, 2019, the Office of Government Ethics (OGE) transmitted to the Committee the financial disclosure report of Troy D. Edgar in connection with his nomination for the position of Chief Financial Officer, Department of Homeland Security. Enclosed are a letter from the Department of Homeland Security and a letter from Mr. Edgar supplementing his financial disclosure report.

We have reviewed this additional submission and have also obtained advice from the Department of Homeland Security concerning any possible conflict in light of its functions and the nominee's proposed duties. Based on the information provided, OGE continues to believe that Mr. Edgar is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

DAVID APOL

Digitally signed by DAVID
APOL
Date: 2019.04.26 09:51:48
-04'00'

David J. Apol
General Counsel

Enclosures REDACTED

Office of General Counsel
U.S. Department of Homeland Security
Washington, DC 20528-0485



**Homeland
Security**

April 25, 2019

Emory A. Rounds, III
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW
Washington, DC 20005-3917

Dear Mr. Rounds:

I am enclosing an amendment to Troy D. Edgar's nominee Public Financial Disclosure Report disclosing the inadvertent omission of certain business liabilities for which Mr. Edgar signed as personal guarantor thereby incurring a legal obligation to repay. The amendment also includes a mortgage on the personal residence of a family member for which Mr. Edgar's spouse signed as co-borrower. I have reviewed the additional information. Based on my review, it is my opinion that this information discloses no significant conflict of interest under applicable laws and regulations.

If you have any questions, please call me at (202) 282-8137.

Sincerely

A handwritten signature in black ink, appearing to read "Joseph B. Maher".

Joseph B. Maher
Designated Agency Ethics Official

cc:
Troy D. Edgar
Enclosure: as stated

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Troy Edgar to be
Chief Financial Officer,
Department of Homeland Security**

I. Nomination Process and Conflicts of Interest

1. Did the President give you specific reasons why he nominated you to be the next Chief Financial Officer (CFO) at the Department of Homeland Security (DHS or the Department)?

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 CFO? 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.

In connection with the nomination process, I have consulted with the U.S. Office of Government Ethics and the U.S. Department of Homeland Security's (DHS) Designated Agency Ethics Official (DAEO) to identify any potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I signed and transmitted to the Department's DAEO, which has been provided to this Committee. I am not aware of any other potential conflicts of interest and thus any need for a recusal. In the unlikely event a recusal is necessary, I will consult with departmental ethics officials to minimize any impact on my responsibilities.

II. Background of the Nominee

5. What specific background, experience, and attributes qualify you to be CFO?

After my time in the Navy, I have spent over 30 years working for more than 40 Fortune 500 and Global 1000 companies as an executive and advisor across over nine industries,

including Aerospace/Defense, Government and Technology. I have provided leadership and support to establish and execute operational goals as well as led finance transformation improvements that include modernizing financial/management reporting systems, enhancing cost management and budgeting, establishing program management offices and improving audit and financial controls.

I also have a track record of solving complex problems in the other functional areas of Operations (consolidation of military aircraft modification facilities/privatization of Kelly AFB military base), Procurement (consolidation of indirect purchasing/implementation of Ariba and Coupa software), Human Resources (HR) (Centralized Payroll (ADP) and multiple HR implementations (Oracle/Workday), and Information Technology (IT) (Data Center consolidations, various large scale Business Process Outsource (BPO) initiatives) across a variety of different industries. Moreover, I have implemented many large-scale global enterprise resource planning (ERP) and financial management systems, corporate headquarters consolidations, shared services and other significant finance transformation projects.

In addition to my corporate experience, I have served in non-partisan elected, appointed, and non-profit board positions providing finance and operational leadership to many organizations providing public services, and have a high level of public accountability.

6. Please describe:

a. Your leadership and management style.

As a visionary, coach and servant leader, I believe in staying focused on the organization's mission and continuous improvement. I openly practice and promote collaboration and transparency and request the same from my organization.

I actively participate in setting organization goals and quickly gain a reasonable assessment of my leaders' abilities to develop objectives and tactics for success. This allows me to set realistic expectations of what the organization is capable of achieving while striving to increase morale and promote a balanced working environment. It is important to build and maintain good working relationships and open communications.

I endeavor to stay focused on the mission, continuously improve, pay attention to details, and trust but verify.

b. Your experience managing personnel.

As a finance and operations leader, I have extensive experience managing many types of personnel including: board members, executives, managers, employees, and contractors. This includes providing consistent communication and battle rhythm, team building, talent acquisition, performance management and conflict resolution.

As an executive sponsor and participant in program analysis and evaluation, I support large programs and initiatives that require oversight, approval and accountability. Many of these programs have budgets over \$100 million. Managing within this context requires similar attributes mentioned above plus vendor and contractor management, expert management application of program management tools, approaches and methodologies such as System Development Life Cycle and Agile Scrum approaches used by large system integrators.

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

The largest number of people who have worked under me is approximately 1,200 as the Chairman of the Orange County Sanitation District.

III. Role of the DHS CFO

7. Please describe your view of the agency's core mission and the CFO's role in achieving that mission.

The core mission of DHS is to safeguard our homeland, our values and our way of life. To complete this mission, the Department consists of operational and support components. The Office of the Chief Financial Officer (OCFO) is within the Management Directorate and services the Headquarters offices as well as provides fiscal leadership for all DHS operational components. I understand that the CFO serves as the primary advisor to the Secretary, Deputy Secretary and their senior leadership on financial matters and provides financial leadership, direction, and guidance to the Department's Components.

Although not currently with the Department, I also understand the CFO's role is to assist in the decision-making process to facilitate strategic choices and produces a budget that supports the Secretary's vision. In this role, the CFO works with Congress to ensure the mission is appropriately funded, and for the funds ultimately provided by Congress. The CFO also ensures funds are expended and accounted for in accordance with the law and a system of internal controls that help protect the Department's resources against waste, fraud and abuse.

The CFO of Homeland Security must also act as the executive sponsor for DHS financial management improvements, integration and consolidation efforts.

8. In your opinion, is DHS currently fulfilling its fiscal management responsibilities? If not, what would you do differently as CFO?

As a nominee, I am not fully informed if DHS is currently fulfilling its fiscal management responsibilities. If confirmed, I intend to work closely with the Secretary, Deputy Secretary, Under Secretary for Management other Department senior leaders, OCFO

staff, and Congress to better understand the current situation and offer insights and recommendations for addressing them.

9. In your opinion, does DHS currently have sufficient internal controls to reduce waste, fraud, and abuse across the agency? If not, what would you do differently as CFO?

As a nominee, I am not fully informed to the extent that DHS has sufficient internal controls to reduce waste, fraud and abuse. If confirmed, I intend to work with the Secretary, Deputy Secretary, Under Secretary for Management, other Department senior leaders, and Congress to better understand the current situation and offer insights and recommendations for addressing any such issues.

IV. Policy Questions

10. What do you believe are the most pressing internal and external fiscal management challenges currently facing DHS? Which challenges will you prioritize and what do you plan to do to address each of those challenges?

As a nominee, I am not fully informed of the most pressing internal and external fiscal management challenges currently facing DHS. If confirmed, I intend to work with the Secretary, Deputy Secretary, Under Secretary for Management, other Department senior leaders, and staff of the OCFO to better understand any challenges, such as the Financial Systems Modernization (FSM), and offer insights and recommendations for addressing any such issues.

11. In your view, what are the highest priorities in both urgency and importance for enhancing DHS's fiscal management, integrity, and accountability at the Department? Why?

As a nominee, I am not fully informed of what should be the highest priorities to enhance DHS's fiscal management, integrity, and accountability. If confirmed, I intend to work with the Secretary, Deputy Secretary, Under Secretary for Management, other Department senior leaders, and Congress to better understand these matters and to prioritize my approach.

As noted before, if confirmed, I would assess the situation, including programs like the FSM to determine any needed improvements and steps to achieve them.

12. What measurements would you use to determine whether your office is successful?

If confirmed, I would start by reviewing the mission, strategy, objectives and measures to understand what defines current success in OCFO. I would then be prepared to participate with the Secretary, Deputy Secretary, Under Secretary for Management, other Department senior leadership, the organization, and Congress to contribute, influence and advise on the best measures.

13. How do you plan to balance the challenges that DHS faces to ensure that the Department has sufficient management and accounting controls?

DHS is a large organization that has a critical mission, limited resources, and responsibility to balance priorities while providing services and reporting. If confirmed, I would start by meeting with key internal DHS fiscal officials, assessing current management and accounting controls, and reviewing current audit reports and findings from the Government Accountability Office (GAO) and the Department's Office of Inspector General (OIG). With this knowledge, I would determine the appropriate approach going forward.

14. DHS management, which includes financial management, is consistently reported on the Government Accountability Office's (GAO) High Risk list—a list of programs and operations that are “high risk” because they are vulnerable to fraud, waste, abuse, and mismanagement, or need transformation. Specifically, the report highlights DHS’ lack of reliability in terms of financial reporting. What steps would you implement to improve DHS’ financial management capabilities and move off GAO’s High Risk List?

Identifying and implementing solutions to address waste, fraud, abuse and mismanagement are always going to be a very high priority with me and, if confirmed, I will work with the Department and Congress to better understand all areas of high risk and aggressively prioritize and pursue remediation.

15. The Federal Emergency Management Agency, United States Coast Guard, and Transportation Security Administration are all in the process of modernizing their financial technology systems. How do you view the CFO’s role in ensuring components modernization efforts are performed in a timely manner and within budget?

The CFO should have a critical role in these efforts and is the key business owner of the finance processes. The CFO needs to ensure that the assigned OCFO functional leaders are dedicated and understand their role. They should be held accountable for providing accurate requirements, design input, timely and appropriate testing support, and data cleansing ownership.

Second, the CFO should have had significant experience in managing large scale programs that depend on key relationships with the component CFOs, the Department's Chief Procurement Officer, and any other functional areas with the Department that are needed.

Lastly, the CFO must ensure critical vendor management of the system integrators and other key external relationships are managed appropriately. This includes pro-active participation with the appropriate Department leaders who are responsible for delivering the program or initiative.

16. GAO has stated that many of DHS’ financial management challenges stem from lack of resources, staffing and training. How will you work to make sure that the Office of the

March 15, 2019

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

Dear Mr. Maher:

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- b. Please explain your views on putting an employee on paid administrative leave pending an investigation or disciplinary action. Under what circumstances, if any, do you believe that might be appropriate?

Administrative leave is based on policy, regulations or other labor agreements. This action should be used when appropriate to provide a safe work environment or enough time to properly evaluate a serious allegation that requires due process.

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

- a. During your career with Global Conductor, Inc., how did you address whistleblower complaints?

Complaints are taken seriously, and we always ensure that any whistleblower does not face retaliation, in accordance with all applicable laws. We immediately engage the support of HR and Legal to follow the correct process and prepare a timely response approach.

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

If confirmed, I would work with Department leadership to ensure that I understand the current policy and process to solicit input and make adjustments as required. With most of my large clients, an anonymous tip line or physical suggestion box was used and included as part of an effective communication plan, usually sponsored publicly by the office of the CFO or Controller.

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

Yes.

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

Yes.

20. What is your view of the role of the GAO and DHS Office of Inspector General as it relates to the OCFO?

The OCFO provides an audit liaison function to the Office of the GAO and OIG. Similar to the internal and external audit responsibilities in a corporate environment, the OCFO should be a key partner in managing risks and maintaining effective communication internally to leadership regarding risks and concerns with internal controls.

If confirmed, I will meet with my OCFO leadership team and the Inspector General and

GAO leadership to establish a relationship and better understand the current situation and open items and status.

- a. If confirmed, what kind of relationship do you anticipate having with the GAO and DHS Inspector General?

Building an open and transparent relationship is important to get a clear perspective of DHS and this will assist me in setting my priorities. If confirmed, this will be an early part of my first 90 days.

V. Relations with Congress

21. 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.

22. 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.

23. 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.

VI. Assistance

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

These are my own answers. I wrote my responses to the best of my ability. I presented them to DHS officials who provided guidance to ensure the answers were responsive and met the intent. I was free to accept or reject their guidance.

**Minority Supplemental Pre-hearing Questionnaire
For the Nomination of Troy Edgar to be Chief Financial Officer,
Department of Homeland Security**

I. Nomination Process and Conflicts of Interest

1. Has the President or his staff asked you to sign a confidentiality or non-disclosure agreement?

No.

2. Has the President or his staff asked you to pledge loyalty to the President, Administration, or any other government official?

No

II. Background of Nominee

3. Why do you want to serve as Chief Financial Officer (CFO) at the Department of Homeland Security (DHS or the Department)?

If I can help, I will always try to help.

I believe in public service and contributing to our great country. If confirmed, I will provide the CFO position with experience and expertise needed right now to continue its critical mission, effectively use its resources, maximize efficiency, and protect taxpayer dollars.

If confirmed, I look forward to assisting this great organization focus on continuous improvement and transformation to provide the best national security at a reasonable cost. This must also be done by creating a positive workplace culture that improves teamwork, raises the morale, increases productivity and efficiency, and enhances retention of the workforce.

4. Please give examples of times in your career when you disagreed with your superiors and aggressively advocated your position. Were your efforts successful?

Boeing – Using Data to Place the Program Back On Track.

Early on in my career at Boeing in the 1990's, I was assigned to the C17 Transport Aircraft Program. I worked in the Logistics and Product Support organization. The C17 was in the critical flight test certification part of the program that would determine if the program continues. After we successfully completed flight test, the program was brought to a halt.

The program had lost internal controls of their inventory for high-dollar avionics equipment and based on an audit there were millions of dollars worth of avionics and

other purchases that the government had paid for that were missing from inventory. All C17 progress payments were stopped and corporate got involved. Being in logistics, I knew how this equipment was planned, ordered, purchased and placed into inventory. I also understood how the material was used in production and flight test. After doing a preliminary evaluation of the situation, I was sure that the equipment could be accounted for. I convinced the CFO, Controller, and the leaders of Production and Logistics to let me form a team to take on this issue. I requested a senior accountant, an auditor, and an IT expert that would build a database. I also required management access to all areas of material requirements planning, order management, procurement, inventory, production and flight test.

In four weeks, we normalized the data across all systems by the part number and serial number and located all of the parts and the root cause and internal control issues. We then presented the issue and remediation steps to our management team and then to the government auditors. In less than two months, we were able to restart progress billing and helped save the program. In this case, my superiors were the U.S. Air Force and the respective audit agencies and System Program Office (SPO). Soon after, the CFO suggested I was in the wrong vocation and provided me my first manager job in Finance.

Orange County Sanitation District (OCSD) – Rebuilding Relationships

The district provides sewer and wastewater services to over 1 million residents of Orange County. OCSD is also in a partnership with the Orange County Water District that together constructed and jointly operate the largest wastewater re-use facility in the world. This program provides secondary treatment of the wastewater and recycles for over 100 million gallons a day back into the water supply. For 50 years prior to that, OCSD pumped this water out into the ocean.

This process had a significant dependency on a key upstream water agency that coordinated wastewater flows from five large water districts. The volume and standards of the waste flow were always unclear and there had been almost 20 years of operational and legal issues between the two organizations. This created a significant amount of mistrust and the organizations were heading towards a significant lawsuit.

As the Chairman, I realized that there was almost no one on our board that had any involvement or direct knowledge of what had happened in the past. The problems seemed to be based on myth and folklore.

I first met with our General Manager, legal counsel and the Vice Chair and discussed the merits of this lawsuit that was going to cost tens of millions of dollars and threaten the operation of our critical wastewater replenishment program. Their initial response was they did not understand why I advocated to slow this down and there was frustration that I was not showing strength to push ahead. Next, I took my concerns to the Chairs of the Operations and Administrative Committees. I used these meetings to put facts on the board and provide a different perspective of where the facts were not clear. I was still not successful at stopping or slowing down this lawsuit.

One month later the full board met, and this item was on the agenda to move forward with the lawsuit. My first attempt to stop this failed 23-1. As the Chair, I continued the discussion before the final motion was made to achieve a more realistic request. My next attempt was to make a motion to move forward with the preparation for the lawsuit, but not file and allow me in my role as the Chair, along with the Vice Chair and the General Manager, to be delegated the authority to meet with two of the other agency's board members and General Manager without our legal representation to discuss our relationship and issues driving both organizations into this lawsuit. That motion passed and the meeting took place. The two organizations restarted their relationship and worked out an agreement and the lawsuit never came to pass. Today, these organizations have a great relationship.

5. Do you seek out dissenting views and encourage constructive critical dialogue with subordinates? Please provide examples of times in your career when you have done so.

Yes. I consistently seek dissenting views and encourage this type of dialogue.

It is important that all perspectives are considered and dealt with professionally on both sides. This means that I would expect that dissenting views are respectfully presented.

As an example, City and Sanitation District labor negotiations can be very difficult as the decision effects current budgets, increases pension liabilities and effects employee morale and possible attrition. Another example concerns a program steering committee meeting when a major client was considering a risky go-live decision that could possibly disrupt operations if it goes poorly or cost \$3.5 million a month if delayed. Although I may not always agree with a recommendation or proposal, it is important to hear alternative positions and keep an open mind.

6. Please list and describe examples of when you made difficult choices that you thought were in the best interest of your organization.

Two examples are provided below:

- Hiring new employees with natural talent that did not fully meet all of the requirements of the job description. Many times in consulting, it is significant mix of experience, expertise and personality. One of my key clients kept rejecting the most qualified candidates for a key leadership role. When I begin to match up a moderately qualified individual that complimented the personality type of the client, this person was a huge success. Obviously, I had to change another lower level role to add these needed experience and expertise to ensure success. The key was client satisfaction without adding execution risk.

- Terminate employees that many people in the organization personally cared about but were significantly underperforming or had a serious disciplinary problem. We had an employee who was well known for continuing to get caught leaving the worksite in a company car and sleeping away from work. The car had tracking devices and a lower

level manager suspected this and proved this to be true. Many were disappointed that we would not give another chance to this long-time employee. We couldn't disclose that this was not a one-time shot.

7. What would you consider your greatest successes as a leader?

When an organization reaches its objectives and the leaders and employees see that their efforts contributed to something much greater than themselves, you see organization and personal pride. I also feel success when I see key leaders' mentor their willing subordinates who take advantage of the opportunity to grow and become future leaders.

8. What do you consider your greatest failure as a leader? What lessons did you take away from that experience?

I struggled early on in my career trying to find a balance between work and home life. My work has always required me to travel all over the world. My issue was being completely consumed at work and on the road and not balancing out time for my family and young kids at home. This lack of balance eventually took a toll on my family.

I also realized that because I was a leader at work, many people followed my example to keep up with an unsustainable pace that did not provide the healthiest work environment.

I am much more aware about finding a balance for myself and promoting the same to my employees. This experience helped me to better delegate and ensure I use my time more effectively at work.

9. Please describe your familiarity and experience with laws and regulations governing federal financial management, budgeting, and appropriations.

I have almost nine years of experience while at Boeing on these matters. I was in the Military Aircraft division and worked on the Production and Integrated Logistics Support programs for the Navy T45 Training Aircraft, the Airforce KC-10 Tanker Program, the C17 Transport Aircraft, Foreign Military Sales dealing with SPO, Defense Logistic Agencies (DLA), and federal government audit agencies of the Defense Contract Audit Agency (DCAA) and the GAO.

I also advocated as a Mayor, City Councilmember, Chairman and municipal board member for federal funding support for military base runway funding, infrastructure, legal and social programs with the U.S. Army Corp of Engineers, Departments of Energy, Justice, Health and Human Services, the EPA and the Bureau of Reclamation.

10. In your biographical questionnaire you state that you are the CEO of Global Conductor, Inc. and Global Conductor Construction Corporation. Please briefly describe relationship between these two entities and the nature of each business.

I founded these two companies and I own 100% of each company. Global Conductor, Inc. (GCI) is a management consulting firm and provides corporate financial shared services for both companies. Global Conductor Construction Corporation (GCC) is a company that provides directional boring, trenching and installation of underground plant and fiber-optic cable in the telecommunications industry.

11. In your roles with Global Conductor, Inc. or Global Conductor Construction Corporation have you engaged in any work that involved the federal government? If so, please describe that work.

No.

12. In your roles with Global Conductor, Inc. or Global Conductor Construction Corporation have you engaged in any work on behalf of foreign entities (e.g. company headquartered outside the United States)? If so, please describe that work.

No, but one of my key clients is Toyota Motors North America (TMNA) headquartered in Plano, Texas. I have done work with them since 2003 and their parent corporation is Toyota Motor Corporation in Tokyo, Japan.

13. In your capacity as Mayor, City Councilmember, or candidate for these offices, have you, your office, or your campaign, been the subject of an investigation or audit by any federal, state or local agency, commission, office, or similar entity? If so, please describe the nature of the allegations/conduct and the outcome(s) of the investigation(s) or audit(s).

No.

III. Role of the Chief Financial Officer

14. In your view, how does the role of a CFO in a private-sector company differ from that of a CFO in a federal agency?

From my experience, private-sector CFOs have a combination of business and finance experience and many have worked in different industries. They are very informed on how the business works and contribute to the leadership team on revenue growth both organically and through acquisition. These responsibilities also provide visibility for opportunities for significant contributions through transformation and other investments that focus on organization, process, and systems efficiency to generate savings that can be reinvested into growth. I believe this combined with a Federal CFO's budget, planning and appropriations experience would be quite complementary. A federal CFO would balance their business and operations knowledge with an expert ability to allocate limited resources based on significant and many times complex policies and priorities.

15. Please explain your understanding of the relationship between the DHS Office of the Chief Financial Officer (OCFO) and the CFO offices in DHS components. If confirmed as CFO, how do you envision managing component CFOs?

As a nominee, I am not fully informed of the relationship between the OCFO and the component CFOs. If confirmed, I intend to work with component CFO's and their component leadership to better understand their mission, organization, financial and resourcing and training challenges.

16. DHS's CFO is responsible for the fiscal management, integrity, and accountability of all components within DHS, both during their tenure and beyond. How will you ensure that your decisions as CFO are in the best financial interests of the Department today, but also in the future?

If confirmed, I intend to work with the Secretary, Deputy Secretary, Under Secretary for Management, other Department senior leaders, and Congress to better understand the mission, goals and current measures to make sure I understand what is in the best financial interest for DHS.

- a. If you are asked as the CFO to transfer funds from a component or program to another component or program, how will you evaluate the effect of both the short-term and long-term financial implications on the original component or program?

I would follow the Department's process regarding these types of requests and ensure this was reviewed by the right OCFO manager. I would ensure this complied with the law, Department guidelines, policy and the required documentation is provided and reviewed.

- b. How will you ensure that transferring funds from a component or program to pay for a priority during your tenure does not jeopardize the financial well-being of the original component or program in the future?

I would follow the law and all Department processes, procedure and regulations as required. I would consult with key stakeholders to help identify whether there is any threat of jeopardizing the mission of the original Component.

- c. If an evaluation indicates that a decision to transfer funds away from a component or program are not in the best interests of the fiscal management of that program, will you recommend to the Secretary not to transfer those funds?

Yes.

17. What is your plan to ensure that the Department is responsive to all of DHS's Office of Inspector General (OIG) and the Government Accountability Office's (GAO) requests?

If confirmed, I will meet with my OCFO leadership team and the Inspector General and

GAO leadership to establish a relationship and better understand the current situation and open items and status.

- a. If confirmed, will you commit to ensuring that the Department is responsive, both in terms of timeliness and completeness, to DHS OIG and GAO requests?

Yes.

IV. Policy Questions

18. The introduction of data analytics offers enormous potential to reduce waste and target fraud and abuse across government programs. It also has the potential to create opportunities for more effective program management. Please provide examples of your experience leveraging data to create efficiencies and improve effectiveness. If confirmed, how would you seek to use data analytics tools to support your work as CFO?

I have used data to create efficiencies and effectiveness with the following:

- *To simplify and reduce the number of client corporate Chart of Accounts to streamline reporting and reduce translation required between legal entities and simplifying consolidations and eliminations;*
- *To consolidate the number of purchasing commodity codes to reduce error and manual journal corrections; and*
- *To increase manual journal approval based on risk profiles that decrease journal workflow and improve close timing.*

If confirmed, I will work closely with the Chief Information Officer and evaluate the OCFO current data analytics capability and use across the Department.

19. What opportunities do you see for DHS's OCFO to engage with DHS OIG and GAO to create or enhance existing efforts to address waste, fraud and abuse through the systematic introduction of analytical tools?

As a nominee, I am not fully informed on the extent that DHS has current opportunities to reduce waste, fraud and abuse. If confirmed, I intend to work with Department senior leaders, OIG, GAO, and Congress to better understand the current situation and tools, and offer insights and recommendations for addressing any areas of opportunity.

20. Authorizing committees must have access to budget and financial information in order to ensure that oversight and legislation are well informed. DHS currently takes a bifurcated approach to communicating with authorizers and appropriators, resulting in the CFO maintaining a liaison staff separate from the DHS Office of Legislative Affairs -- at the Department and in the components. If confirmed, will you commit to providing the Homeland Security and Governmental Affairs Committee staff with equal access to

the appropriations liaisons and information provided to Appropriations Committee staff?

Yes. If confirmed, I will make sure the information sharing process follows all laws, policies and executive orders.

21. DHS has made use of its transfer authority to increase the number of beds in immigration detention facilities well over what Congress allotted in FY2018, and the Department continues to exceed the limits on average daily detainee population included in FY2019 appropriations legislation.

- a. In your opinion, should DHS use its transfer authority to achieve objectives that have been otherwise proscribed by Congress?

As a nominee, I am not fully informed of the DHS transfer authority or this specific issue. If confirmed, I intend to better understand these types of issues and make sure the approach follows all laws, policies and executive orders.

- b. Do you believe that the DHS CFO has an obligation to consider whether a transfer or reprogramming of funds will result in a violation of a congressional mandate, before proceeding with the transfer or reprogramming?

Yes.

- c. If confirmed, what will you do to ensure compliance with congressionally mandated limitations on average daily detainee population?

If confirmed, I intend to seek a better understanding of these types of issues and make sure the approach follows all laws, policies and executive orders.

22. If confirmed, will you commit to notifying Congress in advance of spending funds that would require a transfer or reprogramming?

Yes. If confirmed, I will make sure the notification process follows all laws, policies and executive orders.

23. If confirmed, would you support the use of the Department's transfer authority to ensure that sufficient food, social workers, and medical and mental health care, is available to families seeking protection at our border?

Yes.

V. Relations with Congress

24. 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.

25. 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.

26. 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.

VI. Assistance

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

These are my own answers. I wrote my responses to the best of my ability. I presented them to DHS officials who provided guidance to ensure the answers were responsive and met the intent. I was free to accept or reject their guidance.

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


(Signature)

This 3rd day of June, 2019

**Ranking Member Gary C. Peters
Post-Hearing Questions for the Record
Submitted to Troy D. Edgar**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

1. Why do you believe the President nominated you to serve as Chief Financial Officer of the Department of Homeland Security (DHS)?

The President did not give me a specific reason for my nomination. I believe that my unique Chief Financial Officer (CFO), operations and Chief Executive Officer background combined with my large-scale Fortune 500 corporate transformation and systems modernization experience would be very helpful to the challenges faced by the Department of Homeland Security (DHS).

2. In your Pre-Hearing Questionnaire responses, you cited your time at Boeing as your most direct experience with federal procurement, budgeting, and appropriations laws and procedures. Please describe your understanding of the most significant developments in those areas since you left Boeing in November 1997.

For procurement, the Federal Acquisition Regulations codified within the Code of Federal Regulations was and has continued to provide legal and regulatory governance and procedures for executive branch federal agencies to procure goods and services by contract with appropriated funds. If confirmed, I would work with the Office of the Chief Procurement Officer (OCPO) and my leadership team within the Office of the Chief Financial Officer (OCFO) to ensure I am aware of any significant developments required to carry out my duties as the CFO.

I understand that budgeting and appropriations laws, which provide a fiscal calendar and procedures for this legislative process, have remained similar and continue to be a challenge to properly complete within the timeline. This has caused a dependency on continuing resolutions and sometimes government shutdowns to get a large single omnibus appropriations bill passed

In early 2018, Congress passed into law the Bipartisan Budget Act of 2018, which established a joint select committee on the budgets and appropriations process reform in an attempt to identify bipartisan reform opportunities. This Act gave the Chairmen of the Budget Committees authority to set the 302(a) allocation for the Appropriations Committees for Fiscal Year (FY) 2018 and FY 2019 at the statutory discretionary spending caps that the law

established.

The Budget Control Act of 2011 set discretionary caps through 2021, which have been modified since 2013 by the American Taxpayer Relief Act of 2012 and the follow-on Bipartisan Budget Acts through the one above passed in 2018. In 2019, the statutory caps set by the Budget Control Act will be reduced by about \$90 billion annually through sequestration implemented after the failure of the 2011 Joint Select Committee on Deficit Reduction to produce legislation to reduce the deficit. If confirmed, I would work with the OCFO leadership team to ensure I am aware of any other significant developments required to carry out my duties as the CFO.

3. In your opinion, under what circumstances is it appropriate for a private employer to require employees to sign a mandatory arbitration agreement as a condition of employment?

*I believe it is appropriate when the employer ensures that the arbitration process is fair by complying with the *Armendariz v. Foundation Health Psychcare Services, Inc.* (2000) 24 Cal. 4th 83,91.*

4. Do you believe that limitations on employers' use of mandatory arbitration agreements are necessary to ensure their employees' rights are protected?

Yes, and I believe the current requirements imposed by law ensure that employee rights are protected.

5. If confirmed, what process will you use to notify Congress of any irregularities regarding the financial management of the Department?

If confirmed, I would notify Congress of financial management irregularities consistent and in compliance with the law, Department guidelines, and policy. In addition, I intend to discuss the Department's current notification process with OCFO leadership and other Department leaders, as necessary, and it is my intent to provide Congress with regular updates through briefings.

6. For FY 2019, Congress provided funding for improvements at land border ports of entry and directed DHS to work with the General Services Administration and the Office of Management and Budget on the annual 5-year Land Ports of Entry modernization plan, including the modernization of pre-9/11 ports of entry along the northern border.

- a. If confirmed, what will you do to ensure this funding is executed according to the will of Congress, and specifically to ensure that northern border ports of entry, which are vital to the legitimate travel and trade as well as security for our nation, are not neglected?

If confirmed, I will work with the General Services Administration and the Office of Management and Budget to ensure it is executed consistent with all applicable laws, policies and executive orders.

I will also seek to be briefed on Northern Border ports of entry modernization efforts, if confirmed.

- b. Do you commit to notifying Congress and, if appropriate, seeking Congressional approval in the event DHS leaders desire to reprogram any of these funds over the threshold set in the DHS Appropriations Bill?

Yes. If confirmed, I will obtain the relevant facts for each situation; and then act in compliance with the laws, policies, and executive orders, including congressional notifications.

- 7. For FY 2019, Congress designated \$100,000,000 for northern border technology.

- a. If confirmed, what will you do to ensure this funding is executed according to the will of Congress?

If confirmed, I will ensure it is executed consistent with all applicable laws, policies and executive orders.

- b. Do you commit to notifying Congress and, if appropriate, seeking Congressional approval, in the event DHS leaders desire to reprogram any of these funds over the threshold set in the DHS Appropriations Bill?

Yes. If confirmed, I will obtain the relevant facts for each situation; and then act in compliance with the laws, policies, and executive orders, including congressional notifications.

- 8. For FY 2019, Congress appropriated \$58,710,000 to hire 600 new CBP Officers (CBPOs) and allowed that funding to be used through September 2020.

- a. If you are confirmed, what will you do to ensure this funding is executed according to the will of Congress?

If confirmed, I will obtain the relevant facts for each situation; and then act in compliance with the laws, policies, and executive orders, including congressional notifications.

I will also seek to be briefed on U.S. Customs and Border Protection hiring efforts, if confirmed.

- b. Do you commit to notifying Congress and, if appropriate, seeking Congressional approval, in the event DHS leaders desire to reprogram any of these funds over the threshold set in the DHS Appropriations Bill?

Yes. If confirmed, I will obtain the relevant facts for each situation; and then act in

compliance with the laws, policies, and executive orders, including congressional notifications

9. What, if any, prior experience do you have with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act (GPRAMA)?

In my role as an executive and advisor, I was familiar with the GPRA of 1993. Although this law applied directly to federal executive branch agencies, many industries used GPRA as an example of how large organizations' Chief Operating Officers should create multi-year strategic plans, annual performance plans, and annual performance reports.

The GPRA Modernization Act of 2010 created a more explicit fact-based decision-making framework to implement programs and be more results-oriented. Although this Act did not apply to the companies I advised, it was something followed generally by my industry. If confirmed, I will consult with OCFO leadership to better understand the application of these Acts within DHS as required to carry out my duties as the CFO.

10. In your own judgement, what are some of the key metrics that should be used to judge improvements to federal program and project management? If confirmed, how would you go about implementing such metrics?

In general, the most important metrics are time, schedule, earned value and budget performance, benefits realization/return on investment, and customer and employee satisfaction. Considerations for importance of these metrics will depend on where a program or project is within its lifecycle: Evaluation, Approved or Completed.

If confirmed, I would seek to work with OCFO leadership as well as the Office of the Chief Information Officer and OCPO to evaluate recommendations and findings put forth by the Government Accountability Office and the DHS Office of the Inspector General (OIG) to implement or affirm these metrics.

11. The Government Accountability Office (GAO) has extensively reported on the need for DHS to reduce its reliance on legacy information technology systems. DHS has tried, and failed, multiple times to modernize its financial systems, at extraordinary expense to the taxpayer. This failure to modernize not only undermines the efficiency of the Department, but also poses serious cyber-security risks to sensitive national security and other government data.

- a. If confirmed, what will you do differently to modernize and integrate DHS's financial systems?

As a nominee, I am not privy to all of the current actions being taken by the Department to modernize and integrate financial systems at DHS.

However, if confirmed, I intend to work with the Under Secretary for Management, other Department senior leaders, and OCFO leadership to better understand the

history, current status, and plans to then offer insights and recommendations for addressing improvements or new direction as needed.

If confirmed, I would ensure that the OCFO and component CFO's would maintain their critical role in these efforts as the key business owners of the finance processes. Key resources must remain dedicated and I would reinforce their understanding of the importance to provide accurate requirements, design input, timely and appropriate testing support, and data cleansing ownership.

