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NOMINATION OF JOEL D. KAPLAN

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF JOEL D. KAPLAN, TO BE DEPUTY DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

JULY 29, 2003

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NOMINATION OF JOEL D. KAPLAN

TUESDAY, JULY 29, 2003

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:52 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Coleman, Akaka, and Lautenberg.

OPENING STATEMENT OF CHAIRMAN COLLINS

Chairman COLLINS. The Committee will be in order.

Today the Committee on Governmental Affairs is holding a hearing to consider the nomination of Joel Kaplan to be the Deputy Director of the Office of Management and Budget, a key position within the Federal Government.

The Office of Management and Budget has many significant and cross-cutting responsibilities for the Executive Branch. Critical to the position we are examining today, OMB provides the President with recommendations in formulating his budget and oversees the administration of the budget once the appropriations bills become law.

As Deputy Director of the Office of Management and Budget, if confirmed, Mr. Kaplan will have many responsibilities, but probably one of the most important will be helping the President build a Federal budget that is fiscally responsible and responsive to the needs of the American people. This will be a difficult job in a time of spending imperatives and revenue constraints.

Earlier this month, the Office of Management and Budget released the mid-session review of the budget which did not paint a rosy picture. The Federal deficit is now estimated to be $455 billion for fiscal year 2003, compared to $304 billion that OMB had predicted in February of this year. In addition, the deficit for fiscal year 2004 is projected to be $475 billion.

Although the dramatic turnaround from surplus to deficit in the span of 2 years is troubling, it is important to bear in mind that economic and technical factors, much more so than tax cuts and spending increases combined, are the single biggest cause of our fiscal woes. It is important to remember also that these deficit projections are just that, projections. They are not set in stone, nor are they guaranteed. Indeed, if there is any certainty, it is that they will change. In the time that I have been in the Senate, never once have the projections of either OMB or the CBO, the Congressional

Budget Office, regardless of whose administration it is or who is in charge of Congress, proved to be accurate.

We must now look forward and find ways to bring fiscal restraint to the government and show the American taxpayers that the Federal Government can operate within a budget and work effectively.

In his Fiscal Year 2004 Budget, the President proposed several budget enforcement mechanisms, including biennial budgeting, automatic continuing resolutions and the extension of the pay-as-you-go provisions. Additionally, several Senators have introduced legislation this year that would put enforcement mechanisms in place. We must examine these options to determine whether or not they are the proper tools to help bring accountability to the Federal budget, but nothing can really replace good old-fashioned budget responsibility.

As I mentioned, Mr. Kaplan's job will not be an easy one. His background as an artillery officer in the Marine Corps is undoubtedly useful training for the many battles ahead. Implementing a Federal budget is never easy, but with strong guidance from the Office of Management and Budget, under the leadership of Director Bolten, and with the addition of Mr. Kaplan, I am confident that we will move in the right direction.

Mr. Kaplan will face many challenges if confirmed. I am very pleased he has agreed to the President's request that he serve in this position because I have concluded that he possesses the background, intelligence and experience needed to be a successful OMB Deputy Director; that is, assuming all goes well at this hearing today.

So I want to thank the witness for being with us today, and I would now like to yield to Senator Lautenberg for any comments that he might have.

OPENING STATEMENT OF SENATOR LAUTENBERG

Senator LAUTENBERG. Welcome, Mr. Kaplan. I am not accustomed to calling people as young as you "mister," but I am going to observe the protocol here.

And I want to join you, Madam Chairman, in welcoming the President's nominee to be Deputy Director of OMB to the Committee this morning. Mr. Kaplan is obviously an unusual young man, sterling academic credentials and having clerked on the Fourth Circuit Court and for Supreme Court Justice Antonin Scalia, who has New Jersey roots, I do not know if you remember.

Apparently, you have served in the Marine Corps. Was that on active duty?

Mr. KAPLAN. Yes, Senator, it was.

Senator LAUTENBERG. Four years' worth?

Mr. KAPLAN. Just under 4 years, Senator.

Senator LAUTENBERG. Well, having said all of those nice things, I am concerned about the nomination, and I will tell you why. Because as bright as you obviously are, I do not see anything in your experience, prior business or government work experience, for helping you prepare for this post. And it is, as everyone knows, the No. 2 position at the Office of Management and Budget—the agency charged with preparing the President's budget request and over-

seeing the administration's procurement, financial management, information technology and regulatory policies.

Now, aside from the question of that experience, there is another matter that warrants some discussion. It is no secret that you were in Florida to work for the Bush-Cheney campaign during the recount that followed the 2000 election.

One aspect of that sorry moment that I still find troubling is that on the Wednesday before Thanksgiving, there was a court-ordered manual recount being conducted in the Miami, Dade County building. I am not telling you anything new, obviously. When the Canvassing Board attempted to move the recount up to the 19th floor, where the tabulating machines were, a group of protestors spontaneously assembled and caused enough commotion and fear that the Canvassing Board was intimidated enough to call the recount off. It was never resumed.

That group, we discovered later, did not really consist of irate local Republican voters, as was portrayed, it was largely a group of Republican staffers flown down by the campaign to Florida. The group intimidated, physically accosted county workers and Democratic campaign staff. They did everything they could to disrupt the recount, and they succeeded. We are not rehashing who is President. President George W. Bush is President, period. So that is not where we are at. But mobs are not supposed to rule in this country, but on that day one did.

And then in the pre-hearing interviews with staff, you indicated that you were not part of the mob, that you were in the tabulating room on the 19th floor as an official Republican observer, and there is no reason to doubt that. But also there was an acknowledgment that you knew several of the people who were in the mob.

And I am curious to know why, when the Canvassing Board asked people from both parties to help calm things down, that you did not stand up, with your education, your skills, you did not kind of stick your head out the door and say to these friends—you say that you knew a lot of people—"Do not worry. We have our observers. Everything is above board."

And I think Mr. Kaplan also called the affair the "Brooks Brothers" riot. It seems to suggest there was some kind of whimsy about the episode, and there was not anything funny about a mob trying to prevent people from counting votes, whether the people in the mob are wearing brown shirts or button-down shirts.

So I look forward to hearing Mr. Kaplan's opening statement and your version of what happened that day.

I thank you, Madam Chairman, for conducting this hearing.

Chairman COLLINS. Thank you, Senator Lautenberg.

I want to point out that Mr. Kaplan currently is serving as Special Assistant to the President in the Office of the Chief of Staff. We have talked about his Marine experience and his clerkships. He has filed responses to a biographical and financial questionnaire, answered pre-hearing questions submitted by the Committee, answered questions in a Committee staff interview and had his financial statements reviewed by the Office of Government Ethics.

Without objection, this information will be made part of the hearing record, with the exception of the financial data which are on file and available for public inspection in the Committee's office.

Mr. Kaplan, our Committee rules require that all nominees give their testimony under oath, so I would ask that you stand and raise your right hand.

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

Mr. KAPLAN. I do.

Chairman COLLINS. You may be seated.

Mr. KAPLAN. Thank you, Madam Chairman.

Chairman COLLINS. Mr. Kaplan, do you have any family members that you would like to introduce to the Committee before you proceed with your written statement?

Mr. KAPLAN. If I may, Madam Chairman.

I would like to introduce my mother, Rosalind Kaplan, my sister Sharon Chabot, my niece Jessica Chabot, who have all come down from Massachusetts to be here with me today. I would also like to introduce Lee Sax, who is a former assistant secretary of the Treasury in the Clinton Administration and is here to show strong bipartisan support for my nomination and also because he is my cousin. [Laughter.]

Chairman COLLINS. That may have undercut his credibility just a little bit.

Mr. KAPLAN. He has told me that several times, Madam Chairman.

Chairman COLLINS. Thank you. You may proceed with your statement.

TESTIMONY OF JOEL D. KAPLAN, TO BE DEPUTY DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Mr. KAPLAN. Thank you, Madam Chairman and Senator Lautenberg. I appreciate the opportunity to be here this morning and am deeply honored to come before you as the President's nominee to be Deputy Director of the Office of Management and Budget.

I would like to take this opportunity to express my gratitude to the President for nominating me to this position and also to Director Bolten for his confidence in me. If confirmed, I will work tirelessly to meet their high standards and their expectations.

Since the start of the administration, I have had an opportunity to work with many officials at the Office of Management and Budget and throughout the Executive Branch on the development and implementation of administration policy. Through that experience, I gained a tremendous appreciation for both OMB's important role in that process and for the dedication and skill of the professionals who work there.

The budget of the Federal Government represents the judgment of Congress and the President about how much of the people's money to spend and for what purposes. The President's priorities, which are reflected in his budget submission, are winning the war on terror, protecting the homeland, and strengthening the economy. If confirmed, I will work faithfully to ensure that we fund those priorities, while at the same time setting a course that moves our Nation's budget back towards balance.

The other important role OMB plays, which I know is of particular interest to the Members of this Committee, is improving the

management of the Executive Branch. The President and his administration share your commitment, Madam Chairman, to giving the American people the well-functioning and efficient government they deserve and to energizing and empowering the thousands of hardworking Federal employees who come to work and serve their country every day.

This Committee has shown great leadership in this area and, if confirmed, I look forward to working with you to make progress on the President's Management Agenda and your management priorities. In fulfilling these important responsibilities, Madam Chairman, I will work diligently to make sure that OMB's relationship with this Committee, and with the Congress, is an open and productive one.

Thank you again for the opportunity to appear this morning, and I will look forward to answering your questions. Thank you.

Chairman COLLINS. Mr. Kaplan, I am going to start with the three standard questions we ask all nominees, and then I am going to defer to Senator Lautenberg for his questions so that he can keep a previous commitment.

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

Mr. KAPLAN. No, Madam Chairman.

Chairman COLLINS. 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. KAPLAN. No, Madam Chairman.

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

Mr. KAPLAN. Yes, I do, Madam Chairman.

Chairman COLLINS. Senator Lautenberg.

Senator LAUTENBERG. Thank you very much, Madam Chairman.

Mr. Kaplan, I will try to be brief because you heard the couple of concerns that I raised.

I want to talk about what you think the scope of your responsibilities within OMB might be and what do you bring, by way of experience, to the job that would prepare you for this?

Mr. KAPLAN. Sure, Senator. The scope of the responsibilities of the office, as the Chairman described them, are quite broad and I think important ones. The two primary responsibilities have to do with helping to design, propose, and then implement the President's budget. And as I mentioned briefly in the opening statement, helping to improve the management of the Executive Branch.

As to the first primary responsibility, I have spent the last several years working in the Office of the Chief of Staff, directly involved in designing, coordinating and overseeing the implementation of administration policy. In that capacity, I participated throughout the process with many officials at the Office of Management and Budget and throughout the Executive Branch in determining how those policy initiatives of the President fit into the President's priorities, as reflected in the President's budget.

I have participated in numerous discussions and reviews of the budget at every stage in the budget process from the review of the agencies' submissions, which typically takes place in September, through the OMB's pass-back of those requests, to ensure that the President's priorities and policies are properly reflected in the agency budgets, through to the preparation and presentation of the President's budget and review of that document, and through the administration's efforts to work with the Congress in the budget process, and then, later in the year, through the appropriations process.

So I think I have had, Senator, a good experience working in this administration. I am quite familiar with most, if not all, of the significant officials in the agencies that I will be charged with working with, and certainly in OMB as well and, for that matter, with the officials in the White House, who I have worked very closely with over the last several years.

In fact, it is because of these relationships and because of the work I have done with those officials that I believe the President, his senior advisers and Director Bolten have developed the confidence in me that I do have the qualifications and the abilities to execute these responsibilities.

Senator LAUTENBERG. Because I have a commitment to the Chairman that I am going to wrap up very quickly, so I do not want to interrupt your testimony, but I do want to just move along. And that is the experience that you just presented for us to review is mostly on the budget side of things. It is the Office of Management and Budget. It is really an arm of the chief executive that is involved with the management side of things.

Do you think you have had any experience in that area that would enable you to move into this job and participate in a full fashion?

Mr. KAPLAN. I do, Senator. I think I have had two particularly relevant experiences; the first that the Chairman mentioned in her remarks was my experience—and you did as well, Senator—was my experience as an officer in the Marine Corps.

Senator LAUTENBERG. Platoon leader.

Mr. KAPLAN. Platoon leader and then an executive officer.

Senator LAUTENBERG. How many people in the platoon?

Mr. KAPLAN. Forty-five in the platoon, 150 in a battery, of which I was the executive officer.

Senator LAUTENBERG. They are quite different because here, regardless of whether you are in the majority party or not, it is awful hard to command people to do things, as you have probably seen already, but if you would, just give me a word of comment about my review of those what I call kind of dark days for everybody. Again, we are not discussing outcome. The outcome is what it was and what it is.

But why you, with all of the training that you have had in the law, and the skills, the academic background that you bring, and I am sure accompanying that is a fairly deep conscience—I would bet that your family has produced that kind of an awareness in you—why did you not say, hey, let's cut this out?

You knew what was happening. I am not saying that you participated, but why did you not object so that people would hear your voice?

Mr. KAPLAN. Senator, my role in all of the proceedings in the recount up until that point, and in Miami Dade on that date, was as an observer/representative of the Bush-Cheney campaign to ensure that the activities of the Canvassing Board were properly viewed by our campaign. The Democrats had representatives there, as well—to register any objections and to take note of the process. That is what I was there to do, and that was my intention in attempting to get into the room, where I was permitted and invited to be. I was not in charge of the people who were congregated outside.

Senator LAUTENBERG. I understand. But I know enough about you, from reading about you, seeing your family here and the pride that they share and that we will share in your life thus far as an upstanding young person, but I bet anything that you would never walk by an attack in the street, where someone was being victimized or intimidated and let it pass. Your training as a Marine would not permit it, and I served 3 years in the Army during the war, and I know I could not do it, and I do not believe that you are of any different character. But it was disappointing that even though you were officially an observer, you were there as a responsible human being and that you were not disturbed in any way by the things that were going on.

Mr. KAPLAN. Respectfully, Senator, I certainly hope that I would do what you described if I were to come upon a scene like the one you described. What I saw before I went into the room was a group of people protesting, and I didn't see anything that suggested any violence or any violent activity preparing to take place.

Senator LAUTENBERG. Thank you very much, Madam Chairman.

Thank you, Mr. Kaplan.

Chairman COLLINS. Senator Coleman, I have not yet questioned the witness because I deferred to Senator Lautenberg, who was under a time constraint. If you are under a similar time constraint, I would be happy to yield to you for your questions first.

OPENING STATEMENT OF SENATOR COLEMAN

Senator COLEMAN. Madam Chairman, I will defer to my Chairman, and then would love to follow up a little bit on just the last line of questioning. And being an ex-protestor myself, by the way, I would love to explore, but I defer to my Chairman.

Chairman COLLINS. Thank you.

Mr. Kaplan, before I do go to my questions, I just want to clarify one issue, and that is were you a participant in the demonstration that Senator Lautenberg mentioned this morning?

Mr. KAPLAN. Madam Chairman, I was present while there was protesting taking place. My responsibilities and role was to go into the room and be an official observer. So, while I was there, I was not, to my recollection, a participant, as I think Senator Lautenberg envisions.

Chairman COLLINS. Thank you. That is a helpful clarification.

I am going to ask you questions in three areas. First, I want to talk to you about the budget deficit; second, I want to talk about

certain procedural reforms that the President has proposed; and, third, I want to talk to you about funding for some specific programs. Even though I know you are not responsible right now for preparing the budget, you will be assisting in that regard going forward, and I want to make sure that you are aware of certain programs that I think are of high priority.

First of all, on the budget deficit, as I mentioned in my opening remarks, OMB has significantly revised the budget deficit upward from its February estimation. It is $150 billion more than OMB estimated in February of this year, and it is so for very good reasons; the cost of the war, the cost of homeland security, and most of all, the decline in the economy has meant that revenues are far lower than anticipated.

For that reason, OMB Director Bolten has stated that these levels of deficits are "manageable" if we continue pro-growth economic policies and exercise serious spending discipline.

I would also note that the deficit, as a percentage of GDP, remains at a manageable level. But how long can the Federal Government continue to run so-called manageable deficits before we start seeing an impact on the economy, on interest rates, on our ability to function in a healthy economy?

Mr. KAPLAN. Thanks, Madam Chairman, for that question.

I think you have asked the right question which is, with the deficits that we are currently running, which I think, as you correctly note, although large in nominal terms, are not by any means deficits that are, as a percentage of GDP, beyond what we have seen even in recent years.

It is difficult to say how long deficits of this magnitude could be sustained before there would be an impact on interest rates. I think what is important to note, as Director Bolten did when discussing the mid-session review, is that we have not seen the impact on interest rates that we'd be concerned about so far, but it is, as he said, a legitimate subject of concern, and it is important that we exercise and continue the types of economic policies and fiscal restraint that will allow us to bring the deficit into a declining trajectory and back towards balance.

The projections that were released at the time of the mid-session review do show, Madam Chairman, as you know, that by 2006 the deficit, as a percentage of GDP, will be half of what it is projected to be this year, and I believe it is that budget path that Director Bolten was discussing in terms of its manageability. But it is important that we continue these policies and that the Congress work with the administration to exercise the fiscal restraint that will put us on that path.

Chairman COLLINS. The President has proposed that there be an automatic continuing resolution, and in many ways, that is a very appealing concept because, when Congress does not finish its work by the start of the fiscal year, there is always a battle to get a continuing resolution passed.

Of course, ideally, we ought to finish all of the appropriations bills before October 1st. However, in the President's proposal, the automatic continuing resolution would be funded at either the President's proposed budget level or the prior fiscal year's level, whichever is smaller.

That concerns me because the President may have zeroed out programs that Congress will restore almost certainly. That happens every single year. And it seems to me that we are tilting the balance of power toward the Executive Branch if, rather than funding at the previous year's level, a figure that has gone through Congress and been signed into law, we use the President's proposed budget if it is a lower figure. Could you comment on that?

Mr. KAPLAN. Yes, Madam Chairman. That is the President's proposal. I understand the concern that you raise, and were the Congress to take action on the President's proposal, I would look forward, if confirmed, to working with you, to minimize any of the concerns that you have along those lines.

All of the President's proposals, reflected in his budget submission that deal with reforms of the budget process, are designed to help the administration and Congress put in place the type of discipline, Madam Chairman, that you spoke of. Discipline that will be necessary if we are to reduce these deficits and to get back on a path towards balance. I think, that is the intent of the automatic continuing resolution proposal, as well as the others in the President's submission.

Chairman COLLINS. Let me give you an example of one such program which the President's budget, for both fiscal years 2003 and 2004, would be zeroed out that I can virtually predict will be restored by Congress, and that is the Rural and Small School Achievement Act. This is an education program that I worked very hard on a bipartisan manner to incorporate into the No Child Left Behind Act legislation, which I was pleased to support and helped to draft.

Part of ensuring our commitment to Leave No Child Behind is to make sure that we leave no child of rural America behind. The Rural and Small School Achievement Act, which is the first of the rural education programs, has delivered needed money and flexibility to small rural school districts. We crafted this legislation to respond to a problem in which small school systems receive very small funding streams from numerous Federal programs, none of which is sufficient to really accomplish any goal. So we allowed this money to be combined into one block grant program, essentially, under the rural education program and then used for whatever is the greatest need of that district.

Of the 4,700 eligible school districts nationwide this year, 4,028 applied and received funding. I think that shows just how well received this program was. The State of Maine has received $1.9 million under this program, and it has made a real difference in the lives of children attending rural small schools.

Let me give you an example. For Fiscal Year 2003, the Bradley School Department in Penobscot County, Maine, which has 104 students in the whole department, is slated to receive about $21,000 through the rural education program. The previous year, Bradley's entire non-Title I Federal allocation totalled only about $4,400. So now the total Federal money going to Bradley in Fiscal Year 2003 will be more than $25,000. That is enough in Bradley, Maine, to hire a reading specialist, to update computer systems or provide for extended day learning opportunities, and that is typical.

I could give you many other examples of school systems in Maine that have been able to use that small pot of money to make a real difference, and this does give them the flexibility.

So I want to express to you my disappointment that the administration has zeroed out a program that is so in keeping with the principles of flexibility that the administration has embraced, and I realize you were not involved or at least I do not think you were involved in that decision—if you were, I would not tell me that, if I were you. [Laughter.]

But I would urge you to take a look at the funding for that program and also to think about it in the context of the continuing resolution proposal, where a program that almost certainly will be restored has been zeroed out. And I would ask for your comments.

Mr. KAPLAN. I certainly will, Madam Chairman, consider, if confirmed, everything that you have just said. I appreciate, as I know the people of rural Maine do, your support for providing the resources that they need to those rural districts.

The President's proposal for No Child Left Behind was to provide, as you know, large, flexible amounts in grants to the States so that they would have the ability to take care of the specific concerns and the specific circumstances of their State.

Again, I will, if confirmed, look forward to working with you on the particular program that you have described. Of course, if Congress sees fit to fund the program, I will work diligently to make sure it is implemented according to Congress' direction.

Chairman COLLINS. Thank you. Senator Coleman.

Senator COLEMAN. Thank you, Madam Chairman.

I would just briefly follow up on my distinguished colleague from New Jersey's questions about protest. It kind of caught my interest.

I really protested in the sixties, and here I am in the U.S. Senate. It is kind of part of my life. But just reflecting on Florida, and the Chairman I know asked that question, but I just want to clarify, you were an official observer of a campaign; is that correct?

Mr. KAPLAN. That's right, Senator.

Senator COLEMAN. And you were not there to organize, plan or participate in protests.

Mr. KAPLAN. That's right, Senator.

Senator COLEMAN. And I must say, Madam Chairman, I do not look at those as the dark days. It is part of American democracy. Things get difficult, and we come back stronger than ever. So I just have a different reflection on that, but appreciate and understand your position.

Senator Lautenberg also asked or raised a question about experience, noting that you have tremendous experience on the budget side. Let me explore, though, on the management side, if I can. Give me some of your reflections on what OMB can do to help agencies better manage the Federal Government. What are your thoughts on that?

Mr. KAPLAN. As you know, Senator, shortly after the President came into office, the Office of Management and Budget designed the President's Management Agenda, which focused on five particularly problematic areas in managing the Federal Government that were cross-cutting across the agencies.

OMB's role is to work with Congress and others who watch these things to identify what the major management challenges are to the Executive Branch and to focus the attention of the agencies on those challenges, which the administration has done with the President's Management Agenda and with the design of the scorecard. The scorecard is intended to highlight the progress or lack thereof on occasion, of agencies and to incentivize them to take action to address these longstanding problems of government.

OMB, because of its central role, also has the ability to work with the agencies to share with them the best practices that other agencies of government have developed in addressing these challenges in their agency. So I think it is a critical role.

The President recently nominated, and the Senate confirmed, Clay Johnson to be the Deputy Director for Management. I know he is as enthusiastic as the Members of this Committee are and, if confirmed, I will work very hard with Deputy Director Johnson and with Director Bolten to try to implement the President's Management Agenda and the other significant management challenges that the Committee is interested in.

Senator COLEMAN. Thank you. I would just follow up a comment about experience, and I often reflect on my own experience. I talk about being at the bottom of the political food chain being a mayor. Your experience working in the Marine Corps, platoon leader, executive officer, you were dealing with people on a one-to-one basis, and I take it responsible for making sure things get done.

Mr. KAPLAN. Yes, Senator. That's correct.

Senator COLEMAN. I think that is very good experience, by the way, and I would hope that you bring that same mentality, working now with your commanding officer, Josh Bolten, and the President, to make sure things get done.

I will just raise, however, one issue, and it was your last comment in regard to the Chairman's comment about a particular program. Many of us get involved in discussions with OMB about programs. I am involved right now in a discussion about sugar, and your comments were that you will work hard to implement the will of Congress. I hope you reflect on that and take that to heart. We sometimes have some different perspectives, as part of the legislative body, on this beautiful democracy and balance. I think it is important that OMB understands it has responsibilities regarding the budget, and see it as a whole and look at the bottom line. We do, and I want to take you at your word that you will work hard to implement the will of Congress in some of these programs. That is what we get elected to do, and I think that is part of the job.

Mr. KAPLAN. I will, Senator. Thank you.

Senator COLEMAN. With that, no further questions, Madam Chairman.

Chairman COLLINS. Thank you, Senator. Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Madam Chairman. I join you in welcoming our nominee today. In the interest of time, I ask that my statement be included in the record.

