

**NOMINATIONS OF BRIAN D. MILLER AND
DANA WADE**

HEARING
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SIXTEENTH CONGRESS
SECOND SESSION
ON
NOMINATIONS OF:

BRIAN D. MILLER, OF VIRGINIA, TO BE SPECIAL INSPECTOR GENERAL FOR
PANDEMIC RECOVERY, DEPARTMENT OF THE TREASURY

DANA WADE, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY,
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MAY 5, 2020

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NOMINATIONS OF BRIAN D. MILLER AND DANA WADE

TUESDAY, MAY 5, 2020

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 2:31 p.m., in room SD-106, Dirksen Senate Office Building, Hon. Mike Crapo, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN MIKE CRAPO

Chairman CRAPO. This hearing will come to order.

Since this is our first hybrid hearing, a brief explanation of how it will work will benefit Senators and the public.

The hearing room has been configured to maintain the recommended 6-foot social distancing between Senators, nominees, and other individuals in the room necessary to operate the hearing, which we have kept to a minimum.

A number of Senators have chosen to use secure video teleconference technology, which will allow them to remotely participate.

For those joining by video conference, once you start speaking, there will be a slight delay before you are displayed on the main screen.

To minimize background noise, we ask Senators who are using the video conference option to please click the mute button until it is your turn to ask questions.

If there is a technology issue, we will move to the next Senator until that issue is resolved.

I remind all Senators and the nominees that the 5-minute clock still applies.

For Senators using the video option, you will notice a screen labeled "clock" that will show how much time is remaining.

At about 30 seconds remaining, I will gently tap the gavel to remind Senators that their time has almost expired.

To simplify the speaking order, Senator Brown and I have agreed to go by seniority for this first hybrid meeting.

Thank you to those of you who are here today, those appearing before us, and those who are keeping the Capitol complex safe and functioning while we honor our constitutional duty.

The coronavirus, or COVID-19, pandemic has challenged our sense of normalcy, and it has tested every institution of daily life we know.

The crisis has had a major impact on the physical and economic health of our country, and a major response has been required.

Congress and the Administration have taken bold, dramatic steps to limit the depth of economic shock the country is currently experiencing and to provide conditions for a quick and robust economic recovery once economic restrictions are lifted.

The CARES Act went into effect just over 1 month ago, putting needed cash directly into the hands of American workers and families, providing rapid relief to small businesses, helping to stabilize our markets and the economy, and sending a massive new infusion of resources to the front lines of the medical response.

Title IV of the CARES Act, which is under the Banking Committee's jurisdiction, provides \$500 billion in emergency relief in order to provide liquidity to eligible businesses, States, municipalities, and tribes related to losses incurred as a result of coronavirus.

Implementing this title is an important step to supporting the flow of credit in the economy.

On April 9, 2020, the Federal Reserve Board and the Department of Treasury announced new and expanded set of lending programs to provide up to \$2.3 trillion in loans.

The 13(3) Federal Reserve facility—well, actually all of them, specifically the Main Street Lending Facility—are crucial components of the strategy to support the economy and promote a U-shaped recovery, which reinforces the need to have them up and operating and being as broadly available for as many businesses as possible.

Title IV includes robust oversight requirements to ensure the statute is followed and to protect against waste, fraud, and abuse.

The Special Inspector General for Pandemic Recovery, or SIGPR—another new Federal acronym—will oversee the reporting and auditing requirements of the law, and it is critical that we quickly confirm the nominee so that important work can begin.

This afternoon, we will consider the nominations of the Honorable Brian Miller, of Virginia, to be Special Inspector General for Pandemic Recovery; and Mrs. Dana Wade, of the District of Columbia, to be Assistant Secretary for Housing and Federal Housing Commissioner at the U.S. Department of Housing and Urban Development.

Welcome to both of you and congratulations on your nominations to these important positions.

Section 4018 of the CARES Act establishes the Special Inspector General for Pandemic Recovery.

The duty of the SIGPR is to “conduct, supervise, and coordinate audits and investigations of the making, purchase, management, and sale of loans, loan guarantees and other investments made by the Secretary of the Treasury under any program established by the Secretary under this Act, and the management by the Secretary of any program established under this Act.”

Mr. Miller is highly qualified for Special Inspector General, having served as the Inspector General for the General Services Administration for nearly a decade.

The Senate confirmed Mr. Miller for that position in 2005 via voice vote, a position he held for nearly 10 years.

In that role, Mr. Miller led more than 300 auditors, special agents, attorneys, and support staff in conducting nationwide audits and investigations; and reported on fraud, waste, and abuse.

He has been outspoken on the need for Inspectors General to have independence and access to information, and I am confident that he will carry out the responsibilities and mission of this position diligently, independently, and objectively.

During a Senate Judiciary Committee hearing in 2015, Mr. Miller noted, “. . . in order to have effective oversight, an IG must have independence to conduct an investigation, review, or audit. This includes determining what information is needed. It is the judgment of the IG conducting the investigation that matters, not the judgment of the agency being investigated.”

I encourage my colleagues to support Mr. Miller’s nomination so that he can begin this vital oversight role.

Turning to Mrs. Dana Wade, Dana Wade is well prepared to take over the reins at the Federal Housing Administration. She is familiar to the task, having operated as Acting Federal Housing Commissioner and General Deputy Assistant Secretary for the Office of Housing.

As Acting Commissioner, she directly managed FHA’s portfolio of single-family, multifamily and health care insurance; Section 8 project-based rental assistance; the Office of Manufactured Housing; and over 2,400 personnel agencywide.

Mrs. Wade’s extensive record of housing policy experience also includes service as Senior Adviser to Secretary Ben Carson, Deputy Staff Director to this Committee and the Senate Appropriations Committee, and as Associate Director at the Office of Management and Budget, where she led all housing-related issues and supervised HUD, among other agencies.

Great leadership will be required at FHA during this unprecedented time of strain on both home ownership and rental markets.

In the wake of COVID-19, we have already seen over 10 percent of FHA borrowers enter mortgage forbearance, FHA-insured health care facilities feeling significant strain, and many FHA-assisted landlords struggle to make ends meet while countless renters are unsure where their next rent payment will come from.

In the months ahead, FHA will be on the front lines helping many of these families get back on their feet and providing much-needed liquidity throughout the housing finance system.

I am confident that Mrs. Wade will provide exactly the type of leadership that is needed during this critical time, as Commissioner Montgomery has done.

I encourage my colleagues to support Mrs. Wade’s nomination, as well as to confirm Brian Montgomery as Deputy Secretary, so that we can best position HUD to tackle the challenges ahead.

Congratulations again to each of you on your nominations, and I thank you and your families for your willingness to serve.

Senator Brown.

OPENING STATEMENT OF SENATOR SHERROD BROWN

Senator BROWN. Thank you, Mr. Chairman. I would like to say thank you to staff, the Sergeant at Arms, the Architect of the Capitol, the Office of the Attending Physician, the Recording Studio, the Senate Rules Committee. This was a team effort working so hard over the last couple of weeks to try to make these hearings as safe as possible, including by using technology for Members to

join these hearings remotely. Member Senators in both parties, maybe even a majority of the Committee, I believe, have decided to join us that way. I want to thank the Capitol Police and all other Senate staff and contractors who worked to make sure the Senate continues to run.

I want to especially thank Chairman Crapo and his staff, thanks to Laura and my office and Gregg, the Staff Director, and Cameron for working together to coordinate this hearing and provide that remote option for Senators to join. It is the right thing to do, that we could all do what we think is best to keep ourselves and people who work here safe.

I am concerned, however, Mr. Chairman, at the reckless decision by Leader Mitch McConnell to open the Senate to session despite ongoing emergency stay-at-home orders all over the country, including in my State of Ohio, Governor DeWine, including in Washington, D.C., including Senator Van Hollen's Maryland and Senator Warner's Virginia. Leader McConnell's actions are forcing Capitol complex workers, contract workers like the cleaning staff who just cleaned this hearing room and will clean again when we are done, and food service workers who just served the Republican Caucus lunch to go—that they are here working is going against public health authorities' advice, and they put themselves at risk to come to work. Most of those workers, unlike all of us who probably come to the Capitol, either we walk from a nearby apartment or condo or we come in cars, most of these workers come by bus and subway, and they put themselves at risk, creating more anxiety for their families. As I said, Senator McConnell's decision was reckless and unfair especially to those employees.

To compound that, the Republican Leader's agenda this week does not include assistance for the unemployed, anything that helps people to stay in their homes. I appreciated Chairman Crapo's comments about how many people, how many renters are living on the edge. There is no support in this week that we can see from Senator McConnell, no attempts to support community health services. These are issues the Senate should be taking on right now.

Mr. Chairman, I want to congratulate the nominees and thank them for their willingness to serve. This is probably not the confirmation hearing that each of you had hoped for. I want to thank your families, who I assume are watching from home.

The Special Inspector General for Pandemic Response will oversee the CARES Act lending and investment programs that were designed to stabilize our economy and get help to communities and workers and small businesses that are hurting so much during this pandemic. This lending will be critical to restarting our economy to begin the recovery.

The FHA Commissioner faces an affordable housing crisis made even worse, of course, by this pandemic. The stability and future of millions of families are on the line as Congress and the Administration respond to this crisis. If confirmed, the two of you will serve in positions that are crucial to implementing the policy responses to the pandemic.

This Committee has oversight over the Treasury and Federal Reserve loan programs under CARES. That is why I fought for this

Office of the Special Inspector General for Pandemic Response. The American people need a strong watchdog to make sure the \$500 billion of taxpayer money provided under this act and the \$4 trillion that the Federal Reserve will lend, that it actually goes to support workers and communities and businesses. Because the act grants the Treasury Secretary and the Fed broad discretion over who gets these loans and on what terms, the Special Inspector General will need to examine the loan terms, the transactions, the lenders involved, and the eligibility of borrowers.

We have seen how the small business loans so far went to big companies and important clients of Wall Street banks while community banks and credit unions—we all have them in our States—and their customers on Main Street and in underserved communities waited and waited and waited. I think most of us have heard the frustration from restaurants and barbershops and cafes and so many other small businesses in our State that are facing impossible decisions right now. They spend hours on the phone trying to talk to someone about a loan. They have either been turned down or cannot get answers while big, well-connected franchises go to the front of the line. That is simply unacceptable. We cannot let the same thing happen with these loans by Treasury and the Fed. The problem with SBA loans should be a lesson to Congress as we consider additional recovery measures and a lesson to the Special Inspector General.

In addition to these concerns, President Trump has shown outright hostility toward anyone who tries to hold him accountable to the American people whom he serves, special hostility toward Inspectors General. I think that Mr. Miller realizes that. The President removed the Acting IG for the Defense Department who was set to become Chairman of the Pandemic Response Accountability Committee. He fired the Intelligence Committee IG last Friday. Friday he replaced the Acting Health and Human Services IG. All of these professionals simply were doing their jobs, and they exposed misconduct in the Administration. That is what their jobs are.

Looking at the last 20 years, we found only one IG candidate was nominated while serving in the White House Counsel's Office. Another nominee served in the White House Counsel's Office under an earlier Administration. Both of them resigned, one for politicizing the office, the other for lack of independence. Not a great track record when a President appoints a lawyer in his office in the White House to be an Inspector General that oversees and examines White House behavior.

We passed the CARES Act to support our economy by helping workers, mainstream businesses, State and local governments, and nonprofits. We cannot tolerate businesses and their workers suffering to protect the President, to protect his family, to protect his allies because of corruption, misuse, and favoritism.

Mr. Miller, if you are confirmed, I expect you to follow the letter and spirit of the law and to serve the American people, not President Trump. As Special Inspector General, you must be willing to stand up to the Administration and any other bad actor and uphold the goals of the law. Anything less is totally unacceptable.

While Mr. Miller is the only nominee before us today with “pandemic response” in his title, make no mistake: The FHA and the Office of Housing will be on the front lines of our Nation’s response as well. In good times, FHA provides access to affordable home ownership for millions of families. When the economy slows, the FHA is expected to step up to meet the needs of more households and keep the mortgage market working, even as others in the market retreat.

During the 2008 financial crisis, economists estimated that FHA’s action helped prevent an additional 25-percent decline in housing prices and the loss of an additional 3 million jobs. Quite a responsibility and quite a performance. FHA’s decisions will determine whether families can remain in their homes or whether communities face a foreclosure crisis on top of a public health crisis. They will help determine whether the burden of this downturn, like the 2008 crisis, falls most heavily on communities of color and exacerbates economic inequality or whether we will adopt policies and do oversight to provide an equitable recovery that keeps affordable housing in the hands of homeowners and communities rather than Wall Street investors.

Decisions at the Office of Housing, which Mrs. Wade would lead if confirmed, will determine whether policies and funding are in place to keep the lowest-income seniors, persons with disabilities, people in HUD-financed health care facilities, keep them safe during this pandemic.

Over the past 3 years, the Administration has tried to gut funding to housing and community development programs. They have rolled back fair housing protections and other civil rights protections. They have undermined the safety of manufactured housing residents. They have tried to make home ownership more expensive and harder to attain. I hope the answers Mrs. Wade provides today will make clear that she will fight alongside us to reverse that trend.

Mr. Chairman, thank you, and thank you again for being the first in the Senate to do a hearing like this. Thank you.

Chairman CRAPO. Thank you, Senator Brown.

I will now administer the oath. Would each of our witnesses stand and raise your right hands? Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MILLER. I do.

Mrs. WADE. I do.

Chairman CRAPO. And do you agree to appear and testify before any duly constituted committee of the Senate?

Mr. MILLER. I do.

Mrs. WADE. I do.

Chairman CRAPO. Thank you. You may sit down.

Your written statements will be made a part of the record in their entirety. Usually at this point we give you each a chance to introduce your family. We will thank them on your behalf since we are keeping the number of people in the hearing room to a minimum. And, with that, I would like to invite you to proceed. Mr. Miller, would you please begin?

STATEMENT OF BRIAN D. MILLER, OF VIRGINIA, TO BE SPECIAL INSPECTOR GENERAL FOR PANDEMIC RECOVERY, DEPARTMENT OF THE TREASURY

Mr. MILLER. Thank you, Mr. Chairman. I want to thank the Chairman and Ranking Member for having this hearing. I would like to thank President Trump for nominating me. Most of all, I want to thank my wife and family for their encouragement to continue public service, especially in such a demanding job. Thank you.

I have been fortunate to have a long career in public service that has prepared me well for this position. I have close to 30 years of experience in the Federal Government—15 years in the Department of Justice and nearly 10 years as the Senate-confirmed Inspector General of the General Services Administration, serving across both Republican and Democrat administrations. I have also served as an independent corporate monitor and practiced law in the areas of ethics and compliance, Government contracts, and internal investigations.

I am amazed and humbled by the letters of support that I received in such a short time period during a time of a pandemic. I am deeply grateful to those who signed from all varieties of political stripes, from former officials in the Obama, Bush, and Clinton administrations. I would like to thank them and I would like them to know that I will always endeavor to be the man they describe in their letters.

If confirmed, I will conduct every audit and investigation with fairness and impartiality. I will be vigilant to protect the integrity and independence of the Office of Special Inspector General. I pledge to seek the truth in all matters that come before me and to use my authority and resources to uncover fraud, waste, and abuse.

I stand ready to answer any questions. Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Mrs. Wade.

STATEMENT OF DANA WADE, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mrs. WADE. Thank you. Chairman Crapo, Ranking Member Brown, and Members of this Committee, thank you for inviting me here to testify today as the nominee for Federal Housing Commissioner and Assistant Secretary for Housing at the Department of Housing and Urban Development. I also want to thank President Trump for the privilege of being nominated for this position.

It is truly an honor to be here after serving as a staff member of this Committee and spending a good part of my career working for Senator Shelby on both the Banking and Appropriations Committees. I am extremely grateful to him for such opportunities.

I am also very thankful for the love and support of my wonderful family. I regret that both my husband, Chris, and my daughter, Mary, as well as my niece, Ava, could be here not in person, only in spirit, but I would, if I may, like to wish my daughter, Mary, a happy birthday. She turns 6 years old tomorrow.

As I look around this hearing room, I see the Senate continuing the people's work but under very different circumstances. If confirmed, I will commit to doing everything I can as FHA Commissioner to help the country emerge from the COVID-19 pandemic healthier, stronger, and with a more prosperous economy.

Never has it been more clear than today that HUD and FHA play critical roles in our Nation's safety net. Secretary Carson and the dedicated staff at HUD are working tirelessly to minimize the impact of COVID-19 to homeowners, renters, and vulnerable populations that HUD serves each and every day. We are grateful for the hard work and bipartisan commitment of this Committee and Congress in passing legislation that safeguards American families, communities, and the economy from this terrible virus.

I joined public service in the midst of a different crisis—the financial crisis of 2008—during which I gained valuable experience that I believe will serve me well if confirmed. I learned that during times like these, it is important to make sure assistance quickly reaches those in need and that we maximize the effectiveness of every Federal dollar. I have been a staff committee member of the Budget, Banking, and Appropriations Committees, as well as an Associate Director at the Office of Management and Budget. I have also been the acting head of FHA and HUD's Office of Housing where I implemented reforms that better managed risk, built up capital, and provided greater transparency to the public.

If confirmed, my priorities for FHA and the Office of Housing would be as follows:

First, given this unprecedented situation and global pandemic, protecting current FHA homeowners and renters. Many FHA homeowners, I know I do not have to tell this Committee, are low-to-moderate income, first-time and minority borrowers, and most of these HUD-assisted homeowners and renters are experiencing COVID-related hardships through no fault of their own.

Second, I would ensure that FHA has the necessary staffing and other resources, as well as continuing the IT modernization effort, which together will allow FHA to perform its important counter-cyclical role to support the housing market.

Third, I will vigilantly monitor risk to taxpayers of losses stemming from COVID-19, and I will protect FHA's capital reserve to the maximum extent possible.

I believe that FHA has a duty to support the Nation's housing markets and homeowners facing economic hardship. While the virus will pass and the economy will eventually regain its previous strength, the road to recovery will require our sustained effort.

If confirmed, I will do all that I can to run a strong and sustainable FHA, one that serves homeowners, renters, and taxpayers well. I am committed to working with this Committee and with Congress, and I look forward to answering your questions today.

Thank you.

Chairman CRAPO. Thank you, Mrs. Wade.

I will begin my questioning with you, Mr. Miller. As you have heard and I am sure you were aware before you even arrived here today, one of the big criticisms of you is that you will not be independent because you come from the White House or had service in the White House. As you know, independence of SIGPR is critical

to the oversight of activities under Title IV in the CARES Act. Can you talk about the importance of SIGPR maintaining its independence, how you have demonstrated your independence in the past, and how you expect to conduct your actions, if confirmed to this position?

Mr. MILLER. Thank you, Mr. Chairman, for the question. I think independence is vital for the effective operation of any Inspector General, and I have said that for not just now but for many years. I served for 10 years as Inspector General of the General Services Administration, and at every point I had to fight for independence to perform audits and investigations objectively, fairly, and independently. And I met with resistance throughout my tenure as Inspector General. I conducted investigations of major contractors, much to the chagrin of people in leadership positions at the GSA, and I dare say in Congress, and I received criticism for that. Ultimately, I was proven right. The audits were correct and accurate, and we provided effective oversight and leadership.

I believe that my tenure as Inspector General at GSA also helped GSA to become a better agency. I think the hardworking men and women of my office at that time provided a great service. I think that oversight is essential for the effective operation of all programs, and especially now with the pandemic recovery. It is vital that this money goes to the small businesses and hardworking Americans that need the money right now, and we cannot afford to have it diverted to fraud, waste, and abuse and diverted to the pockets of those that would scheme to defraud the Government and take that money out of their pockets. So it is vital to have an independent, effective Inspector General.

Chairman CRAPO. Thank you.

Mrs. Wade, in the months ahead, the FHA will be on the front lines helping many families, providing much-needed liquidity throughout the housing finance system. As a former Acting Commissioner, you understand FHA's important role to consumers, taxpayers, our housing finance system, and health care financing. We are involved in the ongoing efforts with HUD, FHFA, and others to implement the CARES Act provisions related to housing, specifically forbearance relief for homeowners impacted by COVID-19, as well as restrictions on foreclosures and evictions.

Will you work with us to implement these provisions and ensure that the options available when exiting forbearance are clear for consumers to understand and straightforward for servicers of FHA mortgages to administer?

Mrs. WADE. Yes, Senator, Mr. Chairman, and thank you very much for the question. We are obviously facing an unprecedented health crisis, and it is incredibly important to protect homeowners and renters who, through no fault of their own, are experiencing COVID-related hardships. It can also be a confusing time for homeowners and assisted renters, and I think it is important to provide as much clarity as possible and as much certainty from FHA as possible in fulfilling its countercyclical duty.

Chairman CRAPO. Thank you. Then last, for you, Mrs. Wade, also, many of our hospitals, health care facilities, and senior living facilities at the front lines of the battle against COVID-19 are financed in part through FHA's Section 232 or 242 programs. Can

you speak quickly, in about 45 seconds, to FHA's role in the health care economy and some of the challenges they face?

Mrs. WADE. Yes, again, Mr. Chairman, that is a great question. That is a very important part of FHA's portfolio. No health care facility that FHA serves should be concerned with anything except serving those who are COVID-19 patients in need and protecting the health and safety of their employees. I believe now in FHA's health care portfolio it is a time that we need to provide maximum flexibility, and to that end I know FHA has already taken action to allow these health care facilities to access things like their reserves. And, in addition, it is important to work each and every day with the operators of these facilities in order to sustain their mission and make sure that they have—and FHA is a mortgage insurer—make sure that they can appropriately finance operations during this time.

Chairman CRAPO. Thank you.

Senator Brown.

Senator BROWN. You said it is your daughter's sixth birthday? My granddaughter just celebrated. Unfortunately, we had to do it from afar, of course, because it was just last month.

For about a year, Mrs. Wade, you were responsible for overseeing HUD and other Federal agencies for OMB. That is correct, right?

Mrs. WADE. Yes, Senator, that is correct.

Senator BROWN. Under your leadership, OMB reviewed and approved two rules that would undermine the Fair Housing Act, a rule that HUD's own analysis said would cost the Federal Government more money, displace more than 50,000 children, and a rule that would compromise the religious freedom of people seeking shelter. Given that track record, I just do not see how we can trust you to ensure that FHA and HUD's rental assistance programs are providing an equitable recovery for families.

Now, Mr. Miller, I would like to shift to you. First of all, thank you for your service as a prosecutor and IG and how you outlined your work in the past. But 2 years ago, you wrote an article criticizing Congress for telling Inspectors General to investigate the Trump administration. Four months later, President Trump gave you a job in the Counsel's Office at the White House. Now the Senate considers an appointment to an office that will be responsible for, among other things, investigating the Trump administration, exactly what you criticized. And even if it did not have concerns about your independence, I would still have concerns about how this Administration treats IGs that simply do their job.

Here is a recent example from Friday. The President, after unfairly smearing her, removed Christi Grimm, the Acting HHS IG who had identified shortages, very real shortages in testing equipment and PPE.

Mr. Miller, you can establish your independence right now in front of this hearing. Can you tell this Committee that it was wrong for the President of the United States to remove Ms. Grimm for doing her job and holding the Administration accountable?

Mr. MILLER. Senator, first of all, I would like to say that I wrote an article defending the independence of Inspectors General. I am always concerned that Inspectors General remain independent from any influence, whether it be from the Executive branch or the

legislative branch. And so I do not think that you are fairly characterizing my article. And I feel very strongly that IGs should be independent and should report the facts as they see them, as they find them, and not to bend them to any influence whatsoever. And so it is the duty—

Senator BROWN. Well, I appreciate your response. Was it wrong to remove—we only have 5 minutes. So what is wrong for Ms. Grimm—for the President to remove Ms. Grimm for doing her job?

Mr. MILLER. Senator, I am not here to assess those sorts of action. I am here to tell you about my background, my qualifications for this position. I believe that I have demonstrated independence.

Senator BROWN. Well, we all—I understand that. I understand that, Mr. Miller, but there is a skepticism when it is not general practice that the President of the United States nominates somebody for a job this important as Inspector General who came out of the White House, and I think you have a bar you need to get over to demonstrate your independence. I was hoping this would be a way to do it.

Let me ask you another question. Mr. Miller, will you view your job expansively to the fullest extent provided by law so that you do not just go after little companies or the “easy cases” but, rather, look at all misconduct, even when the evidence of wrongdoing could either upset individuals in the Administration or their preferred narrative?

Mr. MILLER. Absolutely, Senator.

Senator BROWN. OK. I appreciate that. The potential for conflict, the concern among Members of Congress about your independence should be obvious. So it is so important that you look at this job expansively.

Last question. The CARES Act gives the Treasury Secretary control of \$500 billion of taxpayer monies for loans and investments. The Federal Reserve, as you note, will lend trillions on top of that. Do you agree that the Special IG for Pandemic Response has the responsibility to look at how all of those funds are distributed, whether by Treasury or the Federal Reserve?

Mr. MILLER. Senator, as the act says, the Special IG has responsibility for the programs administered by the Secretary of Treasury. I will do that faithfully, fairly, and impartially, independently.

Senator BROWN. All right. Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator Shelby.

Senator SHELBY. Thank you, Chairman Crapo.

Mrs. Wade, welcome back to the Committee. You spent a lot of time here working as a very important member of the Banking staff, and then you worked on the Appropriations staff, and then you went on to greater things, and you have been nominated to a very serious and very important position. You have the education—an undergraduate degree from Georgetown in economics and an MBA from Wharton. You have got the experience. I am here to support you.

Mr. Chairman, I would ask unanimous consent that my written statement in support of this nominee be made part of the record.

Chairman CRAPO. Without objection.

Senator SHELBY. I believe that wherever you go, but especially over at HUD like this, to be the Deputy Director of Housing there, you carry a lot of experience, you carry a lot of good judgment, and they can use you over there, and you can serve the American people well. You have in the past, and I predict you will in the future. I believe you will be confirmed. I believe that I am here to say that I support you without any reservation. I know you. I have worked with you. Most of the Members of the Committee worked with you. We have a lot of respect for you and godspeed.

We will need to vote on her as soon as we can, Mr. Chairman. Thank you.

Chairman CRAPO. Thank you, Senator Shelby.

Senator Reed.

Senator REED. Thank you very much, Mr. Chairman. I will just wait a moment to ensure I can be heard.

Chairman CRAPO. We can see you.

Senator REED. Mr. Miller, I want to follow up on the questions that Senator Brown presented, because the independence of the Inspector General is absolutely critical, and the behaviors we have seen in the White House and also in other areas suggest that there is a disregard for the independence of the Inspector General. And while you were there, particularly in the context of the impeachment proceedings, the General Counsel's office completely dismissed any requests for cooperation by the Congress in the constitutional duty we had.

You yourself wrote a letter to the GAO General Counsel stating that the White House does not plan to respond separately to your letter—i.e., take a hike. That does not signal the kind of independence—in fact, it suggests that you will be beholden to the White House and not critical of the White House. Would you like to respond?

Mr. MILLER. Senator, I will be independent. I will be—I will follow the facts wherever they lead. If they are critical of the Administration, I will say so. I will have no hesitancy to do so. I think you have unfairly characterized the letter. In many ways, I am just answering the mail.

Senator REED. Well, we hope as Inspector General you just won't be answering the mail, and that is the point I think we want to make very, very explicitly.

Let me turn to another issue, a more technical issue with respect to the CARES Act. Title IV of the CARES Act authorizes the Secretary of the Treasury to require warrants in some of the lending programs under Title IV. In many respects, it echoes some of the work I did in the Troubled Asset Relief Program in 2008 where we did, in fact, have warrants and after the fact realized about \$10 billion for the taxpayers of the United States by executing those warrants.

If confirmed, can you explain how you will evaluate whether the warrants are then properly executed on behalf of taxpayers? There are ways to write warrants so that the maximum potential is not realized in terms of strike price, and in terms of other things. Can you give us some indication of what you will do?

Mr. MILLER. Senator, I am going to have to study that issue more carefully, but I will tell you that I as Inspector General want

to analyze all of the ramifications of these programs. If someone is gaming the system, taking advantage of the system, or even self-dealing, I would like to know that and report on that. So I will analyze those transactions very carefully, obtain information about them, and if necessary, subpoena the information if I cannot get it otherwise.

Senator REED. Thank you very much.

Mrs. Wade, we are all familiar with your extensive experience both in housing and also in budgetary policy. I think Senator Shelby made that quite clear in his remarks. In the last several years, the President, in fact, in the fiscal year 2020 budget and the 2021 budget, he sent up a budget that would zero out the Public Housing Capital Fund, the Community Development Block Grant, and zero dollars for the HOME program. If we had followed that advice, where would we be today in terms of the crisis we are facing in housing?

Mrs. WADE. Senator, thank you for the question. This Administration has provided unprecedented support to populations who need it, vulnerable populations, American families, I think as many have alluded to, through the CARES Act assistance. It is incredibly important to continue to focus and do everything that we can to keep those HUD-assisted homeowners and renters in their homes, to provide, again, maximum flexibility to provide tools to enable them to stay in their home and enable FHA to mitigate risk.

I believe that this is an evolving situation. You know, I think we are all ready to use whatever tools at our disposal in order to help people, in order to help borrowers, in order to help renters, and I look forward to working with Congress on those objectives.

Senator REED. Just a final point, though. My estimation would be had we zeroed out those programs, the situation we see today in which we are trying to stabilize housing for so many people would have been much, much worse. And I hope that going forward, not just in terms of the special appropriations bills like the CARES Act but in the routine budgets, you will advocate for strong funding for all these programs.

Thank you very much, Mr. Chairman.

Chairman CRAPO. Senator Toomey.

Senator TOOMEY. Thank you very much, Mr. Chairman. And thank you to our witnesses today. Thanks for your willingness to serve. I appreciate that. Both of you bring a wealth of experience to your respective roles, and I am pleased with that fact.

Mr. Miller, let me start with you. First of all, I appreciated our conversation earlier where we discussed your role should you be confirmed, but I would like to go back to this issue. Several of my colleagues now have questioned your willingness to be independent of the Administration, and it seems to me that there is some history here that may be worth a little bit of elaboration. You made a passing reference to it, but in a prior role, when you were the IG at the GSA—under a Republican administration, I believe—you conducted what seems like a very thorough and ended up in a way being, I suppose, antagonistic in the sense that there was wrongdoing, and you pursued it. So could you tell us a little bit about that? Because I think a person's history speaks louder than anything else.

Mr. MILLER. Thank you, Senator, for the question. There were a number of instances where I investigated individuals and companies and met with resistance at every turn. At one point I had to investigate the Administrator herself, a Bush appointee, as I was. And we very aggressively investigated her and found that she steered a contract to a friend for \$20,000 a month, and it ended up in hearings. She ended up calling me a “terrorist,” and I had just come off from the U.S. Attorney’s Office where I prosecuted terrorists, including Moussaoui. I participated in that prosecution. And so she publicly called me a “terrorist.” She wrote memoranda to regional administrators asking them to help her fight the IG—me. And various Members of Congress called on the President to fire me. Later on, the President did ask for her resignation.

There were a number of other incidents as well that came up that I had to investigate, and it was very difficult to do so. I had to fight for the office’s effectiveness through maintaining an independent hiring process. At one point there was a freeze put on my ability to hire anyone. There were budget cuts. There were all sorts of ways to try and hinder the independence and effectiveness of the Inspector General.

But I worked through it all. I insisted on being independent and never compromising the facts over the truth. And I made those reports public. Later on I investigated a conference—that was all during the Bush administration. During the Obama administration I investigated a conference in Las Vegas, and during that investigation I had political appointees asking me to stop that investigation, asking me not to publish a report. I had political appointees call me up and say, “Why do you really have to make this public? Can’t you just give it to us privately and never let anyone know?” And, of course, I did not follow that advice. I was not moved by the pressure. I just went ahead, reported the facts, and you all know about it.

But I do think that the agency itself is much better as a result, and I think that every program and operation is better as a result of oversight.

I would add that after I had left and was trying to start a law practice, Michael Horowitz, the IG at the Department of Justice, had some difficulty having access to information, and there was a hearing before the Senate Judiciary Committee. Michael called me and talked to me about it and asked me to come and testify. I did testify at that hearing, and I am grateful to the Chairman for quoting part of my testimony at that hearing.

Senator TOOMEY. Thank you. And if I could ask one last question of Mr. Miller. As one of the two Senate designees to the Congressional Oversight Commission, we might have some similar responsibilities, and so I wonder if you could just share with us your thoughts on the differences between our respective responsibilities, that of the Commission, versus the Inspector General, how that might be delineated. And I know that this is going to be a work in progress, but just any thoughts you have on that.

Mr. MILLER. Yes. Thank you, Senator, and I look forward—if the Senate confirms me, I hope that we get to work together on that. I would like to work very cooperatively with the Commission and with the Accountability Committee of IGs, the so-called PRAC, and

with GAO and the various IGs themselves. I think that delineating the responsibilities so that there is not overlap would be important. We do not want to waste precious Federal resources, so we want to make sure we know what each other is doing and how we can complement each other rather than work against each other or duplicate each other's actions.

So all that would be very important in that respect. I do not want to presume my confirmation, but I did take the opportunity to contact Michael Horowitz and the Vice Chair of the PRAC, Gene Dodaro at GAO, SBA IG, the new Executive Director of the PRAC to see how we can work together and delineate our roles and kind of deconflict where there may be differences, because I do not think it serves anyone to duplicate each other's efforts. I think it would be vital to share information, and I am trying to—I would like to have the opportunity to work on an information-sharing program in IT so that there is real-time access to information.

Senator TOOMEY. Thank you.

Chairman CRAPO. Senator Menendez.

Senator MENENDEZ. I want to take a minute to reflect on the enormity of the situation before us. If we have learned anything from this crisis, if we have learned anything about how staying at home can flatten the curve and keep our families and our communities safe, it is that housing is health care. Americans should not have to fear being thrown out on the street if they miss their next rent or mortgage payment. And when the protections in the CARES Act run out, we could be facing a foreclosure crisis even greater than the one we faced during the Great Recession.