If confirmed, I would also provide significant experience leading and advising many large-scale programs and reinforce the key relationships with internal finance organizations such as the component CFOs, the Department's Chief Procurement and Information Officers, and any other functional areas with the Department that are needed.

Lastly, if confirmed, I would work with the Department leaders to help ensure that the system integrators and other key external relationships are managed appropriately. This includes routine engagement with the appropriate Department leaders who are responsible for delivering the program or initiative.

- b. If confirmed, what changes should DHS implement to assist its components in reducing their reliance on legacy IT financial systems?

As a nominee, my knowledge on the level of dependency the Components have on legacy IT financial systems and alternatives is limited to what I have read in public reports and audits.

However, if confirmed, I intend to work with the staff of the OCFO and the Component CFO's to better understand this situation and then offer insights and recommendations for addressing improvements or new direction as needed.

12. Despite having a "clean audit opinion," DHS has received an adverse opinion on its internal control over financial reporting. The DHS OIG identified six significant deficiencies, including two "material weaknesses," in the areas of IT controls and financial systems, and financial reporting. What, if any, experience do you have with addressing "material weaknesses"? If so, were you successful? By what measurement?

I have significant experience in addressing material weaknesses encountered during internal control audits and evaluations. I worked at the public accounting and consulting firm PricewaterhouseCoopers just prior to the passing of The Sarbanes-Oxley (SOX) Act of 2002. This act covered similar issues that DHS OIG audit covers such as independence, governance, internal control assessment, and enhanced financial disclosure. Many large public corporations that were subject to the Act were required to establish SOX programs to evaluate baseline compliance and develop a remediation and repeatable testing plan and process. I advised and supported many companies with compliance.

Once a material weakness was identified a remediation plan was established and tracked to completion. Participating in both disclosure controls and assessment of internal controls, I worked with management, internal and external subject matter experts, and external auditors. The most efficient way to remedy material weaknesses for corporations is similar to the approach that DHS appears to be taking, which is to modernize financial systems. SOX controls are a requirement evaluated with the appropriate functional and IT teams.

Success is measured by eliminating the material weakness by either properly enforcing the control through system controls or process changes captured in mandatory documentation. Examples of system corrections include system workflow improvements that allow key steps to be completed by a subordinate and sent to a manager for approval or process changes could include setting materiality thresholds for certain types of transactions, so that the company would only focus on significant transaction reviews of material items.

**Senator Tom Carper
Post-Hearing Questions for the Record
Submitted to Troy D. Edgar**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

DHS Financial Audits (for Mr. Edgar)

1. How do you plan on getting up to speed on the needs of the Department?

If confirmed, I would start by reviewing the mission, strategy, objectives and measures of performance for the Office of the Chief Financial Officer (OCFO) to understand what defines its current needs. I would then be prepared to engage with the Acting Secretary, Acting Deputy Secretary, Management Directorate leadership, and other Department senior leaders, to better understand and advise on the budget planning, and financial management needs of the Department. In addition, I would further review Government Accountability Office and Inspector General issues of concern and other important initiatives such as the Financial Systems Modernization.

Importantly, I would work with this Committee and other Members of Congress to better understand how I may assist you in your important role of oversight and support for the Department. I am committed to investing the time to build critical working relationships needed to help significantly advance DHS.

2. Have you spoken with the current acting CFO, who I understand has a great deal of experience on these issues?

Yes, I have spoken with the Acting CFO. She provided an overview of the current state of the Department based on information that was publicly available. If confirmed, I have stated that I will immediately meet with the Acting CFO and other members of the OCFO leadership to get up to speed and ensure I can begin contributing to the Department and focus on priority areas. My approach is practical and pragmatic and will allow me to quickly understand the needs of the Department and engage in a result driven manner.

**Senator Kyrsten Sinema
Post-Hearing Questions for the Record
Submitted to Troy D. Edgar**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

1. You have a wealth of financial management experience from outside the federal government, but limited experience within the federal government.
 - a. If confirmed, what do you expect will be the biggest challenges you face in joining DHS leadership and getting up to speed with your new duties?

I have spent the last 30 years joining leadership teams and assisting over 40 Fortune 500 companies across nine industries, including government, as an executive and an advisor. Integrating very quickly into large organizations and being impactful has been a key tenet of my career.

I understand that balancing my priorities of establishing a sound understanding of both the Department and the Office of the Chief Financial Officer's (OCFO) mission and resources while actively engaging in real time issues could be a challenge.

Based on publicly available information, there are currently significant changes in the operational conditions within a couple of key Department Components that appear to require critical, additional budgetary funding and reprogramming actions. These appear to need immediate attention. This need, combined with the status of key internal control findings and supporting remediation activities with the Financial Systems Modernization (FSM), will also need early engagement.

- b. What steps will you take to overcome those challenges?

If confirmed, my first step will be to engage the Acting Secretary, Acting Deputy Secretary, Management Directorate leadership, other Department senior leaders, OCFO staff, and Congress to quickly understand the current situation and priorities, including those that I reference in my response to Question 1.a, above.

In parallel, within my first 90 days, I will observe and understand the OCFO's resources, staffing and training needs, as well as its readiness for operations and

large transformation programs such as the FSM program. Such evaluation will be critical to understand the current state of the office, capability, employee morale, and to make sure that the right resources and service levels are accounted for in the budget request and to identify areas that may need to be re-addressed in the current fiscal year budget. I intend to complement, not disrupt, operations, significant initiatives, or projects underway, unless based on my review and/or discussions with Department leadership there is an urgent need to do so.

2. Coming from outside the Department of Homeland Security and the federal government, what do you believe is the most important trait that a senior and Senate-confirmed leader of a federal agency needs to bring to their position?

Trust. This is especially true within the OCFO and supporting the Operators and Component CFO organizations. If confirmed, I will lead approximately 300 OCFO employees and engage with Component CFOs that are staffed by roughly 3,000 finance career staff. I must balance my support for the Acting Secretary, Deputy Secretary, and senior Department leadership while ensuring I advocate, respect and properly represent OCFO.

Opening Statement of John M. Barger**Senate Homeland Security and Government Affairs Committee****Confirmation Hearing, U.S. Postal Service Board of Governors****June 12, 2019**

Chairman Johnson, Ranking Member Peters and members of the Committee, it is an honor to be here today. Thank you for considering my nomination to serve on the Board of Governors of the United States Postal Service, and thank you to President Trump for nominating me. I am humbled to be considered for this role and, if confirmed, I will do my level best as a Governor to assist in stewarding this historic and vital American institution as it faces profound challenges in a dynamic and increasingly technology-driven world. If confirmed, I look forward to providing oversight, support and guidance to the Postal Service management team as it serves the American people.

Our Founders understood the importance of creating a system of governance and institutions that would enable the United States and its people to thrive while inhabiting a vast territory. One of the vital institutions allowing this great country to expand and prosper has been the United States Postal Service. Historically, it has been as important as America's natural infrastructure of roads and waterways, enabling the American people to communicate and develop a common identity as one nation.

Today, however, the United States Postal Service faces profound challenges. Technology has changed the way people communicate and conduct commerce. One well known problem we face is America's expanded use of email and online bill payment, which erodes a key revenue driver: First-Class mail delivery. These and other changes in commerce and communications will continue to have a direct impact on the Postal Service's economic model, including the demand for its services and the type of products needed by its customers. Artificial Intelligence, advanced supply chain management and robotics, 3-D printing, and drone technology will likely impact the Postal Service, and how well the institution utilizes and adapts to these innovations will determine its future success. This business adaption is more important for the Postal Service than it would be for a private enterprise, because unlike a private company, the Postal Service has a public purpose to provide Universal Service to all communities and all Americans. The Postal Service's goal for the 21st century must be to ensure that all Americans—whether urban or rural, rich or poor—have universal access to basic delivery infrastructure that is current and appropriate to the changes in modern communications and commerce.

The Postal Service already has assets that will help it meet this challenge. One part of the solution will be to find ways to take advantage of the unique and significant network in place today, which connects with practically every American in this great nation. Building on this, it

will need to understand customer needs, competitive forces, and supply-demand dynamics, and the latest technological developments. If done successfully, the Postal Service's core business model should be sufficiently viable to provide for the obligations and commitments of the USPS employees and retirees, without drawing on direct taxpayer assistance.

To help drive this change, I believe my educational, financial, legal, business and public governance background has prepared me to serve the USPS Board of Governors. I am a graduate of the University of California, Hastings College of the Law, and the London School of Economics, where I earned my Master's degree in finance and accounting. As an important balance to my technical education, I earned a degree in history and philosophy with honors from Ohio Wesleyan University.

I began my career at Citibank and Bankers Trust/Deutsche Bank, working on teams which financed very large and complex corporations including United Airlines, York International, and Macy's Federated. More recently, I have invested in and participated as an active director of private companies facing changing markets and technology demands, in turn requiring changing business strategies to serve addressable markets. One board directorship is with an e-commerce and logistics/supply chain company that has changed the way its customers, wineries, sell to their own consumers. Using cutting-edge logistics technology, this year our company will ship approximately \$1.7 billion in wine and consumer merchandise with combined annual growth rate exceeding 20 percent. I also serve on the board of an Atlanta-based LED visual display/technology company with a global supply chain and growing blue-chip customer base in the U.S., Asia, and Europe. In the past I also served as a director and investor in a technology partnership with SAP, an international market leader in enterprise software, seeking to serving the automotive/automotive dealership vertical markets.

In addition to my private sector experience, my public governance experience includes my work as a Director on the Investment and Retirement Boards of the Los Angeles County Employees Retirement Association (LACERA). LACERA is the largest county pension fund in the United States, with over \$60 billion in assets and providing benefits to approximately 160,000 current and retired Los Angeles County employees. I served on the LACERA Board for seven years, three times being elected Investment Board chair by my fellow board members. The role as LACERA board member and board chair required successful collaboration and consensus building among directors from labor, government, and the private sector.

Finally, I have experience as a successful entrepreneur, being a founder, director and officer of AXA/XL Group-Latin America (formerly XL Group, (NYSE: XL), an emerging market reinsurance company. In my role, I was responsible for forming and staffing our Bermuda, Swiss, Brazilian, Argentine, Mexican, and Colombian companies. After successfully building our company, XL acquired our partners' interest in 2002. More recently, I founded and assisted in building a successful and highly regarded boutique turn-around management/consulting firm in Los Angeles, Sierra Constellation Partners. I sold my interest in that firm in 2016.

In closing, I've learned that corporate governance works best when each participant contributes his or her experience and best ideas to work constructively with the other Governors or board members. I have been impressed with diverse backgrounds of those currently serving and those previously nominated to the role. It is my hope that that, if confirmed, my own background in finance, business, technology, political economy, and the liberal arts has prepared me to contribute also. I like to think of myself as a problem solver, someone with a sense of urgency to get things done while also working with divergent views and perspectives to find consensus. I will endeavor to bring this approach to the USPS Board, if I am approved by your Committee and confirmed by the Senate.

Again, thank you for taking up 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>	
Name of Position	Date of Nomination
Board of Governors, United States Postal Service	March 11, 2019

<i>Current Legal Name</i>			
First Name	Middle Name	Last Name	Suffix
John	McLeod	Barger	

<i>Addresses</i>					
Residential Address (do not include street address)			Office Address (include street address)		
Street:			Street:		
515 S. Figueroa Street			515 S. Figueroa Street		
City:	State:	Zip:	City:	State:	Zip:
San Antonio	CA	91108	Los Angeles	CA	91107

<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)
NONE					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
1956	Los Angeles, CA

<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>			
<u>Spouse's First Name</u>	<u>Spouse's Middle Name</u>	<u>Spouse's Last Name</u>	<u>Spouse's Suffix</u>
Shauna	Goddard	Barger	

<i>Spouse's Other Names Used (current spouse only)</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)
Shauna	Grace	Goddard		<input checked="" type="checkbox"/>	Feb./1964	August/2007

<i>Children's Names (if over 18)</i>			
First Name	Middle Name	Last Name	Suffix
Sophia	Grace	Oddi	
Christopher	William	Oddi	

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/o nline school)	<u>Date Began</u> <u>School</u> (month/year) (check box if estimate)	<u>Date Ended</u> <u>School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date</u> <u>Awarded</u>
London School of Economics	University	Est <input type="checkbox"/> Sept./1985	Est Present <input type="checkbox"/> <input type="checkbox"/> May/1987	M.Sc.	May/1987
University of California, Hastings College of Law	School of Law	Est <input type="checkbox"/> August/1981	Est <input type="checkbox"/> May/1984	J.D.	May/1984
Ohio Wesleyan University	University	Est <input type="checkbox"/> Sept./1975	Est <input type="checkbox"/> June/1979	B.A.	June/1979

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 (City and State only)</u>	<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)
Non-Government Employment	NorthernCross Partners, LLC	Managing Director	Los Angeles, CA	Est Jan./2001	Est Present □
Non-Government Employment	Babcock & Brown	Consultant	New York, NY	Est May/2006	Est Sept./2007
Non-Government Employment	XL Reinsurance Latin America/Latin American Reinsurance Company, Ltd.	Sr. Managing Director	New York, NY / Bermuda	Est Jan./1996	Est Dec./2000
Non-Government Employment	Bankers Trust, NA	Vice President	New York, NY	Est Jan./1994	Est Dec./1995
Non-Government Employment	Pacific Aquatic Ventures Construction	Chief Operating Officer & General Counsel	Pasadena, CA & Las Vegas, NV	Est Jan./1992	Est Dec./1993
Other Federal Employment	Federal Housing Finance Board	Special Assistant to the Executive Director	Washington, D.C.	Est Jan./1990	Est Dec./1992
Non-Government Employment	Bateman Eichler Hill Richards / Kemper	Vice President, Corporate Finance	Los Angeles, CA	Est Jan./1988	Est Dec./1990
Non-Government Employment	Citicorp Investment Bank / Citibank, Ltd	Associate	New York, NY & London, UK	Est Jan./1985	Est Dec./1988
Non-Government Employment	Sheppard Mullin Richter & Hampton	Associate Attorney	Los Angeles, CA	Est Jan./1984	Est Dec./1985

Other Federal Employment	The Federal District Court, Central District of CA	Law Clerk	Los Angeles, CA	Est <input checked="" type="checkbox"/> Jan./1983	Est <input checked="" type="checkbox"/> Dec./1984
Non-Government Employment	Fulbright & Jaworski	Summer Associate	Houston, TX	Est <input checked="" type="checkbox"/> May/1983	Est <input checked="" type="checkbox"/> Sept./1983
Non-Federal Employment	The Los Angeles County Board of Supervisors	Deputy County Supervisor	Los Angeles, CA	Est <input checked="" type="checkbox"/> Jan./1980	Est <input checked="" type="checkbox"/> Dec./1981
Non-Government Employment	Virgin Roof Company	Roofer	San Gabriel, CA	Est <input checked="" type="checkbox"/> Jan./1976	Est <input checked="" type="checkbox"/> Dec./1979

(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)
Los Angeles County Employees Retirement Association (LACERA)	Trustee/Board of Investments; Served as Chairman in 2010, 2011, and 2014	Est <input checked="" type="checkbox"/> Jan/2008	Est <input checked="" type="checkbox"/> Present <input type="checkbox"/> Dec/2015

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.

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.

Graduated Cum Laude with a B.A. degree, Ohio Wesleyan University; served as Editor, Hastings Constitutional Law Review; and, graduated with Honors, London School of Economics.

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>
California State Bar Association	1984-Present	Member
California Club	1988-Present	Member
San Gabriel Country Club	2011-Present	Member

7. Political Activity

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

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service</u> (if applicable)
LACERA Board of Investments	Appointed	7	Two, three-year terms

(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>
Kathryn Barger for Supervisor	Chairman, Campaign Committee	Chaired candidate's campaign committee	Jan./2015- Nov./2016

(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>
Mayor Eric Garcetti Office Holder Account	\$1,000	2019
Cotton for Senate	\$1,000	2018
Senator Ben Sasse	\$5,400	2018
Mayor Eric Garcetti Office Holder Account	\$1,500	2018
John Cox for Governor	\$1,000	2018
Steve Poizner for Insurance Commissioner	\$2,500	2018
Scotto for California Assembly	\$1,000	2018
Scott Walker for Governor	\$2,000	2018
Senator John Cornyn	\$1,000	2018
GOP Women	\$2,500	2018
Elizabeth Heng for Congress	\$500	2018
Shawn Nelson for Congress	\$1,000	2018
Cotton for Senate	\$2,700	2017
Angelenos for a Better California	\$10,000	2017
Jim McDonnell for LA County Sheriff	\$1,500	2017
Kathryn Barger* for Supervisor Lawyers Fund	\$1,500	2016
Kathryn Barger* for Supervisor (*sister)	\$3,000	2016
Los Angeles Chamber of Commerce PAC	\$25,000	2016
David Hadley for Assembly	\$1,000	2016
Tim Scott for Senate	\$2,000	2016
CA State Senator Sharon Runner	\$1,000	2016
John Kennedy for US Senate	\$1,000	2016
Friends of Joe Heck for Senate	\$500	2016
Ro for Congress	\$250	2016
Dan McAllister for San Diego Treasurer	\$500	2016
Senator Richard Burr Committee	\$2,700	2016
Jeb 2016	\$2,700	2015
Tim Scott for Senate	\$2,500	2015
Senator Marco Rubio	\$1,000	2015

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>
None		

(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/Tonic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
None		

(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>
None		

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).

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>
NO/ None				

(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.

<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>
Feb./2016	New York Supreme Court	Gunnar Fremuth vs. Private Equity Investors, Inc; NorthernCross Partners, LLC; John M Barger; and, Charles P. Stetson	Civil suit, brought by former employee of Private Equity Investors, Inc.	Case dismissed.

(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.

Plaintiff filed civil suit alleging breach of contract, tortious interference with a contractual relationship by multiple parties. The case was dismissed with prejudice by the New York Supreme Court; Neither NorthernCross Partners, LLC, nor I paid any damages, nor were we found liable for any damages in this action.

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.

<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>
NEVER/ Not applicable			

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. Not Applicable.

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.

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

16. Additional Financial Data

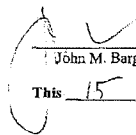
All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

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.



John M. Berger
This 15 day of March, 2019.

REDACTED

UNITED STATES OFFICE OF
GOVERNMENT ETHICS

March 15, 2019

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

Dear Mr. Chairman:

Under the Ethics in Government Act of 1978, Presidential nominees requiring Senate confirmation who are not expected to serve in their Government positions for more than 60 days in a calendar year are not required to file public financial disclosure reports. The Act, as amended, however, contains a provision in section 101(b) that allows the committee with jurisdiction to request any financial information it deems appropriate from the nominee.

We understand that your committee desires to receive a financial disclosure report (OGE Form 278) from any Presidential nominee for a position on the Board of Governors of the United States Postal Service, along with a written opinion from this Office regarding any possible conflicts of interest.

Therefore, I am forwarding a copy of the financial disclosure report of John Barger, who has been nominated by President Trump for the position of a Governor on the Board of Governors, United States Postal Service. Because the nominee is not expected to serve more than 60 days in any calendar year, the enclosed report and this letter are submitted to you in accordance with your committee's confirmation procedures and will be available for public inspection only to the extent provided by your practices. There is no authority under the Act for public release of this material by the executive branch.

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.

267

The Honorable Ron Johnson
Page 2

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
Date: 2019.03.15 11:32:56
+04'00'

David J. Apol
General Counsel

Enclosures

REDACTED

John Barger

March 13, 2019

Michael J. Elston
Designated Agency Ethics Official
Associate General Counsel and Chief Ethics & Compliance Officer
U.S. Postal Service
475 L'Enfant Plaza, SW
Washington, DC 20260-1100

Dear Mr. Elston:

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 as a Member of the Board of Governors of the United States Postal Service.

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.

I will retain my position as the Managing Director of Northern Cross Partners, LLC, and as manager of its wholly owned subsidiary, NCHCAP, LLC. Accordingly, 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 either of these entities, 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). In addition, I will not participate personally and substantially in any particular matter involving specific parties in which I know a 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 continue to serve as a member of the boards of Wine Direct, Inc., and NanoLumens, Inc. 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 either entity, 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 continue to serve as a member of the board of Friends of Ronald Reagan. 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 this entity, 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 continue to serve as chairman of Kathryn Barger for Supervisor. 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 this entity, 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 retain my positions as trustee of the Barger Family Trust dated 4/14/1994, the William Valentine Trust, and the Keith Shroyer Revocable Trust. 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 any of these trusts, 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 have been advised that I will likely work as a Governor for no more than 60 days in any period of 365 consecutive days. Accordingly, I understand that I may not, under 18 U.S.C. §§ 203(c)(1) and 205(c)(1), provide any representational services or act as agent or attorney for another in any particular matter involving specific parties in which I have participated personally and substantially as a government official. I also understand that I may not receive a share of any payment made for such representational services performed by another. I understand that additional requirements of 18 U.S.C. §§ 205(c)(2) and 205(c)(2) will apply to me if I work for more than 60 days in any period of 365 consecutive days. In that event, I will comply with all applicable requirements, and I will consult your office if I have any questions about those requirements.

I will meet in person with you before my first meeting of the board 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 it is the Postal Service's position that an appearance of impropriety may be created by my holding any financial interests in its competitors, i.e., companies that deliver mailable matter outside the U.S. mails (e.g., Federal Express, United Parcel Service, DHL, Amazon, etc.). I agree that during my service as a member of the Board of Governors, I will not invest in any company that directly competes with the U.S. Postal Service (e.g., Federal Express, United Parcel Service, DHL, Amazon, etc.).

Finally, I will recuse myself from participation on a case-by-case basis in any particular matter involving specific parties in which I determine that a reasonable person with

knowledge of the relevant facts would question my impartiality in that matter, unless I am first authorized to participate, pursuant to 5 C.F.R. part 2635, subpart E.

Sincerely,



John Barger

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of John McLeod Barger to be
Governor of the United States Postal Service**

I. Nomination Process and Conflicts of Interest

1. Did the President give you specific reasons why he nominated you to serve as a Governor of the United States Postal Service?

No.
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 Governor? 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 and experience affirmatively qualifies you to be a Governor of the Postal Service?

If confirmed, I believe my educational, public governance, financial, legal, and business background would be an asset to the USPS Board of Governors and affirmatively qualifies me to serve.

My educational background includes a Juris Doctorate, University of California Hastings College of Law; a Master's degree, Accounting/Finance (Econ), London School of Economics; and a Bachelor's degree, cum laude, Ohio Wesleyan University (History/Philosophy).

My public governance experience includes my work as a former Director and Investment Board Chair of the Los Angeles County Employees Retirement Association (LACERA), the largest county pension fund in the United States with \$60 billion in assets serving approximately 160,000 current and retired employees. Additionally, I am also a former Director, LACERA Board of Retirement, which administers and establishes benefits for approximately 160,000 Los Angeles County employees. These experiences offered me a first-hand understanding of governance issues on a public board comprised of business, labor, and government representatives.

My corporate background includes finance experience, having worked on Wall Street for Citibank and Bankers Trust/ Deutsche Bank. While at those firms, I was on teams that financed some very large and complex corporations, including United Airlines, York International, and Macy's Federated. I also worked on the Citibank capital markets desk in the City of London, financing major American, European, and Asian corporations seeking to access global debt markets.

I have considerable experience in technology and with private companies which have faced changing markets that required adjustment of their business strategies and their addressable markets. I presently sit on the board of one e-commerce and logistics/supply chain company that has changed the way American wineries sell directly to the consumer and other businesses. Using e-commerce and cutting-edge logistics technology, our company will ship approximately \$1.7 billion in wine and consumer merchandise this year, fulfilling approximately seven million orders; our combined annual growth rate (CAGR) is expected to be approximately 20 to 30 percent and the company is now gaining scale. We can deliver our customers' products anywhere in the continental United States within two days, and to do this we recently implemented Oracle Enterprise Resource Planning software and logistics.

Other technology and logistics/supply chain experience includes my role as a director and investor in a technology venture partnership with SAP SE, an international market leader in enterprise application software, to service the automotive/automotive dealership sectors.

I also serve on the board of a visual display/technology company located in Atlanta and Las Vegas. The company has blue chip customers in the U.S., Asia, and Europe.

Finally, I have experience as a successful entrepreneur. Together with three partners, I founded and was a director and officer of AXA/XL Group-Latin America (formerly XL Group, (NYSE: XL), the emerging market reinsurance business for that firm. The partners' interests were acquired by XL Group in 2002. At XL-Latin American, I was the Managing Director and General Counsel

responsible for forming and staffing our Bermuda, Swiss, Brazilian, Argentine, Mexican, and Colombian companies.

More recently, I founded and assisted in building a successful and highly regarded boutique turn-around management/consulting firm in Los Angeles (Sierra Constellation Partners). I sold my interest in that firm in 2016.

6. If confirmed, how would your experience in the public and private sector prepare you to serve as a Governor of the Postal Service?

I have enjoyed my time in public service on the LACERA board as it allowed me to apply my private sector investment experience while also navigating tough public policy issues such as pension reform, actuarial rates of returns, public sector employment policies, and other matters. I expect that my experience at LACERA and other firms have prepared me to participate and contribute to the success of the USPS Board of Governors.

7. Please describe:

- a. Your leadership and management style.

My leadership and management style is collegial, and I would look to emphasize collaboration and establishing and clearly communicating agreed upon objectives and expected results across an organization.

- b. Your experience managing personnel.

I have managed teams of from five to ten direct reporting executives, who in turn often manage considerable numbers of employees. As a board member/director, I have had governance responsibility over an organization with thousands of employees, serving hundreds of thousands of beneficiaries;

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

60

III. Role of a Governor of the United States Postal Service

8. Please describe your view of the Postal Board of Governor's (Board) core mission and a Governor's role in achieving that mission.

The Board has a similar role to private sector boards, providing strategic direction and operational and financial oversight of how well management executes its business plan. In USPS's case, this includes appointing the Postmaster General, Deputy Postmaster General and Inspector General,

approving rate structures for USPS services, and approving the overall business strategy.

The Board is distinct from private sector boards in that it must fully consider the American public's interest in the USPS, including satisfying the statutorily-established mission and objectives, such as the Universal Service Obligation and service levels that meet the needs of its customers and the American people.

9. If confirmed, what specific contributions do you hope to make during your time on the Board?

If confirmed, I would hope to be helpful in building consensus among my fellow governors, management, and key stakeholders concerning essential strategy issues facing the USPS. I would hope to provide management resources and support to implement strategies to which USPS Board and essential stakeholders have agreed.

10. What do you believe are the functions and responsibilities of an individual Governor? What in your training and experience demonstrates your qualifications to fulfill these functions and responsibilities?

As I understand it, a Governor is responsible for sharing in the overall governance of the USPS, working with management to set its strategy, and providing oversight of management concerning financial and operational performance. It is incumbent on all Governors to carefully study and understand the history, mission, strategic direction and operating issues before the Postal Service.

I believe my experience and background, as described in the preceding questions, demonstrate that I can provide valuable service in advancing the Board's work.

11. What do you see as the main challenges facing the Postal Service? What do you believe should be the Board's top priorities in meeting those challenges?

The primary challenge facing the USPS is its unsustainable business model. The Board, Congress and postal stakeholders must now work to find a new, workable business model that can continue to provide the services that the American people need and expect.

A key challenge will be meeting the USO (as currently defined) while addressing technological changes that are adversely impacting the USPS cost and revenue structure. Technological innovation and digital diversion have changed mail user and consumer habits, and any plan must address this fact. I believe this fundamental challenge has been examined extensively in past testimony before this committee, has been commented on extensively in articles and reports.

and was recently examined in the December 2018 report, "United States Postal Service: A Sustainable Path Forward," by the administration. I believe this work provides the background to inform the Board's work as it grapples with this problem.

With respect to establishing priorities, if confirmed, I will look forward to reviewing all issues with my fellow Governors, USPS management, and working with the Congress and the administration to find a practical solution.

12. What do you believe should be the respective roles and functions of the Board and the Postal Service management? How do you believe the Board and management can best work together to meet the challenges facing the Postal Service?

The Board of Governors is responsible for setting strategy and providing financial and operational oversight of the USPS. I have found that every organization has its unique culture and working relationship between management and its board of directors (or in this case, Board of Governors). I look forwards to learning more about the specific culture before determine how best to work with management to address major issues facing the USPS.

13. The Governors are chosen to represent the public interest generally. As a Governor, how will you plan to interact with various stakeholders interested in postal issues and how can you effectively represent their interests?

I have a strong business, financial, and public policy background with a track record of working with diverse groups of stakeholders holding common and diverging interests: labor, management, shareholders, creditors, employees, public officials, customers, client firms, et al. To be an effective Governor and leader, one must understand the interests and positions of all key stakeholders. I would consider this to be a priority in order to participate in Board decisions.

14. The Postal Accountability and Enhancement Act of 2006 (PAEA) requires that by the end 2015, at least four members of the Board have experience managing an organization of 50,000 employees or more. What are your views on this requirement for appointment to the Board of Governors?

The USPS Board should comply with the law and meet all statutory requirements, but well-functioning boards generally are those with members who bring a variety of experiences and outlooks. A stringent requirement of having managed a minimum number of employees may not be conducive to recruiting and fostering diverse perspectives.

IV. Policy Questions

Postal Reform and Financial Issues

15. The Postal Service continues to experience volume and revenue losses. The Postal Service ended Fiscal Year (FY) 2018 with a net loss of \$3.9 billion.

- a. In your view, what is the Board's role in overseeing the Postal Service's efforts to improve its financial condition and to increase postal revenue and cut costs, while also meeting its universal service obligations and other statutory requirements?

The Board of Governors is charged with ensuring the USPS accomplishes its mission and priorities, as set by law. It must find a balanced strategy that meets all of the prescribed requirements (e.g. USO, reasonable rates, timely service, labor benefits, etc.) while also relying only funds provided by the sale of its products and services.

- b. How does the Board's role differ from the role of the Postal Regulatory Commission (PRC) or the role of Congress?

While the Board sets and oversees USPS's broad strategy and business plan, it receives its objectives and mission from Congress, as enacted by law. The Postal Regulatory Commission develops and maintains regulations meant to ensure the USPS is complying with certain specified statutory requirements.

16. Postal Service volumes and revenues associated with its letter mail and other market dominant products continue to decline, and First-Class Mail in particular is projected to significantly decline over the next decade. At the same time, the volume of packages and its competitive products have grown significantly in recent years.

- a. How can the Postal Service remain viable as letter mail volume declines?

If confirmed, I will look forward to extensive study and analysis of the specific business challenges facing USPS. I intend to approach these issues with an open mind, with the focus being on serving the broad public interest. Until I complete this due diligence, however, it would be premature to offer suggestions or opinions.

- b. How can the Postal Service take advantage of the growing popularity of e-commerce and package delivery?

Again, if confirmed, I will look forward to extensive study and analysis of the specific business challenges facing USPS. I intend to approach these issues with an open mind, but my background in e-commerce tells me that there are huge opportunities in the sector and that the USPS is well-placed to serve

them. That said, until I complete USPS-specific due diligence, it would be premature to offer more concrete suggestions or opinions.

- c. What new actions should the Postal Service take to maintain its viability and competitiveness in both its traditional lines of business and in potential growth areas?

Properly managing legacy services and products while simultaneously bringing new products to market is a challenge for any enterprise, and the proper approach is dependent on the particular circumstances. If confirmed, I will look forward to extensive study and analysis of the specific challenges facing USPS. I intend to approach these issues with an open mind, with the focus being on serving the broad public interest. Until I complete this due diligence, however, it would be premature to offer suggestions or opinions.

- d. What do you believe are the proper limitations of the Postal Service with respect to competition with the private sector?

In general, I believe in the power of free markets and that government must avoid interfering with or competing against private businesses unless there is a compelling public interest or need. I also recognize the public interest served by the USO and the fact that Congress has mandated that the USPS must support its operations solely through the sale of its products and services. Finding the balance between providing self-supporting service on the one hand, while respecting free markets and fair competition on the other, will require careful study.

- e. How proactive should the Board be in identifying areas for the Postal Service to cut costs quickly so that it can cover its operating expenses?

As a general business principle, my personal approach has been to grow a business and find ways to increase revenue, rather focusing exclusively on cost structure. I recognize, however, there are times when situations call for rationalization of operations. I look forward to being part of that review process, learning more about others' views of this subject, and conducting a careful analysis of the USPS-specific business case.

- f. What are the Board's role and responsibilities in identifying opportunities for the Postal Service to increase volume?

The Board is responsible for being the 'head of the agency,' and as such should be driving strategy and dedicating resources toward innovation. I therefore view this as a key role in the Board's leadership of the USPS.

17. What are your views on the “universal service obligation”?

The Universal Service Obligation obligates the USPS to give all citizens access to its services at affordable rates. At our nation’s founding, our forefathers rightly realized that in order to be one nation across a broad expanse of territory, communication among and between our citizens was (and is) essential. From the Postal Department to today’s USPS, the institution has undergone many evolutions, but its basic mission has remained unchanged, and the current USO is only the latest iteration. With technological innovation, the Internet, the Internet of Things and emerging Artificial Intelligence, one presumes the USO will evolve again—but so long as Congress recognizes the need, the USPS will still play a vital role in connecting and ensuring service to all Americans. I look forward to being part of that review and learning more of others’ views on this subject when such review takes place.

18. How do you view current service standards and delivery frequency with respect to the obligation for service to every American?

The USO obligates the USPS to give all citizens access to its services at affordable rates, regardless of whether they are rich or poor, urban, suburban or rural, or live in a populous state or a sparsely populated one. While the service must be universal it also must be affordable, and in determining that, we must closely examine the business case for service standard and frequency. If confirmed, I will look forward to extensive study and analysis of the interplay between service standards, delivery frequency, and the USO. I intend to approach these issues with an open mind, with the focus being on serving the broad public interest, but until I complete this due diligence, however, it would be premature to offer opinions.

19. The Government Accountability Office (GAO) again included the Postal Service on its High-Risk List in 2019 because of its precarious financial condition. GAO added the Postal Service’s financial condition on its high-risk list in 2009, after removing it in 2007. In your view, what should be the Postal Service’s strategy for improving its financial condition and restructuring its business model to ensure its long-term viability, in addition to any factors that the Postal Service has announced as part of its new business model?