Chairman COLLINS. Without objection.

[The prepared opening statement of Senator Akaka follows:]

PREPARED OPENING STATEMENT OF SENATOR AKAKA

Thank you very much Madam Chairman. I join you in welcoming our nominee today.

At the nomination hearing of OMB Director Bolten last month, I noted that it is a President's prerogative to implement management proposals such as the President's Management Agenda. We must ensure, however, that these management proposals are an improvement.

The success of any management policy requires recruiting and retaining the right people with the right skills. OMB should foster government's ability to retain current Federal workers and attract those considering Federal service. I am concerned that the administration's contracting out policies may do just the opposite. Just last week, I participated in two hearings which raised concerns over the costs of implementing the administration's competitive sourcing initiative.

As the Ranking Member of the Senate Subcommittee on National Parks, I believe that the cost of conducting public private competitions may have serious consequences for visitor services and seasonal operations. But, the Parks Service is not alone. Government wide, managers are working to find creative ways to implement the administration's contracting out policies. In fact, there is currently no reliable estimate of the government wide cost of the administration's outsourcing proposals.

I believe the administration can do more to promote an employee-friendly work environment. Management proposals should be discussed with Federal employees, not handed down as orders. There have been actions that have sparked alarm and distrust among Federal employees who are concerned for their jobs. We should respect and value the government's most critical asset—its workforce.

Mr. Kaplan, if you are confirmed as Deputy Director of OMB, I look forward to working with you to ensure that Federal agencies have adequate resources and personnel to fulfill their missions. I hope you will make it your priority that sufficient resources are made available to agencies to enhance the government's efforts to recruit, retain, and manage the Federal workforce.

Mr. Kaplan, I look forward to your testimony.

Senator AKAKA. Mr. Kaplan, in response to one of my questions at Director Bolten's nomination hearing, he said that OMB should ensure that Federal agencies have the resources to compete effectively in public-private competitions, including resources training. I have a keen interest in workforce and training.

If confirmed, how would you ensure that resources are made available for training Federal workers to conduct public-private competitions?

Mr. KAPLAN. Senator, if confirmed, I think what we would do at OMB is to sit down with each agency, on an individual agency-by-agency basis, and look at what their needs are, look at what their capacity is, look at what their mission is and try to figure out in the budget process what they need in order to accomplish the mission that they have set out for themselves in this area and that the administration has worked out with them.

As we enter into the 2005 budget process, I will commit to you, Senator, if confirmed, to very closely follow those developments and to work with the individual agencies to make sure that they have the resources they need to do what is expected of them and what they expect of themselves.

Senator AKAKA. Thank you. We are looking forward to working with you, too.

Last week, Angela Styles, the Administrator for Federal Procurement Policy, testified before this Committee that OMB will work with agencies to establish agency-specific plans for contracting out Federal jobs. Yet, we know that many agencies lack the funds to effectively participate in these public-private competitions.

As Deputy Director of OMB, how will you work to ensure that the President's budget includes sufficient resources to support these plans?

Mr. KAPLAN. Senator, if I may, I think I will give you roughly the same answer that I did on the last question, which is that I will work very closely with the agencies, as those plans are being developed for 2005 and beyond, to look at them in light of the resources that each agency has because, as you point out, Senator, they do come to the table with different resources, with different abilities and capacity, and we will work with them, and I know Administrator Styles will as well, on making sure that they have the resources they need.

Senator AKAKA. The President's Management Agenda includes several government-wide management initiatives. However, there are management challenges not addressed in the management agenda, such as contract management, which has been on GAO's high-risk list for 13 years.

My question to you is how will you ensure that the President's budget request addresses management challenges, such as contract management and also other areas not in the President's Management Agenda?

Mr. KAPLAN. Yes, Senator. I don't want to suggest that the President's Management Agenda represents all of the challenges that the government agencies face in managing their agencies. As you point out, GAO has done a lot of work, as has this Committee, in identifying other very significant challenges that agencies face across the government.

I know that Deputy Director Johnson has already sat down with GAO and is going through the list of concerns on GAO's high-risk list and trying to design initiatives, and programs, and approaches to dealing with those problems. I expect, if confirmed, that I will work closely with Deputy Director Johnson and with Director Bolten to make sure that we are addressing those concerns and are dedicating the resources we need to address them.

Senator AKAKA. You have stated that the primary management tool of the administration is the Program Administration Rating Tool, known as PART. The Government Performance and Results Act, which is known as GPRA, requires that agencies develop performance plans and also report on their performance. Could you explain how PART and GPRA differ and how one enhances the other?

Mr. KAPLAN. I can, Senator, or at least I can try. The act, as I understand it, was designed to require agencies to put together performance plans that reflect their overall goals and objectives.

PART, which has been designed and implemented as part of the President's Budget and Performance Integration Initiative, is designed to look at individual agency programs, starting with 20 percent of those programs last year, adding an additional 20 percent this year and 20 percent every year moving forward, to make sure that we're asking the right questions about each of those programs, to measure those programs and to be able to determine whether they are doing what Congress wanted them to do in authorizing them and appropriating the funds for them.

And the idea is that once we can measure how successful those programs are, we will have information to evaluate them and make

further budget decisions and will be able to share that information obviously with Congress to help inform your decisions about what programs you want to authorize and appropriate funds for going forward.

So my understanding is that PART is intended to complement and essentially meet the goals and requirements of the act, even if the form is not specifically what was contemplated and described there. So it is supposed to, as I understand it, meet Congress' intention and this Committee's intention in working on the act.

Senator AKAKA. During your pre-hearing interview, you stated that you will work with the Deputy Director of Management to maintain OMB's strong commitment to improve management policies and practices across the Federal Government.

Do you believe that the full requirements of the Chief Financial Officers Act of 1990 and the Klinger-Cohen Act will be extended to the Department of Homeland Security? As Deputy Director, how will you ensure that this occurs?

Mr. KAPLAN. Senator, my understanding, specifically with regard to the requirements of the CFO Act, is that OMB will require DHS to conform to the substantive requirements of the act. With respect to Klinger-Cohen, I know that OMB is working very closely with the Department of Homeland Security to review its information technology plans. The specifics of the act I cannot speak to, Senator, but I will certainly look into it and can get back to you, if that is alright, Senator.

Senator AKAKA. Thank you very much, Madam Chairman.

Chairman COLLINS. Thank you, Senator Akaka.

Mr. Kaplan, I want to follow up on an issue that Senator Akaka raised that is of great concern to me as well. I was pleased last week when Administrator Styles announced that OMB had abandoned its government-wide goals for competing commercial positions in the Executive Branch because I always felt that having a government-wide goal was an arbitrary approach to what should be a worthwhile system of reducing costs and improving performance in the Executive Branch. Individual agency goals, it is my understanding, still remain.

What assurances can you give us that those will not be subject to the same kinds of problems that afflicted the government-wide goal? In other words, would it not be better to, instead of a goal applied to each agency, use a cost reduction or a performance measure, rather than an arbitrary percentage?

Mr. KAPLAN. Madam Chairman, I think cost reduction and performance-based measures are worth looking at. As you have described, this is an initiative that, as I understand it, has evolved considerably from the way it was initially proposed in 2001, in large part because of the very legitimate concerns that Members of this Committee have raised and other Members of Congress.

And I know Director Bolten, for one, heard in his confirmation process loud and clear the Committee's concerns and is committed to trying very hard to address those concerns, beginning with the report that he sent up last Thursday.

As to the specific agency plans that are described in that report, I don't believe they are arbitrary. In fact, in response to the Congress' concerns, OMB has worked very closely with the agencies to

ensure they are not arbitrary, but rather that they are the result of considered research and sound analysis, where OMB sits down with the agency, discusses their workforce, the particular challenges they face, the other alternatives in the marketplace, whether they have the capacity to actually do competitions and what is a reasonable number for that agency based on their mission.

So I think what OMB is trying to do here is to avoid the arbitrary goals or targets that were the subject of some considerable concern, and we are making real progress on that, and I will look forward, if confirmed, to continuing to work with you on that.

Chairman COLLINS. I also want to follow up briefly on a comment made by my distinguished colleague from Minnesota, and that is to emphasize to you how important it is that OMB not only work with Congress, but also follows the will of Congress when it is expressed in law.

And I am going to submit for the record the details of this because I do not expect you to have the answer, but this spring the Department of Agriculture, as I understand it, under the direction of OMB, diverted more than $150 million from four working land conservation programs to pay for the cost of administering the Conservation Reserve Program and the Wetlands Reserve Program.

And that is troubling to me because, under the 2002 Farm bill, these costs were intended to be paid out of the Commodity Credit Corporation funds, as the result, the effect of the diversions is to deny funds for farmers who are seeking to participate in these conservation programs, which are already oversubscribed, and that has an impact on the EQIP program, the Environmental Quality Incentives Program, and others.

And I will submit the details of that to you for the record, but that is indicative of the kind of action taken allegedly by OMB that is very frustrating to us. When we are crafting legislation and providing funding for specific programs, to then have money diverted from one program to another, thwarts the will of Congress.

So I hope we can receive from you today a general pledge that you will try to ensure that does not happen, and when OMB feels the need to reprogram funding, that you will come to Congress, as is anticipated, for permission from the Appropriations Committee.

Mr. KAPLAN. Madam Chairman, you can certainly receive that pledge from me today.

Chairman COLLINS. Thank you. And my final question today concerns the Low-Income Heating Assistance Program. And the question that I want to pose to you is whether OMB looks at how funding streams go to programs and whether there are more efficient ways of funding programs that would allow us to stretch scarce Federal resources further.

And the LIHEAP program is a perfect example of that. Every year there is a battle over the LIHEAP program, and the administration is very slow to release the money. The result is the money is always released at the height of the winter, when fuel costs, home-heating costs and natural gas costs, are the highest, and thus the money buys the least.

Ideally, what you would want to do is double fund for 1 year the LIHEAP program so you could change the funding cycle so that the money would be received by States and community action agencies

that administer the program in the summer when the costs are far lower. That way you can serve more people or you would at least be able to provide a greater benefit if people were able to use those funds to fill up their home heating oil tanks in the summer.

But at the very least, if the administration would release the money promptly at the beginning of the fiscal year, rather than at the height of the winter, even that would be an improvement.

Would you take a look not only at the LIHEAP program—I definitely want you to take a look at that—but also at other programs where, when the money is released, will make a difference in the number of clients we can serve and the amount of benefits that we can provide.

Mr. KAPLAN. Madam Chairman, if confirmed, I will certainly look forward to looking at and considering these types of funding mechanisms and any other good ideas that will allow these programs to be managed more effectively.

With respect to LIHEAP, in particular, I would want to reiterate something I think Director Bolten discussed with you, either in the hearing or outside of it. I know he shares your concerns about the administration not responding rapidly enough and is committed to making sure that those funds are released very rapidly, as needed.

And with respect to the specific advanced funding proposal, I know that he promised to review it and, if confirmed, since I will be working for him, I know that I will be doing that as well.

Chairman COLLINS. I thought it could not hurt to get a second commitment on this issue——

Mr. KAPLAN. Absolutely, Madam Chairman.

Chairman COLLINS [continuing]. To emphasize its importance to me and to many other members.

Senator Coleman, do you have any further questions?

Senator COLEMAN. Thank you, Madam Chairman. I just want to, by the way, applaud your commitment and persistence on the LIHEAP program in getting that second commitment. I also represent a Northern border State and have the same concerns. So thank you, Madam Chairman, and I would just note that I look forward to supporting the confirmation of Mr. Kaplan. I think he is very well-qualified, and I think he will serve this country well. So I look forward to that happening.

Mr. KAPLAN. Thank you, Senator.

Chairman COLLINS. Thank you, Senator, and thank you for your participation in this hearing today.

I want to thank Mr. Kaplan for appearing before the Committee, and also for his public service to date and to what I am sure will be an equally impressive career as the Deputy Director.

We do hope to expedite the confirmation of your nomination. So, without objection, the record will be kept open until 5 p.m. today for the submission of any written questions or statements for the record. I would encourage you to reply to any additional questions as rapidly as possible so that we can expedite your nomination.

Thank you for appearing today, and this hearing is now adjourned.

[Whereupon, at 11:47 a.m., the Committee was adjourned.]

APPENDIX

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

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

   Joel David Kaplan

2. **Position to which nominated:**

   Deputy Director, Office of Management and Budget

3. **Date of nomination:**

   July 11, 2003

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

   Office:
   The White House
   West Wing, 1st Floor
   Washington, DC 20500

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

   5/09/69, Boston, MA

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

   Single

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

   N/A

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

   Weston High School (Weston, MA), 9/83-6/87
   Harvard College, BA '91, 9/87-6/91
   Harvard Law School, JD '98, 9/95-6/98

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

   See attached.

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

    N/A

11. **Business relationships: List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.**

    Partner, College Discount Association (1990).

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

    Council on Foreign Relations, Term Member (Admitted 6/03)

13. **Political affiliations and activities:**

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

    N/A

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

    Policy staffer, Bush/Cheney 2000

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

    Contribution to House Managers Political Action Committee in 2000. To the best of my recollection, this contribution was in the amount of $50.00.

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

Harvard Law School 1996 Sears Prize Winner (awarded to two students with highest GPA in first year class); National Defense Service Medal; Harvard College Scholarship.

15. **Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.**

"Note: Uniform Federal Rules of Attorney Conduct: A Flawed Proposal," 111 Harvard Law Review 2063 (1998)

Recent Case: *Wittmer v. Peters*, 87 F.3d 916 (7th Cir.), 110 Harvard Law Review 1167 (1997)

16. **Speeches: Provide the Committee with four copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.**

N/A

17. **Selection:**

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

I believe the President chose me for this nomination because of my experiences working for him in the Chief of Staff's office on policy issues over the past two and a half years.

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

Over the last two and a half years, I have had an opportunity to work with many officials at the Office of Management and Budget and throughout the Executive Branch on the development and implementation of Administration policy. I believe this experience will help me discharge both the management and budget duties of the Deputy Director. I believe that my training as an officer in the United States Marines taught me many lessons that will be helpful in performing the Deputy Director's responsibilities in the management of OMB as an organization.

B. FUTURE EMPLOYMENT RELATIONSHIPS

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

   I have no current business connections.

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

   No.

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

   No.

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

   No.

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

   Yes.

C. POTENTIAL CONFLICTS OF INTEREST

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

   I am unaware of any business relationship, dealing or financial transaction that might constitute or result in a possible conflict of interest.

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of

any legislation or affecting the administration and execution of law or public policy other than while in a federal government capacity.

During the past 10 years, I have not engaged in any activity for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy other than while in a federal government capacity.

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

Yes.

D. LEGAL MATTERS

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

No.

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

No.

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

No.

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

N/A

E. 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.)

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

Temporary Worker, Kelly Temporary Services, Washington, DC. 9/91-1/92.

Officer Candidate, United States Marine Corps, Quantico, VA. 2/92-4/92.

The Basic School, United States Marine Corps, Quantico, VA 4/92-10/92.

Artillery Officer's Basic Course, Fort Sill, Lawton, OK 73503. 11/92-04/93.

Artillery Officer, Camp Pendleton, CA. 04/93-09/95.

Summer Associate, Stroock & Stroock & Lavan, NY, NY 10038. 06/96-08/96.

Summer Associate, Wachtell, Lipton, Rosen & Katz, NY, NY 10019. 6/97-9/97.

Law Clerk, 4th Circuit Court of Appeals, Alexandria, VA 22314. 06/98-06/99.

Law Clerk, Supreme Court of the United States, Washington, DC. 07/99-07/00.

Policy Staffer, Bush/Cheney 2000, Austin, TX 78746. 07/00-11/00.

Policy Staffer, Bush/Cheney Transition, Washington, DC 20270. 12/00-1/01.

Special Assistant to the Chief of Staff for Policy, The White House, Washington, DC 20500. 1/01-01/02.

Special Assistant to the President, Office of the Chief of Staff, The White House, Washington, DC 20500. 1/01-07/03.

AFFIDAVIT

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

Subscribed and sworn before me this 14th day of July, 2003

Notary Public

Commission Expires: August 14, 2004

U.S. Senate Committee on Governmental Affairs
Pre-hearing Questionnaire for the Nomination
of Joel D. Kaplan to be
Deputy Director, Office of Management and Budget

I. Nomination Process and Conflicts of Interest

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

I believe the President nominated me for this position because as a result of my work in the Chief of Staff's office over the last two and a half years, he, his senior advisors, and the new OMB Director, have developed confidence in my ability to solve problems, effectively manage an interagency process, exercise sound judgment, and achieve results

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

No

3. What specific background and experience affirmatively qualifies you to be Deputy Director of the Office of Management and Budget?

Since the start of the Administration, I have had an opportunity to work with many senior officials and staff at the Office of Management and Budget and throughout the Executive Branch on the development and implementation of Administration policy. In this capacity, I have participated extensively and at all stages in the budget process, from the development of the President's Budget submission to the enactment by Congress of a budget and individual annual appropriations bills. In my role in the Chief of Staff's office, I have had the opportunity to work with senior officials in across the government in government on management challenges they face in their efforts to efficiently and effectively execute their responsibilities. I believe that my leadership training and experience as an officer in the United States Marine Corps will be helpful in my performance of the Deputy Director's responsibilities in the management of OMB as an organization.

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

Other than a general pledge faithfully to implement the President's agenda, I have made no commitments.

5. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest?

If so, please explain what procedures you will use to carry out such a recusal or disqualification.

No

II. Background

1. As you know, OMB has many and varied functions–from budget development and execution to a host of management responsibilities. Please describe your background and experience in relation to OMB's various roles.

Since the start of the Administration, I have had an opportunity to work with many officials and staff at the Office of Management and Budget and throughout the Executive Branch on the development and implementation of Administration policy. As a result of my direct involvement in many of the President's initiatives, I have spent a great deal of time working with White House policy officials, the agencies, and OMB to ensure that those proposals are adequately reflected in the budget, and are consistent with overall budget priorities. I have also had the opportunity to participate extensively, and at all stages, in the budget process, from the development of the President's Budget submission, to Congress' consideration of a budget and individual annual appropriations bills. As part of that process, I have participated in numerous OMB reviews, where the major issues arising out of agency budget request submissions are considered and resolved. Further, I have been closely involved in the review of the text of the Budget volume that is signed by the President and submitted to Congress. I have helped develop and review Administration positions on pending legislative actions, as reflected in agency legislative proposals as well as the frequent Statements of Administration Policy that OMB delivers to Congress on behalf of the Administration.

In my role in the Chief of Staff's office, I have had the opportunity to work with senior officials in virtually every agency in government on the management challenges they face in their efforts to efficiently and effectively execute their responsibilities. If confirmed, my combined knowledge of the President's Management Agenda, the Administration's goals, and the agencies needs will aid me in working with the Director and the Deputy Director for Management on the federal government's management challenges

If confirmed I will draw on my training and experience as an officer in the United States Marine Corps to perform the Deputy Director's responsibilities in the management of OMB as an organization. As the Executive Officer of an Artillery Battery, I was responsible for ensuring that the battery executed the Commanding Officer's intent, and for overseeing the day-to-day operations of a unit consisting of approximately 150 Marines, six M198 Howitzer systems, many other medium and light weapons systems, and a substantial logistics train.

2. What will be your highest priorities as OMB Deputy Director and what do you anticipate to be the greatest challenges?

If confirmed, my highest priority as OMB Deputy Director will be to serve the President and faithfully work to implement his program and priorities. Those priorities include: winning the war on terror, protecting the homeland, and strengthening our economy. The greatest challenge for me if confirmed as OMB Deputy Director will be to help the Director ensure that our nation's resources are properly directed toward these challenges and the President's priorities.

Additionally, if confirmed I will pay careful attention to ensuring that OMB's various statutory responsibilities are carried out faithfully and fully.

3. How do you plan to communicate and work with Congress to improve management in the federal government and carry out OMB's other responsibilities

If confirmed as Deputy Director, I look forward to developing a productive, respectful working relationship with members of this Committee and with Congress more broadly on issues of importance to the President and to the Congress. Improving management of the federal government is a priority of the President. I also recognize that it has long been a priority of this Committee, and I am committed to working with the Committee and Congress on it.

The Senate recently confirmed Clay Johnson as Deputy Director for Management, and he will take the lead role within OMB and for the Administration on the range of management issues. However, as OMB continues to make progress on the President's Management Agenda, integrating the budget and management efforts within OMB will remain a priority for the entire leadership of the organization.

4. What objectives would you like to achieve in your tenure as Deputy Director? Why do you believe these objectives are important to OMB and to the government?

Most importantly, I would like to help the Director achieve the President's priorities discussed above: winning the war on terror, protecting the homeland, and strengthening the economy, as well as meeting the objectives laid out in the President's Management Agenda to improve the performance of the federal government. These objectives are important to OMB as they are to all of the Federal government and to the Nation. Additionally, I will work to ensure effective communications between OMB and the Congress as well as between OMB and other federal agencies.

At OMB specifically, I would like to ensure that the organization rewards hard work, creativity, and performance, and highly values its skilled and dedicated employees. I would like to ensure that OMB continues to be a place where some of the most talented

civil servants in government enjoy coming to work and where theyfeel that they are making a difference in meeting the Nation's challenges. I would also like to ensure that OMB engages productively and professionally with the other agencies of government and with the Congress in meeting our shared responsibilities. I believe that all of these objectives are important to OMB's success at the important missions Congress and the President have given it.

5. Please describe what your role would be at OMB based upon discussion you have had with Director Bolten, Deputy Director Johnson, and others.

   If confirmed, my role at OMB will be to work closely with the OMB Director to ensure that OMB's important missions are accomplished and that the OMB effectively and faithfully serves the President. I believe that this role will apply across the full range of the Director's responsibilities, including crafting the President's Budget, participating with the President's other advisors and Cabinet members in policymaking, overseeing the Administration's regulatory efforts, improving management of the federal government and of OMB itself, and successfully communicating the Administration's positions to Congress.

6. What experience have you had in evaluating workforces to identify the most challenging human capital issues facing the organization, looking at factors such as age, attrition rates, diversity, and skills imbalances? Describe your experience in integrating these human capital considerations and planning concerns into overall programmatic planning for the organization. How will you use that experience as Deputy Director at OMB?

   As a Platoon Commander and as a Battery Executive Officer, particularly at a time of military drawdowns, I regularly faced human capital issues of attrition, diversity, and skills imbalances. My primary responsibility in those positions was to ensure that the Marines under my command were adequately and appropriately trained for current and future missions. Rotations, attrition, and retirements represented an ongoing challenge to an officer planning for training exercises and potential and actual deployments. Where there were skills shortages—anticipated or unanticipated—it was incumbent on unit leadership to ensure that the Marines were adequately prepared for promotion or reassignment. While OMB has a far more stable workforce than did my artillery unit, I believe that this experience will assist me in long-term programmatic planning and human capital development.

7. Political appointees who create and maintain constructive working relationships with career employees can improve employee morale, increase performance, and lower costs. Describe your specific experience involving "front line" employees in achieving results through such relationships. What actions will you take to foster such relationships at OMB and in executive branch agencies?

Again, my most significant experience in leading "front line" employees was in the Marine Corps. Employee morale, or "esprit de Corps," was essential to mission accomplishment. In fact, every officer learns early in his career that his twin—and mutually reinforcing—responsibilities are (a) mission accomplishment and (b) welfare of the Marines under his command.

In addition, as a political appointee in the Chief of Staff's Office, I have had much interaction with "front line" employees at OMB and numerous other Executive Branch agencies, and believe I have succeeded in creating and maintaining constructive working relationships. If confirmed, I look forward to building upon the relationships I have already developed at OMB, and to developing new relationships with the many dedicated and talented employees of the organization.

8. A. Please describe your previous management experience, including:
   - kind of organization in which you held a management role
   - number of employees supervised
   - lessons learned from your experience
   - size of the budget you administered
   - responsibility for planning and setting policy
   - any significant results achieved

   B. How has that experience prepared you for the position of Deputy Director?

As an Artillery Platoon Commander I was responsible for the well-being and performance of a platoon of approximately 45 Marines. Later, as the Executive Officer of an Artillery Battery, I was responsible for ensuring that the battery executed the Battery Commander's goals and objectives, and for overseeing the day-to-day operations of a unit consisting of approximately 150 Marines, six M198 Howitzer systems, many other medium and light weapons systems, and a substantial logistics train. I cannot recall precisely either the operating budgets or value of the equipment for which I was responsible, but I would estimate that my artillery headquarters platoon had an operating budget of approximately $2.0 million per year (including salaries), and equipment valued at roughly the same amount. I would also estimate that my artillery battery had an operating budget of approximately $5 million per year, and equipment valued at roughly $8-10 million. As for significant results, it is my recollection that these units regularly met or exceeded Marine Corps performance standards, and I believe that they were well-prepared and well-trained should they have been called into combat.

