

# NOMINATION OF HON. M. JOHN BERRY

---

---

## HEARING

BEFORE THE

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

OF THE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

---

NOMINATION OF HON. M. JOHN BERRY TO BE DIRECTOR, OFFICE OF  
PERSONNEL MANAGEMENT

MARCH 26, 2009

---

Available via <http://www.gpoaccess.gov/congress/index.html>

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



U.S. GOVERNMENT PRINTING OFFICE

50-384 PDF

WASHINGTON : 2010

---

For sale by the Superintendent of Documents, U.S. Government Printing Office,  
<http://bookstore.gpo.gov>. For more information, contact the GPO Customer Contact Center,  
U.S. Government Printing Office. Phone 202-512-1800, or 866-512-1800 (toll-free). E-mail, [gpo@custhelp.com](mailto:gpo@custhelp.com).

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

JOSEPH I. LIEBERMAN, Connecticut, *Chairman*

CARL LEVIN, Michigan	SUSAN M. COLLINS, Maine
DANIEL K. AKAKA, Hawaii	TOM COBURN, Oklahoma
THOMAS R. CARPER, Delaware	JOHN McCAIN, Arizona
MARK L. PRYOR, Arkansas	GEORGE V. VOINOVICH, Ohio
MARY L. LANDRIEU, Louisiana	JOHN ENSIGN, Nevada
CLAIRE McCASKILL, Missouri	LINDSEY GRAHAM, South Carolina
JON TESTER, Montana	
ROLAND W. BURRIS, Illinois	
MICHAEL F. BENNET, Colorado	

MICHAEL L. ALEXANDER, *Staff Director*

KRISTINE V. LAM, *Professional Staff Member*

THOMAS RICHARDS, *Professional Staff Member, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia*

BRANDON L. MILHORN, *Minority Staff Director and Chief Counsel*

JENNIFER L. TARR, *Minority Counsel*

JENNIFER A. HEMINGWAY, *Minority Staff Director, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia*

TRINA DRIESSNACK TYRER, *Chief Clerk*

PATRICIA R. HOGAN, *Publications Clerk and GPO Detailee*

LAURA W. KILBRIDE, *Hearing Clerk*

## CONTENTS

Opening statements:	Page
Senator Akaka .....	1
Senator Voinovich .....	4
Prepared statements:	
Senator Voinovich .....	5
Senator Akaka .....	6
Senator Lieberman .....	25

### WITNESSES

THURSDAY, MARCH 26, 2009

Hon. Steny H. Hoyer, a Representative in Congress from the State of Maryland .....	2
Hon. Benjamin L. Cardin, a U.S. Senator from the State of Maryland .....	3
Hon. M. John Berry to be Director, Office of Personnel Management .....	8

### ALPHABETICAL LIST OF WITNESSES

Berry, Hon. M. John Berry:	
Testimony .....	8
Prepared statement .....	27
Biographical and financial information .....	31
Responses to pre-hearing questions .....	37
Letter from the Office of Government Ethics with an attached letter .....	70
Responses to post-hearing questions .....	71
Cardin, Hon. Benjamin L.:	
Testimony .....	3
Hoyer, Hon. Steny H.:	
Testimony .....	2

### APPENDIX

Senator Barbara A. Mikulski, prepared statement .....	25
---	----



## NOMINATION OF HON. M. JOHN BERRY

THURSDAY, MARCH 26, 2009

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

The Committee met, pursuant to notice, at 2:27 p.m., in room 342, Dirksen Senate Office Building, Hon. Daniel K. Akaka presiding.

Present: Senators Akaka and Voinovich.

### OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. This hearing will come to order. I want to say aloha and welcome to all of you. It is obviously a joyous moment for those who are here today.

Today the Committee on Homeland Security and Governmental Affairs meets to consider the nomination of John Berry to be Director of the Office of Personnel Management (OPM).

Mr. Berry is a native of Washington, DC, and a graduate of the University of Maryland and the Syracuse University Maxwell School of Public Administration.

Mr. Berry is a lifelong public servant. He currently is the Director of the National Zoo, where he successfully shepherded a 20-year facilities master plan for the zoo, which the National Capital Planning Commission approved in November 2008. He has worked in a variety of posts in the Smithsonian Institution, the Department of the Interior, and the Department of the Treasury, in addition to serving the people of Maryland while working in the Montgomery County Government and the Maryland State Senate.

Of course, Mr. Berry also served as Congressman Steny Hoyer's Legislative Director for 10 years. With your experience in Congress, I expect we will have a particularly cooperative and productive working relationship between OPM and the Congress if you are confirmed.

I am delighted to welcome my good friends Senator Ben Cardin and Majority Leader Steny Hoyer, who are here to introduce Mr. Berry. We appreciate both of you taking the time to speak on his behalf and welcome your thoughts. I know you both are very busy and, in the interest of time, would welcome any statement you have now.

I am going to call on Senator Cardin to begin, because—

Senator CARDIN. Senator Akaka, if I might, if I could defer to Congressman Hoyer. I think it would be appropriate for him to go first.

(1)

Senator AKAKA. Thank you very much, Senator Cardin. At this moment, I would like to call on Majority Leader Steny Hoyer of the U.S. House of Representatives, a great man who has served so well, for his statement and his comments on John Berry. Congressman Hoyer.

**STATEMENT OF HON. STENY H. HOYER, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF MARYLAND**

Mr. HOYER. Mr. Chairman, thank you very much for your warm welcome. I thank my dear friend, one of my closest friends in life, Senator Cardin for yielding to me.

I am totally subjective on the subject of Mr. Berry. [Laughter.]

I believe Mr. Berry is one of the most extraordinary, good and decent and able human beings I have met in my entire lifetime. I could end my statement perhaps at that point. Suffice it to say that I think he will perform an extraordinary service for the Federal employees, for the Obama Administration, for the Federal Government, and for the American people. So I thank you for giving me this opportunity.

I first came, Mr. Chairman, to appreciate Mr. Berry's talents when he served for a decade as my Legislative Director. You probably first met him in that capacity as you and I were seatmates on the Subcommittee on Treasury, Postal Service, and General Government of the House Appropriations Committee. We sat next to one another for many years, along with Chairman Edward R. Roybal, and your role on that committee was critical.

In the role that Mr. Berry played for me, he was an essential part of shaping policy affecting all Federal employees, and the legislation that structures their salaries, Mr. Chairman, to this day bears Mr. Berry's stamp.

From the beginning of his career in public service, Mr. Berry has had an excellent grasp of the issues and challenges confronting our 1.8 million Federal civilian employees. He has also proven himself as a highly skilled administrator.

As Assistant Secretary for Policy, Management and Budget at the Interior Department, Mr. Berry won the respect of his employees and repeatedly stood up for government workers who were targeted for discrimination because of their sexual orientation. And as Director of the National Fish and Wildlife Foundation, he proved himself to be an ardent conservationist as well.

Today he brings together his skills in administration and conservation as Director of the National Zoological Park, as you have pointed out, the job in which he oversees a budget of nearly \$40 million, 240 employees and perhaps most impressively, more than 2,000 wild animals. As director, he has dedicated himself to revitalizing the zoo's facilities, as you pointed out as well, making them safer and more welcoming for families and attracting thousands of more visitors with such special events as winter's ZooLights.

He has also strengthened the zoo's standing as an international leader in animal conservation and research. Those are just a few, Mr. Chairman and Senator Voinovich, of Mr. Berry's many accomplishments. They speak to a creative intellect, and I would stop on that part of my statement.

One of the strengths that Mr. Berry brings to any task that he confronts is that creativeness, that flexibility, that willingness to look at things in a different way if the way that we were looking at them did not work. That was one of the great strengths he brought to my staff.

