

**NOMINATIONS OF
ROBERT H. SHRIVER III AND
RICHARD L. REVESZ**

HEARING

BEFORE THE

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

SECOND SESSION

NOMINATIONS OF ROBERT H. SHRIVER III TO BE DEPUTY DIRECTOR,
OFFICE OF PERSONNEL MANAGEMENT, AND RICHARD L. REVESZ
TO BE ADMINISTRATOR, OFFICE OF INFORMATION AND
REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET

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CONTENTS

Opening statements:	Page
Senator Peters	1
Senator Lankford	3
Senator Hawley	13
Senator Sinema	17
Senator Rosen	19
Senator Padilla	22
Senator Carper	24
Prepared statements:	
Senator Peters	33
Senator Lankford	35

WITNESSES

THURSDAY, SEPTEMBER 29, 2022

Robert H. Shriver III to be Deputy Director, Office of Personnel Management	
Testimony	5
Prepared statement	37
Biographical and professional information	40
Letter from U.S. Office of Government Ethics	56
Responses to pre-hearing questions	59
Responses to post-hearing questions	77
Richard L. Revesz to be Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget	
Testimony	7
Prepared statement	88
Biographical and professional information	90
Letter from U.S. Office of Government Ethics	110
Responses to pre-hearing questions	114
Responses to post-hearing questions	131
Letters of support	144

NOMINATIONS OF ROBERT H. SHRIVER III AND RICHARD L. REVESZ

THURSDAY, SEPTEMBER 29, 2022

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

The Committee met, pursuant to notice, at 10:30 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Gary Peters, Chairman of the Committee, presiding.

Present: Senators Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Scott, and Hawley.

OPENING STATEMENT OF CHAIRMAN PETERS¹

Chairman PETERS. The Committee will come to order.

Today, we are considering the nominations of Robert Shriver III to be Deputy Director of the Office of Personnel Management (OPM) and Richard Revesz to be Administrator of the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB).

Welcome to both of you and to your family members who are seated behind you. We welcome all of you today, and thank you for joining us. I also want to congratulate each of you on your nominations and thank you for your willingness to take on these important roles in the Federal Government.

Both of the positions we are considering nominations for are going to require independent, non-partisan leadership to serve in the best interests of the American public.

The Office of Personnel Management develops and administers human capital policies for the Federal workforce and functions as the bedrock of our nation's personnel and management efforts across the Executive Branch, while the Office of Information and Regulatory Affairs serves as the central authority for the review and coordination of Federal regulations.

Mr. Shriver, if confirmed, you will be OPM's Deputy Director charged with setting policies for more than 1.8 million dedicated public servants, which will require agency leadership that can build confidence in OPM, and maintain a non-partisan, merit-based workforce that serves every American.

The Deputy Chief Human Resources Officer (CHRO) is a significant undertaking, and I believe your extensive experience in public service, including current and prior experience at OPM, will help

¹The prepared statement of Senator Peters appears in the Appendix on page 33.

provide an innovative vision for the future of the Federal workforce.

Likewise, the OIRA Administrator is an incredibly important position.

Mr. Revesz, if confirmed, you will lead six subject matter branches, and be responsible for ensuring the office provides transparency into regulatory decisions and promotes public participation in the rulemaking process.

Your long history of both academic and legal analysis on the modernization of the regulatory process, improving cost-benefit analysis, and ensuring greater transparency and participation in the rulemaking process will certainly serve the office well.

While OIRA is a small, relatively unknown office in the Federal Government, it actually manages Federal rules and regulations that impact Americans' daily lives in a number of different ways.

The decisions that your agency will make can affect everything from repairing roads and bridges, funding K-12 schools, and protecting our air and drinking water. People in Michigan, and across the country, depend on OIRA to work with Federal agencies to efficiently and effectively implement important safeguards that will protect the health and safety of all Americans.

While few folks outside of Washington are familiar with OIRA, they know all too well how delayed regulatory impacts can affect their lives.

For too long, essential safeguards for lead in drinking water and polyfluoroalkyl substances (PFAS) substances, toxic chemicals that are widely used in industry and consumer products, remain stalled in the regulatory review process.

Despite Federal agencies promising to take a more proactive approach to address this crisis, Michiganders in communities like Flint, Oscoda, and Parchment in my home State cannot drink the water from their own faucets without fearing the ingestion of toxins like lead or PFAS.

While regulations are the responsibility of Federal agencies, they must be reviewed by OIRA before they can be adopted.

That is why as Chairman of the Senate's top oversight committee, I know it is critical lawmakers pursue regulatory reforms that reduce duplicative or burdensome processes while maintaining important protections for health, safety, and economic security, and I look forward to working with OIRA to make progress on these important reforms.

In short, if confirmed, both of you will have a dramatic impact on families, businesses, and communities in Michigan as well as across the country.

I am pleased that President Biden has nominated two distinguished and highly qualified nominees to serve in these incredibly important positions.

Today I look forward to hearing from both of you about your experience and qualifications and how you plan to serve. Thank you.

Senator Lankford, you are now recognized for your opening comments.

OPENING STATEMENT OF SENATOR LANKFORD¹

Senator LANKFORD. Mr. Chairman, thank you.

Hearts and prayers today go out to the folks in Florida. They have had a very difficult past 24 hours, to say the least, and they will have a long recovery process on that. I wanted to remind folks as we are going through important business today that our hearts are all still in Florida as well.

I do want to thank the Chairman for actually holding this hearing today. I am filling in as Ranking Member today on this, to be able to work on two incredibly important nominees that my Subcommittee is very involved in. That is the issue of regulatory affairs and Federal workforce policy.

Rob Shriver III, because I just met the second as well—is nominated to be the Deputy Director of OPM. He is a professional with 25 years of experience working on the issues related to Federal employees.

We have had the opportunity to be able to talk at length already before this hearing on several of the Federal workforce hiring issues and some of the challenges. There are significant challenges on the Federal workforce.

Over the past decade, OPM has had to navigate many changes in leadership, structural overhauls, a major cybersecurity event, while attempting to achieve its mission to lead Executive Branch Federal workforce policy and administer the benefits programs for the Federal family, as well as handling retirement issues.

OPM continues to have many challenges it needs to address. For instance, it takes 100 days, on average, for the Federal agencies to be able to hire a new employee, 100 days. Everyone know, for a very long time, has said that has to come down, and there have been benefits in the ones and twos of days, but not in the significant time period it really takes to be able to handle that.

Another on the other end, not just the hiring, it is actually on the retirement process, OPM manages a paper-based retirement system out of a cave in Pennsylvania. This has to be resolved for our Federal retirees as well. If we are going to have a modern, effective Federal workforce, OPM has to be a modern, effective agency as well in leading that. I look forward to that conversation today.

Dr. Ricky Revesz has a long academic career with an extensive list of publications, including many books, academic articles, op-eds. The Administrator of OIRA, as I mentioned to him in our extensive conversation as well prior to this meeting, is the most important job in Washington that no one has ever heard of. That task, at OIRA, sets the parameters for how we are going to do regulations in every single agency.

I have long been concerned, quite frankly, that this Administration has been so slow to be able to nominate someone to OIRA, and my concern has been they have not been serious about the regulatory issues. I hope I am wrong about that because regulatory policy affects everyone. Fair, predictable, regulatory policy allows businesses, particularly small businesses, to be open, to plan for the fu-

¹The prepared statement of Senator Lankford appears in the Appendix on page 35.

ture, to thrive. It absolutely affects everything in our economy, in our safety of how we handle our way of life.

Drastic swings in policy from administration to administration creates uncertainty. We need safe food. We need safe working conditions. Regulatory policy has to be known, predictable, and it has to follow the rules that have been passed down by Congress.

OIRA is the gatekeeper that ensure the Executive Branch follows the law, completes cost-benefit analysis, does not cut corners for convenience. The job of the OIRA Administrator is to often tell your boss and agency heads, "No, that is not the way the law is actually written. We have to be able to follow the law." It is very similar to the role of the General Counsel (GC) in each of our agencies to be able to have that moment of advice to say, "This is the right way to do it, and if you want to be able to do it, let us follow the law." It protects the taxpayers from years of litigation in the days ahead.

Professor, there will be many in the Administration that are going to press, because every administration does, Republican and Democrat. They press on OIRA to be able to go faster, to do different. But you will have the unique role of being able to look and folks and say, "Let's follow the law," and that is a good spot to be able to be.

In closing, I look around this dais and I see relatively few people that are engaged. That says two things to me. One of them, it tells most folks that they have looked at your resume, they looked at your background and see that it is consistent, and so there is not a big press. It also reminds me of the last time an OIRA nominee was in front of this Committee. They actually sat by themselves, and that was Paul Ray, and they went through hours of blistering questions, and went through page after page of questions for the records afterward, harassing him.

This is a different type of conversation that is actually happening today, and it is good to be able to see my Republican colleagues treating everyone fairly, because we have had individuals that have not been treated fairly in the past administration in this exact same role in this.

I am glad to be able to see a good, fair dialog, to be able to go through very difficult issues today.

With that I yield back.

Chairman PETERS. Thank you, Senator Lankford.

It is the practice of this Committee to swear in witnesses, so if each of you would please stand and raise your right hand.

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

Mr. SHRIVER. I do.

Mr. REVESZ. I do.

Chairman PETERS. Thank you. You may be seated.

Our first nominee is Robert Harley Shriver III, to be Deputy Director of the Office of Personnel Management. Mr. Shriver is the Associate Director for Employee Services at OPM, where he leads OPM's governmentwide workforce policy team. His expertise includes recruiting and hiring, pay and leave, strategic workforce planning, labor and employee relations, performance management,

the Senior Executive Service (SES), work-life balance, and the future of work.

Previously he served at OPM during the Obama Administration as the Deputy General Counsel for Policy, leading the development and implementation of a number of governmentwide initiatives. He has also served as OPM's Assistant Director for National Healthcare Operations, where he led the implementation of the multi-state plan program under the Affordable Care Act (ACA).

Mr. Shriver, welcome to the Committee. You may proceed with your opening remarks.

TESTIMONY OF ROBERT H. SHRIVER III,¹ TO BE THE DEPUTY DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT

Mr. SHRIVER. Thank you, Mr. Chairman and distinguished Members of the Committee for welcoming me here today. It is an honor to be considered by this Committee as President Biden's nominee for Deputy Director of the Office of Personnel Management.

I want to start by recognizing the hard-working employees of the Federal Government, and in particular those at OPM. I would not be here today without their dedication and commitment to their mission. I care deeply about the civil service, about OPM, and about all Federal employees, and I thank them for their service.

I am also fortunate to have several family members with me here today. My wife, JoAnn Martinez, is here with two of our three children, Mitch and Justine. Our oldest son, Robby, is away for his first year of college so he could not be here today. I want to thank my kids for all the joy they bring me, as well as the support and patience they have shown throughout my career. I especially want to thank JoAnn for her partnership, as both of us have balanced demanding careers with raising our family, and for her kindness and strength throughout our 22 years of marriage.

I am also blessed to have my father, Robert H. Shriver, Jr., my mother, Norma, and my sister, Melinda, here with me today. My parents are retired schoolteachers, and my sister is a public school administrator. They have traveled from Nazareth, Pennsylvania, to support me today, as they have done consistently and steadfastly throughout my entire life.

I was raised in middle-class family in the working-class town of Nazareth, Pennsylvania. I was fortunate to be able to go to college, but I needed to work to contribute to the costs. During high school, I worked in the paint department of a K-Mart near my house. When I went off to college at Virginia Tech (VT) in Blacksburg, Virginia I washed dishes and served food in the dining hall. Then, when I went to George Washington University Law School (GW LAW) here in Washington, DC, I got a job at a law firm, not as a summer associate but as a file clerk. The idea of an unpaid internship did not even occur to me. I needed a paycheck, and working in the file room got me that.

I have carried those lessons on the importance of hard work into my professional career. I have had the good fortune to work in several positions at OPM, including my current position as the Associate Director for Employee Services, where I lead OPM's govern-

¹The prepared statement of Mr. Shriver appears in the Appendix on page 37.

mentwide workforce policy team. I have also worked in State government, for a labor union, and in the private sector. I have held jobs that focused on law, policy, operations, and Information Technology (IT). I have represented both labor and management. I have been a purchaser and a seller of services for the government. I have been a stakeholder and led stakeholder engagement. I have had tremendous mentors who taught me how important it is to help the next generation of employees, something that drives me every day.

Through it all, I have been driven by one overarching principle: to help make the government work better for the American people.

OPM is a critical agency for effective and efficient government operations. I like to say that “everybody is in OPM’s business because OPM is in everybody’s business.” What I mean is that strategic workforce management is critical to every agency in government, and OPM exists to provide expert guidance, advice, and support on the full range of workforce matters.

OPM also exists to preserve and protect the nonpartisan, career civil service. Day in and day out, we balance these two foundational principles—how can we advance innovation in strategic human capital management while honoring the bedrock principles of our merit system that dates to the Pendleton Act of 1883.

If confirmed as Deputy Director, I will strive to build on the successes OPM has had over the past 20 months. I will leverage the experience I have had working in three different offices to drive policy innovation and customer service improvements across the agency. In partnership with Director Ahuja, I will apply the work ethic ingrained in me by my parents and community from an early age toward advancing my overarching leadership principle—help make the government work better for the American people.

I want to thank you Chairman, Ranking Member, and all Members of the Committee and their staffs for taking the time to meet with me, both today and beforehand. If I am fortunate enough to be confirmed, I look forward to continuing our conversations and, with Director Ahuja, strengthening the relationship between OPM and this Committee.

I am happy to answer any questions you may have.

Chairman PETERS. Thank you, Mr. Shriver.

Our second nominee is Richard Revesz, to be Administrator of the Office of Information and Regulatory Affairs at the Office of Management and Budget.

Mr. Revesz is the AnBryce Professor of Law and Dean Emeritus at the New York University School (NYU) of Law and one of the nation’s leading voices in the fields of both environmental and regulatory law and policy.

In addition to his work at NYU, he founded the Institute for Policy Integrity, a think tank and advocacy organization that promotes policies for the environment, for public health, and consumers. He has also served as the Director of the American Law Institute, a leading independent organization in the United States that produces scholarly work to clarify, to modernize, and improve the law.

He has also published 10 books and more than 80 articles in major law reviews and journals, advocating for protective environmental policies.

Mr. Revesz, welcome to the Committee. You may proceed with your opening remarks.

**TESTIMONY OF RICHARD L. REVESZ,¹ TO BE ADMINISTRATOR,
OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OF-
FICE OF MANAGEMENT AND BUDGET**

Mr. REVESZ. Chairman Peters, Ranking Member Lankford, and Members of the Committee, it is a privilege to come before you as President Biden's nominee to be the Administrator of the Office of Information and Regulatory Affairs. I would like to thank all the Members of the Committee for considering my nomination, the Members who took the time to speak with me before this hearing, and the staff for their help and guidance throughout this process. I am enormously grateful to the President for the trust reflected by this nomination. I am deeply honored and humbled.

As I was growing up in Argentina during the very turbulent 1960s and 1970s, when democratic rule was routinely interrupted by coups and deadly political violence, I could have never imagined that I would be sitting in this chair one day. I grew up speaking Spanish and learned English as a second language. I came to the United States to go to college in 1975, when I was 17. I arrived two weeks before the beginning of my freshman year at Princeton, as Argentina was entering a six-year period during which between 10,000 and 30,000 people were killed through government-led violence in a country with a tenth the population of the United States. I am so grateful for the academic excellence that the United States offered me and for the safe haven it provided me during this time of turbulence.

The United States has given me extraordinary opportunities. I became a U.S. citizen in 1982, when I was a second-year law student. Only two-and-a-half years later,

I came to Washington, D.C. to serve as a law clerk to Justice Thurgood Marshall, which was an honor of a lifetime.

I am enormously proud of my family members and deeply grateful for their extraordinary support. My wife, Vicki Been, to whom I have been married for 33 years, is my colleague on the NYU Law School faculty. For six of the last eight years, she served in New York City government, first as Commissioner of the Department of Housing Preservation and Development, and then as Deputy Mayor for Housing and Economic Development.

My son, Joshua Revesz, is a lawyer in the Civil Division at the U.S. Department of Justice (DOJ). My daughter, Mira Revesz, could not be here because she is a high school English teacher in Massachusetts and has a full day of classes today. My daughter-in-law, Hilary Ledwell, recently left the Department of Homeland Security (DHS) to serve as a judicial law clerk. I very much admire the commitment to public service that each of them displays in their endeavors and hope to emulate it if I am confirmed.

I am sad that my parents are both deceased and could not accompany me today. My father, Nicolas Revesz, was displaced by the Holocaust in Eastern Europe, and at a relatively young age, had to cope with the murder of both his parents and five of his

¹The prepared statement of Mr. Revesz appears in the Appendix on page 88.

seven sisters at Auschwitz. He died when I was only eight years old. My mother, Nora Revesz, was also displaced by World War II and its aftermath. After a round-about journey, she became a U.S. citizen and got to see the unfolding of a significant portion of my legal career.

During my 37 years as a law professor, I have worked extensively on areas related to government regulation. The bulk of my work has been on environmental, health, and safety regulation, but I have dealt with other regulatory areas as well. I have also focused on the structure of the Executive Branch and on the role of OIRA as a coordinator of Executive Branch activities.

In addition to my academic work, I have learned a great deal about how the Federal Government functions through my service as a Public Member and Senior Fellow of the Administrative Conference of the United States (ACUS), and on committees of the Environmental Protection Agency (EPA), the National Science Foundation (NSF), and the National Research Council (NRC).

Over the last two decades, I have been entrusted with several leadership positions, including my service as Dean of NYU Law School from 2002 to 2013, and since 2014, as Director of the American Law Institute. In those positions, I have an open-door, collaborative management style. I am accessible to my staff and responsive to their concerns. I believe in hearing a full range of perspectives before making a decision. I lead by example and not by command. I would bring the same management style to my position leading OIRA.

If confirmed, I would be honored to work with the President and Congress to ensure that our nation's regulatory policies serve the interests of the American people.

Thank you again for considering my nomination. I would be delighted to answer your questions.

Chairman PETERS. Thank you, Mr. Revesz.

There are three questions that the Committee asks of every nominee, so I am going to ask each of you to respond briefly, just with a yes or no. We will start with you, Mr. Shriver, and then Mr. Revesz.

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

Mr. SHRIVER. No, Mr. Chairman.

Mr. REVESZ. No, Mr. Chairman.

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

Mr. SHRIVER. No, Mr. Chairman.

Mr. REVESZ. No, Mr. Chairman.

Chairman PETERS. Last, do you agree, without reservation, to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Mr. SHRIVER. Yes, Mr. Chairman.

Mr. REVESZ. Yes, Mr. Chairman.

Chairman PETERS. Great. Thank you.

Mr. Revesz, on his first day in office, President Biden issued a memorandum entitled “Modernizing Regulatory Review,” directing the production of recommendations to improve and to modernize the regulatory review process.

My question for you is, if confirmed, what will be the first concrete steps that you will take to finalize the actions required in this memorandum, and what do you believe are the most important reforms that should be made a OMB Circular A4 to help modernize the regulatory review process in the Federal Government?

Mr. REVESZ. Thank you, Mr. Chairman.

I am strong believer in evidence-based decisionmaking. Circular A-4, which provides guidance to agencies on how to conduct their cost-benefit analyses is a very important document that is now almost 20 years old. As the President called for in his memorandum, “Modernizing Regulatory Review,” Circular A-4 should be updated to account for advances in scientific and economic understanding in how the costs and benefits of regulation affect the American people and are distributed across populations.

If confirmed, my first step will be to receive an update from staff on the progress that has been made thus far and see what needs to be done to move forward with the President’s command.

Chairman PETERS. Thank you, Mr. Revesz.

Mr. Shriver, Federal retirees have been reaching out to my office a great deal to express an incredible amount of frustration with the length of time that it takes the OPM to process their retirement claims.

If confirmed as Deputy Director, how are you going to work to reduce these retirement claim delays, including modernizing OPM’s legacy retirement systems, and that means transitioning from a paper-based system and Excel sheet calculators to really an updated platform and updated tools that can expedite this process? If you could give us your views on that and how you plan to tackle that challenge, I would appreciate it.

Mr. SHRIVER. Thank you for the question, Mr. Chairman, and let me start by saying that we do need to do better by our Federal retirees. These are folks who commit their careers to Federal service, and when it comes time to retire they need to be getting top-notch customer service.

I know though, I do not oversee retirement services in my current role as Associate Director of Employee Services, I do know that the team work hard, day in and day out, to serve those retirees.

I think you are right in that the systems do need some modernization. I know there have been past efforts over many years and across many administrations to modernize the retirement system.

Obviously there are some challenges there that I look forward to being briefed on. If I were lucky enough to be confirmed I would be excited to bring to bear my experience in operations and customer service that I gained in the health care space, and certainly as Deputy Director I would prioritize improving customer service for our retirees.

Chairman PETERS. Given your experience in customer service and the work that you did prior, give me some sense of how you

believe we can improve the customer experience for Federal employees and retirees both, current employees as well, that rely on the OPM for their benefits and services.

Mr. SHRIVER. Thank you for the question, Mr. Chairman, and certainly OPM is rebuilding capacity. As Ranking Member Lankford laid out in his opening statement, OPM has been through a turbulent several years, and so we are certainly rebuilding the capacity of the agency and looking at our customer service capabilities.

I think one of the things that I can say, just from my experience in my current role, it is really important to build good relationships with the agencies, not only with the Chief Human Capital Officers (CHCOs) but with other parts of the agencies that maybe work in certain policy areas or work on benefits, for example.

A lot of the challenges that happen with respect to retirement processing have to do with the way that information transfers between agencies and OPM in particular, if somebody has worked in multiple agencies or under multiple retirement systems.

But with respect to customer service writ large, agencies rely on OPM in any number of ways to have approvals for expedited hiring authority when there is a critical hiring need, or special pay authority, and we have been working really hard to build those relationships with the agencies and be proactive and help them problem solve so that OPM can re-establish itself as the strategic human capital leader for the Federal Government.

Chairman PETERS. Great.

Mr. Revesz, we held a hearing earlier this year in the Committee on the need to improve the customer experience for citizens as they interact with government, and we heard how the Paperwork Reduction Act (PRA) and the Privacy Act can create some significant hurdles to delivering high-quality citizen services to the American people.

In addition, this Committee recently passed the Disaster Assistance Simplification Act, which basically exempts large portions of the PRA and the Privacy Act to ensure disaster survivors can easily and quickly receive benefits they deserve. Likely a lot of folks in Florida are going to be interesting with this system after the hurricane just swept through, as an example, and folks often in a very difficult time in their life have to wade through a variety of paperwork, and different paperwork for different agencies, to try to get help that they desperately need.

My question for you is, do you agree that the PRA and Privacy Act could be updated to take advantage of modern customer experience, information technology, and data-sharing developments?

Mr. REVESZ. Thank you, Mr. Chairman. The PRA has important goals. It seeks to ensure that government information requests generate useful information and not impose excessive burdens on the American people. Information should also be collected in ways that make useful across the Federal Government, for example, by using consistent protocols.

The PRA dates back to 1995. It is now more than 25 years old, and amendments might well be appropriate. If confirmed, I look forward to working with Members of this Committee and their staffs and learning more about what experience with stakeholders

under the PRA has been during the period since the statute's passage.

But I do agree that figuring out how best to respond to the needs of the American people through the PRA is an extremely important goal.

Chairman PETERS. I appreciate that. There is a lot of work to do in that area, and breaking through some of the bureaucratic hurdles I would hope would be a priority for you if you are confirmed. Will it be a priority?

Mr. REVESZ. I will be a priority, Mr. Chairman.

Chairman PETERS. Great. Thank you.

Ranking Member Portman, you are recognized for your questions.

Senator LANKFORD. I will be the Portman fill-in today on that one. [Laughter.]

Chairman PETERS. Oh my gosh.

Senator LANKFORD. You did, actually.

Chairman PETERS. Force of habit.

Senator LANKFORD. Muscle memory.

Chairman PETERS. That is exactly right. Ranking Member Lankford.

Senator LANKFORD. Thanks for being here. Thanks again. Thanks to your families as well, coming in. It is a long day, to be able to be here, and through all the dialog and conversation. It is a long process to be able to go through.

Both of these roles are nonpartisan roles. Now there is no question each of us have partisan preferences on this. But the important thing for OPM and for OIRA is we have, as Congress, the confidence that we are just following the law and trying to be able to help individuals in the Federal workforce to be able to both get hired, good oversight and management, good retirement process. Again, these should not be partisan types of roles and tasks in that.

I would tell you, as we have spoken personally on this, I would count on nonpartisan activity happening in the Office of Personnel Management and the Office of Information and Regulatory Affairs.

Saying all that, I do want to walk through a couple of things. Mr. Revesz, we talked yesterday briefly about this, that I have had individuals that work in companies, they are new in a company and they start with a process and they start to be able to look at the issues that are related to their company and guidance documents that are available from Federal agencies, and they start searching and they find quickly they have to be an expert in the Federal Government to just find out what guidance documents relate to their business.

Right now, reginfo.gov exists. Is there any barrier for OIRA actually putting in all of the guidance documents for anyone who is trying to be able to search guidance documents, into reginfo.gov so that a new person or an experienced person that is trying to be able to pull up just what guidance is out there for my company can go find that? Because currently, that does not exist at this point for one central clearing house for guidance documents.

Mr. REVESZ. Thank you, Senator, for the question. I am a strong believer that transparency needs to be a key requirement for well-

functioning regulatory process, and guidance documents play a very important role in that process, and it is therefore important that guidance be made available to the public and be made available in a user-friendly way. As you know, it is not enough that it exists somewhere, but it is important that people be able to access that information efficiently.

I am a long-time public member and senior fellow of the Administrative Congress of the United States, which, in 2019, endorsed the policy on the public electronic availability of guidance documents. I understand that having guidance documents be available on the websites of individual agencies might not be as useful as having them available all in one central repository.

If confirmed, I look forward to learning from my colleagues at OIRA and elsewhere in the Federal Government what the experience has been in working with you and other Members of the Committee to seek what can be done to make guidance documents as accessible to regulated entities and to the American people, generally, as possible. If a central repository is the best way to go, I look forward to learning how best to accomplish that.

Senator LANKFORD. OK. Thank you. I would appreciate that because you have to be an expert in which agency handles which issue to be able to find guidance documents. I would tell you, as a member of the Senate, I still have to hesitate and say, wait, is that the Department Energy (DOE) that has that? Is that the Department of Interior (DOI) that has that? Or is that EPA that has that? If I have to struggle to be able to figure out which one that is, at times, certainly people that do not deal with this every single day go through that same process.

You and I had a very good conversation yesterday about cost-benefit analysis. For whatever reason, this has become controversial to be able to discuss just the most basic thing in cost-benefit. This goes back decades. This goes back to Executive Order (EO) 12866. This should not be a controversial thing, just to be able to look at the cost and the benefit of any regulation at this point.

But I want to go past that to be able to say, how do you handle cost-benefit analysis and how will you actually implement that on things like equal amounts? You cannot have the cost be five years and the benefit be 100 years. You cannot have the cost be American but the benefit be global. It has to be equal in its analysis so that you really get a good feel of what that cost-benefit really is, and sometimes that also means getting other models that disagree in trying to get the best possible data. How will you handle that, as the leader of OIRA?