This experience, as well as my Marine Corps training more generally, taught me the importance of strong, principled, leadership by example. It also taught me that leadership involves motivating and empowering employees to overcome obstacles to accomplish difficult missions.

III. Policy Questions

Management of OMB/General Management Issues

1. Agencies are required to submit strategic plans. How would you plan to hold yourself and OMB's senior executives accountable for implementing the goals and objectives set forth in the strategic plan and ensuring integration of the implementation of OMB's statutory management, budget, and policy responsibilities?

It is my understanding that Director Bolten intends to review OMB's strategic and performance planning processes and goals. If confirmed as Deputy Director, I will work to ensure that goals and objectives are established, clearly communicated, and achieved. With the Director, I will use OMB's Senior Executive Service (SES) performance appraisal process to hold OMB's managers accountable for achieving these goals. I anticipate that, if I am confirmed, Director Bolten will hold me accountable for meeting those goals and objectives as well.

2. What will you do as OMB Deputy Director to assure effective leadership and management within OMB itself? Please address such areas as results-oriented management, financial management, information and technology, and human resources. What specific background and experience would you bring to this task?

The President's Management Agenda provides an excellent framework to assess the management of agencies, including OMB, particularly in the areas mentioned in the question. I will assist the OMB Director and Deputy Director for Management in ensuring there is responsibility and accountability for improving the management of OMB as assessed by the Executive Branch Management Scorecard. If confirmed, I intend to use OMB's Senior Executive Service performance appraisal process to hold the agency's managers accountable for achieving theagencies management goals. My relevant background and experience in this regard are discussed above, in response to questions I(3) and II(1, 6, 7, and 8).

3. Because of the critical nature of OMB's mission, the Congress has considerable interest in, and oversight responsibility for, OMB's implementation of its statutory responsibilities. Accordingly, having complete, accurate, and timely information about OMB's activities is paramount to Congress' ability to carry out its responsibilities.

a. What are your views on providing Congress timely and accurate access to federal agency records and other information and to federal officials, if necessary, for Congress to fulfill its oversight responsibilities?

b. What are your views on providing congressional and GAO access to OMB records and other information and to key federal officials within OMB?

c. Would your answers to subparts a and b change if the records or information sought relate to an ongoing agency or Office of Inspector General investigation?

d. How would you propose establishing and maintaining constructive working relationships with the Congress, as well as resolving any potential disputes regarding access to information and officials?

e. GAO supports the Congress in fulfilling its constitutional duties, and Congress often relies on its work. The Committee has heard that GAO has experienced difficulties in its efforts to meet and talk with appropriate OMB staff and to obtain access to necessary information in a timely manner—often for work that is either a statutory mandate or a Committee request and hence "required" work for GAO. How would you propose to establish and maintain a working relationship with GAO and to resolve any difficulty over access to people and information?

Congress should have timely access to accurate information consistent with the constitutional and statutory prerogatives and obligations of the Executive Branch. If confirmed, I will work to accommodate the interests of Congress and GAO fully and appropriately, consistent with those constitutional and statutory prerogatives and obligations of the Executive Branch. Should I have any questions about a request for information, I would consult as appropriate with officials from OMB's General Counsel, the Counsel to the President, and the Department of Justice.

4. Strategic planning is an important tool for setting goals and monitoring progress. Several national strategies, including the National Strategy for Homeland Security, require efforts from multiple agencies. What do you believe OMB's role should be, if any, in coordinating the implementation of these strategies?

OMB ensures that such strategies are crafted in a coordinated fashion among responsible agencies, ensuring that each agency's expertise and views are considered. OMB can also ensure that such strategies are consistent with Administration's policies and priorities.

8. In January 2003, GAO designated federal real property as a new high-risk area. Some have suggested that one factor for the existing problems with federal real property is the need to provide federal agencies with more incentives and flexibilities to better manage their real property inventories. Do you believe that federal agencies could better manage their real property holdings with more flexibilities? If so, what flexibilities do you believe are warranted? Short of passing a law giving federal agencies greater flexibilities,

what can OMB do to ensure agencies are properly keeping track of and managing their real property inventories?

One of the priorities of the President's Management Agenda is improved management of the Federal Government's asset portfolio. It is my understanding that the Deputy Director for Management, and the OMB controller, will lead this initiative, which seeks to ensure that agencies justify and account for their assets and that they adequately plan for purchases, management, maintenance, and operation of those assets. I agree that, with greater flexibilities, agencies could improve the management of their real property. If confirmed I will support all efforts to improve the government's management in this area.

6. Agencies are required to submit strategic plans. What are your main goals for the agency? How well does OMB's current strategic plan reflect what you plan to accomplish during your tenure as Deputy Director? What would you change?

The performance of OMB should be assessed by the degree to which the President's Budget and policy priorities are implemented, Executive Branch management improves and the agency performs its other statutory duties. I have not formed an opinion on the adequacy of OMB's current strategic plan. However, it is my understanding that Director Bolten intends to review OMB's strategic and performance planning. If confirmed, I will look forward to participating in that effort to ensure that OMB's strategic plan sets clear goals and includes measurable milestones with which to assess the agency's performance.

7. How will you use OMB's strategic planning process to focus on OMB's important statutory management responsibilities and lead agencies' management improvement efforts?

If confirmed, I look forward to working with Director Bolten to use the OMB strategic planning process to clearly define missions, objectives and goals for all of its responsibilities, including its statutory management responsibilities. Incorporated into this process will likely be the goals of the President's Management Agenda, the intent of which is to improve Executive Branch Agency Management.

8. What changes, if any, do you expect to make in OMB's human capital strategic planning? In particular, how would you plan to ensure that OMB staff have sufficient training and expertise to effectively oversee financial management, performance measurement, information resources management, and procurement issues as well as to identify potential systemic problems in the agencies they examine

I have not yet formed an opinion on what changes, if any, I would make to OMB's

human capital strategic planning. However, if confirmed, I will work with Director Bolten and Deputy Director for Management Johnson to ensure that OMB staff have the right skills and training to accomplish their varied missions.

9. As part of OMB's continuous improvement efforts, are there areas at OMB where you think that reengineering its operations or activities could enable OMB to work more efficiently? Please explain. How would you prepare OMB to meet future challenges of overseeing federal government operations in a global environment and in an integrated, knowledge-based economy?

I have not yet formed an opinion about what areas at OMB may require reengineering but if confirmed, I intend to assist Director Bolten in periodic reviews to ensure OMB functions in as effective a manner as possible.

Governmentwide Performance-Based Management and Accountability

10. OMB is required under the Government Performance and Results Act to annually develop a governmentwide performance plan; this plan is expected to provide a comprehensive picture of government performance. In the past, the Governmentwide Performance Plan has been viewed as a derivative document, reflecting the budget and management decisions made throughout the process of formulating the President's budget submission. There was no governmentwide plan this year or last.

a. How do you plan to comply with the requirement for a governmentwide plan and what changes would you make to the manner in which it is developed?

It is my understanding that OMB is using the Program Assessment Rating Tool (PART) to assess the performance of all the government's programs. Over the next several years, each successive budget will include more and more PARTs and therefore more and more information on the performance of programs. More importantly, inclusion of the PARTs in the budget will provide government-wide performance expectations on a program-by-program basis, as well as across programs. OMB staff inform me that this emphasis on performance is what was intended by the requirement to prepare a government-wide performance plan. If confirmed, I will assess this and other reporting requirements to ensure that OMB is meeting the law's requirements with regard to the governmentwide performance plan.

b. Given that there is significant mission fragmentation and program overlap across the federal government, how can the governmentwide performance plan help to

focus decisions on broader issues cutting across specific agencies and their programs and reduce program overlap?

The PART provides an important tool with which OMB can assess the performance of different programs with the same or similar missions. It should use this assessment to improve coordination among programs and agencies and to mitigate unnecessary duplication and overlaps.

c. How can the governmentwide performance plan help OMB address the high risk and major management challenges identified by GAO?

As I understand it, the President's Management Agenda is the primary tool the Administration uses to monitor agency progress in addressing high risk and major management challenges identified by GAO.

11. Do you propose any changes to enhance OMB's ability to lead and coordinate agencies' implementation of statutory management efforts [such as those under the Government Performance and Results Act (GPRA), the Chief Financial Officers (CFO) Act, and the Clinger-Cohen Act] and improve management practices generally? How will your background and experience prepare you for leading and coordinating such efforts.

If confirmed, I will work closely with the Deputy Director for Management to maintain OMB's strong commitment to improving management practices across the federal government. My relevant background and experience in this regard are discussed above, in response to questions I(3) and II(1) (5) (6) (8).

12. Under the Government Performance and Results Act, agencies are required to set quantitative measures by which performance can be assessed. This has not always proven to be an easy task. For instance, many federal programs are carried out and implemented by state and local governments. This has made some federal agencies wary of setting outcome-oriented measures for these programs, over which they do not have complete control. Another problem is that in some cases there is a lack of data, or at least standardized and verifiable data, to measure performance in a meaningful way. Other programs, such as law enforcement programs, are difficult to measure in outcome-oriented terms. Given limited agency budgets and staff, performance measurement under GPRA has often suffered. Director Bolten's response to the Committee's policy question on this point focused on OMB's efforts to get agencies to identify a limited set of key performance measures, but that response does not tell the Committee how OMB will help agencies work with situations in which developing these key measures or getting reliable data to report progress is itself a daunting task. In fact, the Administration's FY 2004 Budget acknowledges that "there are no 'right' measures for some programs." What guidance and assistance would you, as OMB Deputy Director, provide agencies to help

them cope with such problems? What alternatives to traditional goal-setting and data collection would you propose to assist agencies in demonstrating their progress under these circumstances?

I understand that OMB is working with agencies to develop the most informative and useful performance measures possible. In some areas, this is very challenging for many of the reasons identified above. Because OMB works with all the federal agencies, it can help create a forum for sharing best practices so that agencies can benefit from the experiences of others. Alternatives to traditional goal setting are already being used in certain settings such as the use of peer review to assess the performance of research and development programs. If confirmed, I would be open to considering alternatives as long as OMB gains an accurate portrayal of program performance and accountability for taxpayer dollars.

13. According to OMB, "over half of the programs analyzed under [the Program Assessment Rating Tool] PART received a rating of "Results Not Demonstrated" because of the lack of outcome performance measures and poor or insufficient performance data." What steps do you believe OMB should take to address the problems agencies have had in developing adequate performance measures and reliable performance data?

I understand the PART process first identifies those programs that lack performance measures that are useful to decision-making. OMB then works with agencies to establish what the appropriate goals should be for each program given its purpose. OMB can share best practices in goal setting across programs and agencies.

14. Agencies are required to prepare annual Performance and Accountability Reports that are intended to provide meaningful information on the results on agency operations and demonstrate accountability to the Congress and taxpayers. Additionally, the Financial Report of the U.S. Government is prepared for the government as a whole on a consolidated basis. Although progress has been made in recent years, much remains to be done to improve the usefulness and reliability of these reports. OMB has substantially accelerated agency reporting dates for submission of performance and accountability reports to OMB. Given the difficulties agencies have had in producing performance data, accelerating the submission date will likely lead to reduced data quality or even a lack of data, particularly in those cases where the agency is relying on states and other third parties to produce the information. Is OMB prepared to accept the reduced data quality that is likely to result from accelerating the submission date? How will the reduction in data quality affect OMB's analysis under the Program Assessment Rating Tool (PART)?

My experience has been that data is most useful for decision-making when it is

timely and accurate. Accelerating the deadline for the Performance and Accountability Report should lead to more useful data.

It is my understanding that OMB is working with agencies to ensure they have systems and methods to produce performance and financial information that is both timely and accurate.

15. The Administration's FY 2004 Budget acknowledges that the PART tool still has "limitations and shortcomings,' and that these "shortcomings" identified by the Administration are often significant. For example, the Budget notes problems with ensuring consistency and objectivity in the raters' answers to the questions; difficulties faced by agencies in designing good performance measures (and that "there are no 'right' measures for some programs); failure to give credit for interim progress toward program goals; and the absence of criteria to assess how well a program complements other programs. Director Bolten has advised the Committee of various measures that OMB hopes will improve these deficiencies in the PART. Do you believe the PART's use as a budget tool should be limited until these shortcomings are corrected and it is proven to be a reliable instrument? If not, why not?

The PART is one of several information sources that are considered during the development of the President's Budget. It provides valuable information about the performance and management of programs that can be useful in the budget process. As agencies improve their performance measures, that information will have a greater value in making budget decisions.

16. The Budget's presentation of PART seems to suggest that the government's primary emphasis in evaluation should focus on program efficiency and effectiveness. Some contend that this emphasis may not reflect the goals of a number of programs that seek to increase access to resources and promote fairness in the way that funds are distributed, particularly among disadvantaged groups and vulnerable populations. Do you agree? If so, how do you propose to make sure that the PART process addresses these goals? Do you see any tension between OMB and Congress in evaluating the value of a program that may not fit easily into more quantifiable measures of efficiency or effectiveness?

The PART encourages agencies to measure the success of their programs in achieving outcomes. The purpose of this emphasis is to help agencies improve the performance of programs. If a program is designed to "improve access to resources", then OMB and the agency should design a performance measure that captures the program's success or failure at achieving that outcome.

17. Director Bolten stated to the Committee that "the PART has been a useful tool to OMB in informing funding requests" and noted that programs that are low-

performing as assessed under PART may be recommended for funding reductions. However, he also observed that some low-performing programs received additional funding in the President's Budget "to address their performance deficiencies." What criteria do you believe OMB should use to decide when low-performing programs should receive reductions in funding and when additional funding might help them improve?

The PART can help OMB pinpoint any number of specific deficiencies that affect program performance, including insufficient funding. The Adminstration should make funding and other decisions based on the specific circumstances surrounding individual programs.

Financial Management

18. The government faces significant challenges in achieving accountability and generating reliable financial and management information on a timely basis for decision making due to pervasive, longstanding financial management problems. Describe your views on the importance of financial management improvement, in general, and OMB's role in addressing these challenges.

Timely reporting and availability of the financial aspects of agency decision-making is critical to optimal performance of the federal government. I understand that, through implementation of the Improved Financial Performance Initiative of the President's Management Agenda, OMB is working with agencies to improve dramatically the quality and timeliness of agency financial information.

19. The majority of federal agencies' financial management systems do not meet statutory requirements, such as having the capability to produce information on the costs of programs and projects, and integrating program, budget and financial information for evaluating agency results. These systems cannot provide reliable financial information for managing day-to-day government operations and holding managers accountable. What will you do to help agencies implement effective financial management systems to meet these statutory requirements to improve the quality of data for decision making and improve accountability?

I understand that OMB evaluates the compliance of agency financial systems with statutory and other requirements as part of the President's Management Agenda process. Through this process, the systematic production of reliable financial information for governmentwide decision making is monitored by OMB to assure continued improvement.

20. Specific financial management and control issues often arise that call for close governmentwide attention and oversight. The President's Management Agenda

highlights for particular attention erroneous payments that, according to OMB, total more than $35 billion annually. Other governmentwide financial management and control issues have been identified in the GAO report on the U.S. government's consolidated financial statements, involving billions of dollars. What do you see as OMB's role in identifying and solving governmentwide financial management issues?

OMB can provide central guidance on how to address these issues and ensure accountability for solutions, I understand that OMB has done so in the area of erroneous payments.

21. Because many agencies do not have financial systems in place that can provide reliable and timely financial information, they use inefficient, time-consuming, and costly procedures to prepare financial statements. Beginning in FY 2004, agencies will be required to submit their audited financial statements by November 15 of each year as part of their performance and accountability reports.

a. What are your views on how OMB can help agencies reduce inefficient efforts that some agencies employ and meet the accelerated reporting deadlines?

It is my understanding that one of the reasons for accelerating agency financial reporting deadlines is to improve the processes that the agencies use to compile financial information. OMB can assist by communicating best practices throughout the government, so agencies can share their experiences in meeting these new accelerated deadlines.

b. Please describe your views on how OMB can work with CFOs to make the best use of agency resources devoted to financial management issues.

Through its leadership of the CFO Council, I understand that OMB works very closely with the financial leadership of the CFO Act agencies on a routine basis. OMB partners with CFOs and their offices to support and guide progress across a broad spectrum of financial management issues, including production of accurate and timely financial information.

22. OMB announced on July 14 that two agencies, EPA and SSA, had "gotten to green" on the Executive Branch Management Scorecard for financial management. According to the Administration's FY 2004 Budget, agencies must meet 4 core criteria to qualify for a "green" rating and cannot have any "red" conditions. When the scorecard was first introduced in the FY 2003 Budget, 21 of the 26 agencies rated (including EPA) received a financial management score of "red" or unsatisfactory, 4 (including SSA) received a score of "yellow" and one

received a score of "green" or successful. How did OMB determine that these agencies had met all of the core criteria for success in the financial management category (and that others had progressed to yellow)? Was an independent review conducted, and if so, by whom? Does a "green" rating mean that an agency's financial systems meet the highest standards and need no further improvement? If not, please explain.

It is my understanding that achievement of a green status score for the Improved Financial Management Initiative is predicated on the following standards: receiving an unqualified audit opinion; having no Anti-Deficiency Act violations; and assurance from the agency head that there is no material non-compliance with applicable laws and regulations. In order to qualify as "green", an agency must report in its audited financial statements that its systems are in compliance with the Federal Financial Management Improvement Act. Compliance with the law does not mean that an agency financial system does not have room for continued improvement, however. I am informed that satisfaction of these criteria is dependent on the scrutiny and audit standards of the appropriate Office of the Inspector General, as well as the assessment of the financial management staff of OMB.

23. The newly established Department of Homeland Security (DHS) is in the process of creating its financial management system. A particular challenge faced by DHS in this effort stems from the serious deficiencies in the financial systems inherited by DHS from agencies that transferred into the new Department, such as the Immigration and Naturalization Service and the Federal Emergency Management Agency.

a. What is being done to correct the problems in these inherited financial systems? What will OMB do to help DHS avoid the serious financial management problems faced by the Department of Defense, which had their origins in part from a similar consolidation of agencies?

It is my understanding that OMB staff have provided input to the ongoing working group meetings held by the new department as financial reporting and management capabilities are designed and constructed. For example, OMB staff have provided assistance in obtaining financial reporting guidance from the Federal Accounting Standards Advisory Board that will direct both the new department and legacy agencies. If confirmed, I would continue to support this advisory role.

b. The Homeland Security Act, which created DHS, did not include DHS within the category of agencies covered by the Chief Financial Officers (CFO) Act of 1990. Agencies covered by the CFO Act are subject to a

number of requirements designed to improve agency financial management, both under that statute and other related financial management laws. Do you believe DHS should be included as a CFO Act agency and if not, why not?

I am informed that the Department of Homeland Security is subject to the reporting requirements of the Accountability of Tax Dollars Act of 2002, which would require the Department to prepare and submit to Congress and the Director of OMB audited financial statements as it would under the CFO Act. It is my understanding that OMB is requiring the Department to meet all other substantive requirements of the CFO Act.

Information and Technology Management

24. In general, OMB is responsible for providing direction on governmentwide information resources and technology management and for overseeing agency activities in these areas, including analyzing major agency information technology investments.

a. What is your understanding of the role of the OMB Deputy Director with regard to policies and oversight of governmentwide and agency-specific information management and technology decisions?

I understand that the roles of OMB officials are found in several statutes (the Paperwork Reduction Act, the Clinger-Cohen Act, and the E-gov Act) and that the responsibility for information technology management lies chiefly with the Deputy Director for Management. If confirmed, I will work with the Director and the Deputy Director for Management to ensure that OMB fulfills its statutory requirements.

c. In your view, what are the major information policy and technology management challenges facing the federal government? How can OMB best help the government meet these challenges?

The Federal government should be harnessing information technology to provide services to the American people in the most efficient and effective way possible. OMB is in a key position to examine agency specific IT investments, and to ensure they are maximizing the use of IT in this way. In addition, OMB has a comprehensive view of the entire federal government's IT budget, giving it a unique ability to assess opportunities to reduce redundancy and inefficiency.

c. Under the Paperwork Reduction Act of 1995, OMB (OIRA) is required to develop and maintain a governmentwide strategic information resources management (IRM) plan. How would you envision this planning process occurring? How

would you ensure that the agencies are a part of the plan and that the plan is disseminated to the federal agencies?

It is my understanding that OMB consults with agencies as needed throughout the year as it prepares various components of the government's IRM plan, including the Chief Information Officers Council's Strategic Plan and the Annual Report on Federal Information Technology Security, as well as the information technology sections of the President's Budget. In addition, OMB should to continue to focus on the implementation of the Expanded Electronic Government initiative of the President's Management Agenda, which is developed and implemented with the agencies.

25. Regarding information technology policy, what is the relationship between the Office of Information and Regulatory Affairs (OIRA) and the Office of E-Government and Information Technology? How will they effectively coordinate their efforts to encourage agencies to use information technology to accomplish their mission? What is the unique contribution each makes to OMB's mission?

I understand that there is close coordination across OIRA and the Office of E-Government, and that they work closely together on a day to day basis. Among the strengths of OIRA are its leadership and understanding of the government's regulatory and information collection processes, two fundamental means by which agencies accomplish their missions. The Office of E-gov and IT provides leadership in the policymaking, technology and reengineering that needs to take place for agencies to effectively achieve their missions. The unique strengths of both offices -- coupled with the knowledge of OMB's Resource Management Offices -- allow OMB to provide coordinated and comprehensive advice to the Director and leadership for agency investments in information technology.

26. The Clinger-Cohen Act authorizes OMB to enforce accountability for agency IRM and information technology investment decisions through the use of the budgetary process (40 U.S.C. 1413(b)(5)). Initial guidance from then-OMB Director Franklin Raines provided criteria for OMB's evaluation of major information systems (OMB Memorandum M-97-02, Oct. 25, 1996). What are your views on the use of the budget process to improve information technology management? What other incentives does OMB have at its disposal to encourage good management practices? As Deputy Director, how do you intend to enhance coordination between the Statutory Offices and the Resource Management Offices in order to improve the adoption of OMB policies and guidance across government?

Coordination across OMB will be enhanced by the continued emphasis on the President's Management Agenda and the scorecard. This process is a powerful tool to use in motivating agencies to improve the management of information technology and other elements of the President's Management Agenda, as well as to assess

agency compliance with management related policies and guidance.

27. As noted in the Analytical Perspectives in the FY2004 budget submission, the current federal information technology workforce is not able to respond to recent increases in agency workload and the rapidly changing information technology environment.

a. The Clinger-Cohen Act requires CIOs to assess the requirements established for agency personnel regarding information technology knowledge and skills and to develop specific plans for hiring, training, and professional development. What actions will you take to ensure that CIOs effectively fulfill this mandate?

It is my understanding that the CIO Council is actively assessing the qualifications of current federal IT personnel, and working to establish the policies and training necessary to fill any gaps that currently exist in this workforce. If confirmed, I will support the CIO Council's efforts.

c. The number of information technology projects for which managers must present business cases to receive funding continues to increase. However, program offices for these projects have an insufficient number of skilled managers to provide effective management oversight. How do you plan to address the need to increase project management skills in the federal workforce?

If confirmed, I will continue to support the work of the CIO Council and OPM as they enhance government-wide project management training and recruiting.

d. There have been improvements to information technology recruitment processes and compensation packages, but the government continues to struggle to attract mid-level technical staff in areas such as cyber security and solution architects. How do you plan to make the federal sector more competitive in these "high skill" areas, and how do you plan to mitigate the risk that technical experts will not want to work for the federal sector once the economy improves?

If confirmed, I will work with the CIO Council and OPM, as well as OMB's own Office of Information Technology and E-government, to provide agencies with the tools they need to recruit, train, and retain the skilled workforce needed to manage the federal government's IT projects.