I have noted issues of USPS revenue decline, concomitant with USPS expense/cost increases. There has been a precipitous decline in regular mail revenues, combined with significant increases in the cost to deliver mail and meeting the USO. Other USPS products volume, such as package deliveries, appear to be significantly higher and with impressive CAGRs. I am reluctant, however, to make any concrete recommendations or observations until such time as I have access to more complete data, USPS personnel, and other experts who have been researching this very issue.

20. The Postal Service has estimated its future cash obligations to be \$168.6 billion. How do you believe the Postal Service should address its unfunded liabilities?

As a member of the LACERA Board of Investments and Board of Retirement, I have had significant experience with unfunded pension liabilities and unfunded OPEBs. There are numerous factors influencing underfunding of pensions, including salary and benefit levels, expected rate of return, life expectancy, and other actuarial assumptions. I look forward to reviewing this issue, once I have seen the specific data, reports, and have had the opportunity to confer with USPS experts (actuaries, lawyers, accountants, et al) and management. Until I complete this due diligence, however, it would be premature to offer concrete suggestions or opinions.

21. In recent years, postal management has indicated that the Postal Service has been financially unable to make the investments necessary to replace its aging vehicle fleet or make other necessary capital investments in order to remain viable and competitive in the coming years. What steps do you believe the Board should take to prioritize key capital investments and allocate the resources necessary to make them?

As a general business principle, it is very important that firms have adequate capital spending to sustain current approaches and carefully marshal other capital expenditures to grow their business. If confirmed, I will look forward to extensive study and analysis of USPS's capital needs. I intend to approach these issues with an open mind, with the focus being on serving the broad public interest. Until I complete this due diligence, however, it would be premature to offer suggestions or opinions.

22. What short and long-term actions should Congress take to assist the Postal Service in achieving financial viability?

As I have stated concerning other questions of strategy, I look forward to reviewing this issue once I have access to materials, data, and experts in the Congress, the Executive Branch, and the USPS.

Postal Rates and New Products

23. One of the core principles of PAEA was to provide Postal Service customers, through the establishment of an inflation-based rate cap, with predictability and stability in pricing of the Postal Service's market dominant products. Pursuant to PAEA, the PRC completed a review of whether the rate cap met the criteria laid out by 39 U.S.C. § 3622, including stability, fairness, and generating adequate revenue to cover Postal Service costs. The PRC found that the cap did not meet all of these criteria, specifically the requirement that the cap did not allow for long-term financial stability of the Postal Service or for the Postal service to maintain high quality service standards.

- a. Do you believe the inflation-based rate cap has met the objectives and factors laid out in 39 U.S.C. § 3622?

I have not studied this issue in depth and would want to study the rate setting process and its effects in greater detail; that said, it appears as though the legislation did not anticipate the dramatic changes in customer communication habits, leading to reduced usage of first-class mail. Consequently, it appears that although there remains monopoly power and inelasticity in pricing, there is not sufficient mail volume to generate adequate revenue to fund the USPS as originally intended.

- b. Which of these objectives or factors, if any, do you believe should be weighted above others?

While the law applies nine objectives and 14 factors, three objectives intuitively seem to rise in importance—Stability, fairness, and adequate revenue. Stability and adequate revenue seem to be more objective and measurable; they also are essential to those working for the USPS, including providing for future benefits that have been promised to the employees of the USPS. I will want to study these factors and the historical legislation more to understand the importance of each to the USPS, its stakeholders and customers.

24. The PRC also recently proposed adjusting the rate cap to allow the Postal Service to raise prices above inflation on market dominant products. In considering price increases, how should the Postal Service balance the need for additional revenue with the possibility that higher rates could further reduce mail volumes?

Recognizing that the USPS will not want to drive down volume with price increases, only to ‘run in place’ or even create a downward revenue spiral/dynamic, offering suggestion about the rate cap requires careful study. If confirmed, I will look forward to an analysis of the supply/demand and elasticity issues. Until I complete this due diligence, however, it would be premature to offer suggestions or opinions.

25. The Postal Service has requested legislation authorizing greater flexibility in offering non-postal products.
- a. Under what circumstances should the Postal Service be permitted to offer non-postal products?

In general, I believe in the power of free markets and that government must avoid interfering with or competing against private businesses unless there is

a compelling public interest or need. I also recognize the public interest served by the USO and the fact that Congress has mandated that the USPS must support its operations solely through the sale of its products and services, which presumably could include non-postal products. Finding the balance between providing self-supporting service on the one hand, while respecting free markets and fair competition on the other, will require careful study.

- b. To what extent do you believe the Postal Service should rely on the provision of non-postal products in its efforts to generate additional revenue?

Again, I would want to understand what was being proposed, and what the risks and rewards of such product extension would be.

- c. How would you ensure the Postal Services does not compete unfairly with the private sector in selling non-postal products?

If a non-postal product was deemed acceptable, any expansion might take into consideration the level of service already in the market. Also, USPS would need to take care to confirm that it was not using any monopoly power to subsidize other products to the disadvantage of free market competition.

26. How can the Postal Service take better advantage of its current authorities to make the mail more appealing and valuable to customers and attract additional mail volume?

Again, I look forward to studying this issue. Rather than offer preliminary observations, I will, if confirmed, rely on the expertise of subject matter and marketing experts who have studied the long-term trends and likely future of the mail industry.

Facility Closings and Service Changes

27. What role should the Board have in decisions to realign postal retail and mail processing networks, including decisions to close specific facilities?

In so far as the Board of Governors is generally responsible for setting and directing the USPS's strategy and business plan, it would be responsible for decisions to realign retail or processing networks at the macro level. Decisions on specific facilities, however, are best left to managers charged with day-to-day responsibility for operations. While Governors should formulate strategy and oversee its implementation, execution of plans is best left to management.

28. How can the Board ensure the Postal Service communicates with its customers and employees so that they are aware of updated information on the consolidation process, as it becomes available?

I support maximum transparency and communications, but before commenting specifically, I would want to become more familiar with the traditional methods the USPS has used to communicate in the past, together with how effective it has been.

29. The Postal Service is required to deliver mail to every address in the country, creating the need for retail postal locations in low-density counties and towns. How would you balance the Postal Service's universal service obligation and the need for rural counties to have reasonable access to the postal services when looking at ways to improve the Postal Service's financial condition?

The USO is a vital part of the USPS mission and still 'binds the nation' in many ways, particularly rural and urban area across the United States. It obligates the USPS to give all citizens access to its services at affordable rates, regardless of whether they are rich or poor, urban, suburban or rural, or live in a populous state or a sparsely populated one.

30. According to GAO, approximately 41 percent of postal revenue comes from alternate retail channels such as the Postal Service website, automated postal centers, and contract postal units. Do you believe the Postal Service should increase the use of alternate retail channels, and if so, how should this be accomplished?

It is an intriguing idea; however, I would want to study further. I am not familiar with the details of this proposal, nor the risks and rewards involved.

31. The Postal Service has, in the past, proposed both the elimination of Saturday delivery of some classes of mail and has nearly eliminated the overnight service standard.
- a. What is your opinion of the Postal Service's proposals to eliminate Saturday delivery of some classes of mail and lower certain service standards?

I would want to better understand customer needs and reactions to any proposal to reduce the service level or frequency of postal deliveries.

- b. What steps should the Postal Service take to ensure that any service changes it makes do not disproportionately harm any subset of postal customers and are consistent with the Postal Service's universal service obligation?

Any proposed changes must be completely reviewed and understood, and the USO demands that all citizens have access to its services at affordable rates, regardless of whether they are, urban, suburban or rural, or live in a populous state or a sparsely populated, or belong to any other subset.

- c. How do you believe that changes to service affect customers' attitudes towards and use of the Postal Service?

I presume that USPS customers are no less demanding than all other customers concerning quality of service, and to the extent service levels change and are not properly understood or supported, the USPS brand will likely suffer.

- d. How should the Postal Service balance the potential cost savings gained or potential revenue lost from changing service?

There are other considerations beside revenues lost from cuts and I would hope to study further. For example, would cost cutting measures adversely affect the unique USPS infrastructure, such that it would diminish a national asset with considerable reach and scales of economy? Would it impair other potential opportunities with the current infrastructure? These would seem important considerations in any final decision to cut costs leading to lower revenues at the USPS.

Workforce-Related Issues

32. Since 1999, when the workforce peaked at over 900,000 employees, the Postal Service has been reducing its workforce, including through hiring freezes, early retirements, incentive payments for some targeted attrition, and other ways. Does the Postal Service have sufficient flexibility to adjust its workforce to its operational needs? If not, what additional flexibility is needed?

Given that the USPS currently employs roughly 630,000 workers, down approximately 270,000 workers from the figure cited above, it would appear at first glance that it has the ability to manage its workforce. However, I look forward to learning more specifics before I could offer a more informed opinion.

33. As an increasing number of postal executives, managers, and supervisors are eligible to retire, how can the Board work with postal management to address these challenging succession, continuity, and associated cost issues?

Succession planning is an important issue for all businesses, and considering its unique mission and structure, it is likely particularly important for USPS. If confirmed, I will look to hearing about and analyzing USPS's efforts. Previously, some organizations with which I have worked have sought to address this problem by extending retirement ages and creating incentive packages to retain key managers (who would otherwise retire). Some of these programs have been successful, others not, but I look forward to using this experience in the context of USPS.

34. In recent years, performance-based compensation systems have been implemented for postal executives, as well as managers and supervisors. The success of these systems depends on the credibility of the performance measures. How can the Board ensure the

credibility of the Postal Service's performance-based compensation systems? Do you have an opinion about performance-based compensation?

Studies have generally shown that the best way to achieve goals and align managers and employees is through incentive based compensation. I agree generally with this approach. While it is not perfect, it is shown to be effective when properly structured and in concert with other benefits and incentives. It is also important to have the management and employees participate in setting targets and key results that trigger additional compensation. If confirmed, I would welcome the opportunity to look more into how the USPS has used incentive based compensation—where it has succeeded and failed.

35. Please describe the kind of labor-management relationship you believe is most desirable at the Postal Service.

The life's blood of any organization is its people and I believe strongly in respectful and affirming relations between management and labor, especially as it allows for compromise when facing difficult business and staffing issues.

Accountability

36. What do you believe should be the proper response of the Board if Postal Service management is not responsive to requests for information from Members of Congress?

The Board of Governors is responsible for fiscal and organizational oversight on behalf of the American people, which essentially means to the Congress of the United States—the duly elected representatives of the people. I therefore believe that the Board of Governors should hold management to the highest standards of openness and transparency when responding to the public's information requests.

37. What do you believe should be the proper response of the Board if Postal Service management is not responsive to requests for information from the Postal Service Office of Inspector General (USPS OIG)? What do you believe should be the proper response of the Board to recommendations made by the USPS OIG to Postal Service management?

In my experience, good organizational governance drives better returns and outcomes. In the USPS governance model, management reports to the Board of Governors and is subject to Board's governance and oversight and this presumably extends to being responsive to the OIG, which is selected by the Board and on whom the Board relies in monitoring the activities of those operating the USPS. I would want to study the issue, but my initial position would be that the Board should pay deference to OIG requests and call for management's full cooperation with the OIG.

38. What do you believe should be the proper response of the Board if Postal Service management is not responsive to requests for information from the GAO? What do you believe should be the proper response of the Board to recommendations made by the GAO to Postal Service management?

The GAO is responsible for providing independent oversight of federal agencies and departments, including the USPS. Both the Board of Governors and the Postmaster General and USPS management should seriously consider all GAO observations and recommendations.

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

- a. During your career in the federal government, how did you address whistleblower complaints?

I have no experience with this issue as a Federal Employee.

- b. How do you plan to implement policies within the Postal Service to encourage employees to bring constructive suggestions forward without the fear of reprisal?

I have no experience with this and I will need to study the issue.

- c. Do you commit without reservation to work to ensure that any whistleblower within the Postal Service 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

40. 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.

41. 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.

42. 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.

VI. Assistance

43. Are these answers your own? Have you consulted with Postal Service management, employees, or any other interested parties? If so, please indicate which entities.

These are my own answers and have not been prepared by anyone else. I have only communicated with the interim Secretary to the USPS Board Governors and a representative from the USPS Government Liaison group, such communication being narrowly limited to completing necessary paperwork, arranging meeting to satisfy the confirmation process, and understanding the background and context of this questionnaire.

U.S. Senate Committee on Homeland Security and Governmental Affairs
Minority
Supplemental Pre-hearing Questionnaire
For the Nomination of John McLeod Barger to be
Governor of the United States Postal Service

I. Nomination Process and Conflicts of Interest

1. Has the President or his staff asked you to sign a confidentiality or non-disclosure agreement?

No.

2. Has the President or his staff asked you to pledge loyalty to the President or the Administration?

No.

II. Background of Nominee

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

Yes.

4. Please give examples of times in your career when you disagreed with your superiors or peers and aggressively advocated your position. Were you ever successful?

During my career, I have advocated for the hiring of people that others in our organizations at first did not support. Yes, I was successful.

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

When chairing the LACERA Board of Investments, my colleagues and I had to lead an organization on which hundreds of thousands of beneficiaries depended for their future healthcare and financial security. LACERA is also the largest county pension fund in the United States; therefore, our Board and organization's decisions often set precedents that other pension systems around the nation follow. One major policy choice concerned lowering the expected rate of return for the fund, which had the effect of increasing the county's required contribution to the fund for the good of fund's beneficiaries. Despite severe political pressure to support a higher expected rate of return, I voted to lower it. It was the right thing to do for the benefit of retirees in Los Angeles--and by extension for retirees across the country.

Another example concerns the selection and support of LACERA's investment managers, which generate exceptionally strong results for our fund. Some exceptionally successful managers assess higher fees but deliver outstanding net returns to the fund. As a financial executive with experience in investment management, direct investing, and private equity, it was incumbent on me to support those managers delivering superior results for the benefit of our retirees, despite severe pressure to replace them with unproven, less expensive managers.

6. What would you consider your greatest successes as a leader?

I have founded two private firms that have been very successful. We took ideas, recruited talented people, and marshalled resources to found and operate successful firms that provided sought-after services and provided livelihoods to our employees. I also managed a large political campaign in Los Angeles County, which, owing to our excellent candidate, attracted support from diverse groups including labor, public safety, and business. The campaign was non-partisan and we successfully attracted Democratic, Republican, and Independent supporters. Finally, I am particularly proud of being an adoptive parent and Foster parent.

What would you consider your greatest failure as a leader? What lessons did you learn from that experience?

In the mid 1990's, I left a very highly regarded Wall Street firm to join a business startup. The person attracting me to new firm sought my expertise and relationships to finance his emerging company. Within three weeks of my arrival, I realized I had become associated with a person whose business practices and values were very different from my own and those of the firms where I previously worked (Bankers Trust/Citibank). I learned from this mistake that one must be extremely thorough when evaluating businesses opportunities and those associated with them. This extends to people with whom one associates in the political world also.

7. Please describe your experience negotiating the needs and interests of diverse stakeholders, and producing acceptable outcomes for all parties involved.

LACERA is a \$60 billion pension fund with unfunded pension and Other Postemployment Benefits liabilities of between approximately \$70 to \$90 billion (depending upon the actuarial assumptions adopted). One particularly important issue concerns the Expected Rate of Return assumption, which is of vital importance to labor and the taxpayer. While I chaired the LACERA board, we were able through negotiation and compromise to finding a path acceptable both groups.

III. Role of a Governor of the United States Postal Service

8. Please describe your view of the Postal Board of Governor's (Board) core mission. In what ways is it distinct from corporate and nonprofit boards?

The Board has a similar role to private sector boards, providing strategic direction and operational and financial oversight of how well the management executes its business plan. In USPS's case, this includes appointing the Postmaster General, Deputy Postmaster General and Inspector General, approving rate structures for USPS services, and approving the overall business strategy.

The Board is distinct from private sector boards in that it must fully consider our American public interest in the USPS, including satisfying the statutorily-established mission and objectives, such as the Universal Service Obligation and service levels that meet the needs of its customers and the American people.

9. The Postal Service possesses vast physical assets (processing plants, equipment, vehicles, land, and buildings), much of which were transferred to the Postal Service from the former Department of the Post Office and were paid for by taxpayers. Additionally, the Postal Service is at the center of the mailing and shipping industry, supporting about seven million jobs and about \$1.4 trillion in revenues - generating enormous value and wealth for mail related industries, their workers, and the economy as a whole. The Postal Service holds about \$27 billion in balance sheet assets. The Postal Service OIG has estimated the Postal Service's real estate portfolio asset value alone to have a market value of about \$85 billion.

If confirmed, how will you work to protect taxpayer and public ownership interests in the Postal Service's enormous physical assets, financial holdings, and retirement funds?

The USPS is not like most corporations. It is unique in its size, complexity, corporate structure; also being part of the Federal Government and subject to various federal statutes and regulations. Most importantly, the USPS is part of a public trust, and Governors are fiduciaries of the American people and must accept and fulfill this serious role for the benefit of those depending upon the USPS.

10. How will you work to promote public transparency and oversight of the Postal Service's Operations and Financial performance, as well as its management actions and overall integrity?

As Board Chair and board member at LACERA, I spend considerable time and effort to make sure meetings and all communications were open and transparent. I would do the same as a Governor of the USPS.

IV. Policy Questions

Postal Reform and Financial Issues

11. Some view the Postal Service as “a business” to serve paying customers; others see it as a government service that must continue to be available to all citizens regardless of financial profitability. Which view should take priority?

As I noted in previous questions, the USPS is unique and was created to address both the American public interest (e.g. USO) and the American taxpayer (which is why legislation ensured it is sustained solely by the sale of its products and services). Both aspects of the USPS structure and mandate are important and must be balanced; neither is independently dominant.

12. The Postal Accountability and Enhancement Act of 2006 established a goal for the Postal Service to prefund 100 percent of its future retiree health benefits liability. Are you aware of any U.S. company that prefunds 100 percent of any retiree benefit liability? Do you believe this is a sound business practice? If so, why? If not, why not?

I am not aware of any U.S. company that prefunds 100 percent of its retiree benefit liability, but would have to study and research further to provide a more informed opinion. Pre-funding can be a sound business practice, in so far as a business or enterprise prudently sets aside resources to provide for a future liability. Whether it is prudent would depend upon the health of the company/going concern, and it is defensible to have less than 100 percent funding but devote available resources to expand/grow the business.

13. Rural post offices and postal services often play an outsized role in a local community’s economy. When considering policy and operational changes, should the Postal Service take into account rural-specific factors? If so, which ones?

Yes, in considering any policy or operational changes, the Board and the Postal Service should take into account all known impact in considering any proposal, including a rural-specific factors or information.

Postal Rates and New Products

14. Since 2007, the Postal Service’s rate increases on mail have been limited by a cap set to the rate of inflation. Further, the Postal Service is barred from entering new lines of business unrelated its mail delivery function. Finally, while it has the freedom to set package and parcel rates, the Postal Service faces competition in that segment from private carriers. How would you balance these constraints with the objective of ensuring postal operations are self-sustaining?

In general, I appreciate that because it has a monopoly over certain products, the USPS has operated under a price cap, and because it is a federal agency, it has been limited from offering non-postal products. I also recognize the public interest

served by the USO and the fact that Congress has mandated that the USPS must support its operations solely through the sale of its products and services, which presumably could include new, non-postal products. Finding the balance between providing self-supporting service on the one hand, while respecting free markets and fair competition on the other, will require careful study.

15. How would you work with Postal Service management and the Postal Regulatory Commission to ensure that any rate changes are sensitive to the needs of Postal Service customers and stakeholders?

It is important to recognize and understand the interests of ALL stakeholders and customers before making any new policies. If confirmed, I pledge to do this.

Service and Facilities

16. How can the Board ensure the Postal Service focuses on strong service performance, so that mail delivery is both protected and improved for all constituencies, including rural communities?

Create the right organizational objectives, involving management, Board and stakeholders in establishing goals; those objectives should be stated, measurable and achievable. Create key results on a granular level, also with management teams and board; those key results should be stated, measurable, and attainable. Using these methods will focus organization and its employees and managers.

17. Over the past several years, the Postal Service reduced delivery standards in order to consolidate a number of mail processing facilities. At the time, some argued that the savings achieved by diminishing the speed of delivery would outweigh the cost to the perceived quality of the product. What are your views on balancing the need to provide a quality product Americans want use versus a desire to lower costs.

Balancing the need to provide a quality product with the need to lower costs must also consider the USO, which obligates the USPS to give all citizens access to its services at affordable rates. While the service must be universal, it also must be affordable, and in determining that, we must closely examine the business case for changes. If confirmed, I will look forward to extensive study and analysis of the interplay between service standards, delivery frequency, and the USO. I intend to approach these issues with an open mind, with the focus being on serving the broad public interest, but until I complete this due diligence, however, it would be premature to offer opinions.

18. America's population and the total number of delivery addresses continues to grow, but mail volumes are decreasing. That puts the Postal Service in the difficult position of expanding its delivery network despite shrinking demand. What role should the Board play in decisions to adjust postal retail and mail processing networks, including decisions to close specific facilities?

As previously noted, the USPS Board of Governors is responsible for the financial and operation oversight of the USPS. In so far as the Board of Governors is generally responsible for setting and directing the USPS's strategy and business plan, it would be responsible for decisions to realign retail or processing networks at the macro level. Decisions on specific facilities, however, are best left to managers charged with day-to-day responsibility for operations. While Governors should formulate strategy and oversee its implementation, execution of plans is best left to management.

The Postal Workforce

19. The Postal Service is having difficulty recruiting younger workers. What might be done to change the image of working for the Postal Service?

Generally, successful talent recruitment results from competitive pay and benefits, a good work environment, and an atmosphere where employees feel that they are respected and valued. If confirmed, I look forward to learning about the specific issues that USPS faces in recruiting, but it would be premature to offer an opinion without more facts.

20. Postal Service employees can collectively bargain over compensation, benefits, and other conditions of employment. In your view, what role does collective bargaining play in productive workplaces, and in the Postal Service, in particular?

I recognize that collective bargaining can be a vital component to successful labor-management relations, and in the USPS's context, it has been historically vital to balance the need to protect employees/workers on one hand, and provide a stable, effective workforce on the other. I generally believe in collective bargaining rights, and if confirmed, it will be my hope that we can promote a collaborative management/labor relationship.

Oversight

21. The Postal Service operated without any independent Board Members for over a year and has been without a Board quorum since 2015. What additional authorities should the Postmaster General and Deputy Postmaster General, or Postal Regulatory Commission be given to ensure that the Postal Service can continue to operate effectively in the absence of Governors or a Board quorum?

I would have to study this issue. It does appear harmful to allow an organization like the USPS to go without a functioning board of directors/governors. Generally, a vacuum of leadership and governance cripples organizations

22. Recent reports by the USPS OIG have found instances where practices and procedures by postal employees and management did not uphold the reliability and integrity of the Postal Service's performance data, such as scanning mail as delivered even if it was not. What role can the Governors play to help ensure the integrity of the Postal Service's service performance system?

The USPS Board of Governors is responsible for oversight of the USPS. As a USPS Governor, I will insist that employee and management practices and procedures uphold to the highest business standards concerning the reliability and integrity of the Postal Service's performance data.

V. Accountability

23. If confirmed, do you pledge to consider thoughtfully recommendations made by the USPS OIG, Office of Government Ethics, the Office of Special Counsel or the GAO, and implement those that would improve the Postal Service's functions, operations or accountability?

Yes.

VI. Relations with Congress and the Public

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

If confirmed, I will be in constant contact with other Board members and staff so as to be aware of any such Member requests.

25. 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.

26. If confirmed, do you agree without reservation to reply to any reasonable request for information from members of Congress?
Yes.
27. If confirmed, do you commit to take all reasonable steps to ensure that the Postal Service complies with deadlines established for requested information?
Yes.
28. 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.
29. If confirmed, will you ensure that the Postal Service will fully and promptly provide information and access to appropriate documents and officials in response to requests made by the GAO and the Congressional Research Service?
Yes.
30. If confirmed, will you agree to work with representatives from this Committee and the GAO to promptly implement recommendations that improve the Postal Service's operations and effectiveness?
Yes.
31. If confirmed, will you direct the Postal Service to fully and promptly respond to Freedom of Information Act requests submitted by the American people?
Yes.
32. 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.

VII. Assistance

33. Are these answers completely your own? If not, who has provided you with assistance?
These are my own and have not been prepared by anyone else.
34. Have you consulted with the Postal Service management or any other interested parties? If so, please indicate which entities.

I have only communicated with the interim Secretary to the USPS Board Governors and a representative from the USPS Government Liaison group, such communication being narrowly limited to completing necessary paperwork, arranging meeting to satisfy the confirmation process, and understanding the background and context of this questionnaire.

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

(Signature)

This 16 day of April, 2019

**Ranking Member Gary C. Peters
Post-Hearing Questions for the Record
Submitted to John M. Barger**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

1. As you stated in your questionnaire, the universal service obligation is “a vital part of the USPS mission” that obligates the Postal Service “to give all citizens access to its services at affordable rates, regardless of whether they are rich or poor, urban, suburban, or rural.” Do you agree that “universal service” and Postal Service operations should never be altered in a way that creates unequal rates or services for people in rural areas, compared to urban or suburban?

The Postal Service is bound and defined by the Universal Service Obligation (USO) and must provide all citizens access to products and services that are modern, affordable and relevant, regardless of whether those citizens are rural, suburban or urban.

Today the USO ensures that every community has basic access to emerging ecommerce, even though private sector providers may choose to bypass a particular market as unprofitable. My personal view is that as technological change accelerates, the USO will become more—not less—important to the American people and US government as a backstop or alternative to private delivery and communication networks.

In the event of a general market failure, where private sector networks fail due to economic conditions or physical disasters, the Postal Service’s network can function as an alternative. I also prefer that the American people have an ability to communicate, irrespective of the whims and commercial interests of the private sector.

If the USO is to live up to its name, it must be truly universal. It must ensure that everyone, regardless of location, has access to the same general services at the same general rates. Differentiating market segments or adding surcharges would be inimical to this principle. Instead, broadly applied, everyone should have access to the Postal Service’s products and services on the same terms.

2. One basic component of service is access to post offices. In 2012, the Board directed an “accelerated consolidation” of the Postal Service’s network. This included reducing hours

and consolidating or closing post office locations. This also included closing mail processing facilities, including the Kalamazoo Processing Center in Michigan, and lowering delivery standards. As the Board of Governors again begins long-term planning for the Postal Service, what would you do to prevent closures, consolidations, and service reductions that could hurt communities, especially remote areas with no other options?

If confirmed, I pledge to consider any proposal or plan from the perspective of what serves the public interest generally, taking into consideration market demands, the USO, and other objectives defined by Congress. As a Governor, I would require that any plan or proposal fully consider impacts on all stakeholders—customers, employees, the communities served, and the market.

- a. If confirmed, will you commit to not advancing any business plan that relies heavily on service reductions?

Yes. I would resist any proposal that relies on ill-considered service reductions placing undue burdens on communities or that would harm the public service mission of the Postal Service

3. In response to questioning from Senator Carper, you agreed to reexamine the prefunding mandate, which is one of the Postal Service's largest liabilities and a key driver of its financial situation. It also constitutes a large portion of the Postal Service's overall labor costs. The Board's responsibilities of financial and strategic planning help determine the direction of spending that affects the workforce and inform management's decisions on labor. When studying financial solutions for the Postal Service, will you commit to prioritizing prefunding reform and similar solutions, rather than proposals that incentivize workforce or wage reductions as cost-cutting measures?

As a Governor, I would be hesitant to prejudge the situation without the benefit of careful analysis; accordingly, I look forward to closely examining how the Postal Service meets its compensation, benefits and pension obligations. As a general business principle, however, I believe enterprises must offer compensation to employees that is competitive, fair, and mutually beneficial to employer and employee. I also note that the USPS is unique distinguishable from a private business or corporation, particularly given its unique and valuable delivery infrastructure, which reaches practically every American household, and the USO.

4. You have discussed your affinity for accomplishing goals using an "objectives and key results" model, in which "management, Board, and stakeholders" should be involved in establishing granular goals and organizational objectives. You have indicated that achieving consensus is essential for establishing workable goals. How do you define "consensus"? If

you voted on a decision and you were in the majority by one vote, would you consider that a valid and successful decision?

In my experience, it is important to create a process that allows board members and managers the greatest possibility for general agreement; a process that identifies and agrees on key resources, constraints and ultimate objectives; then allows participants to plan in a collaborative fashion and with maximum ‘buy in’ on the final plan. Consensus also requires that those participating do not allow “the perfect to be the enemy of the good.” Finally, options are considered in context of an open and transparent process. Generally, a one vote majority would not be indicative of a consensus decision and successful collaboration.

- a. How would you work to achieve consensus among stakeholders and involve them in each aspect of your work? For example, in drafting plans, would you consult them in person at the beginning of the decision-making process and throughout drafting, or would you seek their comment only in the final drafting stages?

Achieving consensus on actual business decisions depends on the particulars of the issue at hand. What is being decided? What are the constraints present? What are the opportunities and risks? How will any single decision fit into larger plans? A successful Board will look at a particular issue and, given the specifics, look to how it can best involve the relevant stakeholder in informing and shaping the ultimate decision.

5. Before implementing changes to its policies or practices, the Postal Service and its regulators must fully understand how such changes would impact communities. For all proposals that come before the Board of Governors, how would you ensure the Board considers the needs of every community and analyzes the expected impacts of such proposals on different types of communities across the United States, particularly rural communities?

If confirmed, I pledge to consider any proposal or plan from the perspective of what serves the public interest generally, given the objectives defined by Congress (i.e. the USO, the need for the Postal Service to be self-supporting, etc.) and the demands and constraints of the market. As a Governor, I would demand that any plan or proposal fully consider impacts on all stakeholders—customers, employees, the communities served, and the market. This consideration would, of course, include the unique needs of rural communities. If a proposal or plan did not consider these impacts, as a Governor I would insist those making the proposal conduct that analysis or face rejection.

6. If confirmed, how would you evaluate long-term financial and strategic planning conducted by the current Governors and Temporary Emergency Committee? How would you assess ongoing plans and documents, including those agreed to without a Board quorum?

The Board of Governors has the responsibility to weigh the current plan and direction of the Postal Service, whether set by the Temporary Emergency Committee or determined by more fully constituted preceding Boards. If confirmed, I will approach any proposal or plan in the manner previously described.

**Senator Rand Paul
Post-Hearing Questions for the Record
Submitted to John M. Barger**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

On the Universal Postal Union and the international mail system:

1. As you may know, international mail is exchanged and delivered under the auspices of a treaty known as the Universal Postal Union (UPU). Because of its status as a treaty, the U.S. Department of State is the lead agency involved in negotiating the terms of the UPU. Nevertheless, the members of the Board of Governors of the U.S. Postal Service (USPS) should at a minimum be aware of several issues of growing concern involving the UPU and international mail pricing, trafficking and security.

To that end, please answer the following as completely as possible.

- Are you aware that on October 17, 2018, President Donald Trump announced his intention to withdraw the United States from the UPU and establish a system of self-declared rates for terminal dues?

I am generally aware of news reports that President Trump directed the U.S. Department of State to adopt self-declared rates for terminal dues on international mail. The Department of State has filed notice that the U.S. will withdraw from the UPU, which began a one-year withdrawal process, as set forth in the UPU Constitution. The Department of State also seeks to negotiate bilateral and multilateral agreements that resolve issues concerning terminal dues rates and to allow the U.S. to self-declare rates. These negotiations are ongoing.

Ensuring fair and equitable treatment for the American people is a priority, and if confirmed, I look forward to learning more about this issue, examining the facts and assessing the views of subject matter experts.

- Do you support the President's decision to withdraw from the UPU if the terminal dues issue is not satisfactorily resolved?

Although I have more research to do on this issue, my answer is Yes. The Governors and the Postal Service Board are charged with dutifully implementing and executing Postal Service objectives and policies, as set by law.

- Are you aware that under the UPU, the USPS has been required to deliver foreign packages at rates lower than those available to domestic shippers?

I am generally aware of news reports and commentary making this assertion; but I am not yet qualified to offer an informed opinion; however, I look forward to studying and analyzing the particulars.

- Are you aware that under the UPU, foreign postal services are not required to follow the same customs and security processes that are imposed on other international shippers?

I am generally aware that some stakeholders and commentators have made these claims; however, I have yet to study and analyze the particulars; once I do so, I will be pleased to offer an better informed opinion on this issue.

- Are you aware of the Senate Permanent Subcommittee on Investigations (PSI) report¹ on vulnerabilities in the international mail system that concluded that “the federal government’s policies and procedures are inadequate to prevent the use of the international mail system to ship illegal synthetic opioids into the United States”?

Yes.

- Are you aware that that same Senate PSI report noted that, due to the customs and security exemptions under the UPU for foreign postal services, “... 318,891,780 packages entered the United States with no associated [advanced electronic data, or AED] on the sender’s name and address, the recipient’s name and address, or the contents of the package. With no AED, [Customs and Border Protection] was unable to target any of these packages for further inspection before they entered the United States.”

Yes.

- If confirmed, will you commit to investigating these concerns, and to working with the U.S. Department of State to correct underpricing of international mail?

Yes.

On assessing the USPS’ unfunded liabilities:

2. I believe the Committee would benefit from regular updates on the financial condition of the USPS, including “decomposing” the agency’s long-term liabilities into their respective elements and developing a plan to improve the management of those liabilities.
- Would you be supportive of efforts by the USPS Board of Governors to provide regular updates on the financial condition of the USPS to the Committee?

¹ <https://www.hsgac.senate.gov/subcommittees/investigations/hearings/combating-the-opioid-crisis-exploiting-vulnerabilities-in-international-mail>

The Board should require USPS transparency and actively engage with all stakeholders, particularly Congress. This includes the full disclosure of salient financial information of which stakeholders must be aware.

On overhead and labor costs:

3. As the USPS noted in its December 31, 2017 Form 10-Q filing², the USPS's "costs are heavily concentrated in wages and benefits for both current employees and retirees."
 - In your opinion, what is the role of the USPS Board of Governors in reviewing the percentage of operating expenses that are attributable to labor?