I tell people that if there were 100 ways to do something and you told Mr. Berry each time that he went through the first 99 that he could not do it that way, he would find the 100th successful way to do it. That will be an extraordinarily important skill that he will bring to his directorship of the Office of Personnel Management.

He has a dedication to service that those who have worked with Mr. Berry know firsthand. It was my privilege, as you pointed out, to work with him for over a decade and, very frankly, every year since he left my staff. And of course, Senator, I tell people they can go off the payroll, but they cannot go off the staff.

I never really feel that Mr. Berry was ever off the staff because I worked very closely with him in so many different ways. I would urge his confirmation with dispatch. I can assure you that it is my view that he will make all of us very proud—this Committee, the U.S. Senate, the Obama Administration, and our country.

I am proud of his leadership, his service, and every employee who has the benefit of his focus will believe that they have a true advocate, an able spokesperson, and a very caring person serving them and serving our government. I thank you for this opportunity to testify on his behalf.

Senator AKAKA. Thank you very much, Majority Leader Steny Hoyer of the U.S. House Representatives, for your statement. I really appreciate this.

Mr. HOYER. Thank you.

Senator AKAKA. Thank you. I know you are busy.

Mr. HOYER. I want to hear Senator Cardin's statement. [Laughter.]

I know it will be brilliant, and therefore, I want to hear it. [Laughter.]

And I am very pleased to be with my good friend Senator Voinovich as well.

Senator AKAKA. Without further adieu, Senator Cardin.

**STATEMENT OF HON. BENJAMIN L. CARDIN, A U.S. SENATOR  
FROM THE STATE OF MARYLAND**

Senator CARDIN. I really wanted to be here to see whether we had to hold Congressman Hoyer in contempt of the Senate. I am glad that his remarks today were aimed at Mr. Berry and not beyond.

First let me just concur on everything that the Majority Leader has said about Mr. Berry. We are very proud of his public service. We thank you very much for your continued willingness to want to serve our Nation. We thank you, and we thank your entire family for the sacrifices that you make.

Steny Hoyer is right; we have an extraordinary person who has the strong support of Senator Mikulski and myself. Mr. Berry has devoted his life to public and community service, and he has done it with great distinction. He has vast administration experience, which I think is going to serve him very well at OPM.

He has good judgment and unquestioned integrity, and I think that really sums it up. We have gone over his background. He survived serving as the Legislative Director for Congressman Hoyer. I know that was a difficult task, but he served with great distinction in the House.

He has great administrative experience in several agencies, from the Treasury to the Interior to the Smithsonian. He served in the private sector in a non-profit with the National Fish and Wildlife Foundation. He brings, I think, the right package of experience to a very difficult job at OPM, and I wholeheartedly endorse his nomination and recommend to the Committee that we move quickly on his confirmation.

Senator AKAKA. Thank you very much, Senator Cardin, for your statement. Again, I want to thank both of you for your statements, and before I call on our Ranking Member, Senator Voinovich, I will permit you the chance of departing. Yes?

Mr. HOYER. I am sticking with you. [Laughter.]

Always good to see you, Senator Cardin.

Senator AKAKA. Thank you very much. Before I call on Senator Voinovich, I want to welcome the family of John Berry and give Mr. Berry the opportunity to introduce them to the Committee.

Mr. BERRY. Senator, I am very honored to. Thank you so much for the opportunity. I would like to start, if I could, with my sister, Maureen Raimo, and her husband, Arthur Raimo, and her two children, Anne Buss—her husband is a member of the Capitol Hill Police Force, sir, and is on duty today, so he could not be here with us—and her sister, Betsy Raimo, and her boyfriend, Luke Myers.

My brother is here with his family. My brother, Joseph Berry, his wife, Jody, and their son, Thomas. And then my partner, sir, from Honolulu, Hawaii, for the past 12½ years, Curtis Yee, as well.

Mr. HOYER. Good planning. [Laughter.]

Mr. BERRY. Thank you, sir. Appreciate the opportunity.

Senator AKAKA. Thank you very much. At this moment I am going to withhold my statement because we have an important vote on the floor, and the time is running on that. I am going to yield to Ranking Member Voinovich to make his statement. We will be back after recess, and I will give my statement, and we will have Mr. Berry give his statement.

#### OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. First of all, I think it is a real tribute to you that Senator Cardin is here and your old boss thinks enough of you to come around and say you are a terrific guy, and the fact that you have stayed in touch with him over the years is a real tribute to the relationship that you have built with him.

I have a great deal of respect for Representative Hoyer. We have known each other a long time. He is one of the good guys as far as I am concerned.

It is a pleasure for me to review your qualifications. I am looking forward to hearing your plans for OPM. My experience as a county auditor, county commissioner, mayor, and governor have underscored for me the importance of human capital, and one of the things that I have tried to do, with Senator Akaka, to deal with

our human capital challenges is to give the Office of Personnel Management the flexibility needed so that our agencies can hire the right people and retain and reward them.

We know that there is room for improvement, and as I mentioned to you when you were in my office, I am going to expect it from you, and I suspect that Senator Akaka will also. After you get in the saddle, I want you to come back to us to talk about your observations and what needs to be done at OPM.

But immediately, I think you really need to look at the issue of the people that the Administration is going to need in their respective departments to implement the stimulus package. Senator Akaka and I have asked the Office of Management and Budget (OMB) to come back to us with a list of the agencies and where are they in terms of the people that you are going to need.

In many instances, the jobs will be short-term, but agencies will still struggle with the question of how to bring them on board. There are lots of flexibilities that are available to departments, and one of my frustrations, and Senator Akaka's, is people are not using them.

We really are unhappy with our hiring system. We are in the dark ages if you look at where we are compared with the private sector.

We have a little break right now, Mr. Berry, because of the fact that the economy is so bad, and I think a lot of our Federal workers are going to want to stay on a little longer than they might ordinarily. But the fact is, things are going to get better and we are going to be out there competing for the best and the brightest, and if we do not have a recruitment or a program in place that makes sense, we are going to fall behind.

So that is the end of my statement. We look forward to working with you.

#### OPENING STATEMENT OF SENATOR VOINOVICH

Good afternoon, and thank you, Chairman Akaka. It is a pleasure to be here today to review the qualifications of Mr. John Berry to be Director of the Office of Personnel Management. Mr. Berry, I applaud your continued commitment to public service, and look forward to hearing your plans for ensuring OPM and the Federal Government as a whole manages its most important asset—its workforce.

My own experience as County Auditor, County Commissioner, Mayor, and Governor has taught me that, of all the things in which government can invest, resources dedicated to human capital bring the greatest return.

Our nation is grappling with significant challenges—from the foreclosure crisis to record levels of unemployment. At the same time, our deficit continues to grow. Federal agencies are struggling to hire the workforce needed to meet current and future challenges, including responsibly allocating the almost \$790 billion in stimulus funds and processing the backlog of 767,000 Social Security disability claims. At the same time, agencies must prepare for the retirement of many experienced workers to ensure their knowledge is not lost with their departure from federal service.

The only way the Federal Government will succeed in accomplishing its many missions is if we improve our ability to recruit and retain a world class workforce and then recognize their daily contributions to improving government performance.

Mr. Berry, you seek this nomination at a critical time in OPM's history. Federal agencies are not fully engaged in strategic human capital planning. Key agencies remain at the bottom of the Best Places to Work rankings. Federal annuitants have been waiting for a modern retirement processing system since 1984. Individuals in need of access to classified information are forced to rely on antiquated systems. Job announcements make a poor impression on those who want to make a difference. As OPM's role continues to evolve, its workforce must be structured to tackle these

challenges. In addition, OPM's human resource products must offer better value to agency customers.

Mr. Berry, I look forward to hearing how you will lead OPM in tackling these challenges. If confirmed, I would ask you to report to the subcommittee in 90 days with your short, near, and long-term priorities; so we can assist you in meeting them on behalf of our nation's public servants and the people they serve.