Information Security and Privacy Issues

28. OMB recently issued its fiscal year 2002 report to the Congress on government information security, noting that agencies had made significant progress, but that much

work remains. In particular, OMB reported that the fiscal year 2004 budget contains over 500 systems, representing an investment of nearly $18 billion, that are at risk either solely or in part due to weaknesses in information technology security. What are your views on the current status of federal information security? How would you ensure that agencies correct their information security weaknesses?

It is my understanding that OMB assesses agency information security practices and that progress has been made. However, I understand that much more progress needs to be made, and that OMB is working with agencies to increase substantially the portion of systems that are certified as secure. If confirmed, I will work to achieve the Administration's information security priorities.

29. The National Strategy to Secure Cyberspace, which the Administration issued in February 2003, identifies specific government-wide security challenges, and states that each agency should work with OMB to resolve these challenges. The government-wide challenges are: (1) review the need for access control tools and authentication mechanisms that are stronger and more consistent across departments (2) consider installing systems that continuously check for unauthorized connections to wireless local area networks, (3) improve security in government outsourcing and procurement, and (4) explore whether private sector security service providers to the federal government should be certified for the adequacy of their capabilities and independence. What are your views on the progress to date in implementing these recommendations? How would you address these and other government-wide cybersecurity challenges?

Although I am not familiar with the specific steps the Administration has taken to address the recommendations made in the Strategy, securing the government information technology is a major priority of the President's Management Agenda. I am informed that although the federal government is making progress in improving its computer security, additional work is still warranted. If confirmed, I will support OMB's continued efforts to work with Federal agencies to implement the National Strategy and to address common government-wide IT security challenges.

30. National events have reinforced the importance of information, information technology, and critical infrastructure to national security, the economy, and public health and safety. How do you see OMB working on governmentwide issues such as homeland security, criminal justice information sharing, and cyber security to ensure that the critical information and technology resources are reliable, secured, and made available to all legitimate parties?

To get the best performance for their investment, agencies will have to coordinate and leverage their IT investments, especially in the areas of homeland security, information sharing, and IT security. It is my understanding that OMB often requires this type of interagency collaboration through the submission of joint IT

business cases, although this is just one example of such coordination. OMB is also working with agencies to develop IT security solutions that address common government-wide IT security weaknesses. OMB should continue to find ways to maximize the benefit the American people receive for IT investments.

31. Federal agencies' use of data mining techniques may raise privacy concerns. What would you do to ensure that OMB adequately monitors these agency activities so that the public's right to privacy is protected? Which officials at OMB are most directly responsible for ensuring that OMB adequately monitors agencies' privacy practices?

If confirmed, I will continue to ensure that the Administration's commitment to protecting the privacy of citizens is upheld. The Director of OMB, the Administrator of OIRA, and the Administrator of E-Government have specific statutory responsibilities for privacy, and I will work to ensure that all OMB officials are aware of the importance of this issue.

32. What measures should OMB take to ensure the quality of the data (including accuracy, completeness and timeliness) relied upon by federal agencies, including law enforcement agencies?

It is my understanding that OMB issued guidance to agencies to ensure data quality. Further, it is my understanding that all agencies subject to the Paperwork Reduction Act, including law enforcement agencies, have complied with these guidelines.

33. The E-Government Act of 2002 requires agencies to conduct privacy impact assessments (PIAs) each time they develop or buy new information technology systems and initiate new collections of personal information. How would you ensure that agencies comply with this mandate? When will OMB release the PIA guidance required by the Act?

It is my understanding that the Office of E-Government and Information Technology, working with the Office of Information and Regulatory Affairs, is responsible for ensuring that agencies have conducted PIAs. If confirmed, I will support OMB's efforts to ensure compliance. I understand that the OMB guidance is in final interagency clearance now, and will be released as soon as possible.

E-government

34. In the President's Management Agenda for fiscal year 2002, the Administration emphasized the need to expand electronic government. In response to this emphasis, OMB developed its Quicksilver initiative, which created multi-agency teams to develop and deploy 23 major e-government initiatives.

a. As the Deputy Director, how will you assess governmentwide progress and success in the Quicksilver projects and other e-government initiatives? For example, will the Congress be presented data to demonstrate greater efficiency, cost reductions, better citizen service, and higher productivity resulting from these projects?

It is my understanding that OMB works with Quicksilver project participants to ensure that the benefits of the 23 E-government initiatives are documented and reported to Congress. If confirmed I will support these efforts.

b. How will OMB coordinate the activities of the Resource Management Offices, the Office of Information and Regulatory Affairs (OIRA), and the Office of E-Government and Information Technology in assessing the merits and deployment of cross-agency electronic government initiatives?

All offices within OMB have a role to play in ensuring the deployment of cross-agency electronic government initiatives. If confirmed as Deputy Director, I will encourage the continued cooperative relationship between Resource Management Offices and other IT management offices within OMB.

35. In your view, what steps should the Administration take to improve the federal government's portal, *FirstGov*, and to encourage citizen use? Will you support an adequate level of funding to ensure that the federal portal continues to improve, consistent with the mandates of the E-Government Act of 2002?

The government can learn from the continued operation of Firstgov about what improvements are necessary to meet the citizens needs and expectations. The government should also draw from the experiences of the private sector. If confirmed, I would certainly support adequate funding of Firstgov.

36. The E-Government Act of 2002 requires the establishment of a public domain directory of federal government websites. How will you ensure that an effective directory of websites is developed? What do you see as the purpose of the directory, and how would you ensure that vision is realized?

It is my understanding that OMB and the General Services Administration are working together to develop the public domain directory cited in the question. The purpose of the directory will be to provide ease of access to the services of government.

37. The E-Government Act of 2002 requires the establishment of a federal website providing access to information about research and development funded by the federal government.

How will you ensure that a comprehensive database and website is developed and maintained?

It is my understanding that OMB is currently assessing options for developing, maintaining, and providing access to detailed information on federal research and development. OMB is in the process of assessing how it will collect this information and how it will provide access to it. If confirmed, I will work with relevant offices within OMB to ensure this requirement is met.

38. What do you see as OMB's role in ensuring the successful governmentwide implementation of the Government Paperwork Elimination Act (GPEA)?

I understand that OMB reviews agency information collection procedures and continually gauges agency compliance with GPEA. OMB can assist agencies in redesigning the processes they use to collect information to achieve goals of GPEA, which is to reduce the information collection burden the government places on citizens and businesses.

Enterprise Architecture

39. GAO's governmentwide survey of federal agencies identified two primary challenges that agencies face in their efforts to develop, implement, and maintain enterprise architectures: (1) agency executive management understanding of enterprise architectures, and (2) an insufficient number of staff with enterprise architecture expertise. How can OMB best help agencies address these challenges?

OMB can ensure that agencies have access to the information and training necessary to develop, implement, and maintain enterprise architectures. In addition, OMB can work with the CIO Council and OPM to provide agencies with the tools they need to recruit, train and retain the skilled workforce needed to manage enterprise architectures.

40. OMB has recently focused on development of a Federal Enterprise Architecture (FEA), which it describes as a "business-based framework for cross-agency, governmentwide improvement" that will result in "maximizing technology investments." What should be the relationship between the FEA and individual agency enterprise architectures? What is OMB's approach to ensuring consistency between the FEA and individual agency enterprise architectures?

It is my understanding that OMB coordinates governmentwide and individual agency efforts to create consistent enterprise architectures.

Government Information. Openness and Transparency

41. Executive Order 12866, on Regulatory Planning and Review, establishes disclosure requirements for OMB's contacts with parties outside the government regarding proposed rules under review by OMB. Do you believe OMB should disclose contacts with outside parties, and materials submitted to OMB by outside parties, on subjects other than rules undergoing OIRA review?

I have not formed a view on possible new disclosures by OMB of its communications with outside parties. As a general matter, I support public disclosure of information to the extent it does not improperly inhibit internal Executive Branch deliberations and privledges.

42. Under the Paperwork Reduction Act, the Electronic amendments to the Freedom of Information Act, the E-Government Act, and current OMB circulars, there is a general policy that supports disseminating government information, and encourages use of the Internet for dissemination purposes. The other approach to making information accessible is for the public to request records from agencies through the Freedom of Information Act. What criteria should be applied in deciding when it is better for government to be more proactive in its dissemination of information to the public or when to release information only in response to specific requests, such as under the Freedom of Information Act?

The Administration's position is that citizens should be given the opportunity to access information in a way that is most useful for their needs. OMB's long held policy position on information dissemination has been to maximize the dissemination of useful and necessary information while minimizing the costs of dissemination to the government and the public. I understand that OMB's information management policies, administered pursuant to the Paperwork Reduction Act, the Freedom of Information Act and its electronic amendments, the Government Paperwork Elimination Act and the E-government Act, have encouraged agencies to make such information available.

43. Section 892(a)(1)(B) of the Homeland Security Act of 2002 requires the President to "identify and safeguard homeland security information that is sensitive but unclassified." OMB has also been in the process of developing agency guidance on homeland security sensitive information. Are these two activities connected? What will be OMB's process for identifying and safeguarding homeland security information that is sensitive but unclassified? What is your understanding of the type of information that would be considered "sensitive but unclassified" or homeland security sensitive? How will this information be handled?

I understand Section 892 requires guidance very similar to the work that OMB has been doing on this issue, and the two efforts have been merged.

43. Given the regular involvement that OMB has with other federal agencies, along with its dissemination responsibilities delineated under the Paperwork Reduction Act, what steps can OMB take to ensure that other agencies achieve the high standard of disclosure and access necessary for the government to be fully accountable to and interactive with the public? Are there steps you would like to undertake to strengthen public access to government information? If so, what are they?

The public disclosure of information—when properly balanced with the Executive Branch's legitimate constitutional interests to maintain the confidentiality of its internal deliberations—can improve government accountability and accessibility. If confirmed, I would be receptive to considering proposals for enhanced disclosure and transparency that are consistent with the responsibilities and proper functioning of the Executive Branch.

Human Capital

45. An increasing number of federal agencies have sought, or are in the process of seeking, exemptions from the civilian personnel system under Title 5 of the United States Code. If additional exceptions are needed, what are your views on the need to grant individual agencies personnel flexibilities versus implementing governmentwide reform? What role should OMB play in coordinating the requests by the individual agencies? Do you believe the Administration should undertake a comprehensive review of the federal government's need for additional personnel flexibilities?

I believe that government-wide approaches to personnel flexibilities can be effective, but sometimes it is appropriate to consider agency-specific solutions to help those agencies accomplish their missions and goals. In considering and coordinating requests by individual agencies, I believe OMB should work closely with the agencies, along with the Office of Personnel Management, to ensure that proposals will enhance the ability of agencies to accomplish their missions. The Executive Branch should continually review human capital management to assess the need for additional personnel flexibilities.

46. The President has proposed a Human Capital Performance Fund to provide resources to agencies to reward superior performance by federal employees and to aid in the recruitment and retention of a highly-skilled workforce. If such a fund is enacted, how would you work with agencies to ensure that they have the capacity to appropriately manage their portions of this proposed fund?

I believe that OMB along with OPM can help agencies develop a performance management system that effectively differentiates between high and low

performance and links employee performance to organizational goals and desired results. Also, OMB should work with OPM to ensure that only agencies with a robust performance appraisal system and a sound implementation plan will be eligible to receive any funding from the proposed Human Capital Performance Fund.

47. The proposed National Security Personnel System is currently under consideration by conferees on the defense authorization act. How would you work with the Department of Defense to ensure employees are provided adequate due process, based on merit system principles, provided legislation is enacted?

The proposed National Security Personnel System contains specific protections for employees, and if confirmed, I will work to ensure that employees are protected by robust mechanisms that prevent arbitrary or otherwise improper actions and provide for adequate due process. It is my understanding that the Merit Systems Protection Board would have a consultative role in setting up these mechanisms.

48. Four agencies currently adjudicate disputes between employees and agency management, the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission, and the Federal Labor Relations Authority. Mixed cases arising from the same set of circumstances may be raised by employees. What impact would the establishment of a single adjudicatory body have on current due process procedures? Do you believe the system would benefit from such an initiative?

I have not formed a view as to the impact of the creation of a single adjudicatory body for Federal employment issues. If confirmed I look forward to working with Congress and other interested parties to better understand the pros and cons of this proposal.

49. GAO has found that a significant reason managers and supervisors have not made greater and more effective use of existing human capital flexibilities, such as recruitment and retention incentives and training programs, has been agencies' weak strategic human capital planning and inadequate funding for using these flexibilities given competing priorities. (GAO-0302 Human Capital Flexibilities, December 2002.)

a. How do you believe agencies can be helped to strengthen their human capital planning? What would you do, as OMB Deputy Director, to assure that managers and supervisors have adequate funding for the use of available human capital flexibilities?

It is my understanding that under this Administration's Human Capital Initiative -- one of the five initiatives of the President's Management Agenda -- OMB and OPM have been working closely with agencies to assess the strengths and weaknesses of their human capital planning efforts. I

understand that much work remains to be done, but I have also been told that most agencies are making good progress. If confirmed, I will work with OPM, the agencies, and internally within OMB to ensure that agencies focus on their human capital challenges in their budget submissions, as well as in their ongoing operations, so that they appropriately utilize all the human capital tools at their disposal.

b. If performance-based pay were widely instituted, with employees' basic pay and annual raises no longer fixed in statute, and competing funding priorities could result in significant underfunding for employee pay at particular agencies or agency units. S.1166 contains provisions to address this problem, including a requirement (proposed section 9902(f)(4)) that overall amounts be allocated for organizational or functional units to ensure that employees are not disadvantaged in terms of the overall amount of pay available. Generally, if pay-for-performance systems were to become widespread, how do you believe adequate funding for pay within particular organizational or functional units can be assured?

I believe the Administration's proposals for the Human Capital Performance Fund and Senior Executive Service pay reform are steps that will immediately promote high performance in the federal government and will develop compensation systems that effectively link pay to performance. To ensure the success of these and future efforts to tie pay and performance, I believe OMB and OPM must work together to make sure that agencies develop their strategic human capital plans and performance management systems in ways that differentiate effectively between high and low performers. Furthermore, OMB should continue to work with each agency to align its missions and program performance goals and with its human capital and financial resources.

Office of Special Counsel

50. A recent news report suggests that a large and growing backlog of whistleblower complaints at the Office of Special Counsel may be compromising the ability of that agency to root out waste, fraud, and abuse and to protect federal whistleblowers. "Backlog of Whistleblower Cases Growing, Agency Report Says," WASHINGTON POST, July 21, 2003, page A4. The article also quotes former Special Counsel Elaine Kaplan, who left office last month, as well as representatives of organizations that support whistleblowers, as saying that a substantial increase in OSC staff is necessary. Would you support funding for increased OSC staff? Generally, what do you believe OMB and OSC should do to reduce the backlog of cases and to enable OSC to better fulfill its mission?

The Administration supports the Office of Special Counsel's (OSC) mission and efforts to protect whistleblowers. In the President's FY 2004 budget submission to Congress,

the Administration requested for OSC a nine percent budget increase over FY 2003. To reduce the backlog and help OSC accomplish its mission, I believe OSC and OMB should continue to closely monitor the backlog of cases, assure good case management, and work with the Congress to ensure that OSC receives these needed additional resources for FY 2004.

Procurement/Competition

51. What is the Administration's view on the efficacy of the six franchise funds that were established to enhance competition in the provision of government administrative support services, such as information technology and procurement? As you are aware, these funds expire this year. Does the Administration support an extension and, if so, for how long?

It is my understanding that the Administration supports a one-year extension of the authority for the six franchise funds currently in operation. I am not familiar with the Administration's views on the efficacy of franchise funds.

52. Will the Administration continue to rely on goals, targets or quotas that are "based on considered research and sound analysis " when implementing the President's Competitive Source Initiative?

It is my understanding that OMB is revising the competitive sourcing criteria that will be used to grade progress on the Management Scorecard. I am assured that the revised criteria will contain no government-wide numerical goals that would require an agency to compete a portion of the commercial activities performed by the government, but will instead include incentives for agencies to apply competitive sourcing in a responsible manner.

53. Some are suggesting that recent changes to federal law would allow federal agencies more flexibility when making purchases of items that are produced by Federal Prison Industries. In particular, they are suggesting that powers recently given to the Department of Defense to procure these items on a competitive basis be extended to civilian agencies as well. What are your views on the appropriate legislative response to concerns that the current law operates to give FPI an unfair advantage over private businesses, particularly small businesses?

As I understand it, the Administration has worked expeditiously to implement the recent changes to Defense Department procurement rules, which promote greater flexibility for its purchases from private sector entities and implements an appropriate phase-out of the mandatory source rule. The Administration wants to continue to give businesses, particularly small businesses, maximum opportunity to compete for government contracts. I'm told that there is no reason why some of the reforms can not be applied to civilian agencies as well while maintaining the

Attorney General's ability to provide adequate inmate work opportunities to advance prison safety and public safety.

54. There is growing interest in the cost of implementing the Bush Administration's competitive sourcing initiative because of the often significant expenses associated with conducting competitions and transitioning work. The Senate Appropriations Committee commented on this problem recently in its report for the FY' 04 Interior Appropriations bill: "[t]he Committee is deeply concerned, however, at the administration's failure to either budget adequately for the cost of the initiative or describe such costs in budget documents. As a result, significant sums are being expended in violation of the Committee's reprogramming guidelines and at the expense of critical on-the-ground work such as maintenance of Federal facilities. The Forest Service alone plans to spend $10,000,000 on competitive sourcing in fiscal year 2003, including $8,000,000 to establish a competitive sourcing office. Such activities were described nowhere in the Forest Service's fiscal year 2003 budget justification, and were not provided for in the fiscal year conference report or accompanying statement of the managers. The Department of the Interior is also spending significant amounts on the competitive sourcing initiative." (Senate Rpt. 108-89, p. 8)

b. What is the approximate government-wide cost of implementing the Administration's competitive sourcing initiative, including the cost of agencies' compliance with the Federal Activities Inventory Reform Act?

I am informed that issues surrounding the costs of the competitive sourcing initiative are addressed in a report that will be submitted to Congress by Director Bolten on July 24, 2003. If confirmed, I commit to working with the committee to provide accurate information in this area to Congress.

b. Will the Administration's FY' 05 budget proposal include specific funding requests to pay for each agency's implementation of the competitive sourcing initiative, as well as the justifications for those funding requests (e.g., how many competitions are scheduled for competition, how many and which federal employees are to be reviewed for privatization, and whatever research and analysis is used to justify the competitions to be scheduled)? Should it? If not, why not?

It is my understanding that requests for funding for competitive sourcing will be made as necessary on an agency-by-agency basis. Any request for funding should include appropriate justifications.

55. In a July 10, 2003, letter, Clay Johnson, Deputy Director for Management, wrote that "OMB is preparing a report to the Congress on the methods we use to measure agency progress in implementing the (competitive sourcing) initiative." The conference report for the FY' 03 Omnibus Appropriations bill required OMB to submit a report to the House and Senate Appropriations Committees, providing the research and analysis used to justify the application of numerical privatization quotas. That report has not yet been

submitted. Is the report discussed in Mr. Johnson's letter the report on quotas that OMB has failed to submit? Will it include the research and analysis required by law?

I understand, that a report addressing the concerns expressed in the Conference Report accompanying section 637 of Public Law 108-7 will be submitted to Congress by the Director of the OMB on July 24, 2003.

56. Should federal employees and their union representatives have the same legal standing as contractors before the General Accounting Office (GAO) and the Court of Federal Claims (CFC)? If not, why not?

I am not aware of what rights are afforded to individuals or entities involved in public private competition, and have not formed a view as to questions of standing. The process must be fair to all parties.

57. Under the new OMB Circular A-76, the internal appellate process cannot be used to challenge any decision made by management pursuant to the streamlined competition process. Does this prohibition prevent contractors from pursuing bid protests to GAO or before the CFC with respect to management decisions pursuant to the streamlined competition process?

I am not aware of what rights are afforded to individuals or entities involved in public private competition, and have not formed a view as to questions of standing. I do however believe, the process must be fair to all parties.

58. The Department of Defense (DoD) Inspector General (IG) has raised questions about the use of the 12% overhead cost factor that is applied to all in-house tenders. In D-2003-056, the IG determined that no part of the 12% overhead cost factor, amounting to $33.7 million, charged against an in-house bid for military retired and annuitant pay functions in a Department of Finance and Accounting Service (DFAS) public-private competition was legitimate because those overhead costs would not change, whether the activity was performed by civilian employees or a contractor. The IG recommended that DoD devise a supportable overhead rate or alternative methodologies. This overhead cost factor applies to public-private competitions in civilian agencies as well.

a. Does the IG's report mean that all A-76 competitions have a built-in inequity against federal employees in that their bids are being charged for costs that are not actually incurred? If not, what was unique about the DFAS competition with respect to scope or content?

I am not aware of specifics of this particular competition or the IG's recommendations. However, if confirmed, I will ensure that the issues raised by this competition and the IG's recommendations are addressed.

c. What steps, if any, has OMB taken to implement the IG's recommendation at other agencies? If none, why?

I am not aware of specifics of this particular competition or the IG's recommendations. However, if confirmed, I will ensure that the issues raised by this competition and the IG's recommendations are addressed.

d. Should competitions be suspended until a satisfactory overhead rate or a methodology is devised to determine overhead rates on a competition-by-competition basis, given the significant impact that a flawed overhead rate can have on the integrity of the A-76 process?

I am not aware of any reason why competitions should be suspended. It is my understanding that through the A-76 process, agencies calculate an estimated cost to the taxpayer of performing a particular commercial activity. While the cost is an estimate, and there should be continued exploration of methodologies to improve these estimates, I understand that the estimate is a reliable indicator of the total cost to the taxpayer of government performance of a particular activity.

59. Under the new A-76, work awarded to federal employees must be re-competed at least once every five years. Only in special circumstances would federal employees go eight years between competitions. Does the Federal Acquisition Regulation (FAR) require that work awarded to contractors be re-competed every five years?

I am informed that, in most cases, the FAR requires that contracts be limited to five years.

60. Under the new A-76, when federal employees fail to perform, their work is automatically recompeted. When contractors are in default, is their work automatically recompeted?

It is my general understanding that the new A-76 treats federal employees and contractors in a similar manner when they fail to perform. Both federal employees and contractors are given an opportunity to improve their performance prior to a contract default. If there is no improvement in performance, the government has the option of re-competing the work.

61. OMB Director Joshua Bolten told the Committee that he "will ask the Administrator for Federal Procurement to recommend ways to improve opportunities for federal employees to compete for new work and for work currently performed by contractors." Given the Administration's stated interest in using public-private competition to save money for taxpayers, by what date will the Administrator for Federal Procurement provide the Committee with her recommendations and by what date will the competitive sourcing initiative and /or OMB Circular A-76 be changed to include her recommendations?

It is my understanding that, a report to Congress on the competitive sourcing initiative will be released on July 24, 2003, in which the Director of OMB will outline the details of the competitive sourcing initiative, including current requirements to create an infrastructure to support public-private competition for work currently performed by federal employees.

62. On July 14, OMB released its agency management scorecard for the third quarter of the fiscal year. All but three of the agencies were given a red score for their competitive sourcing programs. The OMB release explaining the scores noted that "[p]rogress scores are based on the achievements of specific action steps and milestones identified by the agencies and OMB."

a. What criteria did OMB use in judging the agencies' competitive sourcing programs for this most recent scorecard?

It is my understanding that the criteria are explained, in a report to Congress from the Director of OMB to be released July 24, 2003

b. Did OMB use any sort of numerical targets, goals, or quotas in determining the scores for the agencies?

I am informed that the use of targets, goals or quotas for the competitive sourcing initiative is explained, in depth, in a report to Congress from the Director of OMB to be released July 24, 2003.

c. If OMB did use numerical targets, goals, or quotas, what were they? How and when were they derived? How and when were they communicated to agencies? Were they based on considered research and sound analysis of each agency's past activities, and were they determined to be consistent with each agency's stated mission?

It is my understanding that the use of targets, goals or quotas for the competitive sourcing initiative will be explained, in a report to Congress from the Director of OMB dated July 23, 2003.

d. The OMB's "Highlights of Agency Performance" on its July14 release applaud the Department of Justice for having "[i]nitiated competitions covering 15 percent of its commercial positions . . . ." Did the Department of Justice apply a 15% numerical goal in the past quarter? If so, how was the goal derived?