We can stop that if we want to. All it takes is for this Committee to marshal the resources of the Federal Government, and we can make sure that every American has a safe and healthy place to call home.

In that vein, Mrs. Wade, we saw during the Great Recession how FHA stepped into the market when private lenders were unable or unwilling to do so. If confirmed, will you commit to making sure FHA plays a strong countercyclical role in the mortgage market to help finance a home for American families now that private lenders may be less willing to do so?

Mrs. WADE. Yes, Senator, and, first of all, I would like to thank you for commenting on the gravity of the situation. I believe that this is integral, providing and performing countercyclical support is integral to FHA's mission. It is incredibly important that FHA stay open for business and do everything that it can to promote market stability during this time.

Senator MENENDEZ. What specific actions would you be looking, if confirmed, to take in the next 6 months to further that aim?

Mrs. WADE. Yes, that is a great question, and I think, you know, again, maintaining FHA's operation and doing things that will allow consumers to continue to access credit such as IT modernization, which is really streamline the process for obtaining credit, other organizational goals in order to help FHA to operate on a daily basis. I think implementing the CARES Act and future assistance packages will also be incredibly important for FHA, and I know, if confirmed, I will do everything I can to expeditiously get

any CARES Act support or additional support to those who need it the most.

Senator MENENDEZ. We will be looking forward to that upon your confirmation.

Mr. Miller, would you agree that independence is among the most important qualities for an Inspector General? Yes or no.

Mr. MILLER. I do, sir. Yes, Senator.

Senator MENENDEZ. If the President or someone from the White House calls you to discuss the recovery, would you take the call? Yes or no.

Mr. MILLER. If someone from the press, did you say?

Senator MENENDEZ. No. I said the President or someone from the White House calls you to discuss the recovery, would you take that call?

Mr. MILLER. I do not think that I will receive such a call, but it depends on what the call is about. I will not be pressured to not perform an audit or an investigation. But it is hard to say if I do not know what the call is about.

Senator MENENDEZ. Let me try to refine it. If Secretary Mnuchin wants to explain why certain companies received assistance under the CARES Act, do you think it is appropriate to take his call?

Mr. MILLER. Well, I think it is appropriate to know why he is making such determinations, and if he wants to explain it himself, I would think that my office would like to listen. Whether I sit in on that meeting or not is something I would have to decide on, but certainly we want to know why they are administering programs in the way that they are.

Senator MENENDEZ. I think there is a difference when you are generating those questions to them than when they are trying to weigh in as to why they have acted the way they have in ways that may or may not be within the law's context.

Let me ask you this: You were in the White House Counsel's Office when the President decided to terminate Intelligence Community Inspector General Atkinson. Is that correct?

Mr. MILLER. Yes.

Senator MENENDEZ. Did you play any role in that decision?

Mr. MILLER. Senator, I cannot get into specifics about what goes on in the White House Counsel's Office. I do appreciate—

Senator MENENDEZ. I simply asked if you played a role. I did not ask you what role you played.

Mr. MILLER. Senator, I read about the firing of Mr. Atkinson in the newspaper.

Senator MENENDEZ. OK. That does not answer my question. Let me ask you this: President Trump said of Inspector General Atkinson, "The man is a disgrace to IGs. He is a total disgrace."

Do you agree with that statement?

Mr. MILLER. Senator, there are a number of reasons why I do not want to get involved in that question. First of all, I do not know all the facts. I do not know what went on. I do not know what the thinking was. And, second, a lot of that is protected by White House confidentiality. As a lawyer, I have ethical obligations that bind all lawyers. And when Justice Kagan was before the Senate for confirmation, she limited her comments about her time in the

White House Counsel's Office and her time in the Clinton Domestic Policy Council in the White House.

Senator MENENDEZ. My time has expired, but I just want to say I did not ask you what you specifically did, if you did something. I asked you whether you were involved. I did not ask you about any confidentiality when I asked the question about the way that the President classified Inspector Atkinson. And I think that independence of Inspectors General, as you have stated, is incredibly important. And so trying to judge how you view those actions independently of whether you participated or not is very telling.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Next we will go to Senator Rounds.

Senator ROUNDS. Thank you, Mr. Chairman.

I would like to begin with Mr. Miller. Earlier in testimony here you did not get an opportunity to respond to the Ranking Member's suggestion that there was an inappropriate activity while you were at OMB. I would like to give you an opportunity right now to respond and maybe share with the rest of the Committee about your activities and perhaps a defense of what the Ranking Member suggested was inappropriate activity.

Mr. MILLER. Senator, thank you. I am assuming that you are referring to his comments—

Senator ROUNDS. I apologize. That was for Mrs. Wade, not for Mr. Miller. Excuse me.

Mrs. WADE. Yes, Senator, thank you very much for the question, and I appreciate the opportunity to be able to respond.

You know, I want to say, first of all, housing discrimination is intolerable, and if confirmed, I will do everything I can to enforce the Nation's fair housing laws. That is my commitment. In addition, you know, related to my role at OMB, I led a resource management organization, and to that end it was our job and it was my job to make sure that taxpayer money was spent efficiently and economically. It is a very important oversight role in the Government. I am very proud of the work that I did at OMB. So I thank you for the opportunity to respond.

Senator ROUNDS. Thank you.

Mr. Miller, I do appreciate your conversations with me earlier. I wish it was in person, but naturally we have been doing a lot of these conversations long distance. And so I appreciated the comments earlier today that we had.

I am just curious. I think it is really important that not only are you in a position to talk about what might be of a criminal nature that occur, but also in terms of making sure the programs run as efficiently as possible and that they accomplish the goals that Congress set out for them in the first place. Part of that is getting immediate feedback. Members of Congress get that feedback in a lot of cases, and I think while Senator Menendez was talking about whether or not you would take a phone call from the White House, I am just curious. Would you take a phone call from a Member of the Senate who was looking at ways of making things better or at least asking questions as to whether or not certain parts of the program were being operated the way they were supposed to? Would you take that type of a phone call from a Member of the Senate?

And what would you do to make it easy so that we can participate in our oversight activities as quickly as possible?

Mr. MILLER. Senator, this is such an important program and it is so important that this money gets to the right people that I think we should be willing to look at how we can improve it in real time. The Congress has an opportunity to clarify the act and clarify how this is done. And if we find out that things are not working well in a particular area, I think the Senate should be willing to change it so that it can work better. And knowing where it is working and where it is not working in real time is vital.

And so in that respect, I would welcome a call from a Senator, and it does make sense that I could talk to the Secretary as well as other Treasury officials to know what they are doing, what is working, what is not working. They could very well say, "Look, we cannot make this program work," and that can be part of my report to the Congress.

Senator ROUNDS. Earlier we had discussed there should be ways in which Members of perhaps the House or the Senate—because we are talking with folks every single day about how these are working. Is there a way that you could establish or a procedure you could establish to make it so that when Members of this Committee or other committees want to get in touch with you, that it is seamless in nature, easier to make sure that we are getting information to you and that you are recognizing the fact that we are contacting you and responding back? Is there a process that you would be interested in seeing pursued to make it easy for information that we get to get passed down to your team?

Mr. MILLER. Senator, thank you for the question. I do believe it is vital to share information, and I could see my office performing the function of a clearinghouse, or the so-called PRAC, the Accountability Committee of IGs, could perform the function of a clearinghouse. So much of what we have to do will rely on data analytics and IT systems. And to the extent that we are putting those in place, I can see the benefits of having a system where we can hear from the Congress in real time as well and perform a clearinghouse function so that we know the information that is coming in to all of us is getting to the right places.

Senator ROUNDS. Thank you.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator TESTER.

Senator TESTER. Thank you, Mr. Chairman. I want to thank you, Senator Crapo, and Senator Brown for doing this meeting and doing it the way you are doing it. I appreciate it.

Mr. Miller, I had a chance to visit with you last week. I told you that I was going to ask you questions you could not answer last week, and that was, How many employees do you need to do this job? And do you have the resources to do that? What is your answer?

Mr. MILLER. I have the background and ability to do this job and to do it independently. I have some resources. The act gives me some resources. If I ever lack resources, I will be coming back to this Committee to let you know.

Senator TESTER. OK. So you do not exactly know how many people—or you do not have any idea how many people you are going to need to do this job?

Mr. MILLER. Well, I think initially I will start with between probably 75 to 100. It will be hard to staff up quickly because I have to build it from scratch and get hiring authority, go through the GS system, and so starting up will take a lot of time. But I think that to do the job effectively, I think I will need to start with somewhere between 50 and 100, more like 75 to 100.

Senator TESTER. All right. Thanks, Brian. This \$2 trillion package, this is the biggest package anybody has ever voted on, I think, on this Committee. Will you commit to reporting to Congress immediately if Treasury is not following the transparency requirements in the CARES Act that require Treasury to disclose loan recipients?

Mr. MILLER. Yes, sir, I am required under the IG Act to report serious problems to the Committee.

Senator TESTER. “Yes” is good. The CARES Act, the law, requires you to notify Congress if you request information from agencies and it is not provided to you. Do you promise to follow that provision of the law closely?

Mr. MILLER. I do.

Senator TESTER. Good. Inspectors General serve a critical role in Government, regardless of whether that person in the White House is a Democrat or a Republican. Do you promise to let Congress know if you are being pressured in your position by political appointees or others to not pursue certain investigations or reviews?

Mr. MILLER. I will. And as I said, the IG Act requires that IGs report serious problems to Congress. I will also report if Members of Congress exert that pressure.

Senator TESTER. OK. That is good.

In a signing statement for the CARES Act, President Trump argued that his Administration has control over reports from SIGPR to Congress and that SIGPR cannot report to Congress without his permission. How do you interpret the Presidential supervision described in the President’s statement accompanying the CARES Act?

Mr. MILLER. Senator, I am trying to avoid stepping in between battles between the Executive branch and the legislative branch. I will tell you—

Senator TESTER. OK, so let me make—

Mr. MILLER. —that I will follow the law. Section 4 of the IG Act requires me to report serious problems and to make reports to Congress. I will do that.

Senator TESTER. So if the President says that you cannot report this information to Congress, you will not only report that to Congress, but you will tell us that the President tried to stop you from reporting it?

Mr. MILLER. Senator, if the President himself does that, I would think that would be a serious issue, yes.

Senator TESTER. You know how this works. You were in the White House. You know how this works. If the President does it or has one of his minions do it with direct connection back to the President, I think it is important that you give this information to us.

Mr. MILLER. I will report any undue influence on me from whatever source.

Senator TESTER. Perfect. So I am going to tell you, from my perspective right now—and this is from my perspective. I have been stonewalled every step of the way trying to get information from this Administration on where this money is going. Every single step of the way. So your position is critically important if we are going to have any level of oversight.

In your White House service, did you have any involvement, discussions, or awareness in the removal of Glenn Fine?

Mr. MILLER. Senator, as I said before, I cannot respond to questions—

Senator TESTER. Brian, Brian. A pretty simple question. Did you have any involvement, discussions, or awareness in the removal of Glenn Fine? Yes or no is good enough for me.

Mr. MILLER. OK. Senator, my ability to respond to questions about what goes on in the White House Counsel's Office or the White House may be limited by my ethical obligation, ethical obligations that bind all lawyers. And I will follow—

Senator TESTER. I will tell you—

Mr. MILLER. —Justice Kagan's example of limiting comments about her service in the White House Counsel's Office.

Senator TESTER. We are in a different situation here, Brian. First of all, this is \$2.2 trillion of taxpayer money. Second of all, I have watched the President remove Atkinson, a question that Senator Menendez talked to you about. I have watched him remove Rick Bright when he challenged hydroxychloroquine. I have watched him remove Colonel Vindaman and his brother when he testified under oath on impeachment, and it did not happen. I have watched him remove Glenn Fine.

The question is—you worked as White House Counsel. The fact is I have no doubt that if you go against the President, he is going to remove you because he has done it time and time and time again.

The question is: Were you aware of the Glenn Fine situation or the Atkinson situation? Did you have any input on it? Because, quite frankly, that makes you part of the problem in the White House.

Mr. MILLER. Senator, again, I will be independent. If the President removes me, he removes me. If I am unable to do my job, I will resign. But I will do my job faithfully and independently. But I will not comment on White House Counsel's operations following the example of Justice Kagan and many others who have come from White House Counsel's Office and gone to appointed positions, independent positions, as judges and even in other positions.

Senator TESTER. Thank you, Brian, for your willingness to serve. You, too, Mrs. Wade. Thank you.

Mr. MILLER. Thank you, Senator.

Senator TESTER. Thank you, Mr. Chairman.

Chairman CRAPO. Senator Kennedy.

Senator KENNEDY. Congratulations to you both.

Mr. Miller, you were appointed Inspector General of GSA in 2005. Is that right?

Mr. MILLER. That is correct, Senator.

Senator KENNEDY. And who appointed you?

Mr. MILLER. President Bush.

Senator KENNEDY. And how long did you serve?

Mr. MILLER. Nearly 10 years, through much of the Obama administration.

Senator KENNEDY. OK. And I believe you said you at one point had to investigate the Administrator of GSA?

Mr. MILLER. Yes.

Senator KENNEDY. Who appointed the Administrator of GSA that you investigated?

Mr. MILLER. President Bush.

Senator KENNEDY. OK. And what were the conclusions of your investigation of the Administrator appointed by President Bush?

Mr. MILLER. That she steered a contract to a friend in violation of procurement law, and we also made a referral of a Hatch Act violation to the Special Counsel, who made a conclusion that she did violate the Hatch Act.

Senator KENNEDY. And you wrote a report on that, did you?

Mr. MILLER. We wrote a report on the steering of a contract to a friend. The Special Counsel wrote a report on the Hatch Act violation.

Senator KENNEDY. Was the Administrator happy with your report?

Mr. MILLER. She was livid.

Senator KENNEDY. Did she complain to the White House?

Mr. MILLER. She did.

Senator KENNEDY. Did anybody criticize you for writing that report?

Mr. MILLER. Many people.

Senator KENNEDY. Give me some examples.

Mr. MILLER. Representative Mica called for the President to fire me, Representative Davis also, and criticized me at a hearing and publicly. Probably still does. Those come to mind. Certainly the Administrator herself, certainly many other people, and some people in the Administration still criticize me for that.

Senator KENNEDY. In the Bush administration?

Mr. MILLER. Yes.

Senator KENNEDY. OK. Did you change your report?

Mr. MILLER. Not at all.

Senator KENNEDY. Did you change your conclusion?

Mr. MILLER. Not at all.

Senator KENNEDY. So you just stood firm?

Mr. MILLER. I stood firm.

Senator KENNEDY. OK. Did that make you feel comfortable? Was it a pleasant experience?

Mr. MILLER. Senator, no, it was not. But that goes with the territory of being an Inspector General. You are never comfortable, but you have to do the right thing. At the end of the day, you have to be comfortable with your own conscience. And it does not matter what anybody else thinks or what even this August body thinks.

Senator KENNEDY. So you were appointed by President Bush. The Administrator of GSA was appointed by President Bush.

Mr. MILLER. Yes.

Senator KENNEDY. You as Inspector General of GSA investigated. You were appointed by President Bush. You as Inspector General of GSA investigated the Administrator, head of your agency appointed by President Bush, and you wrote her up.

Mr. MILLER. I did.

Senator KENNEDY. And some people in the White House did not like that. Some people in Congress did not like that.

Mr. MILLER. Yes, sir.

Senator KENNEDY. But you did not change your report?

Mr. MILLER. Not at all.

Senator KENNEDY. OK. Now, I have looked through your background, Mr. Miller. I have looked you up on the Internet. I have googled you. I have read your resume. I have heard all the allegations—maybe “allegations” is too strong a word—the innuendo or the suggestions that you will be a puppet of the President. I do not understand the basis for that. I have looked everywhere. Is there anyplace in your background as an Assistant U.S. Attorney or the Inspector General for a decade at GSA where you have backed down because you have been told to back down?

Mr. MILLER. No, sir.

Senator KENNEDY. When you were an Assistant U.S. Attorney, did you ever back off of a case because somebody with political influence told you to?

Mr. MILLER. No, sir.

Senator KENNEDY. I mean, is there anything in your history—I cannot find it. Is there anything in your history that would indicate that you are willing to sacrifice your principles if somebody in political power tells you to?

Mr. MILLER. No. And, Senator, one of the letters is from some of my special agents when I was Inspector General. It talks about how I let them continue an investigation when there were some people in the office that thought it should be shut down. And, ultimately, they proved the case and got a conviction.

Senator KENNEDY. OK. Thank you.

Mrs. Wade, I think you are swell. I do not have any questions. I am with you. I think you are going to do a great job.

Thank you, Mr. Chairman.

Chairman CRAPO. Thank you.

Senator Warner.

[No response.]

Chairman CRAPO. Senator Warren. Elizabeth, Elizabeth Warren?

Senator KENNEDY. There she is.

Chairman CRAPO. Go ahead, Senator Warren. You are on, Senator Warren. Are either Senator Warner or Senator Warren—

Senator KENNEDY. I saw Senator Warren.

Chairman CRAPO. Senator Warren I believe is trying to get her microphone to work.

Well, apparently, we are having some troubles there, so we will come back to Senator Warren, but we will move at this moment to Senator Van Hollen.

Senator VAN HOLLEN. Well, thank you, Mr. Chairman. Can you hear me OK?

Chairman CRAPO. We can hear you.

Senator VAN HOLLEN. Excellent. Well, I want to congratulate both the witnesses on your nominations. Ms. Wade, I will be submitting some questions for the record with respect to your nomination.

Mr. Miller, you were, of course, nominated to be the Special Inspector General for the Pandemic Recovery, and as many have pointed out, that requires independence. It also requires a determination to conduct rigorous investigations that get to the truth, to get to the facts that uncover any wrongdoing. So I want to ask you about your role in responding to the investigation conducted by the nonpartisan Government Accountability Office into the Administration's withholding of vitally needed security assistance to Ukraine.

I asked GAO to conduct that inquiry, and GAO ultimately concluded that the Administration's withholding of that security assistance was illegal under the Impoundment Control Act. The GAO also raised major concerns about the Executive branch stonewalling their inquiry, saying in their report that the blocking of the investigation rose to the level, and I quote, of "constitutional significance."

You personally participated in that stonewalling as the White House lawyer who signed a letter to GAO stating that the White House would not provide a substantive reply. I must say I was a little stunned when Senator Reed asked you about that letter and you dismissed it as "just answering the mail."

If you are confirmed as the Inspector General here and you wrote to an agency with information about one of the issues you were investigating and they refused to respond, would that be acceptable to you?

Mr. MILLER. No, sir. I was answering the mail for GAO. I wanted to make sure they received an answer. I respect GAO and wanted to make sure that their inquiries were responded to. And so I stepped in and made sure that they got a response, and the letter does say that the General Counsel of OMB responded to their questions.

Senator VAN HOLLEN. Well, I have the letter you signed dated December 20, 2019, here responding to Mr. Armstrong, General Counsel at GAO. The last sentence of that letter is, "The White House does not plan to respond separately to your letter," and you cite an OMB letter. Can you tell us today under oath that the White House did not have in its own possession information that was responsive to the GAO inquiry?

Mr. MILLER. Senator, there are two reasons why I cannot respond to that. I cannot talk about confidentiality in the White House. Second, I am not familiar with those issues. I am familiar with the fact that the previous sentence of the letter says the General Counsel of OMB responded to the questions of GAO, and instead of having separate responses from Chief of Staff Mulvaney and White House Counsel Cipollone, the White House was relying on the General Counsel of OMB, the Budget Office, to respond to that particular issue.

Senator VAN HOLLEN. Right, but the letter was seeking documents and other factual information. So is it your testimony today under oath that the OMB letter and their response met all the re-

quirements that you would consider necessary to be fully truthful and honest in their response?

Mr. MILLER. Senator, I am simply saying that I sent the letter to make sure GAO had the response of the appropriate officials in the White House. Regarding the General Counsel's—

Senator VAN HOLLEN. I understand, but—

Mr. MILLER. —letter, you should ask the General Counsel of OMB.

Senator VAN HOLLEN. Mr. Miller, I understand that. The last sentence says, "The White House does not plan to respond separately to your letter." So I am asking you whether your testimony is that the White House did not have any additional information that was responsive to the GAO inquiry. As I understand your statement today, you either do not know or will not say. Is that correct?

Mr. MILLER. Sir, it is probably both. But I think this is an example of no good deed goes unpunished. I have respect for GAO. I wanted to make sure the letter was responded to, and the letter did get responded to, and they could stop inquiring, and they had an answer to their inquiries.

Senator VAN HOLLEN. But, Mr. Miller, with all respect, what your letter says—you are saying it was great that you responded, but the last sentence says you do not plan to respond separately. So my final question is: If you were confirmed in this position and you are an Inspector General and an agency gave you the response that you got from the White House that you signed, would you find that stonewalling acceptable?

Mr. MILLER. First of all, Senator, I think I am over time. With the Chairman's indulgence, I would like to continue.

Chairman CRAPO. Briefly, please.

Mr. MILLER. You know, as far as the letter goes, the General Counsel of the Office of Budget was answering a budget question. And I was simply pointing out, look, you have the response. And I am not really sure what your question is getting at, Senator.

Senator VAN HOLLEN. OK. Well, Mr. Chairman, I thank you. It was not just asking for OMB's response. The reason they also wrote to the White House was to get any documents and relevant information that the White House may have had with respect to their inquiry. You essentially gave them a nonresponse. You said, "Talk to the other agency." My question has been: As an IG, would that be acceptable to you conducting investigations?

Chairman CRAPO. Well, we need to move on.

Senator VAN HOLLEN. I have to conclude from your answers that it would not be.

Thank you, Mr. Chairman.

Chairman CRAPO. We are going to go back now and see if Senator Warren is available. Senator Warren.

Senator WARREN. Thank you. So we are in the middle of a public health pandemic crisis that has already killed more than 60,000 people, and half a step behind this health crisis is an economic crisis that threatens the security of tens of millions of people across this country. The CARES Act created a \$500 billion slush fund for giant corporations, and if confirmed as the Special Inspector General, it will be Mr. Miller's job to conduct the oversight of this

money and to make sure that it is spent to benefit workers and families, not shareholders and corporate executives.

So, Mr. Miller, let us just start with the basics. You would be given broad authority under the CARES Act to investigate all of the money that Treasury hands out in the coronavirus response, all of the funds distributed by taxpayer-backed lending through the Federal Reserve, and what the companies do with the loans and grants. Is that correct?

Mr. MILLER. Senator, I will follow the law and make sure that I do an investigation of those programs.

Senator WARREN. These are the easy questions. Again, can we just do yes, that is right?

Mr. MILLER. Could you repeat the question, please?

Senator WARREN. I am just citing what the law says. It will—

Mr. MILLER. I will follow the law, whatever it says.

Senator WARREN. All right. And the law gives you the same authority as all Inspectors General under the Inspector General Act—

Mr. MILLER. Yes.

Senator WARREN. —to conduct investigations for the “purpose of promoting economy and efficiency” or “preventing and detecting fraud and abuse in Government programs.” Is that right?

Mr. MILLER. That is correct.

Senator WARREN. OK. So the law gives you the authority and it gives you the tools to investigate the people who are handing out the money and who get the money. So now I just want to ask how you plan to use your authority, and I want to get specific on this. I want to ask about how you will investigate how the money is used.

For example, if a giant corporation gets bailouts financed by taxpayer dollars from CARES and then lays off or furloughs a bunch of its workers, I think we agreed when we spoke yesterday that this would constitute potential waste or abuse of taxpayer bailout funds. Would you investigate in such a case?

Mr. MILLER. Senator, I am not going to answer hypotheticals, but I will tell you that I would investigate any misuse of the monies, and the money needs to go to where—

Senator WARREN. I need a general idea, though, of what might constitute an abuse in your mind. That is how we evaluate whether or not you are going to be an Inspector General who is going to be looking out for taxpayer funds. So you said yesterday when you and I spoke privately that you thought that that would constitute a potential waste or abuse of taxpayer bailout funds, and I just want to know: If that is the case, would you investigate?

Mr. MILLER. I will investigate any situation that I consider an abuse of taxpayer funds.

Senator WARREN. Do you consider a case where a giant corporation gets bailouts financed by taxpayer dollars from CARES and then lays off a bunch of its workers as at least a potential waste or abuse that you would have to investigate and find out more?

Mr. MILLER. Yes, Senator.

Senator WARREN. Good, good. So let us do another one we talked about. If a giant corporation lobbies Congress or the White House

and then gets a bailout financed by taxpayers, is that a potential situation for fraud or abuse that you would investigate?

Mr. MILLER. Well, Senator, I am not comfortable answering hypotheticals, but certainly if—

Senator WARREN. I am not comfortable with a person—

Mr. MILLER. —a company is—

Senator WARREN. —who will not tell me what he would investigate—

Mr. MILLER. The purpose—

Senator WARREN. I am not asking for the name of a particular company. I am just asking, in general is that the kind of thing that would trigger your saying an investigation is appropriate? When we spoke yesterday in private, you said you thought it was, and I just want this in public, on the record, when you are under oath.

Mr. MILLER. Right, I just want to be careful about hypotheticals, Senator. Certainly situations where companies are spending the money for profits and laying off workers seems to be a situation that I would want to investigate.

Senator WARREN. Good. And how about when companies are lobbying Congress or the White House, either one? You said you want to look at both. How about that? Is that a potential circumstance you would want to investigate?

Mr. MILLER. Again, Senator, I am not comfortable with the whole hypothetical—

Senator WARREN. But you were comfortable in private yesterday. In fact, when I asked about the White House, you said you wanted to include Congress in that as well, a company that lobbied both. I do not understand why you will not say the same thing in public right now.

Mr. MILLER. You know, Senator, I am going to investigate any area that I think is an abuse of these monies because—

Senator WARREN. And what I am trying to ask is do you think lobbying and then getting money is a potential for abuse that you would investigate.

Mr. MILLER. It is possible, Senator.

Senator WARREN. It is possible, and so if it is possible, would you investigate?

Mr. MILLER. And I would investigate it if it were lobbying the Congress or the White House.

Senator WARREN. Good. That is all I wanted. And then a third one, and that is, even if the Treasury Department does not put any restrictions in the loan documents or ask for information about how the money will be used or restrict corporate lobbying or avoid potential conflicts of interest, will you request that information from companies that receive loans under this program?

Mr. MILLER. I will investigate all potential conflicts of interest, and if I do not have the information through the Department of Treasury, I will request and then subpoena the information if I do not get it.

Senator WARREN. Good. And will you make that information public so that taxpayers can see what is going on?

Mr. MILLER. My goal is to make all information public and to inform the taxpayer. The only possible exception, Senator, would be if it was part of a criminal referral to the Department of Justice.

Senator WARREN. Good. I am very glad to hear that because I believe that transparency is important.

Look, I think that the CARES Act should have slapped ironclad rules on companies getting a bailout, but the Republicans refused. Now the primary tool that we have to stop corporations from using this bailout to enrich themselves is rigorous oversight.

Mr. Miller, your time working as one of President Trump's impeachment defense attorneys should have disqualified you from being nominated to oversee the President's management of one of the largest corporate bailouts in American history. The demands on you will be particularly intense because this President has already fired multiple Inspectors General because he could not tolerate any criticism, and he has already said that he will muzzle you. You will, however, have the chance to defend your independence and your integrity by your actions if you stick to the commitments that you have made here and you are an aggressive watchdog, and I am prepared to work with you on it. Thank you, Mr. Miller.

Mr. MILLER. Thank you, Senator. I would like to work with you even if you do not vote for my confirmation, as you indicated yesterday.

Chairman CRAPO. We will now move to Senator Tillis.

Senator TILLIS. Thank you, Mr. Chairman. Mr. Miller, Ms. Wade, thank you for being there. I regret it is under these difficult circumstances.

Mr. Miller, in response to some of Senator Toomey's questions and Senator Kennedy's questions, I feel like we have got two different Millers before the Committee. On the one hand, we have people questioning your independence, particularly under the weight and the pressure of an Administration, but you again investigated someone who was appointed by President Bush; you yourself were appointed by President Bush. That investigation did not change one bit regardless of the pressure you got from Capitol Hill and I would suspect others. And what was the ultimate disposition of the person in the GSA—what was the ultimate disposition of that person's position?

Mr. MILLER. She was asked to resign, Senator.

Senator TILLIS. OK. And earlier Ranking Member Brown characterized one of your writings as something that seemed to question your commitment to independence. In your response to him, you said it was a mischaracterization of what you wrote. Would you mind going back over that for me very briefly? And then I have a question for Ms. Wade as well.

Mr. MILLER. Well, my concern was that Inspectors General are independent of both the Executive branch and the congressional branch. And my concern with the article was that Inspectors General need to understand that they are also independent of undue pressure from the Congress, and that is the gist of the entire article. In fact, I say in the article that it is fundamental for an Inspector General to be independent.

Senator TILLIS. So just to sum it up, you investigated someone who was put forth by President Bush, you were put forth by President Bush; you continued in spite of pressure you were getting from Capitol Hill and others, did not change one word of your report, and it ultimately resulted in the removal of that person from

a position. That sounds like a pretty good case history on independence to me, but I guess others may have a different view.

Operationally, do you think that the 5-year period is going to be sufficient time to audit this program?

Mr. MILLER. Senator, I am going to do my best to work myself out of a job. You know, I believe that we need effective oversight. I do know that there are a lot of oversight instruments, organizations that will be providing oversight. If we can do this within 5 years, I would like to do that. But it is too early to tell exactly whether 5 years is the right amount of time.

Senator TILLIS. Well, thank you, Mr. Miller. I have confidence that you will go about this job in a very independent way and you will hold anybody accountable who tries to veer you off of what you think is right.

Just one last question for you, and then if time permits, Ms. Wade. Is there such a thing as good fraud and bad fraud?

Mr. MILLER. I would think that any fraud is bad.

Senator TILLIS. I think fraud is fraud, and so what I expect—and I appreciated the time that you spent on the phone with me yesterday. And I asked you if you were committed to taking a look at all the benefactors of the programs that come under the CARES Act, and you look through the simple lens of was any of the monies, the taxpayer dollars, that were sent out in good faith to help us recover during this virus response inappropriately allocated to somebody because of fraud. I want you to go after the big businesses, the small businesses, and everybody in between if they have taken advantage of this program. I hope that we will not have members on the other side of the aisle that will come up with this concept of good fraud and justified fraud because, in my opinion, fraud is fraud.

So I look forward to supporting your nomination, Mr. Miller.

Mr. MILLER. Thank you, Senator.

Senator TILLIS. Ms. Wade, we have had some time to digest the CARES Act. There are clearly things that we need to do to adjust it. We effectively did by appropriating the additional more than \$300 billion to the Paycheck Protection Program. But within your lanes, can you think of anything that we should be thinking about moving forward as we make potential changes, expansions, refinements, maybe changing deadlines or timeframes? Can you think of anything off the top of your head that would be within your lanes once you are confirmed?

Mrs. WADE. Yes, Senator, that is a great question, and I appreciate your work here. As you alluded to, the CARES Act has already provided tremendous support to housing markets and to borrowers. First of all, as you know, it has provided up to a year of forbearance for borrowers. It has provided an eviction and a foreclosure moratorium.

I think, you know, this is an evolving situation. It is one that we are continuing to monitor on a day-to-day basis and in real time, and we will use a data-driven approach to provide any additional assistance and any flexibility. But I think, you know, when it comes to what should we think of as sort of the next phase, HUD always appreciates assistance in providing flexibility across offices in order to get this aid and other aid, any future assistance that

Congress is considering, out as quickly as possible. So I would be happy to work with you on that objective.

Senator TILLIS. And I can think of the forbearance issue and other things we are going to have to take a look at, so I look forward to getting your input. Congratulations and happy birthday to your little girl tomorrow.

Thank you, Mr. Chair.

Chairman CRAPO. Next is Senator Warner.

Senator WARNER. [Inaudible] —questions that have been asked. I have been in an Intelligence Committee classified brief for the last couple hours.

I want to start with Mr. Miller on that subject. I think some of my colleagues may have asked the question about Michael Atkinson, but since this was something I was intimately involved with—and I hope I am not looking as yellow to the rest of my colleagues as I look on this screen to me. This is not a case of full-on jaundice yet.

Chairman CRAPO. We will work on that.

Senator WARNER. Right now this looks pretty god-awful.

But, Mr. Miller, you know, having been very, very familiar with Michael Atkinson and his actions in regard to reporting and trying to protect the whistleblower that led to the issue around the President's engagement with the Ukrainian President, and you having been involved as an IG and then White House Counsel, based on any personal knowledge you may have or anything that you have seen in the record, is there any indication to you that Michael Atkinson was not performing his duties appropriately as Inspector General for the intelligence community?

Mr. MILLER. Senator, Mr. Atkinson was in an IG position, but it was a specialized IG position, and it is governed by statutes governing national intelligence. I am just not familiar with the facts or the law in that situation, so I am reluctant to give an opinion where I do not have all the facts.

Senator WARNER. No, it is nothing that—you are a former IG for a decade. You were in the White House Counsel's Office. Was there anything even based upon secondary—secondhand knowledge that was any kind of evidence that Michael Atkinson was inappropriately performing his duties as Inspector General for the IC?

Mr. MILLER. Senator, I do not have all the facts.

Senator WARNER. If you accept—my premise was unfortunately Mr. Atkinson was fired for doing his job, and regardless of the President's legal authority, what kind of effect does the President even with legal authority—what kind of chilling effect or other effect does it have on the Inspector General community if the President is simply firing people because the results of their activities lead to substantive results that he does not like, whether, obviously, in the case of the whistleblower's complaint in the case of Ukraine or the more recent dismissal of the Inspectors General over at HHS in terms of doing their work on an independent investigation, what kind of effect does the President's actions have on your previous community's IGs?