Mr. REVESZ. Thank you, Senator Lankford. I am a strong supporter of the use of cost-benefit analysis and evaluating regulations. A great deal of my academic work has been about that and has been supportive of the use of cost-benefit analysis. Executive Orders 12866 and 13563, which President Biden reaffirmed, made clear that the benefits of regulation must justify the costs and that regulation should maximize net benefits except where precluded by statute. President Biden reaffirmed these executive orders in this memorandum, "Modernizing Regulatory Review." I support cost-benefit analysis so strongly because it is critically important that regulations deliver value for the American people.

On the specifics of your question, I do not see cost-benefit analysis as a Democratic or a Republican discipline. There is one right way to do it, and it is a way for the Federal Government comports with OMB Circular A-4, which provides guidance to agencies and with well-accepted professional norms of the economics community.

In terms of timelines, the timelines for the evaluation of cost and benefit should be chosen to capture all of the effects, whether positive or negative. It would be wrong to have a long timeline for benefits and to truncate costs, and it would be wrong to have a long timeline for costs and to truncate benefits.

For this to be a valuable analytical tool it has to be carried out in an even-handed way. That is what I promoted in my scholarship, and that is what I would do if I were lucky enough to be confirmed to this position.

Senator LANKFORD. OK. The Supreme Court has recently made a decision in the West Virginia case dealing with the major questions doctrine. It is an analysis that, in some ways is subjective and in some ways pretty clear. It is like the famous statement in the Supreme Court, "I know pornography when I see it." The major questions doctrine is Congress is not trying to hide an elephant in a mouse hole.

The basic question of this is, every agency is going to come and say, "I think I have the ability to be able to do this," and OIRA becomes the place to be able to say what on the major questions doctrine, because this will be come an issue of litigation and the taxpayer, significantly, years of confusion if there is not a basic push-pull that happens with the general counsel and also with the leadership of OIRA.

How will you handle the major questions doctrine?

Mr. REVESZ. Thank you, Senator. A very important role of OIRA review involves making sure that the regulations are legal. Legality review is contemplated in Executive Order 12866, and that is something OIRA does alongside its review of the costs and benefits, and so on.

West Virginia v. EPA is the law of the land. The Supreme Court decided that case. Clearly agencies need to think about whether regulations that have vast economic and political significance have been explicitly authorized by Congress. If they have then agencies have the authority to do that, and if they have not then under the Supreme Court's decision they do not.

Ensuring compliance with that Supreme Court decision is part and parcel of ensuring compliance with legality, with all kinds of other questions that might come up in the context of OIRA review. It would be my job, if confirmed, to ensure that was the case.

Senator LANKFORD. OK. Thank you. Mr. Chairman, I will yield back.

Chairman PETERS. Thank you, Ranking Member Lankford.

Senator Hawley, you are recognized for your questions.

OPENING STATEMENT OF SENATOR HAWLEY

Senator HAWLEY. Thank you very much, Mr. Chairman. Thanks to the nominees for being here. Congratulations on your nominations.

Mr. Revesz, if I could start with you, I want to come back to President Biden memorandum issuing priorities for OIRA back from January 20, 2021. Those included addressing, I am quoting now, “systemic racial inequality and the undeniable reality and accelerating threat of climate change.”

I want to start with that second one first, if I could. You have dedicated a substantial part of your career to working on environmental issues. You have written a series of books, articles, and other publications on environmental matters, including Environmental Law and Policy, Struggling for Air: Power Plants and the “War on Coal,” Environmental Law and Policy, Second Edition, the Globalization of Cost-Benefit Analysis in Environmental Policy, Air Pollution and Environmental Justice, the Social Cost of Greenhouse Gases, and Destabilizing Environmental Regulation: The Trump Administration’s Concerted Attack on Regulatory Analysis.

I think it is fair to say this is a deep interest of yours. Is that fair?

Mr. REVESZ. It is, Senator.

Senator HAWLEY. You were also, I think, the faculty director for a time, for a number of years, actually, for the Program on Environmental Regulation. That is right, is it not?

Mr. REVESZ. Yes. It actually became the Institute of Policy and Integrity, but I have led those programs for a long time.

Senator HAWLEY. Yes. Very good. I want to ask you about one of the most significant environmental rules of the last decade, which is the Obama-era Waters of the United States (WOTUS) rule. I am sure you are familiar with that rule.

Mr. REVESZ. I am familiar with the rule, Senator.

Senator HAWLEY. Tell me what your view on it is. Did you agree with the rule at the time that it was issued in 2015?

Mr. REVESZ. Senator, I have actually not done as much work on water as I have done on air, so I would not say I have deep expertise on issues surrounding that rule. But in general, I agree that Waters of the United States definition needed to be clarified, and I thought that the Obama Administration has done a good job attempting to clarify it.

Senator HAWLEY. You think that EPA had the legal authority, to expand the definition of Waters of the United States in the way they did in the rule?

Mr. REVESZ. At the time, Senator, I thought they did. There have been intervening judicial decisions, and we may be in a different place. But at the time that that regulation was promulgated I thought the Obama Administration had that authority.

Senator HAWLEY. You say that there have been intervening decisions and now we are maybe in a different place. Explain that to me. What do you think?

Mr. REVESZ. I have not followed those decisions closely, Senator, and so I cannot give you a full answer, but I know that the courts have been issuing decisions in this area, and obviously if I was in the OIRA position when a proposal involving a revision of that regulation came before me I would seek to get up to speed on where things stand.

Senator HAWLEY. As it is likely to do. Correct?

Mr. REVESZ. I do not know what the timing is, and I do not know whether I will get confirmed for this position.

Senator HAWLEY. I am sure you do know that the Administration has proposed a substantial revision and extension of the Waters of the United States rule. The comment period on it, I think, is closed. If you are confirmed you are likely to see it for OIRA review.

I guess my next question would be will you weigh carefully the interest in having a safe and reliable food supply in the United States, the livelihood of farmers and ranchers who depend on access to their land, use of the waters on their land? Will that weigh in your cost-benefit analysis?

Mr. REVESZ. It definitely will. From my perspective again, as I indicated, there should not be the cost-benefit analysis of this administration or that administration. This is an academic discipline. It is a professional discipline with professional norms. All the facts, whoever bears those consequences, and whether they are positive or negative, all that has to be accounted for, and a properly conducted cost-benefit analysis would do that, Senator.

Senator HAWLEY. But just to come back to my first question and to the main issue, it is your legal opinion, as an expert on environmental law, that the EPA did have the authority, at least in 2015, to define transitory bodies of water, like ditches filled with rain, as Waters of the United States, under Supreme Court precedent?

Mr. REVESZ. It was my view then, Senator, and I have not rethought this issue since then, and I am not completely up to speed with all the intervening decisions.

Senator HAWLEY. I have to say I find that disturbing, and as the Attorney General (AG) of Missouri I was one of the States that sued the Obama Administration and then continued that suit into the Trump administration in order to get that rule repealed precisely because my review of the case law is, and I think that subsequent courts have agreed, that the EPA was substantially outside of its jurisdiction in expanding the definition in that manner.

I have to tell you that the effect, the real-world effect on farmers and ranchers in the State of Missouri is little short of catastrophic, which is why you saw so many groups of farmers and ranchers—and I might just add, particularly small farmers and ranchers.

Corporate interests are one thing. They can absorb the cost of these regulations. But when we are talking about family farms and family ranchers, the costs of complying with these draconian regulations, that frankly I think are unauthorized by law, or case law, statutory law or case law, is truly crushing. I have to say that worries me, and this will be something that you will be looking at.

Let me ask you about another set of interests. The Biden Executive Order talked about accelerating climate change and racial inequality. Do you think cost-benefit analysis should also consider harms like religious liberties?

Mr. REVESZ. Yes, Senator. I think cost-benefit analysis should consider impacts on any individuals who feel an impact. Actually, for example, the Obama Executive Order 13563 talks about human dignity as one of the factors that should be considered, and I consider religious liberty to be part and parcel of human dignity.

Senator HAWLEY. Good. Let me ask you, how would you evaluate the costs and benefits of a regulation like Occupational Safety and

Health Administration (OSHA's) vaccine mandate for employers that was struck down by the court in the National Federation of Independent Business (NFIB) case earlier this year? Did you support that rule at the time, the OSHA rule, at the time it was issued?

Mr. REVESZ. I did not do any professional work on that rule, Senator.

Senator HAWLEY. Did you have a professional opinion on it?

Mr. REVESZ. I try to stay in my lane. I express views when I have studied things, and I have not studied that issue.

Senator HAWLEY. Let me ask you then to walk through how you would evaluate the costs and benefits of a regulation like that one, where you have very significant religious liberty concerns on one side of the ledger. Give us a sense of your thinking.

Mr. REVESZ. Right. I think those are cognizable consequences that should be evaluated. Now, as you know, not every cognizable consequence can be quantified and monetized because the techniques for doing that are not there. unquantified benefits should be taken into account in a well-conducted cost-benefit analysis, and actually the Executive Orders and OMB Circular A-4 provide for that and say that should happen.

Exactly how they get weighed against quantified consequences is difficult, and there is no cookbook approach to doing that, but that is what makes it an important and challenging endeavor. I would try to do this as well as could be done, taking advantage of any economic and other work, thinking through these issues. At the end of the day, qualitative judgments need to be made, as they need to be made with respect to other unquantified benefits as well.

Senator HAWLEY. My time has expired and I know that there are other Senators who are waiting to question so I will have some more questions probably for the record and for you as well, Mr. Shriver.

I would just say, Mr. Revesz, in your case I think we have seen, in the first two years, not quite two years of this Administration some truly outrageous and outlandish regulations that have not survived court review, and the OSHA mandate is one of them but there are others.

I would hope, if you are confirmed, that you would be a check on these, frankly, sometimes illegal and unconstitutional actions. I am glad to hear you say you think it ought to be nonpartisan sort of review, and I hope that you would be a nonpartisan and neutral check. Given your long background in the law, your very distinguished record in the law, I hope that you would be someone who would stand for the rule of law against what I think, frankly, have been some outrageous actions by this Administration.

Thank you, Mr. Chairman.

Chairman PETERS. Thank you, Senator Hawley.

Senator Sinema, you are recognized for your questions.

OPENING STATEMENT OF SENATOR SINEMA

Senator SINEMA. Thank you, Mr. Chairman, and thank you to our nominees for joining us. This is not an easy process, and I appreciate your willingness to serve.

Mr. Revesz, when I hear from Arizonans and Arizona business owners, they are concerned with complex and burdensome rules coming out of Washington. Hard-working Arizonans want to comply with sensible rules, but regulatory agencies do not do a good job of looking back and making sure that the rules in place are achieving their goals and limiting impact on businesses.

My Setting Manageable Analysis Requirements in Text (SMART) Act makes sure that agencies commit to reviewing their most extensive regulations when they are initially published by requiring that each major rule include a review plan. This plan will include methodologies for the review and a proposed timeline.

If confirmed, will you commit to working with me to pass this legislation, and more generally, will you comment on the institutionalization of retrospective review in our regulatory process?

Mr. REVESZ. Thank you for the question, Senator. I will definitely commit to working with you on this important issue. I strongly favor evidence-based decisionmaking. It is critical that the benefits of regulation justify the costs.

Now under Executive Order 12866 framework, that analysis is generally prospective, but Executive Order 13563 does contemplate a retrospective review.

I think it is important to learn wherever we can about the impacts of regulation. We do it at the front end, in deciding whether regulations should be promulgated, and I agree with the sentiment that you expressed that retrospective review is important. I also agree that it is good to be able to have a data-gathering plan adopted that would make retrospective review possible.

If confirmed, I really look forward to working, consulting with the OIRA team and working with you and your staff on how to make retrospective review a real part of the regulatory process.

Senator SINEMA. Thank you. While guidance documents do not have the power to bind they do have the power to significantly influence the behavior of private parties. Understanding this influential nature, what do you believe is the proper treatment of guidance documents by OIRA, and specifically, what flexibility should agencies have in the publication of guidance, and should these documents be subject to centralized review? Then finally, what standards do you believe should apply to such a review?

Mr. REVESZ. Thank you, Senator. I think guidance documents are a very important part of the regulatory process, and they should comply with transparency and public participation norms. They should be public. They should be public in a user-friendly way. Significant guidance documents currently undergo OIRA review, and I think that is appropriate. We are operating under an OMB memorandum dating back to 2007.

If confirmed, I would make sure that there is in place a guidance process that is transparent, that the American people have access to the information, that it has opportunities for meaningful public participation, and undergoes OIRA review where the guidance is labeled to be economically significant.

I think those are all important components of a well-functioning guidance process, and I will do whatever I could in this position to make sure that the guidance process is working as well as it can for the American people.

Senator SINEMA. Thank you. I am a strong believer in the benefits of cost-benefit analysis, as articulated in Executive Order 12866 and OMB Circular A-4. Unfortunately, it seems that many individuals believe that this analysis is simply a code for deregulation and weakened Federal engagement.

First, could you provide a brief overview of your understanding of the correct role of cost-benefit analysis in our rulemaking process, and second, what steps will you take, if confirmed, to highlight the positive outcomes associated with robust analysis and a strong, independent OIRA?

Mr. REVESZ. Thank you, Senator. In all of my work I have stressed the importance that cost-benefit analysis should play in the regulatory process, except where prohibited by statute. The reason is that regulations should evaluate all consequences, positive and negative, on the American people.

I believe that properly conducted, cost-benefit analysis should not have, and does not have, an anti-regulatory impact—I wrote a book about that—which does not mean that it has not, from time to time, been conducted in ways that had that impact. I think the important thing is to make sure that all costs and benefits are considered in a fair and even-handed way.

For example, at time when unquantified benefits were ignored or when the indirect consequences of regulation were taken into account if they were negative but ignored if they were positive, if that happens cost-benefit analysis will have an anti-regulatory effect. I will make sure, if confirmed, that I will do everything I can to seek cost-benefit analysis be carried out in an even-handed way so that it is neither a Democratic tool nor a Republican tool, neither a tool that favors a large amount of regulation or opposes regulations, so that it does an accurate, even-handed, fair weighing of the consequences of regulation. That is what I see it doing, and I see that as being extremely important.

Senator SINEMA. Thank you. For my last question, as one of his first actions in office, President Biden issued his Modernizing Regulatory Review memorandum. The memo included a request for recommendations concerning how OIRA can become more proactive in promoting and undertaking regulatory initiatives.

First, considering the limited size of OIRA, do you believe that it is feasible for desk officers to undertake the promotion of discretionary regulatory actions by agencies, and second, considering the need for an independent OIRA, will this unduly politicize the office?

Mr. REVESZ. Thank you, Senator. OIRA's role is primarily reactive and consists of reviewing regulatory impact analyses prepared by agencies. But since the promulgation of Executive Order 12866, OIRA has played somewhat of a proactive role with respect to the submissions by agencies of their unified regulatory agendas. When John Graham was the OIRA administrator in the Bush Administration he instituted a practice of issuing prompt letters. One such letter resulted in a requirement that certain large buildings have defibrillators, which as a requirement has led to the saving of a large number of lives, of people who would have died from heart attacks.

A proactive role is not completely foreign to OIRA, and President Biden asked OIRA to consider what proactive role might be desirable. If confirmed, I would work on how best to implement the Presidential directive. I do not think that a proactive role would politicize OIRA, because OIRA's intervention will be limited to what OIRA does under Executive Order 12866, which is to ensure that the benefits of regulation justify their costs.

When Administrator Graham in the Bush Administration issued the prompt letter that led to defibrillators, he did that because he understood, from his background as a public health expert, that there were large benefits that would come from this requirement that were being left on the table because agencies had not moved to do that.

Senator SINEMA. Mr. Chairman, my time has expired. I have a question for Mr. Shriver and I will submit it for the record. Thank you.

Chairman PETERS. Thank you, Senator Sinema.

Senator Rosen, you are recognized for your questions.

OPENING STATEMENT OF SENATOR ROSEN

Senator ROSEN. Thank you Chair Peters, Ranking Member Lankford, and thank you both for your willingness to serve these important roles.

I am going to move a little bit over to talking about IT modernization in OPM. Mr. Shriver, I really thank you for being here today. I would like to talk about Government Accountability Office (GAOs) high-risk report. It comes out every two years, and identifies areas in the Federal Government at high risk for fraud, waste, or mismanagement. The last report made a number of recommendations for addressing these high-risk areas, and OPM, of course, has a large role to play in addressing them.

Specifically, in the area of IT modernization and workforce training, one of the report's recommendations for improving the Federal Government's management of tens of billions of dollars of IT investments was establishing key IT workforce planning processes.

Mr. Shriver, if confirmed, what are your plans to work with individual Federal agencies to ensure that they have these workforce planning processes in place, and how, in your new capacity, will you work to recruit and retain specifically cybersecurity staff?

Mr. SHRIVER. Thank you very much for your question, Senator, and I think certainly the IT modernization issues that you have raised have been priorities at OPM and will continue to be priorities for us. If I am fortunate enough to be confirmed as Deputy Director it is an area that I would be happy to plan active role. Currently in my day-to-day role as the Associate Director for Employee Services I am not as involved in that.

I can say that I think with respect the GAO high-risk list and recommendations overall, our strategy at OPM has been to embed those into our strategic plan. We have a new OPM strategic plan that we released earlier this year, and that plan is informed by the recommendations from the Government Accountability Office, including on IT. We have metrics that we are using to measure progress. We have regular leadership-level meetings to talk strategically about implementation of that plan and those recommenda-

tions. I would continue to play a role, and as Deputy Director would actively engage on the IT issues.

With respect to cyber talent, we have major challenges in the Federal Government, and there are some good practices that have begun. I was happy to work with the Department of Homeland Security on deployment of its cyber talent management system, which has some interesting innovations when it comes to hiring and compensation and the way that cyber talent is deployed across DHS.

I think there are a lot of lessons to learn there, and I would welcome to the opportunity to work with you and this Committee on how we might develop a governmentwide cyber talent strategy that puts the rest of the agencies on more of a level playing field with DHS and the Department of Defense (DOD), who also has its own authority.

Senator ROSEN. I would very much like to work on that because we do need to do IT modernization across the whole government, and we have a skills gap issue. GAO's most recent high-risk report also identified strategic human capital management as a high-risk area. It is downgrading the Federal Government's progress rating in this area from its 2019 report.

In doing so, it cited that what was at the time, in 2021, the lack of a Senate-confirmed leadership at OPM for 18 of the prior 24 months, it really led to a mission-critical skills gap across the Federal workforce. We know this in every area.

Thankfully, OPM now has a confirmed director in place, but as deputy you will still have a key role to play in addressing, again, the skills gap required to do this modernization as still persists.

The training, the skills gap, how do you think you can address it? What can we do here to help you address it as you think about your new role?

Mr. SHRIVER. Thank you for your question, Senator, and thank you for acknowledging that the lack of consistent leadership in the past at OPM has been a major contributing factor in that area. Under Director Ahuja's leadership, and if I were to be confirmed as deputy, we would be certainly prioritizing. I am excited about making progress in this area.

We have been doing a lot of work on the skills gap at OPM. One of the things that I think is important, Senator, is actually hiring people based on skills instead of proxy for skills. Many agencies, historically, have been hiring folks maybe because they have a college degree or because they rank themselves on self-assessment questionnaires. We have been implementing a new skills-based hiring initiative, where we work with agencies to really define what the qualifications are that are needed for the jobs and then how they can assess candidates, based on the actual skills that they have.

One of the techniques that has been successful in some pilot projects is actually engaging subject matter experts in the hiring process. The subject matter experts know what to look for on a resume, they know what to listen for in an interview, and they know what to look for in a writing sample. That is critical.

I think in addition to looking to hire people based on skills we certainly need to work on our career development, on our training opportunity, work on up-skilling. I know OPM has had some suc-

successful up-skilling pilots in the past around cybersecurity, around the Internal Revenue Service (IRS), and I think that we have an opportunity to build on those efforts and help align workers' existing skills to new jobs and make sure that we provide the training they need to be successful.

Senator ROSEN. Yes, I particularly like the up-skilling. I think that really helps. You have employees that are already there. It helps move them around, someplace they are already familiar with. Of course, the proxy for skills, that is really great because people do have a lot of skills they bring to the table, and it is important for us to identify them.

Just in the few seconds I have left I know Senator Sinema was talking about science-based rulemaking. Mr. Revesz, in the prior administration any rulemakings were heavily influenced by politics rather than science or legal principles, and it is crucial that all Federal agencies, including the EPA, Department of Interior, Department of Energy use the best science available in order to protect public health and, of course, the environment.

I know you spoke a little bit to Senator Sinema's question, but you talk about your analysis and how you are going to do it and how you are going to keep it free of politics. Is there anything else that you would like to let us know about how you want to work on those things and make sure that we have the best rulemaking for the agency, for the people, and the environment as well?

Mr. REVESZ. Thank you for the question, Senator. As I mentioned, I think it is just important that in the analysis all of the consequences be taken into account. I wrote a book about some of the analytical failings in the analysis done by the prior administration, and actually the courts ended up striking down a number of those rules based on the poor quality of the analysis.

For example, one mistake was to essentially equate unquantified benefits as non-existent, just because the techniques for quantifying them had not been developed, as opposed to trying to figure out in a qualitative way how to take them into account. There were also regulations that essentially ignored the indirect consequences of regulation if they were positive but took them into account if they were negative. That is putting a thumb against regulation.

All of those are erroneous techniques, are not consistent with the methodology and with professional understandings, and if confirmed, I would make sure that the best professional understandings of how to do this work are followed by OIRA.

Senator ROSEN. Thank you. My time has expired.

Chairman PETERS. Thank you, Senator Rosen.

I will be shortly recognizing Senator Padilla but I am going to need to step out to another hearing and Senator Carper will take the gavel in my absence.

Senator Padilla, you are recognized for your questions.

OPENING STATEMENT OF SENATOR PADILLA

Senator PADILLA. Thank you, Mr. Chair. First of all, Mr. Revesz, it was a pleasure spending some time with you in my office earlier in this week. My first question is for you.

One of OIRA's most significant functions is its centralized review of, quote, "significant Federal regulations," which impact millions

of Americans. Similar to elections and election administration, I believe our democracy works better when there is greater public engagement from all groups and a broad range of relevant stakeholders that can contribute to, in this case, government processes, not just turning out and voting. I believe this should also apply to the regulatory process.

What populations do you think are currently underserved by the way the regulatory process is functioning? I know you have done some research in this area in the past.

Mr. REVESZ. Thank you for the question, Senator. I think it is very important that in addition to having aggregate estimates of costs and benefits we understand how regulations affect subsections of the American people. It could be farmers. It could be business owners. It could be workers. It could be people with asthma or other respiratory illnesses. Because not everyone is affected by pollution or by other consequences in the same way, and it is very important to understand that.

I do not think the regulatory process has done a particularly good job at disaggregating this information, and I think for a while that was because the techniques for doing that were not available. I think they have improved significantly since then. President Biden has called for this work to be done as part of his modernizing memorandum.

I have written about some very simple improvements that could be done in the regulatory process, which is, for example, to look at the distributional consequences of different alternatives to a particular proposed rule and not only to the rule that is actually proposed. We look at alternatives in connection with the determination of aggregate costs and benefits, but we have traditionally not looked at alternatives to determine distribution. As a result, we cannot make the best decisions that could be made.

If confirmed, I would very much want to work with the agencies and with the OIRA staff and get advice from Members of this Committee on how best to make sure that we have the most sophisticated understanding of the disparate impact of both the adverse consequences the regulations seek to address and of the regulations themselves on different groups of American people.

Senator PADILLA. I appreciate your thoughtfulness on this and already coming forward with some suggestions or recommendations on how to improve the process and frankly make it more equitable as a result.

I know some of my colleagues—Senator Peters, Senator Sinema and others—have talked about the process for modernizing regulatory review, recommendations to revise Circular A-4 specifically, so I will not be repetitive on those items. But I did want to associate myself with their concerns, their questions, and their prioritization.

In the time remaining I will turn to Mr. Shriver, and this is a little bit of a follow-up to questions from Senator Rosen. She was specific to cybersecurity, sort of workforce concerns in general, and I want to weave in two items I have asked questions of from your colleagues that have come through the Committee for consideration before.

We talk specifically about the need for science, technology, engineering, and mathematics (STEM) talent as you recruit, as you retain workforce, and diversity within that cohort. Yes, I am proud to speak as a graduate from Massachusetts Institute of Technology (MIT) with a mechanical engineering degree, trying to up the ranks of STEM talent on this side of the dais.

In May, the Senate passed my resolution expressing the Senate's support for increasing the number of Latino students, specifically, and in professionals entering STEM fields, not just in the private sector but in the public sector as well, in all levels of government. Latinos make up 17 percent of the overall workforce in the United States but represent less than 8 percent of the workforce in STEM fields.

The Federal Government is the nation's largest employer, with hundreds of thousands of STEM employees. I am interested in helping Federal agencies fill the needed positions with qualified, diverse perspectives from various backgrounds. Mr. Shriver, I would appreciate any thoughts you may have on how to build a more diverse STEM pipeline and workforce for the Federal Government.

Mr. SHRIVER. Thank you, Senator Padilla, for your question, and I think you have put your finger on a critical issue for the Federal Government. We absolutely need to have diverse pools of talent, pipelines of talent, into Federal positions.

We have been meeting with colleges and universities around the country, including Historically black colleges and universities (HBCUs), minority-serving institutions (MSIs), and what we are hearing from them is, No. 1, that they would like to see more recruiting from the Federal Government, but No. 2, only if that recruiting actually leads to real positions. We have had a real drop-off in the number of interns that have been brought into the Federal Government.

One of the priorities that I have been working on in my current role under Director Ahuja's leadership is how we can we reinvigorate our early career talent hiring. There are multiple ways that we are working on that. We did implement some streamlined hiring authorities that had been enacted under the previous administration for post-secondary interns and college graduates.

We are taking a fresh look at our Pathways program, which is the primary program that agencies use to hire interns and recent college graduates. We are working on new guidance on paid internships. Under President Biden's Executive Order on diversity, equity, inclusion, and accessibility he directed OPM and OMB to issue guidance to agencies on how to increase the number of paid internships and decrease agency reliance on unpaid internships, which of course are obstacles to participation in Federal opportunities.

I look forward to OPM with OMB issuing that guidance later this year, and we will continue to engage with the communities to make sure that we are living up to what the law requires, which is the Federal Government should be recruiting from all segments of society.

Senator PADILLA. Great. Thank you very much. I look forward to following up on both of these items with both of you.

Thank you, Mr. Chair.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER [presiding.] Senator Padilla, you are welcome. We just swapped out chairs here. One in, one out. I just joined you from another hearing and I am happy to be here at this one.

Mr. Shriver, good to see you. I heard, Mr. Revesz, name pronounced in a number of ways. How do you pronounce it?

Mr. REVESZ. Re-vez [phonetic], Senator.

Senator CARPER. That is great. That was my only question for you.

Mr. REVESZ. I hope I answered it well.

Senator CARPER. You did. Thanks a lot for joining us today. I thank you both for your willingness to serve in these two very important positions.

Mr. Shriver, my understanding, and I think it is our understanding, is OPM is rebuilding its staff and its operations after experiencing insufficient resourcing during the last administration. What are some of the challenges ahead for OPM as it rebuilds its organization, and what are the opportunities? I like to say in adversity lies opportunity. But what are some of the opportunities, and how would you, if confirmed as Deputy Director, build on those opportunities to help OPM drive efforts to modernize the Federal workforce policy across the Federal Government?

Mr. SHRIVER. Thank you so much for the question, Senator Carper. It is both a challenging and an exciting time to be at OPM for the very reasons that you identified.