I am not aware of the specific DOJ situation. However, the derivation of competitive sourcing goals will be discussed generally in a report to Congress from the Director of OMB to be released July 24, 2003.

62. Government contractors are reportedly seeking to remove the existing dollar ceilings on allowable reimbursements for their travel and relocation costs, as they have in the past. In 2000, the Defense Contract Audit Agency established that it would cost taxpayers at least $130 million in increased relocation reimbursement expenses annually to lift the cap just on relocation expenses. What is your position on removing these dollar ceilings on contractor travel and relocation costs? Do you believe it would be fair to eliminate the ceilings for contractor employees and not to lift them for federal employees?

I have not formed a view on this issue. If confirmed, I will look into the practicability and advisability of removing these ceilings.

Office of Information and Regulatory Affairs

64. When Director Bolton testified before the Committee, he stated that "proper disclosure of information...can improve government accountability and accessibility." Every year, OIRA reports to Congress on the costs and benefits of federal regulations. Are the public's comments on OIRA's review available to the public under the Freedom of Information Act? If so, are they made available immediately upon request, or only after the processing and approval of a written FOIA request? If not available to the public at all, what is the rationale for their exemption? If not available immediately upon request, why not?

I am not familiar with the specific issues surrounding this specific report. If confirmed, I will work to ensure that the public has access to appropriate information.

65. OIRA Administrator John Graham has emphasized the importance of quantified and monetized cost-benefit analysis. Yet frequently benefits to health, safety, and environment prove difficult or impossible to monetize or even quantify. How do you believe cost-benefit analysis should be applied in a way that affords adequate importance to non-monetized and non-quantified benefits?

I understand that, both E.O. 12866, which requires OMB and the agencies to analyze the benefits and costs of major rules, and the Regulatory Right to Know Act, which requires OMB to report the benefits and costs of major rules to Congress, require the consideration and presentation of the qualitative and nonquantifiable benefits and costs

66. Some have criticized OIRA and agencies for not meeting the government-wide paperwork reduction targets in the Paperwork Reduction Act (PRA). Others argue that these targets are arbitrarily established and do not take account of the fact that the collection of information is needed, for example, to learn about and address risks to health, safety, and the environment, to collect taxes, and even to enable agencies to report their progress in meeting goals under GPRA. To what extent do you believe the PRA, or

OIRA's implementation of it, strike an appropriate balance between the benefits to the public and the burdens on the public that flow from data collection by federal agencies, and to what extent should the PRA or OIRA's implementation be changed?

I understand that the Paperwork Reduction Act of 1995 recognized that, for a burden reduction target to be "practicable," the target must be consistent with the ability of agencies to carry out their statutory and program responsibilities. Under the PRA, OMB has the responsibility of weighing the burdens of information collection on the public against the "practical utility" of the information for the agency. I support this approach to balancing the goals of burden reduction and agency program implementation.

67. OIRA Administrator Graham has played, in his words, a more "upfront" role in the regulatory process, collaborating with agencies before rules are submitted to OIRA for review. This "upfront" role is not governed by E.O.12866, which accordingly establishes no transparency rules for OIRA and the agencies. Therefore, during the time before the agency submits a regulatory proposal to OIRA, the Administrator or other personnel of OIRA can meet with outside parties, including those directly affected by the regulatory proposal, can receive written submissions of data and arguments, and can meanwhile potentially shape the rulemaking without any obligation under the Executive Order to disclose its activities or the submissions and communications for Congress or the public.

a. Do you believe OMB should play an "upfront" role in the development of regulatory proposals?

While I am aware of Administrator Graham's emphasis on playing a more "upfront" role in the development of agency rulemakings, I have not yet formed a view on that role and whether any changes to OIRA practice are appropriate.

b. If so, do you believe any transparency requirements should apply to OMB for the period before submission to OIRA of a regulatory proposal? For example, should OIRA routinely disclose its substantive communications with persons outside the executive branch? Should OIRA forward to the regulatory agency all written communications with outside parties? Should OIRA allow public access to such written communications, at least under the Freedom of Information Act?
See question (a), above.

c. Do you believe that an appropriate level of transparency is now achieved by OIRA with respect to the "upfront" period, before a regulatory proposal is submitted to OIRA for review, and, if not, how would you as OMB Administrator make it happen?
See question (a), above.

High Risk

68. OMB has been engaged in following up on the high risk issues that GAO identified in its 2003 *High-Risk Series*. How do you see that process unfolding? What will be your role as Deputy Director? What mechanisms does OMB plan to use to ensure that agencies take appropriate actions to address these high risk areas?

It is my understanding that staff from the Office of the Deputy Director for Management have met with GAO to clarify what agencies need to do to address areas on the High-Risk list. Deputy Director for Management Johnson is now meeting with officials from agencies to identify individuals responsible for addressing high risk areas and to ensure there is a process in place to measure progress in addressing issues raised by GAO.

Budget and Budget Process

69. In recent testimony before the House Financial Services Committee, Federal Reserve Chairman Alan Greenspan urged Congress to restrain federal spending and restore budget enforcement provisions, such as PAYGO and discretionary spending caps, to help constrain spending.

How important is it for Congress to restore and implement budget enforcement tools and what budget tool would be the most effective in helping to restrain federal spending?

Restoring budget enforcement is very important. The Administration supports a two-year extension of the Budget Enforcement Act (BEA) with discretionary caps equal to the President's request for FY 2004 and FY 2005 and renewed pay-as-you-go (PAYGO) requirements that are consistent with the President's priorities. A stricter definition of emergency spending (limiting the designation to situations that are true emergencies) and a cap on advance appropriations to the level set in the Congressional budget resolution would also improve budget discipline.

70. As you know, OMB recently submitted its Budget Mid-Session Review in which it estimates a budget deficit in FY03 of $455 billion and $475 billion in FY04. The FY03 estimate is $150 billion more than the OMB estimated in February of this year. Director Bolten was quoted as saying these new deficit estimates are "manageable." He reiterated that point during his confirmation hearing before the Committee earlier this year.

sss. How does OMB define "manageable" and does OMB look at a specific set of criteria to determine whether or not the deficit is "manageable?" If so, what are those criteria?

a. At what point does the budget deficit becomes "unmanageable?"

In his testimony and public statements accompanying the release of the Mid-Session Review, Director Bolten stated that deficits are manageable if we continue pro-growth economic policies and exercise serious spending discipline.

b. Do you foresee the need to raise taxes within the ten-year budget horizon?

The Administration's policies on taxes are contained in the FY 2004 budget. I am unaware of any discussions to change those policies.

I do not have a specific deficit number that I think would be unmanageable. Rather, I believe that a deficit needs to be viewed in context of the overall economy. At 4.2 percent of GDP, the current deficit is a lower percentage of GDP than in six of the last 20 years.

In evaluating the deficit, it is also important to consider future expectations, as well as the ability to reduce the deficit. According to the MSR, deficits are projected to peak in 2003 and 2004 and at 4.2 percent of GDP, and to decline thereafter to 1.7 percent of GDP in 2008- if we continue pro-growth economic policies and exercise spending restraint.

It is also important to judge what effect the deficit is having on the economy, and whether it can be financed by the capital markets without causing an appreciable effect on interest rates. Interest rates remain at historic lows, strongly suggesting that current deficits are in this sense manageable.

71. OMB's recent projections of the federal budget deficit have it increasing by $1.9 trillion over the next five years. According to reports, these estimates are based on a growth rate of non-defense discretionary spending of about 1 percent per year. Director Bolten, in response to written questions from the Committee, stated that the President's FY04 Budget would limit growth in discretionary spending to 4 percent. Has OMB estimated federal budget deficits assuming a 4 percent increase in non-defense discretionary spending? If so, what are those figures?

I am not aware of any estimates of the impact of a 4 percent increase in non-defense discretionary spending. However, the MSR does state that a 7.4% increase in total discretionary spending would increase the deficit by $400 billion over the next five years.

72. What will your role be with respect to the federal budget?

If confirmed, my role will be to assist the Director in his efforts to work with the agencies in developing the President's Budget. My role will also be to assist the Director in working

with Congress to enact the budget and appropriations bills.

73. What background and experience qualifies you to perform substantial responsibilities related to the formulation of the nation's economic policies and the preparation of the Administration's budget?

Since the start of the Administration, I have had an opportunity to work with many officials and staff at the Office of Management and Budget and throughout the Executive Branch on the development and implementation of Administration policy. As a result of my direct involvement in many of the President's initiatives, I have spent a great deal of time working with White House policy officials, the agencies, and OMB to ensure that those proposals are adequately reflected in the budget, and are consistent with overall budget priorities. I have also had the opportunity to participate extensively, and at all stages, in the budget process, from the development of the President's Budget submission to the enactment by Congress of a budget and individual annual appropriations bills. As part of that process, I have participated in numerous reviews, where the major issues arising out of agency budget request submissions are considered and resolved. Further, I have been closely involved in the review of the text of the Budget volume that is signed by the President and submitted to Congress. I have helped develop and review Administration positions on pending legislative actions, as reflected in agency legislative proposals as well as the frequent Statements of Administration Policy that OMB delivers to Congress on behalf of the Administration.

74. Would you advocate specific policy changes or legislative reforms to reduce deficits and pay down the national debt? If so, what changes and reforms would you advocate?

The President has called for discretionary spending growth of 4 percent in FY 2004. In addition, the President called for and the Congress enacted a jobs and growth tax paackage to give the economy the additional support it needs to resume sustained strong growth. Spending restraint and a growing economy will reduce the deficits as described in the FY 2004 Mid-Session Review. The President has also called on the Congress to reinstitute budget enforcement tools, such as spending caps and PAYGO, to provide further spending discipline.

75. Joshua Bolten said during his confirmation process that his belief that the tax cuts advocated by the President are the best way to stimulate the economy was based on the opinions of economists he trusted.

A. Do you share the Administration's belief that the President's tax cuts are the best way to stimulate the economy?

B. What is the specific evidence that the tax cuts are a more effective way to stimulate the economy than other means?

Tax cuts and monetary policy are the best tools available to stimulate the economy. Unlike monetary policy, which is solely the responsibility of the Federal Reserve, the Administration and the Congress must work together to enact tax cuts, which they have now done for three consecutive years

Properly crafted tax cuts offer a multitude of advantages over other alternatives. For example, tax cuts may be put into effect relatively quickly, as the upcoming mailing of checks reflecting the increase in the child tax credit demonstrates. Tax cuts also have the advantage of broadly boosting demand for goods and services. Further, by reducing disincentives to work, to invest, to save, and to take economic risks, tax cuts may also stimulate investment and new business formation that will strengthen the economy in the short-run while raising the economy's potential growth rate in the long-term.

76. Assuming that the recession and subsequent slow growth in the economy required stimulus in the form of tax cuts, what was the logic for structuring the tax cuts so that most of the money saved will not go to taxpayers until years from now? Why wouldn't it be wiser to enact more short term tax relief to pump money into the economy?

The enacted tax relief was intended to achieve the dual goals of stimulating the economy in the near term and raising the economy's potential to grow, to increase employment, and to raise incomes in the long run.

Because of the country's economic situation, the tax relief enacted in 2002, such as the bonus depreciation and the net operating loss carryback rules, and much of the tax relief enacted in 2003 such as the acceleration of the increase in the child tax credit, marriage penalty relief, and the reductions in marginal tax rates was especially focused on providing near-term stimulus. For example, $50 billion of the tax relief enacted in 2003 will arrive in 2003, while another $146 billion will arrive in 2004. It is also important to note that other elements of the tax relief, such as the lower tax rates on capital gains and dividends, would have had relatively little economic benefit if enacted on a temporary basis, while offering relatively powerful economic benefits in the long-run if enacted on a long-term basis.

77. Millions of Americans in the baby boom generation will begin reaching retirement age in this decade. This demographic fact will have a dramatic and growing impact on the federal budget for the next 30 years and beyond.

a. Do you believe it is important for the Administration and Congress to protect Social Security and Medicare resources to meet future obligations to recipients of these programs and not borrow from them to meet current operating needs in other programs?

b. What plans does the Administration have for ensuring that the Social Security and Medicare benefits that have been promised to these about-to-retire workers and their families will be there when the time comes?

c. How would you advocate that long-term solvency to the Social Security program be restored?

d. Will you advise the President to pursue a budget policy that restores on-budget balance and saves all of the Social Security surpluses, and if so, by what policy or legislative changes would you hope to accomplish this?

e. Do you support taking actions to protect and preserve trust fund resources? What actions would you recommend?

The Administration is very much aware of the pending financial problems associated with Social Security and Medicare. The Administration used the fourth chapter in the FY 2004 Budget, titled *"The Real Fiscal Danger"*, to highlight this issue. The Stewardship Chapter of the Budget's *Analytical Perpectives* discussed the issue in even more detailed terms.

The Social Security and Medicare trust funds are credited with every dollar of the payroll tax and other income that they are due. In the near term, there are ample balances in these trust funds to meet current Social Security and Medicare benefit payments.

The real issue for Social Security and Medicare is how to reform these programs so that they are sustainable over the long term. The actuaries of both of these programs project that with the retirement of the large baby boom generation, the cash flow into these programs will eventually turn negative, and the trust funds will be exhausted. For Social Security, the President's Social Security reform commission has offered several possible reform plans that would protect Social Security for future generations and that would restore long-run solvency to the program. For Medicare, a conference committee is currently considering legislation and the President is hopeful that the Congress will produce a bill that can both provide a prescription drug benefit and instill sufficient reforms so as to reduce the financial strains on Medicare. The President is committed to reforming Social Security and Medicare so that they remain in place for future generations.

78. In several years, we will no longer be benefitting from a Social Security surplus. Instead, the trillions of dollars the Treasury owes to the Social Security trust fund will begin to come due, and we will be paying the nation's debt to the trust fund through general revenues and more deficit spending. How should we prepare for that day? Will the large deficits expected in future years make it harder to repay the debt owed to Social Security?

The most important condition for assuring the strength of Social Security and for paying future retirees benefits is a strong economy, with increasing jobs, rising productivity, and rising incomes. The tax cuts of recent years are designed to raise the economy's long-term growth rate by putting in place better incentives for job-creating activities such as investment and new business formation. However, strong economic growth alone is unlikely to solve all the financing problems Social Security and Medicare will face as the baby boom reaches retirement. Even when the Budget returns to balance through a combination of spending discipline and strong revenue growth due to a strong economy, both Social Security and Medicare will require very fundamental reforms to avoid serious economic and budgetary dislocations – and the sooner those reforms are enacted the better. A balanced budget today or in the future will not materially change the need for reform.

79. What do you think is an appropriate rate of growth for discretionary spending over time? Commencing with his State of the Union address, the President has stated repeatedly that he believes that 4 percent is an appropriate rate for discretionary spending -- do you agree, and if so, why?

I do agree that 4 percent is an appropriate rate of growth for discretionary spending for Fiscal Year 2004. It seems to me that a reasonable benchmark for government spending is that it should rise no faster than the income of the average family. The government should be able to meet its responsibilities with this rate of growth, especially since it follows four years of relatively rapid spending growth.

80. OMB and CBO both develop baselines to report on the current condition of the budget under existing laws and policies and to judge the impact of any proposed changes to current laws and policies. What is your view of the usefulness and reliability of baselines? How many years do you think a baseline should cover? How would you modify current OMB and CBO procedures to produce more realistic baselines?

A baseline is a projection of the path of the budget under current law, based on a particular set of economic and other assumptions. While I agree that it is necessary to have a baseline against which to evaluate different budget proposals, its important to note that any baseline is only a projection, and will inevitably differ from the actual path of the budget for numerous reasons. If confirmed, I look forward to considering ways to can improve procedures for constructing the baseline.

81. What steps, if any, do you believe should be taken to ensure that the Executive Branch and the Congress do not rely on unrealistic economic assumptions when they propose and adopt a budget?

The best method to ensure that the Administration and Congress use realistic economic assumptions is to make those assumptions public. OMB and CBO routinely compare their assumptions and to those of the Blue Chip consensus survey. When it analyzes the President's budget each year, CBO includes an estimate of the budget impact of the differences between the two sets of assumptions. It might be useful for CBO to repeat this exercise in its summer update, with reference to the Administration's assumptions for the Mid-Session Review.

82. What kind of budget process makes sense for the future? Should there be a deficit or debt reduction target? Do you advocate any changes in current budgetary laws, rules, or procedure to improve budget discipline? What provisions, if any, of the Congressional Budget and Impoundment Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985 would you advocate amending, how, and for what purpose?

Restoring the budget to balance is an important priority. I believe that it makes sense for any new budget enforcement mechanisms to be decided jointly between the Administration and Congress. One helpful step would be to renew the caps on discretionary appropriations and the pay-as-you-go provisions for mandatory spending and revenues, as proposed by the Administration in the 2004 Budget.

83. Do you have a position on the following budget process reform proposals that are frequently discussed as solutions to specific budget problems: (1) Automatic continuing resolutions? (2) Biennial budgeting and appropriations? (3) Joint budget resolutions?

The Administration supports an automatic continuing resolution that would provide funding for programs at a level that is the lower of either the amount proposed in the President's Budget for the applicable fiscal year or the amount enacted by Congress for the previous fiscal year whenever an appropriations bill has not been signed by the beginning of the fiscal year. The President believes this kind of measure is needed to ensure that the continued operation of government programs is not unnecessarily threatened.

The Administration also supports converting the Federal government to biennial budgeting. Annual budgeting can be an inefficient process. Each year it consumes much time and energy that could be better spent focusing on programmatic issues in greater detail and engaging in additional oversight. Finally, the Administration believes that a joint budget resolution that is signed by the President and that would have the force of law would enhance budget discipline.

84. Enforcement provisions established by the Budget Enforcement Act (sequestration enforcing pay-as-you-go and discretionary spending caps) expired at the end of fiscal year 2002. Do you believe that these should be reinstated? If so, for how long should they be reinstated, and should they be changed in any way from their previous form? If you would reinstate statutory discretionary spending caps, at what levels would you set those caps, and for what years?

The Administration supports a two-year extension of the BEA with discretionary caps, with separate firewalls for highways and mass transit, for FY2004 and FY2005 equal to the budget authority and outlay levels set forth in his 2004 Budget. The Administration also supports a two-year extension of the pay-as-you-go requirement that is consistent with the President's priorities.

In addition, to ensure effectiveness of the caps, the Administration supports limiting advance appropriations to the level set in the Congressional budget resolution and establishing criteria that would restrict use of the emergency designation (which allows for spending above the caps) to situations that are true emergencies.

Department of Homeland Security Budget – US VISIT

85. In the Statement of Administration Policy regarding H.R. 2555, the Department of Homeland Security Appropriations Bill for FY04, the Administration stated that the appropriate place for funding US VISIT is the Bureau of Customs and Border Protection. However, the House of Representatives included $350 million for US VISIT in the budget for the Bureau of Immigration and Customs Enforcement and the Senate Appropriations Committee included $380 million for the program in the budget for the Border and Transportation Security Directorate.

Secretary Ridge and Under Secretary Hutchinson have made implementation of the US VISIT System a top priority and have taken the lead on its implementation. Why does the Administration believe funding for US VISIT should be within the Bureau of Customs and Border Protection and not directly under the control of Under Secretary Hutchinson, as the Senate legislation directs?

The President's Budget requested funding for the operational programs of the Department in the respective operational Bureaus. I understand that for the U.S. VISIT project, funding was requested in the Bureau of Customs and Border Protection because U.S. VISIT is a system that will be deployed at our Nation's borders. The Administration believes that in order to maximize the effectiveness of this important project, the funding should be provided to the Bureau assigned the mission of protecting our borders.

Homeland Security

86. The Transportation Security Administration (TSA) has been criticized for the cost increases in its contract with NCS Pearson, which was hired to recruit airport security screeners. A July 15, 2003 *Associated Press* article reported that NCS Pearson recruiters stayed at luxury hotels in Colorado, New York, Hawaii, Florida and the Virgin Islands, and may have significantly driven up the cost of TSA's recruitment effort. According to this article, the NCS Pearson contract rose from $104 million to $700 million in less than a year. What will you do as Deputy Director to ensure that TSA engages in sound contracting practices? What steps will you take to ensure that TSA provides appropriate contractor oversight so that its costs do not escalate unreasonably and it receives good value for its expenditure of taxpayer dollars?

As a new agency, TSA faced an enormous challenge in meeting the strict and ambitious screening deadlines of the aviation security law. To meet this responsibility they had to hire tens of thousands of people working in hundreds of locations around the country. Under the circumstances, I believe that they did an admirable job, but that they must also work to ensure they do even better in a variety of areas, including contract management. OMB plays a key role in this effort, as does the Department of Homeland Security, which took over TSA on March 1, 2003. If confirmed, I will work to ensure that OMB fulfills its obligations in this area.

87. The Homeland Security Act established within the Department of Homeland Security an Information Analysis and Infrastructure Protection Division charged with analyzing intelligence from all-sources related to terrorist threats. The Administration has also created a new Terrorist Threat Integration Center (TTIC) under the direction of the Director of Central Intelligence. The Counter Terrorism Center at the CIA has responsibility for analyzing intelligence related to foreign terrorism, and the FBI has also created a new Counter Terrorism Division and an Office of Intelligence to analyze intelligence. Director Bolten has advised the Committee that the TTIC "has not supplanted the intelligence responsibilities of the CIA, FBI, or other members of the intelligence community, including the Department of Homeland Security. Rather, it is a joint effort of these agencies to "fuse" intelligence information from all sources so that it is more timely and useful."

A. Since Director Bolten has described TTIC as a "joint effort," which specific Cabinet Secretary is accountable for the fusing of intelligence to "connect the dots" and prevent future attacks?

TTIC's activities are overseen by the Director of Central Intelligence (DCI). Given that all the members of the TTIC are part of the Intelligence Community, the DCI, as statutory head of the Intelligence Community, is the most appropriate official to oversee the activities of the joint venture. The DCI's statutory responsibility and authority extend beyond the CIA, making him uniquely situated to provide oversight of this necessarily combined approach to terrorist threat analysis.

TTIC management is structured according to the TTIC concept itself – that of a collaborative venture of numerous full partners. TTIC is managed by its Director and the Principal Deputy Director. As such, the day-to-day management of TTIC is not under the command of any one department.

B. A July 21, 2003 article in *The Washington Post*, "At Homeland Security, Doubts Arise Over Intelligence," raises concerns that the intelligence unit is understaffed and lacks adequate equipment and office space to properly do its job. Do you believe the DHS intelligence division requires additional resources, and if so, what steps will you take to ensure that those resources are provided as soon as possible?

Although only a few months old, it is my understanding that DHS's Information Analysis and Infrastructure Protection directorate is moving aggressively to increase its staff and analytic capabilities to carry out its statutory responsibilities. At the same time, it is clear that IAIP faces a number of challenges – some that are common to intelligence agencies and others that are unique to a new organization or to IAIP's mandate – that are not tied to resource levels. IAIP must recruit quality analysts at a time when many intelligence agencies are growing as well. They must ensure new analysts receive the proper security clearance, which can often be a time consuming process. They must train these analysts to fulfill IAIP's new and unique mandate: to analyze terrorism-related threat information as it relates to efforts to protect the homeland. If confirmed, I will work with DHS to make sure that IAIP has the appropriate resources to fulfill its important mission.

88. The President proposed $3.5 billion in funding for first responders in his FY 2004 budget. However, New York City alone has identified more than $900 million in what it considers urgent first responder needs, such as securing the city's emergency command facilities, creating additional HazMat units to cope with a suspected chemical, biological or nuclear attack, evaluating and addressing communications equipment needs for first responders, and creating medical laboratories to conduct testing for bioterror incidents. Other cities have developed similar assessments. How will OMB utilize such assessments when developing homeland security funding proposals?

Needs assessments at the Federal, state, and local level are critical not only for identifying capability gaps but also for prioritizing funds. I understand that the Department of Homeland Security is currently working with states and localities across the country to incorporate such assessments in the state homeland security plans required to secure Federal preparedness dollars. While OMB is not equipped to review every local assessment in detail, it has a role in working with DHS to better understand the scope of national requirements, review relevant resource requests, and utilize data to help develop and refine meaningful performance

measures.