Mr. MILLER. Senator, my experience as an IG is that an IG always faces the possibility that they may be fired. They serve at the pleasure of the President, and they may be fired for whatever rea-

sons as long as the President states them in writing to both Houses of Congress. And so you just have to do your job and let the consequences be what they may be. But you should never be afraid of stating the truth, and if you have to be fired, you are fired. But you always have to be prepared at least to walk away from your job. That goes with the territory of being an Inspector General.

Senator WARNER. So you have no concerns from kind of a standpoint of the Inspector General community, and, clearly, you would be taking on a position here that it appears the President, one, does not like IGs; two, does not like oversight generally; and, three, we are talking about an area where there is huge distributions of funds. You know, I understand you are trying to get through a nomination process here, but it just seems to me that this record of firing IGs based upon the substantive results of their work differing from the President's positions would be something that would cause some consternation.

I see my time is about up, but I would like to also submit, Mr. Chairman, some questions for the record for Ms. Wade in terms of how we are going to deal with the forbearance issues going forward and the possible need of a liquidity facility that I think the Fed is interested in to make sure that we do not have more major disruptions in the housing market.

Thank you for the time.

Chairman CRAPO. And you will be able to submit questions at the end. I will put the date on that. They would be due by May 7th. I will repeat that at the end of the hearing.

Senator Cotton has also given me a letter. He was at that Intelligence Committee hearing as well and has been unable to get to this hearing. He, too, looks forward to submitting some questions and does also want to have a conversation with you in person, Mr. Miller, and so you could expect to have that conversation.

Our next Senator will be Senator Cortez Masto.

Senator CORTEZ MASTO. Good afternoon, everyone. I want to congratulate both Mr. Miller and Mrs. Wade on your nominations, and thank you for taking the time to speak with me over the phone.

Mrs. Wade, let me start with you. We had this conversation when I talked with you on the phone, but as you know, in Nevada we were so hard hit by the financial crisis, and during that time I saw where lenders who took people's homes, they took them in foreclosure, and there was, unfortunately, a forging of documents and lying to customers. And in September of 2017, HUD's Office of Inspector General issued a report entitled, "HUD did not have adequate controls to ensure that servicers properly engaged in loss mitigation."

Now fast forward to where we are today. Last week, the HUD Office of Inspector General published another report on its review of 30 FHA servicers' websites, and the report found that the servicers' websites provided incomplete, inconsistent data and unclear guidance to borrowers related to their forbearance options under the CARES Act. Servicers should obviously not be providing this type of misinformation. It is conduct that I worked so hard as Attorney General, so many of us did, to correct and prevent, and we are seeing it again.

So my question to you is: How do you ensure that servicers provide clear and fair guidance on forbearance to homeowners and prevent this type of bad conduct from occurring during this crisis?

Mrs. WADE. Senator, I appreciate the question. This is a very important issue to me, and I want to start by saying, you know, first of all, fraud at any level should never be tolerated, and I think we learned a lot of lessons following the financial crisis.

To your point specifically about ensuring that servicers are communicating the right policies to homeowners, that is also a priority. You know, again, this can be a confusing time; it is an uncertain time. And if confirmed, I would do whatever I could do to ensure that there was as much clarity there as possible. In particular, I know currently HUD is working with the CFPB, with the FHFA, to provide a single source for information to borrowers. You know, I think this is something we have to monitor vigilantly. We want to make sure that these programs are working as they are designed. And as you mentioned, servicers are required to provide forbearance as well as loss mitigation, and they are required to follow certain policies of FHA.

So, you know, again, if confirmed, this is something that I plan to take a look at and keep a close eye on.

Senator CORTEZ MASTO. Well, thank you, and I am already hearing anecdotally some stories from homeowners about what servicers are telling them.

Let me ask you this: Are you also willing to take a look at the oversight of servicers by appropriate sampling and review of companies and talking with borrowers? I am hopeful that you are engaged at that level. That is the only way we are going to stop any type of bad conduct by servicers.

Mrs. WADE. Well, Senator, I will take a look at any data that is presented to me, and as you know, FHA has a lot of enforcement tools available. I believe in strong and clear enforcement. It is another important objective. And so, again—

Senator CORTEZ MASTO. Can I ask you this? And I do not mean to cut you off, but I only have so much time. So there should be a complaint process. You should be able to access this information readily, and that is what I am looking for. So I am hopeful that, working with you, we can ensure that we are addressing this issue. I think we all know all fraud is bad. I do not care what side of the aisle we sit on. All fraud is bad, and we want to stop it. And so we need to make sure that we are accessing the information to help us identify it, so then enforcement action can be taken. So I hope that we are able to do so.

Let me jump to Mr. Miller real quick. Mr. Miller, there is no doubt in my mind that you have got extensive experience as IG, and I am very impressed by your background and your resume. But let me just say this—and you can tell from all of the conversations that my colleagues are asking you, there is a concern with this Administration and a lack of independence. It is not that the President is somehow not saying this overtly and he is covertly hiding behind the scenes and talking about how he is not going to be held accountable. He is actually saying in public—in fact, instead of respecting the CARES Act and longstanding precedents supporting the independence of Inspectors General, which you have

been for so many years, the President said, "I will be the oversight." I mean, he is very clear about it, and that is why you are getting these questions.

So let me just ask you very quickly: If the White House or an agency asks you to withhold information, would you notify Congress immediately of this request?

Mr. MILLER. Yes, Senator.

Senator CORTEZ MASTO. If the White House wanted Treasury to show preference in the CARES Act funding to States for political gain, would you consider that a violation and report it immediately to Congress?

Mr. MILLER. Senator, I did not hear all of your question. I am sorry.

Senator CORTEZ MASTO. If the White House wanted Treasury to show preference in the CARES Act funding to States for political gain, would you consider that a violation and——

Mr. MILLER. I would consider that a violation, Senator.

Senator CORTEZ MASTO. If the White House wanted Treasury to obtain information on corporate political donations prior to Treasury allocating CARES Act financing, would you consider that a violation and report it immediately to Congress?

Mr. MILLER. Senator, I need more facts, but that does sound like it could be.

Senator CORTEZ MASTO. Do you plan to gain Presidential approval before investigating contracts, issuing reports, or communicating with Congress?

Mr. MILLER. No, Senator.

Senator CORTEZ MASTO. Thank you. Listen, most of the questions have been asked, but these are serious times, and this is such an important issue with respect to the act, and making sure we are doing right by so many people across this country, there are so many, and too many people are still suffering, and we are looking for people to stand up and do the right thing here. And so I appreciate your willingness to work, quite honestly, in this Administration with everything that is going on, but we are going to hold you accountable. And at the end of the day, I am hopeful that I get to work with both of you. But we are going to ask the tough questions, and I am not going to let up. It is too important that we address the suffering that is happening across this country.

So thank you again.

Mr. MILLER. Thank you.

Chairman CRAPO. Thank you.

Senator JONES.

Senator JONES. Thank you, Mr. Chairman. I hope everybody can hear me.

Mr. Miller, thank you for the phone call the other day. I want to ask you three questions that just require an answer with a number. One a scale of one to ten, with zero and one being no respect and ten being absolute, unshakable respect, how would you rate President Bush's respect for the independence of Inspectors General?

Mr. MILLER. Senator, I am not comfortable evaluating Presidents' performances, whether it is past Presidents or the current President.

Senator JONES. Well, would you at least acknowledge then that this President has a view of the independence of Inspectors General that is so far less than President Bush or President Obama? Even though they have let folks go, this President—can you at least acknowledge that this President—because you told me the other day in our phone call that it was a challenge, it would be a challenge working for President Trump. Can you at least acknowledge that?

Mr. MILLER. This is going to be a very challenging and demanding position. There is no question about that. And I will go where the facts lead, and they may be facts that the President and the Administration do not like, but I will state them anyway.

Senator JONES. Well, I appreciate that, but I keep hearing so much—and, look, you have got great records. You have got great experience. My friend Helen Fahey, who I served with as U.S. Attorney, thinks highly of you. But I have also heard so much about this one time when you challenged President Bush. But the fact is this President is harder to challenge, and I think everybody recognizes that. I would hope to see some acknowledgment of that from you a little bit more than we have today because that really kind of shows the independence.

You did mention that you might—there would be occasions where you would either resign or walk away, but are there other ways to push back on a President who is trying to influence the independence of an Inspector General short of just walking away from the job in frustration?

Mr. MILLER. Certainly, and I will do my job to the best of my ability, and I will do the job of an Inspector General. Sometimes that involves working with Administration officials to convince them that they should change the program or that they should allow you to get information. That is part of leadership and experience, both of which I have and would like to use as Inspector General to avoid these conflicts. And it has been more than one time that I have had to investigate and make adverse reports and face tough criticism, not just with the one Administrator that was removed but with major contractors and even political appointees in both Administrations.

Senator JONES. In any of those Administrations, did you ever work as a lawyer in the White House Counsel for those Administrations?

Mr. MILLER. Did I work as a lawyer?

Senator JONES. Yeah. Were you in the White House Counsel for those Administrations and then became an Inspector General like you are moving to now?

Mr. MILLER. I have not, but President Obama—since my conversation with a Senator yesterday, I went back and refreshed my recollection, but President Obama appointed Elena Kagan to the Supreme Court, and she had been in a political position in his Administration and had served in the Clinton White House.

Senator JONES. OK. I appreciate that.

Mr. MILLER. And there were others.

Senator JONES. And my question was—and it is OK. I mean, look, I was hoping to get a little bit more from you, but it is OK.

Mr. MILLER. I am not sure what you want.

Senator JONES. Well, I was asking about you, not about Elena Kagan. I know her history.

Mr. MILLER. OK, and there is——

Senator JONES. I was just trying to help out a little bit, to try to establish a little bit that when you say you are going to be independent, your job being independent here is going to be harder than just about any other Inspector General. But my time is running out. I appreciate your being here and I appreciate you are willing to serve, Mr. Miller. I really do. And I hope you will be as tough and as independent as you say and as to some extent your history says.

I would like to get a question to Ms. Wade, though. I appreciate, Ms. Wade, even though I was very disappointed to see your old boss not wearing his University of Alabama mask—I thought that would be really good for the Committee this morning. But I would like to ask you about the proposed rule for disparate impact that HUD has now published. And I am very concerned about that rule and how it is going to, in my view, make it almost impossible to bring discrimination complaints. Are you familiar with that rule? And do you have an opinion about that rule?

Mrs. WADE. Well, Senator, I appreciate the question. I understand that Secretary Carson has already addressed this. It is my understanding that the intent of the rule is to codify the 2015 Supreme Court decision. However, this is not a rule that would be under my direct purview as FHA Commissioner.

Senator JONES. OK. I still do not think Secretary Carson addressed it. I think he gave an answer, but I certainly cannot agree that he fully addressed it, and I think it is inconsistent with that. But be that as it may, I will leave it there. I may have some questions for the record for both of you.

Thank you, Mr. Chairman, for having this hearing, and thank you, everybody, for participating.

Chairman CRAPO. Thank you.

Senator Smith.

Senator SMITH. Thank you, Mr. Chairman and Ranking Member Brown, and thank you to both Mr. Miller and Mrs. Wade for being willing to serve. And thank you, Mr. Miller, for our conversation yesterday.

I want to try to get a sense from you of how you see the authority of the Special IG, what parts of the CARES Act you see you have authority over, and so here is one example. I have heard from a lot of Minnesotans about problems getting the recovery rebate payments that most Americans were supposed to receive. Minnesotans are calling my office and saying that the payments went to the wrong bank or to a bank account that does not exist or people are getting payments based on their 2018 tax information even though they filed 2019 returns. And, of course, some payments are going to dead people, and folks do not know how to return them.

This strikes me as exactly the kind of waste and mismanagement that an Inspector General should be looking into. But when I have asked the IRS about these problems, what they have told us is that my constituents should just wait until next year when they file their 2020 tax return, and then these issues would be resolved by then. But, of course, these are folks that are needing that \$1,200

to pay rent or they might get evicted, to buy groceries so they can postpone going to the food shelves.

So my question is this: If you are confirmed, the CARES Act would charge you with examining the management of the Secretary of any program established under this act. Do you believe that you would have jurisdiction over looking at how these recovery rebate payments have been made?

Mr. MILLER. If the CARES Act gives me that authority to review how the Secretary is performing, administering the programs, certainly I would look at that. And certainly in the situation that you describe, I certainly would be working with the Small Business Administration IG and with the so-called PRAC, Accountability Committee of IGs, and making sure that they are examining how these programs are being administered and how these payments are being misdirected.

Senator SMITH. But do you believe that the CARES Act does give you that authority?

Mr. MILLER. The CARES Act gives me authority certainly over Title IV of the CARES Act and certainly authority to work with the PRAC and the IGs individually. And I think one of the lessons that I have learned from the SIGTARP is to form task forces to obtain authority and jurisdiction in areas that need to be explored. And so certainly I would try and obtain authority where necessary to look into those matters. And if I did not have that authority, I would try and make sure that the IG that has authority is actively and aggressively going after that.

Senator SMITH. OK. Well, I think that my view is that you would have that authority, and this is exactly the kind of mismanagement that we need to look into. But let me ask you another one.

There has been a real worry about how these direct recovery payments are getting to people who are experiencing homelessness, so I wrote a letter to Secretary Mnuchin about this—27 of my colleagues signed on—asking the Treasury Department how they plan to make sure that folks that are experiencing homelessness could access their coronavirus payments, and I have not heard back. Meanwhile, the IRS has published some promotional materials telling people experiencing homelessness that they can sign up online. But, clearly, that is not going to work if you do not have access to online solutions like countless Americans and people especially experiencing homelessness do not.

So would you consider that a part of your role as Special Inspector General to make sure that all Americans can get access to these payments as the law requires?

Mr. MILLER. Senator, certainly I would look into that situation, and certainly I would like the act to get the money to the people that it is intended to have the money. Certainly this money is necessary to help average Americans during this time and small businesses that are being depleted during this time and to replace paychecks that they otherwise would have gotten.

Senator SMITH. See, I think that one of the most important things that you can do in this Inspector General role is to hold the Administration accountable for implementing this law as the law was intended. And so that is why we so carefully included this Inspector General in this job, and it is why honestly so many of my

colleagues are so concerned about this, especially since, you know, when he signed the act, the President said, "Oh, by the way, you know, I can say whether or not the Inspector General shares information with Congress." And that is why we included this language in the bill, because we wanted to make sure that that did happen.

So this is, I think, why people are feeling so concerned. You know, we talked about this yesterday. I appreciate you getting on the phone with me and talking about it, but I have to say I remain concerned about this.

I also just want to say one last thing before we wrap this up. This is focused on part of the CARES Act that is extremely important to me. It has to do with the tribal governments and getting the \$8 billion in tribal recovery relief to America's tribal governments, including Minnesota tribes who are suffering greatly right now. The Navajo Nation in New Mexico is another example as one of the worst-hit hot spots in the entire country, and yet we are still waiting for the Treasury Department to release the \$8 billion that was appropriated and authorized by Congress in the CARES Act. And I just want to draw attention to this, colleagues. This is unacceptable. The Treasury Department has said something today about how they might get it out. The deadline for this was April 26, and tribal governments are dealing with a catastrophic loss of revenue and employment.

Mr. Miller, these are the kinds of challenges that you are going to be having to cope with, I believe, if you are confirmed to this role, holding this Administration accountable when it is not doing what the law requires it to do. And it is why we need such a strong Inspector General. So thank you for your willingness to serve.

Mrs. Wade, I have a couple questions for the record for you, and I am grateful for your willingness to serve as well.

Thank you, Mr. Chair.

Chairman CRAPO. Thank you.

And Senator Brown, our Ranking Member, will have the final question. Senator Brown.

Senator BROWN. Thank you, and if I could, Mr. Chair, a final question for each one of them. And thank you for the forbearance of all of you. I think this was an unmitigated success today, doing this hearing this way. There were probably a lot of skeptics on the Hill about whether you could pull it off, so thanks again to Gregg and to Laura and to Cameron, the three real stars who put this together. And, Mike, thank you for doing this, too.

I wanted to just echo for a moment what Senator Smith just said about tribal governments. I was on a call this morning with a number of community action agencies and what has happened with health disparities in this country. Somebody said to me, not in this meeting but in an earlier conference call earlier in the week, that the pandemic is really the great revealer in so much of what has happened with tribal health and African Americans' health in terms of infant mortality, maternal mortality, life expectancy is so glaring, and I am hopeful that both of you as public servants, long-time public servants in the case of both of you, will pay special attention to what Senator Smith said, and all of us on these issues. But I have just a comment or a question to each.

Mrs. Wade, I would like to follow up on Senator Rounds' comments. I never suggested that you did anything inappropriate. I did not use that word. I do not think you did anything inappropriate. I did say that under your leadership OMB approved rules that civil rights leaders and housing advocates and faith leaders and many Members of this body described as ranging from problematic to contrary to the purpose of the law, including fair housing. You said you would enforce vigorously the Fair Housing Act. But when most of the participants—again, housing advocates, civil rights leaders, faith leaders—think what you did there was compromising that, that is concerning. These rules would undoubtedly be devastating to millions of people, especially people of color, especially low- and moderate-income people.

So my question is this: How do I square your work at OMB with the comments you have made today that you now plan to help so many of those same people?

Mrs. WADE. Well, Senator, I appreciate the question, and, you know, I can only assure you and promise to you that I will do everything to enforce the Nation's fair housing laws and that I find housing discrimination abhorrent and completely unacceptable. HUD spends a lot of time investigating fair housing complaints. It has an entire office that is dedicated to investigating and to enforcing the Nation's fair housing laws. If confirmed, I will do whatever I can to support those efforts.

Senator BROWN. Well, I appreciate that. I take you at your word. I also, though, am a bit cautious about not believing you but thinking you will do this, because at OMB you essentially did the opposite, at least according to people that I trust on these issues, including civil rights and housing advocates. And they think this is, in fact, just, you know, setting more in concrete the kind of discrimination from Jim Crow to redlining to what we have now. But thank you and good luck to you through this process.

Mr. Miller, a follow-up on an earlier question. You said you would use your authority to oversee the Secretary of the Treasury. This was my mistake in the hearing because I should have followed up, but you did not say anything about the Federal Reserve. The Treasury is authorized, as you know, to give hundreds of billions to the Federal Reserve, which will then lend trillions of dollars to businesses. So do you believe the law that created this Special IG that you have been nominated for gives you the authority to oversee the Fed's lending facilities and the companies who receive loans under these facilities? You said Treasury. Do you mean also that you have the authority to oversee the Fed's lending facilities?

Mr. MILLER. A very good question, Senator. At this point in time, looking at the act, it is clear that I have jurisdiction over the actions of the Secretary of the Treasury. And right now I consider every dollar that goes from Treasury through the Federal Reserve to also give me jurisdiction over the Federal Reserve.

Now, you know, if I am fortunate enough to be confirmed and I analyze that and come up with a different view, I may be knocking on your door to get more explicit authority.

Senator BROWN. OK. I appreciate that. That is exactly what we wanted to hear, and it is essential. I mean, it is trillions of dollars, as you know.

A last final thing, Mr. Chairman. Again, thank you for your forbearance.

Mr. Miller, you have been evasive on questions about your work in the White House. Senator after Senator asked what matters you were involved in so we can understand your background, not the specifics of what you did. I am not a lawyer, but I understand attorney-client privilege. I understand those issues working in even the highest echelons of Government. But they were not asking you specifics, again, of what you did. They were asking you so that we understand who you are better, what matters you were involved in. No one wants you to violate privilege, but this is a job interview, and your background is important to evaluate how you will do your job. Unfortunately, you did not give us that information in this hearing.

Mr. Chairman, thank you again for this first-of-its-kind hearing that I think we will see more of. Thanks.

Chairman CRAPO. Thank you very much, Senator Brown, and that does conclude the questioning.

Again, I appreciate both you, Mr. Miller, and Mrs. Wade for taking the time and coming here and presenting yourselves in these unique new circumstances.

Senator BROWN. Mr. Chairman, could I say one more thing?

Chairman CRAPO. Sure.

Senator BROWN. I appreciated the witnesses and the Chairman wearing masks when they were there. All the people that called in from their offices obviously did not need masks, but I appreciate the Chairman and the witnesses wearing masks. I know how strongly Governor DeWine feels about that in my State. So thank you for that.

Chairman CRAPO. Well, thank you. And I also want, in addition to Gregg and Laura and Cameron, to extend our thanks to the Recording Studio and the Rules Committee, who have worked so closely with us. There was so much work that went on behind the scenes to make this come together, and as Senator Brown has indicated, I think it is a success just in terms of the technological ability to put this kind of a hearing on in these difficult circumstances and do it in a successful way.

We also want to extend our thanks to all of the workers who prepared and cleaned this room, our law enforcement officials, and all of the others who have come to make sure that we can operate and do our jobs in the U.S. Senate Banking Committee.

As I said, that does conclude the questioning at today's hearing. For Senators who want to submit questions for the record, those questions are due to the Committee by Thursday, May 7th. We ask that both of you nominees respond to these questions by 9 a.m. Monday morning, May 11th.

Again, we thank you for being here, and this hearing is adjourned.

[Whereupon, at 4:37 p.m., the hearing was adjourned.]

[Prepared statements, biographical sketches of nominees, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF CHAIRMAN MIKE CRAPO

Since this is our first hybrid hearing, a brief explanation of how it will work will benefit Senators and the public.

The hearing room has been configured to maintain the recommended 6-foot social distancing between senators, nominees, and other individuals in the room necessary to operate the hearing, which we have kept to a minimum.

A number of senators have chosen to use secure video teleconference technology, which will allow them to remotely participate.

For those joining by video conference, once you start speaking, there will be a slight delay before you are displayed on screen.

To minimize background noise, we are asking senators who are using the video conference option to please click the mute button until it is their turn to ask questions.

If there is a technology issue, we will move to the next senator until it is resolved.

I would remind all senators and the nominees that the 5-minute clock still applies.

For senators using the video option, you will notice a screen labeled “clock” that will show how much time is remaining.

At about 30 seconds remaining, I will gently tap the gavel to remind senators their time has almost expired.

To simplify the speaking order process, Senator Brown and I have agreed to go by seniority for this first hybrid hearing.

Thank you to those of you who are here today, those appearing before us, and those who are keeping the Capitol complex safe and functioning while we honor our Constitutional duty.

The coronavirus, or COVID-19, pandemic has challenged our sense of normalcy, and it has tested every institution of daily life we know.

The crisis has had a major impact on the physical and economic health of our country, and a major response has been required.

Congress and the Administration have taken bold, dramatic steps to limit the depth of economic shock the country is currently experiencing, and to provide conditions for a quick and robust economic recovery once economic restrictions are lifted.

The CARES Act went into effect just over 1 month ago, putting needed cash directly into the hands of American workers and families, providing rapid relief to small businesses, helping to stabilize our markets and the economy, and sending a massive new infusion of resources to the front lines of the medical response.

Title IV of the CARES Act, which is under the Banking Committee’s jurisdiction, provides \$500 billion in emergency relief in order to provide liquidity to eligible businesses, States, municipalities and Tribes related to losses incurred as a result of coronavirus.

Implementing this title is an important step to supporting the flow of credit in the economy.

On April 9, 2020, the Federal Reserve Board and Department of Treasury announced new and expanded lending programs to provide up to \$2.3 trillion in loans.

The 13(3) Federal Reserve facilities, specifically the Main Street Lending Facilities, are crucial components of the strategy to support the economy and promote a U-shaped recovery, which reinforces the need to have them up and operating, and being as broadly available for as many businesses as possible.

Title IV includes robust oversight requirements to ensure the statute is followed, and to protect against waste, fraud, and abuse.

The Special Inspector General for Pandemic Recovery will oversee the reporting and auditing requirements of the law, and it is critical that we quickly confirm the nominee so that important work can begin.

This afternoon, we will consider the nominations of The Honorable Brian Miller, of Virginia, to be Special Inspector General for Pandemic Recovery; and Mrs. Dana Wade, of the District of Columbia, to be Assistant Secretary for Housing and Federal Housing Commissioner at the U.S. Department of Housing and Urban Development.

Welcome and congratulations on your nominations to these important positions.

Section 4018 of the CARES Act establishes the Special Inspector General for Pandemic Recovery.

The duty of the SIGPR is to “conduct, supervise, and coordinate audits and investigations of the making, purchase, management, and sale of loans, loan guarantees and other investments made by the Secretary of the Treasury under any program established by the Secretary under this Act, and the management by the Secretary of any program established under this Act.”

Mr. Miller is highly qualified for the Special Inspector General position, having served as the Inspector General for the General Services Administration for nearly a decade.

The Senate confirmed Mr. Miller for that position in 2005 via voice vote, a position he held for nearly 10 years.

In that role, Mr. Miller led more than 300 auditors, special agents, attorneys, and support staff in conducting nationwide audits and investigations; and reported on fraud, waste and abuse.

He has been outspoken on the need for inspectors general to have independence and access to information, and I am confident that he will carry out the responsibilities and mission of this position diligently, independently, and objectively.

During a Senate Judiciary Committee hearing in 2015, Mr. Miller noted, “. . . in order to have effective oversight, an IG must have independence to conduct an investigation, review or audit. This includes determining what information is needed. It is the judgment of the IG conducting the investigation that matters, not the judgment of the agency being investigated.”

I encourage my colleagues to support Mr. Miller’s nomination, so that he can begin this vital oversight role.

Turning to Mrs. Dana Wade, Dana Wade is well prepared to take over the reins at the Federal Housing Administration (FHA).

She is familiar to the task, having operated as Acting Federal Housing Commissioner and General Deputy Assistant Secretary for the Office of Housing.

As Acting Commissioner, she directly managed FHA’s portfolio of single family, multifamily, and healthcare insurance; Section 8 project-based rental assistance; the Office of Manufactured Housing; and over 2,400 personnel agencywide.

Mrs. Wade’s extensive record of housing policy experience also includes service as Senior Advisor to Secretary Ben Carson, Deputy Staff Director to this Committee and the Senate Appropriations Committee, and as Associate Director at the Office of Management and Budget, where she led all housing-related issues and supervised HUD, among other agencies.

Great leadership will be required at FHA during this unprecedented time of strain on both home ownership and rental markets.

In the wake of COVID–19, we have already seen over 10 percent of FHA borrowers enter mortgage forbearance, FHA-insured healthcare facilities feeling significant strain, and many FHA-assisted landlords struggle to make ends meet while countless renters are unsure where their next rent payment will come from.

In the months ahead, FHA will be on the front lines helping many of these families get back on their feet and providing much-needed liquidity throughout the housing finance system.

I am confident that Mrs. Wade will provide exactly the type of leadership that is needed during this critical time, as Commissioner Montgomery has done.

I encourage my colleagues to support Mrs. Wade’s nomination, as well as to confirm Brian Montgomery as Deputy Secretary, so that we can best position HUD to tackle the challenges ahead.

Congratulations again to each of you on your nominations, and I thank you and your families for your willingness to serve.

PREPARED STATEMENT OF SENATOR SHERROD BROWN

I would like to begin by saying “thank you” to staff at the Sergeant at Arms, the Architect of the Capitol, the Office of the Attending Physician, the Recording Studio, and the Senate Rules Committee for working very hard over the last couple of weeks to try to make hearings as safe as possible, including by using technology for Members to join hearings remotely. And, I want to thank all of the Capitol Police and other Senate staff and contractors who have been working to make sure the Senate continues to run.

I also want to thank Chairman Crapo and his staff for working with my staff and me to coordinate this hearing and provide a remote option for Senators to join. It’s the right thing to do to keep everyone safe.

I am very concerned, however, at the reckless decision by Leader Mitch McConnell to open the Senate to session, despite ongoing emergency stay-at-home orders all over the country, including in Washington, D.C., Maryland, and Virginia.

Leader McConnell’s actions are forcing Capitol complex workers—including contract workers like the cleaning staff who just cleaned this hearing room and will clean again, and food service workers who just served the Republican caucus lunch—to go against public health authorities’ advice, and put themselves at risk to come into work.

The Republican Leader's agenda this week doesn't include assistance for the unemployed, anything that helps people to stay in their homes, or support for community health services. Those are issues the Senate should be taking on right now.

I want to congratulate the nominees and thank them for their willingness to serve. This is probably not the confirmation hearing you had hoped for. And, I want to thank your families watching from home.

The Special Inspector General for Pandemic Recovery will oversee the CARES Act lending and investment programs that were designed to stabilize our economy and get help to communities and workers and small businesses that are hurting during this pandemic. And this lending will be critical to restarting our economy, to begin the recovery.

The Federal Housing Administration Commissioner faces an affordable housing crisis made even worse by the pandemic.

The stability and future of millions of families are on the line as Congress and the Administration respond to this crisis. If confirmed, the two of you will serve in positions that are crucial to implementing the policy responses to the COVID-19 pandemic.

This Committee has oversight over the Treasury and Federal Reserve loan programs under the CARES Act. That's why I fought for the Office of the Special Inspector General for Pandemic Recovery. The American people need a strong watchdog to make sure the 500 billion dollars of taxpayer money provided under the Act, and the four trillion dollars that the Federal Reserve will lend, actually goes to support workers and communities and small businesses.

Because the Act grants the Treasury Secretary and the Federal Reserve broad discretion over who gets these loans and on what terms, the Special Inspector General will need to examine the loan terms, the transactions, the lenders involved, and the eligibility of borrowers.

We've seen how the Small Business loans went to big companies and important clients of Wall Street banks, while community banks and credit unions and their customers on Main Street and in underserved communities waited and waited. I think most of us have all heard the frustration from restaurants and barber shops and cafes and so many other small businesses in our States, that are facing impossible decisions right now. They've spent hours on the phones trying to talk to someone about a loan, and have either been turned down or can't get answers, while big, well-connected franchises go to the front of the line. It's unacceptable.

We can't let the same thing happen with these loans by Treasury and the Fed. The problems with the SBA loans should be a lesson to Congress, as we consider additional recovery measures, and to the Special Inspector General.

In addition to those concerns, President Trump has shown outright hostility toward anyone who tries to hold him accountable to the American people he serves, including inspectors general. He removed the acting IG for the Defense Department who was set to become the chairman of the Pandemic Recovery Accountability Committee, he fired the intelligence community IG, and last Friday, he replaced the acting Health and Human Services IG. All of these professionals did their jobs and exposed misconduct in the Administration.

Looking at the last 20 years, we found only one IG candidate was nominated while serving in the White House Counsel's office, and another nominee served in the White House Counsel's office under an earlier Administration. Both of them resigned, one for politicizing the office and the other for a lack of independence. Not a great track record.

We passed the CARES Act to support our economy, by helping workers, Main Street businesses, State and local governments, and nonprofits. We cannot tolerate businesses and their workers suffering to protect the President, his family, or their allies, because of corruption, misuse, or favoritism.

Mr. Miller, if you are confirmed, I expect you to follow the letter and spirit of the law, and serve the American people—not President Trump. As Special Inspector General, you must be willing to stand up to the Administration and any other bad actor and to uphold the goals of the law. Anything less is unacceptable.

While Mr. Miller is the only nominee before us today with "Pandemic Recovery" in his title, make no mistake—the FHA and the Office of Housing will be on the front lines of our Nation's response as well.

In good times, FHA provides access to affordable home ownership for millions of families. When the economy slows, as it is today, the FHA is expected to step up to meet the needs of more households and keep the mortgage market working, even as others in the market retreat.

During the 2008 financial crisis, economists estimated that FHA's actions helped prevent an additional 25 percent decline in housing prices and the loss of an additional 3 million jobs.

FHA's decisions will determine whether families can remain in their homes, or whether communities face a foreclosure crisis on top of a public health crisis.

They will also help determine whether the burden of this downturn, like the 2008 crisis, falls most heavily on communities of color and exacerbates economic inequality, or whether we will adopt policies and do oversight to provide an equitable recovery that keeps affordable housing in the hands of homeowners and communities, rather than Wall Street investors.

And decisions at the Office of Housing, which Mrs. Wade would lead if confirmed, will determine whether policies and funding are in place to keep the lowest income seniors, persons with disabilities, and people in HUD-financed healthcare facilities safe during this pandemic.

Over the past 3 years, this Administration has tried to gut funding to housing and community development programs, rolled back fair housing protections and other civil rights protections, undermined the safety of manufactured housing residents, and tried to make home ownership more expensive and harder to attain.

I hope the answers Mrs. Wade provides today will make clear that she will fight to reverse that trend.

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

PREPARED STATEMENT OF BRIAN D. MILLER

TO BE SPECIAL INSPECTOR GENERAL FOR PANDEMIC RECOVERY, DEPARTMENT OF THE
TREASURY

MAY 5, 2020

I want to thank the Chairman and Ranking Member for having this hearing. I want to thank President Trump for nominating me. Most of all, I want to thank my wife and family for their encouragement to continue public service, especially in such a demanding job. Thank you.

I have been fortunate to have a long career in public service that has prepared me well for this position. I have close to 30 years of experience in the Federal Government. Fifteen years in the Department of Justice and nearly 10 years as the Senate confirmed Inspector General of the General Services Administration, serving across Republican and Democrat administrations. I have also served as an independent corporate monitor and practiced law in the areas of ethics and compliance, Government contracts, and internal investigations.

I am amazed and humbled by the letters of support that I received in such a short time period of time during a pandemic. I am deeply grateful to those who signed from all varieties of political stripes—from officials in the Obama, Bush, and Clinton administrations. I would like them to know that I will always endeavor to be the man they describe in their letters.

If confirmed, I will conduct every audit and investigation with fairness and impartiality. I will be vigilant to protect the integrity and independence of the Office of Special Inspector General. I pledge to seek the truth in all matters that come before me and to use my authority and resources to uncover fraud, waste, and abuse.

I stand ready to answer any of your questions. Thank you, Mr. Chairman.