The U.S. Postal Service Board of Governors has similar duties to a corporate board of a public company. Generally, a board sets an organization's strategic direction and provides operational and financial oversight to ensure management is executing the agreed upon plan. Any strategic plan necessarily includes agreeing upon and monitoring expenditures, including labor costs.

- Would you be supportive of efforts by the USPS Board of Governors to review and conduct comparative analyses of the labor costs of the USPS relative to both its competitors as well as other public enterprises (such as transit systems, foreign posts, and quasi-government agencies such as the Tennessee Valley Authority)?

Businesses are helped when in a competitive world where they assess peers and similar companies to compare, analyze, contrast, learn, and improve. If confirmed, I would expect a careful and complete analysis of the Postal Service's and how it compares with other firms as a general business principle.

On pricing and organizational transparency:

4.
 - Would you be supportive of efforts by the USPS Board of Governors to review how USPS accounts for and allocates its costs among its various lines of business? Specifically, would you support analyses designed to determine whether and to what degree USPS "monopoly" products may be cross-subsidizing its competitive (parcel delivery) products? Would you support making the results of these analyses available to members of Congress and the public?

In any business, it is essential to understand actual costs. If confirmed, I would review how USPS accounts for and allocates its costs among its various lines of business.

Specific to the Postal Service, I would support analyses to determine to what degree USPS "monopoly" products may be cross-subsidizing its competitive, which is statutorily prohibited.

² <http://about.usps.com/who-we-are/financials/financial-conditions-results-reports/fy2018-q1.pdf>

I believe that the Postal Service should share as much information as is possible and prudent. As the Postal Service is in a competitive position, it must also protect commercially-sensitive business information, disclosure of which could advantage Postal Service clients and potential competitors.

- Where appropriate and if necessary, would you be willing to assist members of Congress in seeking additional information from the U.S. Postal Service on behalf of their constituents?

Yes.

**Senator Tom Carper
Post-Hearing Questions for the Record
Submitted to John M. Barger**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

Postal Regulatory Commission (for Mr. Barger)

1. In 2017, the independent Postal Regulatory Commission (PRC) found that parcels contributed \$7 billion more in revenue to the Postal Service than they cost to process to deliver. In fact, according to PRC calculations, the share of institutional costs covered by competitive products has quadrupled over the last decade. This tells me that these products are not being subsidized, as has been suggested. Instead, parcels are extremely profitable for the Postal Service and are helping defray the cost of universal mail service. I believe that growing parcel revenues helps to stabilize the Postal Service's finances and protects the Postal Service's ability to meet the obligation we place on it to deliver First Class Mail and other products to every address in the country.

- a. What are your views on this issue? Given the universal service obligation and the growing cost of Postal Service liabilities, what would you propose that the Postal Service do to make its package products more competitive?

Package delivery services are very competitive; further, the enterprises that succeed in competitive markets offer customers the best service at the lowest possible price.

If confirmed, I look forward to learning more from experts and staff about USPS products including packages: how they are pricing the projects, how the USPS allocates costs, and the regulatory and legal framework surrounding packages.

It is also my understanding that the Postal Regulatory Commission, following that law, prohibits cross-subsidization of the Postal Service's competitive products (e.g. packages) with USPS monopoly products (e.g. First Class mail). I must understand this better to provide a more defined position on the issue of package deliveries and how they fit into the USPS future.

Board of Governors (for Mr. Barger)

2. Under current law, the Postal Service's Board of Governors "shall represent the public interest generally" and "shall not be representatives of specific interests using the Postal Service." There are many businesses in my home state and across the country that use the Postal Service for mailing a variety of products, including businesses that have individual pricing and service agreements with the Postal Service.

- a. Can you speak to your ability to be impartial when it comes to the businesses and others who use and partner with the Postal Service?

If confirmed, I pledge to consider any proposal or plan from the perspective of what serves the public interest generally, given the objectives defined by Congress (i.e. the USO, the need for the Postal Service to be self-supporting, etc.) and the demands and constraints of the market. I will do my level best to treat everyone—customers, contractors, employees, management—fairly, keeping mind that I have been entrusted with the charge to protect the public interest in the broadest possible terms.

- b. Can you speak to your ability to be independent of the President and Postal Service management to make the best decisions for the Postal customers?

If confirmed, I will exercise my best, independent judgment as a Governor with fiduciary responsibilities, including to the public. I pledge to consider any proposal from the perspective of what serves the public interest and postal customers.

Financial Challenges of USPS (for Mr. Barger)

3. As you know, the Board of Governors was completely vacant for several years and without a quorum since 2014. Last year, we confirmed two members, but we know that is not enough to provide management and oversight review of this multi-billion dollar federal enterprise. We have two more competent nominees waiting approval. If confirmed, what steps will each of you take to evaluate the status of the Postal Service and the steps that need to be taken in the coming months to address both its short-term and long-term financial challenges?

If confirmed, I would first begin an extensive conversation with Postal management and other groups with knowledge of the Postal Service to understand their perspective on the specific challenges they see facing the Postal Service as operators, clients, and customers. These discussions will lead to more questions. I will be deliberate, taking care to not prejudge what steps are required.

- a. Given that no single part-time governor can possibly focus on everything, what will your main areas of interest be?

The most pressing issue facing the Postal Service is its business model, sustainability, and its challenged financial condition. If confirmed, I will work with management, my fellow Governors, and Congress to ensure USPS short term and long term sustainability.

Postmaster General (for Mr. Barger)

4. As you know, the Board of Governors is charged with hiring and overseeing the work of the postmaster general and other senior postal managers. If confirmed, what steps will you take to evaluate the team in place today?

The Board of Governors should provide oversight of senior management and hold management accountable for implementing and executing the USPS business plan, communicating clearly and completely with the board, and responding to dynamic and unforeseen situations. That said, every organization has a unique culture; my first priority will be to observe and assess the USPS culture and management team. If confirmed, I also look forward to learning which metrics or procedures are currently in place to evaluate senior management's performance.

- a. Going forward, what qualities would you look for when looking to fill key positions?

The USPS requires people with vision, tenacity, and a sense of urgency--tempered by resilience. I would place a premium on business leaders capable of leading a compelling vision for future while understanding how to manage the day-to-day needs and demands of a complex organization. The Board of Governors would also be wise to favor managers and leaders with a demonstrated capacity to perform.

Postal Service Business (for Mr. Barger)

5. As I'm certain you've learned through your preparations for this role, some of the Postal Service's core lines of business have been shrinking for more than a decade now. As a result, we've had a debate about what role the Postal Service should play in the years to come and what the American public wants it to do for them, and what it should do for them. There is no appetite here in Congress to shrink or eliminate the Postal Service's mission to delivery to every home and business. Given that, what should it be doing to innovate and bring in the revenue it needs to invest in capital and remain relevant to its customers?

While I look forward to more thorough analysis of the business, I believe that the existing network—the ability to reach nearly every American home and business—is the crucial and unique asset that must be leveraged to provide new revenue and stabilize the Postal Service financial position.

Vulnerabilities in the Postal Service (for Mr. Barger)

6. The Permanent Subcommittee on Investigations, which I lead with Senator Portman, identified vulnerabilities in the Postal Service's international mail acceptance process that allow packages containing fentanyl and other dangerous drugs to enter our country through the international mail stream.
 - a. If confirmed, how will you ensure that the Postal Service collaborates more effectively with U.S. Customs and Border Protection to stop this? How would you propose that the Postal Service and the State Department work with the Universal Postal Union to improve efforts to increase the amount of advanced electronic data received from foreign postal operators?

If confirmed, it would be a priority for me to ensure that the Postal Service and its senior management do everything possible to prevent illicit drugs in mail, including collaborating more effectively with U.S. Customs and Border Protection.

USPS senior management should have in place a defined, measurable plan to work more closely with all federal partners to protect our customers and employees and negotiate with the UPU. As a Governor, I would encourage USPS to work with experienced Federal officials and law enforcement experts to guide this process, including Customs and Border Protection and the State Department.

MSPB NOMINATION HEARING TESTIMONY

**B. Chad Bungard
MEMBER (TO BE DESIGNATED VICE CHAIRMAN) U.S. MERIT
SYSTEMS PROTECTION BOARD**

**SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL
AFFAIRS**

June 12, 2019

Chairman Johnson, Ranking Member Peters, and Members of the Committee: I would like to thank you for inviting me here today.

I would also like to thank my wife, Emma, our children, Max, Harry, Molly, and Beckett, my father and mother, my father-in-law and mother-in-law, and the rest of my family. I would also like to thank MSPB Legislative Counsel Rosalyn Coates and MSPB General Counsel Tristan Leavitt for their assistance in preparing me for this hearing.

Throughout my Federal career, I have been devoted to fighting corruption at the highest levels, increasing the effectiveness and efficiency of agencies and their programs to provide the best possible services to the American people, promoting the efficiency of the service, and fighting and preventing fraud, waste, and abuse in an effort to save taxpayer dollars and pursue recoveries for the taxpayers.

I believe that my experience has equipped me with a unique perspective from which to carry out the responsibilities of the Vice Chairman, and insight into the absolute importance of protecting the merit system principles and promoting an effective and efficient workforce, free of prohibited personnel practices.

Following my time in private practice in the area of Federal civil litigation, I have served in the Federal government since 2001. My Federal career began on the Hill, where I primarily focused on oversight, government reform, and Federal civil service policy.

I moved to the Executive Branch in 2006, as the General Counsel for the Merit Systems Protection Board. In that role, I acquired a thorough knowledge of MSPB's practices and procedures. In addition to serving as the chief legal officer for the Board and the MSPB's components, I oversaw the MSPB's heavy litigation docket before the U.S. Court of Appeals for the

Federal Circuit, and oversaw the preparation of dozens of draft decisions for the Board, including in petition for enforcement cases.

Several years later, I left the MSPB to serve as the Counsel to the Inspector General for the Social Security Administration (SSA). In that role, I was the chief legal officer for the SSA Office of the Inspector General for almost five years, where I served as SSA's first Whistleblower Protection Ombudsman for the entire agency's more than 65,000 employees. Under delegated authority from the Social Security Commissioner, I was also responsible for administering SSA's Civil Monetary Penalty Program, where I achieved unprecedented results for the taxpayers. I then served for a few years as the General Counsel for the Office of the Special Inspector General for the Troubled Asset Relief Program.

During my twelve years as a chief legal advisor for three different Federal entities, I performed complex legal analysis and provided advice on a wide range of legal issues. During those twelve years, I routinely provided supervision of legal advice and representation on agency personnel matters.

I currently serve as the Deputy Commissioner for the Office of Analytics, Review, and Oversight) at SSA. In that role, I am responsible for providing executive leadership to more than 2,000 employees, including leading the Office of Anti-Fraud Programs, the Office of Quality Review, the Office of Analytics and Improvements, and the Office of Appellate Operations, where SSA's Administrative Appeals Judges adjudicate appeals from SSA's Administrative Law Judges.

The MSPB is central to the application of the merit system principles to the Federal workforce. The nine merit principles focus generally on: (1) ensuring recruitment, retention, pay and other conditions of employment are determined solely on the basis of relative ability, knowledge, skills, and performance; (2) ensuring that employees maintain high standards of integrity, conduct, and concern for the public interest; (3) ensuring that employees are free from arbitrary action, personal favoritism, and reprisal for protected disclosures; and (4) ensuring employees are adequately trained, and that the federal workforce is used efficiently and effectively.

The merit principles are essential to the maintenance of an effective and efficient federal workforce. The Federal government has a unique role. The business of Government is to serve the American people. We must have a Federal workforce that the American people can count on, and key to that is protecting merit system principles and promoting a workplace free of prohibited personnel practices.

The Federal workforce needs to be able to recruit, retain, and promote the best and the brightest based solely on their skill and performance in carrying out the many Federal services for the American people. The Federal workplace must be free of arbitrary action and favoritism of any sort, and be committed to the highest standards of conduct and integrity. It must also be a workplace where employees are encouraged to come forward with ideas for improving business practices and to report fraud, waste, or abuse, without fear of retaliation. If we strive for that, then there is no reason the Federal government cannot compare favorably to leading private sector organizations. Effective stewardship of taxpayer funds is a crucial responsibility of Government, from preventing fraud to maximizing impact.

That is why the MSPB'S mission is so important. If confirmed, I commit to protecting the merit system principles and promoting an effective workplace free of prohibited personnel practices by reviewing and adjudicating each case with an open mind, good judgment, and impartiality. I will fully and fairly analyze the arguments and decide every case based on the facts in the record and in accordance with the rule of law. I will decide matters independently, without fear or favor, and to the best of my ability. It is absolutely essential that the Board inspire public confidence in its independence, integrity, and impartiality. I will also strive to ensure that the MSPB's studies and review of OPM rules contribute to the management of the Federal workforce in accordance with merit system principles and promote a workplace free of prohibited personnel practices.

In sum, I believe that my background and extensive experience uniquely qualifies me for the rigors of the position of Vice Chairman of the Board and provides me with a profound understanding of the need to ensure the protection of the merit system principles and to promote an effective Federal workforce free of prohibited personnel practices.

I would be happy to answer any questions that you may have. Thank you.

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
Member, Merit Systems Protection Board	April 30, 2019

<i>Current Legal Name</i>			
First Name	Middle Name	Last Name	Suffix
Brandon	"Chad"	Bungard	

<i>Addresses</i>					
Residential Address (do not include street address)			Office Address (include street address)		
			Street: 6401 Security Blvd.		
City: Annapolis	State: MD	Zip: 21401	City: Baltimore	State: MD	Zip: 21235

<i>Other Names Used</i>						
First Name	Middle Name	Last Name	Suffix	Check if Maiden	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
B.	Chad	Bungard			1996 Est √ <input type="checkbox"/>	Present Est <input type="checkbox"/>
	Chad	Bungard			3/73 Est <input type="checkbox"/>	Present Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1973	Parkersburg, WV

<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
Emma	Kate	Bungard	

<i>Spouse's Other Names Used</i> (current spouse only)							
First Name	Middle Name	Last Name	Suffix	Check if Maiden	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)	
Emma	Kate	Fitzgerald		<input checked="" type="checkbox"/>	2/73 Est <input type="checkbox"/>	5/2001 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>
Community College of Beaver County (PA)	College	8/1991 <input type="checkbox"/>	5/1993 <input type="checkbox"/>	A.S.	5/1993
Liberty University	University	8/1993 Est <input type="checkbox"/>	12/1995 Est <input type="checkbox"/> Present <input type="checkbox"/>	B.S.	12/1995
Regent U. School of Law	Law school	6/1996 Est <input type="checkbox"/>	5/1999 Est <input type="checkbox"/> Present <input type="checkbox"/>	J.D.	5/1999
George Mason U. School of Law	Law school	8/2003 Est <input type="checkbox"/>	12/2005 Est <input type="checkbox"/> Present <input type="checkbox"/>	LL.M.	12/2005

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. (Professional experience – last 20 years).

<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)
Private Practice	Bopp, Coleson, and Bostron/Terre Haute, Indiana	Associate Attorney	Terre Haute, IN	Est 8/1999 <input type="checkbox"/>	Est 8/2001 <input type="checkbox"/>
Federal Employment	U.S. House of Representatives, Committee on Government Reform/ Washington, DC	Counsel	Washington, DC	Est 8/2001 <input type="checkbox"/>	1/2003Est <input type="checkbox"/>
Federal Employment	U.S. House of Representatives, Committee on Government Reform Subcommittee on the Federal Workforce and Agency Organization/ Washington, DC	Chief Counsel/Deputy Staff Director	Washington, DC	Est 2/2003 <input type="checkbox"/>	Est 10/2006 <input type="checkbox"/>
Federal Employment	U.S. Merit Systems Protection Board/Washington, DC	General Counsel	Washington, DC	10/2006	1/2010
Federal Employment	U.S. Merit Systems Protection Board/Washington, DC	Counsel to Vice Chair	Washington, DC	Est 1/2010 <input type="checkbox"/>	Est 5/2010 <input type="checkbox"/>
Unemployed	(Hired by SSA Office of the Inspector General in 4/2010 – waited on OPM clearance until 7/2010)	Unemployed	Washington, DC	5/2010	7/2010
Federal Employment	Social Security Administration Office of the Inspector	(Chief) Counsel to the Inspector General	Baltimore, MD	7/2010Est <input type="checkbox"/>	1/2015Est <input type="checkbox"/>

	General/Baltimore, MD				
Federal Employment	Office of the Special Inspector General for the Troubled Asset Relief Program/Washington, DC	General Counsel	Washington, DC	1/2015	8/2018
Federal Employment	Social Security Administration/Baltimore, MD	Deputy Commissioner for Analytics, Review, and Oversight	Baltimore, MD	8/2018	Present

(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)
U.S. Court of Appeals for the Federal Circuit Biennial Judicial Conf.	Member, Steering Committee	2008 Est <input type="checkbox"/>	2008 Est <input checked="" type="checkbox"/>
American Bar Association Young Lawyers Committee in the Government and Public Sector Lawyers Division	Vice-Chair, Section of Administrative Law and Regulatory Practice	2/2008	2/2009
State of the Public Service Conference (hosted by the Partnership for Public Service)	Participant	June 2007	June 2007
Vigo County Election Board, Vigo County, IN	Assistant Member	1999 (Est.)	2000 (Est.)

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. 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.

- o Fighting Internet Scams - Section 1140 of the Social Security Act:
 - Background: Section 1140 is, in general terms, a consumer protection tool against misleading SSA-related advertising.
 - Achievements: As a critical part of our consumer protection activities, in addition to litigation efforts, I initiated an unprecedented outreach program with major, private corporations to combat the alarming increase in violations of Section 1140 of the *Act* using the Internet, mobile apps, social networking sites, and other technology. In an effort to deter and eliminate Social Security-related Internet fraud, I met with senior executives from more than a dozen companies overall, that somehow play a part in fraudulent schemes operating in violation of Section 1140 of the *Social Security Act* (i.e., search engines, domain registrars, and financial institutions). In particular, during FY 2012, I met with senior officials from Google, Yahoo!, Microsoft (Bing), GoDaddy, web.com, Demand Media, Discover, JPMorgan Chase, eBay/PayPal, Visa, MasterCard, and American Express and others, and the General Counsel of Apple. Such meetings were hugely successful.
 - Since the inception of the outreach program, we were able to shut down more than 100 Internet-based fraud schemes through aggressive enforcement and outreach efforts without the need of protracted litigation. Based on our outreach efforts, Google and Microsoft (which operates both Bing and Yahoo! search engines) modified their *AdWords Terms and Conditions* and *Ad Content and Style Guidelines* policies, respectively, to reflect the broad prohibitions of Section 1140 and protect its users from advertisements, websites, and businesses that create the false impression of a connection with a governmental agency. Both companies also implemented policies to prohibit the sale of free government forms. I wrote an article on our Section 1140 outreach efforts. This article was published in the JOURNAL OF PUBLIC INQUIRY, in January 2013 which is available at <https://www.ignet.gov/sites/default/files/files/jpi-fall-winter-2012-2013.pdf>.
 - I nominated my team for an award in 2014 related to this work. This outreach worked to Harvard University recognizing me and my team as one of twenty-five finalists for its Innovations in Government Award in 2015 for its work from 2011 - 2014. At the time, since the award's inception, only 500 government innovations across all jurisdiction levels have been recognized out of 27,000 applicants.
- o Received a "Special Act Award" in December 2007 for my "creativity in resolving difficult issues and the establishment of more efficient policies and practices in the Office of the General Counsel," and for "creat[ing] and strengthen[ing] independent relationships with the Board Members in a short period of time."
- o Received a "Special Act Award" in February 2009 for "exhibiting outstanding leadership and initiative within [my] program office and throughout the Agency." I received special attention for spearheading an adjudication partnership with the Transportation Security Administration and for my role as a member of the MSPB Performance Review Board in securing full certification (for the first time) for the agency's senior executive service performance plan from the Office of Personnel Management and the Office of Management and Budget.
- o Received MSPB Chairman's Award of Managerial Excellence for Superior Achievement and Performance in April 2009.
- o Received MSPB Chairman's Group Award of Managerial Excellence for Superior Achievement and Performance in April 2009.

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>
See Above.		

7. Political Activity

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

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service</u> (if applicable)
Candidate, Republican State Convention District Delegate, Indianapolis, Indiana (2000).	Candidate Only	N/A	New to Area (Lost Election)

(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>
Nominated by President George W. Bush on April 2, 2008 to be General Counsel of the Federal Labor Relations Authority. (Slightly outside of ten year period).	N/A	N/A	N/A

(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>
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None in the past five years that I recall		
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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>
B. Chad Bungard, <i>An Ounce of Outreach Is Worth A Pound of Enforcement</i> , JOURNAL OF PUBLIC INQUIRY, Fall/Winter 2012-2013 pgs. 13-18.	JOURNAL OF PUBLIC INQUIRY (Associated with the Council of the Inspectors General on Integrity and Efficiency (CIGIE))	Published – Fall Winter 2012/2013 FOUND HERE: https://www.law.columbia.edu/sites/default/files/microsites/public-integrity/outreach_and_enforcement-journal_of_public_inquiry_1.pdf
B. Chad Bungard, <i>Fee Fie Foe Fum: I Smell the Efficiency of the English Rule, Finding the Right Approach to Tort Reform</i> , 31:1 SETON HALL LEGIS. J. 1 (Spring 2006) (Lead article).	SETON HALL LEGISLATIVE JOURNAL	Published – Fall 2006 SEE ATTACHED
B. Chad Bungard, <i>Indecent Exposure: An Economic Approach to Removing the Boob from the Tube</i> , 13:2 UCLA ENT. L. REV. 187 (Spring 2006).	UCLA ENTERTAINMENT LAW REVIEW	Published – Spring 2006 SEE ATTACHED

B. Chad Bungard, <i>You Can't Touch This: A Lesson to Legislators on Political Speech</i> , 1 N.C. (UNIVERSITY OF NORTH CAROLINA) FIRST AMENDMENT L. REV. 13 (Spring 2003).	UNIVERSITY OF NORTH CAROLINA FIRST AMENDMENT LAW REVIEW	Published – Spring 2003 SEE ATTACHED AND FOUND HERE: https://scholarship.law.unc.edu/cgi/viewcontent.cgi?article=1003&context=fair
Barry A. Bostrom, B. Chad Bungard, and Richard Seron, <i>John Salvi III's Revenge From the Grave: How the Abatement Doctrine Undercuts the Ability of Abortion Providers to Stop Clinic Violence</i> , 5 No. 2, N.Y. CITY L. REV. 141 (Fall 2002).	NEW YORK CITY LAW REVIEW	Published – Fall 2002 SEE ATTACHED
B. Chad Bungard, <i>Offshore Banking in the British Dependencies</i> , 9 TOURO INT'L L. REV. 141 (Spring 2001).	TOURO INTERNATIONAL LAW REVIEW	Published – Spring 2001 SEE ATTACHED
Recognized as a Practitioner	Black's Law Dictionary	Published – Approximately 2009

Contributor in the 9th Edition of Black's Law Dictionary. (Book)		It is a large book. I can provide you with a copy. My name is listed as a practitioner contributor.
(Contributing author - recognized) Congressional Report, "Every Thing Secret Degenerates: The FBI's Use of Murderers As Informants," House Committee on Government Reform, 108th Cong., 2d Session, H.R. Rept. No. 108-414 (2004).	House Committee on Government Reform, 108th Cong., 2d Session, H.R. Rept. No. 108-414	Published - 2004 FOUND HERE (large - two volumes): https://www.congress.gov/congressional-report/108th-congress/house-report/414
B. Chad Bungard, Truth and Justice are the Ultimate Values, Virginian Pilot (Newspaper), Dec. 5, 1998.	Virginian Pilot	Published - December 5, 1998 SEE ATTACHED
Case Law	Dozens of Federal Court Opinions and Orders	I am listed as an attorney of record in dozens of U.S. Court of Appeals for the Federal Circuit decisions in my capacity as General Counsel for the U.S. Merit Systems Protection Board, as well as in other cases in Federal Courts throughout the country where I represented clients prior to my time in the Federal government. I am likely listed in other Federal and State court and administrative opinions and orders, including a Department of Justice Office of Legal Counsel opinion where my input was sought, entitled <i>Admissibility in Federal Court of Electronic Copies of Personnel Records</i> (May 30, 2008), in my role as a chief legal officer at the MSPB, SIGTARP, and the SSA OIG, where I administered the Civil Monetary Penalty Program. (Most, if not all such opinions and orders (and possibly submissions, such as briefs and pleadings), can likely be found on Westlaw or LexisNexis).
Congressional Hearings	Dozens of Congressional Hearings	During my time on the Hill, I was involved in my official capacity as a Committee or Subcommittee staffer in approximately forty hearings. I believe all of these hearings, in which I had a part, were published by the U.S. Government Publishing Office and the transcripts list my name in the hearing transcript as attending the hearing. I believe all such hearings can be found through Internet searches.

(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>
B. Chad Bungard, General Counsel, U.S. Merit Systems Protection Board, Statement to the Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, "The Perils of Politics in Government: A Review of the Scope and Enforcement of the Hatch Act," Hearing, October 18, 2007.	Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia.	October 18, 2007 FOUND HERE: https://www.hsgac.senate.gov/imo/media/doc/BungardTestimony.pdf

(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.

PROFESSIONAL PRESENTATIONS

Throughout my Federal career, I have provided countless internal formal presentations to agency employees on a wide-variety of issues (including management meetings and legal, ethics, policy, legislative, and leadership training to MSPB leadership and employees, SSA Office of the Inspector General (OIG)'s Senior Staff and SSA OIG's Office of Audit and Office of Investigations (at Managers' Conferences and office visits), SIGTARP leadership and employees, and SSA leadership and employees since 2006). I have also provided dozens of briefings to the Hill and OMB on various agency issues throughout my career. In my current role as Deputy Commissioner for Analytics, Review, and Oversight, I provide OMB and the Hill with routine briefings on agency matters. I have also updated the Social Security Advisory Board on my component's activities in November 2018. Please let me know if there is any presentation below that interests you and I will do my best to compile all notes that I may still have on the subject.

Additionally, please find below to the best of my ability a comprehensive list of formal presentations that I have made throughout my career (other than what was covered up above):

Guest Lecturer, *Fighting Social Security Fraud through the Civil Monetary Penalty Program*, Social Security Fraud Conference, Baltimore, MD, Sept. 18, 2014.

Guest Lecturer, Fraud Awareness Workshop, "Understanding Schemes Targeting Social Security Beneficiaries,"

Las Vegas, NV, April 29-30, 2014.

Guest Lecturer, "*Pursing Settlement Agreements at the MSPB*," Fraternal Order of Police Conference, Myrtle Beach, South Carolina, March 2011.

Guest Lecturer, "*Alternative Discipline Agreements*," Twenty-fourth Annual Federal Dispute Resolution Conference, Phoenix, Arizona, August 11, 12, 2009.

Guest Lecturer, "*Drafting Adverse Action and Proposal Decision Letters that Withstand Scrutiny*," United States Military Entrance Processing Command National Training Conference, St. Charles, Illinois, November 20, 2008.

Guest Lecturer, "*Government Ethics Laws*," George Mason University School of Law, Arlington, Virginia, September 24, 2008.

Guest Lecturer, "*Alternative Discipline Agreements*," Twenty-third Annual Federal Dispute Resolution Conference, Orlando, Florida, August 6, 2008.

Guest Lecturer, "*MSPB Settlement Practices*," USDA 2008 Civil Rights, EEO & Diversity Conference, Silver Spring, Maryland, April 15, 16 2008.

Guest Lecturer, "*An Update on Merit Systems Protection Board and Federal Circuit Precedent*," Federal Employment Lawyers Group, Arlington, Virginia, July 16, 2007.

Panelist, "*Most Influential Federal Circuit Decisions over the last 25 Years*," Federal Circuit Bar Association Bench and Bar Conference, Cambridge, Maryland, June 28, 2007.

Panelist, "*Honoring Government Attorneys Practicing Labor and Employment Law*," American Bar Association Public Service Recognition Lunch, Washington D.C., May 3, 2007.

Panelist, "*Funding the Care Revolution: How to Pay for HIT? The Public and Private Sector: OPM Trust Fund Case Study*," The Third Health Information Technology Summit, Washington D.C., September 26, 2006.

Panelist, "*Update on Legislation Affecting Federal Employees*," Twenty-first Annual Federal Dispute Resolution Conference, San Antonio, TX, August 24, 2006.

Panelist, "*Congressional Staffers Roles and Responsibilities*," Brookings Institute Center for Executive Education, Washington, D.C., May 9, 2006.

Guest Lecturer, "*Administrative Law Judge Pay and Retirement Reform*," The 2006 Federal Bar Association Legislative Summit on Administrative Law Judge Issues, Washington, D.C., January 11, 2006.

Guest Lecturer, "*Personal Health Records*," EHealth Initiative Policy Working Group, Washington, D.C., December 13, 2005.

Luncheon Speaker, "*Proposal to Transform Healthcare Using the Federal Employees Health Benefits Program*," Health Information Management Systems Society (HIMSS) Government Relations Roundtable, Washington, D.C., October 4, 2005.

Guest Lecturer, "*State Department Civil Service Orientation Course*," Foreign Service Institute, Washington, D.C., January 6, February 17, April 21, 2005, and April 27, and July 27, 2006.

Panelist, "*The Long Range Implications of HR Reform*," DC Area Fed Forum, FPMI Solutions, Inc., Alexandria, VA, December 15, 2004.

Panelist, "*Administration and Independence: OPM, ALJs, and the APA*," 2004 American Bar Association Administrative Law Conference, Washington D.C. Convention Center, October 21, 2004.

Guest Lecturer, presented lecture "*The Department of Homeland Security's Personnel Management System*," The Government Affairs Institute at Georgetown University, Washington D.C., June 23, 2004.

Guest Lecturer, presented lecture "*The Latest on Civil Service Issues*," The Government Affairs Institute at Georgetown University, Washington D.C., June 9, 2004.

Guest Lecturer, presented lecture "*Committee Jurisdiction: A Close Look at the Movement of the 2003 Defense Authorization Bill*," The Government Affairs Institute at Georgetown University, Washington D.C., June 9, 2003.

Guest Lecturer, presented lecture "*Pay for Performance: A Good Idea for the Federal Government?*" The Federal Aviation Administration, Washington D.C., May 21, 2003.

Guest Lecturer, presented lecture "*Hot Civil Service Issues for the 108th Congress*," The Government Affairs Institute at Georgetown University, Washington D.C., May 2, 2003.

Guest Lecturer, presented lecture on U.S. tort law to international lawyers and judges, U.S. Law Institute, Ronald Reagan Building and International Trade Center, Washington D.C., July 29, 2002.

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 – I do not believe so. However, a few years ago I received a reckless driving citation in Virginia (on the Chesapeake Bridge around or in Virginia Beach, Virginia) for exceeding the 55 mph speed limit at or around 20 mph beyond the 55 mph speed limit. I don't recall whether the initial citation was \$300 or more. I do not think it did exceed \$300; but, I cannot recall for certain. The ultimate monetary citation was reduced to I believe below \$300. The actual citation was reduced to a citation below reckless driving – I believe speeding. But, again, I do not believe that the initial or final citation itself exceeded \$300.
 - I may have also received a reckless driving citation more than 20 years ago at an unknown vicinity in Virginia on my way home to Pennsylvania from college, as I was exceeding the speed limit (I do not recall the speed; but, it was on a four lane highway and if I recall correctly it was somewhere between 75-85 mph). I was probably between the age of 20-22. However, because it was far away from my university and home and I was not required to appear, I just paid it. But, I do not recall the amount or the title of the actual citation. I do not have a recollection that the citation exceeded \$300.
- 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).

See above. If I had anything reportable, which I do not believe is the case, it would have been due to a speeding-related offense only – nothing whatsoever related to anything else, including drugs or alcohol. Everything I recall was stated above.

A) Date of offense: See above.

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

B) Description of the specific nature of the offense: See above.

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- NO
- 2) Firearms or explosives: Yes / No- NO
- 3) Alcohol or drugs: Yes / No- NO

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

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 – **SEE ABOVE**

1) Name of the law enforcement agency that arrested/cited/summoned you: CAN'T RECALL – SEE ABOVE

2) Location of the law enforcement agency (city, county, state, zip code, country): CAN'T RECALL – SEE ABOVE

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. **SEE ABOVE**

1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country): UNKNOWN

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 or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense: The most recent was changed from Reckless Driving to I believe a speeding ticket; but, it was definitely reduced. The one that I recalled from approximately 20 years ago, I am unsure of the charge and how much I paid for the ticket.

3) If no, provide explanation: SEE ABOVE

G) Were you sentenced as a result of this offense: Yes / No. **NO**

H) Provide a description of the sentence: INAPPLICABLE

- I) Were you sentenced to imprisonment for a term exceeding one year: **Yes / No. NO, OF COURSE NOT.**
- J) Were you incarcerated as a result of that sentence for not less than one year: **Yes / No. ABSOLUTELY NOT.**
- K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated: **N/A**
- L) If conviction resulted in probation or parole, provide the dates of probation or parole: **N/A**
- M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No. N/A.**
- N) Provide explanation: **N/A.**

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. I HAVE NOT HAD ANY PERSONAL ACTIONS INVOLVING ME PERSONALLY IN RESPONSE TO THE ABOVE.

In thinking about it, however, I do recall being involved in an accident in Virginia (near Williamsburg, VA on I-64) in May/June 1999 on my way to an interview with a law firm in DC. I was (probably due to being in the driver's blind side) forced out of the right hand lane run by large dump truck into a construction site off the road. The police found that I was not at fault. They could not find the perpetrator. I have a recollection that it was the Virginia State Police who found that I was not at fault. I was taken to the ER immediately after the accident. I was deposed by a company who owned property at the construction site several months after the accident. My insurance company represented me and I am unaware of the outcome.

(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.

(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.

ANSWERS TO B AND C BELOW COMBINED.

To my knowledge, there have never been any adverse findings related to any workplace discrimination, performance, or misconduct allegations or actions made against me.