89. First responders across the country still cannot communicate effectively with one another in an emergency. This issue was highlighted after the Air Florida incident over 20 years ago, the first bombing of the World Trade Center in 1993, and the Oklahoma City bombing in 1995, and yet again when fire fighters died because they couldn't communicate with the police on September 11. The Public Safety Wireless Network (PSWN), a joint Treasury and Justice Department policy group, estimates that the cost of replacing all communications equipment used by state and local governments to ensure interoperability would be $18 billion. What factors do you believe OMB should consider when determining the appropriate federal role in funding solutions to this long-standing problem?

Achieving interoperability is complex, and is not simply an issue of equipment. Federal, state and local governments and response agencies must work together to ensure that they have not only necessary equipment but just as importantly, the necessary plans and procedures in place to develop interoperable systems. I understand that barriers to interoperable communications include fragmentation among Federal programs and funding sources; insufficient coordination among chains of command; and incompatible equipment purchases for different emergency responders at the state and local level.

To address these problems, the Federal government should consider consolidating duplicative grant programs supporting interoperable communications and ensure that all relevant grant programs use similar criteria. I am aware that DHS's Project SAFECOM, a Presidential e-gov initiative, is working to promote interoperability by making all such programs coordinated, easy-to-access, and complementary, rather than duplicative. SAFECOM is also working to develop best practices, standards, and procedures to ensure that Federal funding promotes interoperability while maintaining sufficient flexibility for state and local governments.

90. Will you take steps to improve the reporting by OMB to the Congress – including in the presentation of the President's 2005 budget – on amounts appropriated and spent on homeland security? If so, what steps will you take? Do you support tracking and recording homeland security funding in a separate budget function?

It is my understanding that OMB has worked, and is continuing to work, to improve the quality and transparency of the budget data for homeland security. The most notable step over the past year has been incorporating homeland security funding into the budget database. I expect that OMB will build upon that progress to develop the analysis of homeland security funding in the President's FY 2005 Budget required by the Homeland Security Act of 2002. While I am not familiar enough to comment on creating a separate budget function, if confirmed, I look forward to working with the Congress to consider options to ensure that the President's Budget clearly supports our highest priorities in securing the homeland.

Inspectors General

90. According to the most recent progress report by the President's Council on Integrity and Efficiency (PCIE), in FY2002 federal Inspectors General (IGs) and their staffs conducted audits, reviews and investigations that resulted in the following: (1) identification of nearly $72 billion in federal agency savings; (2) more than 10,600 successful criminal prosecutions and the filing of over 5,700 new indictments and criminal informations; (3) over 570 successful civil actions and over 7,600 suspensions or disbarments of vendors, contractors, grantees, or others who engaged in improper conduct; and (4) agencies' initiation of over 1,600 personnel actions against government, contractor, or grantee employees in FY 2002. Since the terrorist attacks of 9/11, IGs have also been asked to shoulder additional homeland security responsibilities within their agencies and have received less support from other federal law enforcement resources. Notwithstanding these new challenges and the savings and benefits to the taxpayer that IGs and their staffs provide, IGs have generally been given few, if any, increases in resources. Director Bolten advised the Committee that he would be an advocate for providing Igs sufficient resources. Do you agree that this is an important goal? If so, how will you determine what level of resources is "sufficient"?

I agree that it is important for IGs to have sufficient funding. If confirmed as Deputy Director, I will support granting IGs appropriate funding to meet their varied responsibilities.

Defense Issues

91. Please describe the impact on the federal budget of the current military operational tempo and projected expenditures on operations in Iraq and Afghanistan. What, if anything, can OMB do to mitigate funding challenges caused by the ongoing "war on terrorism"?

It would be very difficult now to predict the cost of US deployments in FY 2004. There is an enormous range of potential costs. As I understand it, the President's Budget Request already has $10 billion in the Defense budget to support costs associated with current military operations. This will be the first source of funding for FY 2004 costs. The Administration is also actively pursuing international support and using billions of dollars in Iraqi assets from the former Iraqi regime for relief and reconstruction efforts to benefit the Iraqi people.

While I am not yet familiar with what additional resources may be needed, if confirmed, I intend to work closely with Congress in addressing future requirements.

93. The Department of Defense has initiated a number of programs to transform the United States military into a more responsive, capable force. In the past, a number of acquisition programs have exceeded cost estimates. From your perspective, what Department or

service projects are at risk and may effect the ability of the Department to stay within funding authorizations in FY 2004 and out-years?

I am aware of the detrimental effect cost that over-runs can have on the overall defense program. I understand as DoD starts new programs related to its transformation effort, it is working diligently to improve its acquisition system to eliminate or curtail cost over-runs and more accurately estimate funding requirements.

I believe the President's 2004 Budget request and the longer range Future Year Defense Program represents the most accurate estimate available for meeting acquisition requirements.

94. In recent years, the Bush Administration has rightfully placed a greater emphasis on defense spending. Whatever strategic pause we experienced after the collapse of the Soviet Union ended on the morning of September 11th, 2001. Over the past decade, the ship construction budget has been insufficient to meet the validated requirements for defending our nation. This year's budget submission turns the corner on shipbuilding, and provides funding sufficient to build 7 new ships. However, even with this increased funding, the total size of our fleet will fall below 300 ships. This is particularly disturbing given that, earlier this year, the Chief of Naval Operations, Admiral Clark, stated that he believed that 375 ships are needed to meet our national security strategy. Are you committed to working with Navy leadership to ensure there is sufficient funding to recapitalize our fleet?

If confirmed, I look forward to working with the leadership of all of the services and the Office of the Secretary of Defense to craft budgets that will support a balanced, capabilities-based force to meet our Nation's needs. As the question indicates, the Administration's budget supports a vigorous shipbuilding program. Over time, the Administration will evaluate this program as well as other major acquisition programs in the context of their contribution to the Global War on Terrorism and other potential future missions to determine proper levels of funding.

Research and Development

95. A growing concern is the imbalance between the amount of government research support for the life sciences, for which Congress has appropriated funds to double NIH's budget over recent years (with Bush Administration support), and the amount for the physical sciences, which has actually been eroding. These two parts of scientific research are in fact mutually dependent, and advances in the physical sciences have become essential to further advances in the life sciences. Do you agree with this concern, and, if so, will you act to adjust the budgetary imbalance between these two sectors of federal research support by increasing the amount for physical sciences?

I believe that it makes sense to review the balance of the portfolio, in the sense of monitoring and maintaining an appropriate investment across critical areas. It is my understanding that the President's 2004 Budget emphasizes funding for the physical sciences in response to recommendations from the President's Council of Advisors on Science and Technology and others.

96. The Department of Defense has had difficulty recruiting and retaining top-flight scientific and engineering talent for its laboratories. Such talent is necessary to expand our long-term military capabilities and advantages. Despite this critical need, the defense laboratories have witnessed a steady erosion of talent due to an aging workforce, competition from the private sector, and complex hiring processes that frustrate efforts to infuse new talent. In recent years, the Department of Defense has been given numerous authorities through bi-partisan efforts by Congress for personnel demonstration projects to encourage employment and retention of top scientific talent, such as Section 342 of the National Defense Authorization Act for FY 1995, Section 246 of the National Defense Authorization Act for FY 1999, Section 245 of the National Defense Authorization Act for FY 2000, and Section 1114 of the National Defense Authorization Act for FY 2001. A preliminary study by GAO has found that very few of the requests by the labs for personnel demonstration projects and flexible hiring authority have been implemented by the Department. Given the seriousness of this science management problem and its national security implications, and given your management role at OMB, what steps will you take to implement these defense authorities in order to turn around this serious defense scientific "brain-drain"?

The Administration has transmitted to the Congress a proposal for a simplified, uniform personnel system that Department of Defense believes can substantially improve its ability to recruit and retain personnel across a broad range of jobs, including engineering and scientific positions. If confirmed, I look forward to working with the Committee, which I understand has strong interest and experience in issues related to personnel management, to provide the Department of Defense with the reforms necessary to recruit and retain the personnel it needs to accomplish its mission.

AmeriCorps

97. Management and accounting problems have led to unprecedented and drastic reductions in the number of AmeriCorps volunteers that will be able to serve this year. In attempt to rectify these problems, Congress passed the Strengthen the AmeriCorps Program Act. Additionally, during Senate consideration of the FY 2003 Supplemental Appropriations bill, a provision was passed to provide additional funding for AmeriCorps.

    a. If Congress does not approve this additional funding, what alternatives exist for maximizing the number of volunteers that are able to serve?

b. Unfortunately, these financial and management problems have tarnished the reputation of the Corporation for National and Community Service. Will AmeriCorps and other volunteer programs continue to be a priority for the Administration?

The President and this Administration are committed to national service and to the financial integrity of the AmeriCorps program.

The Administration is determined to secure its full 2004 request for AmeriCorps, which if adopted would provide the highest funding level in the program's history.

Due to accounting changes, the 2003 appropriation is not supporting as many AmeriCorps enrollments as originally planned. Because of that, the Administration is exploring alternatives for maximizing AmeriCorps enrollments within existing resources. The Administration appreciated swift Congressional action to pass the "Strengthen AmeriCorps Act", which clarified the procedures for recording Trust obligations, and allowed the enrollment of additional volunteers.

Small Business Administration

97. The Senate Committee on Small Business recently reported out legislation reauthorizing the Small Business Administration, S. 1375. Please comment generally on OMB's views of the bill and on Title IV in particular. Are there any provisions of S. 1375 that OMB is concerned with, or opposes?

It is my understanding that the Administration is still reviewing the bill and expects to provide comments to the Senate Small Business Committee soon.

The Administration has also submitted its own reauthorization proposals in a number of areas, which would improve performance in SBA's technical assistance programs and improve risk management in SBA's credit programs. If confirmed, I will work with Congress on these proposals.

99. The Women's Business Center Program, which provides training and counseling for women small-business owners, has been a valuable tool for encouraging small business development and in providing SBA outreach to an important segment of the small business community - women own nearly a third of the nation's small businesses. In FY 2002 the SBA estimated that every $1 invested in this program returned about $161. These Centers are critically dependent on Federal matching funds to maintain their current level of service to their communities. To ensure continuity of support, S. 1375 makes permanent an existing pilot program in sustainability grants for WBCs. Please comment generally on OMB's views of the Women's Business Centers. Do you support continued funding of existing Centers that meet the program's eligibility criteria as suggested by S. 1375?

The Administration is still reviewing S.1375 and expects to provide comments to the Senate Small Business Committee soon.

Overall, the Administration supports providing federal assistance to small-business entrepreneurs who cannot access business development services without government assistance, provided that these programs have a measurable impact on small business success and use taxpayer dollars efficiently.

Fisheries

100. It is universally agreed upon that a need exists for more scientific data to support fishery management decisions. In recent years, the National Oceanic and Atmospheric Administration and the National Marine Fisheries Service have recognized the importance of working with our nation's fishermen in collaborative research efforts to obtain this much needed scientific information. Further, New England's groundfishermen are facing a possible 65 percent reduction in fishing effort, and view collaborative research as a way to help make ends meet. Considering this, would you support designating a larger percentage of the duties collected from seafood imports for the Saltonstall - Kennedy Grant Program, which funds collaborative research efforts?

The Administration believes that reliable scientific data is a prerequisite to making informed fishery management decisions. I have not formed a view on the specific proposal, but if confirmed I look forward to further discussions and consideration of the issue.

Pre-clearance Operations

101. For many years, the U.S. has provided customs and immigration clearance of local passengers seeking to enter, or return to, the U.S. through Canadian airports. Currently, seven Canadian airports have U.S. preclearance operations, and the Vancouver International Airport has an "in-transit" preclearance program that allows passengers from third countries to bypass Canadian Immigration and Customs and report directly to U.S. Customs and Immigration when traveling to the U.S. through Canadian airports.

Chairman Collins has consistently expressed concern about U.S. participation in the in-transit preclearance program, which diverts passengers and traffic away from competing U.S. international gateway airports. In addition to general concerns about the merits of this program, some have been particularly troubled by the potential for in-transit preclearance at Halifax International Airport. Bangor International Airport in Bangor, Maine, has developed into an international gateway and a technical stop for North Atlantic air traffic, primarily for charter services and the U.S. military. In-transit preclearance at Halifax would take away a major competitive strength of Bangor and directly harm its ability to compete for this European originating traffic.

On March 7th, Senator Collins joined other members of the Maine Delegation in writing to Secretary of State Powell to express their concerns regarding Halifax International Airport's recent efforts to obtain preclearance authority for passengers and cargo entering the United States and to also express their concerns about the extent to which the current U.S.-Canada preclearance agreement opens the door to a significant expansion of both the preclearance and in-transit preclearance programs. In response to the letter, the State Department made an assurance that "any future discussion of opening preclearance at Halifax would, among many factors, be predicated on the ability of the inspecting agencies to budget for and staff such a facility."

What is your position on providing the State Department with funds to expand the current preclearance and in-transit preclearance programs between the United States and Canada?

It is my understanding that pre-clearance is a longstanding practice, though it has expanded in recent years. I believe that any further expansion should take into account the impact on all affected stakeholders, including travelers and U.S. airports. If confirmed, I will keep these factors in mind as funding requests are reviewed, and will look forward to discussing the Chairman's concerns.

Planning in the National Capital Region

102. The National Capital Planning Commission (NCPC) is the central Federal planning agency for the National Capital Region, which encompasses the District of Columbia, Montgomery County, Prince George's County, Fairfax County, Arlington County, Alexandria, Prince William County, and Loudoun County. The NCPC has review authority over all Federal and District development projects in the National Capital Region. The NCPC is also charged with preparing the Comprehensive Plan for the National Capital. The NCPC has also used its authority to prepare documents that will help serve to guide Federal agencies in future developments in the area. These documents include *Extending the Legacy*, the *Memorials and Museums Master Plan*, and the *National Capital Urban Design and Security Plan*. While these plans provide a useful guide to Federal agencies and, if followed, reduce the possibility of delay in obtaining approvals for agency projects within the NCPC's purview, some Federal agencies have failed to consult with and coordinate with the NCPC or follow its suggestions in these documents.

In June of this year, pursuant to a request by the U.S. Senate Appropriations Subcommittee on the District of Columbia, OMB submitted a report on steps various agencies will take to improve the appearance of security measures in the District of Columbia in accordance with NCPC recommendations as outlined in the NCPC's *National Capital Urban Design and Security Plan*. The report, however, did not provide information as to how all agencies in the area will comply with the Plan. In order for NCPC to be able to carry out its mission effectively and to ensure orderly development of projects in the Region, Federal agencies may need coordinated direction from OMB.

a. What steps has OMB taken to ensure that all Federal agencies are aware of the role of the NCPC and what has OMB done to encourage proper consultation and coordination on relevant projects with the NCPC

It is my understanding that OMB informs agencies of their responsibilities to coordinate with the NCPC. If confirmed, I will work to ensure that OMB continues to fulfill this important responsibility.

b. Has OMB put in place a mechanism to ensure regular communication between OMB and the NCPC? If not, are there plans for doing so?

It is my understanding that OMB has appointed an official with responsibility for the NCPC and that indivdual communicates with the Commission on a regular basis.

c. What will you do to ensure OMB will work with NCPC to ensure that planning issues, which reach across various Federal agencies, are appropriately communicated and coordinated with the relevant Federal agencies in a timely manner?

It is my understanding that OMB uses several mechanisms to ensure coordination between NCPC and federal agencies. If confirmed, I will ensure that OMB continues to assist NCPC in its role as a coordinator of planning issues in the National Capital Region and to assist agencies in complying with requirements to consult with NCPC.

Housing Issues

103. Many Members of Congress have concerns regarding the Administration's plan to block grant the Section 8 housing voucher program. The Section 8 program has been largely successful at the federal level. In Maine, for example, voucher utilization rates at local public housing authorities (PHAs) are generally above 90 percent and often in the mid- to high-90s. The Adminstration's proposed block-granting of the program, renaming it Housing Assistance for Needy Families or HANF, has caused an outcry among PHAs and affordable housing advocates in Maine. A number of Maine constituents have expressed concerns that this change will create an unnecessay level of bureacracy, detract from local control at the PHA level, and result in under-funding of the program. What are your views on this issue, including why it is necessary and advisable to change the funding mechanism for and reform the section 8 program?

It is my understanding that the objective of the HANF proposal is to improve further the administration of HUD's most effective low-income housing assistance program. Under the proposal, states would have more flexibility to tailor the program's operation to meet their housing needs. States would also be able to coordinate housing voucher administration with other state–administered programs, including TANF, that serve the same low-income population. If

confirmed, I will work to address any concerns Congress may have with this proposal.

104. The Administration's FY2004 funding request for the Section 8 program estimates that approxmately 91 percent of all authorized vouchers will be under lease and up for renewal in FY 2004. More recent statements from HUD, however, indicate that the agency now expects as many as 96 percent of authorized vouchers to be under lease at the end of FY 2003. Given that the Congressional Research Service estimates per voucher cost will continue to increase next year, it appears likely there will be a Section 8 funding shortfall. What are your views on this issue, including whether or not the Administration anticipates a Section 8 funding shortfall and how it plans to address this issue?

It is my understanding that the Administration is aware of the recent increase in Section 8 costs. Accordingly, outlay estimates were revised upward in the recent Mid-Session Review that OMB just completed. If confirmed, I will work with staff to monitor spending trends in this program. Historically, Section 8 has been funded with ample reserves. I am told that in the near-term, full funding of the Administration's 2004 request combined with access to these reserves should be adequate to avoid shortfalls.

Education

105. Chairman Collins has worked to ensure that we improve our educational system so that the children of rural America are not left behind. During consideration of the No Child Left Behind Act (NCLB), Chairman Collins joined Senator Conrad in sponsoring bipartisan legislation to establish the Rural Education Achievement Program (REAP). Unfortunately, the Administration has eliminated funding for this program in its FY2003 and FY2004 Budget Requests.

The Rural and Small School Achievement Program, the first of REAP's two subprograms, delivers needed money and flexibility to small rural districts. Of the 4,700 eligible districts this year, 4,028 applied and received funding. Thus far, Maine has received $1,896,864 under this subprogram – making a difference in the lives of those children attending rural and small schools.

For FY 03, the Bradley School Department (Penobscot County, Maine), with 104 students, is slated to receive $20,945 through REAP. In FY 02, Bradley's entire non-Title I federal allocation totaled $4,455. The total federal dollars going to Bradley in FY 03 will be more than $25,000 – allowing Bradley the flexibility to hire a reading specialist to meet the mandates of NCLB, update the computer systems for students, or provide extended day learning opportunities.

Bradley is not alone. The Glenburn School Department, near Bangor, will receive a REAP allocation of $23,219 to aid in the education of their 472 students. Isle Au Haut School

Department, (in Knox County, Maine) with just 7 students, would receive $19,436 from REAP to balance out the $546 they are receiving in federal education funding.

Rural districts face obstacles in implementing NCLB due to their geographic isolation and small numbers. What steps are being taken to help geographically isolated districts meet the higher costs of implementing NCLB through the President's budget request? Why has the Administration failed to include funding for REAP in its budget request when REAP is specifically designed to provide needed resources to rural schools?

The Administration's 2004 budget request provides resources to States and local schools districts through large, flexible formula grant programs. States and districts then have the flexibility to use those funds in a manner that best meets their needs. Recognizing the different needs of small, rural districts, the "No Child Left Behind Act" provided those districts with greater flexibility in their use of Federal formula funds.

Health and Social Policy

106. The President has proposed changing the financing structure of the Medicaid program. He has offered states short-term fiscal relief, in the form of loans that will be deducted from subsequent federal Medicaid payments. In exchange for this short-term infusion, states would be required to accept caps on federal Medicaid payments in the future. This proposal has raised concerns with many organizations, including the National Governors' Association (NGA). The draft NGA Medicaid counter proposal pointed out that the Administration's block grant plan could hurt states that encounter economic downturns or face epidemics. Under the Administration's proposal, how would the federal government support states facing sudden increases in their Medicaid roles or Medicaid costs?

The Administration has proposed a framework for restructuring Medicaid and SCHIP under which states would be guaranteed a set amount of funding and given flexibility to tailor eligibility and benefits to suit local conditions. Under the proposal, states would receive additional funds in the early years and over 10 years the proposal would be budget neutral. States could choose to stay with the current arrangement. I believe the substantial flexibility given to states should permit more rapid, effective responses to emerging concerns.

107. There has been a trend in this Administration toward converting major social welfare programs to block grants to the states. This year's budget request alone included block grant proposals for Medicaid, Section 8 housing vouchers, child welfare, Head Start, job training, and many other programs. Since programs like these often involve less federal oversight, what steps would you take to avoid the impairment of OMB's ability to monitor results across states, and ensure that program goals are met and that the target population is appropriately served?

States have demonstrated their ability to develop creative programs that serve their

populations more effectively than a uniform policy imposed at the federal level. For example, the Temporary Assistance for Needy Families program, states have transformed their public assistance programs into innovative and comprehensive workforce assistance programs.

I do not believe it is accurate to state the Administration is proposing to block grant each of the above programs. The Administration is proposing to increase state flexibility and change funding mechanisms in those programs. For example, in Head Start the Administration is proposing to give States the option of seeking Federal approval to directly administer Head Start—allowing better integration of Head Start with the preschool and child care programs that States already administer

108. Past experience has demonstrated that once programs get block-granted – particularly programs in the human services area – the federal funding levels decline over time, and on average do not even keep pace with inflation, let alone population growth. The Title XX Social Services Block Grant, for example, has declined in value very substantially over the years. Do you agree with this assessment? Is it possible that funding would decline over time under the various block grant proposals put forward by the Administration?

As I understand it, funding requests for specific block grant programs are done on a case-by-case basis. For example, the Child Care and Development Fund (CCDF) consists of both discretionary and mandatory funding. It directly provides $4.8 billion for child care in FY 2003—a more than five-fold increase from 1996

TANF is another case in which funding has not declined over time. The statute that authorized TANF appropriated a constant funding level through FY 2002. Although caseloads in states have declined by more than half, the President's reauthorization plan proposed to maintain funding levels. By proposing to maintain funding, the Administration recognized the states' efforts to help individuals gain self-sufficiency in the work force. The proposed funding would enable states to serve those who need cash assistance, and to provide valuable support services to individuals as they transition from welfare to work.

109. The Administration's "superwaiver" proposal allows cabinet officials to grant states sweeping waivers of virtually all federal laws affecting a multitude of federal programs. If this were enacted into law, how would OMB monitor the use of federal funds? How would you guard against the use of the superwaiver to undermine bipartisan congressional compromises reached on particular provisions of federal law?

The Administration's proposal would allow states to seek new waivers for integrating funding and program rules across a broad range of public assistance and workforce development programs. As I understand it, a state's waiver request would be reviewed by each Federal department with jurisdiction over the affected

programs. If a request is agreed to, program rules that are inconsistent with the proposal may be waived by the departments. This department-by-department review is intended to ensure that the missions of the individual programs are not compromised as a result of the waiver.

I also understand that all waivers must be cost neutral, and states would be required to abide by specific cost neutrality targets. The terms of the waiver would identify funding levels, and failure to maintain them could result in the waiver being suspended or terminated. The particular oversight mechanism and the frequency of state reports would vary depending of the nature of a waiver.

110. A recent General Accounting Office report found major problems with Medicaid waivers granted to the states by the Administration's Centers for Medicare & Medicaid Services relating to community-based care for the elderly and disabled. Specifically, GAO found that "CMS does not adequately monitor state waivers and the quality of beneficiary care," and concluded that "CMS is not fully complying with statutory and regulatory requirements when it renews waivers." How would you recommend that the Administration address this problem? Without more resources, how would one avoid similar oversight difficulties if agencies were granted superwaiver authority?

The Administration recognizes a responsibility, in partnership with the states, to assure and improve the quality of care that beneficiaries receive in home and community based waivers.

IV. Relations with Congress

1. Do you agree without reservation to respond to any reasonable request or summons to appear and testify before any duly constituted committee of the Congress, if confirmed?

yes

2. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress, if confirmed?

yes

V. Assistance

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

I have worked with staff in OMB and the White House to craft answers to the Committee's questions. The answers are my own.

AFFIDAVIT

Joe D Kaplan being duly sworn, hereby states that he has read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of his knowledge, current, accurate, and complete.