Rosemary Miller 24 -

In 2012, the U.S. Comptroller General presented me with the David M. Walker Excellence in Government Performance and Accountability Award, which recognizes and honors government audit professionals who have made sustained contributions to improve government performance and accountability through their leadership in transforming government organizations.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

To the best of my recollection and according to a search of my records and online, I have identified the following responsive items:

Virginia State Bar:	Active Member in Good Standing	9/14/1998-present
DC Bar:	Active Member in Good Standing	11/20/1989-present
California State Bar:	Inactive Member in Good Standing	12/10/1986-present
New Mexico State Bar:	Inactive Member in Good Standing	04/12/1984-present

Member of the local Federal District Courts, Court of Federal Claims, and Circuit Courts of Appeal, such as EDVA, DC, CDCA, 4th Circuit, 9th Circuit, 10th Circuit, and possibly others.
My licenses have never been withdrawn, suspended, or revoked, though I paid my dues late in 2014 to Virginia and DC, due to a change in employment and consequent change in email address (I never received notices for bar dues.).

Former Memberships:

The American Bar Association (2014-2019)
GAO's National Intergovernmental Audit Forum (NIAF) (served on the 2014-2020 NIAF Strategic Plan Task Force around 2013-2014)
International Association of Independent Corporate Monitors (Special Adviser and Member) (2016-18)
Federalist Society (2014-2019)
Vice Chair of the ABA Committee on Suspension & Debarment (2017-2018)
Board of Trustees for Westminster Seminary California (2014-2020)
Association of Government Accountants (2012-approximately 2014)

Employment record: List below all positions held since college, including the title or description of job, name of employment, location of work, and inclusive dates of employment.

Security Guard, Westminster Security, Philadelphia, PA, 1978-80
Legal Intern, Davis & Davis, Austin, TX, 1982-83
Summer Associate, Atwood, Malone, Mann & Turner, Roswell, NM, 1983
Associate Attorney, Atwood, Malone, Mann & Turner, Roswell, NM, 1984-86
Associate Attorney, Yates, McKee & Frenzel, Orange, CA, 1986-87
Deputy General Counsel, U.S. Commission on Civil Rights, Washington, DC, 1987-90
Senior Attorney Advisor, U.S. Department of Justice, 1990-93
Assistant U.S. Attorney, Eastern District of Virginia, Alexandria, VA 1993-2005
Senior Counsel to the Deputy Attorney General, 2001-02
Counsel to the U.S. Attorney, Eastern District of Virginia, 2002-2005

Inspector General, GSA, Washington, DC, 2005-2014
 Managing Director, Navigant Consulting, Washington, DC 2014-15
 Shareholder, Rogers Joseph O'Donnell, Washington, DC, 2015-18
 Senior Associate Counsel and Special Assistant to the President, Executive Office of the President, Washington DC, 2018 to date

Government experience:

List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.

As part of President Obama's Financial Fraud Enforcement Task Force, I worked with state and local governments to set up task forces to detect and prosecute Recovery Act fraud.

Published Writings:

List the titles, publishers and dates of books, articles, reports or other published materials you have written.

To the best of my recollection and according to a search of my records and online, I have identified the following responsive items:

Publications:

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National Defense Magazine, "Compliance Fatigue is Real," November 28, 2017, <https://www.nationaldefensemagazine.org/articles/2017/11/28/compliance-fatigue-syndrome-is-real>.

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What the DC Circ.'s KBR Decision Means for Compliance, Law360, co-author, July 7, 2014, available at: <https://nicholsliu.com/what-the-dc-circ-s-kbr-decision-means-for-compliance-law360/>.

The Federal Acquisition Regulation Mandatory Disclosure Rule Program at the U.S. General Services Administration Office of Inspector General, Updated for the Defense Industry Initiative on Business Ethics and Conduct Best Practices Forum in Washington, DC (2012) and originally published as part of the ABA's 18th Annual Federal Procurement Institute, found at: <http://www.dii.org/resources/mandatory-disclosure-panel>, page 10, and https://www.gsaig.gov/sites/default/files/misc-reports/FAR_MDR_JuneUpdate_Final.pdf.

Returning America's Art to America, *Journal of Public Inquiry*, Spring/Summer 2011, found at <https://www.ignet.gov/sites/default/files/files/jpiss2011.pdf>

Three Ideas to Improve Effective Inspector General Access to Both Information and Individuals, *Journal of Public Inquiry*, Spring/Summer 2009, found at <https://www.ignet.gov/sites/default/files/files/sp09jpi.pdf>

Federal Law Enforcement Training Center Graduation Address, *Journal of Public Inquiry*, Fall/Winter 2009-2010, found at <https://www.ignet.gov/sites/default/files/files/fw09jpi.pdf>

Five Ideas to Fight Fraud That IG's Should Be Interested in, December 1, 2009, found at https://www.gsaig.gov/sites/default/files/misc-reports/Five_ideas_to_fight_fraud.pdf

Oversight of a Major Procurement Program: Multiple Award Schedules, co-author, *Journal of Public Inquiry*, Spring/Summer 2008, found at <https://www.ignet.gov/sites/default/files/files/sp08jpi.pdf>

United States v. Virginia Psychiatric Company, 45 United States Attorneys' Bulletin 54 (1997), available at: <https://www.justice.gov/sites/default/files/usao/legacy/2007/01/11/usab4503.pdf>

Political Affiliations and activities:

List memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None.

Political Contributions:

Itemize all political contributions of \$500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.

None.

Qualifications:

State fully your qualifications to serve in the position to which you have been named.

I previously served as the Inspector General for the GSA for nearly a decade through the George W. Bush and Barak Obama Administrations. In that position, I gained invaluable experience as an inspector general and knowledge of all of the issues facing inspectors general, including running an Office of Inspector General and putting together an effective team.

As Inspector General, I led the team that investigated the GSA Western Regions Conference in Las Vegas, Nevada, in 2010. My team detailed lavish expenditures and wasteful spending on rented tuxedos, entertainment, room service, excessive pre-planning trips to Las Vegas, and two-story, loft suites, one of which was kept solely as a "party room." Indeed, the Washington Post reported that I "cracked open the story of his agency's extravagances at its 2010 Las Vegas conference, which featured a mind-reader, after-hours parties in loft suites and a video of a bare-chested executive soaking in a hot tub." https://www.washingtonpost.com/politics/clampdown-after-gsa-scandal-puts-some-federal-workers-in-a-pinch/2015/02/08/d8217240-a5a4-11e4-a7c2-03d37af98440_story.html; see also, "GSA Inspector General Exits Government with Legacy of High Profile Cases," *The Washington Post* <https://www.washingtonpost.com/news/federal-eve/wp/2014/04/07/gsa-inspector-general-exits-government-with-legacy-of-high-profile-cases/?arc404=true>.

For fifteen years, I served in the United States Department of Justice as an Assistant United States Attorney and as Senior Counsel to the Deputy Attorney General and as Special Counsel on Healthcare Fraud at the Department of Justice. As a former prosecutor and Department of Justice attorney, I investigated high profile fraud cases, False Claims Act, criminal, and appellate cases.

I have also worked as a partner at a law firm, where I have practiced law in the areas of ethics and compliance, government contracts, internal investigations, white collar, and suspension and debarment. As an attorney for large corporations, small businesses, and individuals, I understand and appreciate the challenges businesses and individuals face. I have furthermore served as an independent corporate monitor and expert witness.

Future employment

relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

None.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. **None.**

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. **None.**

3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. **None.**

4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy. **None.**

5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.

I will apply the generally applicable standards for conflicts of interest, consult with any relevant ethics officials, and make a decision on a case by case basis to resolve any conflicts of interest.

Civil, criminal and investigatory actions:

1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

In July 2003, a civil action was brought against me as a Federal prosecutor by Calvin Dyess, who is serving a life sentence for leading a drug trafficking conspiracy. The court dismissed the action as frivolous on January 2, 2004.

As GSA Inspector General, I was the head of the office. As head of the office, I may have been named or mentioned in employment complaints against lower level supervisors.

In or around June 2016, I testified in an evidentiary proceeding in the Eastern District of Virginia. Anthony Brown was a cooperating witness in a 2005 drug-related murder trial, for which I was a prosecutor. Mr. Brown in 2016 claimed that he was promised witness protection by the prosecutors. Mr. Brown pleaded guilty to his part in the crime. For a summary of the underlying case, see *U.S. v. Smith et al.*, 452 F.3d 323 (4th Cir. 2006), available at:

<http://www.ca4.uscourts.gov/Opinions/044574.P.pdf>; see also

<https://www.courtlistener.com/opinion/2294497/united-states-v-smallwood/> and

<https://www.leagle.com/decision/20051054365fsupp2068911001>. The district court and the Fourth Circuit Court of Appeals dismissed Mr. Brown's 2016 claims in *U.S. v. Brown*, No. 16-6178 (4th Cir. 2016), available at:

<http://www.ca4.uscourts.gov/Opinions/Unpublished/166178.U.pdf>

2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.

In or around 2007, the GSA Administrator, Lurita Doan, and attorneys within the GSA Office of Inspector General filed a meritless complaint against me as IG with the President's Council of Inspectors General for Integrity and Efficiency (PCIE). It primarily questioned my authorization of the detail of a career employee to HUD's Office of the Chief Information Officer. The PCIE dismissed the complaint finding no violation of any law, rule, or regulation. I also asked another IG to investigate, and the other IG confirmed that the complaint was "without merit." The complaint is summarized in the attached letter from Senator Grassley, concluding that "it does not appear to me that the GSA OIG has acted improperly." See attached letter, from Senator Grassley to GSA Administrator Lurita Doan, April 15, 2008.

PREPARED STATEMENT OF DANA WADE

TO BE ASSISTANT SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MAY 5, 2020

Chairman Crapo, Ranking Member Brown, and Members of this Committee, thank you for inviting me here today to testify as the nominee for Federal Housing Commissioner and Assistant Secretary for Housing of the U.S. Department of Housing and Urban Development. I want to also thank President Trump for the privilege of being nominated for this position.

It is truly an honor to be here after serving as a staff member of this Committee and spending a good part of my career working for Senator Shelby on both the Banking and Appropriations Committees. I'm extremely grateful to him for such opportunities.

I'm also very thankful for the love and support of my wonderful family. I regret that both my husband, Chris, and our daughter, Mary, can only be here today in spirit, and not in person.

As I look around this hearing room, I see the Senate continuing the people's work but under very different circumstances. If confirmed, I will commit to do everything I can as FHA Commissioner to help the country emerge from the COVID-19 pandemic healthier, stronger, and with a more prosperous economy.

HUD and FHA play critical roles in our Nation's safety net. That is more clear today than ever. Secretary Carson and the dedicated staff at HUD are working tirelessly to minimize the impact of COVID-19 to homeowners, renters, and the vulnerable populations HUD serves each and every day. We are grateful for the hard work and bipartisan commitment of Congress during this time in passing legislation that safeguards American families, communities, and the economy from this terrible virus.

I joined public service in the midst of a different crisis—the financial crisis of 2008—during which I gained valuable experience that will serve me well if confirmed. I learned that during times like these, it is important to make sure assistance quickly reaches those in need and that we maximize the effectiveness of every Federal dollar. As a staff member of the Budget, Banking, and Appropriations Committees, as well as an Associate Director at the Office of Management and Budget, I drilled down into the details of multiple agencies and programs, giving them much-needed scrutiny to ensure that they fulfilled their missions and targeted support effectively. And as the acting head of FHA and HUD's Office of Housing, I implemented reforms that better-managed risk, built-up capital, and provided greater transparency to the public.

If confirmed, my priorities for FHA and the Office of Housing are as follows:

- First, protecting current FHA homeowners—those who are low-to-moderate income, including first-time and minority borrowers—as well as assisted renters who through no fault of their own have experienced COVID-related hardships. This includes executing CARES Act provisions like the eviction moratorium and forbearance for homeowners, as well as fully deploying FHA's loss mitigation toolkit for COVID-affected homeowners.
- Second, ensuring that FHA has the necessary staffing and other resources, as well as continuing the innovative FHA IT Modernization effort, which together will allow FHA to perform its important countercyclical role to support the housing market. One of the pillars of FHA's mission is to provide support when the economy demands it, especially if there is tightening in conventional and private markets.
- Third, vigilantly monitoring risk to taxpayers of losses stemming from COVID-19, and protecting FHA's capital reserve to the maximum extent possible. Losses in the current environment are inevitable, and FHA must be transparent to Congress and the American taxpayers when it comes to its financial position. Future policies should allow FHA to responsibly rebuild capital when the time is right, as this current crisis has reminded us of the importance of having a buffer to protect taxpayers from losses.

I believe that FHA has a duty to support the Nation's housing markets and homeowners facing economic hardship. While the virus will pass and the economy will eventually regain its previous strength, the road to recovery will require our sustained effort.

If confirmed, I will do all that I can to run a strong, sustainable FHA and Office of Housing, one that can support the needs of those we serve and is accountable to the taxpayers who stand behind it. I look forward to working with this Com-

mittee and with Congress on these objectives and look forward to answering your questions.

Thank you.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES
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Name:

(Last)

(First)

(Other)

Wade

Dana

Trace (middle)

Position to which nominated: Assistant Secretary (Housing-Federal Housing Commissioner), Department of
Housing and Urban Development

Date of nomination:**Date of birth:** 10/03/1979**Place of birth:** Cincinnati, OH

(Day) (Month) (Year)

Marital Status: Married**Full name of spouse:** Christopher James Tynan**Name and ages of children:** Mary Frances Tynan, Age 5**Education:**

Institution

Dates
attendedDegrees
receivedDates of
degrees

The Wharton School, University of Pennsylvania

08/06-05/08

Master of Business Administration, 2008

Georgetown University

08/98-05/01

Bachelor of Arts, 2001

Hamilton College

08/97-05/98

(transferred to Georgetown)

**Honors
and awards:**

List below all scholarships, fellowships, honorary degrees, military medals, honorary
society memberships and any other special recognitions for outstanding service or
achievement.

N/A

Memberships:

List below all memberships and offices held in professional, fraternal, business, scholarly,
civic, charitable and other organizations.

Organization

Office held (if any)

Dates

N/A

Employment record: List below all positions held since college, including the title or description of job, name
of employment, location of work, and inclusive dates of employment.

- Management Consultant; Accenture; Reston, VA; 2001-2003
- Government Relations Associate; The Options Clearing Corporation; Washington, DC; 2003-2006

- MBA Intern; Comcast Corporation; Philadelphia, PA; 2007
- Policy Advisor; McCain-Palin 2008 Campaign for President; Arlington, VA; 2008
- Budget Analyst for Financial Markets; House Budget Committee; Washington, DC; 1/2009-6/2011
- Professional Staff Member; Senate Banking, Housing, and Urban Affairs Committee; Washington, DC; 6/2011-1/2013
- Republican Deputy Staff Director, Professional Staff Member; Senate Appropriations Committee; Washington, DC; 1/2013-1/2015
- Deputy Staff Director; Senate Banking, Housing, and Urban Affairs Committee; Washington, DC; 1/2015-8/2016
- Senior Research Fellow; The Charles Koch Institute; Arlington, VA; 8/2016-6/2017
- Acting Commissioner, Federal Housing Administration (6/2017-6/2018) and General Deputy Assistant Secretary (6/2017-9/2018); Department of Housing and Urban Development; Washington, DC
- Senior Advisor to the Secretary; Department of Housing and Urban Development; Washington, DC; 9/2018-12/2018
- Associate Director, General Government; The Office of Management and Budget; Washington, DC; 12/2018-12/2019
- Senior Advisor to the Secretary; Department of Housing and Urban Development; Washington, DC; current

Government

experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.

- Budget Analyst for Financial Markets; House Budget Committee; Washington, DC; 1/2009-6/2011
- Professional Staff Member; Senate Banking, Housing, and Urban Affairs Committee; Washington, DC; 6/2011-1/2013
- Republican Deputy Staff Director, Professional Staff Member; Senate Appropriations Committee; Washington, DC; 1/2013-1/2015
- Deputy Staff Director; Senate Banking, Housing, and Urban Affairs Committee; Washington, DC; 1/2015-8/2016
- Acting Commissioner, Federal Housing Administration (6/2017-6/2018) and General Deputy Assistant Secretary (6/2017-9/2018); Department of Housing and Urban Development; Washington, DC
- Senior Advisor to the Secretary; Department of Housing and Urban Development; Washington, DC; 9/2018-12/2018
- Associate Director, General Government; The Office of Management and Budget; Washington, DC; 12/2018-12/2019
- Senior Advisor to the Secretary; Department of Housing and Urban Development; Washington, DC; current

Published

Writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

- Opinion Piece: "Farm Subsidies Are Little More Than a Handout to the Rich," *Real Clear Markets*. https://www.realclearmarkets.com/articles/2017/06/01/farm_subsidies_are_nothing_more_than_a_handout_to_the_rich_102718.html

- Opinion Piece: "Giving Voice to the 'Forgotten,' Who Pay for Elite Policies," *Real Clear Markets*.
https://www.realclearmarkets.com/articles/2017/02/22/giving_voice_to_the_forgotten_who_pay_for_elite_policies_102556.html
- Opinion Piece: "It's Time to Clean Up the Tax Code," *Tampa Bay Times*.
<https://www.tampabay.com/opinion/columns/column-its-time-to-clean-up-the-tax-code/2304903/>
- Opinion Piece: "Taxpayer-funded business incentives more glitter than gold," *SunSentinel*.
<http://www.sun-sentinel.com/opinion/commentary/fl-dwoped--incentive-programs-20170314-story.html>
- "To Reform the Tax Code, Congress Should Start by Doing Nothing," *Dallas Morning News*.
<https://www.dallasnews.com/opinion/commentary/2016/11/30/to-reform-the-federal-tax-code-congress-should-start-by-doing-nothing/>
- "When NFL Teams Dump Their Fans," *Real Clear Sports*.
www.realclearsports.com/articles/2016/10/13when_nfl_teams_dump_their_fans_98467.html
- "Trump's Executive Order On Financial Reform Didn't Go Far Enough," *Investor's Business Daily*.
(Note: Title was chosen by IBD editorial staff.) <https://www.investors.com/politics/commentary/trumps-executive-order-on-financial-reform-doesnt-go-far-enough/>
- "New Hampshire Should Remove Licensing Barriers to the Workplace," *New Hampshire Union Leader*.
(Note: With co-author.) <http://www.unionleader.com/Another-View-Will-Ruger-and-Dana-Wade-NH-should-remove-licensing-barriers-to-the-workplace-03212017>

Political

Affiliations

and activities: List memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Registered Voter for Republican Party; Washington, DC.

Political

Contributions: Itemize all political contributions of \$500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.

N/A

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

Future employment

relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

N/A – I am nominated to serve a position at the Department of Housing and Urban Development, where I currently work.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No, not that I can foresee.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

**Potential conflicts
of interest:**

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

N/A

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

N/A

3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

N/A

4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

N/A

5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.

N/A

**Civil, criminal and
investigatory
actions:**

1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

N/A

2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.

N/A

Qualifications

I have previously served as the Acting Federal Housing Commissioner and Acting Assistant Secretary for Housing at the Department of Housing and Urban Development (6/2017-6/2018). During that time, I occupied both the Acting head and the Deputy (General Deputy Assistant Secretary) roles in the organization, and was responsible for leading the approximately 2,400-person office as well as the Federal Housing Administration's portfolio of single family, multifamily and healthcare insurance, in addition to Section 8 rental assistance and the Office of Manufactured Housing. I have also overseen housing and financial services issues through multiple roles as a Congressional staffer for the Senate Banking, Housing, and Urban Affairs Committee; the Senate Appropriations Committee; and the House Budget Committee. In addition, I most recently served as an Associate Director at the Office of Management and Budget, where I led all housing-related issues and supervised the Department of Housing and Urban Development, among other agencies.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN
FROM BRIAN D. MILLER**

Q.1. At your nomination hearing, for clarification, I asked if you believed the CARES Act gives the Special IG the authority to oversee the Federal Reserve's lending facilities and the companies who receive loans under these facilities.

You said you have jurisdiction over the actions of the Secretary of the Treasury, and that you consider every dollar that goes from the Treasury to the Federal Reserve gives you jurisdiction over the Federal Reserve.

The Treasury and the Federal Reserve are establishing complex financial arrangements to lend to businesses. Those arrangements will use funds appropriated to Treasury under the CARES Act and funds loaned by the Federal Reserve. Please confirm that you consider all of those financial arrangements to be within the jurisdiction of the Special IG.

A.1. These statements correctly summarize my preliminary thoughts on the starting analysis of SIGPR's jurisdiction, given the text of the CARES Act. If I am confirmed, I will analyze these issues in much more detail. I will consider the jurisdiction of SIGPR to be as broad as is textually permissible under the CARES Act, and Congress is always free to clarify or amend the jurisdiction of SIGPR.

Q.2. The CARES Act created the Paycheck Protection Program (PPP), which is administered by the Secretary of the Treasury and the Administrator of the Small Business Administration.

As you noted at your hearing, the Special IG has responsibility for the programs administered by the Secretary of the Treasury. Please confirm that you consider the PPP to be within the jurisdiction of the Special IG.

A.2. If I am confirmed, I will analyze this issue in careful detail. I will consider the jurisdiction of SIGPR to be as broad as is textually permissible under the CARES Act, and Congress is always free to clarify or amend the jurisdiction of SIGPR. At this time, it would be inappropriate to publicly assert a definitive legal pronouncement given the incomplete legal analysis and the potential for this issue to be litigated.

Additionally, if confirmed, I can and do commit that I will work diligently with the Small Business Administration's Inspector General, Mike Ware, as well as the PRAC. In anticipation of possible confirmation and the need to begin the work of the SIGPR quickly, I have already had productive preliminary discussions with Inspector General Ware and key members of the PRAC. In consultation with other stakeholders, who may have more jurisdiction, we will delineate responsibilities according to the CARES Act.

Q.3. The CARES Act obligates airlines receiving payroll assistance from conducting involuntary furloughs or reducing pay rates and benefits until September 30, 2020. Several airlines have recently announced that they are reducing workers' hours, potentially violating these provisions.

What actions will you take as Special Inspector General to ensure that Treasury enforces these worker protections?

A.3. If confirmed, I would look into this type of conduct and carry out thorough investigations where supported by the facts gathered. If there is a violation of law, I would make a referral to the Department of Justice for formal legal action.

Q.4. In your testimony, you committed to following statutory requirements to report to Congress, as specified in section 4 of the Inspector General Act. If confirmed, as required in Section 4018(e)(4)(B) of the CARES Act, will you report to Congress, without delay or interference by the Administration, when in your judgment information or assistance you have requested has been unreasonably refused or not provided? Please be specific as to how you will fulfill that statutory requirement.

A.4. If confirmed, I would most likely begin by contacting this Committee to report the situation.

Q.5. Did the Council of the Inspectors General on Integrity and Efficiency Inspector General Candidate Recommendations Panel evaluate you for the Special IG position, or for any other IG position while you were serving in the White House Counsel's office? Did you seek out the panel's recommendation, or did you avoid its review?

A.5. As CIGIE's letter to the Committee on Homeland Security and Governmental Affairs noted, its Panel submitted a recommendation to the White House Counsel's Office, evaluating me as an Inspector General candidate. Letter from Michael E. Horowitz, Chair, Council of the Inspectors General on Integrity and Efficiency, et al., to Ron Johnson, Chairman, Senate Committee on Homeland Security and Governmental Affairs (April 17, 2020).

Q.6. In your testimony, you described encountering resistance from agency officials during your tenure as GSA IG under Presidents George W. Bush and Barack Obama. While serving as GSA IG, did the President or any White House official ever attempt to influence the scope or outcome of an investigation or inquiry undertaken by your office? If so, please describe how you responded.

A.6. Most of the pressure was from political appointees in GSA. I did not allow investigations to be influenced by politics and instead ensured my office followed the facts where they led and made recommendations based on those facts alone.

Q.7. While serving as GSA IG, did you ever investigate allegations of involving the President or other White House official? If so, please describe the nature of the allegations and the outcome of the investigation(s).

A.7. No.

Q.8. While serving as GSA IG, did you ever request information, documents, or testimony from the White House or any component of the Executive Office of the President (EOP) as part of an IG inquiry? If so, please describe the circumstances of the request and whether you received cooperation from the White House and/or EOP.

A.8. No.

Q.9. Offices of Inspector General rely on whistleblowers to do their oversight work. Do you commit to taking any and all actions nec-

essary to protect whistleblowers from retaliation, including attempts to undermine their confidentiality?

A.9. Yes.

Q.10. In your testimony, you committed to “following the law” with respect to the authorities and obligations of the Special Inspector General for Pandemic Recovery. If confirmed, how will you resolve any ambiguities or disagreement over what the law requires in practice?

A.10. I will at all times be guided by the text of the CARES Act and the IG Act, as it is incorporated by reference into the CARES Act. When interpreting the text of these statutes, I will consult with my office’s general counsel. I will also consult other legal authorities as appropriate. I will interpret the law dispassionately. Should Congress see fit to clarify certain provisions through legislation, I will always follow those clarifications faithfully and objectively.

Q.11. Title IV of the CARES Act provides up to \$32 billion for other financial assistance, largely intended to be grants: \$25 billion to passenger air carriers; \$4 billion to cargo air carriers; and \$3 billion to certain contractors. This financial assistance must be exclusively used for the continuation of payment of employee wages, salaries, and benefits. The funds are subject to conditions and restrictions related to collective bargaining agreements, stock buybacks, dividends, executive compensation, involuntary furloughs, reduction in pay rates and benefits, and continuation of air service.

The CARES Act obligates airlines receiving payroll assistance from conducting involuntary furloughs or reducing pay rates and benefits until September 30, 2020. Several airlines have recently announced that they are reducing workers’ hours, potentially violating these provisions. What actions will you take as Special Inspector General to ensure that Treasury enforces these worker protections on airlines?

A.11. If confirmed, I will act pursuant to the authority given to my office to carry out thorough investigations where supported by the facts gathered. If there is a violation of law, I would make a referral to the Department of Justice for formal legal action.

Q.12. The CARES Act calls for transparency to ensure the American people understand how the funding is being spent. To date, the Treasury has shared little information about which airlines received grants and loans, and what the terms of the agreement are, citing the fact that many of the companies are not publicly traded entities. Shouldn’t the public know how this funding is being awarded?

A.12. I am unfamiliar with the facts of this situation. But if confirmed, my goal would be to make public information regarding fraud, waste, and abuse of CARES Act authorities.

Q.13. Through September 30, 2021, airlines receiving payroll assistance cannot engage in stock buybacks or pay dividends. What measures can Treasury take, in your view, to make sure airlines do not engage in illegal stock buybacks or pay dividends? What actions will you take as Special Inspector General to audit these obligations?

A.13. I am unfamiliar with the facts of this situation. But if confirmed, I would look into illegal business practices and conduct thorough investigations where supported by the facts gathered. If there is a violation of law, I would make a referral to the Department of Justice for formal legal action.

Q.14. Pursuant to Section 4113, not later than 10 days after the CARES Act enactment, the Secretary was required by law to make initial payments to air carriers and contractors. To date, Treasury has failed to meet these statutory deadlines. Contractors, for example, have yet to receive funds. How do you plan to ensure that Treasury meets its statutory deadlines under the CARES Act?

A.14. If confirmed, I commit to fully complying with the CARES Act and will look further into this situation. Where there are grounds for SIGPR taking action, I will work to ensure that the Treasury Department complies with all statutory requirements in the CARES Act.

Q.15. CARES Act provides specific protections for collective bargaining agreements in regard to Treasury's implementation of payroll assistance for aviation workers. How would you implement your authorities to make sure that neither Treasury nor those receiving funds under CARES do not undermine collective bargaining agreements?

A.15. If confirmed, I would look into this type of conduct and carry out thorough investigations where supported by the facts gathered. If there is a violation of law, I would make a referral to the Department of Justice for formal legal action.

Q.16. Since December 2018, you have served as Senior Associate Counsel and Special Assistant to the President. Your nomination questionnaire does not describe in any way your work in that position.

So that the Committee may fully evaluate your experience, please describe the subject matter of your work and your overall responsibilities and duties in the White House Counsel's Office, without discussing anything that would qualify as privileged or confidential.

Please indicate the subject matter of your role in each of the following: (i) the removal of Glenn Fine as acting inspector general at the Department of Defense, (ii) aid to Ukraine, and (iii) the impeachment trial of the President.

A.16. My title at the White House Counsel's office is Senior Associate Counsel and Special Assistant to the President. In this role, I report to the Deputy Counsels to the President and the White House Counsel. I counsel Federal agencies and other components within the Executive Office of the President on a wide range of issues and provide legal advice to my superiors within the White House Counsel's Office. My ability to respond to specific questions about my role in the White House is limited by the ethical obligations that bind all lawyers. Accordingly, it is appropriate to follow Justice Elena Kagan's example of limiting comments about her 4-year service in the Clinton White House to comply with all ethical obligations.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR REED
FROM BRIAN D. MILLER**

Q.1. The following is a summary of Section 4019 of the CARES Act:

Section 4019. Conflicts of Interest. Any company in which the President, Vice President, an Executive department head, member of Congress, or any of such individual's spouse, child, son-in-law, or daughter-in-law [who] own over 20 percent of the outstanding voting stock shall not be eligible for loans, loan guarantees, or other investments provided under this Title.

You currently serve as Special Assistant to the President and Senior Associate Counsel in the Office of White House Counsel, and yet, if confirmed, you would be charged with also ensuring that the President and his family do not benefit from the extraordinary taxpayer assistance being made available under Title IV of the CARES Act.

Do you view this as a potential conflict?

A.1. No.

Q.2. If you are confirmed and were to recuse yourself from these matters to avoid the appearance of a conflict, can you tell us who you would delegate these duties to and why this person would be a suitable proxy so that we may better evaluate your nomination?

A.2. I will apply the generally applicable standards for conflicts of interest, consult with the relevant ethics officials, and make any recusal decisions on a case-by-case basis. I cannot comment on proxies and staffing because I will not be able to staff my office unless and until I am fortunate enough to be confirmed.

**RESPONSES TO WRITTEN QUESTIONS
OF SENATOR MENENDEZ FROM BRIAN D. MILLER**

Q.1. To repeat a question you declined to answer in the hearing, President Trump said of Inspector General Atkinson, "That man is a disgrace to IGs. He's a total disgrace." Based on your knowledge of Inspector General Atkinson, do you agree with that statement, yes or no?

A.1. My title at the White House Counsel's office is Senior Associate Counsel and Special Assistant to the President. In this role, I report to the Deputy Counsels to the President and the White House Counsel. I counsel Federal agencies and other components within the Executive Office of the President on a wide range of issues and provide legal advice to my superiors within the White House Counsel's Office. My ability to respond to specific questions about my role in the White House is limited by the ethical obligations that bind all lawyers. Accordingly, it is appropriate to follow Justice Elena Kagan's example of limiting comments about her 4-year service in the Clinton White House to comply with all ethical obligations.

I believe it is important for IGs and nominees to be Inspectors General to not be political. Under the IG Act and the CARES Act, IGs are nonpartisan and are not policymakers. To protect my inde-

pendence, it would inappropriate to be comment about political disputes.

Q.2. Do you agree that the President making disparaging comments about inspectors general can have a chilling effect on their work?

A.2. Please see my response to Question 1.

Q.3. Do you believe it is appropriate for a President to make disparaging comments about an inspector general?

A.3. I believe it is appropriate for inspectors general to investigate fraud, waste, and abuse and to follow the facts where they lead. When I did so as an IG, I received criticism, and even disparaging comments.

Q.4. During your time as GSA Inspector General, do you recall President Bush making such comments, in public, about an inspector general?

A.4. During my tenure as IG under Presidents Bush and Obama, I recall investigating fraud, waste, and abuse and following the facts where they led.

Q.5. If the President were to make disparaging comments about you in the press, how would you react?

A.5. I expect to receive criticism from many quarters. I try to learn from criticism wherever possible. I received criticism in my previous tenure as IG of GSA, but it did not affect my commitment to combating fraud, waste, and abuse. Were any public figure to criticize my work as SIGPR, I would continue investigate fraud, waste, and abuse and follow the facts where they lead.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN FROM BRIAN D. MILLER

Q.1. *Inspector General Independence*—What were your roles and responsibilities in the White House from 2018–2020?

A.1. My title at the White House Counsel's office is Senior Associate Counsel and Special Assistant to the President. In this role, I report to the Deputy Counsels to the President and the White House Counsel. I counsel Federal agencies and other components within the Executive Office of the President on a wide range of issues and provide legal advice to my superiors within the White House Counsel's Office. My ability to respond to specific questions about my role in the White House is limited by the ethical obligations that bind all lawyers. Accordingly, it is appropriate to follow Justice Elena Kagan's example of limiting comments about her 4-year service in the Clinton White House to comply with all ethical obligations.

It is important for IGs and nominees to be Inspectors General to not be political. Under the IG Act and the CARES Act, IGs are nonpartisan and are not policymakers. To protect my independence, it would inappropriate to be comment about political disputes.

Q.2. Did you at any point, advise the President or any other White House official to refuse to turn over documents or materials or

delay doing so in response to a congressional request or subpoena, or in response to a request from the Government Accountability Office? If so, what was the rationale for this advice?

A.2. Please see my response to Question 1.

Q.3. Did you at any point, advise the President or any other White House official to refuse to turn over documents or materials or otherwise not fully cooperate with a request from an Inspector General?

A.3. Please see my response to Question 1.

Q.4. As the SIGPR, you would be responsible for a \$25 million budget to conduct investigations and audits.¹ As you hire staff to manage and conduct these audits and investigations, will you do so on a strictly nonpartisan basis?

A.4. Yes.

Q.5. Do you have any financial conflicts of interest related to your private sector experience that would raise questions about your involvement in any matters as SIGPR?

A.5. No.

Q.6. Will you recuse yourself from any investigation involving or affecting a former company or individual that you represented, consulted for, or with which you otherwise had a financial arrangement?

A.6. I will apply the generally applicable standards for conflicts of interest, consult with any relevant ethics officials, and make a decision on a case-by-case basis to resolve any conflicts of interest.

Q.7. *White House Efforts To Undermine Oversight*—Were you involved in any way in the CARES Act signing statement by President Trump? If so, please describe the nature of your involvement.

A.7. Please see my response to Question 1.