Thank you, Mr. Chairman.

Senator AKAKA. Thank you very much. I was going to interrupt him to say that I regard Senator Voinovich as a champion of human capital and so I am fortunate to be working with him on this and look forward to doing that.

I understand we have less than 5 minutes left in a vote, so this Committee will be in recess for a few minutes.

[Recess.]

Senator AKAKA. Thank you very much for being so patient. This hearing will come to order.

Mr. Berry has filed responses to a biographical and financial questionnaire, answered pre-hearing questions submitted by the Committee, and had his financial statements reviewed by the Office of Government Ethics. Without objection, this information will be made a part of the record, with the exception of the financial data, which is on file and available for public inspection at the Committee offices.

Before I left, I said that I would make an opening statement, but at this time, I will ask unanimous consent that my statement be included in the record.

[The prepared statement of Senator Akaka follows:]

#### PREPARED STATEMENT OF SENATOR AKAKA

Today, the Committee on Homeland Security and Governmental Affairs meets to consider the nomination of John Berry to be Director of the Office of Personnel Management (OPM).

Mr. Berry is a native of Washington, D.C. and a graduate of the University of Maryland and Syracuse University Maxwell School of Public Administration. Mr. Berry is a life-long public servant. He currently is the Director of the National Zoo, where he successfully shepherded a 20-year facilities master plan for the zoo, which the National Capital Planning Commission approved in November 2008. He has worked in a variety of posts in the Smithsonian Institution, the Department of the Interior, and the Department of the Treasury, in addition to serving the people of Maryland while working in the Montgomery County Government and the Maryland State Senate. Of course, Mr. Berry also served as Congressman Steny Hoyer's Legislative Director for 10 years.

The Federal Government and its workforce are under a tremendous amount of pressure. We are fighting two wars overseas and trying to guide the recovery of our struggling economy. People are looking to the Federal Government for strong, effective leadership from the most senior officials to the front-line employees. Having the right talent in the right jobs is more important now than ever. If confirmed as Director of OPM, you will be vital to confronting this challenge and helping agencies meet their workforce needs and their missions.

Since 2001, Strategic Human Capital Management has been included in the Government Accountability Office's (GAO) annual High Risk Series report. Furthermore, GAO considers strategic human capital management as a critical element in 18 of the 30 high risk areas. Successful human capital management requires real focus and bold leadership.

As you know, Senator Voinovich and I have worked very hard on this Subcommittee to address the human capital challenges in the Federal Government. We have provided agencies many flexibilities, which too often are going unused. We must do more to make the Federal Government the employer of choice. As more of the federal workforce becomes eligible for retirement, we must look to the next generation of federal workers. A wave of new employees with similar aspirations, but different career expectations, is ready to take on the call to service.

One way to do this is for OPM to support competitive benefits for employees at all points in their careers. OPM must help agencies implement recruitment, hiring, and on-boarding processes that attract a highly-talented workforce. Another is to improve the federal hiring process. The current process is too confusing, too complicated, and too long. I believe the hiring process must be streamlined, timely, and informative to applicants while maintaining the merit system principles including Veterans' Preference. Agencies must be held accountable for modernizing their hiring processes so that qualified employees from a diverse range of backgrounds can be brought on board in a timely manner.

Managers must be held accountable for improving morale and productivity so that we are able to retain employees as well. I believe training can go a long way to support this goal. Earlier this week, I introduced the Federal Supervisor Training Act to provide initial and ongoing management training to all supervisors in the Federal Government. Agencies would be required to train supervisors on management and leadership skills, mentoring, prohibited personnel practices, and ways to foster an environment of fairness, respect, and equal opportunity based on the merit of employees' work.

As you know, last year also I introduced a bill that would have reestablished Labor-Management Partnerships. I understand that the Administration is considering reestablishing partnerships. I believe that this will go a long way toward rebuilding a collaborative relationship with employee unions and managers.

The need for stronger labor-management partnership has been evident in efforts at personnel and performance management reforms over the last few years. Congress granted broad personnel authorities to the Department of Defense and the Department of Homeland Security, but these Departments' efforts have been plagued by concerns about fairness, transparency, and accountability. Greater cooperation with federal employees could have improved the reform proposals and, importantly, employees' perceptions of them. With a new Administration, we have an opportunity for a strategic pause. I am pleased that OPM and DOD are planning a review of the National Security Personnel System, and I look forward to those results and recommendations. I hope that you will work closely with federal employee unions and other stakeholder groups as you consider personnel reforms.

In his address before Congress on February 24, 2009, President Obama called for a renewed spirit of national service for this and future generations. The federal workplace should be a model workplace, and every federal worker should feel proud to work for the Federal Government. Civil servants should feel a sense of honor, duty, and importance to the Nation, and carry that feeling with them into work every day. In turn, I believe employees will work better, be more productive, and inspire the confidence of the American people in the work of their government. In this new role you will not only be the steward of employees' rights, paychecks, and performance, you will also be responsible for inspiring the renewed spirit of service in the Federal Government and the next generation of federal employees. I look forward to working with you and hope that we can work together to address the challenges of the modern workforce.

Senator AKAKA. Our Committee rules require that all witnesses at nomination hearings give their testimony under oath. Mr. Berry, I ask you to please stand and raise your right hand.

Do you solemnly swear that the testimony you are about to give this Committee is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. BERRY. I do.

Senator AKAKA. Thank you. Let it be noted in the record that the witness answered in the affirmative.

Mr. Berry, I apologize for the delay. We had three votes instead of one. Please proceed with your statement.

**STATEMENT OF HON. M. JOHN BERRY<sup>1</sup> TO BE DIRECTOR,  
OFFICE OF PERSONNEL MANAGEMENT**

Mr. BERRY. Mr. Chairman and Senator Voinovich, thank you so much. I am deeply honored to be here with you today and appreciate you taking this time to hear from me.

My entire career has been one of public service, both as an employee and a manager. I was raised to appreciate the importance of service and the opportunity for good that it affords. My father volunteered for the Marine Corps before Pearl Harbor and was in the 1st Marine Division at Guadalcanal. My Uncle Jack, for whom I am named, served as a Marine fighter pilot and lost his life in battle in the Pacific. My mother worked full time as an x-ray technician, but also served with the Census Bureau in her later years.

It was the highest honor of my life when President Obama called to ask me to serve his Administration in this critically important position. I only wish my parents had lived to see this day, as it was their firm belief in the power of education, their love of country, and their constant and enduring love for me, my sister, and my brother that made this day and opportunity possible.

Our country today faces many challenges. I believe that the reason our Nation has not only faced, but overcome, every challenge in our history is because during every one of those times, men and women of goodwill, keen minds, and strong hearts have always stepped forward to aid their Nation through service, both in government and in our armed forces.

The civil service today carries forward that proud American tradition. Whether it is defending our homeland against attack, restoring confidence in our financial systems and administering an historic stimulus effort, ensuring adequate healthcare for our veterans and fellow citizens, or searching for cures to the diseases that plague us, we are fortunate to have the best and the brightest to rely upon.

It is our people who are our most important tool in facing any challenge, and we forget that at our peril. I pledge to this Committee that if I am confirmed, I will, to the best of my abilities, work my heart out on behalf of the men and women of our civil service, both active and retired, and defend the merit system with the same rigor as Teddy Roosevelt.

Just as he established a firm foundation for the success of the civil service in the 20th Century, we must today bring the same vigor to guarantee a civil service ready for the challenges of the 21st Century. The pressures and demands on OPM are great, nearly as serious as those of its predecessor, the Civil Service Commission, which it successfully met in the 1930s and 1940s.