Subscribed and sworn before me this 24th day of July, 2023

Notary Public

Commission Expires: August 14, 2026

QUESTIONS FROM SENATOR LIEBERMAN
FOR JOEL D. KAPLAN
NOMINEE TO BE DEPUTY DIRECTOR,
OFFICE OF MANAGEMENT AND BUDGET

1. Since this Administration took office, both the job situation and the fiscal outlook have steadily deteriorated. On the jobs front, the number of private sector jobs has dropped by 3.1 million, the number of unemployed has risen from 6 million to 9.4 million people, the average duration of unemployment reached 19.8 weeks in June (the longest on record except for a few months in 1983 and 1984 when unemployment rate ranged between 8.0 and 10.1 percent), and the share of teenagers with jobs has fallen to the lowest level since the data began in 1948. When this Administration took office, ten years of fiscal surpluses totaling $5.6 trillion were projected for 2002-2011. Enactment of past and present Bush budget proposals would lead to a cumulative deficit of $2.1 trillion, a drop in the outlook of $7.7 trillion. Time and again, Congress has been told that the economy will take off if the Administration's proposals are adopted. Thirty months and trillions in fiscal resources later, shouldn't this Administration have been able to create a healthy job market for Americans instead of the dismal situation we find today? If you could, how would you change the last three budgets to provide a better job market today?

As is now well documented, this Administration inherited an economy that was already sliding into recession. The stock market began its decline in early 2000, about one year before the President took office. It is now generally agreed that the 2001 tax cut was extremely well-timed and appropriate to support the economy and assure a relatively short and shallow recession.

Even as the recession was nearing an end, however, the economy continued to sustain shocks that prevented a normal, robust recovery. These shocks included the terrorist attacks of September 11, the revelations of corporate accounting scandals that had been brewing for years, and the war on terror.

The President has acted quickly to address the recession and other shocks to the economy. In the last two and a half years, the President has proposed, and Congress has enacted three major tax bills. The first tax cut, the Economic Growth and Tax Relief Reconciliation Act of 2001, came just after the economy had entered into recession. Its immediate tax relief in the summer and the fall of 2001 boosted consumer demand and helped to ensure the recession was short and shallow. The second tax cut, the Job Creation and Worker Assistance Act of 2002, provided incentives for business investment to jump-start the recovery. This spring, Congress passed the Jobs and Growth Tax Relief Reconciliation Act of 2003, proposed by the President in January to strengthen the recovery and accelerate job creation from its current subpar pace. The economy would have been even weaker had thees tax cuts not been enacted, with substantially greater job losses.

2. During this Administration, the economy has lost more than three million private sector

jobs, making President Bush the first to preside over a decline in the nation's employment since Herbert Hoover. Approximately 80% of those jobs were lost in the manufacturing sector? How do you account for the serious slump in the nation's employment? What should the Administration do about this problem?

President Bush inherited an economy that was sliding into recession. Nowhere is this clearer than the slump in manufacturing employment which began in July of 2000. Though the economy as measured by real Gross Domestic Product has grown steadily since the recession, the rate of growth has been insufficient to prevent an increase in unemployment. The President has acted vigorously and comprehensively in pursuit of policies to prevent further job loss and to speed the day when every American who wants a job can find one. The most important of these include the major tax relief packages passed in 2001, 2002, and 2003. These tax cuts have increased take-home pay, reduced tax disincentives to employment, and lowered the after-tax cost of capital for business investment. Most private forecasters expect that the combination of lower tax rates and stimulative monetary policy will produce a strong and growing economy, with a corresponding growth in jobs.

3. Since the beginning of the recession in March of 2001, unemployment among African-Americans rose dramatically, and now stands at 11.8%. Why have African-Americans seeking work fared particularly poorly during the Bush Administration?

This unemployment rate for African-Americans is incredibly high. It is my understanding that since the beginning of the recession, unemployment has increased by roughly the same percentage for African Americans as for other workers. President Bush will not be satisfied until every person, regardless of race, who wants a job can find a job.

4. During the eight years of the Reagan Administration, we enacted large tax and budget cuts which were followed quickly by soaring deficits. Despite President Reagan's approval of significant tax increases in 1982, 1983, and 1984, and the fact that Congress approved smaller amounts of discretionary spending than the President had requested in every year except 1987, the country continued on a path that led to deficits unprecedented until today. How does the Bush Administration plan to avoid having budgetary history repeat itself?

Budget deficits decline when government restrains its spending and when strong economic growth generates strong revenue growth. President Bush's economic program is well designed to produce the strong economic growth and resulting strong revenue growth. Combined with spending restraint, the President's plan is projected to result in a dramatic reduction in budget deficits after 2004. It is especially important for the Congress to join with the President to restrain discretionary spending growth to 4 percent per year.

5. The six Presidents with the best records of job creation since 1929 were all Democrats. In other words, all of the Democratic Presidents since 1929 had better job growth rates during their administrations than all Republican Presidents from the same period. In recent decades, Republican administrations have passed large tax cuts that added substantially to annual deficits, but still did not achieve the high rates of economic growth and job growth achieved by the Clinton administration.

   a. How do you reconcile this historical evidence with the claim that tax cuts of the type passed by President Bush are the best way to stimulate the economy?

   b. What is your explanation for the fact that in the last century Democratic administrations have achieved higher job growth than Republican administrations?

   c. How do you explain the fact that President Clinton achieved high economic growth rates without huge tax cuts, whereas the three Republican administrations from 1981 to the present have left a legacy of huge budget deficits and slower growth rates?

This Administration has pursued pro-growth, pro jobs economic policies. The President has acted quickly to address the recession and other shocks to the economy. In the last two and a half years, the President has proposed, and Congress enacted three major tax bills. The economy would have been even weaker had the tax cuts not been enacted, with substantially greater job losses.

6. During his presidential campaign, Governor Bush promised, without qualification: "The Social Security surplus must be locked away for Social Security only."

   A. Do you agree with that policy?

   B. Do you believe the President has kept that promise since he became President?

   C. How have the President's tax cuts affected the government's ability to lock away the Social Security surplus for Social Security only? What effect will the tax cuts have on the government's ability to lock away the Social Security surplus in the next four years?

When President Bush took office, the overall budget surplus was projected at $5.6 trillion over ten years – $2.6 trillion for Social Security and $3.0 trillion for the remainder of the budget. Since then, the projections have changed dramatically. This was due to a host of events that no one predicted – a recession, the terrorist attacks of September 11, revelation of corporate scandals, a collapse in the stock market and associated impacts on tax .

It is important to recognize that the Social Security trust fund is being credited with

every dollar of payroll tax and other income that it is due. Moreover, there are ample balances in these trust funds to meet current Social Security benefit payments.

The real issue for Social Security is how to reform the program so that it is sustainable over the long-term. The Social Security actuaries project that with the retirement of the large baby boom generation, the cash flow into these programs will eventually turn negative, and the trust funds will be exhausted. The President's Commission to Strengthen Social Security recommended several options for improving the program's long-term finances, and the Administration is committed to reforming the program so that it remains on sound footing for generations to come.

7. In several years, we will no longer be benefiting from a Social Security surplus. Instead, the trillions of dollars the Treasury owes to the Social Security trust fund will begin to come due, and we will be paying the nation's debt to the trust fund through general revenues and more deficit spending. How should we prepare for that day? Will the large deficits expected in future years, caused largely by huge tax cuts, make it harder to repay the debt owed to Social Security?

   The most important condition for assuring the strength of Social Security and for paying future retirees benefits is a strong economy, with increasing jobs, rising productivity, and rising incomes. The tax cuts of recent years will raise the economy's long-term growth rate by putting in place better incentives for job-creating activities such as investment and new business formation. However, strong economic growth alone is unlikely to solve all the financing problems Social Security and Medicare will face as the baby boom reaches retirement. Both Social Security and Medicare require reforms and the sooner those reforms are enacted the better.

8. As of July 16, the national debt was $6.719 trillion dollars and growing, of which $3.879 trillion is debt held by the public. According to the Mid-Session Review, net interest (interest on debt held by the public) will total $156 billion in 2003 and will rise to $241 billion in 2008. Why should taxpayers in future years, including generations of Americans not yet old enough to vote, be forced to pay interest on a much greater national debt caused by this Administration's fiscal policies?

   Reducing the federal deficit, and therefore the rate at which debt held by the public is growing, is a priority for the President, but winning the war on terror, and strengthening the economy are greater priorities. As with all debt, what is purchased is as important as the price. If future generations inherit a stronger economy, with higher incomes and better jobs, and if they inherit a safer homeland and a vastly diminished threat from foreign terrorists, then this generation will have met the aspiration of all generations to leave a better quality of life to the generations that follow.

9. Some of the Administration's plans for future tax cuts involve enormous revenue losses in the years beyond the budget window. To take just one example, when the Administration proposed permanent repeal of the federal estate tax in its FY 2004 budget, the estimated 10-year cost was $126 billion. By the time the House voted last month to make repeal permanent, the estimate had climbed to $162 billion. If the Administration makes the same proposal in its FY 2005 budget, the estimated cost will probably be in the neighborhood of $200 billion. Outside estimates of the cost of estate tax repeal for the second 10 years run in excess of $800 billion. Can you explain how wiping $1 trillion in projected revenues off the books will help reduce deficits and restore budget discipline?

Repealing the death tax means the preservation of family farms and family businesses. Its elimination also means stronger economic growth as the assets held by these family farms and businesses continue to produce income. Its repeal also means the elimination of a great disincentive for individuals to continue to grow their family businesses and to hire more workers. Small businesses are a great source of vitality and new jobs in our economy. Repealing the death tax means preserving and strengthening millions of small businesses.

10. During the 2000 presidential campaign, Governor Bush promised to appoint a federal chief information officer (CIO) to provide governmentwide leadership on information resources management (IRM) and information technology (IT) issues. Several months after he took office, the President announced that he would satisfy his campaign promise by giving the OMB Deputy Director for Management (DDM) the added title of Federal CIO. There was to be no change in the DDM's responsibilities, however. In the 107th Congress, the Administration opposed legislative efforts to create a federal CIO with consolidated responsibility for IRM and IT issues. Those responsibilities are currently divided between Mark Forman, the Administrator of the Office of Electronic Government, and John Graham, the Administrator of the Office of Information and Regulatory Affairs. In his responses to the Committee's questions, Joshua Bolten stated that the President no longer intended to establish a federal CIO.

A. Do you see benefits in creating a federal CIO responsible for both IRM and IT management? If not, why not?

Because many of the responsibilities of a CIO were assigned to the Administrator of the Office of E-gov and IT at OMB, I do not believe it necessary to create in statute a federal CIO at this time. It is my understanding that there is close coordination among OIRA and the Office of E-Government to ensure that IRM and IT management issues are adequately managed and addressed.

B. Why isn't there as much need for a federal CIO at OMB as there is for a Comptroller to lead governmentwide financial management and an Administrator of the Office of Procurement Policy to develop procurement policies?

With enactment of the E-Government Act, Congress gave the Administrator of the Office of E-gov and IT sufficient authority and responsibility over governmentwide information technology and information management, overtaking any need for a new Federal CIO position.

C. Why did the Administration reverse itself on creating a federal CIO position?

As I understand it, the Administration has not advocated creating a Federal CIO, but rather stated early on the President's decision that the DDM would serve as the Federal CIO. As stated in the answers to the questions above, the E-Government Act has created a new statutory set of IT responsibilities for the E-Government Administrator, and enactment of this statute has made creation of a Federal CIO unnecessary.

10. A special task force of the Council on Foreign Relations recently warned that the nation has dramatic vulnerabilities in its homeland defenses and is not yet on track to repair those security weaknesses. The report, titled "Drastically Underfunded, Dangerously Unprepared," concludes that government should invest an additional $98.4 billion over five years to equip and train the nation's first responders. This overall funding recommendation flows from a review of the specific needs of different components of the first responder community. For instance, the task force found that fire services will need an estimated $38.6 billion over five years above current spending to receive the equipment and training to respond to a chemical or biological attack. The report contains other projected costs for items such as increasing hospital and public health preparedness, upgrading Emergency 911 systems, and equipping first responders with interoperable communications equipment. The task force included distinguished former government officials, including a director of the CIA and the FBI, a senator, a White House terrorism adviser and a former Chairman of the Joint Chiefs of Staff, and these projected costs were arrived at after reviewing data from the first responder community and consulting with two respected budget analysis groups.

In light of the funding recommendations from this distinguished task force, do you believe the federal government needs to devote more resources to the needs of first responders? If not, why not? Please be as specific as possible with respect to funding needs, in particular with respect to the report's call for more funding for interoperable equipment, firefighter services, urban search and rescue teams and public health and hospital preparedness.

Analyzing the resources required to improve the terrorism preparedness of our state and local emergency responders is critical to determining both the amount and allocation of funding needed. As I understand it, however, there are serious questions about how CFR came to its funding conclusions. I understand, for instance, that the report aggregates various organizations' funding projections, many of which were not clearly linked to terrorism preparedness and lacked

prioritization based on relative risk or need.

The Administration believes that Federal resources should be focused on the Nation's highest priority threats and vulnerabilities. The President's FY 2004 Budget includes a total of $5.2 billion in assistance to state and local governments for terrorism prevention and preparedness, comprehensive biodefense capacity-building, and public health preparedness. As for the specific needs among various disciplines, the Administration's proposal will provide states and localities with flexibility to prioritize among various needs.

11. In answer to this Committee's Pre-hearing Questionnaire for the Nomination to be OMB Director, Joshua Bolten stated that a key safeguard against favoritism, discrimination, and politicization in the civil service is that "all employees have a right to appeal prohibited personnel practices." (Answer to Human Capital Management Question number 5, page 29, submitted June 22, 2003.) But the Administration's June 2002 Homeland Security legislative proposal requested the power to eliminate employees' right to appeal prohibited personnel practices. Do you believe that legislation should grant the power to eliminate federal employees' right to appeal prohibited personnel practices?

    I do not believe that such rights should be waived in legislation. The legislative proposals for personnel flexibilities at the Department of Homeland Security and the Department of Defense provided for human resources management systems and regulations that would establish robust civil service protections and due process procedures for civil servants to appeal prohibited personnel practices. While these proposals included the ability to waive the current version of these appeal rights, which is contained in title 5 of the United States Code, that is not the same thing as proposing to eliminate employee appeal rights altogether.

12. In answering the Pre-hearing Questionnaire, Mr. Bolten also stated that, to enable the career civil service to serve as a bulwark against improper politicization and abuse of the organs of government, "[t]he Federal government has an array of important mechanisms to uphold merit system principles, detect and prevent prohibited personnel practices, and protect whistleblowers." (Answer to Human Capital Management Question number 7, page 30.) Yet the Administration's June 2002 Homeland Security legislative proposal and its April 2003 Defense Transformation legislative proposal requested the power to eliminate – *(i)* the authority of the Office of Special Counsel (OSC) to investigate prohibited personnel practices and to seek corrective actions, and *(ii)* the right of employees to seek remedies for prohibited personnel practices through negotiated grievance procedures and the role of exclusive representatives to be present in discussions concerning grievances and to represent individual employees in such matters.

    a. Do you agree that the federal government's array of important mechanisms to uphold merit system principles, detect and prevent prohibited personnel practices, and protect whistleblowers enables the career civil service to serve as a bulwark

against improper politicization and abuse of the organs of government'?

Yes

b. Do you believe that the OSC is part of the array of important mechanisms to uphold merit system principles, detect and prevent prohibited personnel practices, and protect whistleblowers"?

Yes, the Administration supports the role OSC plays in protecting federal employees and applicants from prohibited personnel practices, including reprisal from whistleblowing.

c. Do you believe that the right of employees to seek remedies for prohibited personnel practices through negotiated grievance procedures, and the role of exclusive representatives to be present in discussions concerning grievances and to represent individual employees in such matters, are part of the array of important mechanisms to uphold merit system principles, detect and prevent prohibited personnel practices, and protect whistleblowers"?

Yes. In general, negotiated grievance procedures that provide for the settlement of prohibited personnel practice complaints are part of the array of mechanisms that help protect the merit system.

d. If so, do you believe that legislation should grant the power to eliminate: *(i)* the authority of the Office of Special Counsel (OSC) to investigate prohibited personnel practices and seek corrective actions, or *(ii)* the right of employees to seek remedies for prohibited personnel practices through negotiated grievance procedures, or the role of exclusive representatives to be present in discussions concerning grievances and to represent individual employees in such matters? Please explain.

As I indicate above, the Administration's proposals to waive the current law regarding these protections is not the same as proposing to repeal or eliminate these protections. The Administration's intent under these legislative proposals was, and is, to provide strong protection against prohibited personnel practices, without prejudicing the role of OSC or any other Federal agency. The Office of Personnel Management (OPM) and Department of Homeland Security (DHS) are working now to develop regulations to develop a strong system that provides these protections.

As to negotiated grievance procedures, nothing under current law requires a negotiated grievance procedure to include coverage of prohibited personnel practice complaints. Legislation should assume strong protections for employees against prohibited personnel practices.

13. Congress supports the Administration's efforts to stabilize, reconstruct, and democratize Iraq in the wake of Saddam Hussein's downfall. However, the information we have been receiving on the current costs of the operation is incomplete and insufficient, and there have been no estimates provided by the Administration on the potential long-term costs of peacekeeping and nation-building in Iraq. The President's 2004 budget largely failed to account for the cost of these items. Congress requires this information in order to adequately and responsibly budget for this important national endeavor. What information can you provide to the Congress on the long-term costs to the federal government of reconstructing Iraq and waging the war on terrorism? Will you provide the Congress with more information on the extent of these long-term financial commitments?

It is very difficult to predict the cost of US deployments in FY 2004, as there is an enormous range of potential costs. As I understand it, the President's FY 2004 request already has $10 billion in the Defense budget to support costs associated with current military operations. This will be the first source of funding for FY 2004 costs. The Administration is also actively pursuing international support and using billions of dollars in Iraqi assets from the former Iraqi regime for relief and reconstruction efforts to benefit the Iraqi people.

While I am not yet familiar with what additional resources may be needed, if confirmed, I intend to work closely with the OMB Director and relevant agencies to ensure good communication with Congress in addressing future requirements.

14. Imagine that under the Administration's "superwaiver" proposal, a state wanted to reduce food stamp benefits received by poor families with children in order to expand the food stamp employment and training program (FSET). While the ostensible purpose would be to coordinate FSET with other employment and training programs, in reality, this could also enable the state to reduce state spending on employment and training programs. If such a superwaiver were granted, how would OMB prevent a state from misusing federal funds to supplant state spending on low-income families?

As I understand it, the purpose of the program integration waiver is to enable states to develop more integrated and effective service systems across a broad range of public assistance programs. States will be required to identify the programs and activities for which waivers are requested, describe how the program purposes will be achieved, and show how the proposal will improve or enhance the achievement of such goals. The waiver requests must also be cost neutral and specify the use of state and federal funds. A waiver should not create an opportunity for a state to use federal funds to supplant state spending. A state's waiver proposal would need to propose safeguards to prevent supplantation.

15. The President has said that education is one of his highest priorities, and just last year he signed the *No Child Left Behind Act* into law. Yet at a time when schools are struggling

to meet the requirements in the new education law, the President proposed to cut funding for these programs by $1.2 billion in 2004. What are your plans with regard to education funding? In particular, what is your commitment to providing the funding called for in the *No Child Left Behind Act*? How do you respond to local education officials who say they do not have the funding necessary to meet the requirements of the Act?

If confirmed, I am committed to helping the President carry out his education reform agenda by increasing spending in programs that show the greatest promise for raising student achievement. The 2004 Budget provides a $666 million increase over 2003 for Title I -- the cornerstone of No Child Left Behind -- and a $654 million increase for Special Education Grants to States. Substantial increases are also proposed for other priority programs such as Reading First, Mentoring of Middle School Students and school choice programs.

The President's budget for elementary and secondary education reflects the key principles and priorities embodied in the No Child Left Behind Act: stronger accountability for improved student achievement, greater choice for parents, more flexibility for States to set their own priorities in spending Federal education funds, and a focus on educational methods that have been proven effective through scientific research. The President's budget also maintains or increases funding for flexible State formula grant programs, such as Title I Grants to LEAs, that can be used to meet NCLB Act requirements, while reducing or eliminating support for smaller, less flexible categorical programs.

Other Issues

1. In a law review case note, you argued that the Supreme Court had failed to make sufficiently clear that government affirmative action programs could only be upheld as constitutional when designed "to remedy a particular history of past discrimination by a specific governmental entity" (p. 1167). You concluded, "A full century after the first Justice Harlan's lonely declaration in dissent that 'our Constitution is color-blind,' the Supreme Court needs to state clearly and forcefully the limited circumstances in which that idealistic maxim does not yet apply." The quote from Justice Harlan's dissent referred to Plessy v. Ferguson, the 1896 decision in which the Supreme Court upheld government-imposed racial segregation.

   For purposes of clarification, this case note argued that the Supreme Court should resolve the question, which was causing division in the lower courts, "*whether* interests other than the desire to remedy a particular history of past discrimination by a specific governmental entity can be so compelling that, in the pursuit thereof, the government may constitutionally take race into account." 110 Harv. L. Rev. 1167, 1167 (1997)(emphasis added). The note did not purport to answer the question, but rather only argued that the Supreme Court should consider and resolve the issue.

a. Do you believe that government affirmative action programs that comply with the Fourteenth Amendment nevertheless diverge from the idealistic maxim that the Constitution is color-blind?

As I understand it, the question in cases challenging government affirmative action programs that take race into account is whether they nonetheless comply with the 14th Amendment. I concur with, and if confirmed will adhere to the President's statement on June 23, 2003, that "[r]ace is a reality in American life. Yet like the Court, I look forward to the day when America will truly be a color-blind society. My Administration will continue to work toward this important goal."

b. In Grutter v. Bollinger, the Supreme Court held that student body diversity is a compelling state interest that can justify the use of race in university admissions. Do you believe the Grutter decision clearly establishes that affirmative action programs can constitutionally pursue compelling interests other than remedying a particular history of past discrimination by a specific governmental entity?

The Supreme Court rejected the contention that "remedying past discrimination is the only permissible justification for race-based governmental action" and held that the government also has a "compelling interest in attaining a diverse student body." Grutter, 2003 U.S. LEXIS, at *36-37.

c. Do you believe Grutter was correctly decided? In what circumstances do you believe affirmative action programs can constitutionally pursue compelling interests other than remedying a particular history of past discrimination by a specific governmental entity?

I support the President's statement of June 23, 2003. The President applauded the Supreme Court decisions "for recognizing the value of diversity on our Nation's campuses," and noted that the Court's decisions "seek a careful balance between the goal of campus diversity and the fundamental principle of equal treatment under the law." The President then explained that his Administration "will continue to promote policies that expand educational opportunities for Americans from all racial, ethnic, and economic backgrounds. There are innovative and proven ways for colleges and universities to reflect our diversity without using racial quotas. The Court has made clear that colleges and universities must engage in a serious, good faith consideration of workable race-neutral alternatives. I agree that we must look first to these race-neutral approaches to make campuses more welcoming for all students."

d. Which current federal government affirmative action programs do you believe are unconstitutional? Which do you believe are constitutional?

In my role as Deputy Director of OMB, I would adhere to and follow applicable Supreme Court precedent on affirmative action, as that precedent is interpreted by

the Executive Branch.

e. In the Grutter case, the Administration filed a brief asking the Supreme Court to strike down the University of Michigan law school's admission policy as unconstitutional. Nevertheless, the Administration applauded the Supreme Court's decision upholding the policy. Does the Administration's reversal of its position in this case indicate that the Administration now supports the use of affirmative action programs that pursue compelling interests other than remedying a particular history of past discrimination by a specific governmental entity?

On June 23, 2003 the President applauded the Supreme Court decisions "for recognizing the value of diversity on our Nation's campuses," and noted that the Court's decisions "seek a careful balance between the goal of campus diversity and the fundamental principle of equal treatment under the law." The President then explained that his Administration "will continue to promote policies that expand educational opportunities for Americans from all racial, ethnic, and economic backgrounds. There are innovative and proven ways for colleges and universities to reflect our diversity without using racial quotas. The Court has made clear that colleges and universities must engage in a serious, good faith consideration of workable race-neutral alternatives. I agree that we must look first to these race-neutral approaches to make campuses more welcoming for all students."

AFFIDAVIT

Joel D. Kaplan being duly sworn, hereby states that he has read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of his knowledge, current, accurate, and complete.