In my current role as Associate Director for Employee Services I have been leading the Administration's governmentwide Federal workforce policy, and I have been doing it with a team that is not as staffed up as it had been previously, a team that lost a lot of subject matter expertise. What we have been attempting to do while we rebuild that is also reestablish OPM as the Federal Government's strategic human capital leader.

It has been very exciting to work on the President's ambitious agenda for the Federal workforce. We want these challenges, but there has been much work to be done. We have talked about several of the issues here today that OPM has been working on and needs to continue to work on. It has been really important to prioritize and to work hard toward those priorities. It has been really important to think strategically and use our resources wisely because they are scarce.

Now I think the opportunity that is here is re-imagining what OPM means as the strategic human capital leader. We worked very closely, for example, Senator, with the agencies that were receiving substantial funds under the Bipartisan Infrastructure Law (Infrastructure Investment and Jobs Act), and we worked with them right when the law was passed to understand what their human capital needs would be. We brought together teams of people from across OPM to serve them. I think what we saw were some successful early results on how an approach like that can bring efficiencies into the Federal human resources (HR) process. We are going to take those lessons learned and build that out at OPM writ large.

That is one example of where there was an opportunity to kind of transform the way that OPM is serving agencies.

Senator CARPER. Proving once again that in adversity lies opportunity. Albert Einstein.

Mr. Shriver, in the past when meeting with agencies Chief Human Capital Officers about modernizing the Federal workforce and the hiring and retention practices, often we have heard from them that OPM was an obstacle rather than a partner in developing and implementation demonstration projects to improve hiring and retention. Do you believe that OPM should be a partner in these initiatives, and if so, if confirmed, how would you ensure that OPM is truly a partner to these Federal agencies?

Mr. SHRIVER. Thank you for the question, Senator. I absolutely believe that OPM should serve as a partner to agencies. Of course, we have an important compliance role that we play too, and that is critical. But I think I would build on my previous answer and say that we really are looking to re-imagine how OPM can be a strategic partner to agencies and help them address the human capital challenges that they are facing, day in and day out.

It was really wonderful that the Chief Human Capital Council was returned to OPM at the beginning of the Administration. We have been working hard to build our relationships with the so-called CHCOs, day in and day out. We have not only regular meetings with all of the chief human capital officers, we have instituted a number of different engagements, including personnel policy office hours, where we bring our subject matter experts to the meeting to answer questions that CHCOs are having.

We have been engaging prior to issuing regulations and new policy with the chief human capital officers to ensure that their views, as critical stakeholders, are encompassed. We have encouraged them to make robust use of the OIRA process for interagency review of regulations so that we can get all of their perspectives. Again, like we did with the infrastructure implementation we are looking for how we can engage early with them as strategic partners to bring human capital to the top of the list when it comes to implementing these major programs.

Senator CARPER. Good. Thank you. One question for Mr. Revesz and then I think we are going to have to break off.

Mr. Revesz, on January 20th last year, President Biden signed a Presidential memorandum to modernize regulatory review, as you may recall. If confirmed as Administrator of the Office of Information and Regulatory Administration, it will fall to you to lead the agency in implementing this memorandum. What is your approach in striking a balance between social, environmental, economic, and public health consideration when reviewing regulations?

Mr. REVESZ. Thank you, Senator. I think the implementation of the memorandum is enormously important. The President gave a clear direction, and if confirmed, I look forward to working with the OIRA team to do that.

One important component of the memorandum is bringing OMB Circular A-4 up to the present. It is a very good guidance document. It is 20 years old. We need to make sure that all relevant benefits of regulation are taken into account, if they can be quantified that they are quantified, same on the cost side, and that we better understand how regulations affect different groups of Ameri-

cans in different ways, and that regulatory process will work better if we have that understanding.

We already do it, for example, under statutes for small businesses in the Regulatory Flexibility Act (RFA) and the Small Business Regulatory Enforcement Act (SBREFA). The President asked for this work to be done more broadly, and if confirmed, I very much look forward to implementing the President's directive so that regulations can work better, not just for the American people in general but for individual groups of the American people.

Senator CARPER. Thank you for that response.

I think I am going to hold it right here. Senator Lankford is going to be joining us. He has asked that we hold and wait so he can ask some questions as well. He is very mindful of these issues and very knowledgeable about the issues that we are talking about, and I know he very much wants to be part of the dialog.

In the 30 seconds that we have until he gets here, do any of you have, in the audience, a family member? Mr. Shriver, do you?

Mr. SHRIVER. Yes, Senator. I have my wife.

Senator CARPER. Would your wife raise her hand? What is her name?

Mr. SHRIVER. Her name is JoAnn Martinez.

Senator CARPER. Hi, JoAnn. I noticed that while you were speaking her eyes were rolling. [Laughter.]

That usually happens with my wife and me. It is a trait I admire in women.

Anybody else besides your wife?

Mr. SHRIVER. I have two of my three children. My other is off at school.

Senator CARPER. Sons and daughters, raise your hands, please, the Shrivens.

Mr. SHRIVER. Mitch and Justine.

Senator CARPER. All right. Good to see you guys. Thanks for sharing your husband and your dad with all of us.

All right. James, my friend. Happy to pass the gavel to you.

Senator LANKFORD [presiding.] Senator Carper, thank you for vamping for me. I appreciate that very much. I never have to worry if you are going to run out of words. [Laughter.]

Senator CARPER. We make it up as we go along.

Senator LANKFORD. I got it. Thanks again for the conversation, and let me ask some additional questions.

Mr. Shriver, we did not get a chance to be able to talk in the last round of questioning so I want to walk through several things back with you. Thanks again for the long conversation that we had to be able to walk through a lot of issues in greater depth than we will have the opportunity to be able to do here.

There is a challenge in some of our agencies on the Federal workforce getting back to the office post-Coronavirus Disease 2019 (COVID-19). Some of them have been very effective with that. Some of them are continuing to be able to work through what is going to be telework, what is going to be remote work, what is going to be in-office work.

But there is some in-office work that is still not actually in-office, and it is slowing down and we have a backlog in multiple different agencies right now, noticeably the IRS, State Department and

passport work. We have a lot of issues and backlogs in multiple of our entities, in Social Security, that have face-to-face needs to be able to connect with folks.

How do we get folks back to work so we can catch up with the backlog? Most of corporate America, most private businesses around the country are open again and engage. How do we get the Federal workforce back in?

Mr. SHRIVER. Thank you for the question, Senator, and I think I want to first start by acknowledging that during the pandemic fully half of the Federal Government continued to show up in the workplace, day in and day out, to do the work of the American people, and we owe them a debt of gratitude for that.

You are right that for the rest there was a different footing. There was, in many places, a maximum telework footing, and there was a process that the administration ran around re-entry, and that process was laid out in a memorandum, M-21-25, that OMB, OPM, and General Services Administration (GSA) issued together. The thing I want to highlight from that is that these decisions need to be made with delivery of the mission in mind. Productivity, delivery of the mission, those need to be paramount.

So agencies conducted their re-entry back. Most of them got done in April and a few took a little bit longer, but that re-entry has occurred. Now we are in that process of evaluating. Now that we have re-entered, how are these new hybrid work arrangements working? What is the impact on productivity? What is the impact on mission delivery? It is important that agencies continue to make that assessment.

I think the one last thing I would say, Senator, though, is that I think if an agency were to just go back to the way things were prior to the pandemic in February 2020, I think that they would lose a lot of talent to other sectors. This needs to be done strategically, but I think we can all agree we need to put productivity and mission delivery first.

Senator LANKFORD. We do. Actually, strategically does not mean delay. It can be intentional, and that has been the challenge that a lot of my constituents have in Oklahoma, that will contact me and say, "Hey, I cannot get hold of somebody face-to-face in Social Security" or "I cannot get my passport done" or "I cannot get access to IRS." It is always there was a person there, I have to meet with a person, I have to be able to answer it, and they are not there. They are confused because their bank is open, the restaurants are open, their business is open, everybody else is open, and they are saying, "Well, we are still trying to be able to work through the process of coming back in."

I think that is the issue that really infuriates Oklahomans is to say we are all open and suddenly it is, OK, we are different than you. We are not open yet. But it is also behind.

So getting the mission done is incredibly important, as well as protecting those individuals that are also in the workforce, because I have great respect for the Federal employees as well, and to continue to be able to protect them as we do everybody else.

You and I had a good conversation yesterday about the world's largest pilot program for telework that just happened with COVID. It is interesting to me, the Federal studies that were done in agen-

cies just a few years ago said about 19 percent of their employees could go telework. Then COVID happens, and in some agencies we had 80 percent plus that were in telework posture on it, and everybody kind of figured out how to be able to make this work.

Now, post-COVID, we have people back in the workforce but we have also learned that we can do things teleworking and we can do things remote work.

My question to you is, in remote work, that is an individual that is not living around the headquarters, is not expected to be sometimes in the office and sometimes working somewhere else, that is not expected to be in the office, a true remote work individual, what are your thoughts and opinions about expanding the highly qualified pool of workforce around the country to be remote work individuals and those individuals that may be spouses of military that work in very remote military installations that have a very difficult time having a career, that may be able to get a job on the different base or post but they cannot really build a career anywhere because they move every two to three years with their spouse, giving them the opportunity to build a career in the Federal family, based on doing remote work wherever they may be?

Mr. SHRIVER. Ranking Member Lankford, thank you for the question, and I enjoyed talking to you about this topic because I think it is really a game-changer for the Federal Government. I think that agencies are experimenting right now with some remote work pilots. There was a little bit of remote work that happened prior to the pandemic. I think they are experimenting with where maybe we can think more broadly about it.

One of the things that is exciting about remote work is it opens the possibility of Federal employment to communities all throughout the country, where previously those opportunities were only available if people moved, sometimes into a different State, many hundreds of miles. Remote work makes that a new possibility for those community.

I especially appreciate your connection to military spouses. We have special authorities in the Federal Government that allow for a streamlined hiring process for military spouses, and I think that is sound public policy and something to build on.

They are rather underutilized, and I think that if we were able to pair those hiring authorities with remote work opportunities, where exactly as you say, military spouses could stay in their same job, no matter where their spouse might be deployed, I think that would be a good thing for the civil service, a good thing for the folks that serve our country in the military, and a good thing for the spouses, because I know they have a lot to add to what we do day in and day out.

Senator LANKFORD. Yes. Thanks for mentioning the hiring authorities on it. We have about 120 hiring authorities, but every agency still calls me and says, "I want direct hiring authority. I do not like any of the 120 that are out there as possibilities." The vast majority of the 120 are not ever used. They are niche, different hiring authorities that are out there.

But the whole structure of how we do hiring, 100 days to hire, the process, you mentioned in some of your written documents in

advance you want to speed up the hiring process and make that a more efficient process. What are your ideas for that?

Mr. SHRIVER. Thank you for the question, Ranking Member. We certainly do lose out on good candidates for Federal jobs because of the length of time it takes, so this is something we must address.

I think one of the top new tools that we have been working on with agencies is to move away from just the old model of one job announcement, one job, let us go one at a time and hire people into the Federal Government, to more pooled hiring. What I mean by pooled hiring is agencies have similar jobs, right? Like they are looking for people with similar skill sets. How can we do a pooled hiring action where we get a whole bunch of qualified candidates and multiple agencies can then hire from that? That would make a dramatic impact on the time to hire because you would do all of this good work—recruiting, assessing candidates—and have this big pool of well-qualified folks that any agency could hire from.

I think that is important. I also think it is really important that we focus on the assessments that we are using to determine the skills of applicants, because I think too often what happens, if we do not do a good job of recruiting and assessing the talent then the hiring manager is not happy with the candidates they get at the end of the day and they may start the process all over again, which adds exponentially to the time to hire.

Senator LANKFORD. Right, and then you deal with the dynamics of people self-assessing their own skill level with that, and they are being taught, make sure you mark yourself at the highest level of all of them or you are not going to get there, and you have people say, “Well, I still have areas to grow in this.” They would be a very highly qualified candidate but they just do not self-assess them as high as their actual skill level is.

There was a story I heard when I was in Oklahoma several years ago in one of our Federal facilities that we needed to hire a forklift driver, and it took over 100 days to be able to hire someone to drive the forklift. They were having a real struggle with it because forklift drivers would go to other companies and they would get hired faster, and then by the time we got back to them in the Federal entity they have already worked at some other place another two months and they are not going to quit.

The other thing was they would say, “I am not going to rank myself the highest level as a forklift operator because I have only driven a forklift three years. I know a friend of mine that he has driven a forklift 20 years. He is a lot better than I am, so I am not going to rank myself as high as him,” though they are highly qualified. They have been doing it for two, two and a half, three, four, five years, and would definitely meet the standard of what we are actually looking for it, but they have their own challenge with the whole assessment process.

We are very interested in this as a Committee on what we can do to actually fix the hiring process, to be able to expedite this, to get more transitions from interns into positions, more highly qualified individuals within the pool nationwide, more individuals that will want to be able to engage in this process and it be a faster process, to be able to work through it.

So just know that this Committee is very interested to be able to work with you to be able to accomplish that in the days ahead.

Mr. SHRIVER. Thank you for your interest, Ranking Member. I would be happy to work with you and the Committee on these issues.

Senator LANKFORD. Again, this should not be a partisan issue. We should go get the best possible people to be able to serve their neighbors and their friends across the Nation, serving in the Federal family on this.

Mr. Revesz, I want to be able to follow up on a couple of things as well. I asked you yesterday a very difficult question. Independent agencies are independent of who? Because independent agencies often feel like they are independent of everyone, but I do not believe that is actually so. I am not sure, based on your response yesterday, that you believe it is actually so as well.

The challenge is getting OIRA's oversight to be able to help independent agencies to actually do the rulemaking process and the regulatory process for them, to be able to make sure they are making good decisions. Again, we do not want to end up in years of litigation based on they just did not have good accountability. How do we deal with the issue of independent agencies?

Mr. REVESZ. Thank you, Senator. As I indicated, I strongly believe that the benefits of significant regulation should justify their costs, and the regulation agencies should seek to maximize and add benefits of regulation as the Executive Order provides, except where statute dictate otherwise.

I have written about how the quality of analysis has been better in the Executive Branch and independent agencies, and I believe that OIRA's role in diffusing good practices throughout the Executive Branch accounts for these differences.

There are ways in which OIRA could help analysis in independent agencies, short of extending the Executive Order. A model for that is memorandum of understanding (MOU) between the Commodity Futures Trading Commission (CFTC) and OIRA following the passage of the Dodd-Frank legislation.

On the specific question of extending the Executive Order, in 1981, the Office of Legal Counsel (OLC) issued an opinion stating that the President has the authority to extend the Executive Order to independent agencies, and the Executive Order already extends to independent agencies with respect to the requirement that they submit their unified regulatory agendas to OIRA for review every year.

If confirmed, I would like to work with the OIRA team to ascertain ways in which OIRA can help improve analysis across the Federal Government, not just in the Executive Branch but across independent agencies as well, and I look forward to working with you and members of your staff on that question.

On the specific decision whether the President should extend the Executive Order to independent agencies, while it is one for Congress and the President to make, I think Presidents for the last 40 years have known that they have that authority, and for whatever reason Presidents for the last 40 years have not extended it with respect to this aspect of OIRA's work, even though they have extended it with respect to other aspects of OIRA's work.

Senator LANKFORD. OK. I look forward to that ongoing conversation.

One final question for you on this, and it is dealing with some of the environmental review studies, modeling, and such, that actually goes through cost-benefit analysis. Occasionally the studies that are used for regulatory and cost-benefit analysis are not made public. They are proprietary models, is typically the conversation that is made. The American public has a new regulation imposed on them but actually cannot see the model of why this is actually a benefit or what the cost could be because the model is proprietary.

The challenge is if the regulation is going to be public, the reason the regulation should be there should also be public. How do we deal with these secret studies that are in the background, to say, "Trust me. This warrants this, but you cannot see it"? How do we deal with that?

Mr. REVESZ. Thank you, Senator, for the question. I am a strong believer in transparency in the regulatory process, and scientific studies are often the building blocks of regulation because they are what tells us that pollution is causing this number of deaths or this number of illnesses or this number of lost work days, and so on. I believe that scientific studies should be public, and the underlying information should be public.

There is an issue about how to protect the individual identities of the subjects of scientific studies. I think, probably all of us would be a little worried about participating in studies if we thought that our sort of full health records for the rest of our lives would be available on public websites. In days of large data, it is sometimes difficult to mask that information, because there have been studies showing how this information can then be put back together and associated with individual people. That is a challenge.

I think the scientific community has norms about this, and in general, agencies do rely on peer-reviewed studies, and should rely on peer-reviewed studies. Peer-reviewed studies have to meet the standards of scientific journals, which deal precisely with this issue. It is an issue I care about and I am interested in, and if confirmed, I would see how best we can promote the transparency norms that I hold so dear while, at the same time, protecting the privacy interests of individuals who are subject to these studies.

Senator LANKFORD. Right. The challenge of that is a peer-reviewed study is still a limited group of individuals to be able to see it, and you are still into the "Trust me, we have looked at it and it is OK" model. We have to be able to have a way to be able to have models, systems, processes, that if we are going to have transparency, we have full transparency. It is the joy of us, as Americans. We love each other and we do not trust each other at the same time. We try to work through the process of saying if we are going to make this decision together, being "we," the people, then we need to be able to have the access to look at it. Whether they actually look at it or not, when you tell somebody I cannot see it, then immediately the suspicion is, what is in it? That is a fair question through our history to be able to ask, and it would be one of those things that we have to be able to work through.

Mr. REVESZ. I agree, Senator. I think generally, scientific journals have increased the requirements for making data public, and there has been a significant trend in that direction. I think it is a salutary one.

Senator LANKFORD. Yes. It is one we have to resolve.

Gentlemen, thanks again. Thanks to your families for being here for a long day of questioning. All of this will go on the record. There will be additional questions that will be coming for questions for the record, and we will get those to you.

The nominees have filled out their responses to biographical and financial questionnaires,¹ answered pre-hearing questions submitted by the Committee,² had their financial statements reviewed by the Office of Government Ethics (OGE). Without objection, this information will be made a part of the hearing record with the exception of the financial data, which is on file and available for public inspection in the Committee offices.

The hearing record will remain open until noon tomorrow, September 30th, for the submission of statements and questions for the record.

Again, thank you very much for the hearing today and we look forward to the ongoing process. This hearing is adjourned. [Whereupon, at 12:14 p.m., the hearing was adjourned.]

¹The information on Mr. Shriver appears in the Appendix on page 40.

²The information on Mr. Revesz appears in the Appendix on page 90.

A P P E N D I X

**Chairman Peters Opening Statement As Prepared for Delivery
Full Committee Hearing: Nominations of Robert H. Shriver III to be Deputy Director,
Office of Personnel Management, and Richard L. Revesz to be Administrator, Office of
Information and Regulatory Affairs, Office of Management and Budget
September 29, 2022**

Today, we are considering the nominations of Robert Shriver III to be Deputy Director of the Office of Personnel Management and Richard Revesz to be Administrator of the Office of Information and Regulatory Affairs at the Office of Management and Budget.

Welcome to both of you and to your family members joining us today. Congratulations on your nominations and thank you for your willingness to take on these important new roles.

Both of the positions we are considering nominations for today require independent, non-partisan leadership to serve in the best interests of the American public.

The Office of Personnel Management or OPM develops and administers human capital policies for the federal workforce and functions as the bedrock of our nation's personnel and management efforts across the Executive branch, while the Office of Information and Regulatory Affairs or OIRA, serves as the central authority for the review and coordination of federal regulations.

Mr. Shriver, if confirmed, you will be OPM's Deputy Director charged with setting policies for more than 1.8 million, dedicated public servants, which will require agency leadership that can build confidence in OPM, and maintain a non-partisan, merit-based workforce that serves every American.

The deputy chief human resources officer is a significant undertaking, and I believe your extensive experience in public service, including current and prior experience at OPM, will help provide an innovative vision for the future of the federal workforce.

Likewise, the OIRA Administrator is an incredibly important position.

Mr. Revesz, if confirmed, you will lead OIRA's six subject matter branches, and be responsible for ensuring the Office provides transparency into regulatory decisions and promotes public participation in the rulemaking process.

Your long history of academic and legal analysis on the modernization of the regulatory process, improving cost-benefit analysis, and ensuring greater transparency and participation in the rulemaking process will serve the Office well.

While OIRA is a small, relatively unknown office in the federal government, it manages federal rules and regulations that impact Americans' daily lives in a number of different ways.

The decisions OIRA makes can affect everything from repairing roads and bridges, funding K-12 schools, and protecting our air and drinking water. People in Michigan, and across the country, depend on OIRA to work with federal agencies to efficiently and effectively implement important safeguards that will protect the health and safety of all Americans.

While few folks outside of Washington are familiar with OIRA, they know all too well how delayed regulatory impacts can affect their lives.

For too long, essential safeguards for lead in drinking water and PFAS substances, toxic chemicals that are widely used in industry and consumer products, remain stalled in the regulatory review process.

Despite federal agencies promising to take a more proactive approach to address this crisis, Michiganders in communities like Flint, Oscoda, and Parchment in my home state, cannot drink the water from their own faucets without fear of ingesting toxins like lead or PFAS.

While regulations are the responsibility of federal agencies, they must be reviewed by OIRA before they can be adopted.

That's why as Chairman of the Senate's top oversight Committee, I know it is critical lawmakers pursue regulatory reforms that reduce duplicative or burdensome processes while maintaining important protections for health, safety, and economic security, and I look forward to working with OIRA to make progress on these important reforms.

In short, if confirmed, both of you will have a dramatic impact on families, businesses, and communities in Michigan and all across the country.

I am pleased that President Biden has nominated two distinguished and highly qualified, nominees to serve in these incredibly important positions.

Today I look forward to hearing more from both of you about your experience and qualifications and how you plan to serve. Thank you.

Opening Statement

**Hearing before the Homeland Security
and Governmental Affairs Committee**

Thursday, September 29, 2022

**Nominations of Robert H. Shriver III to be Deputy Director, Office of Personnel Management, and
Richard L. Revesz to be Administrator, Office of Information and Regulatory Affairs, Office of
Management and Budget**

Thank you, Chairman Peters, I'm glad to fill in as Ranking Member today. If confirmed, these nominees would be leaders in regulatory and federal workforce policy, two issues I have spent a significant amount of time on.

Rob Shriver is nominated to be the Deputy Director at OPM. As a professional with over 25 years of experience working on issues related to federal employees, he understands many of the challenges OPM and the federal government faces in hiring and maintaining a skilled and effective workforce. We were able to have a good, substantive conversation yesterday, and I look forward to continuing that here today.

Over the past decade, OPM has had to navigate many changes in leadership, structural overhauls, and a major cybersecurity event while attempting to achieve its mission to lead Executive Branch federal workforce policy and administer benefits programs for the federal family.

OPM continues to have many challenges it needs to address—for example, it takes nearly 100 days on average for a federal agency to hire a new employee. On the other end of an employee's tenure, OPM manages a paper-based retirement system out of a cave in Pennsylvania.

To have a modern, effective federal workforce, OPM needs modern, effective policies and processes.

I look forward to discussing these topics with Mr. Shriver today.

Ricky Revesz has a long academic career with an extensive list of publications including many books, academic articles, and op-eds. The Administrator of OIRA does not usually receive a lot of attention outside of a few circles here in DC, but it is an incredibly important position.

I have been concerned that taking so long to pick a nominee was a sign that this Administration does not view the position as necessary for good government. I hope I am wrong about that.

Regulatory policy impacts everyone. Fair and predictable regulatory policy allows businesses, particularly small businesses – to open, plan for the future, and thrive. This drives our economy forward. But drastic swings in

policy from administration to administration creates uncertainty. We need safe food and working conditions, but regulatory policy must be known, predictable, and most importantly, follow the laws passed by Congress.

OIRA is the gatekeeper that ensures Executive Branch agencies follow the law, complete cost-benefit analysis, and do not cut corners for convenience. The job of the OIRA Administrator is often to tell your boss "no," which is not easy.

Professor Revesz, there will be many both in the Administration and out who view the rulemaking process as an impediment to achieving their policy goals and it is your job to ensure that the law is followed.

In closing I'll note that Professor Revesz has already had it much easier than his predecessor. When this committee last considered the OIRA nominee, Paul Ray, faced several hours' worth of questions from committee members and committee staff, as well as hundreds of pre-hearing and post-hearing written questions.

U.S. Senate Committee on Homeland Security and Governmental Affairs

Opening Statement of Robert H. Shriver, III

Nominated to be Deputy Director, Office of Personnel Management

Sept. 29, 2022

Thank you, Chairman Peters, Ranking Member Portman, and distinguished Members of the Committee for welcoming me here today. It is an honor to be considered by this Committee as President Biden's nominee for Deputy Director of the Office of Personnel Management.

I want to start by recognizing the hard-working employees of the federal government, especially those at OPM. I would not be here today without their dedication and commitment. I care deeply about the civil service, about OPM, and all federal employees, and I thank them for their service.

I am also fortunate to have several family members with me here today. My wife JoAnn Martinez is here with two of our three children, Mitch and Justine. Our oldest son Robby is away for his first year of college and couldn't be here today. I want to thank my kids for all the joy they bring me, as well as the support and patience they have shown throughout my career. I especially want to thank JoAnn for her partnership—as both of us have balanced demanding careers with raising our family—and for her kindness and strength throughout our 22 years of marriage.

I am also blessed to have my father, Robert H. Shriver, Jr., my mother, Norma, and my sister, Melinda, here with me today. My parents are retired schoolteachers, and my sister is a public school administrator. They've traveled from Nazareth, Pennsylvania, to support me today, as they have done consistently and steadfastly throughout my entire life.

Like a lot of middle-class kids, I was fortunate to be able to go to college, but I needed to work to contribute to the costs. So, during high school, I worked in the paint department at K-Mart in Bethlehem, PA. I went off to college at Virginia Tech in Blacksburg, Virginia, where I washed dishes and served food in the dining hall. And then, when I went to George Washington University Law School here in Washington, DC, I got a job in the file room of a large law firm. It was about the furthest thing you could be from a summer associate—there was no wining and dining for me. The idea of an unpaid internship didn't even enter my mind. I needed a paycheck and working in the file room got me that.

I have carried those lessons on the importance of hard work into my professional career. I've had the good fortune to work in several positions at OPM, including my current position as the Associate Director for Employee Services at OPM, where I lead OPM's government-wide workforce policy team. I've also worked in state government, for a labor union, and in the private sector. I've held jobs that focused on law, policy, operations, and Information Technology. I've represented both labor and management. I've been a purchaser and a seller of services for the government. I've been a stakeholder and led stakeholder engagement. I've learned what the tools are to advocate for policies outside of government and how to leverage the tools to make policy inside of government. I've had great mentors who taught me how important it is to help the next generation of employees, something that drives me every day.

Through it all, I've been driven by one overarching principle: to help make the government work better for the American people.

OPM is a critical agency for effective and efficient government operations. I like to say that “everybody is in OPM’s business because OPM is in everybody’s business.” What I mean is that strategic workforce management is critical to every agency in government, and OPM exists to provide expert guidance, advice, and support on the full range of workforce matters. OPM also exists to preserve and protect the non-partisan, career civil service. Day in and day out, we balance these two foundational principles—how can we advance innovation in strategic human capital management while honoring the bedrock principles of our merit system that dates to the Pendleton Act of 1883.

If confirmed as Deputy Director, I will strive to build on the successes OPM has had over the past 20 months. I will leverage the experience I have had working in three different offices in OPM—the Office of the General Counsel, Healthcare and Insurance, and Employee Services—to drive policy innovation and customer service improvements across the agency. In partnership with Director Ahuja, I will apply the work ethic ingrained in me by my parents and community from an early age toward advancing my overarching leadership principle: help make the government work better for the American people.