I believe OPM and its talented employees are ready to rise to these new challenges once again. We face a new reality. In the next decade, there will be a significant increase in the percentage of Federal employees eligible to retire. We need to consider and craft creative approaches that will allow us to engage the skills and experience of our own retirees and the Nation's aging population.

At the same time, we must balance our response to this trend with training, mentoring, and providing opportunities for pro-

---

<sup>1</sup>The prepared statement of Mr. Berry appears in the Appendix on page 27.

motion for the new generation entering and advancing through our workforce. The youth of today may not envision staying with one employer for the entirety of their careers.

We need to balance and mix flexible benefit approaches attractive to younger entrants to the workforce with our existing more traditional model to appeal to the broadest possible range of workers. We need to reach out and attract, as I have said, the best and the brightest from all backgrounds and walks of life and recognize that in our fast changing world, we must constantly develop job skills through training.

We must commit to training our managers as well to enable them to face the many complex challenges that confront us today. We need to expect the best from every worker, and we must ensure effective approaches to encouraging, evaluating, and rewarding superior performance as well as correcting shortfalls. In exchange, we need to provide competitive pay and benefits, healthy model workplace environments, and sensitivity to employees' responsibility to their families and loved ones.

Finally, we need to honor those who have served their country well, both in the armed services and in the civil service, by ensuring their dignity during their retirement. It is my opinion that as the Nation's largest employer, we should be its model employer. We should seek to adopt the best practices for every piece of our human resource operation.

One of the first things I would seek to do if confirmed would be to convene a good cross section of practitioners and thinkers from across the government involving the private sector, the non-profit world, academia, unions and managers who can help us define what are the current best practices in use today across the Nation.

I look forward to learning from them what has worked well and what has failed, and I look forward to working with you and your staff to build a consensus for what might be possible in advancing our government toward the title of model employer.

I ask for your support, both now and if confirmed, in the years ahead, as we seek to maintain the finest civil service of the world.

Thank you, and I am prepared to answer any questions that you might have.

Senator AKAKA. Thank you very much, Mr. Berry. I will begin with the standard questions that this Committee asks of all nominees. First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. BERRY. Nothing that I am aware of, sir.

Senator AKAKA. 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. BERRY. Not that I am aware of, sir.

Senator AKAKA. And finally, 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. BERRY. I do.

Senator AKAKA. Thank you very much. Mr. Berry, I should tell you, much of what you mentioned in your statement sounds like

what Senator Voinovich and I have talked about in the past, and of course, we look forward to working with you to implement those ideas.

There are many challenges facing human capital management in the Federal Government, including addressing staffing shortages in critical occupations, modernizing Federal benefits, fixing the broken hiring process, and a variety of other issues. If confirmed, what will be your top priorities?

Mr. BERRY. I think, Mr. Chairman, just to expand a little bit, when I say that I would like the Federal Government to be the best employer, the model employer for the country, I sort of shortened my statement. I hope, with your indulgence, the whole statement would be included in the record.

I think of that as in each category of our human resource management functions, so if you break that into the traditional functions that you think of—recruitment, hiring, retention, pay and benefits, appraisal systems, discipline systems, retirement, labor management relations—in each of those we ought to be following the best practices.

We need to put in place what works, and I believe that in many instances, the Federal Government may already be using the model practice. We may be the model employer in a number of those areas, but in other areas, there is no question but that we have to do better. I know that you and Senator Voinovich have been leaders in examining each of these processes and have put in place many great improvements over the years.

Hiring is one function that is still broken, and despite all of our best efforts, the civil servants at OPM have worked very hard and tirelessly to put in place and to take advantage of new authorities which you have all given to the agency, but it still is an arduous process and often times we are losing good talent. We are not getting the best and the brightest because they have already been snatched away or hired to other positions.

And so I think the first task is to determine what are those best practices, but it is clear that hiring has to be the first and foremost objective in looking at those practices to make that work better.

Senator AKAKA. Thank you. You mentioned that you would like your statement to be included in the record. It will be included in the record.

Mr. BERRY. Thank you, sir.

Senator AKAKA. Mr. Berry, the Partnership for Public Service ranked OPM 25th out of the 30 large Federal agencies in its 2007 rankings of the best places to work in the Federal Government. Strategic management and effective leadership were two of OPM's lowest scores.

In addition to your government-wide human resources role as the head of OPM, you will be responsible for improving the management and human capital in your own agency. How do you plan to tackle this challenge?

Mr. BERRY. I think, Mr. Chairman, it is the approach—good management, I believe, works the same everywhere. It is the job of the director, of the leader of an agency, to lay out a very clear vision for what he or she expects the agency to be accomplishing. I look forward to doing that if I am confirmed.

You have heard essentially my vision today is I want us to be the best, the model employer for the country, and for the world, for that matter. Everything that I will do will flow from that vision. I believe that the strategic plan that would have to be put in place will have to identify clear and measurable steps, for which we will be accountable to the Congress and to the Committee and, quite frankly, to the employees, that we are making solid progress toward that ultimate vision of being the best, of identifying what are the short-term, medium-term, and longer-term steps that need to be taken to accomplish that, and then to go after them full bore with enthusiasm.

I am a believer that a leader has to be a person of good cheer. I think optimism is the nectar of progress, and if you believe in your vision and you empower your people to work toward that end and hold them accountable as you go—regularly checking in and saying how are we doing, are we making clear progress toward the goals that we would set up for how we are measuring ourselves to be the best, the model workforce—we will get clear, defined progress toward that goal, I would hope, over my tenure.

I think right now that is what the employees at OPM are desirous of. They want a clear vision. They know how important the mission is to protect the merit system. They know how critical it is to get the best and the brightest in. They are not defenders of red tape. They want to make this work right.

My commitment to you is I will run to keep up with them and make sure that together we accomplish the vision that I am promising you today.

Senator AKAKA. Thank you very much. Let me call on Senator Voinovich for his questions to you.

Senator VOINOVICH. I would like to follow-up a little bit on what Senator Akaka was talking about. The issue is how would you go about management and employee satisfaction? Are there best practices or agencies that you would visit that have best practices to find out what they are doing? I get the impression that you are going to go in, kind of look it over, and then do it yourself. Are you familiar with Linda Springer's plans?

Mr. BERRY. Absolutely, Senator. First, if I conveyed that I would do it myself, I did not mean to do such. A leader is a member of a team and can only go as far as the team will take him. Leadership is a two-way street. You need to lay out a vision, but then you need to listen to your team on how to implement that vision.

I think Director Springer's strategic plan was a good one for her period, and it has essentially come to its end. It needs to, as any strategic plan, be renegotiated, rebuilt in light of a new Administration and a new team. That needs to be done in concert with the other Federal human resource officers across the government.

I think the Chief Human Capital Officers (CHCO) panel that has been put in place is a wonderful model. Having the human resource managers and the human capital officers regularly get together would be my intention. I would be an active participant and the chair of the organization, convening it regularly, setting the agenda, listening to what the issues of the day for those folks are so that we can be responsive.

Senator VOINOVICH. What I am really interested in is the method that you would go about to review and improve OPM as the new boss. You have 5,800 working for you. What is your vision for the organization? What are you going to do in order to move OPM out of a place where the people do not feel that good about the management and where employee satisfaction is low?

Mr. BERRY. The first thing you do is get a team in place, and so I would be working with the President to appoint a team. I think he has made three outstanding appointments that I am aware of, so far that I have been consulted on in that process as well, and if I was confirmed—

Senator VOINOVICH. Are you happy with those people?

Mr. BERRY. Very much so, sir. I think each one of the three that have been announced would classify in anyone's standard as amongst the best and the brightest in their fields. They are outstanding professionals, and I would very much look forward to working with them.

Essentially, three out of the five have already been named, and my understanding is the remaining two are just on the cusp of being named in the near future and—

Senator VOINOVICH. Actually, there are six appointments to the OPM that are presidential appointments.