Q.8. Do you agree with the CARES Act signing statement's assertion that the SIGPR cannot freely report information to Congress absent Presidential approval?

A.8. Please see my response to Question 1.

Q.9. Will you commit to reporting immediately to Congress any instance in which Administration officials or any other entity impede or do not comply with an information request from your office?

A.9. I will comply with the CARES Act and all applicable law that bind Inspectors General.

Q.10. What action will you take if the President refuses to allow you to report relevant information to Congress?

A.10. Please see my response to Question 10.

Q.11. Were you aware of the decision, announced on April 7, 2020, to remove Glenn A. Fine from his post as Acting Director of the Department of Defense and Chair of the Pandemic Response Accountability Commission before it was announced publicly? Did you provide any legal advice to the President regarding this decision? Do you agree with the President's decision to demote Mr. Fine?

¹ P.L. 116-136, §4018(g).

A.11. My title at the White House Counsel's office is Senior Associate Counsel and Special Assistant to the President. In this role, I report to the Deputy Counsels to the President and the White House Counsel. I counsel Federal agencies and other components within the Executive Office of the President on a wide range of issues and provide legal advice to my superiors within the White House Counsel's Office. My ability to respond to specific questions about my role in the White House is limited by the ethical obligations that bind all lawyers. Accordingly, it is appropriate to follow Justice Elena Kagan's example of limiting comments about her 4-year service in the Clinton White House to comply with all ethical obligations.

It is important for IGs and nominees to be Inspectors General to not be political. Under the IG Act and the CARES Act, IGs are nonpartisan and are not policymakers. To protect my independence, it would be inappropriate to comment about political disputes.

Q.12. Were you aware of the decision to fire Michael Atkinson as Inspector General for the Intelligence Community before it was announced publicly? Did you provide any legal advice to the President regarding this decision? Do you agree with the President's decision to fire Mr. Atkinson?

A.12. Please see my response to Question 1.

Q.13. Were you aware of the decision to remove Ms. Christie Grimm from her post as Acting Inspector General for the Department of Health and Human Services before it was announced publicly? Did you provide any legal advice to the President regarding this decision? Do you agree with the President's decision to demote Ms. Grimm from her role?

A.13. Please see my response to Question 1.

Q.14. Please describe your views on what protections IGs should afford whistleblowers.

A.14. Offices of Inspector General rely on whistleblowers to do their oversight work. I will take any and all actions necessary and appropriate under the law to protect whistleblowers from retaliation.

Q.15. If confirmed, will you commit to establishing a direct portal for whistleblowers to securely and safely communicate allegations of waste, fraud, or abuse with your office without fear of reprisal, retaliation, harassment, or persecution?

A.15. I hope to establish a hotline and web portal to encourage whistleblowers.

Q.16. If confirmed, will you commit to withholding the identity of any anonymous whistleblowers who bring credible allegations of waste, fraud, abuse, or misconduct to your office? If not, under what circumstances would you disclose the identity of any whistleblowers to the public or to the White House?

A.16. Offices of Inspector General rely on whistleblowers to do their oversight work. I will take any and all actions necessary and appropriate under the law to protect whistleblowers from retaliation.

Q.17. Would you ever provide President Trump with the identity of any anonymous whistleblowers who are officers or employees of the Executive Branch upon request by the President or the White House? If so, please describe the circumstances under which you would provide this information.

A.17. Please see my response to Question 16.

Q.18. The Congressional Oversight Commission was also created by the CARES Act to conduct oversight of the implementation of the CARES Act's economic provisions.² Will you commit to appearing, upon request, at hearings of the Commission? Will you provide information upon request from Commissioners?

A.18. Yes, as legally appropriate.

Q.19. If confirmed, under what circumstances would you resign your post? If President Trump asked you to take action that conflicted with the clear intent or text of the CARES Act, would you take such action? Would you resign?

A.19. I would resign if it was impossible for me to do my job effectively.

Q.20. *Role of Congress and Inspector General*—Please explain your views with regard to the unitary executive and the role of the SIGPR, and the implications of these views on the proper functions of the SIGPR. Can your views be reconciled with congressional intent to create an IG that is independent of the President and statutorily obligated to communicate with Congress under certain circumstances?

A.20. Yes. I will follow the Constitution, the IG Act, and the CARES Act.

Q.21. Please explain and elaborate on your written view that “IGs are not tame watchdogs, and they may bite members of Congress as well as Executive branch officials. They may also be a danger to themselves, to the normal functioning of Government, and to Congress.”³

A.21. IGs should be independent from politics, and the political branches of the Federal Government often may not like what an IG reports.

Q.22. The SIGPR was created by an Act of Congress, signed by the President, and is provided funding on an ongoing basis by Congress. Will you give due consideration to requests for audits or investigations that come from members of Congress?

A.22. Yes, as legally appropriate.

Q.23. Do you continue to believe that, as you wrote in August 2018,⁴ a Member of Congress holding a press conference to announce the findings of an Inspector General report is an egregious example of violation of IG independence and separation of powers?

² P.L. 116-136, §4020.

³ *The Hill*, Brian D. Miller, “Independence of Inspectors General Should not Be Compromised by Congress”, August 13, 2018, <https://thehill.com/opinion/white-house/401491-independence-of-inspectors-general-should-not-be-compromised-by-congress>.

⁴ *The Hill*, Brian D. Miller, “Independence of Inspectors General Should not Be Compromised by Congress”, August 13, 2018, <https://thehill.com/opinion/white-house/401491-independence-of-inspectors-general-should-not-be-compromised-by-congress>.

A.23. Respectfully, I never wrote that. An issue arises when a member of Congress designs a review for an IG and then announces that review through a press conference. All audits and investigations should be the IG's independent work.

Q.24. You also wrote in August 2018 that you deliberately ignored or "changed the parameter" of Congressional requests when you were the GSA IG.⁵ Is this accurate? Please elaborate and provide an example from your time at GSA.

A.24. Respectfully, this is a misrepresentation of my writings. I was asked to evaluate the environmental and health risks in a Federal building. Instead, I did a review of how GSA managed environmental issues at the facility.

Q.25. If confirmed, would you deliberately ignore or "change the parameter" of congressional requests if you are confirmed as SIGPR?

A.25. I will always pay due respect to congressional requests as I did in my decade of experience as GSA IG. I will independently assess my office's abilities, resources, and priorities, and conduct those investigations supported by an independent factual predicate.

Q.26. If requested, will you commit to voluntarily testifying before Congress on issues within the purview of the SIGPR? If not, under what circumstances would you reject a request by a committee to testifying before Congress on issues within the purview of the SIGPR?

A.26. Yes, as legally appropriate.

Q.27. If requested, will you commit to voluntarily testifying before the Congressional Oversight Commission established in the CARES Act?

A.27. Yes, as legally appropriate.

Q.28. *Transparency and Accountability Among Bailout Recipients*—If confirmed, you would have the clear authority to conduct audits and investigations of the making, purchase, management, and sale of loans, loan guarantees, and other investments made by the Secretary of the Treasury under any program established by the Secretary under the CARES Act, and the management by the Secretary of any program established under this Act. Please describe your understanding of the scope of programs within this authority.

Specifically, are loans provided to small businesses under Section 1102 of the CARES Act⁶ within your audit and investigation jurisdiction?

A.28. I will consider the jurisdiction of SIGPR to be as broad as is textually permissible under the CARES Act, and Congress is always free to clarify or amend the jurisdiction of SIGPR.

Q.29. Are the Federal Reserve's Primary and Secondary Market Corporate Credit Facilities, the Main Street Lending Program, and the Municipal Liquidity Facility, all created using funds appro-

⁵ *The Hill*, Brian D. Miller, "Independence of Inspectors General Should not Be Compromised by Congress", August 13, 2018, <https://thehill.com/opinion/white-house/401491-independence-of-inspectors-general-should-not-be-compromised-by-congress>.

⁶ P.L. 116-136, §1102.

priated to Treasury's Exchange Stabilization Fund under the CARES Act, within the SIGPR's jurisdiction?

A.29. I will consider the jurisdiction of SIGPR to be as broad as is textually permissible under the CARES Act, and Congress is always free to clarify or amend the jurisdiction of SIGPR.

Q.30. Will any future Federal Reserve facility backstopped with CARES Act funds be under the SIGPR's jurisdiction?

A.30. I will consider the jurisdiction of SIGPR to be as broad as is textually permissible under the CARES Act, and Congress is always free to clarify or amend the jurisdiction of SIGPR.

Q.31. Will any existing Federal Reserve facility that was established before the CARES Act, but is later backstopped with CARES Act funds be under the SIGPR's jurisdiction?

A.31. I will consider the jurisdiction of SIGPR to be as broad as is textually permissible under the CARES Act, and Congress is always free to clarify or amend the jurisdiction of SIGPR.

Q.32. Which other programs currently established by the Treasury Secretary are under the SIGPR's jurisdiction?

A.32. I will consider the jurisdiction of SIGPR to be as broad as is textually permissible under the CARES Act, and Congress is always free to clarify or amend the jurisdiction of SIGPR.

Q.33. Under the CARES Act, the SIGPR is given "the duties and responsibilities of inspectors general under the Inspector General Act of 1978,"⁷ which include "to conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the Administration of, or preventing and detecting fraud and abuse in, its programs and operations."⁸

Broadly, this authority grants the SIGPR the ability to determine not only if program participants are committing fraud, but if they are abusing taxpayer funds, and if programs are being run with appropriate economy and efficiency for taxpayers and the public. Using this or other authority given to the SIGPR under the CARES Act, if confirmed, will you commit to conducting investigations to determine if loan or grant recipients are using funds to benefit workers, consumers, and the economy?

A.33. As legally appropriate, I will consider all of the factors identified below.

Q.34. Specifically, would you:

Determine if Section 4003 loans are being used by recipients to keep workers on the job, including maintaining at least 95 percent of payrolls?

Determine if such loan recipients provide a \$15 an hour minimum wage?

Determine if such loan recipients use taxpayer funds to personally enrich CEOs or senior executives through any form of executive compensation?

⁷ P.L. 116-136, §4003(c)(3).

⁸ P.L. 95-452.

Determine if such loan recipients engage in stock buybacks, dividends, or any other direct or indirect form of shareholder distribution?

Determine if such loan recipients provide at least one seat to workers on their board of directors?

Determine if such loan recipients engage in union-busting efforts or seek to weaken collective bargaining agreements?

Recommend that CEOs face civil and criminal penalties for violating loan terms of agreements with the Department of Treasury or the Federal Reserve Board?

Hold all companies that receive such loans liable for all assistance received if the company violates any of the terms of their agreements with taxpayers?

Determine if program participants are engaging in otherwise inappropriate uses of loan receipts?

Similarly, using the SIGPR's authority under the CARES Act, if confirmed, will you commit to conducting audits and investigations of program administration and Treasury Department and Federal Reserve Board decisions to ensure that they are free of conflicts of interest, including all decisions regarding recipients of assistance and contractors?

A.34. As legally appropriate, I will consider all of the factors identified below.

Q.35. Specifically, will you determine if:

Any Federal official, financial agent, contractor, or adviser has any say or influence over decisions that may affect their own portfolio, or that may affect a current or former employer?

All contractors and companies retained by the Treasury Department for the purposes of helping the Government administer Section 4003 operate free of conflicts of interest and contribute to the funds being used to benefit workers, consumers, and the economy.

Treasury Department and the Federal Reserve Board are establishing clear, public rules and guidelines regarding how and why bailout recipients are chosen and how and why the terms and conditions of any bailouts are established?

Companies receiving funding are engaging in political spending or lobbying while receiving assistance?

Will you conduct audits and investigations to determine if the President, his immediate family, or any personal friends, business associates, or individuals with personal or financial connections to the President are receiving CARES Act funds (including, but not limited to, any violations of Section 4019 of the CARES Act), and if so, will you report to Congress on these matters?

A.35. I will look into conflicts of interests as legally appropriate. It is important for IGs and nominees to be Inspectors General to not be political. Under the IG Act and the CARES Act, IGs are non-partisan and are not policymakers. To protect my independence, it would be inappropriate to comment about political disputes.

Q.36. If confirmed, will you commit to a thorough and robust evaluation of whether the \$500 billion bailout fund was an overall benefit to workers, consumers, families, and the economy? If so, how would you conduct this evaluation? What would be your specific metrics for success? Would you include rates of employment and

wages compared to before the pandemic as metrics in your evaluation?

A.36. It is important for IGs and nominees to be Inspectors General to not be political. Under the IG Act and the CARES Act, IGs are nonpartisan and are not policymakers. To protect my independence, it would be inappropriate to comment about political disputes.

Q.37. If confirmed, what other areas would you prioritize for audits and investigations as SIGPR?

A.37. At this point in time, it is too early to outline priorities for audits and investigations, but if confirmed I will report these to the Committee very soon.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR VAN HOLLEN FROM BRIAN D. MILLER**

Q.1. Do you commit to fully support whistleblower confidentiality and all existing laws and policies to protect whistleblowers?

A.1. Yes, as legally appropriate.

Q.2. Do you pledge not to be influenced in the conduct of the Inspector General position by President Trump, anyone in the Trump administration, or any Federal agency appointee interfering with the independence and mission of the Inspector General?

A.2. I will be independent as the SIGPR, just as I was independent as the GSA IG.

Q.3. Do you pledge not to hire or permit the detail to the Special Inspector General for Pandemic Recovery of any person who is or was a political appointee of the Trump administration, or is recommended by the White House or a political appointee of the Trump administration?

A.3. The Hatch Act forbids taking political affiliation into consideration in hiring. I will hire the best qualified individuals.

Q.4. Your response on behalf of the White House to GAO's inquiry regarding the withholding of Ukraine security assistance funds stated that the White House would not provide a separate response, and referred instead to the response sent by OMB General Counsel Mark Paoletta on December 11, 2019.

Will you personally affirm that this statement in the letter represents the full and complete truth: "In fact, at no point during the pause in obligations did DOD OGC indicate to OMB that, as a matter of law, the apportionments would prevent DOD from being able to obligate the funds before the end of the fiscal year."

A.4. I do not know the facts or the law regarding this issue.

Q.5. The GAO inquiry letter to the White House asked for the reason that Ukraine security assistance funds were withheld. Will you personally affirm that the only reason for the hold on Ukraine security assistance funding was to engage in a policy process regarding those funds, which is the sole reason identified by the OMB letter: "It was OMB's understanding that a brief period was needed, prior to the funds expiring, to engage in a policy process regarding those funds."

A.5. I do not know the facts or the law regarding this issue.

Q.6. The GAO inquiry letter to the White House asked for documentation that would substantiate the Administration's stated reason for holding Ukraine security assistance funding. Your response provided no such documentation or any other information, aside from citing the response provided by OMB. Please state whether or not the White House had documentation or information in its possession that was not included in the response from OMB, and that would have been relevant to GAO's inquiry about the reason that the funds were withheld.

A.6. I do not know the facts or the law regarding this issue. OMB is the budget office within the Executive Office of the President. Please direct any budget inquiries to OMB.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR CORTEZ MASTO FROM BRIAN D. MILLER**

Q.1. The Inspector General for the Department of Health and Human Services Christi Grimm released a report detailing shortages of testing and personal protective equipment (PPE) in hospitals. Last week, President Trump said he would replace her.

In your capacity as White House counsel, did you advise on this decision, or any matters related to acting Inspector General Grimm's role?

A.1. My title at the White House Counsel's office is Senior Associate Counsel and Special Assistant to the President. In this role, I report to the Deputy Counsels to the President and the White House Counsel. I counsel Federal agencies and other components within the Executive Office of the President on a wide range of issues and provide legal advice to my superiors within the White House Counsel's Office. My ability to respond to specific questions about my role in the White House is limited by the ethical obligations that bind all lawyers. Accordingly, it is appropriate to follow Justice Elena Kagan's example of limiting comments about her 4-year service in the Clinton White House to comply with all ethical obligations. I believe it is important for IGs and nominees to be Inspectors General to not be political. Under the IG Act and the CARES Act, IGs are nonpartisan and are not policymakers. To protect my independence, it would be inappropriate to be commenting about political disputes.

Q.2. Do you believe acting Inspector General Grimm participated in unlawful or unethical conduct to merit her replacement?

A.2. Please see my response to Question 1.

Q.3. Do you agree with the President's decision?

A.3. Please see my response to Question 1.

Q.4. Intelligence Community Inspector General Michael Atkinson, followed the law and reported the whistleblower complaint that the President withheld aid for Ukraine until President Zelensky declared a scam investigation.

In your capacity as White House counsel, did you advise on this decision, or any matters related to Inspector General Atkinson's role?

A.4. Please see my response to Question 1.

Q.5. Do you believe Inspector General Atkinson participated in unlawful or unethical conduct to merit his firing?

A.5. Please see my response to Question 1.

Q.6. Did you agree with President Trump's decision to fire Inspector General Atkinson?

A.6. Please see my response to Question 1.

Q.7. Glenn Fine was acting inspector general for the Defense Department and was set to become the chairman of a new Pandemic Response Accountability Committee to police how the Government carries out the \$2.2 trillion coronavirus relief bill.

In your capacity as White House counsel, did you advise on this decision, or any matters related to acting Inspector General Fine's role?

A.7. Please see my response to Question 1.

Q.8. Do you have concerns with the President's decision to disqualify Mr. Fine from serving on the new oversight panel?

A.8. Please see my response to Question 1.

Q.9. The President questioned the constitutionality of the law's requirement that the Special Inspector General for Pandemic Recovery notify Congress immediately if the Administration "unreasonably" withholds information requested by investigators.

If the White House or an agency asks you to withhold information would you notify Congress immediately of this request?

A.9. I will follow the statutory requirements to report to Congress, as specified in section 4 of the Inspector General Act and as required in Section 4018(e)(4)(B) of the CARES Act.

Q.10. Do you foresee any circumstance when you wouldn't notify Congress of this request to withhold?

A.10. Please see my answer to Question 9.

Q.11. If the White House wanted Treasury to provide financing to States that had elected representatives from one party first in the allocation of CARES financing, would you consider that a violation and report it immediately to Congress?

A.11. If confirmed, I would look into this type of conduct and carry out thorough investigations where supported by the facts gathered. If there is a violation of law, I would make a referral to the Department of Justice for formal legal action.

Q.12. If the White House wanted Treasury to consult information on corporate political donations prior to allocating CARES financing, would you consider that a violation and report it immediately to Congress?

A.12. If confirmed, I would look into this type of conduct and carry out thorough investigations where supported by the facts gathered. If there is a violation of law, I would make a referral to the Department of Justice for formal legal action.

Q.13. If you are confirmed for the SIGPR job, what is your worst case scenario? Where do you see the opportunities for corruption or unfair treatment?

A.13. I believe that unscrupulous individuals and companies are already scheming to take advantage of the programs and divert monies to themselves. But as a former Federal prosecutor, I believe that I should be circumspect in publicly commenting on specific cases or aspects of the business of the office. Accordingly, I am reluctant to directly answer hypothetical questions posing particular factual circumstances. I also do not want to hypothesize, or even plant ideas for, opportunities for corruption. If confirmed, I would look into all potential instances of fraud, waste, or abuse, and conduct thorough investigations where supported by the facts gathered. If there is a violation of law, I would make a referral to the Department of Justice for formal legal action.

Q.14. Do you plan to gain presidential approval before investigating contracts, issuing reports or communicating with Congress?

A.14. No.

Q.15. Do you intend to comply with the CARES Act, and provide timely reports to Congress?

A.15. Yes, as legally appropriate.

Q.16. If the President or any member of the Administration attempts to block your reports or requests for information, will you report these issues to Congress?

A.16. Yes, as legally appropriate.

Q.17. Do you commit to testify before Congress when requested without gaining permission from the White House or submitting your testimony for approval?

A.17. Yes, as legally appropriate.

Q.18. If the President denies you permission to testify before Congress, would you still appear before Congress and answer questions?

A.18. I would not ask for permission.

Q.19. The CARES Act appropriated \$25 million for the Special Inspector General's office. If your office needs additional funds to continue its work, would you come back to Congress and let us know?

A.19. Yes.

Q.20. Outside of programs established by Title IV of the CARES Act, what other programs fall under the purview of the SIGPR?

A.20. If I am confirmed, I will analyze this issue in careful detail. I will consider the jurisdiction of SIGPR to be as broad as is textually permissible under the CARES Act. Congress is always free to clarify the jurisdiction of SIGPR. At this time, it would be inappropriate to publicly assert a definitive legal position given incomplete legal analysis and the potential for this issue to be litigated.

Q.21. The CARES Act prohibits members of the Administration or Executive branch from receiving funds from the law. How will you ensure that no officials are receiving funds from the CARES Act?

A.21. If confirmed, I would look into this type of conduct and carry out thorough investigations where supported by the facts gathered.

If there is a violation of law, I would make a referral to the Department of Justice for formal legal action.

Q.22. While I understand that you don't want to duplicate the work of the Government Accountability Office or the Council of Inspectors General, will you commit to oversight of programs that the law specifies you oversee, regardless of whether other entities are conducting oversight of those programs.

A.22. Yes, I will work to find ways to complement their work.

Q.23. Early data on the SBA's Paycheck Protection Program showed that the funds were distributed unevenly across States. Many States in the Midwest received a disproportionate amount of the relief while in other States, including Nevada, businesses struggled to access the loans. Will you commit to investigating these inequities and reporting on what the agency could have done better to ensure a more fair distribution of relief, including to minority owned businesses?

A.23. If confirmed, I would look into this type of conduct and carry out thorough investigations where supported by the facts gathered. If there is a violation of law, I would make a referral to the Department of Justice for formal legal action.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA FROM BRIAN D. MILLER

Q.1. Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Congress provided an \$8 billion set-aside for tribes from the Coronavirus Relief Fund. Arizona is home to 22 federally recognized tribes, including the Navajo Nation, that urgently need this Federal funding. Earlier this week, Treasury released \$4.8 billion of the \$8 billion from this fund. This announcement came over a month after Congress passed the CARES Act. Tribes need these resources now. Lives are depending on it. If confirmed, what will you do to ensure that the last 40 percent of this set-aside will be delivered to federally recognized tribal and Alaska Native Governments as soon as possible and in compliance with Congress's intention of providing funding for tribal governments to meet their most pressing needs?

A.1. If I am confirmed, I will analyze this issue in careful detail. I will consider the jurisdiction of SIGPR to be as broad as is textually permissible under the CARES Act, and Congress is always free to clarify or amend the jurisdiction of SIGPR.

Q.2. Technology has come to play a very important role in the administration of COVID response programs to the public and in the functioning of our day-to-day lives during this pandemic. It also provides opportunities for us to understand the effectiveness of the programs authorized under the CARES Act as well as the level of fraud associated. If confirmed, what will your approach be to deploying technology to perform oversight?

A.2. Traditional means of investigation and analysis to protect the interests of the American people in the proper use of money disbursed under the CARES Act may be rendered inadequate by the sheer scale of the appropriations at issue. We will need to rely on

technology to help analyze vast quantities of information, and identify the most significant areas for further investigation. If I am confirmed, I will quickly determine how best to make use of technology to ensure the OSIGPR can efficiently conduct its investigations and analyses.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR BROWN
FROM DANA WADE**

Q.1. During your tenure as Principal Associate Director for General Government at the Office of Management and Budget (OMB), the Department of Housing and Urban Development (HUD) was responsible for administering billions in Community Development Block Grant–Disaster Relief (CDBG–DR) grant funding for Puerto Rico, the U.S. Virgin Islands, and a number of States. Congress provided this funding in February 2018.¹ Fifteen months later, when HUD still had not issued the notice necessary for funding recipients to begin planning to use the bulk of their mitigation funds or Puerto Rico’s funds to restore its electrical grid, Congress again acted to require that HUD publish the notice on the use of mitigation funds within 90 days.² But HUD ignored this deadline and did not publish the notice until more than 4 months after the deadline required by law.³

During your tenure at OMB, OMB reviewed and approved a notice on the use of mitigation funds for all recipients except Puerto Rico and the U.S. Virgin Islands.⁴ Were you aware of the decision not to include Puerto Rico or the U.S. Virgin Islands in a CDBG–DR mitigation notice that set out the eligible uses and terms for all other CDBG–DR mitigation recipients? If so, did you participate in or agree with that decision? If you were not aware, why not?

During your tenure at OMB, were you aware that HUD did not meet the legal deadline to issue a notice on the uses of CDBG–DR mitigation funds for Puerto Rico and the U.S. Virgin Islands? If so, why did you allow HUD and OMB not to comply with the legal deadline? If not, why not?

As a former staff member of the Appropriations Committee and a current employee within the Executive branch, do you believe it is appropriate for OMB or any Federal agency it oversees to willfully ignore any statutory requirement or deadline? If so, why? If not, why did you allow HUD and OMB not to comply with the legal requirement in this case?

A.1. I am proud of this Administration’s response to the natural disasters that occurred in 2017. Puerto Rico was provided with an unprecedented level of resources to rebuild and mitigate against future storms, and the Administration made sure Puerto Rico always had sufficient funds to administer its disaster recovery programs. With respect to my participation in specific decisions, your question seeks the substance of communications between the White House and OMB, the disclosure of which would reveal confidential, deliberative, and internal Executive Branch information.

¹P.L. 115-123.

²P.L. 116-20.

³85 FR 4676.

⁴85 FR 45838.

Q.2. Under your leadership, OMB reviewed and approved and HUD published a proposed rule that would overhaul HUD’s process to ensure that grantees “affirmatively further” fair housing in compliance with the Fair Housing Act, including approval of amended information collection.

During your tenure at OMB, did you participate in the development, review, or approval of the proposed Affirmatively Furthering Fair Housing rule and its associated data collection? If so, please describe your role in the review and approval. If not, please explain why you were not involved in the review and approval of what OMB determined to be a significant regulatory action.

The proposed rule estimates that it will take just 10 hours for each local respondent responsible for complying with the obligation to “affirmatively further” fair housing to assess and plan to address local barriers to fair housing. Do you believe 10 hours is sufficient time for a jurisdiction to fully assess all barriers to fair housing for all protected classes under the Fair Housing Act and plan meaningful steps to address any barriers? If so, please explain why this time is sufficient for such a consequential review.

This proposed rule replaces a 2015 final rule and associated data and tools that HUD provided to communities to help them assess fair housing barriers. Why did HUD and OMB elect not to provide data or any tools to help communities assess their fair housing barriers?

How will reducing the amount of data that HUD provides to communities to assess fair housing barriers facilitate evidence-based policies to address fair housing barriers?

A.2. As you correctly noted, HUD’s proposed Affirmatively Furthering Fair Housing rule will significantly reduce the administrative burden for thousands of communities across the country, thereby permitting them to better engage in furthering housing choice. With respect to my participation in specific decisions, your question seeks the substance of communications between the White House and OMB, the disclosure of which would reveal confidential, deliberative, and internal Executive Branch information.

Q.3. Under your leadership, OMB also reviewed and approved and HUD published a disparate impact proposed rule that civil rights, housing, and consumer advocates said is “directly contradictory to the Fair Housing Act and its purposes.”⁵ The proposed rule would make it even more difficult to root out discrimination in pricing and access in the mortgage market that you would help oversee if confirmed.

Did you review and approve HUD’s proposed disparate impact rule during your time at OMB? If so, why did you allow a rule that undermine enforcement of the Fair Housing Act to move forward? If not, why was the Policy Associate Director not involved in the review and approval of what OMB determined was a significant regulatory action?

If you are confirmed as FHA Commissioner, how will you ensure that no borrower is subject to discrimination in mortgage access or pricing, including less obvious discrimination driven through algo-

⁵<https://ourfinancialsecurity.org/wp-content/uploads/2019/10/Coalition-Comment-on-HUD-Disparate-Impact-10-18-19.pdf>

rhythms, under this disparate impact proposal that provides a safe harbor for algorithms? Please be specific on the policies you will put forward.

A.3. HUD enforces the Fair Housing Act of 1968 and I will work closely with the Department's Office of Fair Housing and Equal Opportunity to ensure we are living up to the letter and spirit of that landmark law. With respect to my participation in specific decisions, your question seeks the substance of communications between the White House and OMB, the disclosure of which would reveal confidential, deliberative, and internal Executive Branch information.

Q.4. During your tenure as Principal Associate Director for General Government at the Office of Management and Budget (OMB), OMB approved and the Department of Housing and Urban Development (HUD) proposed a rule on "Verification of Eligible Status" that reverses decades of HUD policy and contradicts clearly communicated Congressional intent. Under current HUD policy, if a family has some members who have an immigration status that makes them eligible to receive HUD assistance but others in the household do not, HUD will assist the eligible family members while requiring those who are not eligible to stay with their family but pay their full share of housing costs. Under the rule OMB approved on your watch, families where one member is not eligible for HUD assistance based on their immigration status will be forced to choose between breaking up their family or making their entire family more vulnerable to housing instability and homelessness.

HUD's own regulatory impact analysis found that this proposed rule could result in the displacement of more than 108,000 people, including 55,000 children, and would increase the cost or decrease the number of families served by HUD's housing assistance programs while potentially driving up the number of families experiencing homelessness.⁶ The increase in need for those who become homeless could cost \$20,000 to \$50,000 per family per year, by HUD's estimates, compared to the \$1,900 per year in housing subsidy these families currently receive.

Under your leadership, why did the OMB approve and HUD propose a rule that would result in higher programmatic costs per family served or displaced?

Under your leadership, why did the OMB approve and HUD propose a rule that by HUD's own analysis said would likely result in the displacement of the lowest-income families, including 55,000 children who are eligible for HUD assistance?

While this proposed rule is within the Office of the Secretary's jurisdiction, according to HUD's analysis it will have a direct impact on more than 3,000 households with nearly 12,700 residents who are in Section 202 or project-based rental assistance units under your jurisdiction. Will you commit not to displace these families and vulnerable seniors if you are confirmed? If not, why not?

A.4. HUD proposed this rule to ensure its programs are in legal compliance with Section 214 of the Community Development Act of 1980, which prohibits the Department from making financial as-

⁶<https://www.regulations.gov/document?D=HUD-2019-0044-0002>

sistance available to persons other than U.S. citizens or certain categories of eligible noncitizens in HUD's public and specified assisted housing programs. The proposed rule would require the verification of the eligible immigration status of all recipients of assistance under a covered program who are under the age of 62. With respect to my participation in specific decisions, your question seeks the substance of communications between the White House and OMB, the disclosure of which would reveal confidential, deliberative, and internal Executive Branch information.

Q.5. While you were at OMB, OMB reviewed and approved HUD's proposed rule on equal participation of faith-based organizations in HUD programs and activities. While this proposed rule takes great care to ensure that the religious expression of any HUD grantees or partners is not hindered in any way, it offers no such protection to the individuals and families in need of HUD-funded services.

Did you review and approve HUD's proposed faith-based organizations rule during your time at OMB? If so, why did you allow a rule that would prioritize the religious rights of HUD grantees over religious freedom of the individuals and families those grantees are funded to serve? If not, why was the Policy Associate Director not involved in the review and approval of what OMB determined was a significant regulatory action?

If confirmed, how will you ensure that no individual or family is forced to choose between compromising their religious beliefs or identity and access to safe, affordable housing or services?

A.5. Protecting religious liberties and ensuring access to safe and affordable housing are not mutually exclusive goals; HUD's proposed rule strikes an appropriate balance between these important interests. With respect to my participation in specific decisions, your question seeks the substance of communications between the White House and OMB, the disclosure of which would reveal confidential, deliberative, and internal Executive Branch information.

Q.6. In its Manufactured Home Construction and Safety Standards proposed rule, HUD notes that it has decided not to include Manufactured Housing Consensus Committee (MHCC) recommendations regarding energy efficiency in manufactured homes due to pending regulations being prepared by the Department of Energy.⁷ But HUD is required to act on the MHCC's proposed revisions to standards within 1 year of the proposal being submitted.

Based on your experience at HUD and at OMB, do you believe the decision to withhold an MHCC revision is consistent with HUD's statutory requirements?

If confirmed, will you commit to advance a rulemaking on the energy efficiency recommendation approved by the MHCC without waiting for action by other agencies? If not, why not?

A.6. In 2007, congressional legislation provided authority to the Department of Energy to establish energy standards for manufactured homes. Section 413 of the Energy Independence and Security Act of 2007 (EISA) directs DOE to establish energy conservation standards for manufactured housing. Therefore, HUD must also coordinate with DOE when updating the energy standard rec-

⁷ 85 FR 5589.

ommendations submitted to the Manufactured Housing Consensus Committee (MHCC) for consideration.

By way of background, the MHCC is a statutory Federal Advisory Committee body charged with providing recommendations to the Secretary on the revision and interpretation of HUD's manufactured home construction and safety standards and related procedural and enforcement regulations. By regulation, HUD has included the MHCC in the process of revising the Manufactured Home Model Installation Standards, Installation Program Regulations, and Dispute Regulation Program regulations. The MHCC is organized and carries out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation.

HUD has great respect for the members of the MHCC who commit to 3-year terms while maintaining their full-time "day" jobs, to provide substantial expertise and familiarity with the market to the Department. Under auspices of the Manufactured Housing Improvement Act of 2000 which established the MHCC, recommendations are provided by the committee to the Secretary and his delegates for consideration by the Department. Recommendations may be accepted without change, may initiate discussion between the MHCC and the Department for further consideration, or may be held by the Department for future consideration where such recommendations may intersect more efficiently with other items recommended. HUD has a backlog of standards which should be updated on a regular basis and is currently working on the backlog of standards in order to keep pace with innovation in the industry and other Code making bodies.

If confirmed, I intend to examine this issue and make a determination at that time as to whether to proceed with a rule or seek more information for further consideration.

Q.7. The Manufactured Home Construction and Safety Standards proposed rule also proposes changes to the definition of an "attached accessory building or structure."⁸

If confirmed, how will you ensure that HUD can verify that any additions are safely installed and that all parties, including current and future owners of the home, are aware of the structural limitations and can use the additions safely?

If confirmed, how will you work with home installers or their representatives to ensure that any final rule will ensure that all manufactured housing units remain safe for current and future residents?