I want to thank you Chairman, Ranking Member, and all Members of the Committee and their staffs for taking the time to meet with me. If I am fortunate enough to be confirmed, I look forward to continuing our conversations and, with Director Ahuja, strengthening the relationship between OPM and this Committee.

I am happy to answer any questions you may have.

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

1. Basic Biographical Information **REDACTED**

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Deputy Director, U.S. Office of Personnel Management	08/03/2022

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Robert	Harley	Shriver	III

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 1900 E Street, NW		
City: Alexandria	State: VA	Zip: 22306	City: Washington	State: DC	Zip: 20415

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<small>Check if Maiden Name</small>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
None					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1971	Easton, PA

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

<i>Spouse's Name</i> (current spouse only)			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
JoAnn	A	Martinez-Shriver	

<i>Spouse's Other Names Used</i> (current spouse only)						
First Name	Middle Name	Last Name	Suffix	<small>Check if Maiden Name</small>	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
JoAnn	A	Martinez			05/1970 Est <input type="checkbox"/>	Present Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
First Name	Middle Name	Last Name	Suffix
Robert	Harley	Shriver	IV

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
Virginia Tech	university	08/1990 Est <input type="checkbox"/>	12/1993 Est Present <input type="checkbox"/> <input type="checkbox"/>	BA	12/1993
George Washington University Law School	university	08/1994 Est <input type="checkbox"/>	05/1997 Est Present <input type="checkbox"/> <input type="checkbox"/>	JD	05/1997

3. Employment

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

Type of Employment (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other	Name of Your Employer/Assigned Duty Station	Most Recent Position Title/Rank	Location (City and State only)	Date Employment Began (month/year) (check box if estimate)	Date Employment Ended (month/year) (check box if estimate) (check "present" box if still employed)
Non-Government Employment	K-Mart, Bethlehem, PA	Sales Associate	Bethlehem, PA	12/1989 Est X <input type="checkbox"/>	8/1990 Est <input type="checkbox"/>
Local Government Employment	Nazareth Area School District, Nazareth High School, Nazareth, PA	Groundskeeper (over summer breaks from college)	Nazareth, PA	05/1991 Est 05/1992 <input type="checkbox"/> 05/1993 05/1994	08/1991 Est <input type="checkbox"/> 08/1992 08/1993 08/1994
State Government	Virginia Tech Dining Services, Owens and Dietrick Dining Halls, Blacksburg, VA	Dishwasher, pasta cook, assistant to the secretary (during the school year)	Blacksburg, VA	08/1991 Est X	05/1994
Non-Government Employment	Howrey and Simon Law Firm, Washington, DC	File clerk	Washington, DC	05/1995 Est <input type="checkbox"/>	12/1995 Est <input type="checkbox"/>
Non-Government Employment	National Treasury Employees Union, Headquarters, Washington, DC	Law Clerk/Assistant Counsel	Washington, DC	01/1996 Est <input type="checkbox"/>	05/2009 Est <input type="checkbox"/>
Other Federal Employment	U.S. Office of Personnel Management, Teddy Roosevelt Building, Washington, DC	Assistant Director of National Healthcare Operations, Healthcare and Insurance	Washington, DC	11/2012 Est <input type="checkbox"/>	09/2014 Est <input type="checkbox"/>
Other Federal Employment	U.S. Office of Personnel Management, Teddy Roosevelt Building, Washington, DC	Senior Policy Counsel/Deputy General Counsel for Policy, Office of General Counsel	Washington, DC	06/2009 Est <input type="checkbox"/>	11/2012 Est <input type="checkbox"/>

State Government	District of Columbia Health Benefit Exchange Authority, Headquarters, Washington, DC	Director of Marketplace Innovation, Policy, and Operations	Washington, DC	09/2014	06/2018
Non-Government Employment	IdeaCrew, Inc., Headquarters, Washington, DC	Vice President of Business Development	Washington, DC	07/2018	01/2021
Other Federal Employment	U.S. Office of Personnel Management, Teddy Roosevelt Building, Washington, DC	Associate Director of Employee Services	Washington, DC	02/01/2021	Present

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

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
Alexandria (VA) City	Member, Social Services Advisory Board	01/2002 X <input type="checkbox"/> Est	07/2004 Est <input type="checkbox"/> Present <input type="checkbox"/>

4. Potential Conflict of Interest

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Personnel Management’s Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the agency’s Designated Agency Ethics Official and has been provided to the Committee. I am not aware of any other potential conflicts of interest.

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

In my current position with OPM, I oversee a team that regularly provides technical assistance on proposed legislation affecting the Federal workforce. I have provided multiple briefings to

Hill staff on Federal workforce policy issues. I also oversee OPM's Federal workforce policy agenda and work to execute that agenda.

While employed by IdeaCrew, Inc., I testified before a committee of the Maine State legislature in support of Maine creating a State-Based Exchange for purposes of offering qualified health plans under the Affordable Care Act.

While employed by the District of Columbia Health Benefit Exchange Authority, I supported efforts to influence policy at the Federal and State level related to implementation of the Affordable Care Act.

5. Honors and Awards

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

High school:

- Lower Nazareth Elementary School PTA scholarship (for college)
- National Football Foundation scholarship (for college)

College:

- Gamma Beta Phil honor society

Law School:

- Moot Court Board
- Environmental Lawyer (law journal)

Post-Education

- Inducted into the Nazareth (PA) High School Wall of Fame

6. Memberships

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

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

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
None		

7. Political Activity

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

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service</u> (if applicable)
None			

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

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>
None			

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

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Biden for President	\$250	2020
Biden for President	\$300	2020
Biden for President	\$500	2020

Peters for Michigan	\$250	2020
Peters for Michigan	\$250	2020

8. Publications and Speeches

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

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
No Seat at the Table: Flawed Contracting Out Process Unfairly Limits Front-Line Federal Employee Participation on JSTOR	<i>Environmental Lawyer</i>	Summer 2001
For Policy Makers Looking To Expand Coverage, Lessons From The Demise Of The ACA's Multi-State Plan Program Health Affairs	<i>Health Affairs</i>	September 2019

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

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
State-based Exchange Testimony	Interim Meeting of the Joint Committee on Health Coverage, Insurance and Financial Services, Maine State Legislature	October 1, 2019

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

<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
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None		
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9. Criminal History

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

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

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

NOT APPLICABLE

- A) Date of offense:
 - a. Is this an estimate (Yes/No):
- B) Description of the specific nature of the offense:
- C) Did the offense involve any of the following?
 - 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: **Yes / No**
 - 2) Firearms or explosives: **Yes / No**
 - 3) Alcohol or drugs: **Yes / No**
- D) Location where the offense occurred (city, county, state, zip code, country):

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

10. Civil Litigation and Administrative or Legislative Proceedings

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

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
None				

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? Please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
2022	Federal Labor Relations Authority	American Federation of Government Employees	I was one of several OPM managers named in AFGE's unfair labor practice charge arising from OPM's implementation of its return to the office policy	AFGE withdrew the ULP charge
2014	Equal Employment Opportunity Commission	Ed DeHarde	I was one of several OPM officials named in a claim of discrimination based on age (over 40), race (white), and reprisal filed by an OPM manager	Dismissed

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

11. Breach of Professional Ethics

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

<u>Name of Agency/Association/Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>
None			

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy? No

12. Tax Compliance

(This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State). No.

14. Outside Positions

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

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

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

15. Agreements or Arrangements

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

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

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

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

16. Additional Financial Data

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

REDACTED

REDACTED

SIGNATURE AND DATE

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



This 15th day of Sept., 20 22

REDACTED

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



August 11, 2022

The Honorable Gary C. Peters
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Robert Shriver, who has been nominated by President Biden for the position of Deputy Director, Office of Personnel Management.

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

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

Sincerely,

David J. Apol
General Counsel

Enclosures **REDACTED**



August 3, 2022

Benjamin C. Mizer
General Counsel &
Designated Agency Ethics Official
Office of Personnel Management
Room 7355
Washington, DC 20415

Dear Mr. Mizer:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Deputy Director, Office of Personnel Management. It is my responsibility to understand and comply with commitments outlined in this agreement.

SECTION 1 – GENERAL COMMITMENTS

As required by the criminal conflicts of interest law at 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the particular matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me:

- Any spouse or minor child of mine;
- Any general partner of a partnership in which I am a limited or general partner;
- Any organization in which I serve as an officer, director, trustee, general partner, or employee; and
- Any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

In the event that an actual or potential conflict of interest arises during my appointment, I will consult with an agency ethics official and take the measures necessary to resolve the conflict, such as recusal from the particular matter or divestiture of an asset.

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

I will receive a live ethics briefing from a member of the ethics office after my confirmation but not later than 15 days after my appointment pursuant to the ethics program regulation at 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will submit my Certification of Ethics Agreement Compliance which documents my compliance with this ethics agreement.

I understand that as an appointee I must continue to abide by the Ethics Pledge (Exec. Order No. 13989) that I previously signed and that I will continue to be bound by it. Among other obligations, I will be required to recuse from particular matters involving specific parties involving my former employer or former clients for a period of two years after I am appointed, with the exception of federal, state and local government.

I will not modify this ethics agreement without your approval and the approval of the U.S. Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4).

SECTION 2 – PUBLIC POSTING

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

Sincerely,



Robert Shriver

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Robert Shriver III to be
Deputy Director, Office of Personnel Management**

I. Nomination Process and Conflicts of Interest

1. Did the President give you specific reasons why you were nominated to be the next Deputy Director of the Office of Personnel Management (OPM), and if so, what were they?

No.

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

No.

3. Have you made any commitments with respect to the policies and principles you will attempt to implement as Deputy Director? If so, what are they, and to whom were the commitments made?

No.

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

I am not aware of any potential conflicts of interest. In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Personnel Management's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the agency's Designated Agency Ethics Official and has been provided to the Committee.

5. Please provide the name of any individual, law firm, lobbying firm, public relations firm, or other entity you have formally retained or contracted with regarding this nomination, including any amounts paid in fees or otherwise.

None.

II. Background of the Nominee

6. Why do you want to serve as OPM Deputy Director?

I want to serve as OPM Deputy Director so that I can be a partner with Director Ahuja to help OPM—across all of its components—become the vibrant strategic workforce leader the nation needs to make a more efficient and effective federal government that delivers the services the American people need. OPM has a critical mission, and it is important that it has a full leadership team to carry out that mission. As Deputy Director, I can work across the agency to advance key policy priorities, to improve operations and customer service, and to strengthen OPM as an organization so it can realize its full potential.

7. What specific background, experience, and attributes affirmatively qualify you to be OPM Deputy Director?

I have spent most of my 25+ year career working in and around OPM. I am currently the Associate Director for Employee Services, a position I've held since the beginning of the Biden Administration. In this role, I lead OPM's governmentwide workforce agenda. I also worked at OPM from 2009-2014. From 2009-2012, I worked in OPM's office of General Counsel as the Deputy General Counsel for Policy. In that role, I provided legal guidance and served as a policy partner on a wide range of issues. From 2012-2014, I served as OPM's Assistant Director for National Healthcare Operations. During my tenure, OPM launched the Multi-State Plan program, a new program under the Affordable Care Act.

Prior to working at OPM, I was an Assistant Counsel at the National Treasury Employees Union for 13 years. In that role, I learned about issues affecting a broad range of agencies and the Federal workforce, as NTEU represented employees at over 20 agencies and departments.

8. Please describe:

a. Your leadership and management style.

I have an inclusive leadership and management style. I lead by making clear my core principles as a leader, setting clear priorities and expectations, and empowering staff to use their talents and creativity to advance our priorities on a day-to-day basis. I enjoy being surrounded by people who are subject matter experts and I challenge them to be open and transparent about their views. I encourage dissent and take all viewpoints into account when making decisions. I am positive and try to inspire my team to do good work, but I also hold them accountable for failing to meet expectations.

b. Your experience managing personnel.

I have been managing large teams for over 10 years. As Assistant Director for National Healthcare Operations at OPM, I managed a team of 40 employees. As the Director of

Marketplace Operations at the DC Health Benefit Exchange Authority, I managed a team of over 100 employees. Now, as Associate Director for Employee Services, I manage a team of over 170 employees.

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

I currently have over 170 employees who work under my supervision. That is the largest number I have supervised.

9. Please describe any experience you have related to cybersecurity or information security management.

During my time at the DC Health Benefit Exchange Authority (HBX), I served for a year as the Interim Chief Information Officer, while also serving as the Director of Marketplace Innovation, Policy, and Operations. During that year, the HBX Security team reported to me. I also oversaw a competitive procurement process for additional contract support for cybersecurity. We selected a new vendor to provide a range of cybersecurity services on the HBX systems.

10. Please describe any experience you have related to acquisitions, contract management, and the development of requirements.

As the Director of Marketplace Innovation, Policy, and Operations at the DC Health Benefit Exchange Authority (HBX), I managed multiple procurement processes, from development of requirements, through evaluation of proposals, to award, and, subsequently, contract management. This included multi-million dollar contact center contracts and contracts for IT services and products. As the Assistant Director for National Healthcare Operations at OPM, I managed the full procurement process for contracting with health insurance issuers to offer multi-state plan options on the ACA Exchanges. I also oversaw contract management with the issuers.

11. Please describe any experience you have related to human capital management and federal labor-management relations.

As a lawyer at NTEU, I worked for 13 years directly on federal sector labor-management relations. I handled litigation and grievance-arbitrations, supported contract negotiations, and engaged in labor-management partnership activities. Similarly, as the Deputy General Counsel for policy at OPM, I worked on labor-management issues and supported implementation of President Obama's EO 13522 on "Creating Labor-Management Forums To Improve Delivery of Government Services." As the Associate Director for Employee Services, I lead OPM's government-wide labor relations policy team.

With respect to human capital management, I have worked extensively, in my current job as OPM's Associate Director for Employee Services and previously as Deputy General Counsel for Policy, on a range of human capital management issues, including, for example, hiring reform, the Pathways initiative, skills-based hiring, the \$15 per hour

minimum wage, firefighter pay, surge hiring, labor relations, the SES, performance management, strategic workforce planning, work-life, and employee engagement.

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

Yes. As OPM's Associate Director for Employee Services, I have surrounded myself with people from diverse points of view and actively encourage their participation in the decision-making process. I hold regular leadership meetings, office hours for employees, decision meetings, and all hands meetings, as well as other engagements with staff in ES and with other OPM leaders. When formulating policy and making decisions, I bring together team members and actively seek out dissenting views. If I am not hearing dissenting views, I often offer alternative perspectives myself, to make sure people are comfortable expressing their opinions. If I make a decision that is supported by some parts of the team but not others, I make a point of pulling aside those I did not agree with to tell them that I value their contributions and they should keep advocating for their perspective. This approach is consistent with how I have managed in the other positions I've held in my career.

13. Please give examples of times in your career when you disagreed with your superiors and advocated for your position. Were you ever successful?

I have generally worked with strong leaders who wanted my input before making up their minds on important decisions. I have, however, had occasion to disagree with a superior's view, primarily on strategic and policy decisions. I have been successful in convincing a superior to agree with my approach, either because it was the legally stronger approach, was the better policy, or more strategic. I am generally able to understand the goal the superior is trying to achieve and to work with them on a sound approach that advances that goal.

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

In all of my roles at OPM, I have been driven to make decisions that are in the best interests of the country. My core principles as a leader are integrity, fairness, respect, and putting the interests of the country first. I am a frequent participant in inter-agency discussions, and, at times, I have advocated a politically unpopular opinion because I believe it is in the best interests of the country. I am comfortable sticking to my principles, even when matters are escalated. I advocate my position thoughtfully, respectfully, but forcefully when necessary.

15. What would you consider your greatest success as a leader?

My greatest success was helping the DC Exchange survive when I was the Director of Marketplace Innovation, Policy, and Operations at the DC Health Benefit Exchange Authority. I had been on the job for just six weeks when an IT deployment on the eve of open enrollment completely failed. I led the team through that very difficult open

enrollment and then led a complete overhaul of the IT systems and operational processes. By the next open enrollment, we had a completely new approach that achieved national recognition. Through that experience, I learned a lot about leading a team through the most stressful of circumstances and how to find ways to serve the public when the systems were not working.

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

I spent two years working very hard to lead OPM's efforts to create the Multi-State Plan program. Though the program was successful and growing when I left in September 2014, it has now all but disappeared. From that experience, I learned that it is part of a leader's job not just to create new things, but to make them sustainable, so they have a lasting impact.

17. Please describe how you build trust and credibility among staff as a leader.

I spend time building a positive relationship with the staff. I engage with them sincerely and transparently. I seek their input, value their expertise, and support them in making the biggest impact they can in their jobs. I include them in the decision-making process, and I explain the decisions I make. I give them a safe space to tell me how they are feeling about their work.

18. During your tenure as Associate Director of Employee Services at OPM, did you have a particular management philosophy? If so, please describe that philosophy.

My management philosophy is to empower the Employee Services team to make the biggest impact they can. The team cares deeply about the civil service and is highly motivated to improve the efficiency and effectiveness of government. It is my job to set clear priorities and expectations and then empower them to lead their teams to advance our top initiatives.

19. Please describe your approach to making major administrative and policy decisions during your tenure at OPM.

- a. Did you seek input from employees and management?
- b. Please describe how you used this feedback to inform your decision-making.

Initially, I assess if the decision is mine to make. If it is, I gather the best data and information that is available, and I engage employees and management with relevant information and expertise. I often hold decision meetings where staff brief me on the issues and the options they have identified. I actively seek their input and recommendations. Then, I make a decision based on the best information I have.

20. During your tenure as the Associate Director of Employee Services at OPM, please describe the major projects or initiatives that you led, including the results or goals achieved.

I have led several major initiatives during my time as OPM's Associate Director for Employee Services. They include:

- OPM's work on the Safer Federal Workforce Task Force to implement the Administration's policies related to COVID-19 for Federal workers, including issuance of multiple guidance memos, FAQs, and a new guide to telework and remote work;
- Implementation of multiple new hiring-related policies, including new hiring authorities to bring on post-secondary students and college graduates, former federal employees, and military spouses, as well as new guidance on skills-based hiring;
- Implementation of a government-wide \$15/hour minimum wage for Federal employees;
- OPM's efforts to reset labor relations through implementation of EO 14003 and to support worker organizing and empowerment under EO 14025; and
- OPM's implementation of the emergency leave program under the American Rescue Plan.

21. What lessons did you learn as Associate Director of Employee Services at OPM that would influence your agenda as OPM Deputy Director, if confirmed?

I've learned that the regulatory process is lengthy, and that OPM needs to make strategic use of its limited resources to focus on the most impactful changes. I've also learned that OPM needs better tools and processes to serve all of its customers, and that the absence of necessary tools and processes is frustrating for OPM employees who want to provide excellent service.

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

In 2014, I was one of several OPM officials named in a claim of discrimination and reprisal filed by an OPM manager that arose out of a reassignment. The case was dismissed.

III. Role of the Deputy Director of OPM

23. What do you consider to be the mission of OPM, and what would you consider to be your role and responsibilities, if confirmed as the Deputy Director?

OPM's mission is to be the Federal government's strategic human capital leader, to promote merit systems principles, and to provide excellent service to all customers. If

confirmed as Deputy Director, I anticipate that I would be a strategic partner to Director Ahuja and that, with her, I would drive OPM's policy agenda, strengthen OPM as an organization, and offer my expertise to improve customer service.

24. What do you anticipate will be your greatest challenges as OPM Deputy Director, and what will be your top priorities? What do you hope to accomplish during your tenure?

My top priority is to strengthen OPM as an organization so that it can better deliver across-the-board on its mission. Our greatest challenge is that we are not resourced to deliver on all of the challenges we are facing. That means we have to be rigorous in identifying priorities, aligning limited resources to those priorities, and manage projects efficiently.

The accomplishments I hope to achieve are to improve the Federal hiring process, bring more early career talent into government, establish OPM as the government's human capital strategy leader, improve customer service across OPM's operations, strengthen the Federal Employee Health Benefits program and other benefit offerings, and successfully implement the Postal Service Health Benefits Program.

IV. Policy Questions

Personnel

25. What do you believe are the three most important issues facing the federal workforce today?

I interpret this question to be about Federal workers, rather than Federal agencies. Based on that interpretation, the three most important issues are:

- Adjusting to the new work environment brought about by the pandemic, specifically with respect to building strong relationships with colleagues in a hybrid work environment;
- Feeling secure that they will be protected from partisan political influence; and
- Having meaningful opportunities for growth and development in their careers.

26. What do you believe is the role of OPM for government-wide strategic human capital management and policymaking?

OPM is the strategic human capital advisor to the Federal government, the largest employer in the nation. OPM should advance policies that support agencies in delivering on their missions. OPM needs to be a source of human capital innovation, moving the Federal government forward to the future of work. In advancing new innovations and flexibilities, OPM must also be mindful of safeguarding the merit systems principles, which have been core to our professional, non-partisan civil service.

27. GAO has included strategic human capital management as a high-risk area for many years; once again, GAO included it in the 2021 high-risk list.¹ What do you believe is the biggest impediment to addressing strategic human capital at OPM and government-wide and ensuring it is removed from the high-risk list?

Over the past 10 years or so, GAO's focus in this area has been on closing skills gaps. OPM has been working with GAO and Federal agencies on this effort for the last several years and has made progress in helping close skills gaps in their agencies. GAO recognized these efforts by OPM and closed out all open recommendations on OPM's engagement, GAO-15-233, *OPM and Agencies Need to Strengthen Efforts to Identify and Close Mission-Critical Skills Gaps*. With that being said, we know that there is still work to do to remove strategic human capital management from the GAO High Risk list. OPM is leading in this area by shifting the federal hiring process to one that is more skills-based. We issued guidance a few months ago that helps agencies move away from proxies for skills-- such as college degrees and occupational self-assessments— toward assessing candidates based on the job-related skills they bring to the table, no matter where they obtained them from. In addition, we are supporting agencies in occupation-specific work. We've worked with USDA and Interior on wildland firefighters, with DHS on cyber security, and we did a successful upskilling pilot with the IRS. I look forward to engaging more in government-wide policy and agency specific efforts to continue to make progress in this area.

28. As of May 2022, OPM had 68 open recommendations from GAO related to federal personnel issues.² If confirmed, how will you work toward addressing these recommendations?

That number is too high and is a testament to the tough times that OPM has been through over the last several years. It is critical that we have a coordinated strategy across OPM and across the government to make meaningful progress in addressing these recommendations. We need a strategy that is targeted and aggressive that sets short term goals allowing us to make mid-stream corrections where necessary and longer-term goals with quantifiable targets to measure progress. OPM has already taken action by addressing open recommendations in our new strategic plan, which has 4 overarching goals and a number of objectives within each goal that specifically address many of the issues outlined in these recommendations. We monitor our efforts through quarterly results meeting, and I will continue to track progress on the open recommendations and make course corrections where necessary across OPM's entire strategic plan.

29. For OPM and the federal workforce as a whole, what are your thoughts on succession planning and knowledge transfer to mitigate the impact of the "retirement wave"?

It is important to build better knowledge management systems in the Federal government. Agencies, including OPM, rely too much on institutional knowledge of subject matter

¹ U.S. Government Accountability Office, GAO-21-119SP, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas* (2021), available at: <https://files.gao.gov/reports/GAO-21-119SP/index.html>.

² Letter from Gene Dodaro, Comptroller General of the United States, to Director Kiran Ahuja, Office of Personnel Management, *Priority Recommendations: Office of Personnel Management* (June 28, 2022), available at: <https://www.gao.gov/assets/gao-22-105625.pdf>

experts that is lost when they leave government. Having better knowledge management systems where technical expertise is shared among employees would greatly assist the Federal government in knowledge transfer. It is also important to build knowledge transfer into our HR policies. For example, when OPM authorizes dual compensation waivers for reemployed annuitants, we require the reemployed annuitant to work with the team on knowledge transfer.

Similarly, succession planning should be incorporated into agency strategic workforce plans. It is important for agencies to assess skills gaps, recruit to fill those skills gaps, and then invest in employees' training and development to build a pipeline of talent at all levels of the agency.

30. What are your views with respect to the current hiring process within the federal government, and what changes would you recommend, if any?

There are actually many different hiring processes, with hundreds of hiring authorities, special agency hiring flexibilities, and numerous exceptions and workarounds. This can be confusing to applicants, hiring managers, and HR, and can cause the Federal government to lose out on talent as a result. To improve the hiring process, we need to focus on defining the qualifications needed for the job, recruiting talent with those qualifications, and then assessing candidates to evaluate the strength of their qualifications. We need to move away from proxies for skills—like college degrees or applicant self-assessment—to evaluating people based on the actual skills they have. And, we need to explore strategies—such as more pooled hiring and sharing of hiring certificates—that may help reduce time to hire across government and improve both applicant and hiring manager satisfaction with the hiring process.

31. Over the years, various Departments and agencies have sought and received authorities to establish personnel systems outside of government-wide provisions and independent of OPM policies and oversight. What is your opinion about the patchwork of personnel systems and authorities that exist throughout the federal government?

This patchwork of systems makes it challenging to drive government-wide improvements. It adds complexity to the process, at times creating confusion for applicants and hiring managers, and complicates Federal HR. It also makes it more difficult for OPM to serve as the Federal government's strategic human capital leader. OPM can provide flexibilities to assist agencies in meeting their hiring needs. I think it is important that agencies and Congress work with OPM, rather than around OPM, to address their human capital challenges. But OPM needs to show that it will be a value add to the agencies, something we've made great progress on. For example, even before the Bipartisan Infrastructure Law was enacted, we were meeting with agencies affected by BIL to assess their hiring needs and provide our proactive support. We then created cross-functional tiger teams to support agencies from a policy, operational, and oversight perspective. We led a multi-agency hiring action for HR professionals, and we've seen an improvement in time to hire across the BIL agencies. We need to build on this to make this kind of strategic human capital leadership the rule and not the exception.

32. What flexibilities currently exist regarding the placement of positions into and out of the Excepted Service? Would locking in the current positions within the Excepted Service create long term difficulties in efficiently managing the federal workforce? Could too much flexibility create instability and inefficiencies in the federal civil service?

Under current law, both the President and OPM have the authority to except positions from the competitive service under certain conditions, including when competitive examination is not practicable. This authority has been used over the years to except, for example, attorneys, people with disabilities, students and recent graduates hired under the Pathways program, and political appointees. There are other flexibilities built into the system to allow for the President and OPM to respond to emerging needs, such as schedule A hiring authority, direct hire authority, and demonstration projects. While these hiring authorities can serve important purposes, it is also critical to strengthen the competitive hiring process and be sure that we advance merit system principles throughout Federal hiring.

33. One of the important roles of OPM is working with agencies to make sure that the federal workforce represents the diversity of the American people and agencies have inclusive policies to strengthen agencies' ability to meet their mission and ensure retention of employees.
- a. What do you believe is the role of the OPM Deputy Director in assisting agencies with their diversity and inclusion efforts?

As OPM's Deputy Director, I think I will have a platform to emphasize the scope and importance of the Administration's DEIA initiative with other senior leaders in government. I will also be able to review OPM workforce policies to advance DEIA principles where possible. And, I will be able to help OPM lead by example with our own implementation of DEIA at the agency.

- b. What role do you think OPM should play in specifically addressing employment of individuals with disabilities?