Mr. BERRY. Right. Two more are ready to go. The third one is teed up a little farther down the line. But I think the goal is first to get a team together. That is job one.

Job two is to meet with all of the employees, with the managers, with each of the units of OPM, get a firm understanding of what is going on in the agency and then have town hall meetings where you can meet with all of the employees of OPM to allow open access in terms of what is going on, what are the biggest issues of your concern, what do you think has been working well, what do you think needs more attention, and hear that, and allow accessibility.

I hope that is not going to be a once-a-month event. We will have regular meetings if I am confirmed in this position, but we will also have other forums to accept information from all employees. We will have Websites, which are essentially open suggestion boxes, and the ombudsman role in agencies where I have been has been a very effective one. If people feel there is something that they do not want to stand up and put their name on, but it is still important and needs attention, they can go to the ombudsman and bring it forward.

So my goal would be to throw that net within the agency, but you do not stop at the borders of the agency in my opinion. You have to throw that net throughout the Federal Government because OPM is a servant of the Federal Government. We are there to service the other agencies.

And we cannot just be meeting with the CHCO panel. We need to meet with the secretaries, the deputy secretaries. I need to go around and meet with each agency, not only at the senior levels, but also to give the same opportunities to the employees there. What do you feel works in your agency with human resources? What do you think needs attention?

I look forward to being able to do that. I think the Public Service Commission has done a great job with that. There is a lot of work that has been done between Grant Thornton and these committees, so you are not starting from scratch, but I think it is important for any new director, whomever you would put into this position, to be willing to go out and do the shoe leather, not to run this office from the office at 19th and E Street. The Director has to be omnipresent throughout the Federal Government, and it would be my intention to do that.

Senator VOINOVICH. I am concerned about that because the best way I think that you can help other agencies is to get your agency working the way it should in terms of management and in terms of employee satisfaction so that you can use your agency as a role model. If your agency is working like a top, then you are going to be able to service the rest of these other agencies in the Federal Government.

Mr. BERRY. Right.

Senator VOINOVICH. You are going to have to spend the next couple of years really shaping up OPM. If you can streamline the hiring process, just think of not only the change it will make in your agency, but what impact that will have on the rest of the other Federal agencies. The same thing with the retirement system. They tried to modernize the system, but we still keep the records for retirees with pieces of paper.

Senator AKAKA and I have introduced legislation to deal with people who want to work at the tail end of their career on a part-time basis where that will not interfere with the status of their annuities. In agencies where you are bringing on new people, it is a way to keep them in place and to get the benefit of their knowledge and experience.

But I really think that your main goal is to shape up OPM and be the No. 1 agency in terms of employee satisfaction. Go over to the Nuclear Regulatory Commission, which has the best record of them all, and say, what are you doing over here that makes a difference and can I copy some of the ideas that you have here in my agency?

I think your idea of meeting with your managers is a terrific idea. I lobbied this place for 18 years as a mayor and as a governor, and I saw one Administration after another and the new secretaries came in, the deputy secretaries, the assistant secretaries, and all the rest of them, and it always seemed that what they did is they ignored the A-team, the team that was there, the team that knew what was going on, and rarely did they get asked how they could improve their own performance.

That is the kind of stuff that I would like to see, and later on, if you get in the saddle, I think we will have you back maybe to visit with you about that.

Mr. BERRY. Great.

Senator VOINOVICH. Thank you.

Senator AKAKA. Thank you very much, Senator Voinovich. Mr. Berry, for more than a decade, departments and agencies have sought and been granted personnel authorities outside of a government-wide framework. Many have claimed that their unique missions require unique flexibilities.

This has created multiple personnel systems across the Federal Government, even within departments and agencies. Do you believe this is efficient and effective, or is a more comprehensive approach needed?

Mr. BERRY. Mr. Chairman, I think the Federal Government may be so big, I do not want to say that one size will fit all. I do not have any sacred cow, if you will, that I come into this with other than one principle and that is the merit principles, which basically say we should hire people who can do the job because they have the skills to do the job and we evaluate them by how well they do that job and nothing else.

And that has to be the pole star. That has to be our constant sort of evaluative tool. If we are protecting that, then I think we can look at flexibilities and differences, but at some point, we have to be careful, and I think you raised this in your question, sir.

The Federal Government does have to treat like employees similarly, and we cannot say to one employee over here who risked his life and is doing everything that he can to serve his country, to the employee over here who is doing the exact same thing on a day-by-day basis, well this person gets paid more than you do or this person is treated differently than you are.

We have to be careful about that. I think there can be periods where there may be flexibilities that we can do fairly and legally and meet our constitutional standards. But we do need to periodically step back and look at it and say, is it still accomplishing the objective we want? Is it protecting the merit system principle? And is it accomplishing the objective we want of having the best and the brightest?

And if it is, then we might be able to still allow those flexibilities. If not, I think we need to work together, the Congress and the Executive Branch, to look at these to ensure that there is fairness across the board and not duplication.

Sometimes things are started with a very good intent, and they might work for awhile, but then over time they fall into the same bad habits, if you will, that the old system had. If it is not working, whether it be an old system or a new system, we ought to change it, we ought to fix it. It ought to work, and it ought to be the best. That is the spirit that I would bring to this.

I do not come into this with any ideological bent of saying everything has to be the same or we have to protect everything that is in existence. We need to look at everything with fresh eyes and say, is it the best? Is this doing what we want it to do? And do that jointly. I know the passion that you and Senator Voinovich have brought to these issues over your entire careers; you have a wealth of experience and insights into these issues, and you hear from your constituents.

We need to incorporate that into the evaluation of these systems and make sure we are doing the right thing. So, bottom line, Senators, if you confirm me, I do not come into this with any pre-disposition, no prejudice, if you will, other than accomplishing the best and what works the best.

Senator AKAKA. Thank you. During the previous Administration, Mr. Berry, employee unions and other stakeholder groups often were not given an opportunity to have meaningful input into major

policy initiatives. Having a buy-in from key stakeholder groups goes a long way to ensuring the success of any initiative.

How do you plan to engage employee stakeholder groups and provide them an avenue to provide meaningful input into policy initiatives?

Mr. BERRY. Mr. Chairman, I think that is a great question, and I fully agree that we need to work in partnership. Labor and management need to work together to accomplish the same objective, which is the service of the American public and providing the best service to the American public.

I have been honored to work at the Treasury Department, the Interior Department, and at the Smithsonian Institution. At each of those places, to varying degrees, I have been able to improve and enhance that sense of partnership. It is not a hard thing to do if you are willing to have open and fair communication. That is one of the first tests.

My promise to both sides, both our management organizations and our labor organizations, is if I am confirmed in this position, there will not be surprises. I am not a shoot-from-the-hip kind of guy. I will bring them all in on a regular basis, and they will have open access to me. I believe our job is to also make sure that is going on in each of the agencies.

We need to create that spirit of partnership, and if you have that open and transparent sense of communication and trust, then great things can happen. At the Department of the Interior, when I got there, a lot of the things that you all have been talking about today were in existence. The political appointees were not appreciating the career civil servants. There was not good communication between the political and the career side.

There was not good communication between labor and management. And one of the things I did was to roll my sleeves up and say, this has to be different. We cannot work unless this is hand-in-glove. If you approach it with that spirit—by the time I left, I think anyone would tell you, whether they be on the labor side of the aisle or the management side of the aisle, that partnership worked. It worked well, and it produced great things for the employees.

The morale went up. The sense of pride in mission went up, and quite frankly, the effectiveness of the agency went up as a result as well.

So it is essential that we do well. If you give me this job, I will work hard at making sure that happens both within OPM and throughout the government.