As you know, in government, when a manager takes a performance or misconduct-based action against an employee or some other management action where an employee believes he or she has been adversely affected, it is often common for that employee to file an EEO complaint (or a related action) against the supervisor or supervisors responsible for taking the personnel action that impacts the employee.

Based upon my best recollection, on or around 2011, there was one EEO complaint aimed at me and another supervisor, my acting deputy at the time, after we denied her a certain privilege related to advanced leave. It is my recollection that the complainant dropped that matter at the informal stage. To my knowledge and recollection, that individual did not file a formal complaint against me or the aforementioned first-line supervisor. And, there certainly was no adverse finding made against me in that matter.

On or around 2013-2014, my deputy issued a proposed notice to remove an employee for both poor performance and misconduct. She filed an EEO action against my deputy, as her first-line supervisor, and me as her second-line supervisor. In my view, these were also frivolous claims, and there was never an adverse finding made against me by any entity. She eventually withdrew all of her EEO claims against both me and my deputy in the form of settlement, where she was able to get the Bruner presumption. In other words, she agreed to be removed by the agency for being physically unable to perform her official duties. In turn, she received a presumption that she was disabled and eligible to receive a Federal disability annuity. This settlement had nothing to do with any finding or belief by any entity or my supervisory chain that management, including myself, discriminated against her in any way. Again, she voluntarily dismissed all pending EEO actions against the agency.

In December 2018, I was required to submit an affidavit as part of an EEO complaint during my time with the Department of Treasury. I was listed as a witness by the Complainant (Brian Sane) in my role as the General Counsel of SIGTARP (where I served from January 2015 – August 2018). In the affidavit, the Complainant

made various false allegations about my role in his case. I disputed his allegations in my affidavit. To my knowledge, there were no adverse findings made against me by the Treasury Office of Civil Rights and Diversity, the EEOC, or any other entity.

On or around 2017-2018, as the General Counsel for SIGTARP, I responded to anonymous allegations received by the Council of the Inspectors General on Integrity and Efficiency's (CIGIE) Integrity Committee about me and the Inspector General. The allegations about me were absolutely false, and the anonymous person making the allegations was misinformed and had no basis for his or her allegations. Upon receipt of my response, the CIGIE Integrity Committee closed the matter and the Integrity Committee made no adverse findings against me whatsoever.

Although not technically an investigation or proceeding, as far as I know, on or around 2011-2012, the IRS asked me and my wife about cash deposits that she made to shared branches of our main checking account, the Congressional Federal Credit Union, from her law firm account, Wells Fargo. Because we lived relatively far away (Fredericksburg, VA (2007 – 2010) and then Annapolis, MD (2010-present)) from an actual branch of the Congressional Federal Credit Union, it was more expeditious for my wife to deposit cash into Congressional Federal Credit Union shared branches so that we could have instant access to the money in order to pay our bills. I believe the inquiry resulted from SARS reports that were generated by the Congressional Federal Credit Union that received the deposits over a period of time. My wife ran her own law firm for many years. And, again, especially at the outset, out of pure convenience, my wife withdrew money from her business account in Wells Fargo and deposited it into a shared branch of our main checking account, the Congressional Federal Credit Union, to pay our bills. The IRS quickly closed the matter after we explained the situation and the IRS realized that we were not engaging in any misconduct or nefarious activity. There was no finding of any wrongdoing or misconduct whatsoever.

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.

I am currently licensed to practice law in Virginia. My law license number is 43892. I am an active member of the Virginia bar and renew every year. I am a member in good standing and my membership has been renewed every year since I have been admitted, most recently in July 2018. It is not due for renewal until July 2019.

I have never been disciplined or cited for a breach of ethics or unprofessional conduct. However, I have been the subject of a complaint filed by a former client with the Virginia State Bar. In particular, in 2000, the Virginia State Bar investigated a complaint from one of my clients in which she alleged that I improperly withdrew from her case. Later that year, on September 1, 2000, the Virginia State Bar dismissed the complaint and found that the "investigation that the Virginia State Bar conducted with regard to [this] complaint against Brandon Chad Bungard did not disclose any evidence that Mr. Bungard engaged in professional misconduct." In fact, the Bar found that "Mr. Bungard cannot be faulted from withdrawing as counsel" and "did not engage in any misconduct." In sum, my actions were proper and ethical.

(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

☒ 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.

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.

16. Additional Financial Data

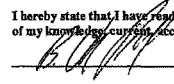
All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

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.



This 5th day of May, 2019

REDACTEDUNITED STATES OFFICE OF
GOVERNMENT ETHICS

May 2, 2019

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 B. Chad Bungard, who has been nominated by President Trump for the position of Member, Merit Systems Protection Board.

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,
DEBORAH
BORTOT

Digitally signed by DEBORAH
BORTOT
Date: 2019.05.02 18:18:46
-0400

Deborah Bortot
Chief, Presidential Nominations Branch

Enclosures **REDACTED**

Tristan L. Leavitt
 Designated Agency Ethics Official
 U.S. Merit Systems Protection Board
 1615 M Street, N.W.
 Washington, DC 20419

May 1, 2019

Dear Mr. Leavitt:

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 Member of the Merit Systems Protection Board.

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 spouse is the proprietor of the Bungard Law Office, LLC. For as long as my spouse continues to have an interest in this firm, 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 firm, 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, my spouse is employed by the law firm of DiPietro Law Group, PLLC, from which she receives a fixed salary and a bonus tied to her performance. For as long as my spouse continues to work for DiPietro Law Group, PLLC, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on my spouse's compensation or employment with the firm, 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 my spouse's employer or any 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).

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 will meet in person with you during the first week of my service in the position of Board Member 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 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,



B. Chad Bungard

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of B. Chad Bungard to be
Member, Merit Systems Protection Board**

I. Nomination Process and Conflicts of Interest

1. Did the President give you specific reasons why he nominated you to serve as Vice Chairman of the Merit Systems Protection Board (MSPB)?

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 Vice Chairman of the MSPB? 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.

My Management Support Staff has received my approval on a few personnel actions that could possibly make their way to the Board. They will provide me with the (short) list of cases if I am confirmed. Thus, if I am faced with an actual conflict of interest, or the appearance of a conflict of interest, I will consult with MSPB's General Counsel (GC) and Designated Agency Ethics Official (DAEO) and take all appropriate steps in accordance with the advice that I receive from the MSPB GC and DAEO, including recusal where necessary. If I have to recuse myself from any matter, I will follow the guidance from the MSPB GC and DAEO and follow the necessary processes to ensure that my responsibilities are not affected by any necessary recusal.

II. Background of the Nominee

5. What specific background and experience affirmatively qualify you to be Vice Chairman of MSPB?

I have served in the Federal government since 2001, including more than twelve years in the Senior Executive Service as a chief legal officer in three separate federal entities in the Executive Branch and currently as a Deputy Commissioner for the fourth largest component in the Social Security Administration (SSA). During my time in the Executive Branch, I have served as the General Counsel for the Merit Systems Protection Board (MSPB), (Chief) Counsel to the Inspector General (IG) for SSA, the General Counsel for the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP), and as the Deputy Commissioner for the Office of Analytics, Review, and Oversight. I have achieved unprecedented success in these roles and have always carried out my responsibilities with fairness, respect, integrity, and collaboration.

I also have significant experience in the application of legal thought, research, professional development and practice at the General Counsel level. Throughout my career, I have performed complex legal analysis. I produced numerous legal opinions on the widest range of legal issues and made numerous oral presentations appropriate for the intended audience.

While serving as the General Counsel of the MSPB from October 2006 – January 2010, I became

intimately aware of its practices and procedures and was even responsible for developing many of them. I also achieved tremendous success overseeing MSPB's heavy litigation docket before the U.S. Court of Appeals for the Federal Circuit (Federal Circuit), where we had independent litigation authority. In fact, my team won more than ninety percent of its appeals during my tenure. As the General Counsel of the MSPB, I reviewed and signed more than two hundred briefs filed in the U.S. Court of Appeals for the Federal Circuit, and provided strategic advice in the majority of those filings. I have also overseen the preparation of and reviewed approximately 75 draft decisions for the Board on assigned cases. During my time as MSPB General Counsel, attorneys from MSPB's Office of the General Counsel presented oral arguments before appellate courts more than a dozen times each year. I was responsible for ensuring that each attorney was prepared before presenting an oral argument by conducting a moot court of the argument. I also administered the MSPB's Petition for Review Settlement Program. I also worked with the Federal Circuit Court to resolve procedural issues in the handling of MSPB appeals in a way that was mutually satisfactory to both entities; by addressing such issues early on in my tenure at the MSPB, I quickly earned then-Chief Judge Paul Michel's admiration and respect, which resulted in him sending a letter to the MSPB Chairman praising my efforts and ultimately appointing me to the Federal Circuit's Steering Committee for the Federal Circuit's biennial Judicial Conference.

I have significant experience in managing significant litigation dockets throughout my career, engaging in the private practice of Federal civil litigation in Federal courts throughout the country, providing significant assistance to OIG investigators in the prosecution of social security fraud and bank-related cases, and overseeing and administering an aggressive civil monetary penalty program at the Social Security Administration. Throughout my career as a chief legal officer, I have also overseen agency work in the defense of MSPB appeals and Equal Employment Opportunity Commission (EEOC) complaints and suits and provided strategic advice and leadership in the drafting of numerous documents related to federal employment law, the EEOC, and administrative reports.

I also possess significant knowledge of the practice and procedures of the Office of Special Counsel (OSC). The MSPB adjudicates complaints alleging violations of prohibited personnel practices and of the Hatch Act (a law that places restrictions on political activity by federal employees) that are filed by OSC. As MSPB General Counsel, my office represented the MSPB in litigation of appeals of MSPB Hatch Act determinations in Federal courts. I also testified before the U.S. Senate on MSPB's role in adjudicating Hatch Act cases.

When I served as (Chief) Counsel to the IG for SSA, I spearheaded and oversaw numerous investigations conducted at the request of OSC. Pursuant to the Whistleblower Protection Enhancement Act of 2012, the IG at SSA designated me, as the first whistleblower protection ombudsman (WPO) for SSA, to carry out such responsibilities and educate more than 65,000 agency employees who have made or were contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures. I created the WPO hotline and tracking program, the content for the SSA WPO website, and trained all SSA employees through a video-on-demand training course.

As the Deputy Commissioner for the Office of Analytics, Review, and Oversight (OARO), I provide executive leadership in supporting the agency's mission, goals, and service principles by reviewing program quality and effectiveness; making recommendations for program improvement using feedback from the adjudication of cases, predictive modeling, and advanced data analysis; coordinating the agency's detection and prevention of fraud; tracking and preventing improper payments and responding to recommendations of external monitoring authorities. As the Deputy Commissioner for OARO, I am directly responsible to the SSA Commissioner for carrying out the OARO mission and providing managerial direction to all OARO components. I supervise more than 2,000 employees, including 60 Administrative Appeals Judges and eight Senior Executive Service employees. In particular, I supervise the executives and staff of the following offices within OARO, along with my immediate office: 1) The Office of Analytics and Improvements; 2) The Office of Anti-Fraud Programs; 3) The Audit Liaison Staff; 4) The Office of Quality Review; and 5) The

Office of Appellate Operations office The Office of Appellate Operations is the final level of administrative review under the Administrative Procedure Act for claims filed under the Social Security Act. In this role, I have taken major steps to improve the quality of (Administrative Law Judge) ALJ decisions that we review. I also represent the agency in meetings with White House and congressional staff on a routine basis.

I also possess significant legislative experience. It has been an inherent part of all of my job responsibilities throughout my career. For example, at SSA OIG, I represented the Inspector General at the Council of the Inspectors General on Integrity and Efficiency (CIGIE) Legislation Committee meetings and provided feedback on various CIGIE initiatives and attend related meetings on the Hill. As the General Counsel of the MSPB, one of my principal responsibilities was to coordinate the MSPB's legislative policy and Congressional relations. I have also overseen and conducted numerous briefings for various members of Congress and congressional staff members and developed and reviewed legislative proposals affecting the MSPB's operations.

Earlier in my career, I served more than five years in the Legislative Branch in senior roles, playing key roles in the passage of good government legislation (e.g., the Federal Workforce Flexibility Act, the Federal Law Enforcement Pay and Benefits Parity Act, and the Federal Employee Dental and Vision Benefits Enhancement Act), providing aggressive oversight over agencies within the Committee's jurisdiction, including over the MSPB, OSC, the Office of Government Ethics (OGE), and the Office of Personnel Management (OPM), among others, to make agency programs and operations more effective and efficient for the taxpayers through more than forty hearings and dozens of meetings, and conducting bipartisan investigations into public corruption, which led to the passage of a committee report, in which I was a contributing author, *Everything Secret Degenerates*, 108th Cong., 2d Session, H.R. Rept. No. 108-414 (2004).

I have demonstrated experience interfacing with a varied audience, including senior and subordinate managers, other Federal agencies, and external stakeholders and with demonstrated experience in communicating, negotiating, and advocating to the highest levels within a Federal agency to defend legal matters related to agency practice. Throughout my career, I have performed complex legal analysis and managed a significant Federal Court and administrative litigation docket. In particular, I produced numerous legal opinions on the widest range of legal issues, provided the timely adjudication and quality of draft MSPB petition for enforcement decisions and appellate reviews of SSA ALJ decisions.

6. What experience, if any, do you have in deciding cases, resolving disputes, or performing the other duties required in serving as Vice Chairman of the MSPB?

When I served as the MSPB General Counsel, I oversaw the preparation of and reviewed approximately 75 draft decisions for the Board in cases in which: 1) A party sought review of an Office of Personnel Management ("OPM") regulation or an agency's implementation of an OPM regulation; 2) OPM asked the Board for reconsideration of a Board decision; or 3) An Administrative Judge issued a recommendation for enforcement of a Board decision – Petition for Enforcement Decisions. I also administered the MSPB's Petition for Review Settlement Program. At the MSPB, I have also overseen the preparation of and reviewed more than a dozen draft decision letters in which: 1) A party appealed the denial of a Freedom of Information Act request; and 2) A party appealed the denial of a Privacy Act request.

I possess significant knowledge of federal information law. As MSPB General Counsel, I issued several internal legal advisory opinions to the Chairman, the Board and the Board's organizational components regarding the Freedom of Information Act (FOIA), the Privacy Act, and the Sunshine Act (an area of law of extreme importance to the MSPB). My office was also responsible for preparing decisions in cases in which a party appealed the denial of a FOIA or Privacy Act request. My office also provided significant litigation assistance to DoJ in defending MSPB's decision to use names in its decisions in a Privacy Act suit. At SSA, I was responsible for reviewing and approving formal memoranda to the agency, which was responsible for responding to federal information

requests; such memoranda recommended what we deemed to be the appropriate disposition of FOIA and Privacy Act requests, including whether the requested OIG records should be released or redacted. I also oversaw a very active FOIA program at SIGTARP. At SIGTARP, I have teamed up with DoJ in the handling of state FOIA litigation.

I also possess significant knowledge of EEOC and Federal Labor Relations Authority (FLRA) practices and procedures. Throughout my career, I have provided high-quality legal advice on internal labor management and employment issues to agency leadership. Specifically, I advised and represented management on employment discrimination complaints, administrative and negotiated grievances, performance and misconduct actions, labor-management matters, personnel security matters, and administrative matters. I have negotiated dozens of settlement agreement favoring the taxpayers and resolved matters through mediation. I also successfully defended the MSPB against an unfair labor practice charge.

I also possess significant knowledge of federal appropriations law. During my career, I issued several internal legal advisory opinions on the Economy Act, and general appropriations law. I have also analyzed such laws in the context of negotiating memoranda of agreements. I have also issued internal legal advice on procurement law to the relevant procurement officer and prepared a response on behalf of the procurement officer in an agency-level bid protest. Throughout my career, my offices have reviewed contracts, interagency agreements, memoranda of understanding, and other related documents for reasonableness and compliance with the law. In doing so, I aimed to ensure that the respective agency's information, its people, and its facilities were adequately protected.

I am highly skilled in communications, negotiation, and consensus building that have been used in high-level consultative or collaborative situations, and the ability to write clearly, concisely, and persuasively. For example, as the MSPB General Counsel, I achieved tremendous success overseeing MSPB's heavy litigation docket before the U.S. Court of Appeals for the Federal Circuit, where we had independent litigation authority. In fact, my team won more than ninety percent of its appeals during my tenure. I also worked with the Circuit Court to resolve procedural issues in the handling of MSPB appeals in a way that was mutually satisfactory to both entities; by addressing such issues early on in my tenure at the MSPB, I quickly earned then-Chief Judge Paul Michel's admiration and respect, which resulted in him sending a letter to the MSPB Chairman praising my efforts and ultimately appointing me to the Federal Circuit's Steering Committee for the Federal Circuit's biennial Judicial Conference.

While serving as General Counsel at the MSPB, I also reached an agreement with the Transportation Security Administration (TSA) for the MSPB to adjudicate allegations of retaliation due to whistleblower disclosures filed by individuals serving as, or applying to be, transportation security officers. I personally led numerous meetings to jointly explore an agreement for the MSPB to adjudicate certain appeals from transportation security officers without legislation. After resolving several issues, both agencies came to an agreement and the TSA Administrator and MSPB Board Chairman signed a memorandum of agreement for the MSPB to adjudicate allegations of retaliation due to whistleblower disclosures filed by individuals serving as, or applying to be, transportation security officers. I received a "Special Act Award" in February 2009 for "exhibiting outstanding leadership" ability. The Award noted that the agreement "received praise from Congress and employee organizations and represented a significant achievement for the MSPB." In April 2009, I received the Chairman's Award for Managerial Excellence for Superior Achievement and Performance. This was the first time that this award had been given since 2001.

I have also served as a speaker at several different conferences throughout the years related to resolving disputes through settlement agreements.

7. Please describe:
 - a. Your leadership and management style.

There are several principles that I live by as a leader and the way that I have always managed my staff. I have stressed these factors to my managers and subordinates throughout my career. These principles are not in any particular order.

First, I am a person of complete integrity and act with complete professionalism in the way that I carry out my responsibilities. Along similar lines, I aim to ensure that I abide by the highest ethical standards. Second, I treat everyone fairly and equally – always acting in an honest and impartial manner. Third, I treat everyone with respect and dignity. Fourth, I strongly believe in collaboration – especially dealing with significant change. Getting employee buy-in is extremely important to me, not necessarily trying to reach consensus, but aiming to ensure that everyone impacted by potential change has a chance to be heard and that I take those concerns seriously before making a policy decision.

Fifth, I encourage everyone to challenge the status quo. I emphasize that I do not believe in change for change sake; but, I encourage employees at all levels to look to see if we as stewards for the taxpayers are performing all functions in the most efficient and effective manner for the American public. Sixth, I work to ensure that all employees remain mission-focused, work to achieve the highest level of efficiency and effectiveness for the taxpayers, and that all employees understand no matter what level they serve at in the agency, they clearly know how their work impacts the mission of the agency. Seventh, I stress that all employees are expected to be held accountable for their performance. I am very goals-oriented; but, more importantly, results-oriented. I aim to lead by example and maintain a very, strong work ethic. Eighth, I believe in complete and open communications (to the extent it does not fall within a confidential category) both up and down; I aim to maintain open and regular communications with my supervisors and subordinates.

Ninth, I work to ensure that assignments are prioritized appropriately. Tenth, I strongly encourage and promote, through individual training plans, professional development to ensure alignment with office goals and individual desires (to the extent possible). Eleventh, I aim to use information technology to maintain a position of leadership. Finally, I aim to respond timely to clients and customers.

b. Your experience managing personnel.

I have significant experience in leading and managing a multi-disciplined and culturally diverse workforce in federal agencies, including a significant ability and experience in managing lawyers and a variety of employees, developing skills of the workforce, addressing performance shortfalls, directing work among subordinate groups and individuals, resolving conflicts and morale issues, recruiting and retaining employees, and making significant use of available human resources.

Since 2006, during my time in the Executive Branch, I have been a member of the Senior Executive Service in four separate entities. I have served as the chief legal officer (SES) in three separate federal entities: General Counsel for the U.S. Merit Systems Protection Board (MSPB) (2006 – 2010); (Chief) Counsel to the Inspector General, Social Security Administration (SSA) Office of the Inspector General (OIG) (2010 – 2015); and General Counsel to the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) (2015-2018). Thus, I have significant experience in the application of legal thought, research, professional development, and practice at a high supervisory level. Throughout my career, I have performed complex legal analysis and have planned and developed legal options and strategies.

I also have achieved great success in collaborating with private sector entities to improve the lives of the taxpayers at SSA OIG. I led an unprecedented outreach/collaboration program with major private sector companies and achieved significant results in fighting corruption. I collaborated with executives at companies, such as Google, Apple, and Microsoft, among many others, to fight fraudulent scams. Such collaboration was highly effective as Google, Yahoo!, and Bing modified its ads policies to reflect our Act's prohibitions, Apple modified its App Store requirements to help

prevent fraudulent SSA apps from being sold on its store, and several credit card companies decided to halt the collection of its credit card payments on sites running afoul of the Social Security law – a tactic especially helpful in shutting down offshore sites. Such steps were highly effective as we shut down approximately 100 scam sites in a short amount of time. I published an article about our success in *CIGIE's Journal of Public Inquiry* and submitted our private/public sector collaboration success as a nomination to Harvard's Innovation in American Government Award. Although we did not win the coveted award, Harvard recognized my office as one of twenty-five finalists for its Innovations in American Government Award in 2015 for our work in this area from 2011 - 2014. At that time, since the award's inception, we were one of only 500 government innovations across all jurisdiction levels that have been recognized in this manner out of 27,000 applicants.

Since 2018, as the Deputy Commissioner for the Office of Analytics, Review, and Oversight (OARO), I have provided executive leadership in supporting the agency's mission, goals, and service principles by reviewing program quality and effectiveness; making recommendations for program improvement using feedback from the adjudication of cases, predictive modeling, and advanced data analysis; coordinating the agency's detection and prevention of fraud; tracking and preventing improper payments and responding to recommendations of external monitoring authorities. As the Deputy Commissioner for OARO, I am directly responsible to the SSA Commissioner for carrying out the OARO mission and providing managerial direction to all OARO components. I supervise more than 2,000 employees, including 60 Administrative Appeals Judges and eight Senior Executive Service employees. In particular, I supervise the executives and staff of the following offices within OARO, along with my immediate office: 1) The Office of Analytics and Improvements; 2) The Office of Anti-Fraud Programs; 3) The Audit Liaison Staff; 4) The Office of Quality Review; and 5) The Office of Appellate Operations office. The Office of Appellate Operations is the final level of administrative review under the Administrative Procedure Act for claims filed under the Social Security Act. In this role, I have taken major steps to improve the quality of (Administrative Law Judge) ALJ decisions that we review. I also represent the agency in meetings with White House and congressional staff on a routine basis.

Having the experience as serving as the General Counsel of the MSPB, I know the importance in improving the efficiency of the service by rewarding good work and holding poor performers accountable. Throughout my career, I have managed all of my employees to ensure that our products are of the highest quality, timely, and prioritized to meet mission goals; I have always encouraged my employees to take on all challenges in a creative and solution-oriented way.

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

In my current role, more than 2,000 employees work under me. I have employees in areas all throughout the country, including ten field sites. As the Deputy Commissioner for the Office of Analytics, Review, and Oversight (OARO), I provide executive leadership in supporting the agency's mission, goals, and service principles by reviewing program quality and effectiveness; making recommendations for program improvement using feedback from the adjudication of cases, predictive modeling, and advanced data analysis; coordinating the agency's detection and prevention of fraud; tracking and preventing improper payments and, responding to recommendations of external monitoring authorities. As the Deputy Commissioner for OARO, I am directly responsible to the SSA Commissioner for carrying out the OARO mission and providing managerial direction to all OARO components. Again, I supervise more than 2,000 employees, including 60 Administrative Appeals Judges and eight Senior Executive Service employees.

III. Role of Vice Chairman, MSPB

8. The Civil Service Reform Act requires that individuals appointed to the MSPB "demonstrate[] [the] ability, background, training, or experience" necessary to "carry out functions of the Board."¹ Please

¹ 5 U.S.C. § 1201.

describe how your abilities, background, training, and experience qualify you for the position of Vice Chairman of the MSPB.

Based on my career experience, I have intimate knowledge of the roles and operations of the MSPB. I had the privilege of serving as the MSPB General Counsel from October 2006 to January 2010. In that role, I served as the chief legal advisor and chief legal representative of the MSPB. I supervised fourteen full-time employees in the Office of General Counsel (OGC). I provided advice to the Board and its organizational components on matters of law arising in day-to-day operations. I oversaw the preparation of proposed decisions for the Board on assigned cases. I was responsible for managing the MSPB's heavy litigation docket in the United States district courts and courts of appeals in approximately 80 cases annually in appeals from Board decisions. I represented the MSPB in litigation and provided advice in employment matters arising under Title V of the United States Code, Title VII of the Civil Rights Act of 1964, the Age Discrimination and Employment Act, the Americans with Disabilities Act, the Uniformed Services Employment and Reemployment Rights Act and the Veterans Employment Opportunities Act. I represented the MSPB in labor relations matters. I coordinated the MSPB's legislative policy and congressional relations and coordinated responses to requests for information from the White House and Congress. I also oversaw the development of MSPB regulations. Further, I served as the MSPB's Designated Agency Ethics Official (DAEO) and conducted the MSPB's ethics program. I planned and directed internal MSPB investigations pursuant to the Inspector General Act of 1978. I also communicated with the media on legal matters.

I currently serve as the Deputy Commissioner for the Office of Analytics, Review, and Oversight (OARO) at the Social Security Administration (SSA). I am responsible for providing executive leadership to more than 2,000 employees, including leading the Office of Anti-Fraud Programs, and the Office of Appellate Operations, where SSA's Administrative Appeals Judges adjudicate appeals from SSA's Administrative Law Judges. Previously, I served as the chief legal officer in the inspector general community in two places. I served as the General Counsel for SIGTARP and the (Chief) Counsel to the SSA Office of the Inspector General, where I served as the initial Whistleblower Protection Ombudsman for more than 65,000 SSA employees and was responsible for administering a robust Civil Monetary Penalty Program. I also spent several years on the Hill in leadership roles, where I focused on oversight and government reform, including agencies within the subcommittee's authorizing jurisdiction (e.g., the MSPB, OPM, OGE, OSC and the FLRA, among others). My time in Federal service firmly established my awareness of the need to empower Federal employees to timely report fraud, waste, and abuse. I started my career in private practice, where I primarily focused on federal civil litigation.

With regard to major leadership training courses that I have taken, I have received a Sloan Executive Certificate from MIT in Leadership and Management in October 2014. I also received a certificate from the Federal Executive Institute in 2007. In that program, I explored and built upon my knowledge and skills in personal leadership, transforming public organizations, the policy framework in which Government leadership occurs, and the broad global context of international trends and events that shape Government agendas.

I have also served as a speaker related to work before the MSPB, including the following:

- Guest Lecturer, "*Pursing Settlement Agreements at the MSPB*," Fraternal Order of Police Conference, Myrtle Beach, South Carolina, March 2011;
- Guest Lecturer, "*Alternative Discipline Agreements*," Twenty-fourth Annual Federal Dispute Resolution Conference, Phoenix, Arizona, August 11, 12, 2009;
- Guest Lecturer, "*Drafting Adverse Action and Proposal Decision Letters that Withstand Scrutiny*," United States Military Entrance Processing Command National Training Conference, St. Charles, Illinois, November 20, 2008;
- Guest Lecturer, "*Alternative Discipline Agreements*," Twenty-third Annual Federal Dispute Resolution Conference, Orlando, Florida, August 6, 2008;

- Guest Lecturer, “MSPB Settlement Practices,” USDA 2008 Civil Rights, EEO & Diversity Conference, Silver Spring, Maryland, April 15, 16 2008;
- Guest Lecturer, “An Update on Merit Systems Protection Board and Federal Circuit Precedent,” Federal Employment Lawyers Group, Arlington, Virginia, July 16, 2007; and a
- Panelist, “Most Influential Federal Circuit Decisions over the last 25 Years,” Federal Circuit Bar Association Bench and Bar Conference, Cambridge, Maryland, June 28, 2007.

9. In your opinion, what is the role of the MSPB? What is the role of Vice Chairman in carrying out the statutory objectives of the MSPB?

The primary functions and powers of the MSPB member is laid out in 5 U.S.C. § 1204. In particular, section 1204 (a) lays out the key functions as follows:

(a) The Merit Systems Protection Board shall--(1) hear, adjudicate, or provide for the hearing or adjudication, of all matters within the jurisdiction of the Board under this title, chapter 43 of title 38, or any other law, rule, or regulation, and, subject to otherwise applicable provisions of law, take final action on any such matter; (2) order any Federal agency or employee to comply with any order or decision issued by the Board under the authority granted under paragraph (1) of this subsection and enforce compliance with any such order; (3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected; and (4) review, as provided in subsection (f), rules and regulations of the Office of Personnel Management.

5 U.S.C. § 1203 (a) and (b) states the following:

(a) The President shall from time to time appoint, by and with the advice and consent of the Senate, one of the members of the Merit Systems Protection Board as the Chairman of the Board. The Chairman is the chief executive and administrative officer of the Board. (b) The President shall from time to time designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

10. MSPB's mission is to “protect the Merit System Principles and promote an effective Federal workforce free of Prohibited Personnel Practices.” How do you envision fulfilling MSPB's mission both day-to-day and long-term?

If confirmed, in adjudicating cases, I will be fair, unbiased, impartial, and devoted to addressing the facts and following the law in a consistent manner. I will protect the Merit System Principles and promote an effective Federal workforce free of Prohibited Personnel Practices by strictly adhering to the law. I believe it is important that all Federal employees and supervisors are able to rely on MSPB decisions in a way that provides them with clear and consistent guidance.

My experience as the Chief Counsel and Deputy Staff Director for the Federal Workforce and Agency Organization Subcommittee for the House Committee on Government Reform, my time as the General Counsel for the MSPB, and my time as the chief legal officer for two different inspector general offices has provided me with a unique perspective on the need to ensure the protection of the Merit System Principles and the promotion of an effective Federal workforce free of Prohibited Personnel Practices. Pursuant to the Whistleblower Protection Enhancement Act of 2012, the Inspector General at SSA, for example, designated me, as the whistleblower protection ombudsman (WPO), to carry out such responsibilities and educate more than 65,000 SSA employees of the Merit

System Principles and Prohibited Personnel Practices. I set up a dedicated email account to receive inquiries and allegations, created a rotation of ombudsman-on-call attorneys, and created electronic inventory logs, among other things. I also prepared a video that was to be watched by more than 65,000 SSA employees. I also took a major role in personally designing and creating the content for the SSA WFO webpage.

11. What do you anticipate being the greatest challenge you would face as Vice Chairman of the MSPB, and how would you seek to prepare for and address those challenges?

I have a strong belief in ensuring that cases are adjudicated in a timely manner and that high quality decisions are issued. MSPB's current backlog is an immediate challenge for the Board members to tackle. I have a demonstrated leadership record of reducing a backlog of cases at the MSPB previously.

For example, during my first week as the MSPB General Counsel, I met with the MSPB Chairman to discuss his vision for the Office of the General Counsel. The Chairman expressed serious concern with the time it took to process petitions for enforcement at headquarters, a responsibility primarily held by the Office of the General Counsel. Moreover, I was quite aware of congressional interest in improving the adjudicatory processing times at quasi-judicial agencies, such as the MSPB. Congress held two specific hearings on the issue in the two years prior to my arrival.

An appellant can ask the Board to enforce its order against the agency (*i.e.*, file a petition for enforcement with the MSPB) when he or she believes that the employing agency is not complying with an MSPB order. For example, if the MSPB orders an agency to place an appellant who was removed by the agency for alleged misconduct back into her original position and provide her with the appropriate back pay, the appellant can file a petition for enforcement with the MSPB if she believes that the agency is not providing her with the correct amount of back pay ordered by the MSPB. My office was charged with resolving the matter and submitting a draft opinion and order to the Board.

With the increased congressional attention on quasi-judicial agencies, such as the MSPB, the Chairman's concerns were quite warranted. Before my arrival, it took an average of 325 days to process a petition for enforcement at headquarters in fiscal year 2006. This was an unfortunate statistic that could no longer be tolerated. As the late British Prime Minister William Gladstone once stated, "Justice delayed is justice denied." The MSPB's customers and the public deserved better.

Reducing these processing times quickly became a high priority for me, but it would not be an easy task. To reduce these processing times, I needed to motivate my employees to achieve certain goals. This would mean modifying their performance standards so that I could hold them accountable for their performance in processing petitions for enforcement. I had to address this challenge carefully.

I quickly formed a small working group within my office to examine ways to improve the processing times for adjudicating petitions for enforcement at headquarters. I asked a member of the union to join the working group. When I assembled the working group, I explained why resolving these petitions more expeditiously served everyone's best interests and why their work in this group was of particular importance to future appellants. I drafted an extensive timeline for processing petitions for enforcement (consistent with MSPB regulations) that all office attorneys would have to comply with and presented it to the working group for review.

The timeline that I presented to the working group was reasonable but quite ambitious and I fully anticipated opposition to my proposal. The working group, however, did not oppose the proposed timeline but instead offered helpful suggestions to improve the proposal. After making the appropriate edits suggested by the working group, I separately met with each attorney responsible for processing petitions for enforcement at headquarters. The purpose of these meetings was to explain the new timeline, explain how the attorneys would be held accountable for meeting the deadlines in the timeline, and answer any specific questions. I also gave each attorney an additional

week to review the timeline before implementation in the event that they had any concerns with the new policy. I received no additional questions or expressions of concerns from the staff. I then provided notice to the union as required by the collective bargaining agreement and received no opposition to the change.

I issued the timeline for processing petitions for enforcement as an official office policy on June 18, 2007, well ahead of my personal goal, the end of fiscal year 2007. I modified the performance plans of the affected employees - holding them directly accountable for meeting the deadlines set forth in the new policy. Additionally, I required my deputy to submit a biweekly report to me containing a list of the outstanding cases, along with the name of the attorney assigned to each particular case, the number of days in the office, and the action taken by the attorney. This report allowed me to stay on top of any case that was approaching a deadline established by the new policy. I met with any attorney whose case approached a deadline where there was no notation that I would receive a draft decision within short order. Additionally, through the innovation of one of my staff members, working in conjunction with the Office of Information Resources Management, when such a case was assigned to an attorney, an office paralegal provided the attorney with an automated print-out of the actual deadlines.