Subscribed and sworn before me this 24th day of July, 2003.

Notary Public

Commission Expires: August 14, 2006

Question from Senator Frank R. Lautenberg (D-NJ) for Joel D. Kaplan, Nominee to be Deputy Director, Office of Management and Budget

Question: "What was your role in the Florida ballot recount during the 2000 presidential election, and who funded your activities and expenses related to the recount?"

During the Florida ballot recount I worked for the Bush/Cheney campaign in Volusia County, Miami-Dade County, Broward County, and Tallahassee. I counted ballots, argued on behalf of the Bush/Cheney campaign in front of County Canvassing Boards, and assisted in the drafting of legal documents. Prior to the recount, I was an unpaid staff member on the Bush/Cheney campaign in Austin. I continued my service to the campaign as an unpaid staffer in Florida. My expenses were paid by the campaign, which I believe established a committee to fund recount activities.

AFFIDAVIT

Joel D Kaplan being duly sworn, hereby states that he has read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of his knowledge, current, accurate, and complete.

Subscribed and sworn before me this 24th day of July, 2003.

Notary Public

Commission Expires: August 14, 2004

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

July 14, 2003

The Honorable Susan M. Collins
Chair
Committee on Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Madam Chair:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Joel D. Kaplan, who has been nominated by President Bush for the position of Deputy Director, Office of Management and Budget.

We have reviewed the report and have also obtained advice from the Office of Management and Budget concerning any possible conflict in light of its functions and the nominee's proposed duties.

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

Sincerely,

Amy L. Comstock
Director

Enclosure

Post-Hearing Questions for the Nomination of Joel Kaplan to be Deputy Director Office of Management and Budget

Senator Susan Collins:

Agriculture

1. Mr. Kaplan, I was very disappointed to learn that the U.S. Department of Agriculture had failed to implement the regional equity language found in Section 2701 of the Farm Security and Rural Investment Act of 2002. This Section clearly stipulates that states should be given priority in eligible conservation assistance applications until they have reached a minimum of $12 million in funding by April 1 of each fiscal year. The regional equity provision was included into the 2002 Farm Bill because USDA has historically designed conservation programs for the large agricultural states in the West, essentially defining the Northeast out of equal access to these programs. This failure to implement the regional equity language is severely affecting the conservation programs that Northeast farmers use most, such as Environmental Quality Incentives Program (EQIP). What kind of actions will OMB take to ensure that regional equity is implemented in the future?

   As I understand it, the Administration was not able to implement the regional equity provision of the conservation title from the 2002 farm bill this fiscal year in part due to late enactment of the 2003 Omnibus Appropriations Bill, and because the final rule for the Environmental Quality Incentives Program was issued in May after the cutoff date for the regional equity provision. I appreciate your concern, and if confirmed will work with the Department to ensure that the regional equity provision is implemented in fiscal year 2004.

2. Mr. Kaplan, this spring, the Department of Agriculture -- as I understand it, under the direction of OMB -- diverted over $150 million from four working lands conservation programs to pay for the cost of administering the Conservation Reserve Program and the Wetlands Reserve Program. This is troubling to me because, under the 2002 Farm Bill, those costs were intended to be paid for out of Commodity Credit Corporation funds. The effect of the diversions is to deny funds for farmers and ranchers who seek to participate in these conservation programs, which are already oversubscribed. The Environmental Quality Incentives Program, or "EQIP", is especially popular in my home State of Maine. The program provides farmers with financial and technical assistance to plan and implement soil and water conservation practices. It is an excellent program, but there are more farmers who want to participate than money available. Can you give us any assurances that OMB will not divert any additional funds from working lands conservation programs and that, instead, Commodity Credit Corporation funds will be used for this purpose, as Congress intended?

   The Administration strongly supports the EQIP program that is so important to farmers around the country, including in Maine. If confirmed, I look forward to working with you to ensure proper funding mechanisms are in place for these conservation programs.

SENATOR FRANK R. LAUTENBERG
QUESTIONS FOR GOVERNMENTAL AFFAIRS COMMITTEE HEARING ON NOMINATION OF
JOEL KAPLAN TO OMB
Tuesday, July 29, 2003

QUESTION ONE

OMB has many and varied functions – from budget development, management and projections to a host of complex management responsibilities over 14 federal cabinet agencies and over 100 agencies, boards, and commissions.

What management experience do you have to bring to this job?

As an Artillery Platoon Commander I was responsible for the well-being and performance of a platoon of approximately 45 Marines. Later, as the Executive Officer of an Artillery Battery, I was responsible for ensuring that the battery executed the Battery Commander's goals and objectives, and for overseeing the day-to-day operations of a unit consisting of approximately 150 Marines, six M198 Howitzer systems, many other medium and light weapons systems, and a substantial logistics train. I cannot recall precisely either the operating budgets or value of the equipment for which I was responsible, but I would estimate that my artillery headquarters platoon had an operating budget of approximately $2.0 million per year (including salaries), and equipment valued at roughly the same amount. I would also estimate that my artillery battery had an operating budget of approximately $5 million per year, and equipment valued at roughly $8-10 million. As for significant results, it is my recollection that these units regularly met or exceeded Marine Corps performance standards, and I believe that they were well-prepared and well-trained should they have been called into combat.

This experience, as well as my Marine Corps training more generally, taught me the importance of strong, principled, leadership by example. It also taught me that leadership involves motivating and empowering employees to overcome obstacles to accomplish difficult missions.

In my role in the Chief of Staff's office, I have had the opportunity to work with senior officials in virtually every agency in government on the management challenges they face in their efforts to efficiently and effectively execute their responsibilities. If confirmed, my combined knowledge of the President's Management Agenda, the Administration's goals, and the agencies needs will aid me in working with the Director and the Deputy Director for Management on the federal government's management challenges

QUESTION TWO

Do you have any direct experience with budgetary matters related to the federal agencies you will supervise?

Since the start of the Administration, I have had an opportunity to work with many officials and staff at the Office of Management and Budget and throughout the Executive Branch on the development and implementation of Administration policy. As a result of my direct involvement in many of the President's initiatives, I have spent a great deal of time working with White House policy officials, the agencies, and OMB to ensure that those proposals are adequately reflected in the budget, and are consistent with overall budget priorities. I have also had the opportunity to participate extensively, and at all stages, in the budget process, from the development of the President's Budget submission, to Congress' consideration of a budget and individual annual appropriations bills. As part of that process, I have participated in numerous OMB reviews, where the major issues arising out of agency budget request submissions are considered and

resolved. Further, I have been closely involved in the review of the text of the Budget volume that is signed by the President and submitted to Congress. I have helped develop and review Administration positions on pending legislative actions, as reflected in agency legislative proposals as well as the frequent Statements of Administration Policy that OMB delivers to Congress on behalf of the Administration.

QUESTION THREE

In advising the President on budgeting and management matters, what past experience do you plan to draw upon?

Since the start of the Administration, I have had an opportunity to work with many senior officials and staff at the Office of Management and Budget and throughout the Executive Branch on the development and implementation of Administration policy. In this capacity, I have participated extensively and at all stages in the budget process, from the development of the President's Budget submission to the enactment by Congress of a budget and individual annual appropriations bills. In my role in the Chief of Staff's office, I have had the opportunity to work with senior officials in across the government in government on management challenges they face in their efforts to efficiently and effectively execute their responsibilities. I believe that my leadership training and experience as an officer in the United States Marine Corps will be helpful in my performance of the Deputy Director's responsibilities in the management of OMB as an organization.

QUESTION FOUR

In your response to pre-hearing questions, you said that "since the start of the Administration, I have had an opportunity to work with many senior officials and staff at OMB and throughout he Executive branch."

Presumably, you worked with your predecessor Ms. Nancy Dorn. What do you plan to do differently or similarly?

Similar to Deputy Director Dorn, if confirmed, my role at OMB will be to work closely with the OMB Director to ensure that OMB's important missions are accomplished and that the OMB effectively and faithfully serves the President. I believe that this role will apply across the full range of the Director's responsibilities, including crafting the President's Budget, participating with the President's other advisors and Cabinet members in policymaking, overseeing the Administration's regulatory efforts, improving management of the federal government and of OMB itself, and successfully communicating the Administration's positions to Congress.

QUESTION FIVE

According to Wall Street editor Paul Gigot, the "Brooks Brothers Riot" was orchestrated by the Bush-Cheney Campaign, NY Congressman John Sweeny and Congressional Staffers and has been described as an "angry mob," which intimidated members of the Miami-Dade Canvassing Board and others involved in the recount process. Miami Canvassing Board members were "visibly shaken" when they decided to stop the recount and they had to be escorted out of the building by armed police officers.

Do you now renounce the use of such tactics to achieve political ends? Do you believe mobs should rule our political process?

Why didn't you take the initiative to stop the "riot?"

I would of course object to the use of "mobs" or "riots" to achieve political ends. In my capacity as an official observer of the Canvassing Board proceedings, I did not witness any activity that I would characterize as a riot or mob activity. Had I seen such activity, I would have taken appropriate action.

QUESTION SIX

The state of New Jersey has been in negotiations with CMS and OMB regarding a section 1115 or "Pharmacy Plus" waiver since March 2002.

Today, I would like to ask on behalf of the people of New Jersey who need and depend on the assistance provided by PAAD if, as OMB Deputy Director, you will make every effort to work with the state of New Jersey to reach a speedy and fair conclusion on the matter of this waiver and if you will keep me informed about the progress of this situation?

Yes

QUESTION SEVEN

What do taxpayers get out of a so-called "streamlined competitive outsourcing process" that imposes arbitrary deadline but does not require a mandatory consideration or demonstration of cost saving?

It is my understanding that the streamlined competition process in OMB Circular A-76 requires a demonstration of cost savings. The streamlined competition form explicitly requires an agency to choose the "low-cost provider."

QUESTION EIGHT

Do you believe that the A-76 outsourcing process, combined with the President's agenda to privatize federal jobs and job functions, creates too much pressure on agencies to identify functions as "commercial," or attempt to contract out work or privatize it, even if it harms public safety or security?

No. It is my understanding that between 2000 and 2002, the percentages of commercial and inherently governmental functions have remained relatively stable.

One example is air traffic control. Do you think it is wise to outsource our air traffic control system?

The administration has no plans to outsource air traffic control and separation functions, with the exception of the contract tower program, which affects only smaller airports. Other aspects of the air traffic system are suitable candidates for competitive sourcing to determine whether they are best performed by government employees or the private sector.

QUESTION NINE

Are you aware of a report commissioned by then-Treasury Secretary Paul O'Neill that showed the United States faces future federal budget deficits of more than 44.2 trillion dollars?

I am aware of a report completed by Dr. Smetters and Dr. Gokhale.

Why did the Administration refuse to disclose the findings of the report during a time when Congress and the Administration were negotiating a 10-year, 350-billion-

dollar tax-cut package? Do you agree with this practice of withholding such relevant information?

I did not participate in any discussions regarding this report. The President's FY 2004 Budget gives unprecedented attention to the long-range costs of Social Security and Medicare. In a chapter entitled "The Real Fiscal Danger", the Administration outlines more than $18 trillion of long term liabilities to the federal government. The Stewardship Chapter of the Budget's *Analytical Perspectives* discussed this issue in even more detailed terms. It is critical we address the long –term problems facing these programs through fundamental reforms.

QUESTION TEN

To what extent does the prospect of a 44.2 trillion dollar deficit (or the current budget deficit of 455 billion dollars) concern you personally as the Nominee to be Deputy Director of OMB and as a citizen?

Although large in nominal terms and a legitimate subject of concern, these deficits are manageable if we continue pro-growth economic policies and exercise serious spending discipline.

The long –term unfunded liabilities of Social Security and Medicare concern me both as a citizen and as the nominee for Deputy Director of OMB.

The real issue for Social Security and Medicare is how to reform these programs so that they are sustainable over the long term. The actuaries of both of these programs project that with the retirement of the large baby boom generation, the cash flow into these programs will eventually turn negative, and the trust funds will be exhausted. For Social Security, the

President's Social Security reform commission has offered several possible reform plans that would protect Social Security for future generations and that would restore long-run solvency to the program. For Medicare, a conference committee is currently considering legislation and the President is hopeful that the Congress will produce a bill that can both provide a prescription drug benefit and instill sufficient reforms so as to reduce the financial strains on Medicare. The President is committed to reforming Social Security and Medicare so that they remain in place for future generations.

QUESTION ELEVEN

There are several reasons for the dramatic deterioration of the budget situation. The primary cause has been the dramatic decline in revenue, which has dropped to 16.3 percent of GDP – the lowest level since 1959. In summary, the bulk of the deficit is caused by the Bush tax cuts. To a lesser extent increased expenditures, especially military activities, have played a role as well.

Do you agree or disagree with this statement? Why?

The President's tax cuts are responsible for only a fraction of the deficits that are now projected; in fact we would be facing a large triple-digit deficit this year even if the President's 2001 tax relief plan, the 2002 stimulus bill, and this year's economic growth package had never been enacted. The economic downturn is responsible for 53% of the decline in the cumulative surplus from the 2001 baseline projections for 2003, and 44% from 2004-2008. Spending, including the costs of the war on terrorism and homeland security efforts, accounts for 24% of the cumulative change in 2003, and 31% from 2004 to 2005. The Administration's Mid-Session Review

estimates that 23% of the change in 2003 is attributable to tax relief, and 26% from 2004 to 2008.

QUESTION TWELVE

In your response to several pre-hearing questions, you said that "it is now well documented, this Administration inherited an economy that was already sliding into recession." When did the recession begin?

The Dow Jones Industrial Average peaked on January 14, 2000 at 11,723 – one year prior to the President taking office. By September 10 of 2001 the Dow had fallen to 9,606, or 18 percent. The broader S&P 500 peaked on March 24, 2000, and by September 10, 2001 it had fallen 28 percent. Manufacturing output began to fall after June 2000, while manufacturing employment began to fall after July 2000. Consumer confidence began to fall after September of 2000. The unemployment rate began its rise after October of 2000. Economic growth in the second half of 2000 was a mere 0.8 percent. The economy had fallen into recession by March of 2001.

What do you think has been the impact of decreased federal revenues and the recession occurring simultaneously?

The recession, combined with the subsequent weak recovery, have been the major causes of decreased federal revenues over the past three years.

QUESTION THIRTEEN

During this Administration, the economy has lost more than three million private sector jobs, making President Bush the first to preside over a decline in the nation's

employment since Herbert Hoover. That's more than two jobs lost for every minute George W. Bush has been President. In response to this unprecedented job loss, the President and Republicans in Congress have enacted three tax cuts but the job loss trend continues.

Does the White House plan simply to propose a fourth tax cut in 2004? Are there any other ideas in OMB's play book?

The President and his team of economic advisors will continue to monitor the economy and propose pro-growth, pro-jobs policies as is needed. There are no plans for further tax cuts at this time, other than those included in the President's FY 2004 budget.

Post-Hearing Questions for the Nomination of Joel Kaplan to be Deputy Director Office of Management and Budget

Senator Joseph Lieberman:

In his answers to the Committee's written question, Joshua Bolten affirmed that OMB would not abandon numerical goals for competitive sourcing. He wrote that numerical goals "can help to bring clear focus to management activities" and that he "would expect goals to be tailored as necessary to reflect the unique circumstances facing each agency." On July 24, 2003, Angela Styles presented to the Committee a report describing OMB's strategy for developing agency-specific competition plans that "are customized, based on considered research and sound analysis, to address the agency's mission and workforce mix." The report included a table with sample profiles of five agencies' competition plans (p. 6, Table 2). The table listed the number of positions in each agency's competition plan; a footnote indicated: "These figures reflect the number of positions that OMB and the agencies have agreed will be sufficient to justify a move to a 'yellow' status on the management scorecard."

During your staff interview on July 25, 2003, you were not certain whether the number of positions listed in table 2 represented the numbers of positions necessary for the agencies to move to a "yellow" on the management scorecard. You also did not agree that the numbers listed in table 2 constituted goals for the individual agencies. Committee staff requested that you consult with OMB officials on this issue before your hearing.

1. Do the number of positions listed in Table 2 represent the numbers of positions necessary for the listed agencies to justify a move to a "yellow" on the management scorecard? If not, what do the numbers represent? What is the significance of the footnote referred to above?

   As I understand, the figures listed in the second column of Table 2 reflect the number of positions that agencies and OMB have agreed – as of the date of the report – are appropriately included in the agency's competition plan to receive a "yellow" status on the management scorecard. Competitions for the positions listed on Table 2 do not have to be completed for the agency to move from red to yellow status. The footnote must be read in conjunction with the management scorecard described on pages 7 - 8. To receive a "yellow" status, the agency must have completed one standard competition or publicly announced standard competitions that exceed the number of positions identified for competition in the agency's competition plan.

2. For each of the five agencies listed in Table 2, please describe the considered research and sound analysis of the agency's past activities on which the

competition plans were based. Why wasn't the considered research and sound analysis used for each of the agencies included in the July 24 report?

It is my understanding that, as a general matter, agency officials have sought to identify those commercial activities where application of public-private competition makes the best sense in terms of workforce and mission. There is no standard set of specific factors, though there are certain factors, as identified in OMB's report, that appear to be commonly considered, such as attrition rates, workforce mix, capacity to conduct reviews, the percentage of service contracts, and the strength of the agency's contract management capabilities, among others. I am also told that agencies are taking into account the positive results achieved by the Defense Department, which has employed public-private competitions for a number of years. As I understand, all agencies that have competitive sourcing programs are following this type of considered approach.

3. What numerical goals are currently in effect at federal agencies not listed in Table 2?

My understanding is that agency plans identify specific commercial activities that would be scheduled for competition and the number of personnel currently performing identified activities. These plans reflect each agency's best business judgment regarding how public-private competition can enhance mission performance and will be refined over time to reflect changed circumstances, improved insight into agency programs, and experiences with conducting competitions. In several cases, agencies are in the process of negotiating plans with OMB.

During the 2000 Presidential campaign, both Governor Bush and Vice President Al Gore promised repeatedly that the Social Security surplus would be locked away for Social Security only - in other words, that the U.S. Treasury would not spend the Social Security surplus but would use all of it to pay down the national debt. One month after election day, Dick Cheney warned that the economy was "on the front edge of a recession." By August of 2001, the Administration was faced with growing projected deficits, caused by declining revenues and the effects of the President's huge 2001 tax cuts. On August 24, 2001, President Bush said, "I've

said that the only reason we should use Social Security funds is in case of an economic recession or war." By the Spring of 2002, President Bush had re-formulated this explanation to create a justification for outright deficit spending. For example, on June 7, 2002 he said "I remember -- I remember campaigning in Chicago, and one of the reporters said, would you ever deficit spend? I said only -- only in times of war, in times of economic insecurity as a result of a recession, or in times of national emergency. Never did I dream we'd have a trifecta." He made similar comments over the course of several months. Despite repeated requests from the media, the White House has never produced a single example of the President having publicly qualified his campaign

promises to protect Social Security surpluses, as not applying in the event of a war or recession.

During your staff interview on July 25, 2003, you suggested an explanation of the President's campaign promise different than the one articulated by the President himself. You believed the President had only promised during the campaign that proceeds from the Social Security surplus would continue to be credited to the Social Security Trust Fund, even if the money was actually borrowed to fund annual deficits. You acknowledged that the law already required that Social Security funds be treated in this manner.

1. Do you still believe that during the 2000 campaign the President was simply promising not to break the law with respect to Social Security proceeds? If not, how would you describe the President's campaign promise?

   The President's priorities since September 11th are to win the war on terror and protect the homeland, and strengthen the economy. The Social Security and Medicare trust funds are credited with every dollar of the payroll tax and other income that they are due. In the near term, there are ample balances in these trust funds to meet current Social Security and Medicare benefit payments.

2. If the President believed during the 2000 campaign that a future recession would prevent him from keeping his promise, do you know why he didn't say so publicly during the campaign?

   When President Bush took office in 2001, a large budget surplus was projected over the next ten years. Since then, the projections have changed dramatically. A host of events that were not predicted before the election – a recession, the terrorist attacks of September 11, revelation of corporate accounting scandals, a three-year collapse in the stock market, and their associated impacts on tax collections – all together converted the projected surplus to deficit.

   The President believes the most important priority is to revive the economy. Without renewed growth and job creation, attempts to balance the budget are bound to fail.

3. Do you know whether the President was aware before election day of 2000 that Mr. Cheney or other of his advisers believed that a recession was imminent?

   No.

4. Do you agree with the President's campaign promise to lock away the Social Security surplus? Please state your reasons.

The President's priorities since September 11th are to win the war on terror and protect the homeland, and strengthen the economy. The proceeds from the Social Security surplus should continue to be credited the Social Security Trust Fund as required by law and to honor to the social contract with retirees and near retirees who have contributed to the trust fund.

5. Isn't it true that the President's huge tax cuts will have the effect of adding many hundreds of billions of dollars to the deficit? Isn't it also true that the larger national debt that results will make it more difficult for the United States Treasury to repay in the future the massive debt it owes to the Social Security Trust Fund?

Keeping tax rates low is essential to reviving the economy. The tax cuts of recent years will help boost the economy in the near term and also raise the economy's long-term growth rate by putting in place better incentives for job-creating activities such as investment and new business formation.

While economic growth is necessary, it is unlikely to be sufficient to solve all the financing problems Social Security will face. The real issue for Social Security is how to reform the program so that it is sustainable over the long-term. The Social Security actuaries have projected that with the retirement of the large baby boom generation, the cash flow into these programs will eventually turn negative, and the trust funds will be exhausted. The President's Commission to Strengthen Social Security recommended several options for improving the program's long-term finances, and the Administration is committed to reforming the program so that it remains on sound footing for generations to come.

AFFIDAVIT

Joel D. Kaplan being duly sworn, hereby states that he has read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of his knowledge, current, accurate, and complete.

Subscribed and sworn before me this 30th day of July, 2003

Bernie M. Jones Weaver
Notary Public
Commission Expires: August 14, 2004

Post-Hearing Questions for the Nomination of Joel Kaplan to be Deputy Director Office of Management and Budget

Senator Daniel Akaka:

1. In response to pre-hearing questions regarding standards for disclosure among federal agencies, you stated that you would be "receptive to considering proposals for enhanced disclosure and transparency that are consistent with the responsibilities and proper functioning of the Executive Branch." Are you equally receptive to enhanced disclosure and transparency standards for federal contractors? If confirmed as Deputy Director, what measures would you pursue to safeguard transparency and disclosure among federal agencies and federal contractors?

   A sound procurement system must be transparent and contractors participating in that system should be willing to disclose sufficient information to ensure that the government is receiving fair and reasonable prices for goods and services. While proprietary information should be protected, federal contracts are public documents and should be more accessible to our citizens. It is my understanding that OMB has worked extensively to pilot a project to make federal contracts available over the internet. If confirmed, I will ensure this project continues.

2. You testified that you would work to ensure that federal agencies have sufficient resources to implement the administration's outsourcing objectives in the President's Management Agenda (PMA). I am concerned that there is no reliable estimate of the cost for implementing the PMA. What measures will you take to identify costs; to make agencies aware of these costs; and to ensure that such costs are properly addressed in agency budgetary planning and reflected in the President's budget request?

   It is my understanding that agencies have been asked to identify budgetary needs for competitive sourcing in OMB Circular A-11 guidance for the FY 05 budget.

3. In 2002, the Governmental Affairs Committee reported legislation creating the Department of Homeland Security (DHS) which required the Department to follow several "good government" provisions, including the Chief Financial Officers (CFO) Act of 1990. It was not included in the final legislation. During today's hearing you testified that the administration is requiring the Department to adhere to the main tenants of the CFO Act. Would you support including the Department under the CFO Act?

   As I understand, the main tenets of the CFO Act are that a professional Chief Financial Officer be appointed and be responsible for the

implementation of sound financial systems and policies and the preparation and audit of the agency's financial statements. Because OMB is already applying those and other financial and accountability reporting requirements to the new Department of Homeland Security, the need to include the Department under the CFO Act is not immediately clear to me. I would be pleased to consider this issue further if confirmed.

AFFIDAVIT

Joel D. Kaplan being duly sworn, hereby states that he has read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of his knowledge, current, accurate, and complete.

Subscribed and sworn before me ~~this~~ 30th day of July, 2003

Bessie M. Jones-Keane

Commission Expires: August 14, 2004

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