Senator AKAKA. Thank you very much for that. Just to go back to what Senator Voinovich was expressing here, if you can do all of this within your agency and make it work, then we can use it in other places as well.

Let me call on Senator Voinovich for further questions.

Senator VOINOVICH. As Chairman and now Ranking Member of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia since 1999, I have worked hard to enact flexibilities to ensure the Federal Government has the right people with the right knowledge and skills at the right place and at the right time. If you look at the screw ups

that have happened during the last number of years, it is basically because we have not had those people.

We provided flexibilities, and quite frankly, as I mentioned earlier, agencies have not used them. It is discouraging that they are available and they are not being used. That is where OPM should be out there talking to folks about why agencies are not using these flexibilities.

Others, such as the Nuclear Regulatory Commission and the National Aeronautics and Space Administration (NASA), have received unique authority outside of Title 5, and it is interesting that they remain at the top of the best places to work rankings.

What I would like to know is, what are your views on whether government-wide recruitment, retention, and relocation incentives should be continued, perhaps enhanced, or whether individual Executive Branch agencies should be authorized to establish their own personnel systems?

Mr. BERRY. Senator, I think those are incredibly powerful tools and you and the Chairman and members in the House have been forward thinking in establishing them. The Federal Government needs to utilize them.

You cannot get the best and the brightest unless you have those tools to compete, and you have provided them. We need to make them effective. We need to make sure that agencies understand that they have them and utilize them fully because otherwise you cannot be competitive.

Relocation benefits is a classic case. I have worked in situations where before that authority existed, when the Federal Government could not offer that, we would regularly lose people because it costs \$10,000 to \$20,000 to move your family from the Midwest or from the West Coast to the East, or vice versa, and people cannot pay that out of their own pockets, especially when you look at the economy today. So as an employer, we have to take advantage of those flexibilities, and we have to make them work.

I look forward to working with you. I am a big supporter of do not lose tools in the tool belt, and you have been kind enough to give them. If they are about to expire, I hope you will help us to extend them.

Senator VOINOVICH. The security clearance process has been on the high-risk list since 1990. As much as we have tried to change that, we have not been successful, have we Senator Akaka?

And there was a major undertaking by the four or five agencies involved, including OPM.

Are you at all familiar with the work that they have done?

Mr. BERRY. Senator, I think a great deal of that is classified, and so I have not been able to access it in preparing for this hearing. I can tell you as someone who has held five security clearances in his government service, the highest being Code Word, above Top Secret, when I was at the Treasury Department, there are major problems with it, and there are duplications.

For example, in my own case, Sister Hilarian was my first grade teacher. After that was verified in 1985, I am not sure why Sister Hilarian has to be re-approached every time as if she has never been talked to before. So I can just tell you, my experience with it is it seems to be duplicative. Now I recognize we have to move

with extreme caution in this area. The Defense Department, the National Counterterrorism Center, and the Homeland Security Department—we will have to work in deep concert with them because this is too important to mess up.

You cannot screw this up. But at the same time, there have to be great efficiencies that can be achieved here, and I would look forward, if I was confirmed in the job, to working with all of those agencies to try to make it more efficient.

Senator VOINOVICH. Well at this stage of the game, the Department of Defense, the Office of Management and Budget, the Office of the Director of National Intelligence, the Office of the Assistant to the President for National Security Affairs, and OPM have developed plans to improve the timeliness and effectiveness of the security clearance process.

They have set goals for 2009, and obviously you have not had a chance to familiarize yourself with the details, but I would like you to do that, and I would like to find out whether or not you support those plans and those goals.

Mr. BERRY. Yes, sir.

Senator VOINOVICH. OPM and the Army have worked to demonstrate electronic receipt of personnel security investigation results from OPM. I would hope that you would continue to work with the agencies to expand that technology.

People are not aware of this, but the backlog of security clearances, particularly with private contractors, is costing us a lot of money.

Mr. BERRY. It is huge. And it, quite frankly, is a vulnerability to the country, Senator, because if we do not have the right people in these jobs and the job is vacant because of the time delay, it could be creating a serious vulnerability in leaving ourselves open to something that we do not want to happen.

So it needs to be faster. It needs to be more efficient, and my pledge to you would be that I recognize this is a long-standing issue. I know the attention that has been brought to this. A lot of people have worked on it. If you give me the job, I will add my skills to this and see if I can help bring improvements forward for you.

Senator VOINOVICH. I make one suggestion to you. Get a hold of the Government Accountability Office (GAO) because they are the ones that do the rating that informs the high-risk list. Find out what is causing them heartburn. I will not be around, but I would love to know that this is not still on the high-risk list. If you could knock that off the list, that is a big gold star.

Mr. BERRY. Sir, I will work very hard on that. It is critical for the safety of the country and for our citizens, and so I would devote the attention and time and energy to this to see if we could bring that gold star home.

Senator VOINOVICH. Great.

Senator AKAKA. Thank you very much, Senator Voinovich. Let me ask my final questions here, Mr. Berry. I think we agree that we need to make the Federal Government—and this is what Senator Voinovich and I have talked about—the employee of choice for the best talent in America, and you have mentioned that too in your statements.

According to a recent report from the Partnership for Public Service, government and public service are the most popular industries for undergraduate students. As the economy continues to struggle, the stability of government service becomes even more attractive. It is important for agencies to seize the opportunity to bring in top notch talent, especially to meet the pressing need to manage and oversee economic recovery spending.

How do you plan to help agencies quickly hire highly qualified employees to meet current needs and to ensure that the Federal Government fulfills your vision of being the Nation's model employer over the longer term?

Mr. BERRY. Mr. Chairman, I think, thankfully, OPM has already been hard at work on one of those. I think there are two critical positions, if you will, classifications that are essential to the success of the stimulus effort. The first is contracting officers. If we do not have good contracting officers, there is an awful lot of money that is going to be spent out there, and it will be spent poorly.

We need to ensure it is going to be spent well. We have to have professionals doing that job, and we need them fast. And this is one where OPM has awarded direct hire authority to agencies. We need to look at what else we can do, and that is one where I think you all have looked at retirement flexibilities.

Maybe we might be able to bring back some of these folks who have specific skills in this set for limited terms to help in these situations. So we need to do everything we can to get good, sound expertise into procurement positions as fast as we can.

The second most important one, and it is critical, it is a great opportunity for us. My experience in both the public sector and in the non-profit sector is during tough times when agency budgets decline, the first thing that happens in the non-profit world is education positions get cut.

In the public sector, the first thing that gets cut are human resource professionals. They always believe, and they believe it erroneously, that we are not going to be hiring people, or not as many, so we do not need as many people in our shop right now. So they whittle that down.

Well then something comes along where you have to hire people fast and now you have a skeleton crew, and they are expected to preserve the merit principles and hire the best and the brightest, but to do the workload that is 5, 10, 100 times greater than what was expected of them when those cuts were originally made, and we need to rebuild that human resource function in the agencies.

So my hope, if I am given this job, is that OPM can take advantage of this opportunity and develop a short list. In other words, short circuit the process. Create a pool of human resource professionals that they have already vetted, that they have done the talent search on, that they have allowed competitive examination and application on so that you can say to agencies, look, Secretary of Commerce, here is a pool. If you need a human resource officer, you can meet the folks in this pool. If you like them, hire them on the spot. You do not need to do anything more.

Keep interviewing them until you find somebody you like and hire them and get them to work the next day. I think if we can do that with human resource professional jobs in this situation, we

may be able to rebuild some of the damage that has been done throughout the government in our human resource function right now and put in place the people that we are going to need to rely on for all of these other areas that we have been talking about today.

I think those are just two opportunities, two very critical, important opportunities, and as we find out through the process that there are others we need to address, we are going to have to jump in with that same approach. But kind of like, Senator, you were saying, make your own agency work. I think look homeward angle is a good practice.