OPM can collaborate with external stakeholders and agencies with strong reputations for doing well in this area, to identify the most promising practices to both recruitment and retention of individuals with disabilities. OPM can also provide technical assistance to agencies in developing plans to promote employment of people with disabilities and to assist those who are struggling. OPM can also do more to amplify the benefits of hiring people with disabilities through the schedule A hiring authority and to encourage agencies to explore telework and remote work arrangements to improve accessibility for applicants and employees with disabilities.

34. Retirement application processing delays have long been an issue for OPM. According to a previous GAO report, OPM has cited (1) reliance on paper-based applications and manual processing, (2) insufficient staffing capacity, and (3) incomplete applications as the major causes of delays. Five out of six of the GAO's recommendations for addressing these issues

are still open recommendations. If confirmed, how would you tackle this ongoing problem?³

Retirement Services has not been an area of focus for me in any of my jobs at OPM. I do, however, look forward to applying the operations and customer service experience I've gained from the health care positions I've held. Our retirees deserve better service, and I can draw on my operational and customer service experience to help the team address the challenges it faces. I know that OPM is working to transition its retirement operations from a form-based system to a paperless, data-centric system that prioritizes the customer experience. I look forward to learning more about how Retirement Services is addressing these challenges and will want to ensure that OPM is working in partnership with customers, agency human resources offices, and Federal payroll centers to implement changes. I also have some general awareness that Retirement Services has faced some staffing challenges. I can assist by helping OPM put forward persuasive budget requests based on data and tied to delivering results.

35. OPM has management responsibility for several employee benefits programs, such as the Federal Employees Health Benefits Program.

a. Are there any particular areas of concern or changes you would advocate for, if confirmed as Deputy Director?

Yes. The FEHBP is the largest group health insurance program in the world, and OPM is proud to manage it. If confirmed, I would look forward to working with the Healthcare and Insurance team to strengthen FEHB to provide Federal employees and their families with better options and more tools to assist them in the plan comparison process. Consumers should be able to easily determine differences among plans, not only with respect to benefit packages but also out-of-pocket costs estimates, breadth of network and provider participation, and pharmacy benefits. In addition, new tools to allow for a more centralized approach to managing changes in enrollment could allow for more efficient program administration.

b. How does your experiences at OPM, the DC Health Benefit Exchange Authority, and IdeaCrew inform this perspective?

My experience at OPM as the Assistant Director of National Healthcare Operations and at the DC Health Benefit Exchange Authority and IdeaCrew deeply inform my perspective. When I first started at the DC Exchange, I inherited a failing IT system that led to enormous customer service challenges. I experienced firsthand the challenges of not having a single "source-of-truth" database that I could rely upon to resolve health insurance coverage issues. I oversaw the total rebuild of the technology platform. We started with a source-of-truth database, built out a central enrollment platform, and added on top-rated consumer decision support tools. The DC Exchange completely turned around and became one of the leading Exchanges in the country. Then, at IdeaCrew, I learned about how all of the other Exchanges were approaching their technical challenges, and the range of technology solutions that were available to them.

³ U.S. Government Accountability Office, GAO-19-217, *Federal Retirement: OPM Actions Needed to Improve Application Processing Times* (2019), available at: <https://www.gao.gov/products/gao-19-217>

In all three of my health care related positions, but especially at the DC Exchange, I learned the value of providing excellent customer service. When the IT system was failing, the only choice we had was to roll up our sleeves and do the hard, manual work of solving customer issues, day-in and day-out. I will bring that mentality and experience to the Deputy Director position if I am confirmed.

- c. How do you see OPM's role and, if confirmed, your role in establishing the Postal Service Health Benefits Program in the Federal Employees Health Benefit Program, authorized by the Postal Service Reform Act of 2022?

Implementing the new Postal Serve Health Benefits Program is a major project in which OPM has the primary leadership role. I view my role as leveraging my expertise in health care policy and operations to provide leadership, guidance, and advice on an ongoing basis to the project team.

36. What role do you think the OPM Deputy Director should play in identifying, preventing and recovering improper payments in OPM's programs?

I think the OPM Deputy Director should play a role in identifying, preventing and recovering improper payments in OPM's programs. OPM is committed to effective oversight and administration of its programs and strengthening controls around improper payments. OPM's improper payment rates are low; approximately .4 percent for Retirement Services and .05 percent for Healthcare and Insurance. It is my understanding that these are some of the lowest rates in the government. If confirmed as Deputy Director, I will ensure that OPM continues to focus on finding new ways to prevent and detect improper payments, and as we find improper payments, actively pursue the recovery of those payments. This would include continuing to partner with the Office of the Inspector General to assist our efforts and ensure accountability by our program offices.

37. What is your opinion of telework and remote work in the federal workforce? What more can OPM do to ensure agencies quickly and effectively leverage telework and remote work capabilities to make the federal government a more attractive and accommodative employer?

Telework and remote work are critical tools for recruiting and retaining top talent. We cannot go back to the pre-pandemic posture—America's employers have embraced more telework and remote work where they can. The Federal government needs to do the same thing, though always with an eye on mission delivery. That must be paramount. But many Federal jobs are conducive to telework or remote work, and workers will not tolerate resistance to these important flexibilities that is based on managerial preference rather than mission delivery. OPM issued a new guide to telework and remote work last Fall to assist agencies in applying existing policy to the hybrid work environment. We continue to provide technical assistance to agencies on a range of telework and remote work issues. We will continue to support agency experimentation with telework and remote work and compile best practices and lessons learned while considering whether further changes to policy are needed.

38. The Federal Employee Viewpoint Survey (FEVS) is conducted on an annual basis and has become a regular tool for agencies and employees in identifying and addressing workplace issues. If confirmed, how do you plan to use annual FEVS data to effect organizational change?

The FEVS is a critical source of data for agency leaders and managers across government. As the Associate Director for Employee Services, I review the FEVS data closely, engage the ES team on the results, hold listening sessions to generate ideas for improvement, and then develop and implement action plans. I'm pleased that the 2021 FEVS results saw a massive improvement in ES's employee engagement scores from 2020. As Deputy Director, I would apply a similar approach to OPM's results. I would work with our leadership team to replicate the successes we have had in ES so that OPM can be a model for how agencies can get the most out of FEVS.

39. What is your opinion of the current state of labor relations in the federal government and how would you approach labor relations issues, both government-wide and within OPM, as Deputy Director?

Tremendous progress has been made across the Administration on resetting labor relations. This effort began on day 3 of the Biden Administration, with issuance of EO 14003. That EO reversed some of the policies from the previous Administration that had led to major labor disputes and litigation across government. But there are over 1,800 bargaining units across the government, and the labor-management relationship in some of those units is very challenging, with those challenges going back many years in some places. The Biden Administration has made clear its commitment to working productively with unions on workplace issues. As Deputy Director, I would continue to honor that commitment, both with respect to how I would deal with the local unions that represent OPM employees and in OPM serving as a point of escalation for disputes between agencies and unions over implementation of the President's labor policies.

- a. How does your experience at the National Treasury Employees Union inform this perspective?

A key lesson I learned at NTEU is that labor unions view their role as not only protecting their members from unfairness and illegal conduct, but also as helping government solve problems. Unions appreciate being involved as a partner in efforts to improve government service. As the voice of frontline employees, they bring great ideas to the table that will help agencies deliver better service to the public. I also learned a lot about the strategic objectives that drive unions. They need to demonstrate to their members the value that they add. In that respect, it is important to share information and data with unions, so that when employees come to their union with questions about new workforce policies, the union has the information it needs to assist them. As Deputy Director, I would strive to continue to treat unions as important strategic partners who deserve an opportunity to present their ideas for improving government services and to being transparent with data and information to the extent possible, just as I have done as OPM's Associate Director for Employee Services.

40. How do you think the federal government, and OPM in particular, can better enhance employee morale? Are there any programs that you would consider instituting to enhance morale?

It would improve morale if we invested more in our workforce. Federal workers care about the mission, and they want to be able to develop and grow so they can better carry out the mission. We need to provide more training and development opportunities so that our employees can take on new challenges and become more efficient and effective. OPM is a great source of training and development programs, but agencies need the resources to pay for them. If confirmed, I would explore what OPM can do to make more training and development opportunities available to employees across government.

Information Technology & Cybersecurity

41. If confirmed, what would you do to attract and retain cybersecurity talent to OPM?

The competition for cyber talent is intense, and OPM is at a disadvantage, even among other agencies. The Departments of Defense and Homeland Security each have separate cyber talent management systems that allow them to hire faster and pay more than other agencies. OPM needs to explore the tools at its disposal to become more competitive. It also needs to make the case that working on cybersecurity issues at OPM will be a valuable stop in the career of a cyber professional.

42. If confirmed, how would you work to assist other federal agencies with attracting and retaining cybersecurity talent?

If confirmed, I would continue the work that OPM has initiated to develop a new cyber workforce plan for the Federal government. We need to level the playing field for federal agencies. Under the current state, where both Defense and Homeland Security have their own cyber talent management systems that allow them to hire faster and pay more, the rest of the government is at a disadvantage. A new system that is comparable to the DOD and DHS systems would put agencies on a more equal footing. I would also work with the Office of the National Cyber Director to ensure that the strategies they are developing consider the Federal workforce, too.

- a. How do you plan to work with the Cybersecurity and Infrastructure Security Agency to attract and retain cyber talent if confirmed?

I look forward to partnering with CISA and the Office of the National Cyber Director (ONCD) with respect to attracting and retaining cyber talent if I am confirmed. This work would build on work that I have already been doing as OPM's Associate Director for Employee Services. My team has engaged regularly with the cyber talent community, including CISA. We have worked closely with the ONCD on principles for a government-wide cyber talent system. I personally represented OPM at the ONCD's cybersecurity summit. Recruiting and retaining cyber-talent is a critical need for the federal government, and I am excited to partner with CISA,

ONCD, and other stakeholders inside and outside of government on solutions to these challenges.

43. As Deputy Director, how would you improve the agency's cybersecurity and information security?

I know that OPM takes cybersecurity very seriously. This has been an area of emphasis among the senior leadership team. Though I am not a cybersecurity expert, I have overseen technical teams in past positions that have included some cybersecurity staff. My commitment is to get briefed regularly about OPM's cybersecurity efforts, make sure we have quality leaders in place, and ask the hard questions. I also think that it is very important to be responsive and transparent when cyber incidents occur and will make sure that is how we approach any such incidents.

44. What do you believe are the drivers of the current and historical challenges in the information technology (IT) programs at OPM and what would be your approach to improving its IT systems?

OPM's IT programs have not been an area of focus for me in any of my positions at OPM. I have general awareness that, in the past, there has been turnover in the OPM CIO position that has led to some challenges, but now we have a strong leadership team—led by CIO Guy Cavallo—that is executing on important strategic objectives. It's important that we have strong leadership in this position, and I will make that a priority. I think it is also important to have an IT strategic plan, and I am aware that those efforts are currently underway. I would be engaged in the process of completing and implementing that plan. I also have a general awareness that there have been resource constraints in the past that have proven challenging for OPM's IT programs. My understanding is that Congress has provided some additional tools to OPM to help with the resource restraints, and I greatly appreciate that. I would look forward to working with you if there continue to be unmet resource needs.

V. Accountability

Whistleblower Protections

45. Protecting whistleblowers and their confidentiality is of the utmost importance to this Committee.

I share this view and am committed to protecting whistleblowers and their confidentiality.

- a. Please describe any previous experience with handling whistleblower complaints. What steps did you take to ensure those individuals did not face retaliation and that their claims were thoroughly investigated?

I have no previous experience with handling whistleblower complaints.

- b. If confirmed, what steps will you take to ensure that whistleblower complaints are handled appropriately at OPM?

I would insist that managers at all levels of the organization handle whistleblower complaints appropriately and in accordance with applicable laws and regulations.

- c. If confirmed, what steps will you take to ensure that whistleblowers at OPM do not face retaliation, that whistleblower identifiers are protected, and that complaints of retaliation are handled appropriately?

In addition to insisting that managers at all levels of the organization handle whistleblower complaints appropriately and in accordance with applicable laws and regulations, I would also review with our Office of General Counsel what training is made available to OPM managers and employees, and I would review OPM policy to be sure that managers are held accountable for making sure that whistleblowers are treated appropriately and not retaliated against.

Cooperation with Inspectors General

46. What is your view of the role of the OPM Office of Inspector General (OIG)? Please describe what you think the relationship between the OPM Deputy Director and the OIG should be. If confirmed, what steps would you take as Deputy Director to establish a working relationship with the Inspector General?

The OIG is a critical partner for the OPM Director and Deputy Director. I appreciate that the OIG can identify management challenges, as well as waste, fraud, and abuse, so OPM leadership can take action to address these situations. If confirmed as Deputy Director, I will engage on a regular basis with the OIG to facilitate open communication and transparency. I would also continue to respond to OIG inquiries as quickly and completely as possible, just as I have done in my role as OPM's Associate Director for Employee Services and in my previous roles at OPM.

47. If confirmed, do you commit to ensuring that all recommendations made by the OPM Inspector General are reviewed, responded to, if necessary, and, unless the agency justifies its disagreements with the recommendations, implemented to the fullest extent possible within a reasonable time period?

Yes.

48. If confirmed, do you commit without reservation to ensuring the OPM OIG receives timely access to agency records and to interview agency employees?

Yes.

49. If confirmed, what steps will you take to ensure all OPM offices and employees cooperate fully and promptly with OIG requests?

If confirmed, I will take all OIG requests seriously and ask that OPM staff comply promptly to the fullest extent possible in accordance with relevant laws and Administration policies. I would rely on existing processes managed by OPM's Merit System Accountability and Compliance office to manage OPM's responses.

Cooperation with GAO

50. If confirmed, do you commit without reservation to ensuring GAO receives timely, comprehensive responses to requests to OPM, including for records, meetings, and information?

Yes.

51. If confirmed, do you commit to fully cooperate in a timely manner with any audits, investigations, and other reviews and related requests for information from GAO?

Yes.

52. If confirmed, what steps will you take to ensure all OPM offices and employees cooperate fully and promptly with GAO requests?

If confirmed, I will take all GAO requests seriously and ask that OPM staff comply promptly to the fullest extent possible in accordance with relevant laws and Administration policies. I would rely on existing processes managed by OPM's Merit System Accountability and Compliance office to manage OPM's responses.

VI. Relations with Congress

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

Yes. Maintaining meaningful partnerships and open lines of communication with Congress will be a top priority, if I am confirmed.

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

Yes.

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

Yes.

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

I would work with OPM's Office of Congressional, Legislative, and Intergovernmental Affairs to make sure that OPM responds to Member requests for information as quickly as possible.

57. If confirmed, will you direct your staff to adopt a presumption of openness where practical, including identifying documents that can and should be proactively released to the public, without requiring a Freedom of Information Act request?

Yes.

58. If confirmed, will you keep this Committee apprised of new information if it materially impacts the accuracy of information your agency's officials have provided us?

Yes.

VII. Assistance

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

These answers are my own. In the course of my current position as OPM's Associate Director for Employee Services, I routinely discuss many of the topics covered by this questionnaire

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



(Signature)

This 19th day of September, 2022

Post-Hearing Questions for the Record
Submitted to the Robert H. Shriver III
From Chairman Gary C. Peters

“Nomination Hearing”
September 29, 2022

1. Lengthy and inefficient hiring processes make it hard for federal agencies to attract top talent or fill skills gaps, impacting the federal government’s ability to effectively serve the public. This is frustrating for individuals who are interested in a career in public service, creating unnecessary barriers to joining the civil service. It has also led to agencies making numerous requests to Congress for one-off hiring and personnel flexibilities through legislation rather than through existing authorities, which makes the hiring system as a whole even more complicated and difficult to navigate. What is your experience working with federal agencies to reduce hiring timelines in your current role as Associate Director of Employee Services? What would you do as OPM Deputy Director to help streamline the existing patchwork of hiring authorities and work with agencies to reduce the frequency of requests for additional hiring flexibilities from Congress?

It does take too long to hire people for many Federal jobs. I have been working to address the issue as the Associate Director for Employee Services, and should I be confirmed as OPM’s Deputy Director, I would continue to make this a priority.

The best way to streamline the patchwork of hiring authorities and reduce the frequencies of agency requests for additional hiring flexibilities from Congress is to improve the competitive hiring process. If agencies are able to get workers with the skills they need through the competitive hiring process in a timely manner, then there would be less pressure to create more workarounds.

One initiative that OPM has underway, and that I would continue to prioritize if confirmed as Deputy Director, is an effort to advance skills-based hiring. Too often, agencies rely on proxies for skills, such as college degrees and occupational questionnaires that ask candidates to assess themselves. Under the skills-based hiring initiative, OPM is working with agencies to better define the skills needed for Federal jobs and to support them in assessing candidates based on those needed skills.

In addition, OPM is currently assessing how we measure time to hire and considering actions that specifically address the amount of time it takes from the time of a job opportunity announcement to issuance of a tentative offer to onboard date, because delays during these portions of the hiring process are where the government tends to lose candidates if the process takes too long. Some actions that we have taken have focused on helping agencies better assess candidates for positions. With better assessments, agencies can work more quickly through lengthy lists of applicants to determine who is best qualified.

We have successfully piloted an assessment technique called “subject matter expert qualification assessment” or “SME-QA.” Under this technique, Federal employees who are subject matter experts in the area the agency is hiring for, participate in the hiring process by, for example, reviewing resumes, participating in structured interviews, and evaluating applicant writing samples or other assessment tools. These pilots have been promising, with a higher percentage of jobs filled and greater hiring manager satisfaction. As Deputy Director, I would prioritize expanding OPM’s capacity to support agencies with additional SME-QA and other innovative assessments.

We are also working with agencies on pooled hiring actions. This moves away from the traditional approach of one job announcement to fill one job to a more efficient approach of filling multiple positions

within and across agencies from a single job announcement. For example, OPM issued a multi-agency announcement for HR specialists to support implementation of the Bipartisan Infrastructure Law. Eighty-two selections were made by agencies through that single action, significantly improving the time to hire. Moreover, we left the certificate in place for several months so agencies could refer to the list of qualified candidates on the certificate and make a selection quickly in the event that additional hiring needs emerged. OPM is supporting other shared hiring actions and, if confirmed as Deputy Director, I will continue to prioritize this work.

Finally, the personnel vetting stage of the process also contributes to the lengthy time to hire Federal employees. This has not been a focus area of mine in my current position as Associate Director of Employee Services, but I am generally aware that there are on-going activities to improve and streamline the vetting process. And I would commit to prioritizing this work if I am confirmed.

2. This past June, President Biden signed the *Federal Rotational Cyber Workforce Program Act* into law, a bill I authored and introduced with Senators Hoeven and Rosen. This bill will enable civilian employees in cyber roles to spend time detailed to other federal agencies to broaden their organizational experience and foster collaborative intragovernmental networks. What steps would you take to facilitate the implementation of the Federal Rotational Cyber Workforce Program as Deputy Director?

I appreciate your work on this important new program to improve the Federal government's cyber workforce. OPM is working hard to implement it and has made arrangements with USAJOBS to post these rotational opportunities on the "open opportunities" section of USAJOBS so that they are widely available to the entire Federal workforce. We are also working with agencies to make sure they are aware of the program and can take advantage of it as soon as it is launched. If confirmed as Deputy Director, I will prioritize implementation of the new program by the statutory deadline, and work with the OPM team and agencies to amplify its importance.

3. On September 28, 2022, the Senate Homeland Security and Governmental Affairs Committee passed the *Improving Government Efficiency and Workforce Development through Federal Executive Boards Act (S. 4894)*, a bill I introduced with Senators Cornyn and Padilla. Federal Executive Boards coordinate activities among field offices located outside of Washington, DC and develop strong state and local partnerships. They are in a particularly good position to help recruit a wider range of individuals into the federal talent pipeline. If confirmed as OPM Deputy Director, how will you engage with the national network of Federal Executive Boards and better leverage their state and local relationships to diversify and improve the federal workforce?

Thank you for your work in this area, as well. As the Associate Director for Employee Services, I oversee the OPM team that works with the Federal Executive Boards. For the past year, OPM has been working on a plan for reinvigorating the FEBs, because, as you indicate, they are a critical network that can assist Federal agencies in many ways, including to diversify and improve the Federal workforce. OPM currently engages daily with the FEBs, and we have been working collaboratively with OMB and GSA to strengthen the partnership between the FEBs and our agencies. We participate in their regular meetings and support their strategic planning work. If confirmed as Deputy Director, I will continue to prioritize the work OPM is doing to strengthen the FEBs so that we may leverage their state and local relationships. I plan to follow the lead of OPM Director Ahuja and arrange to visit FEBs whenever I am traveling for official business. Finally, I will continue to advocate for a healthier FEB budget so that we can support the expanded vision we have for them.

Questions for the Record
Senator Rand Paul
On the Nomination of Robert Shriver III to be
Deputy Director, Office of Personnel Management
September 30, 2022

1. To your knowledge, what specific limitations has OPM put in place regarding individuals with criminal backgrounds seeking Federal employment? If confirmed, would you, as Deputy Director, agree to re-evaluate such limitations to further ensure fair treatment for these individuals during the hiring process?

OPM is committed to enhancing federal employment opportunities for all talented individuals—including those with criminal records. OPM regularly works with agency partners on this goal.

Previously, in my role as Deputy General Counsel at OPM during President Obama’s Administration, I was honored to serve as OPM’s representative on the Attorney General’s Re-entry Council. In my current role, as the Associate Director for Employee Services, I have continued to work on these issues, helping to lead our efforts to draft regulations to implement the bipartisan Fair Chance to Compete Act (“Fair Chance Act”), and to develop strategies to support employment opportunities for individuals with criminal records.

Based on my recent work regarding individuals with criminal records, I am aware that in 2016, OPM issued “ban the box” regulations. These regulations generally prohibit federal agencies from inquiring about an applicant’s criminal history until after a conditional offer of employment has been made. In 2019, Congress passed the Fair Chance Act, as mentioned above, a bill with strong bipartisan support that expands the number of government positions covered by the “ban the box” policy. OPM has published a [Notice of Proposed Rulemaking](#) to implement the Fair Chance Act, and it is working to finalize those regulations. These regulations, in addition to extending “ban the box” to more positions, also create new procedures and outline due process and accountability steps for hiring officials who are alleged to have violated the “ban the box” procedures.

In addition to these policy actions, OPM regularly works with agencies to assist them in their efforts to hire individuals with criminal records. This includes developing best practices regarding recruiting and hiring efforts, highlighting the various hiring authorities available to agencies, and publishing [Mythbusters](#) regarding federal hiring of individuals with criminal records.

OPM also provides information regarding federal hiring opportunities to individuals with criminal records; this past April (which is Second Chance Month), OPM published the [Guide to Federal Employment for Second Chance Applicants](#), which contains helpful information about the Federal hiring process and how the rules apply to individuals with criminal records. OPM also hosted virtual information sessions, focused on individuals with criminal records, regarding employment opportunities in the Federal government. These sessions covered topics such as resume writing for Federal jobs, navigating USAJOBS, and interviewing techniques. Further, OPM partnered with organizations serving individuals with criminal records and with the Department of Labor (via its Job Corps program) to promote these efforts and more effectively reach individuals with criminal records.

With respect to limitations for people with criminal records, there is no general limitation on their ability to pursue and obtain Federal jobs. I am aware that for certain specific positions, there are particular criminal activities that can be disqualifying, such as, for example, financial crimes for someone seeking certain financial positions in the government. I appreciate your work on behalf of individuals with

criminal records and, if confirmed as OPM's Deputy Director, I am committed to continuing OPM's efforts to remove unnecessary obstacles to their employment in the Federal government.

Senator James Lankford
Post-Hearing Questions for the Record
Submitted Robert H. Shriver III
September 29, 2022

Nominations of Robert H. Shriver III to be Deputy Director, Office of Personnel Management, and Richard L. Revesz to be Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget

Federal Employee Health Benefits

1. I am concerned about the increasing trend to medically transition children using puberty blockers, hormone therapy or surgery. As you may know, in the US, children as young as nine have been prescribed puberty blockers that have irreversible consequences such as permanent infertility. These drugs are not FDA-approved for purposes of gender transition, and it's hard to imagine a situation where a child can provide medical consent to such altering treatments. As you know, OPM administers the Federal Employee Health Benefits (FEHB) which is the largest employer-sponsored group health insurance program in the world.

a. Do you agree that tax dollars should not be used to fund puberty-blocking drugs and gender-reassignment surgeries? What about for children?

As the Associate Director for Employee Services, I do not oversee the FEHB program, and am not well-versed in the details of this issue. My understanding is that the FEHB program encourages carriers to base their coverage determinations on scientific evidence and a consensus of the medical community. If confirmed as Deputy Director, I commit to an inclusive health policy-making process that includes consultation with medical experts and reliance on the best scientific and medical evidence available.

b. Do you agree that insurance providers should not be forced or compelled by the government to cover puberty-blocking drugs and gender-reassignment surgeries? What about for children?

FEHB is a market-based program that offers a variety of health plans so that enrollees can choose the plan that best meets their needs. As noted above, while I do not oversee the FEHB program, my understanding is that the FEHB program encourages carriers to base their coverage determinations on scientific evidence and a consensus of the medical community, including with respect to any coverage issues affecting children.

c. Do you agree that doctors and hospitals should have the right to refuse to participate in gender transition therapies and treatments due to medical, religious or moral convictions, including refusing to administer puberty blocking drugs or performing surgery on children? Do you agree that conscience protection should also extend to treatment for adults?

I believe treatment decisions are best left to doctors and patients. My understanding is that OPM does not play a role with respect to whether individual medical providers may decline treatments based on conscience objections.

d. Do you commit, if OPM considers making any change in policy, including by guidance or regulation, effecting the FEHB in relation to coverage for the medical transition of children, to consult with me and the members of this Committee prior to making any change in policy?

If I am confirmed as OPM's Deputy Director, I commit to an inclusive policy-making process that takes into account the views of medical experts and stakeholders, including you and the Members of this Committee.

2. I am concerned about President Biden's shifting stance regarding federal funding of abortion. As you know, insurance plans offered through the FEHB are prohibited by law from covering abortion-related services.

a. Do you agree that tax dollars should not be used to fund abortion-related services?

I am aware that Congress has placed abortion-related restrictions on the FEHB program, and I commit that, if confirmed as OPM's Deputy Director, I will follow the law.

b. Do you agree that insurance providers should not be forced or compelled by the government to cover abortion-related services?

As noted above, my understanding is that Congress has placed abortion-related restrictions on the FEHB program, and that carriers participating in the FEHB program are required to adhere to these restrictions. If confirmed as OPM's Deputy Director, I commit to following the law.

c. Will you commit to enforcing the Smith amendment to ensure that no FEHB plans cover elective abortion?

Yes. As noted above, I commit to following the law.

d. Do you commit, if OPM considers making any change in policy, including by guidance or regulation, effecting the FEHB in relation to coverage for abortion-related services, to consult with me and the members of this Committee prior to making any the change in policy?

If I am confirmed as OPM's Deputy Director, I commit to an inclusive policy-making process that takes into account the diverse views of stakeholders, including you and the Members of this Committee.

3. In your questionnaire, you state you plan to strengthen the Federal Employee Health Benefits program and successfully implement the Postal Service Health Benefits program. Can you expand on what steps you'll take to accomplish those as well?

Successful implementation of the Postal Service Health Benefits (PSHB) program is a top priority for OPM, and if confirmed as OPM's Deputy Director, I look forward to learning more about OPM's progress, and will work hard to make this program a success. I have previous experience working in OPM's Healthcare and Insurance division and have also led marketplace operations for the District of Columbia Health Benefit Exchange Authority. In those positions, I learned a lot about implementing major new programs and overseeing operations and customer service. Based on my experience, I believe that successful postal implementation requires OPM to develop technological solutions to meet program needs, and to work with stakeholders, including USPS, to ensure smooth operations for postal workers, retirees and their families. If confirmed, I will work to do exactly that.