A.7. HUD administers the Manufactured Home Construction and Safety Program (24 CFR 3280 and 3282) that establishes Federal standards for the design and construction of manufactured homes to promote the quality, durability, safety, and affordability of the homes, as well as the implementing regulations to monitor and enforce compliance with the standards. The quality, durability, safety, and affordability of homes must be considered by the MHCC, the public during the public comment period, and HUD in its rulemakings regarding manufactured housing.

⁸Id.

HUD also administers the Manufactured Home Installation Program (24 CFR 3286) that regulates installation (including installation of attached accessory building or structure) in all States unless a State has been accepted by HUD to administer its own qualifying installation program. All States must meet HUD's model installation standards, and States that administer their own installation program may choose to exceed HUD's minimum requirements.

HUD's model manufactured home installation program ensures that States have in place minimum installation standards that include ensuring the home and any attached accessory building or structure are safe, sound, and habitable; further, States can exceed HUD's minimum installation standards if they so choose. HUD will continue to regulate installation in States that have decided not to administer their own qualifying installation program.

The quality, durability, safety, and affordability of homes must be considered by the MHCC, the public during the public comment period, and HUD in its rulemakings regarding manufactured housing.

Q.8. During the financial crisis, HUD built upon existing programs to give low- and moderate-income prospective homeowners an opportunity to purchase homes that came into HUD's real estate owned (REO) portfolio within their communities. But last year HUD reported that nearly two-thirds of FHA homes that went through foreclosure were sold through third party sales in which there is no first look or preference for owner-occupants, including teachers and firefighters, or monitoring of outcomes. While there is a benefit to transferring vacant properties quickly to avoid blight, there is a much longer term cost if those properties go to out-of-State investors, absentee landlords, or for-profit contract for deed lenders who do not repair or maintain the property.

If you are confirmed, do you commit to begin collecting and publishing data on FHA asset dispositions, including both REO and third party sales, that includes information on the time to sale, the ultimate purchaser, the end use (rental/home ownership/other), whether the property went through any FHA programs (like the Good Neighbor Next Door program) intended to transfer the property to an owner or community partner, and the cost of repairs? If not, why not?

If confirmed, will you prohibit the transfer of any FHA property, whether from REO or through the third party sales process, to a for-profit owner who intends to sell the property through a predatory contract for deed or similar arrangement? If not, why not?

If confirmed, will you commit to expand the requirement for a first look for homeowners and community purchasers to additional REO sales, as well as third party sales? If not, why not?

A.8. If confirmed, I will evaluate and strengthen each program to ensure fair treatment of borrowers and encourage participation by nonprofit partners.

FHA publishes a significant amount of data on its asset disposition currently. That data can be found at: <https://www.hud.gov/program-offices/housing/hsgroom#Reports>. The additional data requested is not collected and I understand that FHA would have no way to accurately and efficiently collect many of the data points

identified, even from public records. The third-party sales are what FHA refers to as its Claims Without Conveyance of Title program (CWCOT). The CWCOT program is where the Mortgagee attempts to secure a third-party purchaser for the mortgaged property at foreclosure sale so that conveyance to HUD is not required in exchange for mortgage insurance benefits. This process allows the property to return to the market quickly through an auction that is open to the public, so everyone has an equal opportunity to purchase the property. Separate of being a blight deterrent, third-party sales realize a significantly improved recovery rate compared to REO dispositions, saving taxpayer funds. Overall, FHA's asset disposition programs should be calculated to protect the Mutual Mortgage Insurance Fund as well as to protect and sustain communities.

Q.9. While you were the Principal Assistant Director at OMB, HUD and the Department of Treasury proposed housing finance reform plans.

Did you participate in the development of, offer feedback on, review, or approve those plans?

Please describe your role in the development of these proposals.

The HUD plan proposes to implement "tiered pricing" for FHA loans, which would raise the cost of home ownership for the borrowers who can least afford it without lower costs for others.⁹

How does raising costs on eligible borrowers facilitate access to home ownership?

How would raising the price of home ownership through tiered pricing as HUD has proposed help or hinder FHA's ability to serve a countercyclical role and stabilize the mortgage market?

In both the HUD and Treasury housing finance reform plans, the agencies expressed concern about "duplicating support" by establishing eligibility criteria that would allow some homeowners a choice between an FHA loan and a Fannie Mae or Freddie Mac backed loan. But a borrower does not take out two mortgage loans at one time on the same property. How is giving borrowers choice "duplicating support"?

The HUD plan proposes to make FHA its own Government corporation, which the report says will "provide the agency tools and resources necessary to make appropriate risk decisions to respond to changing markets." While it is critical that FHA and all HUD programs have the tools and resources they need, it is not clear how making FHA a Government corporation would provide additional resources. As part of this proposal, would FHA retain its receipts, which currently help fund other HUD programs, to increase resources? If FHA did not retain these receipts, how would changing FHA's structure to a corporation structure provide additional resources?

A.9. FHA proposes a tiered pricing approach that would roughly mirror the current GSE pricing structure for high LTV loans while maintaining the most important benefits of cross subsidization. This structure would be revenue neutral at the loan level to FHA's

⁹The plan states that tiered pricing "would not open new markets to already served by private mortgage providers, which FHA would not lower premiums on its 30-year fixed rate product through this effort." See p. 20.

current pricing for all FHA borrowers and anticipated to improve the welfare of all FHA borrowers as the loan seasons.

A central principle of the Administration's Housing Finance Reform plan is that Federal mortgage credit policies should be better coordinated in order to allow qualified borrowers to access responsible and affordable borrowing options and choices. Coordination ensures that there is not unhealthy and irresponsible competition between Government-supported programs, which can lead to lower underwriting standards, increase risk to taxpayers, and threaten the long-term availability of credit to qualified borrowers.

With respect to my participation in specific decisions, your question seeks the substance of communications between the White House and OMB, the disclosure of which would reveal confidential, deliberative, and internal Executive Branch information.

Q.10. The HUD Budget's Congressional Justification notes that there is a positive correlation between housing counseling and better credit and fewer foreclosures.¹⁰ In recent weeks, the Consumer Financial Protection Bureau, the Fannie Mae, Freddie Mac, the FHA, the Department of Veterans Affairs, and the Department of Agriculture have all recommended that homeowners experiencing a hardship contact a HUD-certified housing counselor, but HUD has not requested any additional resources for counseling providers.

If confirmed, will you advocate for significant supplemental resources to provide HUD-certified housing counseling services to millions of struggling homeowners and renters? If not, how will counselors be able to fund the staff necessary to provide the counseling resources that Federal agencies have recommended they seek?

A.10. If confirmed, I will take a fresh look at ways we can incentivize housing counseling as a tool to provide homeowners and potential borrowers with information to maximize the level of success of all borrowers.

Last year, HUD-approved housing counselors provided approximately one million families with counseling services related to homebuying, preserving home ownership, rental assistance, disaster relief, and with reverse mortgages. Agencies generally raise five to six dollars for every dollar provided by HUD. During the housing crisis, counselors were able to provide counseling services to three times as many clients due to the additional funding provided by Congress at the time.

Q.11. In recent years, for-profit owners and out-of-State investors have purchased properties providing project-based rental assistance and allowed those properties to fall into disrepair. Too often tenant complaints go unaddressed and elevator outages, water leaks, mold, and infestations become part of tenants' daily life. Neglect of existing properties endangers the lives of current tenants and threatens the viability of critical sources of affordable housing.

If confirmed, what steps will you take to improve inspections and subsequent repairs of the assisted units within the Office of Housing's jurisdiction?

¹⁰https://www.hud.gov/sites/dfiles/CFO/documents/28_FY21CJ_Program_HCA.pdf

If confirmed, how will you ensure that tenants have the information they need to report unaddressed maintenance and nonresponsive property owners and managers?

A.11. Secretary Carson has made the restructure of HUD's inspection program, under HUD's Real Estate Assessment Center (REAC), a priority of his administration. To that end, since 2017, HUD has been undertaking a wholesale reexamination of the REAC physical inspection process and are working to modernize its inspection model.

HUD is currently revising the methodology for physical inspections to make it more accurate, consistent, and less complex for program participants. Meeting these goals will improve the quality of life for many residents in HUD-assisted facilities. If confirmed, I will continue to work with HUD's Office of Public and Indian Housing, which oversees REAC, to ensure that any new model is implemented and Congress receives as much transparency as possible on the process. Within the Office of Housing, I will regularly and closely monitor the Quarterly Report to Congress on Oversight of Property Owners and Multifamily Properties Assessed through HUD's Real Estate Assessment Center (Section 219), and will strive to ensure that Multifamily staff continue to enforce owners' addressing and correcting REAC inspection deficiencies, local code violations, and resident complaints in a timely manner.

Q.12. Property owners and property maintenance organizations often hold or operate across multiple HUD-financed or -subsidized properties. In some cases, these owners and maintenance organizations are allowed to continue to operate or expand operations across multiple properties or States even as some of their properties deteriorate and endanger the health and safety of residents.

If confirmed, how will you ensure that owners or managers that are not taking appropriate steps to address health and safety concerns are not allowed to reduce the value of or service at other HUD-financed or -subsidized properties?

A.12. The Office of Multifamily Housing has in place a robust review of all applications for the transfer or assignment, of Section 8 HAP contracts. That review process ensures that prospective owners who do not have the requisite monetary resources or management oversight to manage a Section 8 property will not be approved for the transfer. Also, the review includes an examination of owner compliance with their business agreements on existing HUD properties.

In addition, the Multifamily staff, working with HUD's Office of General Counsel, are monitoring owners with larger, national portfolios, and have taken actions against poorly performing owners in an effort to enforce compliance or have them divest of their HUD properties. I will work with the Multifamily Housing staff to ensure they continue to effectively implement the above procedures and will review staff property level oversight to ensure that property condition and resident health are in the forefront of the monitoring regime.

Q.13. While you were at OMB you signed off on one budget and helped develop another that would have eliminated funding for the Community Development Block Grant (CDBG) program and the

HOME Investment Partnerships (HOME) program, while making devastating cuts to other housing and community development funds. But in the weeks between the declaration of the COVID-19 national emergency and when communities will receive additional CARES Act funds, HUD recommended that communities use the very CDBG funds you would have eliminated to provide testing and diagnostic services, provide grants and loans to small businesses to manufacture critical medical supplies, and help small businesses that were struggling.¹¹

If Congress had enacted the budget that was proposed under your leadership, there would have been significant effects on the communities on the front lines responding to the health consequences of this pandemic. Do you still support the cuts in those two budgets?

A.13. The Office of Management and Budget has an extensive role in supporting agencies as they implement the President's priorities and agenda, including working with them to formulate the President's Budget. The CDBG program was proposed for elimination because its mission can best be performed at the State and local levels, thereby freeing up scarce taxpayer resources for programs targeted at more vulnerable populations, including the rental assistance programs administered by the Office of Housing, which I would lead if confirmed. Because grantees had unspent CDBG funds in their accounts, it is my understanding that HUD's Office of Community Planning and Development provided them with flexibility so they could use these funds to respond to the current pandemic.

Q.14. In the HUD budget proposals released and developed during your time at OMB, HUD proposed to double rents for the lowest income HUD-assisted renters, impose arbitrary work requirements those households, and allow disparate rent policies set by local public housing agencies or even a private building owner.

If Congress had enacted the rent reforms HUD proposed, how would those higher rents, disparate rent policies among landlords administering the same HUD-assisted programs, and work requirements have directly affected the housing and financial stability of HUD-assisted families?

If confirmed, will you continue to support implementing the proposed rent reforms, including doubling rents on the lowest income households living in the 1.2 million units in the project-based rental assistance units, low-income senior housing, and housing for persons with disabilities that would be within your jurisdiction? If so, why?

A.14. I support the Administration's proposed rent reforms and want to work with Congress to strengthen the Office of Housing's rental assistance programs. That said, if confirmed, my top priority will be to respond to the current coronavirus pandemic.

Q.15. A month after passage of the CARES Act, HUD's Inspector General published a memorandum detailing its review of the

¹¹ <https://www.hud.gov/sites/dfiles/Main/documents/Quick-Guide-CDBG-Infectious-Disease-Response-031920.pdf>

websites of the 30 largest FHA mortgage servicers.¹² The Inspector General found that the written material readily available on some of these large servicers' websites had not been updated to reflect the changes made in the CARES Act, did not include information about the availability of forbearance for borrowers facing a financial hardship, or gave the impression that the borrower would be required to pay back all missed payments in a lump sum at the end of forbearance.

If confirmed, what steps will you take to ensure that all FHA servicers are complying with all legal requirements and FHA Mortgage Letters, including those implementing the CARES Act?

Will you conduct reviews of servicers' written materials, websites, and audio communications with borrowers to ensure that all servicers comply with the law and that all borrowers are treated equitably? If not, why not?

A.15. If confirmed, I will be committed to ensuring that mortgage servicers meet all FHA program requirements and their responsibilities to borrowers, including specific actions implementing the CARES Act.

Q.16. In response to the CARES Act, FHA issued a Mortgage Letter detailing post-forbearance options for homeowners, including a partial claim and standard loss mitigation. But borrowers who were struggling prior to COVID-19 or who have faced a natural disaster in the past may not have access to the same options to get back on track and stay in their homes.

If confirmed, will you review barriers to borrowers accessing a partial claim, including being the victim of a prior natural disaster, and take steps to ensure that all borrowers who could remain in a sustainable loan with a partial claim at the end of forbearance have access to that option?

If confirmed, will you ensure that any borrower who was in a trial modification or performing in a modified loan immediately prior to the national emergency is not penalized, either by loss of the ability to access an affordable modification or in their credit, by accessing the forbearance provided for in the CARES Act?

A.16. If confirmed, I will commit to reviewing the FHA loss mitigation waterfall to ensure that all options available to borrowers are appropriately tailored to the current situation.

Q.17. If confirmed, will you commit to cooperate with all Inspector General investigations, including providing timely access to all requested documents and e-mails; making yourself available for personal interviews; and allowing staff under your supervision to participate in requested interviews without the presence of a HUD attorney representing the interests of the Department?

A.17. I commit to complying with all legal obligations and the terms established through the normal accommodation process.

Q.18. During your nomination hearing, you were asked whether there was anything within the FHA Commissioner and Assistant Secretary for Housing's jurisdiction that Congress should be thinking about for future legislation passed in response to COVID-19.

¹² <https://www.hudoint.gov/sites/default/files/2020-04/Single%20Family%20Mortgage%20Forbearance%20Brief.pdf>

In response, you mentioned additional flexibility but did not mention any need for resources to support the millions of people who lose jobs and income, homeowners needing help navigating the mortgage system, or housing providers, particularly those providing housing to vulnerable seniors, who are required to do additional cleaning.

If confirmed, what additional funding would you recommend that Congress provide in response to COVID-19 to help low-income seniors, low-income individuals and families, or homeowners stay safe and navigate the system? If you would not recommend any additional funding, why not?

A.18. The Office of Housing has utilized existing flexibilities and those provided through the CARES Act to support homeowners in preserving their homes and owners/sponsors to facilitate the continued operations of properties and facilities in our insured and/or assisted multifamily and healthcare portfolios (nursing homes/hospitals). Fund assignments for CARES Act dollars were executed expeditiously and directed to service coordinators and income loss gap coverage for the extremely low income and very low-income residents of Sec 202 Housing for the Elderly and Section 811 Housing for Persons with Disabilities properties.

In my testimony I was referring to the need for additional flexibilities, not included in the CARES Act, to prevent, prepare for, and respond to COVID-19. For example, while the CARES Act provides flexibilities for homeowners and multifamily property owners, there was no mention maintaining operations of the residential care facilities (nursing homes) and hospitals in the FHA-insured portfolio.

I agree that the nearly 33.5 million U.S. workers that have filed for unemployment benefits will need assistance to stay in their homes, owned or rented. While HUD traditionally targets rental assistance to those underserved by conventional housing markets, I would be happy to meet and discuss additional funding strategies for providing rental assistance to people who have lost their job and were earning more than the area median income that HUD programs target.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM DANA WADE

Q.1. Over the past 3 years, during which when you were acting FHA Commissioner and Program Associate Director at the Office of Management and Budget (OMB), the President's budget included a proposal to raise rents by an average of 44 percent in federally assisted housing and triple rents for the lowest income households, according to the Center for Budget and Policy Priorities.

With the current unemployment rate at 12.4 percent and the Congressional Budget Office estimating the unemployment rate will remain above 9.5 percent at least until the end of 2021, do you think families living in HUD-assisted housing will be able to afford HUD's proposed rent increases? If you do believe families in HUD-assisted housing can afford rent increases during this unprecedented economic turmoil, please provide data and analysis supporting your justification.

Will you commit to abandoning this dangerous plan if you are confirmed? If not, why not?

A.1. I support the Administration's proposed rent reforms and want to work with Congress to strengthen the Office of Housing's rental assistance programs. That said, if confirmed, my top priority will be to respond to the current coronavirus pandemic.

Q.2. As we discussed in your hearing, when the protections in the CARES Act run out, we could be facing a foreclosure crisis even greater than the one we faced in the Great Recession. In the coming months, families unable to pay their mortgage will need to navigate the complexity of requesting and accessing mortgage relief programs. Homeowners already in forbearance will have to work with their mortgage servicers to repay forborne amounts.

Given the quickly changing economic circumstances and the complicated differences in forbearance repayment options offered by both federally backed agencies and private lenders, do you believe Congress should consider increasing resources for HUD-approved housing counselors to help American families make educated mortgage decisions as the country works through this crisis?

A.2. Yes, housing counselors are well-positioned to assist homeowners with understanding the loss mitigation/mortgage relief options available through both the FHA and conventional lenders. Last year, HUD-approved housing counselors provided approximately one million families with counseling services related to homebuying, preserving home ownership, rental assistance, disaster relief, and with reverse mortgages. During the aftermath of the financial crisis of 2008, counselors were able to provide counseling services to three times as many clients due to the additional funding provided by Congress at the time.

Q.3. Over the last few years, HUD has relocated key multifamily housing staff from its office in Newark to the New York regional office. As a former mayor, I understand that this presents a significant challenge for residents, landlords, and property managers. It's critical that HUD maintains boots on the ground that are familiar with the local conditions and issues facing residents throughout the State, especially as the COVID crisis places particular strain on New Jersey's multifamily market.

If confirmed, what are you going to do to make sure the Newark office has the staff it needs and that New Jersey remains a priority at HUD?

A.3. I want to extend to you that same offer made by my predecessor, Brian Montgomery. If you or your staff are aware of specific instances in which New Jersey is receiving inadequate multifamily coverage from HUD, please do not hesitate to bring them to my attention. There are currently 722 active properties in the multifamily portfolio in New Jersey, and I agree that HUD must make providing decent, safe and affordable housing to the families who reside in them a priority.

In addition, when it is safe for residents and communities in light of COVID-19, I am happy to visit these properties and view any issues or challenges firsthand. I am also always happy to talk to your constituents regarding their concerns.

It is my understanding that earlier this year, the Office of Housing conducted a quality control review of the Northeast Region Multifamily Office to address your concerns regarding customer service for New Jersey. This assessment included an overview of staffing composition, workload management, and challenges and opportunities for the Multifamily Northeast Region (the Region), and more specifically New York and New Jersey.

Properties in New Jersey are assigned to 17 different project managers. The average portfolio size for an account executive with New Jersey properties is 76.3 properties; the average portfolio size for Resolution Specialists with New Jersey properties is 30.4. These portfolio size numbers are consistent with Office of Multifamily Housing national averages.

The Office of Multifamily Housing utilizes a workload tracking system that allows managers to track workload volume and output in real time. FY19 data reflect that the Northeast Region as a whole processed nearly 90 percent of the work items on time. Northeast Region Managers will use this system to monitor New Jersey work volume and timeliness of response and take corrective action, including shifting workload or assets, if numbers reflect the need.

The New York Regional Center anticipates hiring three (3) additional account executives, which would decrease the average portfolio size for all account executives serving New York and New Jersey from 81.3 to 72.3 properties per account executive.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR TESTER FROM DANA WADE

Q.1. *Affordable Housing*—Montana, and many areas of the country, face challenges of housing availability, affordability, and aging housing stock. As you know, this is a significant issue for rural as well as urban areas and is one of the largest barriers to success nationally. In Montana, lack of workforce housing is one of the greatest inhibitors of economic development.

What can be done to increase workforce housing and encourage more affordable housing to be built?

What do you see as the largest barrier to affordable housing, particularly in rural areas?

How do you implement an effective affordable housing strategy nationally? In rural America? In Indian Country?

How has your work at the Department of Housing and Urban Development (HUD) and the Office of Management and Budget (OMB) impacted housing in rural America? Where is there room for additional efforts to support rural housing at Federal Housing Administration (FHA) and HUD?

A.1. I believe FHA has a very important role in creating, preserving, and increasing affordable housing opportunities across America, including rural areas and Indian Country. Regulatory barriers continue to be one of the largest impediments to the construction of affordable housing. I support this Administration's efforts to reduce overly burdensome requirements that drive up the cost of housing through the White House Council on Eliminating

Regulatory Barriers to Affordable Housing which is led by Secretary Carson.

Through its single family, multifamily, and healthcare insurance programs, FHA provides access to credit in markets, including rural, which might otherwise be underserved. FHA insurance products are sought by lenders and borrowers to fill needs that other capital providers fail to support.

In Fiscal Year 2019, 63 percent of FHA's multifamily production was affordable, and HUD brings that experience to workforce housing. Providing mortgage insurance for workforce housing is also an important component of FHA multifamily's mission and I would be happy to work with you on ways to spur production in this area. During these difficult times, the countercyclical role of FHA is more important than ever to meet the unmet needs of borrowers.

In addition to FHA's programs to serve homeowners, renters, and low-income, senior, and disabled populations throughout the country, the Office of Housing works with other HUD offices, including the Office of Public and Indian Housing and the Rural Housing and Economic Development program within Community Planning and Development, to support rural and Native American populations.

Q.2. *Trump Budgets*—Affordable housing is an issue across this country yet President Trump's budgets have eliminated nearly every affordable housing program and take an axe to others like the housing counseling program which you would be in charge of in your role at the FHA. These programs are critical in Montana.

Please describe your role in these budgets during your previous time at HUD and while at OMB.

What will you do to support affordable housing construction and rehabilitation?

Will you advocate the importance of these programs with the President and Secretary?

A.2. I will do my utmost to address the Nation's affordable housing needs. Key to this is supporting innovative approaches to preserving and constructing affordable units. Focusing on very low income and low income affordable housing need, I will expand on FHA's successes leveraging housing tax credit equity (4 percent and 9 percent) with FHA mortgage insurance products, Section 202 Housing for the Elderly and Section 811 Housing for persons with Disabilities programs. FHA and HUD have streamlined the processes and requirements to better utilize housing tax credits in multifamily new construction and preservation transactions. Additionally, I will support FHA's continued work with the Office of Public and Indian Housing through the successful Rental Assistance Demonstration (RAD) Program to rehabilitate and/or reconstruct public housing, serving extremely low income and very low-income residents.

Q.3. *COVID-19*—As you know, many Public Housing Authorities (PHAs) have closed or reduced operations due to COVID-19.

How will you ensure that Section 8 and HUD-VASH vouchers are being utilized while also ensuring the safety of rental units?

As many States move forward with reopening, Montana being one of them, what assistance and guidance are you providing PHAs in regards to reopening?

A.3. The programs covered by these questions are run by HUD's Office of Public and Indian Housing. HUD's congressional affairs staff would be pleased to reach out to your office to ensure we answer your questions about these important programs.

Q.4. HUD-VASH—What are your thoughts on the HUD-VASH program?

Funding for new HUD-VASH vouchers has remained the same for several years. Do you think this funding is sufficient to achieve the goal of ending veteran homelessness?

How will you work with the Department of Veterans Affairs to administer the HUD-VASH program and ensure that homeless veterans get access to affordable housing in a timely manner?

How will you work to address barriers in the Tribal HUD-VASH program?

How will you work to ensure that we enhance this program to make sure that it works even more efficiently in rural America—places like Miles City, Montana?

A.4. The programs covered by these questions are run by HUD's Office of Public and Indian Housing. HUD's congressional affairs staff would be pleased to reach out to your office to ensure we answer your questions about these important programs.

Q.5. *Housing Finance Reform*—Given this role and your previous responsibilities, I would like to get your thoughts on an issue that is very important to me.

What are your thoughts on our housing finance system and do you support reforming the system?

What are your thoughts on the Administration's 2019 housing finance reform proposal? And the FHA provisions specifically?

Do you support a Government guarantee or a fully privatized system?

A.5. Yes, I do support reforming the housing finance system and the Administration's recent proposal to provide liquidity, support homeowners, and protect taxpayers. Right now, my top priority if confirmed would be making sure that coronavirus-related assistance reaches homeowners and renters experiencing hardship through no fault of their own. FHA has an important countercyclical role to play during adverse economic events; regardless of the contours of future housing reforms, this should always be a part of FHA's mission.

When the time is right, I would look forward to working with Congress on housing finance reform. I support structural changes to FHA that would provide more autonomy and enable its sole focus to be supporting low-to-moderate income homeowners and managing risk to taxpayers. FHA's explicit guarantee of the Federal Government has enabled it to perform its mission of providing access to credit for mostly first-time borrowers. I support proposals that would expand the role of the private sector in housing finance and believe that they can be accomplished while preserving FHA's focus on creditworthy borrowers who may be underserved by traditional markets.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARREN
FROM DANA WADE**

Q.1. What was your involvement in putting together the 2019 Department of Housing and Urban Development's Housing Finance Reform Plan?

Are there any aspects of this plan that you disagree with or would like to be changed?

A.1. I fully support both HUD's and the Treasury Department's Housing Finance Reform plans. Other portions of this question seek the disclosure of confidential, deliberative, and internal Executive Branch information.

Q.2. At your confirmation hearing you stated, if confirmed, you would, "monitor vigilantly" whether mortgage servicers were providing fair treatment for homeowners entering into forbearance during the COVID-19 crisis.

What specific actions would you take, if confirmed, to monitor servicer actions and compliance with the law, and address any unclear or unfair conduct you identify?

A.2. If confirmed, I will be committed to ensuring that mortgages servicers meet all FHA program requirements and their responsibilities to borrowers. FHA's servicing and loss mitigation requirements provide specific instructions on working with borrowers who are unable to make their payments. If any servicer fails to comply with FHA's requirements, FHA can take a variety of actions ranging from providing increased technical assistance and increased monitoring to making a formal referral to HUD's Mortgagee Review Board (MRB) in the case of more serious violations. Sanctions imposed by the MRB can include civil money penalties and suspension or withdrawal from the program. I will also commit to working with other agencies within the Federal Government, including the Consumer Financial Protection Bureau and Federal Housing Finance Agency to explore sharing information on mortgage servicer performance where appropriate.

Q.3. You served as Associate Director for General Government at the OMB when HUD issued its proposed Disparate Impact rule, Mixed Status rule, and Affirmatively Furthering Fair Housing rule.

Are there any aspects of the disparate impact proposed rule that you disagree with or would like to be strengthened?

Are there any aspects of the mixed status proposed rule that you disagree with or would like to be strengthened?

Are there any aspects of the affirmatively furthering fair housing proposed rule that you disagree with or would like to be strengthened?

A.3. The Office of Management and Budget has an extensive role in supporting agencies as they implement the President's priorities and agenda, which includes reviewing legislative proposals, regulatory proposals, notices/reports and the availability of budgetary resources. With respect to my participation in specific decisions, your question seeks the substance of communications between the White House and OMB, the disclosure of which would reveal confidential, deliberative, and internal Executive Branch information.

Q.4. At his nomination hearing, in response to a question about HUD Secretary Ben Carson raising the rents in federally assisted housing, former FHA commissioner Brian D. Montgomery stated: “no mass evictions will occur as long as I am FHA commissioner, Assistant Secretary for Housing.”

Will you make this same pledge if confirmed?

Will you commit to evaluating the potential impact of rent raises on affordability and potential evictions before issuing any proposals or taking action to raise rents in federally assisted housing?

A.4. No mass evictions will occur as long as I am FHA Commissioner and I will always evaluate the impact of changes in rent on the programs run by the Office of Housing.

Q.5. HUD’s requested budget for fiscal year 2021 includes no funding for the Public Housing Capital Fund. There is currently an estimated \$70 billion backlog in critical repairs and maintenance for existing public housing. This backlog results in approximately 10,000 public housing units being lost every year, and subjects tens of thousands of residents to living in unsafe and unhealthy conditions.

If confirmed, would you advocate for funding for the Public Housing Capital Fund?

A.5. The Public Housing Capital Fund is administered by HUD’s Office of Public and Indian Housing and therefore would be outside my purview if I am confirmed to serve as Federal Housing Commissioner and Assistant Secretary for Housing.

Q.6. Do you believe there is a national affordable housing crisis?

A.6. If confirmed, I will prioritize the issue of affordable housing. Across the country, Americans are stretching their finances too far to be able to afford a place to live. Far too many households are rent-burdened and housing supply does not match demand in many areas, creating undue pressures on low-to-moderate income workers and families. Many Americans are finding it increasingly difficult to reside near good schools, places of work, and access to transportation. Nurses, firefighters, teachers, and cops often cannot afford to live in the communities that they serve. Exacerbating this problem is the financial strain and uncertainty caused by the COVID-19 pandemic.

I believe that FHA must help to alleviate these affordability burdens, made more difficult by the current health crisis. If confirmed, my goals would be to run a strong and sustainable FHA that can play an important countercyclical role in providing access to mortgage credit during this time. I support recent HUD policies to expand access to condo markets and manufactured housing, both of which are important options for first-time homebuyers. In addition, FHA’s multifamily loan program is and will continue to step in to increase affordable rental housing supply for low-to-moderate income families. If confirmed, I also hope to participate in several of the Administration’s initiatives to address housing unaffordability, including through the Councils on Opportunity Zones and Eliminating Regulatory Barriers to Affordable housing.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR VAN HOLLEN FROM DANA WADE**

Q.1. As the Associate Director for General Government at OMB what role did you have in overseeing HUD's proposed Affirmatively Furthering Fair Housing (AFFH) rule? As the nominee to be Commissioner of FHA, do you support this proposed rule? Can you also please describe why you think it's appropriate to give lenders a safe harbor for policies or practices driven by algorithms?

A.1. I support HUD's proposed Affirmatively Furthering Fair Housing (AFFH) rule, though it will be outside my purview if I am confirmed to serve as Federal Housing Commissioner and Assistant Secretary for Housing. With respect to my participation in specific decisions, your question seeks the substance of communications between the White House and OMB, the disclosure of which would reveal confidential, deliberative, and internal Executive Branch information.

Q.2. Last week, the Mortgage Bankers Association reported that nearly 7 percent of the mortgage market was in forbearance. The largest segment of borrowers in forbearance have mortgages backed by the FHA or VA. According to the report, 9.73 percent of the loans in Ginnie Mae's portfolio are in forbearance. That's an increase of 1.47 percent from the previous week's total of 8.26 percent. How do you plan to ensure servicer compliance with the CARES Act forbearance provisions? How do you plan to work with the FHFA, Ginnie Mae, and the Federal Reserve to support homeowners and the mortgage market throughout this crisis? What do you anticipate will be the impact of the COVID crisis on the health of the Mutual Mortgage Insurance Fund (MMIF)? Do you plan on increasing mortgage insurance premiums? If so what impact would increasing premiums have on FHA's countercyclical role in the mortgage market?

A.2. If confirmed, I will be committed to ensuring that mortgage servicers meet all FHA program requirements and their responsibilities to borrowers, including those contained in the CARES Act. HUD is working closely with other governmental organizations to ensure a consistent response to the current COVID-19 crisis. HUD will continue with this collaborative effort under my leadership.

The depth and length of the COVID-19 crisis will pose a challenge to the health of the MMIF. It is too early to predict the impact, although I will continue to monitor the data closely if confirmed. Under my last tenure at FHA and continued by Commissioner Montgomery, HUD has built up a capital reserve that is more than twice the statutory level. This will be important to protect taxpayers from losses moving forward.

I understand that FHA is not currently planning to increase premiums. While the FHA Commissioner is statutorily required to maintain capital, I agree that it is also important during this time to provide steady access to credit to eligible borrowers and to ensure that the housing market is well-functioning.

**RESPONSES TO WRITTEN QUESTIONS OF
SENATOR CORTEZ MASTO FROM DANA WADE**

Q.1. Please provide details on how will you ensure that servicers provide clear and fair guidance on forbearance to homeowners.

How will you ensure any lender seeking payment on the FHA guarantee has provided documentation on its compliance with loss mitigation requirements?

Will you ensure FHA conducts oversight of servicers with appropriate sampling and review of companies and borrowers, and if so, how?

Will you ensure FHA establishes a robust complaint and appeals process for borrowers who believe they have been subject to unfair treatment related to noncompliance with FHA's servicing requirements, including its loss mitigation requirements? If yes, how?

Will you report annually to Congress regarding the types and volume of complaints received from borrowers who allege the rules for loss mitigation were not followed?

A.1. If confirmed, I will be committed to ensuring that mortgage servicers meet all FHA program requirements and their responsibilities to borrowers. FHA's servicing and loss mitigation requirements provide specific instructions on working with borrowers who are unable to make their payments. If any servicer fails to comply with FHA's requirements, FHA can take a variety of actions ranging from providing increased technical assistance and increased monitoring to making a formal referral to HUD's Mortgagee Review Board (MRB) in the case of more serious violations. Sanctions imposed by the MRB can include civil money penalties and suspension or withdrawal from the program. As Federal Housing Commissioner, I would chair the MRB. I will also commit to working with other agencies within the Federal Government, including the Consumer Financial Protection Bureau and Federal Housing Finance Agency to explore sharing information on mortgage servicer performance where appropriate.

Q.2. How will you ensure that any action taken by FHA or the Office of Housing will not have a disparate impact on households who've historically faced discrimination? If so, how?

A.2. If confirmed, I will be committed to ensuring that actions taken by FHA and the Office of Housing comply with all applicable legal requirements, including antidiscriminatory laws.