In this case, maybe we cannot fix everything, but let us say we fix two, and if we got those two to work well and work right, then we can use that as a model to move on to the next one and the third one and the fourth one and keep going and just hopefully keep moving forward, forward, forward. That is the spirit which I will try to bring.

Senator AKAKA. Mr. Berry, one of OPM's many roles is to help veterans—

Mr. BERRY. Yes, sir.

Senator AKAKA [continuing]. Return to the workforce and find Federal employment and understand how veterans' preference works. OPM has a website that serves as a resource, but I am concerned that OPM is not doing enough. How would you ensure that agencies use veterans' preference properly and help veterans seeking Federal employment?

Mr. BERRY. Mr. Chairman, there is no more serious responsibility of the Director of OPM. Our men and women who put themselves in harm's way to protect our freedoms deserve the absolute best service when they return. I will be a passionate defender of veterans' preference. It is a wonderful program. It has been in place since the Civil War, and it has been an effective tool to help us reengage people who come back from serving their country and putting themselves in harm's way.

I believe we cannot just stop with the point system. We fail if that is all we do, is give them the points. We have to give them the training. We have to give them the accommodation. Many of these people are disabled. We need to put in place and make simple, for the agencies, the technologies and the abilities to employ these folks, and that can be done very centrally.

One of the things I did at the Department of the Interior that I was most proud of was we created one center for disability technologies that any bureau of the Department of the Interior could go and use, and if someone came in and said look, we have someone who has a sight impairment or we have someone who needs a special tool to do their job, it was that agency's job to work to find the solution. The Defense Department does a super job at this, and they would work with Defense, but sometimes in the government, we do not have the solution.

We would go to the private sector to find the solution, and that person's job was to find it no matter what and make it work. And then that tool was there that allowed us to actually bring the person who really was not disabled. My experience is, disability is a terrible term. They are differently abled. They often times have

greater skills and greater senses to offer to us if we can just give them the tools to succeed.

So I think we let our veterans down when we stop the process at the point system. We need to make it a full reengagement process, and we need to work not only within OPM, but within all the Federal Government to give full access to technologies, to tools, and to retraining so that we can get the best out of their services, and they can continue to serve their country in a civil capacity.

Senator AKAKA. This is my final question. I know you will be doing a lot of studying and learning to get up to speed on all of the details of Federal personnel policy and the workings of OPM, and I am confident in your ability to do so. As you approach these new topics and issues, what will be your guiding principles in making policy decisions?

Mr. BERRY. Mr. Chairman, that is an easy answer for me and it is what is the right way, what is the best way? My experience has been if you put those two questions first and foremost all the time, you will always end up further ahead than you otherwise would. I grew up in a house where, as I mentioned in my statement, my mom and dad were both Republicans. My brother is a Republican, and my sister and I are Democrats.

We used to have very interesting dinner conversations, but you could not grow up in our household and not recognize that nobody, no party, no person has a lock on the truth. You get through that by being fair and open and communicating with people and striving to find what is the right way, what is the best way.

And so through my experience, I think you have seen this, sir, over the 25 years in which I have been very pleased and honored to work with you from many different angles and capacities, that is how I approach every challenge. I do not look at what is—just because we have been doing it that way for 50 years.

People wherever I have worked will tell you, the first question out of my mouth is always, wait a minute, what is the right way, what is the best way, and let us not rest until we find it. We may have to compromise along the way. It may be a bridge too far today, but we can at least be working toward it. That is the spirit that I would bring to this, sir, if you honor me by confirming me.

Senator AKAKA. Thank you so much for your responses to my questions. Senator Voinovich.

Senator VOINOVICH. We had a chance to talk about this when you were in the office. I have been very interested in performance management, and I notice that the President has made a big deal out of the fact that he is interested in performance.

One of the ways you improve performance is by performance evaluation and letting your folks know whether they are doing a good job or not doing a good job, but more important than that, folding them into the management and setting some goals for them in terms of how the various parts of your agency are operating so they really fully understand the role that they are playing.

There are three areas where we made some progress. One is the Senior Executive Service where we went to pay-for-performance. We also extended it to some of the technical folks at the agencies. I would really like you to look at that because in some areas it has been really successful. In other areas, it has not been as good as

it should be. I attribute that to the fact that maybe they did not do the training that they needed to do for folks.

The other area that we worked on was the Transportation Security Administration (TSA). As I mentioned to you, I know there is going to be an effort made to change the TSA system. I would like you to publicly tell me whether or not you are willing to objectively look at that system before you would recommend any changes in it?

Mr. BERRY. Absolutely, Senator. I can make you that promise right here on the record, not only in that case, but in all of the issues we have talked about today. I do not come into this with any answer in my head right off the top. I need to approach these gradually. I need to learn.

I need to meet with all of the relevant parties and agencies, understand fully the complexities that are involved in these issues, and see if we can find consensus and common ground as to, again, what is the right way, what is the best way, and work together not only with people within the Executive Branch, but within the Legislative Branch, with you and your staffs, in determining those issues.

Senator VOINOVICH. There will definitely be a move to take TSA and put it under Title 5. We have had it from the beginning. I have worked with former TSA Administrator Kip Hawley on several enhancements to the system, and I would really like you to look at that.

I also think it is important that you find out about the employee satisfaction with the system. There are always people that are unhappy with it. You say you are going to look at it objectively; I think that is really important.

The other area is the more than 200,000 civilian employees in the Defense Department that are part of a pay-for-performance system. The information that I have received back is that it has been quite successful, although I will say that I am going to be visiting installations in Columbus and Dayton, Ohio, to again touch base with the folks there to see how they feel about it and so forth.

I just think that from my experience in government from a lot of places, including as mayor and governor, this has really made a difference in terms of our people and their job and their job satisfaction.

I have talked with Senator Akaka. We have not introduced the bill yet, but again, we are working on legislation to improve performance evaluation in all of the Federal departments, and it does not necessarily have to be done with pay. One place you ought to look is the General Services Administration (GSA). The man who ran that agency was Steve Perry; he worked for me when I was governor. He was head of administrative services.

Mr. Perry went over there, went to work, and really put a good performance evaluation system in place. The interesting thing is that if you look at some of the ratings in some agencies that people get, it is like 98 percent. It is a perfunctory kind of thing. What happens, I think, under that kind of system is that if it is just perfunctory, then people just figure, hey, it does not matter. You will get around and you will see agencies where some of your best hit-

ters are people who would like to be recognized for the job that they are doing.

One of the problems I think we have in government, and I have talked to one person after another who have left the Federal service, is they say, I go to work for an agency, I work my butt off, and I do not get recognized for it, and others just kind of come in and do their thing.

Do you understand what I am saying?

Mr. BERRY. Absolutely.

Senator VOINOVICH. It is really not good.

I really would like to have you spend some time in that area because I know you are going to be under pressure to abolish the system. But to me, it is something that is important for the future of our country.

One of the things Senator Akaka and I did was a little simple thing like enhancing leave time for mid-career professionals entering the government. Employees are interested in knowing, if I come to work for an agency, is it going to be that much different than the kind of environment that I experienced in the private sector?

Mr. BERRY. Senator, you have hit on many points there, and if I could just comment on a couple. We have to expect the best, and we have to figure out ways to deliver it. Appraisal systems are one of the toughest things.

I think it goes to human nature, whether you are a parent or in whatever capacity, no one wants to be the deliverer and bearer of bad news. Parents are slow to discipline their kids often because they are afraid, oh, how are they going to take it? How is this going to impact them?

Managers are just the same, and consequently they put it off. Often times we put people in management jobs or they are promoted up over time. One day they come in, we say OK, you are a manager, and we give them absolutely no training. And here is this person who is thrown into this complex environment of Equal Employment Opportunity (EEO) that is extremely complicated, appraisal systems that they are not given any training on whatsoever, no matter how important it is.