For the FEHB program, I am interested in advancing improvements that will assist employees and their families with selecting the health plans that are optimal for them. For example, consumers should be able to easily determine differences among health plans, not only with respect to benefit packages but also out-of-pocket costs estimates, breadth of network and provider participation, and pharmacy benefits. I would also look for opportunities to make program administration more efficient and effective. For example, based on my experience, I would favor new tools to allow for a more centralized approach to managing changes in enrollment.

I also think that in implementing the PSHB, we should look for efficiencies and improvements that can be applied to the FEHB program. In my experience, building out a new program, like PSHB, can lead to discovery of

innovations and programmatic improvements that can most efficiently be deployed at the same time to the new program and existing programs. I would work to identify these efficiencies if confirmed as Deputy Director.

Diversity, Equity, and Inclusion Training

4. In 2020, the Trump Administration issued an executive order, E. O. 13950, prohibiting Federal agencies and contractors from engaging divisive employee training, which had become common under the pretense of diversity, equity, and inclusion training. Many such trainings are established on critical race theory and the propositions that America is an irredeemably racist and sexist country; that some people, simply on account of their race or sex, are oppressors; and that racial and sexual identities are more important than our common status as human being and Americans. OPM had a central task in administering these executive orders.

a. Do you deny or affirm the propositions that America is an irredeemably racist and sexist country? That some people, simply on account of their race or sex, are oppressors? And that racial and sexual identities are more important than our common status as human being and Americans?

I do not believe that America is an irredeemably racist or sexist nation, but I know we can do better to be more welcoming and inclusive for people from all walks of life. I am not personally aware of the specific trainings you mention. But I think it is always important to respect all backgrounds and all voices, encourage an understanding of people from all walks of life, and work to create an inclusive work environment that values the experiences that people have had.

If confirmed as OPM's Deputy Director, I will strive to treat all Federal employees with dignity and respect, and work to help every Federal employee feel welcome, engaged, and valued.

b. The Biden Administration has rescinded the executive order. As OPM Deputy Director, would you continue to ensure that Federal employees and contractors are not mandated to engage trainings which adopt divisive presumptions about some people, simply on account of their race or sex?

As I noted above, I am not personally aware of the trainings you reference, but I do think it's important for any trainings to respect all backgrounds and all voices and not put anyone down. It's also important for any trainings to encourage an understanding of people from all walks of life, and to advance an inclusive work environment that values the experiences that people have had. If confirmed as OPM's Deputy Director, I would want to help lead the agency in a way that prioritizes those ideals.

c. As OPM Deputy Director, would you commit to not encouraging, mandating, or promulgating regulations which would proliferate such divisive rhetoric and theory?

As Deputy Director, I would not encourage, mandate, or promulgate regulations that would proliferate rhetoric or theory that does not treat all Federal employees with dignity and respect. I would work to help every Federal employee feel welcome, engaged, and valued.

The Role of OPM

5. The recent NAPA report on the role of OPM highlighted a number of long-running issues with the agency. While the report suggests that consistent executive leadership could play a role in overcoming much of OPM's challenges, do you believe there may also be a case that OPM may be structurally deficient for achieving its entrusted mission?

No, I do not believe that OPM is structurally deficient for achieving its entrusted mission. I believe that OPM plays a critical role in the Federal government, and its structure supports delivering on its mission. All large employers must have a central HR function, and OPM performs that role for the Federal government. OPM has traditionally played an important compliance role that advances the merit system principles and other important principles of the Federal civil service, including honoring the service of the military by protecting veterans' preference in the hiring process. OPM has taken the NAPA report to heart and in little over a year has made significant changes to improve its ability to offer the strategic human capital leadership the Federal government needs. Consistent leadership and sufficient resources, along with further work to implement the NAPA report's recommendations, are needed to strengthen OPM and allow it to more fully realize the critical role it must play in the Federal government.

COVID Policy and Return to Work

6. President Biden recently stated that the COVID-19 pandemic is "over." Do you believe OPM through the Safer Federal Workforce Task Force should begin bringing federal employees back into the office?

Throughout the pandemic, the more than 4 million Federal employees have been hard at work, protecting our country, providing critical services, and combatting COVID-19 and its impacts. OPM's telework report shows that half of Federal employees continued to report to their official duty stations day-in and day-out, because their jobs could not be performed anywhere else. We owe them a debt of gratitude.

Other Federal employees were placed in a maximum telework status at the outset of the pandemic, under the prior Administration. Under the current Administration, the Safer Federal Workforce Task Force, based on guidance from the CDC, worked with agencies on a reentry process to transition to new hybrid work environments. Most agencies concluded reentry by the end of April, while others concluded reentry in the weeks that followed.

In crafting their reentry plans, agencies have been guided by OMB Memorandum M-21-25, which directed them to make these personnel and work environment decisions based on how well such decisions would enable agencies to advance their mission and best serve the American people. OPM has also issued new guidance (Guide to Telework and Remote Work in the Federal Government, Nov. 2021) to assist agencies in making determinations about telework and remote work, based on mission needs and experiences during the pandemic.

Starting last Spring, public-facing Federal Government offices began opening for longer hours and offering more in-person appointments and walk-up services for those who need them. In-person interactions have increased as well. For example, in early April, local Social Security offices added more in-person appointments and returned to offering in-person service for people without an appointment.

It is important that agencies continue to assess how their telework and remote work strategies are advancing mission delivery. At the core of agencies' ongoing efforts to assess and shape their work environments is the Administration's broader commitment to improve customer experience and services—be those services in-person, via phone, or online—so that the American people can easily and efficiently access critical Government services with minimal administrative burden.

General OPM Policy

7. What is your plan to streamline the retirement process to ensure a retiree who worked for multiple agencies does not have to wait months to receive benefits because the government cannot combine the appropriate records in a timely manner?

If confirmed as OPM's Deputy Director, strengthening Retirement Services would be a priority. OPM's Retirement Services staff works very hard day-in and day-out to help our retirees. If confirmed, I will draw on my

operational and customer service experience to help the team address the obstacles they face - including data integrity challenges, which I've previously worked on - that may be impacting retirees who work for multiple agencies. I know that OPM is working to transition its retirement operations from a form-based system to a paperless, data-centric system that prioritizes the customer experience. I look forward to learning more about that transition, and I will ensure that OPM is working in partnership with customers, agency human resources offices, and Federal payroll centers to implement any changes. Our retirees deserve better service, and our employees should have the tools they need to provide it, because I know they are very committed to doing just that.

8. In your questionnaire you stated you hope to “improve the Federal hiring process” and “bring more early career talent into the government.” How do you plan to do so?

As the Associate Director for Employee Services, I have been working with agencies on steps to improve the Federal hiring process, including for early career talent. During my first few months on the job in 2021, we implemented two provisions of the 2019 NDAA—the postsecondary students internship hiring authority and the college graduates authority. These early career talent regulations supplemented previous regulations we issued to expand military spouse hiring authority and to make it easier for former Federal employees to return to Federal service. This year, we are working on paid internship guidance and a revision to our Pathways program regulations, which will make it easier to bring on interns and recent graduates and convert them to permanent positions.

If confirmed as OPM's Deputy Director, I plan to bring a holistic view to the hiring process that examines not only policy but also how the Federal government recruits, how to better support HR and hiring managers while improving the applicant experience, and what technical tools we can use to lead to better results.

9. Time to hire is still around 100 days and USAJOBS continues to be cumbersome for both applicants and agencies, what steps do you plan to take to make the application process easier and hiring quicker?

It does take too long to hire people for many Federal jobs. I have been working to address the issue as the Associate Director for Employee Services, and should I be confirmed as OPM's Deputy Director, I would continue to make this a priority.

One initiative that we have underway, and that I would continue to prioritize if confirmed as Deputy Director, is our effort to advance skills-based hiring. Too often, agencies rely on proxies for skills, such as college degrees and occupational questionnaires that ask candidates to assess themselves. Under the skills-based hiring initiative, OPM is working with agencies to better define the skills needed for Federal jobs and to support them in assessing candidates based on those needed skills.

In addition, OPM is currently assessing how we measure time to hire and considering actions that specifically address the amount of time it takes from the time of a job opportunity announcement to issuance of a tentative offer to onboard date, because delays during these portions of the hiring process are where the government tends to lose candidates if the process takes too long. Some actions that we have taken have focused on helping agencies better assess candidates for positions. With better assessments, agencies can work more quickly through lengthy lists of applicants to determine who is best qualified.

We have successfully piloted an assessment technique called “subject matter expert qualification assessment” or “SME-QA.” Under this technique, Federal employees who are subject matter experts in the area the agency is hiring for, participate in the hiring process by, for example, reviewing resumes, participating in structured interviews, and evaluating applicant writing samples or other assessment tools. These pilots have been promising, with a higher percentage of jobs filled and greater hiring manager satisfaction. As Deputy Director, I would prioritize expanding OPM's capacity to support agencies with additional SME-QA and other innovative assessments.

We are also working with agencies on pooled hiring actions. This moves away from the traditional approach of one job announcement to fill one job to a more efficient approach of filling multiple positions within and across agencies from a single job announcement. For example, OPM issued a multi-agency announcement for HR specialists to support implementation of the Bipartisan Infrastructure Law. Eighty-two selections were made by agencies through that single action, significantly improving the time to hire. Moreover, we left the certificate in place for several months so agencies could refer to the list of qualified candidates on the certificate and make a selection quickly in the event that additional hiring needs emerged. OPM is supporting other shared hiring actions and, if confirmed as Deputy Director, I will continue to prioritize this work.

Finally, the personnel vetting stage of the process also contributes to the lengthy time to hire Federal employees. This has not been a focus area of mine in my current position as Associate Director of Employee Services, but I am generally aware that there are on-going activities to improve and streamline the vetting process. And I would commit to prioritizing this work if I am confirmed.

10. The CHCO Council (Chief Human Capital Officers) is a group with valuable expertise in all aspects of federal workforce policy – they able to provide valuable feedback on the practical application of workforce policy as well as offer best practices. How will you utilize the expertise of the CHCO Council?

The CHCO Council has returned to OPM after being housed at a different agency during the previous Administration, and we have worked hard to strengthen the ties between OPM and the CHCOs. In addition to reinstating monthly CHCO Council meetings, we've established an Executive Steering Committee that meets regularly with OPM leadership to discuss the strategic direction of the Council and personnel policy. We've launched monthly personnel policy office hours where OPM subject matter experts meet with CHCOs and their staff to exchange ideas and provide input on policy that is under development. We have also created multiple CHCO working groups to focus on specific priority areas, engaged with CHCOs on legislative and regulatory priorities, actively sought CHCO input on how OPM can best assist them in carrying out their responsibilities, and have submitted budgets to Congress that, if enacted, would provide for improved customer service for agencies and create more structure for the kinds of innovations and demonstration projects that would benefit the entire civil service system. If I am confirmed, we will continue these efforts and look for additional ways to successfully engage with CHCOs.

11. In your questionnaire, in response to a question about what you've learned in your role as Associate Director of Employee Services at OPM, you stated "that the regulatory process is lengthy, and that OPM needs to make strategic use of its limited resources to focus on the most impactful changes." What changes do you think OPM needs to focus on in the regulatory process?

OPM needs to leverage its regulations to advance innovations and creativity in human capital while promoting merit system principles. We need to focus on regulatory changes that will make the most impact in these areas, so that the policies we prioritize are the ones that support productivity and agency mission delivery while engaging the Federal workforce. We need to be proactive, looking years ahead when planning regulatory actions, but must also be nimble enough to adjust to emerging needs.

12. How do you see telework advancing in the federal government? What safeguards and guidance can OPM provide to assist in optimizing telework opportunities?

Telework and remote work are critical strategic workforce management tools. The ability of Federal employees to work from home during the pandemic was essential to continued delivery of services for the American people. We are taking the lessons learned from the pandemic to revisit the way agencies are using telework and remote work. Agency telework and remote work programs need to be driven by productivity, and telework decisions need to be based on how best to deliver on the agency's mission, rather than managerial preference. We learned from the

pandemic that many employees who may have been ineligible to telework prior to the pandemic could actually complete their work responsibilities while teleworking.

This has created important new recruiting opportunities for agencies. Remote work, in particular, has opened up employment opportunities for people across the country who previously would have had to move perhaps hundreds of miles to work for the Federal government. In addition, I think the combination of remote work and the military spouse hiring authority creates exciting new opportunities that will benefit the Federal agencies, our servicemembers, and their families. By structuring job duties that allow for work to be performed remotely, military spouses can stay in the same job even if their partner is deployed to different locations across their careers. This facilitates retention of military spouses, who have so much to offer as Federal employees.

Similarly, though, agencies learned that for other functions, in-person work is necessary. For example, agencies needed to bring more employees back to the office to cover in-person appointments and support walk-up customer service activities. Last fall, OPM issued an updated guide to telework and remote work. This guide helped agencies apply existing policies to the new hybrid work environment. It is important for OPM to continue to work with agencies to monitor how telework is performing in the hybrid work environment, and to determine whether any changes to policy or practices are necessary. We expect to continually review and update our guidance so that we can support agencies with the most recent best practices and lessons learned.

13. If confirmed, what role do you see as Deputy Director in improving OPM and the federal government's cybersecurity?

OPM should continue to play a leading role in developing a cyber talent system for the Federal government. Congress has provided special authorities to the Defense Department and Department of Homeland Security to create their own cyber talent systems, and OPM has been proud to work with both Departments on the details of those systems. OPM has also been working with partners across the Federal government on a government-wide cyber talent system and is looking at opportunities to leverage existing authorities to help with recruitment and retention of cyber talent. This includes supporting the creation of the Digital Service Corp, authorizing direct hire authority, and exploring special salary rates.

With respect to OPM specifically, a top priority of the OPM Director is that we have strong leadership in our Office of the Chief Information Officer. It is important that OPM not only be prompt in reacting to cyber incidents but also be aggressive and proactive in seeking out vulnerabilities and addressing them early as they are discovered. If confirmed as OPM's Deputy Director, I would look forward to seeing how I could leverage this important role to ensure the continued prioritization of cybersecurity matters.

14. GAO currently lists 49 recommendations for OPM, including 14 priority recommendations. What actions have you taken in your current role as Associate Director to remedy these recommendations?

GAO plays a critical role in evaluating government programs, and I am committed to working with GAO as a partner to make progress on its open recommendations. As Associate Director of Employee Services, I have overseen special teams dedicated to some of GAO's recommendations. Specifically, OPM has worked extensively with agencies on critical skills gaps, and we have recently closed recommendations in that area that were directed to OPM. We have also developed a new strategic plan for OPM, and that plan was informed by the GAO recommendations. As a result, we are tracking progress on several of the GAO recommendations through our strategic plan infrastructure, which includes regular leadership meetings, deliverables tracking, and key metrics. As we make progress under our strategic plan, I would expect that we will be able to work toward closing these recommendations.

**Hearing before the U.S. Senate Committee on Homeland Security
and Governmental Affairs**
Mr. Richard L. Revesz
Nominee to be Administrator, Office of Information and Regulatory Affairs
September 29, 2022

Chairman Peters, Ranking Member Portman, and Members of the Committee—

It is a privilege to come before you as President Biden's nominee to be the Administrator of the Office of Information and Regulatory Affairs. I would like to thank all the members of the committee for considering my nomination, the members who took the time to speak to me before this hearing, and the staff for their help and guidance throughout this process. And I am enormously grateful to the President for the trust reflected by this nomination. I am deeply honored and humbled.

As I was growing up in Argentina during the very turbulent 1960s and 1970s, when democratic rule was routinely interrupted by coups and deadly political violence, I could have never imagined that I would be sitting in this chair one day. I grew up speaking Spanish and learned English as a second language. I came to the United States to go to college in 1975 when I was 17. I arrived two weeks before the beginning of my freshman year at Princeton, as Argentina was entering a six-year period during which between 10,000 and 30,000 people were killed through government-led violence in a country with a tenth the population of the United States. I am so grateful for the academic excellence that the United States offered me and for the safe haven it provided me during this time of turbulence.

The United States has given me extraordinary opportunities. I became a U.S. citizen in 1982, when I was a second-year law student. Only two-and-a-half years later, I came to Washington, D.C. to serve as a law clerk to Justice Thurgood Marshall, which was an honor of a lifetime.

I am enormously proud of my family members and deeply grateful for their extraordinary support. My wife, Vicki Been, to whom I have been married for almost 33 years, is my colleague on the NYU Law School faculty. For six of the last eight years, she served in New York City government, first as Commissioner of the Department of Housing Preservation and Development, and then as Deputy Mayor for Housing and Economic Development. My son, Joshua Revesz, is a lawyer in the Civil Division at the U.S. Department of Justice. My daughter, Mira Revesz, could not be here because she is a high school English teacher in Massachusetts and has a full day of classes today. And my daughter in law, Hilary Ledwell, recently left the Department of Homeland Security to serve as a judicial law clerk. I very much admire the commitment to public service that each of them displays in their endeavors and hope to emulate it if I am confirmed.

I am sad that my parents are both deceased and could not accompany me today. My father, Nicolas Revesz, was displaced by the Holocaust in Eastern Europe and, at a relatively young age, had to cope with the murder of both his parents and five of his seven sisters at Auschwitz. He died when I was only eight years old. My mother, Nora Revesz, was also displaced by World

War II and its aftermath. After a round-about journey, she became a U.S. citizen and got to see the unfolding of a significant portion of my legal career.

During my 37 years as a law professor, I have worked extensively on areas related to government regulation. The bulk of my work has been on environmental, health, and safety regulation, but I have dealt with other regulatory areas as well. I have also focused on the structure of the Executive Branch and on the role of OIRA as a coordinator of Executive Branch activities.

In addition to my academic work, I have learned a great deal about how the federal government functions through my service as a Public Member and Senior Fellow of the Administrative Conference of the United States, and on committees of the Environmental Protection Agency, the National Science Foundation, and the National Research Council.

Over the last two decades, I have been entrusted with several leadership positions, including my service as Dean of NYU Law School from 2002 to 2013, and, since 2014, as Director of the American Law Institute, which is the leading independent organization in the United States producing scholarly work to clarify, modernize, and otherwise improve the law. In these positions, I have an open-door, collaborative management style. I am accessible to my staff and responsive to their concerns. I believe in hearing a full range of perspectives before making a decision. I lead by example and not by command. I would bring the same management style to my position leading OIRA.

If confirmed, I would be honored to work with the President and Congress to ensure that our nation's regulatory policies serve the interests of the American people. Thank you again for considering my nomination. I would be delighted to answer your questions.

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

1. Basic Biographical Information

REDACTED

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Administrator, Office of Information and Regulatory Affairs	

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Richard	L.	Revesz	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 40 Washington Square South		
<u>City:</u> New York	<u>State:</u> NY	<u>Zip:</u> 10007	<u>City:</u> New York	<u>State:</u> NY	<u>Zip:</u> 10012

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Maiden Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
Ricardo	Luis	Revesz			05/09/58 Est <input type="checkbox"/>	08/76 Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1958	Buenos Aires, Argentina

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

<i>Spouse's Name (current spouse only)</i>			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Vicki	Lynn	Been	

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

<i>Children's Names (if over 18)</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Joshua	William Been	Revesz	
Sarah	Nicole Been	Revesz	

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
Princeton University	University	09/75 Est <input type="checkbox"/>	06/79 Est <input type="checkbox"/> Present <input type="checkbox"/>	BSE	06/79
MIT	University	09/79 Est <input type="checkbox"/>	05/80 Est <input type="checkbox"/> Present <input type="checkbox"/>	MSE	05/80
Yale	University	09/80 Est <input type="checkbox"/>	05/83 Est <input type="checkbox"/> Present <input type="checkbox"/>	JD	05/83
		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>		

3. Employment

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

All my employment is listed in the Academic Positions and Judicial Clerkships sections of my CV, which is available at https://its.law.nyu.edu/facultyprofiles/index.cfm?fuseaction=profile_full_cv&personid=20228

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other	<u>Name of Your Employer/Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
				Est <input type="checkbox"/>	Est <input type="checkbox"/>
				Est <input type="checkbox"/>	Est <input type="checkbox"/>
				Est <input type="checkbox"/>	Est <input type="checkbox"/>
				Est <input type="checkbox"/>	Est <input type="checkbox"/>
				Est <input type="checkbox"/>	Est <input type="checkbox"/>

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

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)

Administrative Conference of the United States	Consultant, Public Member, Senior Fellow	1986 Est <input type="checkbox"/>		Est <input type="checkbox"/>	Present <input type="checkbox"/>
Environmental Protection Agency, Science Advisory Board Environmental Economics Advisory Committee	Consultant and Member	1998 Est <input type="checkbox"/>	2003	Est <input type="checkbox"/>	Present <input type="checkbox"/>
Environmental Protection Agency, Science Advisory Board, Panel on Economy-Wide Modeling	Member	2015 Est <input type="checkbox"/>	2017	Est <input type="checkbox"/>	Present <input type="checkbox"/>
National Academy of Science, Committee on Preparing the Next Generation of Policy Makers for Science-Based Decisions	Member	2014 Est <input type="checkbox"/>	2016	Est <input type="checkbox"/>	Present <input type="checkbox"/>
National Academy of Sciences, Committee on Science, Technology, and the Law	Member	2012 Est <input type="checkbox"/>	2014	Est <input type="checkbox"/>	Present <input type="checkbox"/>
National Research Council, Committee on Health, Environmental, and Other External Costs and Benefits of Energy Production and Consumption	Member	2008 Est <input type="checkbox"/>	2009	Est <input type="checkbox"/>	Present <input type="checkbox"/>
		Est <input type="checkbox"/>		Est <input type="checkbox"/>	Present <input type="checkbox"/>

4. Potential Conflict of Interest

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

None.

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

I have not been involved in influencing legislation, though I have testified on existing regulatory programs. My academic publications are policy relevant and the briefs I filed were either in support or opposition of public policies. I direct the Institute for Policy Integrity at NYU Law School, a non-partisan think tank and advocacy organization dedicated to improving the quality of governmental decisionmaking. Policy Integrity produces original scholarly research in the fields of economics, law, and regulatory policy and advocates primarily before courts and administrative agencies.

5. Honors and Awards

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

College: Phi Beta Kappa, David W. Carmichael Prize (departmental award for best senior thesis), Joseph Clifton Elgin Prize (departmental award for academic achievement), SigmaXi (scientific research honor society), Tau Beta Pi (engineering honor society), Tau Beta Pi Prize.

Law School: Editor-in-Chief, Yale Law Journal.

Professional Honors: Election to the American Law Institute, American Academy of Arts and Sciences, Council on Foreign Relations, American College of Environmental Lawyers.

6. Memberships

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

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

All my memberships, including the government positions listed in 3.B, are listed in the Professional Activities and Board Memberships sections of my CV, which is available at https://its.law.nyu.edu/facultyprofiles/index.cfm?fuseaction=profile.full_cv&personid=20228

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>

7. Political Activity

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

No.

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

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

None.

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

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

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Tom Malinowski for Congress	250	2021
Our Future United	1000	2020

Warnock for Georgia	1000	2020
Christina Gagnier	250	2022
Christina Gagnier	250	2018
Biden Victory Fund	1000	2020
Biden Victory Fund	2800	2020
Elizabeth Panill Fletcher for Congress	250	2019
Beto for Texas	500	2018
Ed Meier for Congress	250	2018
Ed Meier for Congress	500	2017
Phil Weiser for Colorado	1250	2019
Phil Weiser for Colorado	1100	2018

8. Publications and Speeches

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

All my publications are listed on the publications section of my webpage and contains electronic links to each of the pieces:

[https://its.law.nyu.edu/facultyprofiles/index.cfm?fuseaction=profile.publications&personid=2022](https://its.law.nyu.edu/facultyprofiles/index.cfm?fuseaction=profile.publications&personid=20228)

[8](https://its.law.nyu.edu/facultyprofiles/index.cfm?fuseaction=profile.publications&personid=20228)

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

I have participated in panel discussions and faculty workshops but have not made formal speeches.

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>

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

I have participated in panel discussions and faculty workshops but have not made formal speeches. All my congressional testimony is listed in the Congressional Testimony section of my CV, which is available at

https://its.law.nyu.edu/facultyprofiles/index.cfm?fuseaction=profile.full_cv&personid=20228

<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>

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9. Criminal History

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

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.)

No.

- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official?

No.

- Have you been charged, convicted, or sentenced of a crime in any court?

No.

- Have you been or are you currently on probation or parole?

No.

- Are you currently on trial or awaiting a trial on criminal charges?

No.

- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation?

No.

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

A) Date of offense:

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

B) Description of the specific nature of the offense:

C) Did the offense involve any of the following?

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

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

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

- I) Were you sentenced to imprisonment for a term exceeding one year: **Yes / No**
- J) Were you incarcerated as a result of that sentence for not less than one year: **Yes / No**
- K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:
- L) If conviction resulted in probation or parole, provide the dates of probation or parole:
- M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No**
- N) Provide explanation:

10. Civil Litigation and Administrative or Legislative Proceedings

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

No.

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? Please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

No.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>

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

11. Breach of Professional Ethics

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

No.

<u>Name of Agency/Association/Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>

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

12. Tax Compliance

(This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

13. Lobbying

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

I have never registered as a lobbyist.

14. Outside Positions

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

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

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

15. Agreements or Arrangements

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

As of the date of filing your OGE Form 278, report your agreements or arrangements for:
 (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred

compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

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

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

16. Additional Financial Data

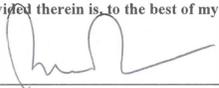
All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

SIGNATURE AND DATE

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



This 14th day of Sept., 2022

REDACTED

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



August 11, 2022

The Honorable Gary C. Peters
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Richard Revesz, who has been nominated by President Biden for the position of Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

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

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

Sincerely,

David J. Apol
General Counsel

Enclosures **REDACTED**



August 19, 2022

Ms. Laurie E. Adams
Alternate Designated Agency Ethics Official
Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

Dear Ms. Adams:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Administrator, Office of Information and Regulatory Affairs, of the Office of Management and Budget. It is my responsibility to understand and comply with commitments outlined in this agreement.

SECTION 1 – GENERAL COMMITMENTS

As required by the criminal conflicts of interest law at 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the particular matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me:

- Any spouse or minor child of mine;
- Any general partner of a partnership in which I am a limited or general partner;
- Any organization in which I serve as an officer, director, trustee, general partner, or employee; and
- Any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

In the event that an actual or potential conflict of interest arises during my appointment, I will consult with an agency ethics official and take the measures necessary to resolve the conflict, such as recusal from the particular matter or divestiture of an asset.

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

I will receive a live ethics briefing from a member of the ethics office after my confirmation but not later than 15 days after my appointment pursuant to the ethics program regulation at 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will submit my

Certification of Ethics Agreement Compliance which documents my compliance with this ethics agreement.

I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13989) and that I will be bound by it. Among other obligations, I will be required to recuse from particular matters involving specific parties involving my former employer or former clients for a period of two years after I am appointed, with the exception of federal, state and local government.

I will not modify this ethics agreement without your approval and the approval of the U.S. Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4).