Q.3. Will you ensure HUD continues to support living wages for construction workers so that those workers can afford a home, too, and continues to require environmental assessments prior to construction? If so, how?

A.3. If confirmed, I will maintain HUD's commitment to its mission of providing affordable housing and to ensuring that owners and lenders comply with all applicable environmental laws and regulations.

Q.4. How will you ensure HUD supports transit-oriented development that is designed to reduce income inequality, increase equity, and fight climate change?

A.4. The FHA mortgage insurance programs currently support transit-oriented development, typically through the new construc-

tion programs 221(d)4 and 220. These programs allow borrowers to select sites close to transit hubs and HUD considers the proximity to public transit to be a marketing benefit, improving the overall strength of the transaction. In addition, the FHA mortgage insurance programs have rigorous environmental review standards, ensuring that all FHA insured mortgaged properties are fully compliant with NEPA and Federal energy standards.

Sixty-three percent of the loans HUD approved in fiscal year 2019 were affordable. I will work with Office of Housing staff to ensure they continue supporting borrowers seeking to build transit-oriented development, to preserve and expand the supply of affordable housing, and to implement the appropriate building standards.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR SINEMA
FROM DANA WADE**

Q.1. As housing affordability challenges continue to grow, many Arizonans are turning to manufactured homes for attainable, high-quality homes that do not create an unsurmountable financial burden. HUD provides financing for manufactured housing through the Federal Housing Administration's Title I and Title II programs, however, these programs are underutilized and outdated. If confirmed, how will you revise these FHA programs to improve access to financing for manufactured homes?

A.1. Manufactured housing is an important part of our Nation's housing stock which often provides an affordable entry point to home ownership for American families. Secretary Carson has made it a priority to revitalize HUD's role in facilitating the construction and financing of manufactured housing. If confirmed, I am committed to reviewing FHA's guidelines for its manufactured housing financing programs to ensure that access to sustainable mortgage credit is not unduly restricted.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD
LETTER OF REGRET FROM SENATOR TOM COTTON



The Honorable Mike Crapo
Chairman
United States Senate Committee on Banking, Housing, and Urban Affairs
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
United States Senate Committee on Banking, Housing, and Urban Affairs
Washington, D.C. 20510

May 5, 2020

Dear Chairman Crapo and Ranking Member Brown,

I regret being unable to attend today's meeting of the Banking Committee, which is of the utmost importance to ensure proper accountability for the money Congress authorized for pandemic recovery.

The China virus pandemic is upending committee schedules during this busy work period. So while I am present in the Senate today for a closed hearing of the Intelligence Committee and other important business, I regrettably am unable to attend this hearing to ask questions in person. Instead, I am submitting questions for the record for both nominees. I look forward to their responses and to the opportunity to speak with Mr. Miller before his confirmation.

Congress must do our utmost to ensure taxpayer money is used for authorized purposes, to help American workers and businesses weather this period of emergency.

A handwritten signature in blue ink that reads "Tom Cotton".

TOM COTTON
United States Senator

THOSE WHO DARED:

30 Officials Who Stood Up For Our Country



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BRIAN MILLER, General Services Administration

Brian Miller has served as Inspector General of the General Services Administration ("GSA") since July 2005, following a 12-year stint as a federal prosecutor and nearly two decades in senior-level positions in the federal government.¹ GSA manages over \$56 billion in contracts for the Departments of Defense and Homeland Security as well as other agencies.² Due to his aggressive efforts to reduce fraud and waste in the government contracting process, Mr. Miller clashed repeatedly with former GSA Chief Lurita Doan, who responded by attempting to cut funding for the Inspector General's office before her forced resignation in May 2008.³

Under Mr. Miller's watch, GSA obtained the largest settlement ever of a False Claims Act suit involving GSA's Multiple Award Schedule ("MAS") program.⁴ GSA uses the MAS program in negotiating contracts for services provided to the government and must rely on the honesty of vendors in disclosing their commercial pricing policies to create a single contract for hundreds of government purchasers.⁵ In October 2006, working with the Department of Justice, Mr. Miller helped the government obtain a \$98.5 million settlement of a suit against PeopleSoft Inc., which had been charged with making defective pricing disclosures during the negotiation of a contract with GSA.⁶

Mr. Miller also launched an investigation into charges that Sun Microsystems was overcharging the government by not giving government customers its lowest prices, as GSA schedules require, and was negotiating in bad faith.⁷ Notwithstanding Mr. Miller's conclusion that the company had overcharged government agencies by more than \$25 million and the

¹ See

http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentType=GSA_BASIC&contentId=19173&noc=T (Exhibit 1).

² Scott Higham and Robert O'Harrow Jr., GSA Chief Seeks to Cut Budget for Audits; Contract Oversight Would Be Reduced, *Washington Post*, December 2, 2006 (Exhibit 2).

³ Id.; Robert O'Harrow, Jr. and Scott Higham, Doan Ends Her Stormy Tenure as GSA Chief; Resignation Comes at White House's Behest, *Washington Post*, May 1, 2008 (Exhibit 3).

⁴ Press Release, Justice Department, Oracle Agrees to Pay \$98.5 Million for False Pricing Information Provided by PeopleSoft to Obtain Government Contract; Firm Allegedly Misrepresented Its Discounting Practices, October 10, 2006 (Exhibit 4).

⁵ Id.

⁶ Id.

⁷ Letter from David C. Williams, Inspector General, United States Postal Service, to Brian D. Miller, Inspector General, General Services Administration, May 16, 2008 (hereinafter "Williams Letter") (Exhibit 5).

Department of Justice's subsequent False Claims Act suit filed against Sun in April 2007,⁸ then-GSA Chief Doan intervened in the contracting process in an effort to renew GSA's contract with Sun.⁹ Although Sun Microsystems ultimately withdrew the contract,¹⁰ Mr. Miller faced criticism for his findings until an investigation by the Inspector General for the Postal Service verified the accuracy and appropriateness of Mr. Miller's conclusion that Sun Microsystems had overcharged the government.¹¹

Mr. Miller also scrutinized Ms. Doan's conflicts of interest¹² and her lack of candor in responding to questions from his office.¹³ Ms. Doan responded by cutting the budget for his office and labeling him a "terrorist."¹⁴ Mr. Miller's investigations led to a House Oversight and Government Reform Committee hearing on a GSA contract Ms. Doan had given to a friend without receiving bids as GSA protocol required.¹⁵ That hearing also exposed Ms. Doan's misuse of her authority for political ends, which included conducting a partisan meeting within GSA offices during office hours in violation of the Hatch Act.¹⁶ In May 2008, Ms. Doan resigned at the request of the White House.¹⁷ Several weeks later, the Inspector General of the U.S. Postal Service made public the results of his investigation into Ms. Doan's charges that GSA contracting officers had been subject to intimidation by auditors from GSA's Office of Inspector General. Mr. Miller and his officer were applauded for their "robust oversight," while Ms. Doan's leadership was condemned.¹⁸

⁸ Matthew Weigelt, Grassley to GSA: Nix Sun Deal; Vendor Refuses to Provide Audit Information, *Washington Technology*, August 27, 2007; Williams Letter at p. 2 (Exhibit 6).

⁹ Julia Malone, GSA Chief Takes Heat for Politics in Agency, No-Bid Contract, *Cox News Service*, March 28, 2007; Hardy, *Washington Technology*, Sept. 14, 2007 (Exhibit 7).

¹⁰ Michael Hardy, Sun Withdraws From GSA Schedule, *Washington Technology*, September 14, 2007 (Exhibit 8).

¹¹ Williams Letter.

¹² O'Harrow, Jr. and Higham, *Washington Post*, May 1, 2008.

¹³ Malone, *Cox News Service*, Mar. 28, 2007.

¹⁴ Higham and O'Harrow Jr., *Washington Post*, Dec. 2, 2006.

¹⁵ Ted Mckenna, GSA Reputation Takes Hit Amid Contracting Impropriety Charges, *PR Week*, April 2, 2007; O'Harrow, Jr. and Higham, *Washington Post*, May 1, 2008 (Exhibit 9).


¹⁶ Mckenna, *PR Week*, Apr. 2, 2007.

¹⁷ O'Harrow, Jr. and Higham, *Washington Post*, May 1, 2008.

¹⁸ Williams Letter.

Brian Miller Exhibits

EXHIBIT 1


U.S. General Services Administration

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Organization Chart

Overview

Acting Administrator

Deputy Administrator

Chief of Staff

Commissioner, FAS

Commissioner, PBS

Acting Assoc. Administrator, OGP

Chief Financial Officer

Chief Acquisition Officer

Chief Human Capital Officer

Chief Information Officer

Associate Administrator, OCA

Associate Administrator, OCSC

Associate Administrator, SBU

Associate Administrator, OPI

General Counsel

Associate Administrator, OCR

Acting Chief, OERR

Inspector General

Chairman, Board of Contract Appeals

Director, OMS

Region 1 Administrator

Region 2 Administrator

Region 3 Administrator

Region 4 Administrator

Region 5 Administrator

Region 6 Administrator

Region 7 Administrator

Region 8 Administrator


Region 9 Administrator

Region 10 Administrator

Region 11 Administrator

Brian D. Miller - Inspector General

The United States Senate confirmed Brian D. Miller as the Inspector General of the U.S. General Services Administration (GSA) on July 22, 2005.



Mr. Miller is responsible for directing nationwide audits, investigations, and oversight operations of the GSA Office of Inspector General (OIG). Under his leadership, the OIG worked with the U.S. Department of Justice to successfully settle the largest Multiple Award Schedule procurement fraud case in GSA's history, totaling \$98.5 million for fraudulent overcharging by PeopleSoft Corporation. Mr. Miller serves as the Vice Chair of the National Procurement Fraud Task Force, participates in the U.S. Department of Justice's Hurricane Katrina Task Force, and is a member of the President's Council on Integrity and Efficiency.

Prior to his appointment as Inspector General, Mr. Miller served for nearly two decades in a variety of senior-level positions in the federal government. For twelve of those years he served as an Assistant United States Attorney for the Eastern District of Virginia, where he participated in significant cases, including the prosecution of terrorist suspect Zaccarias Moussaoui. Mr. Miller was also part of the legal team representing a former Attorney General in lawsuits filed by individuals detained in connection with investigations of the terrorist attacks of September 11, 2001. From 2002 through July 2005, Mr. Miller served as Counsel to the United States Attorney for the Eastern District of Virginia. As part of the leadership team, he participated in the senior management and the establishment of initiatives and priorities of the office.

As an Assistant U.S. Attorney, Mr. Miller prosecuted complex procurement, grant and healthcare fraud cases, including one of the first and largest science fraud cases, U.S. v. ESDI, Inc., et al., for which he received the Director's Award from the Executive Office for U.S. Attorneys. Mr. Miller has also served as Senior Counsel to the Deputy Attorney General and the Special Counsel on Health Care Fraud in 2001. As Senior Counsel, Mr. Miller advised the Attorney General and Deputy Attorney General on transition issues, regulatory matters, and pending litigation. He also represented the United States at treaty negotiations in Geneva, Switzerland, on matters relating to health care. Mr. Miller had served in the Department of Justice earlier in his career.

Mr. Miller earned a law degree from the University of Texas.

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EXHIBIT 2

18 of 24 DOCUMENTS

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HEADLINE: GSA Chief Seeks to Cut Budget For Audits;
Contract Oversight Would Be Reduced**BYLINE:** Scott Higham and Robert O'Harrow Jr., Washington Post Staff Writers**BODY:**

The new chief of the U.S. General Services Administration is trying to limit the ability of the agency's inspector general to audit contracts for fraud or waste and has said oversight efforts are intimidating the workforce, according to government documents and interviews.

GSA Administrator Linita Alexis Doan, a Bush political appointee and former government contractor, has proposed cutting \$5 million in spending on audits and shifting some responsibility for contract reviews to small, private audit contractors.

Doan also has chided Inspector General Brian D. Miller for not going along with her attempts to streamline the agency's contracting efforts. In a private staff meeting Aug. 13, Doan said Miller's effort to examine contracts had "gone too far and is eroding the health of the organization," according to notes of the meeting written by an unidentified participant from the Office of Inspector General (OIG).

The GSA is responsible for managing about \$56 billion worth of contracts each year for the departments of Defense and Homeland Security and other agencies.

Doan compared Miller and his staff to terrorists, according to a copy of the notes obtained by The Washington Post.

"There are two kinds of terrorism in the US: the external kind, and, internally, the IGs have terrorized the Regional Administrators," Doan said, according to the notes.

Through a spokesman, Doan said she respects the inspector general's role and is not doing anything to undercut his independence. She also denied that she had referred to Miller, a former terrorism prosecutor, or his staff as terrorists.

"She's trying to reduce wasteful spending," said GSA spokesman David Bethel. "Just like any other office within GSA, she has asked the OIG to live within his budget, and she's hopeful that the IG is going to embrace that concept. She is not singling him out for this attention. She's not challenging the IG's independence. This is about fiscal discipline and reducing wasteful spending and creating a business environment that can be embraced by everyone.

"By law, she can't reduce the IG's independence, and she's aware of that."

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GSA Chief Seeks to Cut Budget For Audits; Contract Oversight Would Be Reduced The Washington Post December 2, 2006 Saturday

Doan, who was confirmed as administrator May 26, has publicly criticized Miller on other occasions. In her Nov. 10 annual report, Doan stated there was only one GSA manager unwilling to "confront programs and policies that had outlived their usefulness and were wasting taxpayer money." She later told Miller that she was referring to him, according to officials familiar with Doan's statement who asked not to be identified for fear of retribution.

Doan also complained in the annual report that Miller was being "unsupportive of recent changes" and said vendors and government contracting officials had reported that his auditors and investigators were exerting "undue pressure."

Bethel said yesterday that Doan's statement in her annual report "speaks for itself," and he declined to elaborate.

Miller declined to discuss his relationship with Doan.

"Let's keep our eyes on the larger picture, which is that GSA's \$60 billion operations need to have objective and independent scrutiny," Miller said. "My office provides that public scrutiny. Not everyone is happy with this level of scrutiny. Nevertheless, my task is to keep our office focused on fulfilling our mission of working with GSA to enhance the quality and effectiveness of the services it provides, protect the integrity of GSA operations, and to keep fraud, waste and abuse away from its doorstep."

Before joining the GSA in August 2005, Miller served as a federal prosecutor and worked on the government's case against al-Qaeda terrorist Zacarias Moussaoui.

Sen. Charles E. Grassley (R-Iowa), chairman of the Senate Finance Committee, has written to Doan expressing his concerns.

"The primary mission of the IG in your agency and every other government agency is to be a sentry standing guard against fraud, waste, and abuse wherever it occurs regardless of circumstances," Grassley wrote on Oct. 20. "This cannot be accomplished if the IG's independence is impaired or hindered by the agency in any way, shape, or form."

Doan responded by acknowledging his concerns and saying she was mainly focusing on balancing her agency's budget.

"Please be assured that I do not -- and should not -- decide which audits or investigations the IG pursues," she wrote to Grassley. "That would be inappropriate."

Inspector general's offices were given by Congress a mandate to operate as independent watchdogs in the executive branch, working on behalf of taxpayers to guard against wasteful spending. The Inspector General Act of 1978 stated: "Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation."

The GSA inspector general's office's audits have helped the agency recover billions of dollars in recent years from flawed or fraudulent contracts. Some vendors and government workers have complained that the audits have made contracting more cumbersome than necessary.

Soon after Doan was nominated to lead the GSA this spring, she promised outside vendors that she would make contracting with the agency much easier for both government bureaucrats and corporations. After she assumed the post, she began trimming the budget proposal of the inspector general's office. She wrote in her annual report that the office's budget and staff had "grown annually and substantially" in the past five years.

Since 2000, the number of employees in the inspector general's office has grown from 297 to 309, according to the office.

In August, a budget official in the inspector general's office described Doan's efforts to cut funding and to limit the number of audits as "unprecedented," according to an e-mail obtained by The Post. The official, John C. Lebo, said that "for the first time in memory, the Budget Office changed or deleted portions of our budget without notifying us prior to their changes."

Lebo, who has since left the agency, said the changes were troubling.

"The Administrator's Office wants to change the IG's overall approach from independently rooting out crime, fraud and abuse, to one in which the OIG is a team player working with GSA," he wrote.

LOAD-DATE: December 2, 2006

EXHIBIT 3

washingtonpost.com

Doan Ends Her Stormy Tenure as GSA Chief

Resignation Comes at White House's Behest

By Robert O'Harrow Jr. and Scott Higham
Washington Post Staff Writers
Thursday, May 1, 2008, A01

[General Services Administration](#) chief [Lurita Alexis Doan](#) has resigned as head of the government's premier contracting agency at the request of the [White House](#), ending a tumultuous tenure in which she was accused of trying to award work to a friend and misusing her authority for political ends.

"I have been asked by the White House to resign," Doan said in a voice-mail message left with a [Washington Post](#) reporter. She added in a statement: "It has been a great privilege to serve our nation and a great President."

A White House spokeswoman declined to say why Doan was asked to leave the GSA, which manages more than \$50 billion worth of contracts each year as the U.S. government's largest broker of goods and services.

"While serving as Administrator, Ms. Doan worked to strengthen GSA's ability to respond effectively during times of emergency and make government buildings more energy efficient," White House spokeswoman Emily A. Lawrimore said in a statement yesterday. "The President is grateful for her service and wishes her and her family the best."

Doan's resignation Tuesday night came almost a year after Rep. [Henry Waxman](#) (D-Calif.), chairman of the [House Oversight and Government Reform Committee](#), and Sen. [Charles E. Grassley](#) (R-Iowa) sharply criticized her leadership. Both lawmakers had said they thought Doan was no longer effective.

Waxman's committee began investigating Doan after articles in The Post revealed that she had approved a \$20,000, no-bid procurement order last July with a firm run by a friend who had served as Doan's public relations consultant when she was in private business. Doan said she terminated the order after she became aware that it did not comply with contracting rules.

The committee investigation also turned up evidence that Doan may have violated the Hatch Act in January 2007 by allegedly asking political appointees how they could "help our candidates" at an agency briefing conducted by a White House official, according to several of the appointees present for the briefing.

The [U.S. Office of Special Counsel](#), a government watchdog agency, conducted its own probe of those claims and concluded that she made the remarks and violated the Hatch Act, which generally prohibits employees of federal agencies from using their positions for political purposes. In a letter last June, [Special Counsel Scott J. Bloch](#) urged [President Bush](#) to discipline Doan "to the fullest extent," which included removing her from office.

In the ensuing months, the White House said it was considering Bloch's recommendation but made no further comment. A White House official yesterday declined to say whether that recommendation played a role in

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her resignation.

During a hearing of Waxman's oversight committee last June, Doan testified that she did not recall asking the political appointees to help Republican candidates. She asserted that she operated her agency without regard for political concerns.

"I'm not engaged in partisan political activities," she told lawmakers at the time. "And I haven't directed anyone to do anything."

Waxman said yesterday that Doan's resignation was necessary.

"I know this decision was difficult for the White House and Lurita Doan, but it was the right thing to do," Waxman said. "GSA should now be able to return to its nonpartisan tradition and its work as our government's premier contracting agency."

Doan had also been under scrutiny by GSA Inspector General Brian Miller for alleged conflicts of interest and by Grassley, the ranking Republican on the [Senate Finance Committee](#). Grassley was examining Doan's role in the reauthorization of a contract with [Sun Microsystems](#).

"The GSA is an integral component of the federal government's ability to keep costs low for the American taxpayer," Grassley said in a statement yesterday. "In my oversight of the GSA, including the Sun Microsystems contract, it appeared that the taxpayer was not the Agency's top concern. Instead we found questionable actions, finger-pointing, and stonewalling. I hope that changes will now be made to ensure the taxpayer gets the best possible deal when GSA and other agencies negotiate contracts."

Doan has had strong defenders on [Capitol Hill](#), who say she has been unfairly targeted.

"It would be a shame if this decision had anything to do with the hyperbolic and unfounded allegations of Scott Bloch and others who were after her just to claim another administration scalp," Rep. Thomas M. Davis III (R-Va.) said in a statement yesterday.

"Certainly, her management style was not everyone's cup of tea. But the administrator appears to have fallen victim to a bureaucratic culture that fears, rather than rewards, entrepreneurial spirit, innovation and bold leadership. Lurita Doan's legacy at GSA should be viewed as a positive one, and her attempts to bring private sector best practices to the agency should be applauded."

Doan took over the GSA in May 2006 after a 15-year career as owner of New Technology Management Inc., a Reston-based firm that sold surveillance equipment to the federal government and others for border security and other projects. During her business career, Doan became wealthy and began cultivating close ties to the [GOP](#). Between 1999 and 2006, she and her husband, Douglas, a former military intelligence officer and business liaison official at the [Department of Homeland Security](#), donated nearly \$226,000 to Republican campaigns and causes, campaign finance records show.

At the time of her appointment, she was considered a rising African American star in Republican Party circles. She grew up in the downtrodden Ninth Ward of New Orleans but went on to [Vassar College](#) and obtained an advanced degree in literature from the [University of Tennessee at Knoxville](#).

When she became the GSA's first female administrator, she pledged to run it more like a business. But she repeatedly clashed with people inside and outside the agency. Just months after Doan took office, the GSA inspector general began investigating claims that she tried to award a no-bid job to her friend.

In a statement issued by the GSA yesterday, Doan praised Bush and expressed satisfaction with her tenure at the agency.

"The past twenty-two months have been filled with accomplishments: together, we have regained our clean audit opinion, restored fiscal discipline, re-tooled our ability to respond to emergencies, rekindled entrepreneurial energies, reduced bureaucratic barriers to small companies to get a GSA Schedule, ignited a building boom at our nation's ports of entries, boldly led the nation in an aggressive telework initiative, and improved employee morale so that we were selected as one of the best places to work in the Federal government," she wrote.

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EXHIBIT 4

21 of 24 DOCUMENTS

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October 10, 2006

SECTION: JUSTICE DEPARTMENT PRESS RELEASES**LENGTH:** 933 words

HEADLINE: Oracle Agrees to Pay \$98.5 Million for False Pricing Information Provided by PeopleSoft to Obtain Government Contract;
Firm Allegedly Misrepresented Its Discounting Practices

BODY:

WASHINGTON -- Oracle Corporation (Oracle) has agreed to pay the United States \$98.5 million to settle its liability for defective pricing disclosures made by PeopleSoft Inc. (PeopleSoft) during the negotiation of a contract under the General Services Administration (GSA) Multiple Award Schedule (MAS) program, Deputy Attorney General Paul J. McNulty, Assistant Attorney General Peter D. Keisler of the Justice Department's Civil Division, United States Attorney Rod J. Rosenstein of the District of Maryland, and GSA Inspector General Brian D. Miller, announced today. The settlement resolves allegations that PeopleSoft made pricing disclosures to GSA that were not current, accurate and complete concerning the sale of software licenses and related maintenance services. As a result of the defective disclosures, most federal purchasers under PeopleSoft's MAS contract paid inflated prices for purchases of software and services between March 17, 1997, and Sept. 30, 2005. Due to Oracle's acquisition of PeopleSoft, it inherited PeopleSoft's liability under the GSA contract.

"GSA's Multiple Award Schedule program serves vendors and government purchasers by eliminating red tape while insuring that government agencies get a fair deal for the American taxpayer's procurement dollars," said Deputy Attorney General McNulty. "The program works well when vendors follow the disclosure rules and provide GSA with the information it needs to negotiate good prices for government purchasers. This agreement demonstrates the Department's determination to hold vendors accountable for abusing GSA's trust and damaging its programs."

The payment is the largest ever obtained by the United States in a civil settlement under the False Claims Act involving the GSA's MAS program.

Under the MAS Program, vendors agree to disclose their commercial pricing policies and practices in exchange for an opportunity to gain access to the broad federal marketplace and the ease of administration that comes from selling to hundreds of government purchasers under one central contract. GSA regulations require that vendors seeking an MAS contract disclose their "current, accurate and complete" commercial pricing policies and practices to GSA during negotiations.

"I am proud of the collaborative efforts of the Commercial Litigation Branch, the U.S. Attorney's Office, the GSA Office of the Inspector General, and relator's counsel to protect the public fisc and strengthen the integrity of the federal procurement system," said Assistant Attorney General Keisler. "All companies that want to avoid their disclosure obligations while selling products to the United States government are on notice today that we will use the False Claims Act and all other civil legal tools at our disposal to fight fraud and abuse."

The lawsuit alleged that during PeopleSoft's negotiation of its initial contract and two extensions of the contract's term, PeopleSoft understated the discounts it provided to commercial customers. More specifically, the suit alleged that PeopleSoft failed to disclose the true nature of its multiple product discounting practice, a program that afforded buyers incrementally steeper discounts off list prices or software products based on the number of products purchased at one time. This, plus the use of non-standard discounts, caused at least one 1994 customer to obtain discounts of up to 74 percent off the listed price. GSA relied on the faulty disclosures and negotiated MAS Program discounts for federal

Oracle Agrees to Pay \$98.5 Million for False Pricing Information Provided by PeopleSoft to Obtain Government Contract; Firm Allegedly Misrepresented Its Discounting Practices Justice Department Document

customers that were much less favorable than the total discounts PeopleSoft's best commercial customers enjoyed. As a result, federal agencies overpaid for software and related maintenance.

"Because PeopleSoft did not give GSA accurate pricing information, it negotiated higher prices for its products and services than it would have obtained if GSA had known the truth," said U.S. Attorney Rosenstein. "The substantial recovery in this case will help to ensure that vendors provide truthful information and the government pays a fair price for products and services."

GSA Inspector General Miller said, "I want to commend the outstanding work of the Department of Justice, U.S. Attorney Rod Rosenstein and his office, and the GSA IG team for bringing this matter to a successful conclusion. GSA's MAS contracting program -- with sales of well over \$30 billion in the last fiscal year -- depends on vendors' honesty in negotiations. PeopleSoft misled and overcharged the government for years. Without the auditors' specialized training and years of experience examining federal contracting arrangements, the wool would have remained over everyone's eyes and the taxpayers might have again taken a fleecing."

This case was filed under the qui tam or whistleblower provisions of the False Claims Act by James A. Hicks in the U. S. District Court for the District of Maryland. Mr. Hicks is a former employee of PeopleSoft and the conduct alleged in the qui tam suit predated Oracle's acquisition of PeopleSoft. Hicks will receive \$17,730,000 of the total recovery as his statutory award. Under the whistleblower provisions of the False Claims Act, private citizens known as "relators" can sue on behalf of the government to recover federal funds that were obtained by false or fraudulent claims, and receive a portion of the proceeds of a settlement or judgment awarded against the defendant.

The settlement resulted from an investigation by the Civil Division of the Department of Justice, the U.S. Attorney's Office for the District of Maryland, and GSA's Office of Inspector General.

###

06-689

LOAD-DATE: October 10, 2006

EXHIBIT 5



OFFICE OF INSPECTOR GENERAL
UNITED STATES POSTAL SERVICE

May 16, 2008

The Honorable Brian D. Miller
Inspector General
General Services Administration
1800 F Street, N.W.
Room 5340
Washington, D.C. 20405

Dear Mr. Miller:

We have completed our investigation into the allegations you forwarded to us regarding claims of intimidation in the 2006 Sun Microsystems (Sun) contract negotiations. During the investigation, several matters came to our attention that we feel warrant further comment.

In its Strategic Plan, the General Services Administration (GSA) proclaims itself "the premier acquisition agency for the Federal government", whose "responsibility is to provide the greatest value to Federal customer agencies and cost-savings for the American taxpayer." This is not mere puffery: federal regulations mandate that GSA and its contracting officers have a fiduciary responsibility to the taxpayers and to customer agencies to take full advantage of the Federal Government's leverage in the market in order to obtain the best prices.

Given this responsibility, GSA should be the model for federal contracting practices. However, our investigation disclosed that much of the Federal Acquisition Service (FAS) was dysfunctional during the period of our review: the contracting officers were grossly overextended, the management structure had virtually collapsed, and GSA leadership appeared to be signaling its employees to favor the commercial interests of certain large vendors. Former Administrator Doan met with the top 10 vendors in GSA's schedule program soon after her confirmation, and immediately embraced their complaint that the GSA Inspector General was an impediment to good business. According to published reports, at least four of these complaining vendors were subsequently charged with making false claims in federal contracts. It appears that Doan uncritically applied

the vendors' perspective to the Sun contract negotiations, despite strong evidence that Sun had long been engaged in a pattern of misconduct.

In the ongoing Sun Multiple Award Schedule (MAS) contract negotiations, two very experienced contracting officers had independently concluded - before each was replaced by GSA managers - that Sun was not meeting its contractual obligations or negotiating in good faith. These conclusions appear to have been confirmed by the False Claims Act suit filed by the Department of Justice against Sun and other companies in April 2007. In the complaint, the government alleged that "the information that Sun provided to the GSA in connection with the negotiation of its two MAS Contracts ...was knowingly inaccurate and incomplete and misled the GSA contracting officials during negotiations... [which] led to Agencies of the United States Government paying significantly higher prices for hardware and software, as well as hardware and software maintenance...."

Thus, it seems clear that the GSA Office of Inspector General's (OIG) robust oversight of the Sun contract negotiation process can only be viewed in the context of the work force and supervisory void that existed at GSA when FAS Commissioner James Williams and Doan joined the agency in 2006. Sun, it appears, was yielding nothing to GSA contracting officers while using its lobbying partners to try to shape Doan's views about the contract negotiations.

A primary objective of the investigation was to address the basis for Doan's claims about OIG intimidation in the Sun contract negotiations. In her March 23, 2008, interview, Doan told the Postal Service OIG agents that she first learned in October 2006 that OIG auditors allegedly intimidated an unidentified contracting officer in connection with an unnamed GSA contract. Doan stated that she asked the OIG to look into the allegation, which, despite the absence of any specific information, she considered "very serious." When the OIG reported back to her with their preliminary results approximately one month later, Doan said she concluded that their investigation was inadequate and insisted that they investigate the matter further. Doan's claim that she did not learn that the intimidation allegation and the subsequent OIG investigation involved Michael Butterfield or the Sun contract negotiations until early 2007 is inconsistent with the evidence.

Commissioner Williams told us that he informed Doan of the intimidation allegations about Butterfield and Sun during a briefing in late August 2006, at the same time he told her about the impasse in contract negotiations with Sun and the OIG's referral of allegations about Sun to the United States Attorney's Office. Emails and witness statements corroborate Commissioner Williams' version of events.

3

It also appears that Doan has continued to rely almost exclusively on Sun's executives and consultants to provide her with information about alleged OIG intimidation of contracting officers. At the conclusion of Doan's March interview with the Postal Service OIG, she personally handed the agents a typewritten "list of persons with relevant information on the subject of intimidation, harassment and retaliation within and/or by the GSA OIG". The list had seven names. Five of those named were current and former GSA OIG employees involved in a personnel dispute that was referred to the President's Council on Integrity and Efficiency. The remaining two names were Larry Allen, a Sun consultant and executive with the Coalition for Government Procurement, and Scott McNealy, Sun's Chairman.

Enclosed is a copy of the final version of the report of investigation. Should you have any questions concerning this investigation, please contact me at 703- 248-2300.

Sincerely,

David Williams

David C. Williams
Inspector General

Enclosure

EXHIBIT 6

22 of 257 DOCUMENTS

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Washington Technology

August 27, 2007 Monday

SECTION: DAILY NEWS Vol. 1 No. 1

LENGTH: 397 words

HEADLINE: Grassley to GSA: Nix Sun deal;
Vendor refuses to provide audit information

BYLINE: Matthew Weigelt, Washington Technology

BODY:

Sen. Charles Grassley (R-Iowa) has asked the General Services Administration Administrator Lurita Doan to cancel its controversial Multiple Award Contract with Sun Microsystems.

During the last several months, Grassley has been pushing GSA and Sun to address his concerns over the vendor's pricing strategy. The senator believes the vendor is not giving government customers its lowest pricing as required by its GSA Schedule contract. According to GSA's inspector general, Sun has overcharged the government by more than \$25 million.

But despite the pressure, the company has not provided information for an audit the senator requested, even after requests by a GSA contract officer and Inspector General Brian Miller, according to the senator. Sun also has not provided Grassley's office with its plan for bringing its pricing strategy back into compliance.

"Quite frankly, Administrator Doan, I do not understand why Sun would refuse to cooperate fully with this audit," he wrote in an Aug. 24 letter. He questioned why Sun is refusing to hand over contract information and open its books for inspection.

"It makes me wonder: Does Sun have something to hide?" he wrote.

Sun supplied more information on Aug. 20. Although the new material is still under review, Grassley believe it lacks complete sales data and has no information on the plan.

Grassley is especially concerned about the plan, writing that it was a major determining factor in the awarding of a contract extension to Sun.

"If Sun is failing to comply with the terms of the contract, then I respectfully request that you consider initiating the cancellation of the contract as recommended by the Inspector General," Grassley wrote.

Grassley and Sun's chairman, Scott McNealy, exchanged letters in July. Both want to reach a reasonable examination of Sun's GSA Multiple Award Schedule contract, especially its Price Reduction Clause.

"We share the same goal of a fair and transparent process," McNealy wrote to Grassley on July 25. "Our only dispute is over how to get there."

McNealy wrote that Sun believes Miller and his auditors "have a significant and well-documented conflict of interest and a demonstrated predisposition" against the company, and has asked that a third party conduct the audit. Grassley disagrees.

Matthew Weigelt writes for Federal Computer Week, an 1105 Government Information Group publication.

Grassley to GSA: Nix Sun deal; Vendor refuses to provide audit information Washington Technology August 27, 2007
Monday

LOAD-DATE: August 28, 2007

EXHIBIT 7

3 of 24 DOCUMENTS

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March 28, 2007 Wednesday

SECTION: Washington General News**LENGTH:** 661 words**HEADLINE:** GSA CHIEF TAKES HEAT FOR POLITICS IN AGENCY, NO-BID CONTRACT**BYLINE:** JULIA MALONE**BODY:**

WASHINGTON - Democrats expressed outrage Wednesday at accounts that Scott Jennings, assistant to White House aide Karl Rove, briefed personnel at the General Services Administration on the top Republican "targets" for winning back Senate and House seats in the 2008 elections.