The implementation of this policy has yielded amazing results. The average time to process petitions for enforcement at headquarters dropped an average of almost 200 days, going from an average of 325 days in fiscal year 2006 to an average of 137 days in fiscal year 2008. I then convinced the Chairman, as an additional step of accountability, that processing petitions for enforcement was so important that it should be included as an agency goal in MSPB's Performance Plan. The results remained low in fiscal year 2009, with an average processing time of 171 days - well below the now-agency goal of 200 days. I rewarded all staff members who played a role in reducing these processing times with both a small monetary award and a time-off award. In December 2007, I received a "Special Act Award" from the MSPB Chairman for my "creativity in resolving difficult issues and the establishment of more efficient policies and practices in the Office of the General Counsel."

If confirmed, I would work with the other Board Members to strategize on how to reduce the current backlog as quickly as possible without diminishing the quality of cases issued.

12. What do you believe to be the top challenges facing the federal workforce today? What steps do you plan to take to address these challenges, if confirmed as Vice Chairman? Please explain.

The MSPB conducts studies of the Executive Branch workforce to ensure that Federal personnel management is implemented consistent with the merit system principles and free from prohibited personnel practices. 5 U.S.C. § 1204(a)(3) states that the MSPB shall: "(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected; and (4) review, as provided in subsection (f), rules and regulations of the Office of Personnel Management."

5 U.S.C. § 1204(e)(3) states "In carrying out any study under subsection (a)(3), the Board shall make such inquiries as may be necessary and, unless otherwise prohibited by law, shall have access to personnel records or information collected by the Office of Personnel Management and may require additional reports from other agencies as needed."

On May 14, 2019, the MSPB published this Federal Notice soliciting from the public ideas for updating its research agenda: <https://www.federalregister.gov/documents/2019/05/15/2019-09991/notice-of-opportunity-to-submit-ideas-for-merit-systems-studies>. The notice specifically requests submissions by July 1, 2019, from the public to submit ideas to be considered for inclusion in MSPB's research agenda by "responding to one or more of the following questions or submitting other pertinent ideas. 1. In your opinion, what is the most important issue affecting the management of the Federal workforce? 2. In your opinion, what is one thing in the Federal workplace that should be done more fairly? 3. In your opinion, what is one thing in the Federal workplace that should be

done more efficiently or effectively” Based on this public request, it is hopeful that the MSPB will discover some of the top challenges facing the Federal workforce today and work within its limited jurisdiction to address such challenges.

13. Do you believe you will review and adjudicate cases that come before you with good judgment and impartiality? Please explain, citing examples of prior work or experience that could bear on your abilities, if applicable.

Yes. Absolutely. I commit to reviewing and adjudicating each case with an open mind, good judgment, and impartiality. I will fully and fairly analyze the arguments and decide every case based on the record in accordance with the rule of law. I believe my experience as a former MSPB General Counsel, part of which involved overseeing and reviewing the preparation of certain draft decisions for the Board to consider, and my many years as a chief legal officer for two separate law enforcement organizations has prepared me considerably to approach each case in that manner.

IV. Policy Questions

14. What role do you think alternative dispute resolution options, including the Mediation Appeals Program, should play in the MSPB adjudication and enforcement process?

In my view, MSPB settlements are generally preferable to litigation and result in the best interest of the taxpayers. There are a number of different options to attempt settlement: prior to filing at the MSPB, once an appeal has been filed at the MSPB, and even after the MSPB has issued a decision (i.e., the enforcement stage). When I served as the MSPB General Counsel, I administered the MSPB's Petition for Review Settlement Program; these involved cases where the parties generally won on appeal and the employee believed that the particular agency involved was not fully complying with the MSPB's Order. I believe that the MSPB should provide effective and impartial ADR services to meet the needs of the involved parties.

Additionally, throughout my career, I have provided high-quality legal advice on internal employment issues to agency leadership. Specifically, I advised and represented management on employment discrimination complaints, administrative and negotiated grievances, performance and misconduct actions, labor-management matters, personnel security matters, and administrative matters. I have negotiated dozens of settlement agreements; I have found that these agreements favor the taxpayers and that mediation can be a very useful tool that leads to the settlement of a matter. Resolving cases through the use of ADR procedures usually save time and reduce costs to all parties, including the MSPB, the agency involved, and even Government-wide. It is my understanding that the Mediation Appeals Program (MAP) continues to offer the services of the MSPB's trained and certified mediators. MSPB has publicly reported that a greater number of cases has been resolved each year through this process each year since the program began, and that MAP saves time and money for the Federal employees and agencies who resolve their cases through this process.

15. MSPB is statutorily responsible for conducting oversight of the Office of Personnel Management's significant actions. How will you coordinate with OPM to ensure any significant actions conform to the merit systems principles outlined in 5 U.S.C. § 2301?

There are several ways for the MSPB to convey information to OPM to ensure any significant actions conform to the merit systems principles outlined in 5 U.S.C. § 2301. As stated before, the primary functions and powers of the MSPB member are laid out in 5 U.S.C. § 1204. In particular, section 1204(a) lays out the key functions as follows:

(a) The Merit Systems Protection Board shall—(1) hear, adjudicate, or provide for the hearing or adjudication, of all matters within the jurisdiction of the Board under this title, chapter 43 of title 38, or any other law, rule, or regulation, and, subject to otherwise applicable provisions of

law, take final action on any such matter; (2) order any Federal agency or employee to comply with any order or decision issued by the Board under the authority granted under paragraph (1) of this subsection and enforce compliance with any such order; (3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected; and (4) review, as provided in subsection (f), rules and regulations of the Office of Personnel Management.

Thus, MSPB can convey information to OPM to ensure any significant actions conform to the merit systems principles outlined in 5 U.S.C. § 2301 via the authorities outlined in 5 U.S.C. §§ 1204. Pursuant to 5 U.S.C. § 1204(f), MSPB may, on its own motion, or at the request of other parties, review and declare invalid OPM regulations if such regulations, or the implementation of such regulations, would require an employee to commit a prohibited personnel practice. Additionally, pursuant to 5 U.S.C. § 1206, MSPB also is responsible for annually reviewing and reporting on OPM's significant actions (which is done through its Annual Report). MSPB can also engage in education and outreach efforts to enhance the understanding of the merit systems principles, ensure that such principles are applied consistently throughout the Federal government, and reduce the likelihood of prohibited personnel practices. I am committed to working with the Chairman to ensure that the MSPB explores all options to coordinate with OPM to ensure any significant actions conform to the merit systems principles outlined in 5 U.S.C. § 2301.

16. MSPB previously highlighted the need to examine the prevalence and forms of reprisal for protected activity, particularly for whistleblowing.² Do you view reprisal for whistleblowing as a significant challenge facing the federal workforce? Why or why not?

My experience as the Chief Counsel and Deputy Staff Director for the Federal Workforce and Agency Organization Subcommittee for the House Committee on Government Reform, my time as the General Counsel for the MSPB, and my time as the chief legal officer for two different inspector general offices has provided me with a unique perspective on the need to ensure the protection of the Merit System Principles and the promotion of an effective Federal workforce free of Prohibited Personnel Practices.

Pursuant to the Whistleblower Protection Enhancement Act of 2012, the Inspector General at SSA, for example, designated me, as the whistleblower protection ombudsman (WPO), to carry out such responsibilities and educate more than 65,000 SSA employees of the Merit System Principles and Prohibited Personnel Practices. I set up a dedicated email account to receive inquiries and allegations, created a rotation of ombudsman-on-call attorneys, and created electronic inventory logs, among other things. I also prepared a video that was to be watched by more than 65,000 SSA employees. I also took a major role in personally designing and creating the content for the SSA WPO webpage.

I believe that reprisal for whistleblowing will be a constant challenge facing the Federal workforce. It is in the best interest of the taxpayers for individuals to report fraud, waste, and abuse in the Federal workplace without fear of punishment. Yet, many employees are afraid to report such matters out of fear that they will somehow be retaliated against. I have appreciated this issue throughout my entire Federal career. After my time on the Hill and as MSPB GC, I experienced even more how important it is for individuals to provide information to the Inspector General's office. Office of Inspector General (OIG) investigators are required to respect the confidentiality of an employee, without the employee's consent, unless the Inspector General determines such

² Merit Systems Protection Board, MSPB Research Agenda 2015-2018 (Feb. 2015), available at <https://www.mspb.gov/mspbsearch/viewdocs.aspx?docnumber=1140540&version=1145045&application=ACROBAT>.

disclosure is unavoidable during the course of the investigation. It is important for the OIG and the OSC to take whistleblower protection very seriously and investigate alleged reprisals made by supervisors against employees for making protected disclosures and to take the next steps necessary.

17. In your opinion, is the underutilization of probationary periods a critical issue? If confirmed as Vice Chairman of MSPB, what steps would you take to ensure that managers better utilize probationary periods?

Congress provided a probationary period as a critical time for Federal agencies to assess an employee. As part of its studies responsibility, the MSPB has previously reported in a 2006 report partially titled, *Navigating the Probationary Period*, that “[t]he probationary period can be a highly effective tool to evaluate a candidate’s potential to be an asset to the Government before an appointment becomes final. However, for the probationary period to be used effectively, agencies must understand, under the current interpretation of the law, when an individual is considered to have full procedural and appeal rights, regardless of any probationary status. That report explores how procedural and appeal rights are established under the law, and when a probationer may qualify for those rights. It also recommends steps for agencies to take to determine if an individual qualifies as an employee with such rights. [The report] ... included recommendations for the Office of Personnel Management to clarify its regulations to conform to the interpretation of the law expressed by the Board’s reviewing court (U.S. Court of Appeals, Federal Circuit) ...”

The MSPB Office of Policy and Evaluation this month, May 2019, issued a Research Brief titled *Improving Federal Leadership Through Better Probationary Practices*. The report states in part,

Federal supervisory and managerial probationary periods allow agencies to observe a new hire’s performance before finalizing the appointment. If the new supervisor or manager does not perform satisfactorily, then the agency can remove the person from that position. When used properly, the probationary period is one of the most valid predictors of future success and can help ensure that the Government has qualified, competent leaders. ... The “MSPB found that agencies rarely use the probationary period to take actions against unsuccessful supervisors. For instance, in fiscal year (FY) 2016, only about 7 out of every 1,000 new supervisors failed the probationary period. ... This brief builds on findings and recommendations from prior MSPB research to address issues related to the effective use of supervisory and managerial probationary periods. First, agencies can strengthen front-end processes to reduce the likelihood of making a bad hire in the first place. This means improving hiring, supporting probationers through good employee development and performance management programs, and ensuring that probationers’ supervisors are prepared for their responsibilities. Then, agencies can focus on putting probationary policies and processes in place that will enable managers to take actions when necessary.

If confirmed, I would fully support that the MSPB in accordance with its statutory responsibility to conduct an objective, non-partisan assessment and evaluation of the issue pursuant to 5 U.S.C. § 1204(a)(3).

18. How do you view the role of information technology at MSPB as it relates to both day-to-day business and the overall mission objectives to uphold merit systems principles?

I firmly believe in using information technology to maintain a position of leadership. For example, in 2006, when I became the MSPB General Counsel, I effectively used information technology to enhance organizational performance and efficiency by moving to a single electronic-based system to manage and retrieve the entire work product created within the Office of the General Counsel.

When I took over as the General Counsel, I was astonished to discover that the office was still relying on a paper-based document filing system. The office maintained a paper-based brief bank, motions bank, and an advisory opinion bank. This resulted in having to store thousands of paper documents and to maintain a fairly sophisticated paper filing system. Even with such a system in place, it was extremely time-intensive and often resulted in imperfect research results.

Shortly after my arrival, I arranged a meeting with the MSPB Director of Information Resources Management to discuss the capability and cost of moving to an electronic-based system. My vision was to create a user-friendly, secure, one-stop shop for my attorneys that would enable them to retrieve any document or particular phrase within any document created within the office almost instantaneously and to eliminate the need for a paper-based record keeping system. The Director informed me that my vision could be achieved at a low cost. I then set up a task force to ensure that the system would appropriately accommodate the needs of my office. The project involved importing and scanning large volumes of historical documents and data, providing extensive training to my staff to ensure a smooth transition to the new system, and creating familiar search capabilities.

I have eliminated all of the paper-based banks and have destroyed thousands of documents, including over 1100 advisory opinions. All employees in my office are now able to instantaneously retrieve any advisory opinion or particular phrase within any document created since the agency's inception in 1978 by using familiar search capabilities (like Google and Westlaw searches) from their computer. Completing this project has resulted in significant cost-savings and a more efficient and effective Office of the General Counsel.

In my role as the SSA Deputy Commissioner for Analytics, Review, and Oversight, one of my offices, the Office of Appellate Operations (OAO), developed its own software, *Insight*, to identify potential anomalies—that is, policy compliance and internal consistency errors—in hearing decisions. My Office of Analytics and Improvements (OAI) took over the program in an effort to constantly improve it. OAO staff initially developed *Insight*, a Web-based program that uses natural language processing and artificial intelligence technologies, to flag potential policy compliance or internal consistency errors in hearing-level decisions. *Insight* also has a collection of tools, such as an analysis template generator, to assist in reviewing the cases. OAO's goal for *Insight* through the assistance of OAI is to improve the quality, consistency, and timeliness of its adjudication process. ALJs in SSA's Office of Hearings Operations (OHO) conduct hearings and Administrative Appeals Judges (AAJ) in OAO conduct Appeals Council reviews. If a claimant is dissatisfied with the ALJ hearing decision, the claimant may request that the Appeals Council review it. The Appeals Council may deny or dismiss the request for review or it may grant the request and either issue a decision or remand the case to an ALJ. Additionally, OAO reviews a sample of OHO decisions that were not appealed to determine whether they are factually and legally supported. OAO uses this and other quality review data to provide feedback to adjudicators, improve training, and clarify policies and procedures.

According to MSPB's FY 2018 Annual Report, MSPB has improved the stability and viability of its IT infrastructure. MSPB also has made significant progress on obtaining new core business applications to support 100 percent e-Adjudication and on obtaining a secure web-based survey capability to support merit systems studies and customer service surveys.

According to the U.S. Merit Systems Protection Board Congressional Budget Justification Fiscal Year 2020:

In FY 2019, MSPB will begin modernizing its core business applications, e.g., developing a new case management workflow system to process and track each initial appeal and PFR filed with the agency. This updated functionality will replace MSPB's e-Appeal Online system and modernize [its] document management and document assembly capabilities. The new system will replace legacy systems for these functions, which are at or nearing end-of-life and prevent MSPB from achieving 100% electronic adjudication of appeals. The implementation of the new applications will continue through FY 2020 as [it] operate[s] our legacy systems in parallel

with the modernized applications prior to cutover. In addition, this will allow [the MSPB] to decommission most of [its] on-premises data center since [its] modernized applications will be in the cloud. Finally, [the MSPB] will prepare for a lifecycle refresh of laptop computers and peripherals in FY 2019 to coincide with the sunset of Windows 7 and the need to upgrade [its] operating system to realize the capabilities of [its] new core business applications.

In sum, I believe it is important to leverage information technology to the best of its ability to meet the needs of MSPB customers and its overall objectives to uphold merit system principles. Information technology infrastructure stability and modernization is absolutely important. These initiatives will require resources leadership commitment to ensure effective implementation.

19. What role do you think merit systems studies, published by MSPB, play in ensuring a competent and efficient federal workforce?

The MSPB conducts studies of the Executive Branch workforce to ensure that Federal personnel management is implemented consistent with the merit system principles and free from prohibited personnel practices. 5 U.S.C. § 1204(a)(3) states that the MSPB shall: “(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected[.]”

Through this responsibility, the MSPB has the authority to issue studies that support strong merit systems to protect the public's interest in a high quality, professional workforce that is managed free from prohibited personnel practices and under the merit system principles. The MSPB, through its authority in conducting merit systems studies, has a real opportunity to help ensure the Federal workforce can ensure a competent and efficient Federal workforce and promote ways for Federal agencies to act in a fair manner, to make recommendation for better management of the Federal workforce, and work to be more efficient and effective for the taxpayers.

- a. What steps would you take to ensure that MSPB's external reports address critical federal workforce issues?

On May 15, 2019, the MSPB issued a Notice of Opportunity to Submit Ideas for Merit Systems Studies. I think this is one great way to receive ideas from individuals impacted by critical Federal workforce issues. The MSPB also receives research ideas on its website and also allows ideas to be submitted to the email address: researchagenda2020@mspb.gov. If confirmed, I believe that I will have the opportunity as a Board member to shape the topics for MSPB's Office of Policy and Evaluation.

- b. What, if any, coordination do you believe should occur between MSPB and OPM to address federal workforce issues raised by MSPB studies?

Although MSPB and OPM have distinct roles, MSPB has ways to provide OPM with feedback on Federal workforce issues, including conducting research and studies and preparing reports for approval by the Board in connection with the Board's statutory authority and reviewing OPM regulations or the implementation of OPM regulations and taking action to enforce correction or termination of regulations that would require the commission of a prohibited personnel practice. Additionally, MSPB reviews the significant actions of OPM and reports on the impact of these actions on merit systems principles and prohibited personnel practices. See also my response to Question 15.

20. According to MSPB's Fiscal Year 2018 annual report, 25 percent of MSPB employees, including 35 percent of administrative judges, are eligible to retire in the next two years.³ What steps will you take to ensure that MSPB conducts its own succession planning, so that you are able to execute your statutory duties?

Federal agencies should always stand ready to seek to transform their cultures in response to governance challenges and innovations. I believe that it is important for a Federal agency to focus not just on the present but also on future challenges. There are several tools available to an agency, including making effective use of (or implementing) an Executive Candidate Development program, recruiting and hiring diverse, high-caliber staff with needed skills and abilities through creative means, such as job fairs and outreach, or seeking use of re-employed annuitants in critical areas, among other things. I will stand ready to help the Chairman with the MSPB's succession planning challenge.

21. In March 2018, MSPB published an updated survey on sexual harassment in the federal workforce.⁴ In this survey, 20.9 percent of women in the federal workforce and 8.7 percent of men experienced a type of sexual harassment in the two years preceding the survey.⁵ Only eight percent of these employees believed corrective action was taken against the individual who committed the harassment, possibly resulting in employees not using agency procedures to report the harassment.⁶ What do you believe is the role of MSPB in ensuring accountability against harassers in the federal workplace and in ensuring employees can report harassment without reprisal?

Within the MSPB, where we can serve as a model agency, I believe it is important to have a strong anti-sexual harassment policy that emphasizes that agency leadership will not tolerate such harassment and will investigate allegations of such harassment immediately. During times throughout my career, I read the agency's sexual harassment policy to my staff at a staff meeting annually, provided a copy of the anti-harassment policy to each employee, and required employees to sign and certify that they understood the policy. I will stand ready to help the Chairman with MSPB's policy and approach to such behavior within the MSPB workplace. With regard to our role government-wide, the MSPB could further study this serious issue and issue a report on the subject. MSPB also adjudicates prohibited personnel practices.

22. What steps can MSPB take to improve federal supervisors' knowledge and intra-agency support regarding disciplinary and removal processes?

Education and outreach are important steps. MSPB's Office of Policy and Evaluation (OPE) also plays a valuable role. MSPB's website, although appears it should be updated, provides a lot of valuable information. While I was the MSPB General Counsel, I also engaged in a lot of outreach efforts. For example, I made presentations with OPE on the use of Alternative Discipline and the use of Alternative Discipline Agreements at two Federal Dispute Resolution Conferences, among many other training presentations.

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

- a. During your career how have you addressed whistleblower complaints?

³ Merit Systems Protection Board, Annual Report for FY 2018 (Feb. 2019) at 9, available at <https://www.mspb.gov/MSPBSEARCH/viewdocs.aspx?docnumber=1592474&version=1598254&application=ACRQBAT>.

⁴ Merit Systems Protection Board, Update on Sexual Harassment in the Federal Workforce (Mar. 2018), available at <https://www.mspb.gov/MSPBSEARCH/viewdocs.aspx?docnumber=1500639&version=1506232&application=ACROBAT>.

⁵ *Id.* at 4.

⁶ *Id.* at 8.

My experience as the Chief Counsel and Deputy Staff Director for the Federal Workforce and Agency Organization Subcommittee for the House Committee on Government Reform, my time as the General Counsel for the MSPB, and my time as the chief legal officer for two different inspector general offices has provided me with a unique perspective on the need to ensure the protection of the Merit System Principles and the promotion of an effective Federal workforce free of Prohibited Personnel Practices, and that Federal employees believe that they work in a safe environment where they can feel free to discuss ways to improve Federal government operations and report fraud, waste, or abuse without fear of reprisal.

Pursuant to the Whistleblower Protection Enhancement Act of 2012, the Inspector General at SSA, for example, designated me, as the whistleblower protection ombudsman (WPO), to carry out such responsibilities and educate more than 65,000 SSA employees of the Merit System Principles and Prohibited Personnel Practices. I set up a dedicated email account to receive inquiries and allegations, created a rotation of ombudsman-on-call attorneys, and created electronic inventory logs, among other things. I also prepared a video that was to be watched by more than 65,000 SSA employees. I also took a major role in personally designing and creating the content for the SSA WPO webpage.

I believe that reprisal for whistleblowing will be a constant challenge facing the Federal workforce. It is in the best interest of the taxpayers for individuals to report fraud, waste, and abuse in the Federal workplace without fear of punishment. Yet, many employees are afraid to report such matters out of fear that they will somehow be retaliated against. I have appreciated this issue throughout my entire Federal career. After my time on the Hill and as MSPB GC, I experienced even more how important it is for individuals to provide information to the Inspector General's office. Office of Inspector General (OIG) investigators are required to respect the confidentiality of an employee, without the employee's consent, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation. It is important for the OIG and the OSC to take whistleblower protection very seriously and investigate alleged reprisals made by supervisors against employees for making protected disclosures and to take the next steps necessary.

As the SSA Deputy Commissioner for the Office of Analytics, Review, and Oversight, I co-chair the National Anti-Fraud Committee and also oversee the Office of Anti-Fraud Programs. The overall goal is to encourage the identification of agency vulnerabilities by SSA employees and managers and ensuring that the agency addresses the most critical vulnerabilities related to fraud. Bringing ideas that need to be addressed by the agency is celebrated as it is viewed as a victory in fostering public confidence in the stewardship of SSA programs.

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

If confirmed, I will work with chairman to ensure that there is an open environment where people feel free to bring suggestions, bring ideas for improvement, and report fraud, waste, and abuse without fear of reprisal.

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

Yes. Absolutely.

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

Yes. Absolutely.

V. Relations with Congress

24. 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?

I absolutely agree to comply with any request or summons to appear and testify before any duly constituted committee of Congress in accordance with all applicable laws if I am confirmed.

25. 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?

I absolutely agree to make any subordinate official or employee available to appear and testify before, or provide information to, any duly constituted committee of Congress in accordance with all laws if I confirmed.

26. 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?

I absolutely agree to fully, completely, and promptly comply to any request or documents, communications, or any other agency material or information from any duly constituted committee of the Congress in accordance with all laws, including the Privacy Act, if I am confirmed.

VI. Assistance

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

These are my own answers. No one has reviewed my responses.

The other two current Board nominees offered to provide their responses to their policy questionnaires to me that they submitted to the Committee. I subsequently received their official responses from an MSPB official.

**Minority Supplemental Pre-hearing Questionnaire
For the Nomination of B. Chad Bungard to be
Member, Merit Systems Protection Board**

I. Nomination Process and Conflicts of Interest

1. Has the President or his staff asked you to sign a confidentiality or non-disclosure agreement?

No.

2. Has the President or his staff asked you to pledge loyalty to the President, Administration, or any other government official?

No.

3. Have you ever represented a party in a matter before or involving the Merit Systems Protection Board (MSPB)? If so, please describe the matter(s) and the nature of the representation.

I have served as the chief legal officer (SES) for three different Federal entities from 2006 – 2018: MSPB General Counsel (October 2006 – January 2010); SSA OIG (Chief) Counsel (July 2010 – January 2015); and SIGTARP General Counsel (January 2015 – August 2018). As MSPB General Counsel, I have led and/or overseen litigation in more than 200 Federal court cases (mostly where I was listed as counsel of record for the MSPB). In all of those roles, I oversaw the representation of the agency in litigation in various administrative matters, including personnel matters, such as cases within the jurisdiction of the MSPB. While serving as General Counsel for the MSPB, I testified before the Senate on the MSPB's adjudication of Hatch Act cases.

4. Have you ever represented the Social Security Administration in a matter involving the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Privacy Act of 1974, or the Equal Access to Justice Act? If so, please describe the matter(s) and the nature of the representation.

I have served as the chief legal officer (SES) for three different Federal entities from 2006 – 2018: MSPB General Counsel (October 2006 – January 2010); SSA OIG (Chief) Counsel (July 2010 – January 2015); and SIGTARP General Counsel (January 2015 – August 2018). In my role as (Chief) Counsel for the SSA OIG, I oversaw the representation of the agency in litigation in various administrative matters, including personnel, and equal employment opportunity matters, including under the Civil Rights Act of 1964 and likely the Age Discrimination in Employment Act. While (Chief) Counsel for the SSA OIG, I administered the CMP program on behalf of SSA; in that role, I initiated cases against alleged fraudsters. I believe one claimant sought compensation through the Equal Access to Justice Act, as part of a CMP action. I believe that one particular litigant was unsuccessful. However, I am uncertain. I am also uncertain if I represented the SSA OIG in any other matter involving the Equal Access to Justice Act.

I also possess significant knowledge of federal information law. As MSPB General Counsel, I issued several internal legal advisory opinions to the Chairman, the Board and the Board's organizational components regarding the Freedom of Information Act (FOIA), the Privacy Act, and the Sunshine Act. My office also provided significant litigation assistance to the Department of Justice (DoJ) in defending MSPB's decision to use names in its decisions in a Privacy Act suit. I also oversaw the drafting and issuance of all agency FOIA and Privacy Act appeals. At SSA, I was responsible for reviewing and approving formal memoranda to the agency, which was responsible for responding to federal information requests; such memoranda recommended what SSA OIG deemed to be the appropriate disposition of FOIA and Privacy Act requests, including whether the requested OIG records should be released or redacted. I also oversee a very active FOIA program at SIGTARP. Because SIGTARP has audited and investigated matters involving major automobile makers, banks, and housing programs, we often received extensive and voluminous FOIA requests. I have also procured the assistance of DoJ and

played a large part in fighting a state FOIA request in State court for an administrative subpoena SIGTARP issued in an effort to protect a SIGTARP criminal investigation.

In my current role as the Deputy Commissioner for Analytics, Review, and Oversight, I do not represent SSA in legal matters.

II. Background of Nominee

5. Why do you want to serve as Vice Chairman of the MSPB?

I am deeply committed to public service. Throughout my Federal career, I have devoted my career to fighting corruption at the highest levels, increasing the effectiveness and efficiency of agencies and their programs to provide the best possible services to the American people, promoting the efficiency of the service, and fighting and preventing fraud, waste, and abuse in an effort to save taxpayer dollars and pursue recoveries for the taxpayers, and, in doing so, working to protect whistleblowers from retaliation.

That overall experience alone, along with my specific oversight responsibilities over the MSPB while on the Hill, serving as the General Counsel for the MSPB, serving as a chief legal officer for two Inspector General offices, serving as the first Whistleblower Protection Ombudsman for the Social Security Administration for more than 65,000 employees, and my current job as the Deputy Commissioner for the Office of Analytics, Review, and Oversight, where I oversee over 2,000 Federal employees, including the Office of Appellate Operations and the Office of Anti-Fraud Programs, among others, has provided me with a unique perspective in carrying out the responsibilities of the Vice Chairman and the absolute importance in protecting the merit system principles, and promoting an effective and efficient workforce free of prohibited personnel practices.

It would be an absolute honor to carry out the responsibilities of the MSPB Vice Chairman. If confirmed, in carrying out this role, I can make a real difference in helping ensure that the Federal workforce is a highly qualified, diverse workforce that is fairly, effectively, and efficiently managed, and provides the best possible government services to the American people. I commit to reviewing and adjudicating each case with an open mind, good judgment, and impartiality. I will fully and fairly analyze the arguments and decide every case based on the record in accordance with the rule of law. In sum, I believe that my vast experience and background uniquely qualify me for the rigors required of the position.

6. Please give examples of times in your career when you disagreed with your superiors and aggressively advocated your position. Were you ever successful?

Throughout my career when I served as a chief legal officer for an agency, I have provided high-quality, solution-oriented legal advice on complex and sensitive legal issues to all agency customers and supervisors, members of Congress, Inspectors General, the MSPB Chairman and MSPB Board Members, and to clients in private practice. Throughout my Federal career, I provided advice on dozens of topics on a wide range of issues. I have always worked to ensure that I was providing timely advice. But, my goal was to also provide quality, solution-oriented advice for the customer. To ensure I was accomplishing this latter goal, while at the SSA OIG, for example, I submitted surveys to the various components immediately following the issuance of a formal legal opinion asking whether my office provided clear and concise analysis that appropriately set forth the full range of legal options, considered policy and external implications, and supported conclusions and recommendations. One hundred percent of the components surveyed on more than two dozen legal opinions reported that they received a legal opinion in accordance with the stated goal.

In order to accomplish the agency's mission (and to improve operations and provide improved customer service), it is necessary that the requesting managers and leadership are able to rely on the advising attorney to determine the legal implications of management initiatives. That is why it has been my philosophy and practice throughout my career when providing legal advice to ask management what they are trying to achieve and work with them to devise proposals that will achieve it within the law. I also

offer options and specify the legal risks associated with them. I am not satisfied with simply advising management that a proposal is unacceptable because based on my reading of the law there is no specific provision that allows management to accomplish a specified goal. Throughout my career, I have produced and/or reviewed hundreds of legal memoranda and pleadings, reviewed more than five-hundred audits and numerous MSPB reports for legal sufficiency, and produced hundreds of solution-oriented legal opinions in almost every aspect of Federal general law.

However, although extremely rare, there were times where I disagreed with my superiors and strongly advocated for my position. For example, it was brought to my attention years ago by an agency budget official a few days before the end of the fiscal year, while I served as a chief legal officer for an agency, that they suspected that agency officials were misinterpreting appropriations law and agency policy with regard to the use of end of the year fiscal funds unbeknownst to me. There were exceptions and, in many cases, agency officials can use such expiring fiscal year funds properly as long as they followed the rules that I provided them in accordance with appropriations law. The agency head called me and expressed his displeasure and disagreement; but, I assured him that I looked at this very carefully, and found exceptions to the law that would apply to many requests at the time. But, the practice throughout the agency was much more loose in the past. Although he initially disagreed with my position, he ultimately understood.

Another example, came at a time while I served as a chief legal officer for an agency. From the beginning there were certain facts that existed, where I advised the agency head that he should probably recuse himself from a certain matter for a variety of reasons. The agency head disagreed with my advice initially thinking he could act appropriately, and, as the agency head, he had never recused himself from a matter before and was responding to a congressional request. He ultimately realized as the case progressed that non-recusal on his part began to complicate matters and after I repeatedly reiterated my advice that he recuse himself from the matter, he ultimately chose to recuse himself from that matter as he eventually became keenly aware that the matter became too increasingly complicated for him to remain, as I had predicted.

If I felt that after thorough and careful research that as an agency we needed to take only one appropriate course of action, I believed, as the chief legal officer, it was my responsibility to do my best to take the time to carefully explain my research, analysis, and the law in a clear matter.

7. Do you seek out dissenting views and encourage constructive critical dialogue with subordinates?

I have made it a point throughout my career to encourage all employees to bring their ideas, suggestions, and opinions to my attention or their supervisor's attention. It has always been my philosophy that the best ideas to improve operations are the subject matter experts who work on certain issues routinely, and I constantly ask my subordinates on ways that I can improve as a leader. I also strongly believe in collaboration – especially dealing with significant change. Getting employee buy-in is extremely important to me, not necessarily trying to reach consensus, but aiming to ensure that everyone impacted by potential change has a chance to be heard and that I take those concerns seriously before making a policy decision. I am also widely known as a leader to encourage everyone to challenge the status quo – even policies that I may have adopted. My goal is always to do what is best for the taxpayers; I encourage employees at all levels to look to see if we as stewards for the taxpayers are performing all functions in the most efficient and effective manner for the American public.

8. Please provide examples of times in your career when you have done so.

As the MSPB General Counsel, I spearheaded major agency initiatives and implemented major changes to the agency's adjudication process without union opposition. These changes were only implemented after carefully considering the viewpoints of the affected workforce and achieving buy-in to the proposed changes. For example, beginning in 2007, I was responsible for leading the drafting of conforming regulations to the final regulations promulgated by the Department of Homeland Security and the Office of Personnel Management in February 2005 to implement the Department's new personnel system, pursuant to authority provided by the Homeland Security Act of 2002. Drafting these conforming

regulations presented quite a challenge. MSPB's regulations had to conform to and be consistent with the system established by both the Department and the Office of Personnel Management. It was, therefore, important that I worked with both agencies in developing the conforming regulations to prevent needless problems in the future. Moreover, because the MSPB (adverse actions and appeals) portion of the new personnel system would have a major impact on MSPB's unionized employees (Administrative Judges and Board attorneys), it was important to be open and transparent about the details of the conforming regulations with all of the affected employees. In addition, because the MSPB consists of a three-member Board, at least two members of the Board had to vote in favor of the regulations before they could be issued.

During the development of these conforming regulations, I led several meetings with the Office of Personnel Management General Counsel and his staff and various officials from the Department. We routinely disagreed about the language and content of MSPB's conforming regulations. However, I was able to resolve the conflicts quickly by explaining MSPB's various concerns and positions, closely listening to their concerns, stating that I understood their concerns where I did and by agreeing to compromised language where appropriate. I developed a good working relationship with both agencies and was commended by the Office of Personnel Management General Counsel for being responsive and leading this initiative effectively.