SECTION 2 – NEW YORK UNIVERSITY AND NEW YORK UNIVERSITY SCHOOL OF LAW FOUNDATION

Upon confirmation, I will take an unpaid leave of absence from my position as the AnBryce Professor of Law and Director of the Institute for Policy Integrity at New York University School of Law. My spouse is a professor with New York University School of Law in a position for which she receives a fixed annual salary. I also currently have a mortgage on my personal residence that is held through New York University. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of New York University, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for either the exemption for employees on leave from institutions of higher learning allowing participation in certain particular matters of general applicability at 5 C.F.R. § 2640.203(b), or another regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

I have four loans with New York University School of Law Foundation. I will continue to hold and pay these loans at the contractually agreed upon terms during my leave of absence. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the ability or willingness of the New York University School of Law Foundation to provide this contractual benefit to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1).

SECTION 3 – RESIGNATIONS

Upon confirmation, I will resign from my positions with the American Law Institute and the Brennan Center for Justice. Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for a period of one year after my resignation from each of these entities, I will not participate personally and substantially in any particular matter involving specific parties in which I know that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

SECTION 4 – ROYALTIES

I receive royalties from Foundation Press for sales of *Environmental Law and Policy (4th Edition)* and from Oxford University Press for *Reviving Rationality*. During my appointment, I will not engage in any writing, editing, or promotional activities associated with these books and will not provide any other services under my publishing agreements. Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, I will not participate personally and substantially in any particular matter involving specific parties in which I know Foundation Press or Oxford University Press, is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

SECTION 5 – PUBLIC POSTING

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

Sincerely,



Richard Revesz

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Richard L. Revesz to be
Administrator, Office of Information and Regulatory Affairs
Office of Management and Budget**

I. Nomination Process and Conflicts of Interest

1. Did the President give you specific reasons why he nominated you to be the next Administrator, Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB)?

No.

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

No.

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

No.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of the General Counsel of the Office of Management and Budget to identify any potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement, which I understand has been provided to the Committee. I am not aware of any other potential conflicts of interest.

5. Please provide the name of any individual, law firm, consulting firm, lobbying firm, public relations firm, or other entity you have formally retained or contracted with regarding this nomination, including any amounts paid in fees or otherwise.

Not applicable.

6. Have you ever represented a party in a matter before or involving OIRA? If so, please describe the matter(s) and the nature of the representation.

I have never represented a party in a matter before or involving OIRA.

II. Background of Nominee

7. Why do you want to serve as OIRA Administrator?

I would like to use my expertise on regulatory policy to serve our nation. The OIRA Administrator plays a vital role necessary in advancing the President's agenda for this country.

8. What specific background, experience, and attributes qualify you to be Administrator?

Since I became a law professor 37 years ago, I have worked on areas related to government regulation. While the bulk of my work has focused on environmental, health, and safety regulation, I have significant experience with other regulatory areas as well. In addition to numerous articles, I have co-authored two books on matters that are central to OIRA's work: *Retaking Rationality: How Cost-Benefit Analysis Can Better Protect the Environment and Our Health* (Oxford University Press 2008), and *Reviving Rationality: Saving Cost-Benefit Analysis for the Sake of the Environment and Our Health* (Oxford University Press 2020). I have also written extensively about the structure of the Executive Branch and on the role of OIRA as a key coordinator of Executive Branch activities.

Besides my work as an academic, I have acquired perspectives on the functioning of the federal government that will be useful were I to be confirmed to the OIRA Administrator position, through my service as a Public Members and Senior Fellow of the Administrative Conference of the United States, and on committees of the Environmental Protection Agency, the National Science Foundation, and the National Research Council.

I have gained additional understanding of the work of OIRA as the Director of the Institute for Policy Integrity at NYU Law School. Policy Integrity is a non-partisan think tank and advocacy organization that promotes desirable public policies for the environment, public health, and consumers.

9. Please describe:
a. Your leadership and management style.

I have an open-door, collaborative management style that I think will serve me well if I am fortunate enough to serve in this role. I am accessible to my staff and I lead by example and not by command. I believe in hearing a full range of perspectives before making a decision and believe all voices should have a chance to be heard.

b. Your experience managing personnel.

I have managed personnel as Dean of NYU Law School between 2002 and 2013 (approximately 600 employees and a yearly budget in 2013 of around \$160 million), as Director of the American Law Institute since 2014 (approximately 65 employees and yearly budget of around \$13 million), and as Director of the Institute for Policy Integrity since 2008 (27 employees and a yearly budget of around \$4 million).

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

When I was Dean of NYU Law School, approximately 600 people worked under my supervision.

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

My greatest success as a leader has been to bring together individuals with different perspectives and to help them work productively to strengthen the organization. I would seek to do the same in the federal government. As Dean of NYU Law School, I significantly transformed the institution, increasing the size of the full-time faculty by one third and adding more than a dozen centers, institutes, and academic programs while retaining the almost unanimous support of the more than 100 full-time faculty members, even after a decade in office.

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

During my time as the Dean of NYU Law School, I brought into the Law School community a significant number of prominent former government officials from administrations of both parties to enrich our intellectual community and our curriculum, and to show students the attractiveness of public service career paths. Former government officials bring a unique perspective to their work and while these efforts were widely regarded as successful, I do not think that some faculty members took sufficient advantage of this resource. As a result, the institution did not benefit sufficiently from the synergies that were available as a result of these arrangements. I learned that more sustained communication about the value of the effort and more opportunities for formal and informal interactions would have better bridged the gap between academics and former government officials.

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

During my NYU Law School deanship, I had a disagreement with the President of the University over how certain University costs should be allocated to the Law School. My view was that the President and his Chief Financial Officer advocated for a formula that did not give the Law School sufficient credit for certain costs that were benefitting the

University as a whole. I came to meetings armed with spreadsheets supporting my position. The disagreement persisted over several months. In the end, we reached a compromise between the competing positions that both of us regarded as fair.

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

As I have mentioned, my management style is collaborative and I strongly believe in the value of hearing competing perspectives before making a decision. During my time as Dean of NYU Law School, I often came to meetings with different perspectives than those of some of the faculty members of the committee. I found it important to establish ground rules in meetings that promoted robust dialogue and we almost always reached a consensus.

14. Please describe how you build credibility and trust among staff as a leader.

I build credibility and trust by creating a workplace atmosphere that encourages staff members to express their views, makes them feel that they are listened to (because they are), and treats them with courtesy and respect. I know that this Administration values these characteristics and I look forward to bringing them to OIRA if confirmed.

15. Please list and describe examples of when you made politically difficult choices that you thought were in the best interest of the country or your organization.

I devoted a significant portion of my academic career to advancing the view that cost-benefit analysis, if properly conducted, need not be biased against regulation. I advanced this view, which I believe to be both correct and consistent with good public policy, even though it was initially unpopular among a significant proportion of the community of environmental law professors. Perhaps as a result of my work, that view is more accepted now.

16. During your career, has your conduct as a government employee ever been subject to an investigation or audit by the Office of Special Counsel, Department of Justice, agency Equal Opportunity office or investigator, agency Inspector General, or any other similar federal, state, or local investigative entity? If so, please describe the nature of the allegations/conduct and the outcome(s) of the investigation(s) or audit(s).

My conduct has never been subject to such an investigation or audit.

III. Role of the Administrator of OIRA

17. What do you consider the mission of OIRA to be, and what would you consider to be your role and responsibilities if confirmed as the Administrator? Have you and OMB Director Shalanda Young discussed what your role would be? If so, please describe how you view your role in light of those discussions.

The mission of OIRA is to discharge the responsibilities vested in it by statutory provisions, such as the Paperwork Reduction Act, and presidential directives, such as Executive Order 12866. My role as Administrator would be to ensure that these responsibilities are carried out in compliance with the law, efficiently and fairly, and to uphold the highest ethical standards.

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

I anticipate that my greatest challenge will be to balance staff resources to efficiently and expeditiously manage the flow of regulations that require OIRA review, while also ensuring that the office meets its statutory responsibilities. My top priorities will be to establish processes that lead to collegial and productive interactions with the agencies that submit their regulations for such review, and to establish a high-quality coordination mechanism under which different agencies that have stakes in a regulatory outcome can productively express their views. I hope to succeed in these endeavors and thereby to contribute to the effective functioning of the Executive Branch.

IV. Policy Questions

Regulatory Review/Rulemaking

19. What is your opinion of the rulemaking process under the Administrative Procedure Act? If you were writing a rulemaking statute on a blank slate, what would be the most important features? Are there features of other statutes with specific rulemaking procedures that warrant particular consideration? Please include in your answer your views on the reforms outlined in the Regulatory Accountability Act (S. 2278).

Rulemaking is a critical function of most government agencies to implement the laws that Congress passes. Our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. Rulemaking should be based on credible data and the very best available science, and must provide for a robust engagement in the process by stakeholders, as well as the general public. I believe the Administrative Procedure Act, coupled with any more specific requirement in agency statutes, generally does a good job establishing the parameters for agency regulatory development.

20. OIRA staff are charged with the review of agency work-product, often with a deficit in subject matter expertise compared to personnel in those agencies. How should OIRA officials determine how and where they can add value to the rulemaking process?

While I have only had minimal contact with OIRA staff, I am aware of their reputation as excellent analysts with a wide-range of backgrounds and strengths, including their ability to efficiently run government-wide policy development processes; and their scientific, statistical, economic, legal, and subject matter expertise. I believe OIRA's review provides critical value to policy development, including by helping agencies objectively examine the

impacts of proposed agency regulations, and facilitating a robust consideration of the views of all the interagency community in policy development.

21. Please describe your vision regarding centralized regulatory review within the Executive branch and specifically within OMB.

President Biden's Memorandum on Modernizing Regulatory Review wisely reaffirms Executive Order 12866, which confirmed OIRA's role as the central office for regulatory review within the Executive Branch.

22. The Regulatory Flexibility Act, as amended, ensures consideration of small business concerns regarding the adverse effects of federal regulations. If confirmed, how do you plan to account for the unique concerns of small businesses in the regulatory process?

Small businesses face unique challenges, particularly in light of the added burden that COVID-19 has imposed on them over the past few years. Existing statutes and regulatory procedures direct agencies to take into account the direct impacts of regulations on small businesses. If confirmed, I would ensure that OMB continues to take these statutorily required considerations seriously.

23. What are your thoughts on including economic, pricing, or other models used during OIRA's evaluation of a proposed rule in the regulatory review process, in the public rulemaking record?

As a general matter, I do believe it is important for agencies to be transparent in their decision-making and to disclose their work. There may be reasons, such as the use of sensitive personal data or trade secret information, where full data disclosure may not be possible, but if confirmed my general approach to this issue would be one of openness.

24. How does the Supreme Court's decision in *West Virginia v. EPA* impact OIRA?

If confirmed, I would ask all OIRA colleagues to conduct all of its reviews consistent with the principles of EO 12866, which clearly states that regulations "shall be conducted so as to meet applicable statutory requirements, and with due regard to the discretion that has been entrusted to the Federal agencies." *West Virginia v. EPA* sets forth interpretative standards for statutory interpretation and the case would therefore play a role in this analysis.

25. In your view, what is the role of the OIRA Administrator in setting, as opposed to applying, regulatory policy?

I believe that agencies, under their various statutory responsibilities, are primarily responsible for developing their regulatory policies. I also believe that it is the President that ultimately sets an Administration's general regulatory approach, again consistent with statutory responsibilities. The President has assigned a role to the OIRA Administrator, under Executive Order 12866 and his Memorandum on Modernizing Regulatory Review, to help establish general analytical and policy principles within this framework.

26. In your view, what is OIRA's role in reviewing agency rules for procedural compliance, in addition to substance?

Executive Order 12866 charges OIRA with the coordinated review of agency rulemaking to ensure that regulations are consistent with applicable law, the President's priorities, and the principles set forth in the Executive order. I understand applicable law to include adherence to the Administrative Procedure Act, as well as other regulatory requirements found in other statutes.

27. Should OIRA review guidance documents as well as regulations and, if so, what procedural transparency and legitimacy safeguards should be applied to determine which guidance documents to reviews?

I understand that M-07-07, The Final Bulletin for Agency Good Guidance Practices, guides OIRA's current review of significant guidance documents, and that it has been a longstanding position of OIRA that at least some guidance documents are potentially subject to review under EO 12866. I believe this should be a transparent process. If confirmed, I am looking forward to learning about the details of this issue, which is also consistent with President Biden's direction in his Regulatory Modernization memorandum for OMB to "determine an appropriate approach with respect to the review of guidance documents."

28. The Administrative Procedure Act permits agencies to bypass notice-and-comment procedures when justified by "good cause."

- a. What is your understanding of the "good cause" exception? When should it apply?

I believe, as a general matter, that notice and comment is a key part of regulatory development, and that bypassing notice and comment should be done only if the statutory criteria are met. If confirmed, I would consult with OMB and agency counsel to determine if any particular rule has met the good cause standard.

- b. How will you ensure that agencies regularly engage with the public during the rulemaking process?

I am devoted to a transparent rulemaking process, and I believe that an important part of the development of regulations is public engagement, including the legal requirements for public notice and comment under the Administrative Procedure Act. I have also seen how this Administration has expressed its commitment to public engagement, for example in the President's Executive Order on advancing equity and the Executive Order on customer experience, both of which recommend agencies engage with the public for critical input to inform regulatory policy and the design of government service programs. OMB also noted the importance of public participation in its report to the President on equity, published last summer. If confirmed, I would look forward to finding ways in which to further this commitment to transparency and public participation.

Executive Order 12866

29. OIRA’s authorities largely exist in Executive Order (EO) 12866. Do you believe that all or part of EO 12866 should be codified?
- As a general matter, OIRA’s current regulatory review responsibilities under EO 12866 have functioned well for nearly three decades without codification.
30. Do you believe that OIRA has an obligation to review regulations within 90 days in order to comply with Executive Order 12866?
- Expeditious review is highly desirable but the Executive Order discusses the circumstances under which OIRA’s review may last longer than the 90 days allotted. President Biden’s Memorandum on Modernizing Regulatory Review directs that a process be undertaken to identify reforms that will promote the efficiency, transparency and inclusiveness of the review process. If confirmed, I would commit to working on this review to meet the President’s goals to ensure the regulatory process delivers for the American people.
31. EO 12866 states, “OIRA shall make available to the public all documents exchanged between OIRA and the agency during the review by OIRA.” In your view, does this include written communications between OIRA and the agency? If not, why not?
- I do not yet have an opinion on this issue, but I do understand that the transparency of OIRA’s process has been the subject of much discussion, and has also been identified as a point of emphasis in this Administration. If confirmed, I look forward to working with OIRA staff to understand current practice and will follow through on President Biden’s direction to identify ways to modernize and improve the regulatory review process.
32. EO 12866 requires regulations be adopted “only upon a reasoned determination that the benefits of the intended regulation justify its costs,” but recognizes that some costs and benefits are very difficult to quantify. Not all costs are borne the same way by all affected parties and not all benefits accrue to persons affected by regulated activity in the same way. How should costs and benefits be disaggregated to account for the how different groups bear costs and benefits differently?
- On his first day in office, President Biden issued a Memorandum reaffirming his Administration’s commitment to Executive Order 12866 and the long-standing principles of cost benefit analysis. At the same time, the President has asked OMB to examine how current practices can be modernized to take into account contemporary best practices for improved analysis, including qualitative and distributional impacts. If confirmed, I look forward to working with you and the OMB team on these important considerations relating to cost-benefit analysis.
33. Should OIRA review rules from independent regulatory agencies? Please explain.

Independent regulatory agencies, as defined under 44 U.S.C. 3502(10), are currently exempt from the requirements of EO 12866 in submitting their rules for OIRA review. Whether the rules of independent regulatory agencies could or should be subject to OIRA review is a legal and policy decision to be made by the President and the courts.

34. In your view, does the President have the authority to order OIRA to review rules from independent regulatory agencies?

As mentioned above, whether independent regulatory agencies can be subject to the analysis and review requirements of EO 12866 is a legal and policy decision to be made by the President and the courts.

- a. What role does Congress play in granting or defining this authority? Include in your answer your views on the Independent Agency Regulatory Analysis Act (S. 2279).

This bill would authorize the President to issue an Executive Order requiring independent agencies to be subject to 12866-like standards. However, I have not had the chance to review it closely and cannot state an opinion on this particular piece of legislation at the moment.

Cost-Benefit Analysis

35. Do you believe that cost-benefit analysis can help promote effective regulatory policymaking? What are the limitations? How would you define “effectiveness” of policymaking in this context? Please explain.

Under EO 12866, which President Biden reaffirmed, cost benefit analysis is part of the rulemaking process. Agencies should use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible with up-to-date analysis. How regulations affect citizens and the economy are critical data points for decision making.

36. When developing a new rule allowing consideration of costs, should federal agencies be required to select the least costly alternative? What considerations should inform selection of options other than the least costly?

I believe that, for statutes that allow impacts to be taken into account, EO 12866 generally sets a good decision framework: the benefits of a regulation should justify its costs, and agencies should strive to maximize the net benefits of regulations.

37. How should OIRA consider costs and benefits that are “non-monetizable” or difficult to quantify?

If confirmed, I look forward to following through on President Biden’s direction to identify ways to modernize and improve the regulatory review process, including through revisions

to OMB's Circular A-4, to ensure that the review process promotes policies that reflect new developments in scientific and economic understanding, fully accounts for regulatory benefits that are difficult or impossible to quantify, and does not have harmful anti-regulatory or deregulatory effects.

38. How should OIRA consider the degree to which the costs and benefits of a proposed rule are "indirect"?

I believe the current OMB guidance, embodied in Circular A-4, which dates back to 2003, emphasizes that agencies should strive to analyze all the impacts of a rule, including ancillary benefits and costs. I also believe agencies should consider such impacts in their decision making, if the statutes governing individual agency regulations actions allow such consideration.

39. How should OIRA balance long-term benefits against short-term costs? Include in your answer how to determine the appropriate timeline over which to calculate long-term benefits.

In general, OMB Circular A-4 gives agencies direction for how to compare benefits and costs across time, including whether and how to use discount rates, and appropriate analytical timelines. The timeline for an analysis should be one of adequate length to capture the impacts of a rule. While I am not in a position to comment on the specific approaches to these issues contained in A-4, if confirmed I would look forward to diving into the details, in order to implement President Biden's direction to consider modernizing A-4.

40. OIRA has long supported agency use and consideration of co-benefits when advising agencies on how to conduct cost-benefit analysis of its regulations. For example, OMB Circular A-4 explicitly states that agencies "should look beyond the direct benefits and direct costs of [their] rulemaking and consider any important ancillary benefits and countervailing risks." Are there circumstances when it would be appropriate or necessary to exclude consideration of co-benefits?

If a specific agency statute requires that agencies not consider certain types of impacts, such as the prohibition on the consideration of costs in certain part of the Clean Air Act, then OIRA review should ensure that the statutory commands are properly implemented.

Transparency

41. OIRA often has significant contact with agencies regarding proposed regulations early in the rulemaking process, including before the formal OIRA review. Early engagement has sometimes resulted in OIRA determining that a proposed rule or guidance will not be subject to formal review. But OIRA sometimes still requests the opportunity for "informal review," which is not addressed in EO 12866, and which is exempt from the timing and docketing provisions.

- a. Is it appropriate for OIRA to consult with agencies prior to the formal review process?

I can envision a number of reasons why consultation prior to formal review would be beneficial, including ensuring OIRA is aware of agency timelines and significant new policies.

- b. If confirmed, what would you do to ensure transparency in that early consultative process prior to formal review? Should informal reviews be subject to timing and docketing requirements?

If confirmed, I will work with my colleagues to the rule review process.

- c. If OIRA decides not to conduct a formal review, should the proposed rule or guidance receive any other review by OIRA?

If confirmed, I would be happy to look into this issue. I could imagine circumstances, such as in emergency situations, where the OIRA process could be used to facilitate interagency policy coordination.

- 42. Federal agencies are producing, collecting and storing more information than ever before. This flood of information allows agencies to better meet their missions, but it also comes with significant costs and challenges.

- a. What are the biggest challenges that agencies face in managing information?

One major challenge is helping the public and decision-makers identify authoritative information. Another is harnessing the government's information in ways that equitably advance evidence-informed decisions, while also protecting confidentiality and privacy. Addressing such challenges requires effective leadership across a spectrum of data governance issues, both at OMB and within the agencies. If confirmed, I look forward to providing such leadership and collaboration.

- b. If confirmed, what will be your priorities to help agencies manage their information?

Appropriately managing information that the Executive Branch stewards is a core agency responsibility, and OIRA plays an essential policy and oversight function. I will explore ways to judiciously use the responsibilities and authorities provided in the Paperwork Reduction Act, the Foundations for Evidence-Based Policymaking Act (Evidence Act), the Information Quality Act, and the Privacy Act to increase trust in Executive Branch handling of information in its care and in government sources of information, particularly official statistics that are foundational to democracy.

- 43. OIRA also plays a role in coordinating and overseeing policies and practices across agencies that allow greater public access to information. What will be your priorities in fulfilling

these functions of the office? Generally, what role do you believe OIRA should play in promoting greater transparency government-wide, and what approach would you take to improve government transparency and information dissemination?

As you know, Congress has given OIRA many tools to improve public access to government information, transparency in the information used to support decision-making and in how agencies handle it, and the quality of statistical, technical, and financial information disseminated. The Paperwork Reduction Act, the Privacy Act, the Information Quality Act, and the Foundations for Evidence-based Policymaking Act (Evidence Act) all contain relevant provisions. I am looking forward to partnering with other offices within OMB and OSTP on ensuring OMB policies reflect not only the challenges of the current information landscape, but also the needs of the future.

Staffing

44. If confirmed, how would you balance OIRA's mandatory statutory responsibilities under the Paperwork Reduction Act, Privacy Act, and Regulatory Flexibility Act with the various discretionary regulatory review functions under Executive Orders?

If confirmed, I will work with agency leadership to determine priorities between the division's statutory and executive order workload in order to comply with OIRA's statutory responsibilities and to meet the President's goals.

Paperwork Reduction Act

45. The Paperwork Reduction Act requires OMB to review proposed information collections and ensure that agencies are minimizing the burden on the public. It requires OMB to ensure that the information collection maximizes practical utility and public benefit and protects the integrity, objectivity, impartiality, utility and confidentiality of collected statistical information.

- a. If confirmed, what is your vision for OIRA's role in implementing the Paperwork Reduction Act?

If confirmed, I will ensure OIRA oversees the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including burden reduction and service delivery to the public. I also believe OMB has recently issued guidance to agencies to examine closely the impact of administrative and paperwork burden on public program beneficiaries, which I believe should be a focus of OIRA under the Paperwork Reduction Act

- b. If confirmed, how will you ensure that all data collections subject to the Act across the government meet the law?

I understand that OIRA has significant authority to review and approve information collections under the Paperwork Reduction Act. I confirmed, I will make sure the OIRA adheres to its statutory responsibilities in this area.

- c. If confirmed, how will you ensure that information collection requests by federal agencies maximize practical utility and public benefit?

I believe these considerations are key components of OIRA's approval of information collections under the Paperwork Reduction Act, and that will remain the case if I am confirmed.

- 46. Agency information collection and control processes are often identified as overly burdensome and unhelpful, especially in areas such as customer experience and improving the delivery of digital services to the public. How will you prioritize information collection and information resources management to provide improved customer experience and cross-agency collaboration?

I believe OIRA's goal should be to minimize or remove unnecessary compliance burden on agencies while maintaining a level of oversight that upholds the goals of the Paperwork Reduction Act, including ensuring that the practical utility of customer experience data is enhanced by its consistency and comparability across the government.

V. Accountability

Whistleblower Protections

- 47. Protecting whistleblowers and their confidentiality is of the utmost importance to this Committee.
 - a. Please describe any previous experience with handling whistleblower complaints. What steps did you take to ensure those individuals did not face retaliation and that their claims were thoroughly investigated?

I have not had direct involvement with whistleblower complaints.
 - b. If confirmed, what steps will you take to ensure that whistleblower complaints are handled appropriately at OIRA and OMB?

If confirmed, I will consult with agency leadership on the appropriate role for OIRA in ensuring that necessary protections for potential whistleblowers are in place.
 - c. If confirmed, what steps will you take to ensure that whistleblowers at OIRA and OMB do not face retaliation, that whistleblower identifiers are protected, and that complaints of retaliation are handled appropriately?

If confirmed, I will consult with agency leadership on the appropriate role for OIRA in ensuring that necessary protections for potential whistleblowers are in place.

Cooperation with Inspectors General

48. Inspectors General (IGs) face unique obstacles as they do their work, including budget challenges and disputes with agency heads over access to information. How do you view OMB's relationship with various Offices of Inspectors General (OIGs)?

IGs are appropriately afforded statutory independence, including with budgets. If confirmed, I will consult with agency leadership on the appropriate role for OIRA in ensuring that independence is maintained.

49. Under what circumstances, if any, do you believe OMB is not required to provide any OIG with timely access to agency records?

If confirmed, I will work with OMB's Office of the General Counsel on ensuring OIRA interactions with provides IGs are appropriate and comply with legal requirements.

50. If confirmed, do you commit to fully cooperate in a timely manner with any audits, investigations, and other reviews and related requests for information from IGs?

President Biden has recognized the critical importance of the work of IGs. If confirmed, I will work with OMB's Office of General Counsel on ensuring that any OIRA interactions with IGs are appropriate and comply with legal requirements.

51. If confirmed, what steps would you take to facilitate and encourage timely cooperation by federal agencies with IGs?

If confirmed, I will consult with agency leadership on the appropriate role for OIRA in facilitating cooperation between federal agencies and IGs.

Cooperation with GAO

52. If confirmed, do you commit without reservation to ensuring GAO receives timely, comprehensive responses to requests for information, including for records, meetings, and information?

This Administration recognizes that transparency is critical to good governance. If confirmed, I commit to ascertain how OIRA can assist in ensuring that GAO receives timely and accurate information. I am well aware of the critical nature of the work of GAO and understand its important oversight job for Congress.

53. If confirmed, do you commit to fully cooperate in a timely manner with any audits, investigations, and other reviews and related requests for information from GAO?
- If confirmed, I will consult OIRA staff to understand current practices and policies, and work with OIRA staff to ensure that OIRA provides appropriate, timely responses to GAO's inquiries.
54. If confirmed, what steps would you take to facilitate and encourage timely cooperation by federal agencies with GAO?
- If confirmed, I will consult with agency leadership on the appropriate role for OIRA in facilitating federal agencies' cooperation with GAO.
55. If confirmed, what steps will you take to ensure OIRA cooperates fully and promptly with GAO requests?
- If confirmed, I will consult with OIRA staff on current practices and policies. Where there is room for improvement, I am committed to ensuring cooperation with GAO.
56. If confirmed, will you commit to submitting rules to both Congress and the GAO as required by the Congressional Review Act?
- I understand that it is an agency responsibility to submit rules to Congress and GAO under the Congressional Review Act, while it is OIRA's role to determine whether a rule is "major" under the CRA. If confirmed I will do my best in my role as OIRA Administrator to promptly discharge OIRA's responsibilities under the CRA, and also to provide help to the agencies if necessary.

VI. Relations with Congress and the Public

57. Do you agree without reservation to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed?
- Yes. It is important that Executive Branch agencies cooperate with Congress, and, whenever appropriate, provide the information Congress believes it needs to carry out its duties, including through testimony. I will work with Congress in this regard, and will thoughtfully consider all requests to appear before Congressional committees. If confirmed, I am committed to ensuring OIRA is transparent and accountable in its actions, including to Congress.
58. Do you agree without reservation to make any subordinate official or employee available to appear and testify before, or provide information to, any duly constituted committee of Congress if you are confirmed?

My understanding is that it is the practice of OMB to make Senate confirmed appointees available for testimony, as appropriate, and I will follow that practice.