Members of the House Oversight Committee said the gathering, an invitation-only brown bag lunch for presidential appointees, appeared to violate the federal Hatch Act, which bans most partisan activities in federal government offices.

General Services Administrator Lurita Doan, testifying at the contentious hearing, told the panel that the teleconference session had been planned at the White House and not at the GSA, a normally obscure agency that oversees contracting and purchasing for much of the federal government.

Chairman Henry Waxman, D-Calif., called the gathering a "textbook example of what should not happen" at a federal agency.

Doan told the House investigators that she remembered almost nothing about the "PowerPoint" presentation at the Jan. 26 event, which she said was one of her staff's regular monthly "team-building" meetings.

Democrats asked repeatedly whether she had made a statement such as, "How can we help our candidates?" as was reported by a handful of the attendees in interviews with the House committee staff.

"I cannot recollect making that statement," Doan answered each time she was asked.

An entrepreneur who built up a technology company and sold it before taking the GSA post last June, she offered an energetic and unapologetic defense.

Telling the panel that she felt like the embattled lead character in the movie "Mr. Smith Goes to Washington," Doan said, "I'm facing a gazillion allegations."

She asserted that all came as a reaction to "my attempt to impose fiscal discipline throughout GSA."

Doan has come under fire on several fronts, including her attempt to give a \$20,000 no-bid contract to a friend.

Doan, who is African-American, said she was troubled to discover that her agency was graded "F" in accessibility to businesses owned by women, minorities and disabled veterans. She said she wanted to move quickly to correct the problem by hiring Diversity Best Practices, owned by Edie Fraser, who had been a consultant for Doan's private enterprise.

"It is a passion of mine," she said of diversity efforts. She was forced to drop her plan when she was told such contracts require competitive bidding.

The GSA chief was also challenged for her agency's renewal of a contract with Sun Microsystems, the technology provider, after a lengthy dispute and allegations of pricing fraud that have been relayed to the Department of Justice.

Page 2
GSA CHIEF TAKES HEAT FOR POLITICS IN AGENCY, NO-BID CONTRACT Cox News Service March 28, 2007
Wednesday

The agency's inspector general, Brian D. Miller, a fellow Bush administration appointee, told the congressional hearing that Doan had broken with GSA precedent by intervening in the contracting process against the advice of career officers.

Moreover, Miller said Doan had exhibited a "lack of candor" when questioned by his staff about her plans to grant a no-bid contract.

The inspector general said his office had been forced to make cutbacks after Doan cut his budget allowance for investigations.

Joining the critics was another Republican, Iowa Sen. Charles Grassley, who took the unusual step of speaking out at the House hearing. Grassley, long a defender for the role of inspectors general, added his concerns about the Sun Microsystems contract.

Republican House members stopped short of defending the White House-led political briefing at the GSA, but Rep. Tom Davis of Virginia brushed off the Democratic probe as "trifling" and filled with "accusatory conjecture."

However, Democrat Stephen Lynch of Massachusetts listened to more than three hours of the hearing and told Doan that he was "deeply disappointed in your testimony" for the memory lapses and conflicting details.

The lawmaker promised to "do everything I possibly can to get to the bottom of this."

Julia Malone's email address is jmalone@coxnews.com

LOAD-DATE: March 29, 2007

EXHIBIT 8

Sun withdraws from GSA Schedule Washington Technology September 14, 2007 Friday

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Washington Technology

September 14, 2007 Friday

SECTION: DAILY NEWS Vol. 1 No. 1

LENGTH: 343 words

HEADLINE: Sun withdraws from GSA Schedule

BYLINE: Michael Hardy, Washington Technology

BODY:

Sun Microsystems Inc. is canceling its General Services Administration schedule contract, the company has confirmed.

The cancellation will take effect Oct. 12, according to Sun. A brief statement the company issued said, "We took this step reluctantly, as we have always valued our relationship with GSA and its team of committed professionals. Sun and GSA have enjoyed a successful relationship as partners for a number of years during which Sun has provided government agencies with some of the industry's most innovative, energy-efficient, open source and secure computing systems."

The company has come under fire recently for allegedly not giving government customers its lowest prices, as the schedules program requires.

Sen. Charles Grassley (R-Iowa) had been pushing both GSA and Sun to address his concerns over the company's pricing strategy. He has criticized the vendor for foot-dragging and refusing to turn over documents as part of a GSA Inspector General inquiry. In an exchange of letters between Grassley and Sun chairman Scott McNealy earlier this year, McNealy expressed concern that GSA IG Brian Miller had a conflict of interest and a bias against Sun.

The IG recently concluded that Sun had overcharged government agencies by more than \$25 million for its products, leading Grassley to call on GSA to cancel the contract. GSA Administrator Lurita Doan had earlier this week asked the President's Council on Integrity and Efficiency to help sort out the conflict. Doan, however, had said she would not cancel the contract.

The contract would have expired in August 2009, according to GSA.

Consultant Mark Amtower, partner at Amtower & Co., said Sun's decision comes as no surprise.

"Although this issue was probably resolvable, it became less so with each statement from Sun or GSA, and worse when Grassley stepped in," Amtower said.

"GSA is the big loser," because Sun has other governmentwide acquisition contracts to sell through, he said.

Amtower said other manufacturers may consider leaving GSA now that Sun has shown it to be possible.

LOAD-DATE: September 15, 2007

EXHIBIT 9

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PR Week (US)

April 2, 2007

SECTION: Pg. 1

LENGTH: 761 words

HEADLINE: GSA reputation takes a hit amid contracting impropriety charges

BYLINE: Ted McKenna

BODY:

WASHINGTON: A contentious congressional hearing held last week on allegedly improper General Services Administration (GSA) contracting and political activities threatened to further mar the reputation of an agency that helps oversee billions of dollars in annual government procurement, according to PR and marketing executives who specialize in government contracting.

At a March 28 US House Committee on Oversight and Government Reform hearing, GSA head Lurita Doan repeatedly repeated in testimony previous assertions that her attempt to award a no-bid, dollars 20,000 research contract on diversity within the GSA to Diversity Best Practices and Business Women's Network, two PR firms owned by a former business associate, may have violated GSA procedures, but was an innocent and quickly fixed mistake. She said the contract had been terminated and no money changed hands. Participating Republican members railed against the hearing as part of a 'witch hunt' to unfairly impugn the GSA's reputation and that of the Bush administration as a whole.

However, GSA inspector general (IG) Brian Miller testified that Doan was, at the time, determined to award the contract to the PR firms, despite advice from GSA's then-general counsel, Alan Swendiman, who told IG investigators Doan 'refused to sign the termination letter (Swendiman) prepared for her,' Miller said.

Edward Blakely, GSA associate administrator for citizen services and communications, said that while no organization likes to have 'bad stories' told about it, Doan and GSA workers in general are very proud of the work the agency does and that Doan did a good job of defending herself at the hearing.

'I think our reputation wasn't damaged at all,' he said. 'We're pleased internally with how (she) made her case. It's a political town, and given the divided government, it's just the nature of the beast that these things happen. Who knows where this story will go?'

A January 19 Washington Post article on Doan's dealings with the two PR firms triggered the committee's investigation, but this isn't the first time the GSA has been entangled in partisan politics. In 2006, David Safavian was found guilty of making false statements and obstructing investigations into his dealings with Republican lobbyist Jack Abramoff while Safavian was GSA chief of staff in 2002.

The hearing also delved into a contract extension to Sun Microsystems that the IG claimed should have involved more favorable pricing terms.

Eva Neumann, president of ENC Marketing & Communications, a consulting firm that specializes in federal procurement, said regardless of whether the allegations are true, they unfortunately contribute to a general perception that government contracting is mainly subject to personal connections and backroom dealing, as opposed to strict rules and regulations.

GSA reputation takes a hit amid contracting impropriety charges PR Week (US) April 2, 2007

'(When people) hear about someone in government allegedly misusing their authority - and, of course, they're not guilty until proven guilty - it's a stain on all the government workers who (do) a good job and work hard to make procurement fair and equitable,' Neumann said, even though most procurements are done fairly.

O'Keeffe & Co. founder Stephen O'Keeffe, whose company works extensively with government IT contractors, noted that accusations about the propriety of the GSA's actions are extremely important because the agency's basic role is to arrange for fairly bid procurement contracts throughout the US government.

'GSA has to be beyond reproach,' he said. 'It's not just for (the sake of) American taxpayers, but also for other agencies because (they) are looking at GSA (in) trying to make decisions about how to handle their own procurements.'

Doan was also grilled about partisan activities. She was questioned about a January 26 lunchtime meeting at GSA headquarters involving herself, White House deputy director of political affairs Scott Jennings, and 40-plus Bush administration political appointees at the GSA, attending in person or via teleconference - a meeting Democratic committee members and the IG characterized as a violation of the Hatch Act, which prohibits federal employees from engaging in political activities while on duty.

Presented with the PowerPoint presentation used at the lunchtime meeting - which identified 'weak' Democratic candidates in the 2008 election - as well as statements by other meeting attendees that Doan had asked at its conclusion, 'How can we help our candidates?' or words to that effect, Doan repeatedly asserted that she had no memory of what she said and couldn't comment on it.

LOAD-DATE: April 2, 2007

May 3, 2020

Senator Mike Crapo
Chairman
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Senator Sherrod Brown
Ranking Member
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown:

We are current and former career Assistant United States Attorneys who worked with Brian Miller when he was in the U.S. Attorney's Office for the Eastern District of Virginia from 1993 to 2005. Some of us are Democrats and some Republicans. Some of us are conservatives, some liberals, and some moderates. We are united, however, in our view that Brian is a superb choice for the position of Special Inspector General for Pandemic Recovery, to monitor the disbursement of the major funding Congress has approved for distressed businesses, industries and local governments.

The formative stages of Brian's professional life molded him as they molded us -- as non-political officers of the Justice Department, determined to apply law with common sense, an even hand, and an eye toward carrying out statutes as Congress wrote them. Brian served a dozen years as a career Assistant United States Attorney for the Eastern District of Virginia, under Administrations of both parties. He then was unanimously confirmed as Inspector General of the General Services Administration in 2005, serving initially under President George W. Bush and then, for close to six years, under President Barack Obama.

We have known Brian personally and professionally for years. His reputation as a federal prosecutor and among the bar is as a man of independence and integrity -- a fair-minded, diligent, thorough and resourceful person dedicated to calling it as he sees it, without bias or prejudice. We believe he is well suited by character and temperament for the major assignment for which he has been nominated.

Respectfully submitted,

Jay Apperson
Assistant United States Attorney
Eastern District of Virginia (1987-1997)

Joseph J. Aronica
Senior Litigation Counsel
Chief, Criminal Division (1981-1986)
Chief, Special Prosecutions (1986-1992)
Assistant United States Attorney
Eastern District of Virginia (1979-1994)

David G. Barger
Assistant United States Attorney
Eastern District of Virginia (1979-1994)

Erik Barnett
Assistant United States Attorney
Eastern District of Virginia (2002-2010)

Daniel L. Bell II
Assistant United States Attorney
Eastern District of Virginia (1992-2000)

Stephanie Bibighaus
Assistant United States Attorney
Eastern District of Virginia (2002-2010)

Robert K. Coulter
Assistant United States Attorney
Eastern District of Virginia (1992-present)

Alessandra DeBlasio
Co-Chief, Appellate Division (1999-2002)
Assistant United States Attorney
Eastern District of Virginia (1999-2002)

Michael J. Elston
Co-Chief, Appellate Division (2003-2005)
Counsel to the United States Attorney (2005-2006)
Assistant United States Attorney
Northern District of Illinois
Eastern District of Virginia (1999-2006)

Vincent L. Gambale
Chief, Appellate Division (1999-2007)
Assistant United States Attorney
Eastern District of Virginia (1990-2007)

James P. Gillis
Assistant United States Attorney
Eastern District of Virginia (2002-present)

G. Wingate Grant
Assistant United States Attorney
Eastern District of Virginia (1980-2018)

Fernando Groene
Resident Legal Advisor -- Colombia (2007-2008)
Resident Legal Advisor -- Nicaragua (2005-2007)
Managing Assistant United States Attorney, Norfolk Division (2002-2005)
Supervisory Assistant United States Attorney, Norfolk Division (1999-2002)
Assistant United States Attorney
Eastern District of Virginia (1991-2011)

Neil Hammerstrom
Chief, National Security and International Crime Unit (2013-present)
Deputy Chief, National Security and International Crime Unit (2010-2013)
Chief, Terrorism and National Security Unit (2004-2010)
Assistant United States Attorney
Eastern District of Virginia (1988-present)

Rosanne Haney
Assistant United States Attorney
Eastern District of Virginia (1992-2020)

Jack Hanly
Assistant United States Attorney
Eastern District of Virginia (1985-present)

Patricia Haynes
Assistant United States Attorney
Eastern District of Virginia (1997-present)

Brian R. Hood
Assistant United States Attorney
Eastern District of Virginia (1999-present)

Robert W. Jaspen
Chief, Civil Division (1987-1998)
Assistant United States Attorney
Eastern District of Virginia (1975-1998)

Kathleen M. Kahoe
Executive Assistant United States Attorney (2006-2013)
Assistant United States Attorney
Eastern District of Virginia (1993-2013)

Dennis Kennedy
Assistant United States Attorney
Eastern District of Virginia (1986-2004)

Stephen P. Learned
Assistant United States Attorney
Eastern District of Virginia (1990-2011)

Lawrence J. Leiser
Assistant United States Attorney
Eastern District of Virginia (1983-present)

Laura Colombell Marshall
Assistant United States Attorney
Eastern District of Virginia (1998-2013)

Kenneth E. Melson
Attorney General and court-appointed United States Attorney
(April 2001 - September 2001, March 1993 - September 1993, July 1991 - October 1991)
First Assistant United States Attorney (1986-2007)
Assistant United States Attorney
Eastern District of Virginia (1983-2007)

James A. Metcalf
Assistant United States Attorney
Eastern District of Virginia (1980-2011)

Kevin J. Mikolashek
Special Assistant United States Attorney (2004-2005)
Assistant United States Attorney
Eastern District of Virginia (2005-2015)

John N. Nassikas III
Assistant United States Attorney
Eastern District of Virginia (1991-1995)

William G. Otis
Senior Litigation Counsel (1986-1999)
Chief, Appellate Division (1981-1999)
Assistant United States Attorney
Eastern District of Virginia (1981-1999)

Kimberly P. Pedersen
Assistant United States Attorney
Eastern District of Virginia (2002-present)

Edmund Power
Assistant United States Attorney
Eastern District of Virginia (2005-2010)

Debra J. Prillaman
Assistant United States Attorney
Eastern District of Virginia (1980-2012)

T.C. Spencer Pryor
Assistant United States Attorney
Eastern District of Virginia (2000-2005)

Janet Rehnquist
Special Assistant United States Attorney (1994-1997)
Assistant United States Attorney (1997-2001)
Eastern District of Virginia

Janet S. Reinke
Assistant United States Attorney
Eastern District of Virginia (1988-2004)

Gene Rossi
Special Assistant United States Attorney (1997-2001)
Assistant United States Attorney
Eastern District of Virginia (2001-2016)

David Schiller
Assistant United States Attorney
Eastern District of Virginia (1984-present)

Nash Whitney Schott
Assistant United States Attorney
Eastern District of Virginia (1978-2005)

Jerry Smagala
Assistant United States Attorney
Eastern District of Virginia (1990-2012)

Patrick Stokes
Assistant United States Attorney
Eastern District of Virginia (2002-2010)

Dennis Syzbala
Assistant United States Attorney
Eastern District of Virginia (1981-2005)

Karen P. Tandy
Administrator, Drug Enforcement Administration (2003-2007)
Assistant United States Attorney
Eastern District of Virginia (1979-1988)

Karen Taylor
Assistant United States Attorney
Eastern District of Virginia (2004-present)

James L. Trump
Senior Litigation Counsel
Assistant United States Attorney
Eastern District of Virginia (1990-present)

Robert Wiechering
Chief, Criminal Division (2012-2016)
Deputy Chief, Criminal Division (2009-2012)
Assistant United States Attorney
Eastern District of Virginia (1985-2016)



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May 1, 2020

Senator Mike Crapo
Chairman
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Senator Sherrod Brown
Ranking Member
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown:

I write in support of Brian Miller's nomination to serve as the Special Inspector General for Pandemic Recovery (SIGPR). That is a big job, and a tremendously important one. Brian is the right person for it.

Congress has provided nearly \$3 trillion to address the ongoing COVID-19 pandemic. *See* Coronavirus Aid, Recovery, and Economic Security Act (CARES Act), P.L. 116-136; Paycheck Protection Program and Health Care Enhancement Act, P.L. 116-139. It has done so during a fast-evolving and uncertain time. There is a rush to stand up mechanisms to disperse the allocated funds, a rush to solicit and to evaluate opportunities to use the funds, and a rush actually to deploy the funds. And all of that comes at a time when our country already was running an annual national deficit in excess of \$1 trillion; our national debt exceeds \$24 trillion. These things make me nervous, and I suggest that they should make you nervous as well.

I am glad, then, that Congress has created the SIGPR position to aid the oversight of the allocated funds. And I am glad that President Trump has nominated a seasoned professional, Brian Miller, to serve in that position.

I have been a practicing lawyer in Washington, D.C. for nearly twenty years. From 2011-2016, I served in the Office of General Counsel for the U.S. House of Representatives—primarily as the Deputy General Counsel and briefly as the Acting General Counsel. That experience in particular, and my private practice experience dealing with various inspector general investigations more generally, has provided me an appreciation of the crucial role played

Chairman Crapo and Ranking Member Brown

May 1, 2020

Page 2 of 3

by the various offices of inspector general. Without such offices, countless instances of fraud, waste, and abuse would go undetected, unexposed, and unrectified—and countless more would go undeterred. Inspectors general, doing their jobs properly, ferret out bad actors while also policing instances of incompetence and efficiency. And, unfortunately, there is bound to be some of all of that in this fast-evolving situation. I trust Brian to identify and expose each of those types of misconduct.

Here's why Brian is the right person to stand up and lead the new SIGPR office. He has served for decades in senior federal government positions—positions demanding and requiring integrity, seriousness of purpose, and dedication to the task at hand. Those positions include more than fifteen (15) years in the U.S. Department of Justice and, most importantly here, nearly another ten (10) years in the Office of Inspector General for the General Services Administration. In the latter position, Brian headed the office, serving as the GSA Inspector General for nearly a decade. In other words, Brian is an experienced professional; he is and will be ready to work as soon as he is confirmed—just as we need him to be.

One reason that I do not doubt Brian's independence and integrity is that I have observed those traits in action. In working with Brian on issues implicating various offices of inspector general, I have seen, for example, Brian argue forcefully against the conduct of his previous close working colleagues. Doing so may have offended some and strained relations with others, and Brian no doubt knew those risks. Still, he did not hesitate to speak out. If Brian's work as the SIGPR exposes misconduct in the Department of the Treasury, or elsewhere, I have no doubt that Brian will take decisive action to rectify that misconduct.

I know that President Trump's nomination of Brian has been criticized, primarily because Brian currently works in the White House Counsel's Office. That criticism is unfair.

First, to the extent the criticism stems from the thought that service in the current White House Counsel's Office marks Brian as a Republican, or even as a Republican with some sympathies for the efforts of the current Administration, that criticism is off base. Inspector Generals generally are to be nominated, and confirmed, "without regard to political affiliation." 5 U.S.C. App. 3, § 3(a). In the CARES Act, Congress apparently chose not to include that express provision. *Cf.* CARES Act, § 4018(b). Even if it had, however, an inspector general need not be agnostic as between the political parties; rather, partisanship simply is beside the point. What matters is the ability to set partisanship aside, and to serve with "integrity" as an independent watchdog. CARES Act, § 4018(b); 5 U.S.C. App. 3, § 3(a). Brian is a particularly strong nominee precisely because he has a demonstrated record of doing exactly that in his previous, extended service as an inspector general.

And, second, to the extent the criticism of Brian's nomination stems from the actions that the White House Counsel's Office has defended while Brian has worked there, again that criticism misses the mark. In his current position, Brian has a client (and also a boss—the White House Counsel). It has been Brian's role in his current position to best protect his client, within the bounds of ethical practice, just as is the job of any practicing lawyer. Brian's new role, as the

Chairman Crapo and Ranking Member Brown

May 1, 2020

Page 3 of 3

SIGPR, will be different, and it is a role he knows well from his previous inspector general service.

In short, I urge the Committee unanimously to support Brian Miller's nomination. The job is vital, and Brian brings just the integrity, experience, and professionalism necessary to succeed.

Sincerely,

A handwritten signature in black ink, appearing to read "William Pittard".

William Pittard

April 30, 2020

Dear Chairman Crapo and Ranking Member Brown:

In January 2016, I retired as a member of the Federal Senior Executive Service with over 41 years of professional experience. This includes over 36 years of audit experience with the U.S. General Services Administration (GSA) Office of Inspector General (OIG). During my tenure with the GSA OIG, I had the distinct opportunity of working for every GSA Inspector General from Kurt W. Muellenberg, the first IG, to the current IG, Carol Ochoa. Included in this distinguished list of Inspectors General, I had the pleasure of working very closely with IG Brian Miller during his 9-year tenure as the GSA IG.

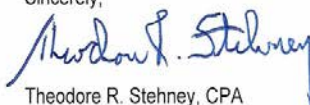
I have known Brian Miller both professionally and personally since 2005 and hold him in the highest regard. One of IG Miller's greatest attributes was, and is, his belief in the mission of the Office of Inspector General – to ferret out fraud, waste, and abuse - and his ability to discharge his duties as Inspector General while maintaining the paramount trait of an OIG – its independence.

In 2008 at the request of IG Miller, I developed and managed the OIG's forensic audit program. This program was instrumental in uncovering and successfully prosecuting an agency employee for his involvement in a \$600,000 embezzlement scheme.

In 2012, I had the great pleasure to nominate IG Miller for the David M. Walker Excellence in Government Performance and Accountability Award sponsored by the National Intergovernmental Audit Forum. This award recognizes and honors government audit professionals who have made sustained contributions to improve government performance and accountability through their leadership in transforming government organizations. In presenting IG Miller with the Walker Award, U.S. Comptroller General Eugene Dodaro recognized IG Miller's leadership in investigating and reporting on abusive spending and other improprieties by GSA officials during a 2010 GSA conference in Las Vegas.

I believe that Mr. Miller's experience has prepared him well to lead the oversight of the spending of government funds authorized under the Coronavirus Aid, Relief, and Economic Security Act of 2020. As such, I strongly support Mr. Miller's nomination for the position of Special Inspector General for Pandemic Recovery.

Sincerely,



Theodore R. Stehney, CPA
Assistant Inspector General for Auditing (Retired)
Office of Audits, Office of Inspector General
US General Services Administration

HELEN FAHEY
6015 N. 8th Place
Arlington, VA 22203

May 1, 2020

Senator Mike Crapo
Chairman
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Senator Sherrod Brown
Ranking Member
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

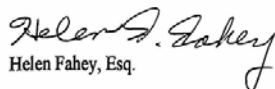
Dear Mr. Chairman and Ranking Member:

I write to support Brian Miller to serve as Special Inspector General for Pandemic Recovery. Brian's exceptional professional and personal qualities make him an ideal choice for this position.

I came to know Brian after I was appointed by President Clinton to serve as the United States Attorney for the Eastern District of Virginia. Brian was one of my Assistants, serving in our Civil Division. During the time that we worked together, I saw first-hand what a superb lawyer Brian was. Brian successfully handled many challenging and significant cases in the district. In addition to his strong litigation skills, Brian displayed excellent judgment while always adhering to the highest professional and ethical standards. Brian's fair-minded approach earned him the respect of colleagues, adversaries and judges.

The Special Inspector General for Pandemic Recovery should be someone with experience, sound judgment, independence and impeccable integrity. I highly recommend Brian Miller for this position.

Sincerely,


Helen Fahey, Esq.

April 29, 2020

Senator Mike Crapo
Chairman
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Senator Sherrod Brown
Ranking Member
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman and Ranking Member,

The purpose of this correspondence is to highlight our direct knowledge and experiences with former U.S. General Services Administration Inspector General (IG) Brian Miller. We respectfully submit a snapshot of our collective experiences serving under the leadership of former IG Miller, in order to provide a clearer perspective of IG Miller's leadership, objectivity, and unbiased approach concerning highly complex and sensitive investigations.

The undersigned collectively have over 55 years of experience in the United States military and various federal law enforcement agencies, serving as police officers, criminal investigators, and various leadership positions. We emphatically state with absolute certainty that there is no greater leader we were fortunate enough to serve under, during our entire careers as public servants.

We had the distinct privilege and honor to serve under the leadership and tutelage of former IG Brian Miller from the period of 2010 - 2014 as U.S. General Services Administration Office of Inspector General (GSA OIG) special agents. In fact, both undersigned were case agents regarding the Western Regions Conference investigation, to include the parallel criminal investigation.

On April 2, 2012, former IG Miller and his team authored a Management Deficiency Report. This report exposed the now infamous GSA Las Vegas Conference scandal that resulted in Congressional hearings, the administrative removal of a former GSA Administrator, senior executives, managers, and rank and file employees. The wasteful government spending Mr. Miller uncovered featured mind-readers, clowns, rented tuxedos, \$99 dinners, and private parties in two-story loft suites. During the writing of the report, former IG Miller maintained a fair and balanced approach, concentrating exclusively on the legal aspects and merits of the case.

In fact, subsequent bipartisan Congressional oversight swiftly implemented rules and regulations that resulted in hundreds of millions of dollars in cost avoidance and savings to the American taxpayer. The streamlined approach renewed conference expenditure oversight,

which impacted all Federal agencies and branches of government, allowing agencies to redirect appropriated funding towards enhanced organizational efficiency and effectiveness.

During the initial criminal referral to the Department of Justice, a criminal case was initiated and an active GSA OIG investigation ensued. Consequently, our preliminary findings yielded clear and convincing evidence that the former top-level GSA Administrator, charged with oversight of the Pacific Rim Region, engaged in deliberate, egregious illicit conduct related to alleged, official travel.


Although members of former IG Miller's executive staff considered closing the investigation, former IG Miller allowed the active investigation to proceed, assuring case agents that resources, funding, and necessary support would continue. This allowed us to gather, review and analyze all material facts that eventually led to the investigation's logical conclusion. As a result, the investigation yielded the successful criminal prosecution of the former senior executive by the Northern District of California United States Attorney's Office.

There remains no doubt that but for former IG Miller's unbiased objective approach, commitment to the Constitution and the rule of law, this critical investigation would have fallen by the wayside, incapable of holding a top-level federal official accountable, nor providing a general deterrence to other senior executives contemplating similar, illicit activity.

It is our hope that this vignette exemplifies former IG Miller's objectivity, independence, and ability to do the right thing, impervious to political direction or influence. He always provided solid oversight, sound judgement, and fearless leadership to special agents, auditors, attorneys, analysts and other IG staff.

In closing, IG nominee Brian Miller's exemplary body of work as a distinguished, career public servant has undoubtedly equipped him with the moral and ethical compass necessary to continue his unwavering and exemplary service to the American tax-payer, dedication to the U.S. Constitution and his commitment to the rule of law. If confirmed by the Senate as Special Inspector General for Pandemic Recovery, he will continue to identify, prevent, and pursue individuals, processes, and programs responsible for fraud, waste, and abuse.

Respectfully submitted,


Michael Ramos
Former Assistant Special Agent in Charge
U.S. General Services Administration
Office of Inspector General


H. Scott Mumper
Former Special Agent
U.S. General Services Administration
Office of Inspector General

April 30, 2020

Senator Mike Crapo, Chairman
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Senator Sherrod Brown, Ranking Member
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman and Ranking Member:

I am writing to express my unequivocal support for the nomination of Brian D. Miller to serve as the Special Inspector General for Pandemic Recovery. Brian's lifelong distinguished career in public service, commitment to the pursuit of justice, and exemplary performance as an independent federal Inspector General combined with his remarkably calm and analytic approach to complex problems make him an excellent choice to organize, lead and operate this critical oversight function.

I have had the privilege to have known and worked with Brian in multiple capacities over the last two decades. I served as the Inspector General of the National Reconnaissance Office from 2003-2009, where I frequently worked with Brian in presenting fraud cases for prosecution during his tenure with the United States Attorney's Office for the Eastern District of Virginia. Brian aggressively pursued wrongdoing by both contractors and employees, placing the taxpayer's interests above any artificially created minimum dollar thresholds for prosecution. Beginning in 2005, Brian and I concurrently served in IG positions when he was nominated and confirmed for the role of Inspector General at the General Services Administration (GSA). In his typically methodical approach, Brian consulted with several tenured IGs to gather insights that he clearly adopted into his own leadership role. It is widely known that Brian's tenure at the GSA-IG included audits and investigations that ultimately received a great deal of public attention and scrutiny. Brian approached the issues involving the former GSA Administrator in a professional, balanced and unbiased manner, always focusing on the facts rather than personalities or politics. Despite controversy and pushback, Brian demonstrated the finest attributes of an IG: professionalism, fairness, independence and commitment to the best interests of the government and the taxpayer. His performance earned the respect of those who worked for him at the GSA, and widespread support among his IG colleagues.

During his tenure as the GSA-IG, Brian also served as the Director of the National Procurement Fraud Task Force at the Department of Justice. I was a member of that group and worked with Brian as Chair of the Private Sector Outreach Committee. With Brian's steady leadership, we were able to craft revisions to the Federal Acquisition Regulations requiring mandatory reporting of procurement fraud to the government. These provisions substantially improved the government's ability to both prevent and detect procurement fraud in government programs.

Chairman/Ranking Member
April 30, 2020
Page 2

Since my retirement from the Central Intelligence Agency in 2011, I have served as an Independent Monitor for companies that have negotiated settlement, administrative or deferred prosecution agreements with federal and state agencies and regulators. In 2017-2018, I was indeed fortunate to have served as the co-Monitor with Brian on a Department of Defense matter involving a California contractor. In this capacity, I was able to observe first-hand Brian's professionalism, attention to detail, fairness and commitment to doing the job the right way.

In my view, the position of Special IG for Pandemic Recovery is critical to preventing, detecting and effectively remediating any fraud, waste and abuse that is likely occur in the many programs that comprise our significant investment of funds into the economy. Experience has taught us that all government programs, particularly those that are developed under emergency conditions, will be the targets of unscrupulous people and companies. In order to protect the country's investment and the taxpayers' interests, the credibility of the oversight effort is paramount. It is therefore imperative that this Office of Inspector General be led by an individual with impeccable professional credentials in auditing and investigating federal programs; a proven ability to attract the necessary talent and quickly staff up an efficiently functioning office; an honest, collaborative approach to accomplishing the oversight mission; a demonstrated willingness to withstand outside pressure and follow the truth, wherever it may lead; and an objective and independent mindset that puts compliance with professional standards above any other objectives.

I firmly believe that Brian Miller has repeatedly demonstrated these skills and abilities and is uniquely qualified to serve as the Special IG for Pandemic Recovery. I therefore strongly support his nomination. I would be happy to answer any further questions that you might have.

Respectfully Submitted,



Eric R. Feldman
Former Inspector General,
National Reconnaissance Office

LETTER OF SUPPORT FOR NOMINEE DANA WADE



May 4, 2020

The Honorable Mike Crapo
Chairman
Committee on Banking, Housing, and
Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and
Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of the Mortgage Bankers Association (MBA), I am writing you in support of the nomination of Dana Wade to be Assistant Secretary for Housing and Federal Housing Administration (FHA) Commissioner at the U.S. Department of Housing and Urban Development (HUD). Following the hearing on her nomination to be held on Tuesday, May 5, I would respectfully urge the committee and the full Senate to consider her nomination as expeditiously as possible.

Ms. Wade's previous experience as Acting Assistant Secretary for Housing and FHA Commissioner from July 2017 to June 2018, as well as her senior staffing roles at the Office of Management and Budget and within the United States Senate, provide her with a unique perspective on the issues facing our nation's housing and mortgage markets. This experience will serve her well at FHA, where she will manage over 2,400 employees and a \$1.3 trillion mortgage portfolio. Most importantly, if confirmed, she will be tasked with guiding the FHA program to better serve borrowers who face economic distress due to COVID-19-related hardships.

MBA commends Ms. Wade for her work with Ginnie Mae to help establish a lending facility in response to the COVID-19 pandemic, a development enabling many mortgage servicers to better serve borrowers who are seeking assistance at this critical time. This type of facility, and others being considered by the Federal Reserve and the Treasury Department, are vital to the health of the mortgage finance market and are crucial for residential and commercial/multifamily mortgage servicers to provide unprecedented levels of mortgage payment forbearance as authorized under the CARES Act (P.L. 116-136).

The real estate finance industry looks forward to our continued work with Congress, the White House, HUD, Treasury, the Federal Housing Finance Agency, the Federal Reserve, other federal regulators, and state and local officials to ensure that borrowers, renters, and small businesses are properly supported and protected during this pandemic.

While addressing this crisis and preparing for the future, MBA believes FHA must continue to address several critical management priorities, including enhancing efficiency and technology deployment, improving and streamlining servicer requirements, and ensuring the long-term financial stability of the FHA program. Ms. Wade's extensive background and knowledge of HUD and the housing market will help guide FHA to support access to sustainable credit and affordable housing, as well as maintain the critical multifamily public-private partnership.

I would again respectfully urge the Banking Committee and, in turn, the full Senate, to approve Ms. Wade's nomination as soon as possible. MBA looks forward to working with her in this new and enhanced role. Thank you in advance for your consideration of these views.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Broeksmit", with a stylized flourish at the end.

Robert D. Broeksmit, CMB
President and Chief Executive Officer

cc: All Members, Senate Committee on Banking, Housing, and Urban Affairs