Once my staff completed the draft conforming regulations, I submitted the regulations to the entire senior staff, including the chief counsels for all three Board members, for comments. I requested that each office director review the regulations with their affected employees and to solicit feedback. I also communicated with the Board members to be sure I understood and addressed their concerns before I submitted a draft for their review and vote. Once I received and considered all of the internal comments, I suggested additional changes to both agencies.

By asking for comments early on in the process, I was able to achieve "buy-in" among the employees and Board members. This would prove to be essential in avoiding any delay in implementation and would ultimately result in the union not requesting to bargain over the change in working conditions. This was a surprise to my superiors and many others who long expected the MSPB union to push back implementation since the MSPB would have to adjudicate cases under the new personnel system in an expedited timeframe. I reached an agreement with both agencies on the additional changes and sent the conforming regulations to the Board for approval. These conforming regulations were unanimously approved by the Board and published in the Federal Register as interim regulations. After receiving public comment and making appropriate changes as agreed by both agencies, the Board unanimously adopted final regulations shortly thereafter. The publication of these final conforming regulations marked a significant accomplishment by my office as it triggered the start of the adverse actions and appeals portion of the new personnel system at the Department of Homeland Security (which by the way was later resolved).

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

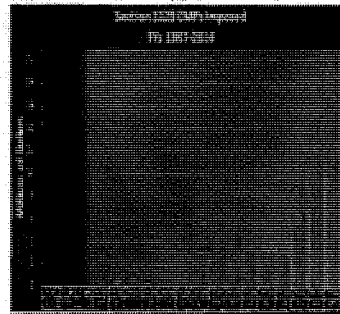
I have played a major role in a major congressional investigation from 2001-2003, including the FBI's use of mob informants and witness in the 60's, 70's, and 80's ((Contributing author) Congressional Report, "Every Thing Secret Degenerates: The FBI's Use of Murderers As Informants," House Committee on Government Reform, 108th Cong., 2d Session, H.R. Rept. No. 108-414 (2004)). This investigation involved a culture in the Boston FBI that went on for decades and ultimately led to the conviction of an FBI Agent (and at least one other who was sent to prison after he testified before the committee - he later died in prison) who improperly handled Whitey Bulger (in a similar manner as other informants were protected and tipped-off by Boston FBI agents years earlier), who committed multiple murders. In the investigation into the FBI's conduct, the Committee was seeking a prosecution memorandum that was decades old (but crucial to our investigation, which spanned decades) and President Bush invoked Executive Privilege over such memoranda, as it was the President's position that such Department of Justice prosecution memoranda would have a chilling effect on the candid nature of future prosecutorial memoranda and decisions. We eventually came to a compromise on the memorandum that we were

seeking; I was one of the very few Committee lawyers, who was allowed to read and take notes of the memorandum. Although not ideal, it was a sufficient compromise that advanced the investigation. It was a weird twist of events to investigate the FBI's practice; but, it was a long, but successful investigation that revealed, among other things, that the FBI knew for years that an innocent man was sent to prison for a crime he did not commit to protect an informant. The bipartisan investigation made a very important point in the end: The End Does Not Justify the Means when it involves doing something unlawful or improper.

10. What would you consider your greatest successes as a leader?

One of my greatest achievement for the taxpayers, is when I administered the Civil Monetary Program for the Social Security Administration. In that role (from July 2010 – January 2015), I served as (Chief) Counsel to the Inspector General. Per a delegation by the Social Security Commissioner, I was responsible for administering the agency's Civil Monetary Penalty (CMP) Program.

Section 1129 of the *Social Security Act* authorizes a CMP against those who make false statements or representations in connection with obtaining or retaining social security benefits or payments. After consultation with the Department of Justice, my office, the Office of the Counsel to the Inspector General (OCIG) was authorized to impose penalties of up to \$5,000 (it has since increased) for each false statement, representation, conversion, or omission. A person may have been also subject to an assessment, in lieu of damages, of up to twice the amount of any resulting overpayment. In that role, I was committed to increasing the number of cases successfully resolved each year to make this program an effective supplemental tool to ensure ~~punishment upon detection and that our agent's~~ good work would not go to waste. In fact, one of my main priorities was to improve the Civil Monetary Penalty program – a program that had become virtually moribund. Several steps were taken to achieve this goal, including creating a supervisory position to oversee the program and collaborating with staff and stakeholders. When I left SSA OIG to come to SIGTARP as General Counsel, the CMP Program was a vibrant one, and became a truly effective supplemental tool to ensure punishment where federal criminal prosecution was declined. In fact, SSA's CMP numbers increased exponentially under my leadership. For example, during my first four fiscal years as Counsel, my office imposed more penalties (\$47 million) than the previous fourteen years combined (\$27 million) prior to my arrival. In my last full fiscal year, we imposed more than \$21 in penalties – a huge increase from the average \$2 million a year that I inherited. Subjects can appeal the proposed imposition of CMPs to the Departmental Appeals Board. My office was responsible for handling such litigation, and I was responsible for overseeing such litigation and occasionally testified. We had a near perfect success rate.



While serving as (Chief) Counsel to the SSA IG, I was also responsible for enforcing Section 1140 of the Social Security Act as part of my role in administering the agency's Civil Monetary Program. Section 1140 is, in general terms, a consumer protection tool against misleading SSA-related advertising. While at SSA, I led an unprecedented outreach/collaboration consumer protection program with major private sector companies and achieved significant results in fighting corruption. I collaborated with executives at companies, such as Google, Apple, MasterCard, and Microsoft, among many others, to fight fraudulent scams. Such collaborations were highly effective as Google, Yahoo!, and Bing modified its ads policies to reflect the relevant Act's prohibitions, Apple modified its App Store requirements to help prevent fraudulent SSA apps from being sold on its store, and several credit card companies decided to halt the collection of its credit card payments on sites running afoul of the Social Security law – a tactic especially helpful in shutting down offshore sites. Such steps were highly effective as we shut down approximately 100 scam sites in a short amount of time based on this new, creative approach. We were able to avoid the previously protracted approach of litigation by shutting sites and apps down within

days as opposed to many months of litigation to shut down just one fraudulent website. I published an article about our success in the *JOURNAL OF PUBLIC INQUIRY* and submitted our private/public sector collaboration success as a nomination to Harvard's *Innovation in American Government Award*. Although we did not win the coveted award, Harvard recognized my office as one of twenty-five finalists for its *Innovation in American Government Award* in 2015 for our work in this area from 2011 - 2014. At that time, since the award's inception, we were one of only 500 government innovations across all jurisdiction levels that have been recognized in this manner out of 27,000 applicants.

11. What do you consider your greatest failure as a leader? What lessons did you take away from that experience?

The biggest challenge that I have faced as a leader is hiring the highest qualified individual for a particular position. Hiring is not a perfect process. I would say most, if not all of my hiring in the Executive Branch, has involved the hiring of a lawyer or a position applying for a senior executive service position.

There was one particular time when it came down to two candidates for a labor and employment lawyer in a federal agency, where I was the hiring official. The candidate that I ultimately hired left such a strong impression with the hiring committee that one of the panelists said the candidate was the best candidate that he had interviewed throughout his entire career. I checked his references and interviewed him personally. He seemed like a perfect candidate. The runner-up was impressive; but, although he had strong qualifications, his final interview gave me some concern regarding his interpersonal skills and how he may interact with clients in the agency. I ended up removing the hired candidate during that person's probationary period after working with him for months in trying to get that person to be successful in his position. He struggled in conducting his analysis and was a very poor writer. The other candidate ended up being somewhat of a superstar in the Federal personnel world.

I learned three things from my unsuccessful hire. First, when hiring an attorney, although sometimes time intensive, I ask for a very specific, original two-page writing sample. Second, I have spent a lot of time in perfecting my reference questions. Finally, I conduct structured interviews (with follow-up questions as appropriate) to ensure that the results of the interview become a more reliable indicator. When hiring an attorney in government, I now use all three methods. I use the latter two methods when making recommendations on senior executives to the Executive Resources Board or hiring official.

12. What type of managerial style do you think is necessary for the role of Vice Chairman of the MSPB?

In my experience, a good leader is a good follower. I will provide leadership and support to the Chairman in carrying out the Chairman's role as the chief executive and officer of the Board. I will also offer my MSPB experience and leadership experience to the Chairman, as needed and requested. Per 5 U.S.C. § 1203(b), during the absence or disability of the Chairman, or when the office of Chairman is vacant, I will be ready to perform the functions vested in the Chairman.

13. Have you ever represented a whistleblower or other employee in an adversarial dispute against the federal government?

No.

14. If an accusation of discrimination were to arise within an office under your management, what actions would you take to address such an accusation?

If I became aware of an accusation of discrimination in any part of the agency, whether or not such accusation of discrimination were to arise with an office under my management, I will ensure that complaints of alleged unlawful discrimination are investigated promptly and thoroughly and resolved without fear of reprisal to the employee or applicant.

15. Do you have experience addressing instances of prohibited personnel practices (PPPs)? If so, please generally describe your experience.

I possess significant knowledge of the practice and procedures of the Office of Special Counsel (OSC). The MSPB adjudicates complaints alleging violations of prohibited personnel practices and of the Hatch Act that are filed by OSC. The Board delegates to an ALJ the authority to hear and decide cases arising under the Board's original jurisdiction authority. While I served as the MSPB General Counsel, attorneys in my office served as law clerks to the ALJs (at the time under contract with the National Labor Relations Board) assigned to adjudicate corrective action complaints brought by the Special Counsel. My office also had jurisdiction to represent the MSPB in litigation of appeals of MSPB Hatch Act determinations in Federal courts. I also testified before the U.S. Congress on MSPB's role in adjudicating Hatch Act cases.

As Counsel to the IG for SSA, I spearheaded and overseen numerous investigations conducted at the request of OSC. I have also provided Hatch Act training dozens of times throughout my career. I also assisted the Office of Special Counsel per its request when it conducted prohibited personnel practices investigations.

Pursuant to the Whistleblower Protection Enhancement Act of 2012, the IG at SSA and the SIG at SIGTARP designated me, as the whistleblower protection ombudsman (WPO), to carry out these responsibilities and educate agency employees who have made or are contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures. At SSA, once the Act was enacted, I immediately set up an internal working group within my office to meet responsibilities under the Act, including creating the content for a public webpage designed to educate more than 65,000 SSA employees, setting up a dedicated email account to receive inquiries and allegations, creating a rotation of ombudsman-on-call attorneys, and creating electronic inventory logs, among other things. I also prepared a video that was required to be watched by all SSA employees. I was intimately involved in the creation of the content contained in SSA OIG WPO webpage and for years it was the number one site under the search term "Whistleblower Protection Ombudsman." I was actively involved in the CIGIE's Whistleblower Protection Ombudsman group. To ensure that our website met the concerns of whistleblower advocates, I met with the Government Accountability Project Legal Director and added additional language to our website based on his suggestions. I also ensured that SSAOIG achieved 5 U.S.C. 2302(c) certification from OSC.

16. Do you have any experience adjudicating matters? If so, please provide an example.

Yes. As the MSPB General Counsel, my office assisted the Board by reviewing case records, performing legal research, and preparing proposed decisions and orders for the Board in the following matters: Cases referred to the Board for enforcement upon a finding by a judge that a party is not in compliance with a final decision or order of the Board (also known as petition for enforcement matters); Reviews of an OPM regulation or implementation of an OPM regulation by an agency upon the request of an interested person or OSC, or on the Board's own motion (5 C.F.R. Part 1203); Court remands (when a determination has been made that a court remand should be processed by OGC; such cases are reviewed initially by OGC and either retained in OGC, transferred to OAC, or remanded to a regional or field office); and other cases as assigned by the Board, including petitions by the OPM Director that the Board reopen or reconsider a final decision in an appeal which OGC prepared the decision for the Board.

17. How will your experience help MSPB maintain MSPB's Merit System Principles (MSPs)?

My entire career has been about promoting fairness in the Federal workplace by treating employees fairly in all aspects of their employment, working to protect employees from reprisal, and to be good stewards of taxpayer dollars – which starts with managing employees in the short-term and long-term public interest. My background uniquely qualifies to help MSPB be the model agency in maintaining MSPB's Merit System Principles.

My experience as the Chief Counsel and Deputy Staff Director for the Federal Workforce and Agency Organization Subcommittee for the House Committee on Government Reform, my time as the General Counsel for the MSPB, and my time as the chief legal officer for two different inspector general offices has provided me with a unique perspective on the need to ensure the protection of the Merit System Principles and the promotion of an effective Federal workforce free of Prohibited Personnel Practices. Pursuant to the Whistleblower Protection Enhancement Act of 2012, the Inspector General at SSA, for example, designated me, as the whistleblower protection ombudsman (WPO), to carry out such responsibilities and educate more than 65,000 SSA employees of the Merit System Principles and Prohibited Personnel Practices. I set up a dedicated email account to receive inquiries and allegations, created a rotation of ombudsman-on-call attorneys, and created electronic inventory logs, among other things. I also prepared a video that was to be watched by more than 65,000 SSA employees. I also took a major role in personally designing and creating the content for the SSA WPO webpage.

Throughout my Federal career, I have encouraged employees to come forward in a safe environment and report, fraud, waste, and abuse. Without working to create such an environment:

- where employees are encouraged to report wrongdoing without fear of reprisal; where people are hired and promoted based on merit – not politics, or inappropriate actions;
- where employees are treated fairly and equitably and not discriminated against;
- where managers provide equal pay for equal work;
- where managers reward excellent performance and hold employees accountable when such employees are performing poorly and fail to provide the public with the most efficient and effective service; and
- where managers fail to act with high standards of integrity, conduct and concern for the public interest,

the American people would suffer by not being provided with a competent, honest, and productive workforce aimed at providing the highest quality of public service.

18. What lessons from your time as Deputy Commissioner for Analytics, Review, and Oversight with the Social Security Administration (SSA), will you bring with you to MSPB, if confirmed?

I have had the wonderful opportunity in this role to run the fourth largest organization in SSA; our work literally impacts the entire American citizenry in a positive way. As the Deputy Commissioner for the Office of Analytics, Review, and Oversight (OARO), I provide executive leadership in supporting the agency's mission, goals, and service principles by reviewing the quality and effectiveness in SSA's programs and operations; making recommendations for program improvement using feedback from the adjudication of cases, making use of predictive modeling, and advanced data analysis to improve SSA business operations and creating a very effective disability-fraud model that has led to the referral of hundreds of cases to the SSA Office of Inspector General; coordinating the agency's detection and prevention of fraud by identifying vulnerabilities in agency programs and identifying controls to mitigate those risks saving billions for the taxpayers; tracking and preventing improper payments and responding to recommendations of external monitoring authorities.

As the Deputy Commissioner for OARO, I am directly responsible to the SSA Commissioner for carrying out the OARO mission and providing managerial direction to all OARO components. I supervise more than 2,000 employees, including 60 Administrative Appeals Judges and eight Senior Executive Service employees. In particular, I supervise the executives and staff of the following offices within OARO, along with my immediate office: 1) The Office of Analytics and Improvements; 2) The Office of Anti-Fraud Programs; 3) The Audit Liaison Staff; 4) The Office of Quality Review; and 5) The Office of Appellate Operations office

The Office of Appellate Operations is the final level of administrative review under the Administrative Procedure Act for claims filed under the Social Security Act. In this role, I have taken major steps to improve the quality of (Administrative Law Judge) ALJ decisions. I have also worked with my modeling group to reduce the backlog while improving the quality of decisions

issued. I also represent the agency in meetings with White House and congressional staff on a routine basis.

19. During your career, has your conduct as a federal employee ever been subject to an investigation or audit by Council of Inspectors General on Integrity and Efficiency (CIGIE), Office of Special Counsel, Department of Justice, agency Equal Employment Opportunity office or investigator, or any other federal investigative entity? If so, please describe the nature of the allegations/conduct and the outcome(s) of the investigation(s) or audit(s).

Unfortunately, all too often in government, when a manager takes a performance or misconduct-based action against an employee or some other action where an employee believes he or she has been adversely affected, it is often common for that employee (complainant) to file an EEO complaint or some other type of complaint against the supervisor or supervisors responsible for the personnel action of the complainant. That is likely why Federal supervisors avoid holding their employees accountable at the cost of the taxpayers and other Federal employees constantly complain that Federal supervisors are not dealing effectively with poor performers. In fact, in the 2018 Federal Employment Viewpoint Survey, only approximately 32 percent of the Federal workforce believes their agencies take steps to deal with poor performers. I always take the approach of doing the right thing and what is best for taxpayers that we serve even if that means that I have to deal with frivolous complaints. I have had to deal with a number of frivolous complaints throughout my career, and I do not know the extent or specificity of all of the allegations that may have been made against me throughout my career; and I am certainly not aware of any allegations filed against me with the Office of Special Counsel or the Department of Justice. But, I can say with 100% certainty, there has never once been an adverse finding against me whatsoever to my knowledge.

On or around 2017-2018, as the General Counsel for SIGTARP, I responded to allegations received by the Council of the Inspectors General on Integrity and Efficiency's (CIGIE) Integrity Committee about me and the Inspector General. The allegations about me were absolutely false, and the anonymous person making the allegations was misinformed and had no basis for his or her allegations. Upon receipt of my response, the CIGIE Integrity Committee closed the matter and the Integrity Committee made no adverse findings against me whatsoever.

Although not technically an investigation as far as I know, on or around 2011-2012, the IRS asked me and my wife about cash deposits that she made to shared branches of our main checking account, the Congressional Federal Credit Union, from her law firm account, Wells Fargo. Because we lived relatively far away (Fredericksburg, VA (2007 – 2010) and then Annapolis, MD (2010-present)) from an actual branch of the Congressional Federal Credit Union, it was more expeditious for my wife to deposit cash into Congressional Federal Credit Union shared branches so that we could have instant access to the money in order to pay our bills from our main Congressional Federal Credit Union checking account. I believe the inquiry resulted from SARS reports that were generated by the Congressional Federal Credit Union that received the deposits over a period of time – none were over \$10,000. My wife ran her own law firm for many years. And, again, especially at the outset, out of pure convenience, my wife withdrew money from her business account in Wells Fargo and deposited it into a shared branch of our main checking account, the Congressional Federal Credit Union, to pay our bills. The IRS quickly closed the matter after we explained the situation and the IRS realized that we were not engaging in any misconduct or nefarious activity. There was no finding of any wrongdoing or misconduct whatsoever.

Based upon my best recollection, on or around 2011, there was one EEO complaint aimed at me and another supervisor, my acting deputy at the time, after we denied her a certain privilege related to advanced leave. It is my recollection that the complainant dropped that matter at the informal stage. To my knowledge and recollection, that individual did not file a formal complaint against me or the aforementioned first-line supervisor. And, there certainly was no adverse finding made against me in that matter.

On or around 2013-2014, my deputy issued a proposed notice to remove an employee for both poor performance and misconduct. She filed an EEO action against my deputy, as her first-line supervisor and me as her second-line supervisor. In my view, these were also frivolous claims, and

there was never an adverse finding made against me by any entity. She eventually withdrew all of her EEO claims against both me and my deputy in the form of settlement, where she was able to get the Bruner presumption. In other words, she agreed to be removed by the agency for being physically unable to perform her official duties. In turn, she received a presumption that she was disabled and eligible to receive a Federal disability annuity. This settlement had nothing to do with any finding or belief by any entity or my supervisory chain that management, including myself, discriminated against her in any way. Again, she voluntarily dismissed all pending EEO actions against the agency.

In December 2018, I was required to submit an affidavit as part of an EEO complaint. I was listed as a witness by the Complainant in my role as the General Counsel of SIGTARP. In the affidavit, the Complainant made various false allegations about my role in his case. I disputed his allegations in my affidavit. To my knowledge, there were no adverse findings made against me by the Treasury Office of Civil Rights and Diversity, the EEOC, or any other entity.

III. Policy Questions

20. Precedents, findings, recommendations and reviews of Office of Personnel Management (OPM) rules by the MSPB have potential to directly affect how employees are managed and how their appeals are decided. What role do you believe the MSPB should play in developing personnel policy?

The MSPB has no role in the actual development of personnel policy. However, the MSPB is authorized to conduct from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected. 5 U.S.C. § 1204(a)(3). In carrying out any study, the Board shall make such inquiries as may be necessary and, unless otherwise prohibited by law, shall have access to personnel records or information collected by OPM and may require additional reports from other agencies as needed. 5 U.S.C. § 1204(e)(3).

The Board is also authorized to review OPM significant actions in its Annual Report and to analyze whether or not the actions of OPM are in accord with merit system principles and free from prohibited personnel practices. 5 U.S.C. § 1206.

Further, the Board is authorized to review OPM regulations to determine whether such OPM regulation is invalid on its face because it would require an employee to commit a prohibited personnel practice, or the OPM regulation is invalidly implemented by an agency such that its implementation requires an employee to commit a prohibited personnel practice. If the Board determines that an OPM regulation is invalid on its face or invalidly implemented, the Board has the authority to require the agency to cease compliance with the OPM regulation and to correct any invalid implementation of the regulation. 5 U.S.C. §§ 1204(a)(4) and (f).

21. The MSPB has the statutory responsibility to conduct objective, non-partisan studies that assess and evaluate Federal merit systems policies, operations, and practices. These studies are typically government-wide in scope and ensure that the workforce is managed in accordance with MSPs and is free from PPPs. What role do you believe MSPB's data collection should play in supporting personnel policy?

5 U.S.C. § 1204(a)(3) states that the MSPB shall: "(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected; and (4) review, as provided in subsection (f), rules and regulations of the Office of Personnel Management." The MSPB also conducts reviews of OPM significant actions (5 U.S.C. § 1206).

5 U.S.C. § 1204(e)(3) states "In carrying out any study under subsection (a)(3), the Board shall make such inquiries as may be necessary and, unless otherwise prohibited by law, shall have access to personnel records or information collected by the Office of Personnel Management and may require

additional reports from other agencies as needed.” [Emphasis added]. In particular, the MSPB can direct requests, as necessary in connection with studies, to agency heads for information or records about Federal employees, departments, and agencies, including OPM (5 U.S.C. § 1204(e)(3)). Data collection is also important as the MSPB distributes reports of studies, conducts outreach, and disseminates information about studies and provides data from MSPB studies in response to requests from agencies. The MSPB also administers a periodic Merit Principles Survey to help administer studies. Those studies, including summaries and analyses of data from the survey, are officially submitted to the President and Congress and shared with agencies.

22. MSPB has been without a quorum of Board members since January 8, 2017. The lack of a quorum contributes to delays in issuing final decisions in petitions for review (PFRs) and other cases filed at headquarters (HQ) and releasing reports of merit systems studies.

- a. The MSPB currently estimates that it will take months or longer to process the inventory of cases at HQ and to publish merit systems studies reports once new Board members are nominated and confirmed. Please describe how you will effectively and promptly address MSPB’s current backlog.

I have been very successful throughout my career in working collaboratively and creatively through consistent accountability to reduce MSPB adjudicatory backlogs, improving processing times on MSPB petition for enforcement cases, significantly improving the number of SSA ALJ allowance cases that my AAJs review on our own motion, and significantly reducing AAJ’s backlog projected at a steep downward two-year projected trend, while our case receipts have been rapidly increasing on top of the additional 8,000 *Lucia* appeals that my AAJs are handling. I have also exponentially increased the imposition of civil monetary penalties on Social Security fraud cases at a historic rate during my tenure as the (Chief) Counsel for the SSA Office of Inspector General.

- b. Please describe how your previous work experience has prepared you to address the challenges in resolving MSPB’s backlog.

I am adept at taking on difficult challenges and taking all necessary and appropriate steps to achieve significant results for the taxpayer in a short period of time. I have a strong belief in ensuring that cases are adjudicated in a timely manner and that high quality decisions are issued. MSPB’s current backlog is an immediate challenge for the Board members to tackle. Since I became the General Counsel of the MSPB in 2006, I have a demonstrated leadership record of reducing a backlog of cases at the MSPB within my area of jurisdiction immediately.

For example, during my first week as the MSPB General Counsel, I met with the MSPB Chairman to discuss his vision for the Office of the General Counsel. The Chairman expressed serious concern with the backlog of cases and the time it took to process petitions for enforcement at headquarters, a responsibility primarily held by the Office of the General Counsel. Moreover, I was quite aware of congressional interest in improving the adjudicatory processing times at quasi-judicial agencies, such as the MSPB. Congress held two specific hearings on the issue in the two years prior to my arrival.

An appellant can ask the Board to enforce its order against the agency (*i.e.*, file a petition for enforcement with the MSPB) when he or she believes that the employing agency is not complying with an MSPB order. For example, if the MSPB orders an agency to place an appellant who was removed by the agency for alleged misconduct back into her original position and provide her with the appropriate back pay, the appellant can file a petition for enforcement with the MSPB if she believes that the agency is not providing her with the correct amount of back pay ordered by the MSPB. My office is charged with resolving the matter and submitting a draft opinion and order to the Board.

With the increased congressional attention on quasi-judicial agencies, such as the MSPB, the Chairman's concerns were quite warranted. Before my arrival, it took an average of 325 days to process a petition for enforcement at headquarters in fiscal year 2006. This was an unfortunate statistic that could no longer be tolerated. As the late British Prime Minister William Gladstone once stated, "Justice delayed is justice denied." The MSPB's customers and the public deserved better.

Reducing these processing times quickly became a high priority for me, but it would not be an easy task. To reduce these processing times, I needed to motivate my employees to achieve certain goals. This would mean modifying their performance standards so that I could hold them accountable for their performance in processing petitions for enforcement. I had to address this challenge carefully.

I quickly formed a small working group within my office to examine ways to improve the processing times for adjudicating petitions for enforcement at headquarters. I asked a member of the union to join the working group. When I assembled the working group, I explained why resolving these petitions more expeditiously served everyone's best interests and why their work in this group was of particular importance to future appellants. I drafted an extensive timeline for processing petitions for enforcement (consistent with MSPB regulations) that all office attorneys would have to comply with and presented it to the working group for review.

The timeline that I presented to the working group was reasonable but quite ambitious and I fully anticipated opposition to my proposal. The working group, however, did not oppose the proposed timeline but instead offered helpful suggestions to improve the proposal. After making the appropriate edits suggested by the working group, I separately met with each attorney responsible for processing petitions for enforcement at headquarters. The purpose of these meetings was to explain the new timeline, explain how the attorneys would be held accountable for meeting the deadlines in the timeline, and answer any specific questions. I also gave each attorney an additional week to review the timeline before implementation in the event that they had any concerns with the new policy. I received no additional questions or expressions of concerns from the staff. I then provided notice to the union as required by the collective bargaining agreement and received no opposition to the change.

I issued the timeline for processing petitions for enforcement as an official office policy on June 18, 2007, well ahead of my personal goal, the end of fiscal year 2007. I modified the performance plans of the affected employees - holding them directly accountable for meeting the deadlines set forth in the new policy. Additionally, I required my deputy to submit a biweekly report to me containing a list of the outstanding cases, along with the name of the attorney assigned to each particular case, the number of days in the office, and the action taken by the attorney. This report allowed me to stay on top of any case that was approaching a deadline established by the new policy. I met with any attorney whose case approached a deadline where there was no notation that I would receive a draft decision within short order. Additionally, through the innovation of one of my staff members, working in conjunction with the Office of Information Resources Management, when such a case was assigned to an attorney, an office paralegal provided the attorney with an automated print-out of the actual deadlines.

The implementation of this policy yielded amazing results. The average time to process petitions for enforcement at headquarters dropped an average of almost 200 days, going from an average of 325 days in fiscal year 2006 to an average of 137 days in fiscal year 2008. I then convinced the Chairman, as an additional step of accountability, that processing petitions for enforcement was so important that it should be included as an agency goal in MSPB's Performance Plan - where the goal still stands to this day. The

results remained low in fiscal year 2009, with an average processing time of 171 days – well below the now-agency goal of 200 days. I rewarded all staff members who played a role in reducing these processing times with both a small monetary award and a time-off award. In December 2007, I received a “Special Act Award” from the MSPB Chairman for my “creativity in resolving difficult issues and the establishment of more efficient policies and practices in the Office of the General Counsel.”

Conversely, in particular, in my role as (Chief) Counsel to the Inspector General (IG) for SSA, with almost 300 special agents (1811s), I provided a variety of legal advice and analysis pertaining to the SSA Office of Inspector General's (OIG) criminal legal work. In fact, the OIG Office of Investigations was one my main clients. The Office of Investigations conducts and coordinates investigative activity related to fraud, waste, abuse, and mismanagement in Social Security Administration programs and operations, and serves as OIG's liaison to the Department of Justice on all matters relating to the investigation of SSA programs and personnel. The Office of Investigations also conducts joint investigations with other Federal, State and local law enforcement agencies. The OIG investigates a variety of situations that may be considered fraudulent, including when an individual conceals work activity while receiving disability benefits, receives Social Security Benefits for a child not under their care, fails to notify SSA of the death of a beneficiary and continues to receive and cash the checks of the deceased, conceals their marriage or assets from the Social Security Administration while receiving Supplemental Security Income payments, resides overseas and is receiving Supplemental Security Income Payments, and misuses benefits when acting as a Representative Payee for a beneficiary. I provide legal advice in all of these areas routinely. I also provided legal training to SSA OIG agents on a variety of criminal law issues, criminal procedures, and criminal discovery matters. Most recently, I provided criminal discovery training to the majority of our law enforcement agents.

In that role, I also oversaw the integrity of the legal advice, guidance, and assistance provided to the IG and senior staff concerning legal and regulatory strategy; criminal legislative proposals, criminal and civil fraud matters; integration and interpretation of new and emerging Agency authorities and responsibilities under anticipated and current regulatory requirements; legal guidance involving issues being deliberated and relevant regulatory and procedural information; review of documents and other materials to ensure legal sufficiency; and compliance with regulatory requirements and other related matters. I also provide executive direction over staff attorneys providing legal advice, assistance and litigation support to Assistant United States Attorneys in the Department of Justice, as well as to State government counterparts in criminal and civil litigation cases.

As (Chief) Counsel to the Inspector General, I was responsible for administering the agency's Civil Monetary Penalty (CMP) Program. Section 1129 of the *Social Security Act* authorizes a CMP penalty against those who make false statements or representations in connection with obtaining or retaining benefits or payments under Titles II, VIII, or XVI of the Act. In addition, CMPs may be used to penalize representative payees for wrongful conversion of payments and to penalize individuals who knowingly withhold a material fact from SSA. After consultation with the Department of Justice, my office was authorized to impose penalties of up to \$5,000 for each false statement, representation, conversion, or omission. (Since I left the amount was adjusted for inflation for more than \$8,000 for each aforementioned misconduct. A person may also be subject to an assessment, in lieu of damages, of up to *twice* the amount of any resulting overpayment.

The CMP program is an effective supplemental tool to ensure punishment where federal criminal prosecution has been declined due to mandatory minimums for loss to the Government. Funds recovered under this program go to either the SSA Trust Fund or the General Fund of the Treasury. I have been committed to increasing the number of

cases successfully resolved each year to make this program an effective supplemental tool to ensure punishment where criminal prosecution has been declined. As (Chief) Counsel to the Inspector General (OCIG) for SSA, one of my main priorities was to improve the Civil Monetary Penalty program-- a program that had become virtually moribund. Several steps were taken to achieve this goal. First, I established the Associate Counsel for CMP Litigation (AC) position - this is a supervisory position dedicated to ensure that my office was meeting the goals of the program and to ensure that the attorneys were working cases efficiently and effectively. I also worked collaboratively with SSA OIG and SSA components and other stakeholders to make the CMP Program more efficient and effective. For example, in FY 2011, to gain a better understanding of how the CMP Program was perceived, through an internal OCIG workgroup and the leadership of the then-AC, through my leadership, my team developed and directed a survey designed to obtain feedback on perceived CMP Program goals, strengths, and weaknesses from a stakeholder perspective. The survey was designed to allow the respondents to offer suggestions on how the Program could be improved and how best its success should be measured.

As a result of the CMP survey responses and meetings with the SSA OIG Office of Investigations, I announced several specific policy changes based on the feedback received. Most importantly, in conjunction with the Deputy Counsel and the Associate Counsel for CMP Litigation, my office now sets weekly CMP goals and performance expectations for each member of the staff. This has been extremely helpful in increasing the number of CMP cases that we successfully resolve.

This section of the CMP Program was a vibrant one when I left, and it was truly an effective supplemental tool to ensure punishment where federal criminal prosecution has been declined due to mandatory minimums for loss to the Government. This was a recurring theme in our survey responses, and I wanted to ensure that we met that goal. In sum, I have been committed to increasing the number of cases successfully resolved each year to make this program an effective supplemental tool to ensure punishment where criminal prosecution has been declined. I have led my office in achieving tremendous success in the CMP Program. In fact, OCIG's CMP numbers have increased exponentially under my leadership. For example, during my first four fiscal years as (Chief) Counsel, my office imposed significantly more penalties (\$48.5 million) than the previous fourteen years combined (\$27 million) prior to my arrival. Our Section 1129 CMP program provided an effective tool to prevent and deter fraud, thereby strengthening public trust in the Agency. Subjects can appeal the proposed imposition of CMPs to the Departmental Appeals Board. My office was responsible for handling such litigation, and we have a very high success rate.

- c. According to their annual report for FY18, MSPB had approximately 1,800 PFRs pending at the end of the fiscal year. If confirmed, please describe how you will work with your colleagues to consider cases awaiting decisions.

If confirmed, I am committed to working with my staff, agency staff, and my colleagues to come up with an innovative, disciplined way to prioritize and tackle the backlog in an expeditious fashion without sacrificing quality.

- d. Do you have experience with resolving backlogs such as the one faced by MSPB? If so, please describe your experience. Yes. Please see my response to 22 b. above.
- e. Have you sought advice from any current or former MSPB employees about how to best address the current backlog? If so, please describe your consultations.

No. -- not within approximately the past ten years. Serving as a former General Counsel for the MSPB in dealing with my own backlog successfully while I was there, as well as

providing the Chairman (at the time) with assistance in reducing overall processing times/backlogs across the board, I have a good idea of how to approach the backlog by setting reasonable accountability goals, devoted staff to the challenge, and without reducing the quality of the decisions.

23. MSPB functions as an independent, third-party adjudicatory authority for employee appeals of adverse actions (e.g., removals, suspensions for more than 14 days, and furloughs) and retirement decisions.