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

If confirmed, I commit to providing Congress with information needed to undertake its constitutional oversight role.

60. If confirmed, will you commit to responding to inquiries from all Members of the committee, even from the minority?

- a. How will you make certain that you will respond in a timely manner to Member requests for information?

If confirmed, I commit to working cooperatively with Congress in a timely manner on any requests for information.

61. If confirmed, will you direct your staff to adopt a presumption of openness where practical, including identifying documents that can and should be proactively released to the public, without requiring a Freedom of Information Act request?

Yes, I will.

62. If confirmed, will you keep this Committee apprised of new information if it materially impacts the accuracy of information your agency's officials have provided us?

Yes, I will.

VII. Assistance

63. Are these answers completely your own? If not, who has provided you with assistance?

The answers are my own. OMB staff reviewed my responses.

64. Have you consulted with OMB, OIRA, or any other interested parties? If so, please indicate which entities.

As mentioned, I consulted with OMB staff on my responses to these questions.

I, Richard L. Revesz, hereby state that I have read the foregoing Pre-Hearing Questionnaire and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



(Signature)

This 21st day of September, 2022

Questions for the Record
Senator Rand Paul
On the Nomination of Richard Revesz to be
Administrator, Office of Information and Regulatory Affairs
Office of Management and Budget
September 30, 2022

1. In order to respond more effectively to COVID-19, federal agencies have relaxed or temporarily rescinded dozens of rules and regulations while state regulatory authorities have relaxed or temporarily rescinded hundreds more.

Question: If a rule or regulation was an impediment to the nation's economic recovery or to the COVID-19 response effort, why should it be reinstated?

As Administrator, I would be committed to implementing the Administration's goal of effectively responding to COVID-19, including by ensuring that our regulatory policies serve the public good. If confirmed, I would seek to take a thoughtful approach as to which regulatory policies should be reinstated to ensure that the nation continues to effectively manage COVID-19 and minimize its disruptions, and to stay prepared for whatever may come.

Question: Please provide an example of a federal rule or regulation that has been relaxed or temporarily rescinded which you would support reinstating, along with an explanation of your position?

If confirmed, I would look to learn from agencies and colleagues in OMB for what flexibilities might be beneficial to keep in place.

2. The size of the federal Code of Federal Regulations (CFR) has grown steadily over time¹, and is reflected in both the increases in federal full-time employees (or their equivalent) retained as well as agency budget outlays dedicated to enforcement and implementation. Some estimates suggest this increase in regulatory burden costs nearly \$13,000 for every American.²

Question: Is the current federal regulatory burden too much or not enough?

In analyzing regulations, it is important to consider both the costs and benefits. As Administrator, I would work with OIRA staff and my counterparts at the agencies to comply with statutory requirements and the standards set forth in the relevant Executive Orders. If I am confirmed, I would uphold OIRA's charge to assist agencies in promulgating regulations for which the social benefits justify the costs.

¹ <https://cei.org/publication/tens-of-thousands-of-pages-and-rules-in-the-federal-register-2/>

² <https://www.mercatus.org/publications/regulation/cumulative-cost-regulations>

Question: Are you concerned about the regulatory burden the CFR currently imposes in terms of compliance costs, particularly on small businesses?

If I am confirmed, I would uphold OIRA's charge to assist agencies in promulgating regulations for which the social benefits justify the costs. OIRA is also charged under existing statutes to ensure that agencies appropriately consider the impacts of regulatory actions on small businesses and I would pay close attention to this command.

Question: With respect to the recovery from the COVID-19 pandemic, how would you assess the economic impact of imposing new costs and burdensome regulations on the private sector?

If confirmed, I would look to learn from agencies and colleagues in OMB what flexibilities might be beneficial to keep in place. Any change to the regulatory framework should be examined with a cost-benefit analysis.

Question: Do you believe that imposing additional, costly regulatory actions will make our record-high inflation even worse?

Under EO 12866, OIRA's charge is to assist agencies in promulgating regulations for which the social benefits justify the costs. If confirmed, I look forward to working with the agencies on how to help achieve that goal.

Question: If confirmed, are you committed to prioritizing rules that reduce regulatory costs?

If I am confirmed, I would uphold OIRA's charge is to assist agencies in promulgating regulations for which the benefits justify the costs. In choosing among alternatives, agencies should select the approaches that maximize net benefits, which means choosing less costly ways of achieving a given benefit. OIRA is also charged under existing statutes to take seriously the impacts on small businesses. If confirmed, I would look to uphold those practices.

Question: If confirmed, if you assess that a proposed regulation is unnecessary, how do you plan to resolve that dispute with the promulgating federal agency?

I would look to work with the agency and colleagues in the Executive Office of the President to advance regulations for which the benefits justify the costs, as directed by E.O. 12866

Question: Should the Office of Information and Regulatory Affairs review tax-related rules and regulations? Please explain your reasoning.

I am not familiar with the details of current practices related to OIRA's review of tax regulations. If confirmed, I look forward to learning more about the issue.

3. Article I of the U.S. Constitution vests the legislative power in the Congress. For the past several decades, however, Congress has surrendered much of this power to the various agencies of the Executive Branch by its overreliance on the federal rulemaking process to "fill in the blanks" left by legislators in the bills they pass. The results have been extraordinarily harmful to the principle of limited government. In addition to the relentless growth of the federal administrative state (in both size and scope), ceding this authority has fostered a lack of accountability on the part of Congress. Burdensome federal regulations faced by our job creators, communities, and families are often handed down under statutory authorities that pre-date the arrival of many Members of Congress by several years (if not decades). In response, on January 27, 2021, I introduced S. 68, the Regulations from the Executive in Need of Scrutiny (REINS) Act, which would require Congress to affirmatively approve every new major rule proposed by the Executive Branch *before* it can be enforced on the American people.

Question: Do you agree that the people's representatives in Congress should have a say as to whether new major rules or regulations are in the best interests of the constituents they represent? Why or why not?

Members of Congress play a leading role in shaping regulations through the promulgation of statutes that are the source of agency direction and authority. Congress also uses the Congressional Review Act process and legislation to disapprove of major regulations after their enactment.

4. Consistent with the recent Supreme Court decision in *West Virginia v. EPA*, the major questions doctrine requires that Congress clearly authorize politically and economically significant actions. However, just a few weeks ago, President Biden and the Department of Education announced that certain student loan debts would be cancelled or reduced at an estimated cost to taxpayers more than \$400 billion.³

Question: Do you think this politically and economically significant executive action was clearly authorized by Congress? Why or why not?

I am not familiar with the statutory details in this case. If confirmed, when reviewing a regulation, I would look to uphold current law, including recent court precedents, in fulfilling the objectives of the Administration.

³ <https://www.washingtonpost.com/us-policy/2022/09/26/cbo-student-loan-forgiveness-biden/>

5. In reference to President Biden's memorandum on modernizing regulatory review⁴, an opinion piece with your byline titled "A New Era for Regulatory Review" states:
 "[D]uring the last two decades, OIRA has been criticized for having a mostly reactive posture—playing somewhat of a gatekeeping role after agencies propose regulations but not prompting agencies to undertake interventions that might yield significant social benefits, including actions that can improve distributional equity."⁵

Question: What regulatory review processes should OIRA implement to play a more active role in order to prompt agencies to make changes that the White House thinks will "yield significant social benefits"? Please be specific and detailed with your response.

OIRA plays a key role in the policy making process by helping ensure agencies produce rigorous analysis to inform agency policy decisions. The charge from the modernizing memo continues OIRA's role of ensuring good analysis drives regulatory policy decisions.

As with any policy matter, the ultimate decision of whether or not to regulate remains a policy judgment for the agencies and the President to make.

Question: By "distributional equity," do you mean redistribution of wealth?

The President's memorandum on modernizing regulatory review notes that it is important to consider "procedures that take into account the distributional consequences of regulations, including as part of any quantitative or qualitative analysis of the costs and benefits of regulations, to ensure that regulatory initiatives appropriately benefit and do not inappropriately burden disadvantaged, vulnerable, or marginalized communities."

Question: If confirmed, what "significant social benefits" do you intend to pursue as OIRA Director, and if confirmed, how do you intend to "[prompt] agencies to undertake interventions that might yield significant social benefits, including actions that can improve distributional equity"?

As Administrator, I would evaluate regulations in terms of their adherence to statutory requirements and the standards set forth in the relevant Executive Orders.

⁴ <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/modernizing-regulatory-review/>

⁵ <https://www.theregreview.org/2021/02/16/revesz-new-era-regulatory-review/>

6. On March 10, 2021, Senator Hassan and I introduced S. 664, the Duplication Scoring Act, which would require that the Congressional Budget Office include in its cost estimates of legislation an assessment of the extent to which such legislation creates new duplication within the government.

Question: What role do you envision for OIRA in reducing duplication among government programs?

Under E.O. 12866, OIRA is tasked with reviewing regulations to assess whether the benefits outweigh the costs. If confirmed, I would look to these principles and work to ensure that the costs of regulations are justified by their costs.

Senator James Lankford

Post-Hearing Questions for the Record

Submitted Richard L. Revesz

September 29, 2022

Nominations of Robert H. Shriver III to be Deputy Director, Office of Personnel Management, and Richard L. Revesz to be Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget

- 1) What do you see as the role of the OIRA Administrator and how does that differ from that of an agency head such as the EPA Administrator or Secretary of Transportation?

The mission of OIRA is to discharge the responsibilities vested in it by statutory provisions, such as the Paperwork Reduction Act, and presidential directives, such as Executive Order 12866. If confirmed, I will ensure that these responsibilities are carried out in compliance with the law. An important difference between the role of agency heads and the role of the OIRA Administrator is that the former are responsible for crafting regulations and the latter is responsible for ensuring that those regulations are consistent with legal requirements set by Congress and comply with Executive Order 12866's commands.

- 2) In several of your articles, op-eds, and speeches throughout your career you have been very critical of Republican administrations, particularly the Trump administration. If confirmed to the role of OIRA Administrator, how will you consider perspectives that differ from your own?

In my previous roles, I have built credibility and trust by creating a workplace atmosphere that encourages staff to express their views and treats them with courtesy and respect. I believe in hearing a full range of perspectives before making a decision and believe all voices should have a chance to be heard. I know that this Administration values these characteristics and I look forward to bringing them to OIRA if confirmed.

- 3) Your Institute for Policy Integrity tracked the Trump Administration's record in court over federal agency actions from 2017 to 2021. Why did the Institute decide not to track the Biden Administration's record in court?

On September 2, 2022, the day my nomination was announced, I took a leave of absence from my role as Director of the Institute for Policy Integrity. The Institute had not launched an analysis of the Biden Administration's record before that date because there were relatively few finalized regulatory actions. Similarly, the Trump Administration's tracker was not launched until well into that administration's second year. My understanding is that, in the coming months, the Institute is planning to launch an analysis of the Biden Administration's record.

- 4) If confirmed, you will likely serve as OIRA administrator during the last 2 years of this presidential term. You have said that presidents need to “rush out”¹ their regulatory priorities in their 1st term. Do you plan to rush regulations out? How will you ensure different voices, analysis, and perspectives are heard?

If confirmed, I would commit to ensuring that the regulatory process delivers benefits for the American people. I expect the office has high standards for rigor and integrity in rule review, and if confirmed that would be the lens through which I would consider expedited review requests.

- 5) The “annual” *Report to Congress on the Benefits and Costs of Federal Regulations and Agency Compliance with the Unfunded Mandates Reform Act* is consistently late, can this be put back on track?

If confirmed, I will meet with the OIRA staff regarding the office’s congressionally required reports and determine how to prioritize and maintain regular publication.

- 6) President Biden’s *Modernizing Regulatory Review* memo calls for revisions to A-4, do you plan to revise A-4? If so, in what ways?

If confirmed, I look forward to following through on President Biden’s direction to identify ways to modernize and improve the regulatory review process, including through revisions to OMB’s Circular A-4. If confirmed, I will work with OIRA staff to determine what work has been completed thus far and will then evaluate the next necessary steps to fulfill the President’s goal – to ensure that the review process promotes policies that reflect new developments in scientific and economic understanding, fully accounts for regulatory benefits that are difficult or impossible to quantify, and does not have harmful anti-regulatory or deregulatory effects.

- 7) Do you plan to revise A-4 itself, or supplement it through memos, inter-agency guidance, or similar documents?

If confirmed, I will work with OIRA staff to determine the best path forward.

- 8) For any revisions to A-4, do you commit to a rigorous peer-review and public comment process? Will you consult with me, this committee, and Congress as a whole before finalizing any changes?

If confirmed, I will ensure the process will be transparent, will seek expert advice, and will remain science and evidence driven.

- 9) In regulatory impact analysis, should that include regressive effects of regulation (e.g., distributional impacts on regulatory costs, as well as benefits)?

Regulatory analysis should account for the full range of costs and benefits, doing so in an evenhanded and impartial manner.

- 10) You filed an amicus brief in the case of *West Virginia v. EPA* arguing that the claims were non-justiciable – do you still hold that view?

West Virginia v. EPA is now the law of the land. If confirmed, I would follow the law on regulatory matters.

¹ <https://www.law.nyu.edu/news/ideas-rationality-revesz-cost-benefit-analysis-regulation>

- 11) Do you accept as prevailing law the Supreme Court’s major questions doctrine, which essentially means that a regulatory agency must show “clear congressional authorization” to claim broad new regulatory authority?

West Virginia v. EPA is now the law of the land. If confirmed, I would follow the law on regulatory matters.

- 12) How will you ensure regulations are not used to benefit favored and/or well-connected groups?

Rulemaking should be based on robust public engagement and credible data and analysis, including the best available science.

- 13) How will you handle a situation where you believe an agency has not fully followed statute or established regulatory procedures but the policy is a priority of the administration?

If the rationale for a regulatory action appears to be weak, I would be sure to forcefully voice my opinion and exercise the authority vested in the OIRA Administrator.

- 14) Do we undercount costs? What about lost opportunity costs?

When analyzing regulations, it is important to account for the full range of costs and benefits, doing so in an evenhanded and impartial manner. If confirmed, I would work to ensure that agency regulatory analyses do just that.

- 15) Indirect costs can have a big impact on small businesses, a regulation that increases costs on a business upstream of you has a real downstream effect. What will you do to ensure a full accounting of costs and benefits?

Small businesses face unique challenges, particularly in light of the added burden that COVID-19 has imposed on them over the past few years. Existing statutes and regulatory procedures direct agencies to take into account the direct impacts of regulations on small businesses. If confirmed, I would ensure that OIRA continues to examine statutorily required agency analysis that focuses on the impacts of regulations on small businesses. Regulatory analysis should account for all costs and benefits, including indirect ones.

- 16) What is the overall, aggregate cost of the regulatory burden? Do you believe the total cost of the federal regulatory burden is important to know?

When analyzing regulations, it is important to account for the full range of costs and benefits, doing so in an evenhanded and impartial manner. As Administrator, I would look to regulations in terms of their adherence to statutory requirements and the direction provided in applicable Executive Orders.

- 17) President Obama’s Executive Order 13563 states as a general principle of regulation that “Our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation.” Similar language is in the first paragraph of President Clinton’s Executive Order 12866. Do you support the view that the U.S. regulatory system needs to protect public well-being and the environment while promoting economic growth, innovation, job creation and competitiveness?

Yes.

- 18) If a cost-benefit analysis or public input shows that a regulatory proposal could have adverse consequences – whether unintended or unjustified economic, environmental or other harms, are you committed to avoiding those adverse consequences?

In considering regulatory actions, agencies should strive to ensure that the benefits of regulations justify their costs. If confirmed, I will work with agencies to minimize or eliminate adverse consequences as part of this effort.

- 19) President Biden repealed many Trump Era Executive Orders, including the requirement that agencies keep guidance documents in a centralized and easily accessible website. Will you commit to revisiting President Trump’s EO 13891, particularly the aspect that required guidance documents be posted on a single website?

Making guidance documents publicly available can level the playing field for regulated entities. If confirmed, I look forward to further considering whether a single website would be feasible and if it would further transparency.

- 20) Do you believe agencies can take enforcement action based solely on a guidance document?

No, guidance documents do not have the force and effect of law.

- 21) How will you ensure agencies are properly using guidance documents and not trying to simply skip notice and comment by labeling a document as “guidance”?

M-07-07, the Final Bulletin for Agency Good Guidance Practices, guides OIRA’s current review of significant guidance documents. Guidance plays an important role; however, guidance by its nature is not binding, and is therefore not a substitute for notice and comment rulemaking.

- 22) The Congressional Review Act requires that rules, including guidance, be submitted to both Congress and GAO before they take effect. Do you commit to fully adhering to the CRA?

I commit to fully adhering to statutory requirements, including in the CRA.

- 23) Much of the CRA submission process is done informally and without much transparency. Can you commit to implementing a mappable disclosure process such that covered rules and guidance are reported to both Congress and GAO in a way the public can easily verify and locate?

If confirmed, I would look to follow all statutory requirements affecting the regulatory process. I would also seek to learn more about how the process works and consider whether there are ways to improve it.

- 24) For decades, OIRA did not review IRS regulations due to a 1983 agreement between Treasury and OMB. I worked hard with former Administrator Rao to change this and in 2018 Treasury and OMB reached a new agreement where OIRA would review the cost-benefit analysis of IRS rules. Do you commit to maintaining that agreement?

I am not familiar with the details of current practices related to OIRA's review of tax regulations. If confirmed, I look forward to learning more about the issue.

- 25) 12866 provides stakeholders with an opportunity to meet with OIRA staff to provide input on proposed regulations ("12866 meetings"). Unfortunately, this administration has been known to schedule meetings far in advance and then cancel them or conclude regulatory review ahead of the scheduled meeting. Do you commit to honoring scheduled meetings before regulatory review concludes?

If confirmed, I will review the procedures for accepting and scheduling 12866 meetings to facilitate public comment.

- 26) Are you committed to ensuring that regulations are designed to impose the least burden, consistent with obtaining regulatory objectives, taking into account the costs of cumulative regulations?

When analyzing regulations, it is important to account for the full range of costs and benefits, doing so in an evenhanded and impartial manner. The benefits of regulations should justify their costs. In choosing among alternatives, agencies should select the approaches that maximize net benefits, which means selecting the least costly way of achieving a given benefit.

- 27) Agencies frequently use scientific studies as the basis for regulations, especially in the environmental space, and also frequently the actual studies are not made public. If a regulation is going to legally bind the American public, shouldn't the American public be able to read the underlying study?

I believe that transparency is an extremely important value in the regulatory system, and, if confirmed, I believe OIRA could play a role in working with agencies to make information relevant to the rulemaking available for public review to the greatest extent possible.

- 28) Currently there are a lot of NPRM notices/proposed rules out for comment that all intersect.

For example, the proposed rule "Nondiscrimination in Health Programs and Activities" (87 FR 47824) seeks to greatly expand the scope of Sec. 1557 of the Affordable Care Act. Sec. 1557 incorporates Title IX by reference, and therefore, the Proposed Rule relies on the Title IX proposed rule, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance" (87 FR 41390) to expand the scope of "sex discrimination" on the basis of "pregnancy or related conditions" to include "termination of pregnancy", i.e. abortion.

Far from conferring a right to abortion, however, Title IX includes a statutory provision to ensure neutrality on abortion. However, the Sec. 1557 Proposed Rule does not incorporate Title IX's abortion neutrality provision or its religious exemption. As such, it's not clear that all commenters, such as health care providers at religious hospitals, would see the implications of the changes HHS is attempting to make, namely an abortion and transgender mandate.

While the lawlessness of the proposed rules are concerning, the process also raises questions since changes in one rule effect changes in another rule.

Similar to the 1557 comment, the Religious Liberty and Free Inquiry Rule (RIN 1840-AD72) also has Title IX implications and is also under review with OIRA. So religious entities that understood themselves to be exempt from Title IX during the comment period for 87 FR 41390 might end up being implicated by it once the Religious Liberty and Free Inquiry rule is changed. Similarly, the rule Protecting Statutory Conscience Rights in Health Care (RIN 0945-AA18) is also under review and would have implications for 1557. All of these rules, and others, are tied together, but proposed separately and could have an effect on the impact and application of the others.

How can OIRA ensure that a proposed rule that implicates other rules are properly conveyed and evaluated to ensure stakeholders are not blindsided by changes?

As I am not currently in the government, I cannot speak to the inner workings of how those rule reviews were conducted. I believe that public input is important in the regulatory process, both through the APA's notice and comment process and through OIRA's practice of taking input through stakeholder meetings during the review process. If confirmed, I would look to learn more about how these processes work, and would consider improvements that may help stakeholders better participate in the rulemaking process.

29) When considering a cost analysis for proposed rules, does OIRA consider the value of statistical life?

OMB Circular A-4 outlines the best practices for agencies in conducting benefit-cost analysis. A-4 includes a discussion of how agencies can use the value of statistical life (VSL) in their analysis.

30) A recent Joint Economic Committee Report suggested that the economic cost of abortion in 2019 was \$6.9 Trillion. Is that cost considered by OIRA in its regulatory review?

I am not aware of OIRA's current practice on this matter.

**Post-Hearing Questions for the Record
Submitted to Richard L. Revesz
From Senator Rick Scott**

Nomination Hearing

Thursday, September 29, 2022

During the COVID-19 pandemic, numerous federal rules and regulations were paused to allow private and public sector companies to expedite goods and services that were needed to keep Americans healthy and curb the negative impacts caused by economic shutdowns. It's become clear that many of these rules and regulations were not necessary in the first place and that America's families and business owners will operate smoothly without having to deal with excessive federal regulations which reduce innovation.

- *What regulations that were temporarily rescinded, suspended, modified or waived during the public health emergency would you permanently rescind?*
 - *Similarly, which outdated, duplicative or burdensome rules should be considered for modification, consolidation or repeal?*

As Administrator, I would take a thoughtful approach as to which regulatory policies should be reinstated to ensure that the nation continues to effectively manage COVID-19 and minimize its disruptions, and to stay prepared for whatever may come.

Given the man-made domestic energy crisis this Administration has created, what are you willing to do as United States Government's central authority for the review of Executive Branch regulations to alleviate the current restrictions on American energy production?

OIRA is tasked with reviewing regulations and the benefit-cost analysis that accompanies those regulations. If confirmed, I would look to advance regulations for which the benefits justify the costs, including as it relates to energy policies. If confirmed, I would also look to support the President's priorities, and this administration has indicated a strong focus on energy production.

November 28, 2022

The Honorable Charles Schumer
Majority Leader of the U.S. Senate

The Honorable Gary Peters
Chair, U.S. Senate Committee on Homeland Security & Governmental Affairs

**Re: Urgent Senate Confirmation of Richard Revesz to Serve as
Administrator, Office of Information and Regulatory Affairs**

Dear Leader Schumer and Chair Peters,

We respectfully urge U.S. Senate confirmation of Richard Revesz to serve as Administrator of the White House Office of Information and Regulatory Affairs. The nomination of Mr. Revesz was recently reported out of the U.S. Senate Homeland Security and Governmental Affairs Committee on a bipartisan 9-2 vote. The signatories below all serve at non-partisan, non-profit, non-governmental environmental organizations.¹ We have direct experience working with Mr. Revesz.

Richard Revesz personifies the American Dream. He arrived in the United States from Argentina at the age of 17 to attend Princeton University beginning a journey to the pinnacle of the American legal profession. Richard Revesz clerked for Justice Thurgood Marshall on the United States Supreme Court after graduating from Yale Law School and served for a decade as Dean and now as Dean Emeritus of the New York University School of Law where he continues to teach. He has long served as Director of the venerable American Law Institute which brings together leaders in the legal profession in support of the rule of law irrespective of political perspective. He also founded the non-profit non-partisan Institute for Policy Integrity. Richard's remarkable career has been anchored in an abiding dedication to the rule of law, integrity, fairness, professionalism, and generosity of spirit.

Each of us have had significant experience working directly with Richard Revesz. Throughout his extraordinary career, Mr. Revesz has inspired us with his dedication to clean air and clean water, healthier communities, and economic prosperity for all people.

Based on our direct experience working with Richard Revesz and the extraordinary breadth and depth of his expertise, we are united by our emphatic support for Richard Revesz to serve our nation as the Administrator of the Office of Information and

¹ We each sign in our individual capacities not on behalf of our organizations.

Regulatory Affairs. We jointly and respectfully urge the U.S. Senate to confirm his nomination.

Sincerely yours,

Nathaniel Keohane
President
Center for Climate and Energy
Solutions

Kirti Datla
Director of Strategic Advocacy
Earthjustice

Mark Magaña
President
GreenLatinos

Vickie Patton
General Counsel
Environmental Defense Fund

Howard Learner
Executive Director
Environmental Law & Policy
Center

Ian Fein
Senior Counsel
Natural Resources
Defense Council

Joanne Spalding
Legal Director
Sierra Club

Amanda Garcia
Tennessee Office Director
Southern Environmental Law
Center

Jonathan Kalmuss-Katz
Senior Attorney
Earthjustice

Denise Grab
Principal
Rocky Mountain Institute

Michael Panfil
Lead Counsel
Environmental Defense Fund

Ben Levitan
Senior Attorney
Earthjustice

Bradley Klein
Senior Attorney
Environmental Law & Policy
Center

November 23, 2022

The Honorable Charles E. Schumer
Majority Leader
US Senate
Washington DC 20510

The Honorable Gary Peters
Chair, US Senate Committee on
Homeland Security & Governmental Affairs
Washington DC 20510

Dear Majority Leader Schumer and Chairman Peters,

On behalf of millions of members in all 50 states, the organizations listed below strongly support the nomination of Richard Revesz to serve as Administrator of the Office of Information and Regulatory Affairs. We are pleased that the Senate Homeland Security and Government Affairs Committee reported out his nomination by a 9 to 2 vote and we urge swift confirmation of Mr. Revesz by the full US Senate.

Richard Revesz is Dean Emeritus of New York University School of Law and Director of the American Law Institute. Richard was born in Argentina, immigrated to the United States at 17 to pursue engineering studies at Princeton and MIT, and learned English as a second language. Today he is widely recognized as a leading national expert in regulatory law and policy.

After graduating from Yale Law School and clerking on the U.S. Supreme Court for Justice Thurgood Marshall, Mr. Revesz carried out extensive research and analyses at the New York University School of Law examining effective and fair regulatory policy design with a focus on environmental law and implementation of our nation's clean air laws. Richard founded and directed the Institute for Policy Integrity to provide rigorous and accessible economic and legal analyses for policy-makers and stakeholders alike. The Institute for Policy Integrity has improved the transparency, quality and outcomes of administrative policy development, analyses and decisions.

The complex issues that come before the Office of Information and Regulatory Affairs (OIRA) demand an extensive understanding of law, fairness, science, technology and economics. Mr. Revesz possesses extraordinary expertise in all of these areas. Deeply respected for his professionalism and integrity, Richard Revesz has devoted his career to

serving the public interest and will continue to serve the public interest as Administrator of the Office of Information and Regulatory Affairs.

In short, Mr. Revesz is uniquely well qualified to lead OIRA and we urge the Senate to support his confirmation.

Sincerely,

American Council for Energy Efficient Economy

Appliance Standards Awareness Project

Defend Our Future

Earthjustice

Environment America

Environmental Law and Policy Center

Environmental Defense Fund

Environmental Working Group

League of Conservation Voters

Michigan Sustainable Business Forum

National Wildlife Federation

Natural Resources Defense Council

National Hispanic Medical Association

Northeast Ohio Black Health Coalition

Oceana

Physicians for Social Responsibility

Sierra Club

Union of Concerned Scientists