- a. Please describe your experience in developing adjudicatory processes and procedures, issuing subpoenas, calling witnesses and enforcing decisions.

While at the MSPB General Counsel, I sought enforcement under 5 U.S.C. § 1204(c) of subpoenas issued by a Board Member, judge, or other employee designated by the Board, or by OSC. We had independent litigation authority and were highly successful while I was there. During my several years as the (Chief) Counsel for SSA OIG and while I was the General Counsel for SIGTARP, we had similar subpoena authority, except that the Department of Justice had to represent us in such matters. I issued dozens of subpoenas to a wide variety of parties. We mostly received resistance from state agencies. However, we never lost one matter. Many of those disputes were resolved prior to litigation. However, some went to litigation where we won decisively.

While I administered a highly successful civil monetary penalty program while at SSA OIG, I oversaw the litigation of those cases, and calling witnesses. As discussed previously, while at the MSPB, I was responsible for providing the Board members with draft decisions of petitions for enforcement. I developed an adjudicatory process and worked with the working group on perfecting the process, together, we came up with a process to significantly expedite the resolution of those cases, either through settlement or strict timeframes to provide the Board members with a decision.

In my role currently at SSA, I oversee the entire Office of Appellate Operations, which includes 60 Administrative Appeals Judges and over 1,000 staff members. We are in the process of hiring 202 attorney analysts and 30 AAs to mostly increase the amount of appellate reviews we conduct of favorable ALJ decisions. Out of all of the appeals we handle each year, currently we only adjudicate 5-6% favorable ALJ decisions per year. Within two years, partly based on the hires, which are also being hired due to the increase in receipts pending, we will go from approximately 4,000 such quality on-motion favorable appeals per year to more than 40,000 such quality reviews in two years based on our modeling.

- b. Please describe how your previous work experience has prepared you to execute and supervise these actions at MSPB.

I was primarily responsible for the actions described in 23 a.

24. How should Board members seek to safeguard their independence?

The MSPB, by its nature, is a quasi-judicial independent agency in the Executive Branch charged with protecting federal employees against improper personnel-related actions. Assuming this question is asking about Board member decisions, it is absolutely essential that the Board is not influenced towards a particular decision and party based on reasons outside the record. If confirmed, I commit to taking steps to safeguard my judicial independence. Board members can certainly discuss cases among each other; but, outside of staff discussions, if such discussions occur among the members directly, the Board must abide by the requirements of the Sunshine Act. As the MSPB also aims to promote an effective federal workforce free of certain types of discrimination and other prohibited personnel practices, it is important that all Board members seek to safeguard their independence and decide every case based on the record, according to the rule of law, without fear or favor, to the best of their ability. The ABA Model Code of

Judicial Conduct provides that it applies to all full-time judges, and goes on to define "judges" as "anyone who is authorized to perform judicial functions, including ... a member of the *administrative law judiciary*." (Emphasis added). In fact, Rule 1.2 states, in part, that "a judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary." Decisional independence is the foundation of a properly functioning quasi-judicial system. To quote the late former Chief Justice William Rehnquist, an independent judiciary is "the crown jewel of our system of government."

25. MSPB was given the authority and responsibility to review the rules, regulations, and significant actions of OPM. Do you have any concerns about OPM's current rules, regulations or recent actions? If so, please describe those concerns.

I have not fully analyzed such rules recently. However, I would not want to prejudge a decision. I will confront every case with an open mind. I will fully and fairly analyze the legal arguments that are presented. I will be open to the considered views of my colleagues and I will decide every case based on the record, according to the rule of law, without fear or favor, to the best of my ability

26. Do you believe MSPB has the resources it needs to meet current challenges? Please explain.

I do not have enough information on MSPB's current resources to provide a sufficient answer to this question.

27. How will you address the occurrence of PPPs with internal employees of MSPB?

If I become aware that a prohibited personnel practice may have potentially occurred, I will take the necessary steps to immediately investigate the matter. If the MSPB makes a determination that a prohibited personnel practice took place, the MSPB must take appropriate corrective action, and potentially disciplinary action to address the misconduct. The MSPB would, in my opinion, look at what practices within the agency allowed the prohibited personnel action to occur and potentially take steps to eliminate such practices.

28. In some cases, complainants who may be better served by other government agencies such as the EEO or OSC seek assistance from the MSPB.

- a. How will you work to ensure that your staff effectively guides these complaints to the appropriate resources?

If confirmed, I would work with the Chairman to ensure that refresher and new employee training takes place, as appropriate. I would also emphasize the need for educational information be made available if it is not available already.

- b. Will you collaborate with other government agencies to minimize duplication? If so, please describe how you will work to achieve this objective.

I would absolutely support collaboration with the other government agencies if there are current gaps that need to be addressed. If confirmed, and some area of jurisdiction still needs to be worked out, I would defer to the Chairman on the best approach to take.

29. What would you consider to be an appropriate penalty for a violation of the Hatch Act by a senior administration official?

I believe this matter is governed under 5 U.S.C. § 1215(b).

Whistleblower protections

30. 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?

As Counsel to the IG for SSA, I spearheaded and overseen numerous investigations conducted at the request of OSC. I also assisted the Office of Special Counsel per its request when it conducted prohibited personnel practices investigations.

Pursuant to the Whistleblower Protection Enhancement Act of 2012, the IG at SSA designated me, as the whistleblower protection ombudsman (WPO), to carry out these responsibilities and educate agency employees who have made or are contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures. At SSA, once the Act was enacted, I immediately set up an internal working group within my office to meet responsibilities under the Act, including creating the content for a public webpage designed to educate more than 65,000 SSA employees, setting up a dedicated email account to receive inquiries and allegations, creating a rotation of ombudsman-on-call attorneys, and creating electronic inventory logs, among other things. I also prepared a video that was required to be watched by all SSA employees. I was intimately involved in the creation of the content contained in SSA OIG WPO webpage and for years it was the number one site under the search term "Whistleblower Protection Ombudsman." I was actively involved in the CIGIE's Whistleblower Protection Ombudsman group. To ensure that our website met the concerns of whistleblower advocates, I met with the Government Accountability Project Legal Director and added additional language to our website based on his suggestions. I also ensured that SSAOIG achieved 5 U.S.C. § 2302(c) certification from OSC.

Throughout my Federal career, I have encouraged employees to come forward in a safe environment and report, fraud, waste, and abuse. Without working to create such an environment:

- where employees are encouraged to report wrongdoing without fear of reprisal; where people are hired and promoted based on merit – not politics, or inappropriate actions;
- where employees are treated fairly and equitably and not discriminated against;
- where managers provide equal pay for equal work;
- where managers reward excellent performance and hold employees accountable when such employees are performing poorly and fail to provide the public with the most efficient and effective service; and
- where managers fail to act with high standards of integrity, conduct and concern for the public interest,

the American people would suffer by not being provided with a competent, honest, and productive workforce aimed at providing the highest quality of public service.

31. OSC has filed an amicus brief opposing an MSPB decision that ruled against a whistleblower alleging retaliation because the MSPB said the whistleblower's disclosure was motivated by "interpersonal squabbling." Do you believe that the motive of the whistleblower should be considered when examining retaliation claims? Please explain.

I am unaware of the particular case and the complete context, which is referred to above, but the law at 5 U.S.C. § 2302(b)(8) states: (b)Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—

(8)take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of—

(A)any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—

- (i) any violation of any law, rule, or regulation, or
- (ii)

gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or (B) any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences—

- (i) any violation (other than a violation of this section) of any law, rule, or regulation, or
- (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

5 U.S.C. § 2302(f) further states

- (f)
- (1) A disclosure shall not be excluded from subsection (b)(8) because—
- (A) the disclosure was made to a supervisor or to a person who participated in an activity that the employee or applicant reasonably believed to be covered by subsection (b)(8)(A)(i) and (ii);
- (B) the disclosure revealed information that had been previously disclosed;
- (C) of the employee's or applicant's motive for making the disclosure;
- (D) the disclosure was not made in writing;
- (E) the disclosure was made while the employee was off duty;
- (F) the disclosure was made before the date on which the individual was appointed or applied for appointment to a position; or
- (G) of the amount of time which has passed since the occurrence of the events described in the disclosure.
- (2) If a disclosure is made during the normal course of duties of an employee, the principal job function of whom is to regularly investigate and disclose wrongdoing (referred to in this paragraph as the "disclosing employee"), the disclosure shall not be excluded from subsection (b)(8) if the disclosing employee demonstrates that an employee who has the authority to take, direct other individuals to take, recommend, or approve any personnel action with respect to the disclosing employee took, failed to take, or threatened to take or fail to take a personnel action with respect to the disclosing employee in reprisal for the disclosure made by the disclosing employee.

32. OSC filed three amicus briefs in 2017 opposing the MSPB's alleged attempts to impose higher procedural burdens on whistleblowers. Do you believe that whistleblowers should be subjected to higher procedural burdens before their cases are considered by administrative judges? Please explain.

It is my understanding that this matter may be pending with the Board. Nonetheless, I believe it is best to opine on a particular case or controversy. I should decide those questions with an open mind, on the basis of the record presented in the case, and on the basis of the rule of law. I believe that it is best that the parties have the right to expect that of the Board member who participates in the decision.

33. OSC has also filed amicus briefs opposing the application of higher evidentiary burdens on whistleblowers. OSC has written that this burden "runs directly counter to Congress's intent in passing the WFEA's enhanced protections for federal whistleblowers." Do you believe that any whistleblowers should be subjected to higher evidentiary burdens? Please explain.

It is my understanding that this matter may be pending with the Board. Nonetheless, I believe it is best to opine on a particular case or controversy. I should decide those questions with an open mind, on the basis of the record presented in the case, and on the basis of the rule of law. I believe that it is best that the parties have the right to expect that of the Board member who participates in the decision.

34. If confirmed, how will you ensure that whistleblower complaints are properly investigated?

I absolutely believe whistleblower disclosure and whistleblower complaints should be properly investigated. The Office of Special Counsel will investigate prohibited personnel practices and refer whistleblower disclosures for the agency to investigate.

IV. Relations with Congress and the Public

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

I commit to responding to Member requests in an expeditious fashion (unless some unforeseen event happens) in accordance with all applicable laws if I am confirmed.

36. 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. I commit to responding to any reasonable request for information from the Ranking Member in accordance with all applicable laws if I am confirmed.

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

Yes. I commit to responding to any reasonable request for information from the Members in accordance with all applicable laws if I am confirmed.

38. 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. I commit to responding to Member requests in an expeditious, timely fashion (unless some unforeseen event happens) in accordance with all applicable laws if I am confirmed.

39. 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, in accordance with all applicable laws if I am confirmed.

40. 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, in accordance with all applicable laws if I am confirmed.

41. If confirmed, will you agree to work with representatives from this Committee and the GAO to promptly implement recommendations for improving MSPB's operations and effectiveness?

Yes, if I have such authority and can do so in accordance with all applicable laws if I am confirmed.

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

Yes, in accordance with all applicable laws if I am confirmed.

43. If confirmed, will you ensure that political appointees are not inappropriately involved in the review and release of Freedom of Information Act requests?

Yes, in accordance with all applicable laws if I am confirmed.

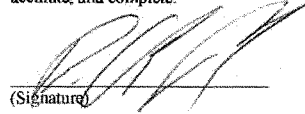
V. Assistance

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

These are my own answers. No one has reviewed my responses.

The other two current Board nominees offered to provide their responses to their policy questionnaires to me that they submitted to the Committee. I subsequently received their official responses from an MSPB official.

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


(Signature)

This 24th day of May, 2019.

**Ranking Member Gary C. Peters
Post-Hearing Questions for the Record
Submitted to B. Chad Bungard**

**Nominations of Chad F. Wolf to be Under Secretary of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Jeffrey C. Byard to be Administrator of the Federal Emergency Management Agency, U.S. Department of Homeland Security; Troy D. Edgar, to be Chief Financial Officer, U.S. Department of Homeland Security; John M. Barger, to be a Governor, United States Postal Service; and B. Chad Bungard to be a Member, Merit Systems Protection Board
Wednesday, June 12, 2019**

1. Whistleblowers are critical to uncovering waste, fraud, and abuse in government. Unfortunately, all too often when a whistleblower comes forward, they may face career-ending retaliation. During our meeting, I appreciated that you committed to evaluating each whistleblower retaliation case on its merits. In your view, what should government be doing to ensure whistleblowers are able to come forward without fear of reprisal, and what is the role of the MSPB among those efforts?

The MSPB is the guardian of the merit system principles. It is a merit system principle to protect employees from reprisal for the lawful disclosure of information that the employee reasonably believes evidences a violation of law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. It is also a prohibited personnel practice to retaliate against an employee for exercising these rights. If confirmed, it will be my responsibility to protect the merit system principles and promote a workplace free of prohibited personnel practices through my statutory responsibilities.

It is my understanding that according to the 2018 Federal Employee Viewpoint Survey only 66 percent of Federal employees believe they "can disclose a suspected violation of any law, rule or regulation without fear of reprisal." This is a disturbing statistic.

The MSPB conducts studies of the Executive Branch workforce to ensure that Federal personnel management is implemented consistent with the merit system principles and free from prohibited personnel practices. 5 U.S.C. § 1204(a)(3) states that the MSPB shall: "(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected."

If confirmed, I will work with the MSPB Chairman and the other Board member to ensure that the MSPB conducts studies and research to help improve how the Federal government can do better to ensure a safe place for whistleblowers so that employees are able to come forward without fear of reprisal and to look for ways to incentivize and encourage Federal employees to report fraud, waste, or abuse and ways to improve service for the American people.

2. Administrative Judges (AJs) hear cases before they ever reach the full Board, but many AJs do not have a background or training in whistleblower issues, which may impact rulings in cases involving whistleblowers.

- a. If confirmed, what steps will you take to ensure that AJs receive appropriate information and training on whistleblower issues?

If confirmed, I will work with the MSPB Chairman and the other Board member to ensure that the Board takes all appropriate steps to ensure that MSPB Administrative Judges receive appropriate information and training on whistleblower issues.

- b. If confirmed, would you be willing to engage with governmental and non-governmental experts on whistleblower issues regarding this issue?

If confirmed, I will work with the MSPB Chairman and the other Board member to ensure that the Board takes all appropriate steps to ensure that MSPB Administrative Judges receive appropriate information and training on whistleblower issues. I believe that receiving input from governmental and non-governmental experts on the issue can be quite valuable. For example, when I served as the Whistleblower Protection Ombudsman (WPO) for the Social Security Administration, to ensure that SSA's WPO website met the concerns of the whistleblower community, I met with a whistleblower expert (i.e., I met with the Government Accountability Project (GAP) Legal Director Tom Devine) and added additional language to the SSA WPO website based on GAP's suggestions.

3. Given your experience, do you believe the public interest in a civil service free of prohibited personnel practices is being adequately protected? If not, please explain what more needs to be done.

I believe that the Federal Employee Viewpoint Survey (FEVS) serves as a good indicator of the top challenges facing the Federal workforce today. I believe the 2018 FEVS has revealed that more work needs to be done to address these top Federal workforce challenges.

It is my understanding that according to the 2018 FEVS, only 66 percent of Federal employees believe that they "can disclose a suspected violation of any law, rule or regulation without fear of reprisal." It is a merit system principle to protect employees from reprisal for the lawful disclosure of information that the employee reasonably believes evidences a violation of law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. It is also a prohibited personnel practice to retaliate against an employee for exercising these rights.

It is also my understanding that the 2018 FEVS revealed that only 56 percent of Federal employees agree that "[a]rbitrary action, personal favoritism and coercion for partisan political purposes are not tolerated." It is a merit system principle that Federal

employees should be protected from arbitrary action, political coercion and favoritism; these are all potential prohibited personnel practices.

It is also my understanding, according to the 2018 FEVS, that approximately 32 percent of Federal employees believe managers deal effectively with poor performers. It is a merit system principle to retain Federal employees "on the basis of adequacy of performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards."

It is also my understanding according to the 2018 FEVS that only approximately 25 percent of Federal employees think pay raises are based on performance. It is a merit system principle that "appropriate incentives and recognition should be provided for excellence in performance."

Among other things, it is a prohibited personnel practice to take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles. In other words, in addition to the enumerated PPPs, any other action that violates any law, rule, or regulation implementing, or relating to, the merit system principles also constitutes a prohibited personnel practice.

The MSPB is central to the application of the merit system principles to the Federal workforce. The nine merit principles focus generally on: (1) ensuring recruitment, retention, pay and other conditions of employment are determined solely on the basis of relative ability, knowledge, skills, and performance; (2) ensuring that employees maintain high standards of integrity, conduct, and concern for the public interest; (3) ensuring that employees are free from arbitrary action, personal favoritism, and reprisal for protected disclosures; and (4) ensuring employees are adequately trained, and that the federal workforce is used efficiently and effectively.

The merit principles are essential to the maintenance of an effective and efficient federal workforce. The Federal government has a unique role. The business of Government is to serve the American people. We must have a Federal workforce that the American people can count on, and key to that is protecting merit system principles and promoting a workplace free of prohibited personnel practices. If confirmed, it will be my responsibility to protect the merit system principles and promote a workplace free of prohibited personnel practices.

The MSPB conducts studies of the Executive Branch workforce to ensure that Federal personnel management is implemented consistent with the merit system principles and free from prohibited personnel practices. 5 U.S.C. § 1204(a)(3) states that the MSPB shall: "(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected." If confirmed, I will work with the MSPB Chairman and the other Board member to ensure that the MSPB conducts studies and

research to help improve how the Federal government can do better to ensure that the public interest in a civil service free of prohibited personnel practices is being adequately protected.

4. Part of MSPB's mandate is to conduct studies and issue recommendations to Congress and the President through reports. Without a quorum, the Board has not been able to vote on release of these recommendations since January 2017. As a member of the Board, what issues would you examine for potential policy recommendations, with the goal of improving and protecting the federal merit system?

I believe that the Federal Employee Viewpoint Survey (FEVS) serves as a good indicator of the top challenges facing the Federal workforce today. If confirmed, I will work with the Chairman and the other Board member to ensure that the MSPB conducts studies and research to address the top challenges facing the Federal government that is revealed in the FEVS, including the items listed in response to question 3. I believe it is also important to seek input from Congress, the public, and other Federal agencies, including OPM.

5. Some federal employees appear *pro se* before AJs and the Board. Many do not know what their rights are or how to even file a complaint. What actions can MSPB take – and, if confirmed, what actions would you take – to educate employees on their rights, the process, and other relevant issues so that individuals are able to effectively navigate the system, including when they appear in a *pro se* capacity?

*If confirmed, I commit to working with the Chairman and the other Board member on ways to enhance the education of employees on their rights, the process, and other relevant issues so that individuals are able to effectively navigate the system, including exploring ways to enhance the Board's website (to ensure it educates *pro se* litigants in a comprehensive, plain-English manner), enhance the appeals process, effectively train AJs to effectively deal with *pro se* litigants in accordance with the Judges' Handbook (and update such Handbook as necessary) and increase the use of *pro bono* attorneys at the MSPB stage, among other things.*

The MSPB Administrative Judges' Handbook currently states the following:

*The MSPB's policy is to make special efforts to accommodate *pro se* appellants. These efforts may include the following: the A[dministrative] J[udge] [(AJ)] may schedule a status conference early in the process to explain what will be required of the *pro se* appellant and to advise that the *pro se* appellant may contact the R[egional] O[ffice] or F[ield] O[ffice] with questions regarding procedural matters. Generally, the AJ should not reject filings by *pro se* appellants for failing to comply with technical requirements, unless the violations are repeated after a clear warning. The AJ ordinarily should not impose sanctions for failing to comply with an order unless the record establishes that the *pro se* appellant received instructions that a reasonable person, unfamiliar with Board procedures, would have understood. The AJ may allow greater latitude to the *pro se**

appellant in questioning witnesses and in giving testimony. The AJ may allow some leading questions, and may need to instruct the pro se appellant regarding the correct method of questioning. The Board has stated, in this regard, that AJs "should provide more guidance to pro se appellants and interpret their arguments in the most favorable light." Miles v. Department of Veterans Affairs, 84 M.S.P.R. 418, 421 (1999).

6. The MSPB has had a completely vacant board since March 1st. As a result, the Board has been unable to issue stays for over three months. Stays give the Office of Special Counsel more time to investigate alleged retaliation against whistleblowers and other improper actions. The MSPB's inability to issue stays could have deleterious effects on OSC investigations, as well as on the livelihoods of whistleblowers.

- a. How will you account for the ways in which the inability to extend or issue stays since March has potentially damaged whistleblower cases?

If confirmed, I commit to working with the MSPB Chairman and the other Board member to account for the ways in which the inability to extend or issue stays since March has potentially damaged whistleblower cases.

- b. In your opinion, what, if anything, can a fully operational MSPB do to mitigate this damage?

If confirmed, I commit to working with the MSPB Chairman and the other Board member to find ways to explore the potential problem and examine the best ways to mitigate any potential damage.

If confirmed, I also commit to working with the MSPB Chairman and the other Board member to tackle the backlog. As set forth in my policy questionnaire, I have a demonstrated record of success of taking on difficult challenges (including a backlog) and taking all necessary and appropriate steps to achieve significant results for the American people in a short period of time. I have a strong belief in ensuring that cases are adjudicated in a timely manner and that high quality decisions are issued. MSPB's current backlog is an immediate challenge for the Board members to tackle. As I stated at the hearing, without having a quorum for a very long time, if confirmed, I would work with the Chairman and the other Board Member to reduce that as quickly as possible while ensuring quality of the decisions.

7. I understand that as General Counsel at MSPB, you primarily handled compliance issues for the agency. However, during your time as General Counsel, did you ever serve in an informal advisory role to the Chairman, or the Board-at-large?

When I served as the MSPB General Counsel from 2006 – 2010, I had many responsibilities, only one of which was overseeing the preparation of draft petition for enforcement decisions (also known as compliance decisions) for the Board. I served as the chief legal advisor and chief legal representative of the MSPB. I supervised fourteen full-time employees in the Office of General Counsel (OGC). I provided advice to the

Board and its organizational components on matters of law arising in day-to-day operations.

I provided high-quality legal (formal and informal) advice on complex legal issues to the Chairman, the Board members, the Board, and the Board's organizational components on a variety of topics, with the goal of ensuring that MSPB met its mission by providing the requesting official with the full range of options available within the bounds of the law. Specifically, I issued more than two dozen internal advisory opinions at the MSPB during my tenure on a variety of issues, including federal information law, federal fiscal law, federal procurement law, contract law, intellectual property law, performance management, the Trade Secrets Act, internal-labor management and employment issues, tort law, and ethics matters, among many other issues.

Further, as previously stated, I oversaw the preparation of proposed decisions for the Board on assigned cases, including the petition for enforcement decisions. I was responsible for managing the MSPB's heavy litigation docket in the United States district courts and courts of appeals in approximately 80 cases annually in appeals from Board decisions. I represented the MSPB in personnel litigation and provided advice in such matters. I coordinated the MSPB's legislative policy and congressional relations and coordinated responses to requests for information from the White House and Congress. I oversaw the development of MSPB regulations, as needed. I served as the MSPB's Designated Agency Ethics Official (DAEO) and conducted the MSPB's ethics program. I also planned and directed internal MSPB investigations pursuant to the Inspector General Act of 1978, as amended. I also communicated with the media and reviewed the reports and studies completed by the Office of Policy Evaluations before they were finalized for a legal review, among other duties.

a. If so, what types of cases would this have involved?

As stated above, I have issued more than two dozen internal advisory opinions on a variety of issues as the MSPB General Counsel, including federal information law, federal fiscal law, federal procurement law, contract law, intellectual property law, performance management, the Trade Secrets Act, internal-labor management and employment issues, tort law, and ethics matters, among many other issues. I also provided guidance/training to the Board members on the Sunshine Act and provided Hatch Act training to all MSPB personnel. There were a few times where I believe the advice of the Office of General Counsel was requested by a particular Board member or Board members related to a particular case. Advisory topics during my tenure that I have a recollection of working on related to the adjudication of a particular case (requested by a single Board member or members) involved a request regarding whether the Trade Secrets Act restricted the disclosure of particular details in a published Board decision and a request related to the Board's review of agencies' national security determinations in light of the Supreme Court case Dept. of Navy v. Egan.

- b. How would the General Counsel's influence differ from that of a Chief Counsel to an individual Board member?

It is my understanding that the Chief Counsel to an individual Board member has a limited role, which is to mainly assist the Board Member by reviewing case records, performing legal research, and preparing proposed decisions and orders for their particular Board Member. The Office of the General Counsel (OGC), as legal counsel to MSPB, has a much broader role.

The Office of the General Counsel advises the Board and MSPB's organizational components on matters of law arising in day-to-day operations. The OGC prepares proposed decisions for the Board on assigned cases and represents MSPB in litigation and employment and labor relations matters. The office also coordinates MSPB's legislative policy and Congressional relations functions, responds to certain requests for information, develops regulations, and conducts MSPB's ethics program. It is also responsible for MSPB's investigative functions under the Inspector General Act of 1978.

More specifically, according to MSPB's Organization Functions & Delegations of Authority, functions delegated to OGC include:

- *Assist the Board by reviewing case records, performing legal research, and preparing proposed decisions and orders for the Board in the following matters:*
 - a. *Cases referred to the Board for enforcement upon a finding by a judge that a party is not in compliance with a final decision or order of the Board;*
 - b. *Reviews of an OPM regulation or implementation of an OPM regulation by an agency upon the request of an interested person or OSC, or on the Board's own motion (5 C.F.R. Part 1203);*
 - c. *Court remands (when a determination has been made that a court remand should be processed by OGC; such cases are reviewed initially by OGC and either retained in OGC, transferred to OAC, or remanded to a regional or field office);*
 - d. *Other cases as assigned by the Board, including petitions by the OPM Director that the Board reopen or reconsider a final decision in an appeal which OGC prepared the decision for the Board;*
- *Recommend changes in policy and/or regulations on matters related to adjudication in the office;*
- *Provide legal opinions and advice to the Chairman, the Board Members, and MSPB offices;*
- *Represent MSPB in litigation, monitor litigation pertaining to MSPB that is being handled by the Department of Justice, and advise the Board and affected MSPB offices on the effect of court decisions;*
- *Seek enforcement under 5 U.S.C. § 1204(c) of subpoenas issued by a Board Member, judge, or other employee designated by the Board, or by OSC;*
- *Coordinate the development of MSPB adjudicatory regulations and approval of such regulations by the Board; Initiate changes, as required, to 5 C.F.R. Part 1200, "Board Organization;"*
- *Review administrative regulations prepared by other offices;*
- *Coordinate MSPB submissions for the Unified Agenda of Federal Regulations;*

- Conduct liaison activities with the Equal Employment Opportunity Commission (EEOC) with respect to mixed cases and with the Federal Labor Relations Authority (FLRA) with respect to labor relations matters;
 - Represent MSPB in labor-management matters including coordination of internal employee relations work with the Human Resources (HR) Director;
 - Represent MSPB in internal matters, including MSPB employee appeals and complaints;
 - Coordinate requirements under the Ethics in Government Act of 1978;
 - Review FOIA and Privacy Act appeals and prepare proposed decisions for the Chairman;
 - Perform legislative counsel, legislative policy, and Congressional relations functions; respond to inquiries from the White House and Congress; oversee MSPB responses to Congressional inquiries, as appropriate, to ensure information consistency; coordinate transmittal of reports and other information to Congress by or on behalf of other agency program offices;
 - Receive and process allegations of waste, fraud, abuse, and gross mismanagement directly or by referral from the telephone hotline maintained on behalf of the Board by another Inspector General's Office through a cooperative agreement;
 - Conduct MSPB's Petition for Review settlement program; and
 - Enter appropriate data into the case management system.
8. Since the Board has been vacant for over three months, the MSPB faces an unprecedented backlog in cases. As a member of the Board, how will you work to address this backlog in an efficient way without harming due process?

While efficiently addressing the case backlog is a priority, it can never outweigh the importance of protecting the due process rights of appellants before the Board. Title 5 of the United States Code and the MSPB's regulations establish procedures that provide the notice and opportunity to be heard that due process requires. Employees are guaranteed due process rights both prior to an agency's taking an adverse action, and again at the hearing stage of an MSPB appeal. At the MSPB appellate stage, Board members must ensure through a thorough review of the record of each case that appellant due process rights have been protected both at the agency level and at the hearing level. If confirmed, my knowledge and experience in Federal civil service law will enable me to undertake that review efficiently and effectively.

With regard to tackling the backlog, as set forth in my policy questionnaire, I have a demonstrated record of success of taking on difficult challenges (including a backlog) and taking all necessary and appropriate steps to achieve significant results for the taxpayer in a short period of time. I have a strong belief in ensuring that cases are adjudicated in a timely manner and that high quality decisions are issued. MSPB's current backlog is an immediate challenge for the Board members to tackle. As I stated at the hearing, without having a quorum for a very long time, if confirmed, I would work with the Chairman and the other Board Member to reduce that as quickly as possible while ensuring quality of the decisions.

9. A completely vacant MSPB has the potential to undermine the agency's effectiveness as well as its employee morale. If confirmed, how will you prioritize employee retention and morale?

If confirmed, I will work with the Chairman and the other Board Member to improve employee morale and ensure MSPB employees fully understand and appreciate MSPB's mission and how important their work is to the American people.

If confirmed, I will also abide by several principles that in my experience promote a healthy and happy work environment. First, I will act with complete integrity and act with complete professionalism in the way that I carry out my responsibilities. Along similar lines, I aim to ensure that I abide by the highest ethical standards. Second, I will treat everyone fairly and equally – always acting in an honest and impartial manner. Third, I will treat everyone with respect and dignity. Fourth, I strongly believe in collaboration – especially dealing with significant change. Getting employee buy-in is extremely important to me, not necessarily trying to reach consensus, but aiming to ensure that everyone impacted by potential change has a chance to be heard and that I take those concerns seriously before making a policy decision. Fifth, I will work to ensure that all employees remain mission-focused, work to achieve the highest level of efficiency and effectiveness for the taxpayers, and that all employees understand no matter what level they serve at in the agency, they clearly know how their work impacts the mission of the agency. Sixth, I believe in complete and open communications (to the extent it does not fall within a confidential category) both up and down. Finally, I strongly encourage and promote, through individual training plans, professional development to ensure alignment with office goals and individual desires (to the extent possible). I believe living by these principles and if confirmed, I commit to working with the Chairman and the other Board Member to work on improving employee morale.

10. In the wake of the Administration's Executive Orders last May, the Social Security Administration moved to restrict its employee unions – severely cutting official time, evicting unions from office space, and refusing to reimburse union members for negotiation-related travel. Though you arrived at SSA only last August, after the Executive Orders were issued, there have been reports of ongoing hostility towards unions at SSA.
- a. As Deputy Commissioner for Analytics, Review, and Oversight, what role do you play in the agency's relations with the federal workforce?
- I have a large workforce that are members of a union. But, it is the Office of Labor-Management and Employee Relations that is directly responsible to the Deputy Commissioner for Human Resources for managing the SSA labor management relations program, including the development and evaluation of the program and the formulation of SSA-wide labor management relations policy.*
- a. Have you had any role in the decisions to change agency policy with respect to unions?

No, not that I recall. I do not believe that I have had any direct role in the decisions to change agency policy with respect to the unions.

- b. Have you played any role in the negotiations process between SSA and unions?

No. I have not had any direct role in the negotiations process between SSA and the unions.

- c. How do you view the recent attempts to curtail union effectiveness?

I am not quite sure on what you are referring to in this question. Separate from the Executive Order, since I have arrived, I am not aware of any attempts to curtail union effectiveness.

- d. Please expound upon your views on unions and collective bargaining rights, as well as the relationships that you have had with unions throughout your career.

I have had great working relationships with unions throughout my career – by getting union members and officials involved early and often on matters affecting the unionized workforce. Getting input from impacted employees is the way I implement change effectively regardless of whether such employees are unionized. I believe that agencies and unions should be working together to help agencies effectively and efficiently fulfill their statutory mission through healthy labor-management relations.

GOVERNMENT MANAGERS COALITION

• FAAMA • FMA • NCSSMA • PMA • SEA •

June 11, 2019

The Honorable Ron Johnson, Chairman
 The Honorable Gary Peters, Ranking Member
 United States Senate
 Homeland Security and Governmental Affairs Committee
 340 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chairman Johnson, Ranking Member Peters and Members of the Committee:

On behalf of the five major federal sector executive and management professional associations comprising the Government Managers Coalition (GMC), we write to express our support for the nomination of B. Chad Bungard to be a Member of the Merit Systems Protection Board (MSPB). As you know, the MSPB is operating under unprecedented circumstances - without a single Member since March 1, 2019 and without a quorum for a year and a half.

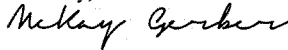
The GMC collectively represents the interests of over 250,000 supervisors, managers, and executives throughout the federal government. Our mission is to promote good government initiatives that foster effectiveness and efficiency throughout the federal government. Certainly, a key component to good governance is ensuring key agency leadership roles are filled by skilled candidates.

Mr. Bungard's positive reputation and prior experience as MSPB General Counsel, and with the Social Security Administration, the Special Inspector General for the Troubled Asset Relief Program (SIGTARP), and Capitol Hill, provide the requisite experience for success as a Member of the Board.

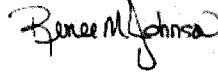
We encourage the Senate to promptly act on this and the other MSPB nominations.

If you have any questions, please feel free to contact Jason Briefel with the Senior Executives Association at Jason.Briefel@seniorexecs.org or (202) 971-3300.

Sincerely,



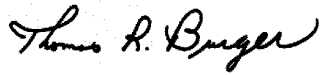
MCKAY GERBER
 President
 FAA Managers Association



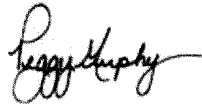
RENEE M. JOHNSON
 President
 Federal Managers Association

GOVERNMENT MANAGERS COALITION

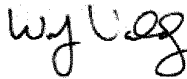
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THOMAS R. BURGER
Executive Director
Professional Managers Association



PEGGY MURPHY
President
National Council of Social Security
Management Associations



BILL VALDEZ
President
Senior Executives Association

CC: Members of the Senate Homeland Security and Governmental Affairs Committee