And they are expected to manage. And so consequently, they fall back to what is traditional human nature, which is, try to make everybody happy. In appraisal systems, you cannot make everybody happy. My experience in the Federal Government is 99.5 percent of the employees are top notch, outstanding. But just as in the private sector, there are problem employees, and if somebody is not doing their job, if they are not performing up to the standard, it is demoralizing to everybody to see that, and it has to be dealt with.

They have to be addressed, and we have to do that through fair appraisal systems so that if people are not doing the job and they are not meeting those core responsibilities, they should be removed, and we need to be clear about that. We need to expect the best. We need to ensure the American people that we are getting the best.

We have to figure out how to do that in a way that recognizes that core human right, which is considered sort of like a human flaw, if you will, that we are afraid to tell people when they are

doing the wrong thing or they are heading in the wrong direction. We need to let our managers know, in fact, you are helping that person.

There are people who I have had to do that with, where I have had to say, look, you are on the wrong road and if you cannot get on the right road, you had better be updating your resume, it has gotten to be that serious, and I will work with you on this, but you need to know, I am taking this seriously now and I am watching.

Twice people have come back to me in later years and said, thank you. Your doing that focused me. I did not realize I should have been doing these things. It is a manager's responsibility to bring those out, and in fact, people will welcome it.

It will make us achieve that goal of expecting the best. It is a tough one, and I do not know of anybody who has nailed it. So it is one of the things I look forward to in doing this, with the Defense Department, TSA, and other agencies. I do not come into this with any predetermined belief or any commitment to anybody on these issues. I will come into them with a fair mind and look.

And if it is working and it is right, then we ought to ask, can we translate that? Can we transfer that? Can we expand on that? If we cannot, and if it is not working, then let us fix it and let us figure out what will work.

But it is a tough one, and appraisals are tough. It has to be done. We have to figure out a way to do this and do it fairly so that it is not misused or abused; I am not defending that. But people need to know that their performance standards are set, they are agreed on with management, they are held accountable to them, and they are regularly checked and evaluated on that.

And that should be not just for employees in the Defense Department and TSA. It needs to be for every employee in the Federal Government. And we need to make that work and work well because that is the only way we are going to be able to guarantee to the public that they are getting the best.

Senator VOINOVICH. If you can do that in your shop, you will be able to lead by example.

Mr. BERRY. I will do my best, sir, if you give me the job.

Senator VOINOVICH. I thank you.

Senator AKAKA. Thank you very much, Senator Voinovich. Mr. Berry, there are no further questions at this time. There may be additional questions for the record, which we will submit to you in writing.

The hearing record will remain open until the close of business tomorrow for Members of this Committee to submit additional statements or questions. I know you are anxious for your nomination to move forward. It is my hope that the Committee will vote on your nomination in the very near future and that it will be considered expeditiously by the full Senate.

So with that, thank you very much for your patience, and for your family being here, and the extended family as well. This hearing is adjourned.

Mr. BERRY. Thank you, Mr. Chairman.

[Whereupon, at 4:29 p.m., the Committee was adjourned.]



## A P P E N D I X

---

### PREPARED STATEMENT OF SENATOR LIEBERMAN

I am pleased our Committee has the opportunity today to welcome M. John Berry, nominated to be Director of the Office of Personnel Management. Mr. Berry has spent most of his career managing people and programs in the Federal Government, and he appears to be well qualified to serve in the position to which he has been nominated.

Having come from a family dedicated to public service—with a father and uncle who fought in World War II and a mother who worked for the Census Bureau—Mr. Berry learned from an early age about the dedication, intelligence, and commitment of those who make a career in service.

Mr. Berry has a record of success on federal employee issues from the policy, management, and employee perspectives. He started his federal career as the Legislative Director for Rep. Steny Hoyer, handling major legislative initiatives on the federal workforce. He served as the Deputy Assistant Secretary of Law Enforcement for the Department of Treasury. Then at the Department of the Interior, Mr. Berry served as the Assistant Secretary for Policy, Management and Budget. For the past four years, he has been Director of the Smithsonian Institution's National Zoological Park. In these positions, Mr. Berry received hands-on experience managing tens of thousands of employees in a wide range of occupations and circumstances. He has overseen major capital projects and launched several innovative initiatives for training and overseeing the work of employees and managers and to improve work life conditions at the workplace.

Throughout his career, Mr. Berry has worked successfully to improve employee morale and workplace productivity. He helped design the landmark legislation governing the structure of the pay system for federal employees and created an agency university for employee and manager training. And he has always worked to ensure an open line of communication between management and employees.

As head of OPM, Mr. Berry would be responsible not only for the 4,800 employees under his direct supervision. He would set the human capital agenda for the entire federal workforce at a critical time, as we work to restore confidence in government, create the next generation of leaders as senior employees retire, and hire and retain a talented and dedicated workforce. Mr. Berry will also face looming human capital challenges. Many in the federal workforce are aging and nearing retirement. At the same time, many job-seekers complain about the tedious process of finding and applying for federal jobs, as well as the length of time it takes to get through the hiring process.

The Federal Government has long been a leader in areas such as flextime, maternity and paternity leave and anti-discrimination rules. Despite this, employees often do not take advantage of existing policies, as a 2008 Government Accountability Report pointed out. I am pleased that Mr. Berry has said he would address these issues to help make the Federal Government an attractive option for job-seekers and to keep it an attractive option for current employees.

Once again, I would like to offer my congratulations to Mr. Berry on his nomination, commend him on his record at the highest levels of government, and thank him for his agreement to take on these new responsibilities and challenges at the Office of Personnel Management.

---

## PREPARED STATEMENT OF SENATOR BARBARA A. MIKULSKI

I strongly recommend John Berry for the Director of the Office of Personnel Management (OPM). John has been an extraordinary Federal employee for nearly 20 years serving as a manager from day one.

I first met John when he was Legislative Director for now House Majority Leader Steny Hoyer. Back in those days, John handled Federal employee issues and was the lead staff on the Federal Employees Pay Comparability Act. From the Maryland Congressional Delegation, John moved to the Executive Branch serving in various management positions at the Smithsonian Institute and the U.S. Departments of Treasury and Interior.

As the Senator from Maryland, I represent 130,000 Federal employees: from Nobel Prize winners at NIH to the Coast Guard who are protecting Calvert Cliffs' nuclear plant. Federal employees are on the front lines working hard every day. They guard our borders and protect Americans at home: our Nation, our communities, and our way of life. Whether it is a claims processor at Social Security making sure seniors get the benefits they have earned, a weather forecaster at NOAA giving farmers the information they need to feed America, or an administrative assistant at the Department of Defense supporting our military, Federal employees are dedicated and duty driven. And I know John will lead them well.

There is no doubt that John has the resume for this job. But what makes him the best candidate is John's positive and enthusiastic attitude. This is something those of you that do not know John cannot glean from his resume.

John has my full support and confidence. He will bring new ideas, energy and expertise to OPM. Thank you for your thoughtful consideration of his nomination.

**Statement of M. John Berry**

before the

Committee on Homeland Security and Governmental Affairs

United States Senate

on

Nomination to be Director of the Office of Personnel Management

March 26, 2009

Good Morning Mr. Chairman and Members of the Committee and thank you for this opportunity to appear before you. I am deeply honored to be before you today to seek your support for my nomination to be Director of the Office of Personnel Management.

My entire career has been one of public service, both as an employee and a manager. I was raised to appreciate the importance of service and the opportunity for good that it affords. My father volunteered for the Marine Corps before Pearl Harbor and was in the First Marine Division at Guadalcanal. My uncle, Jack, for whom I am named, served as a Marine fighter pilot and lost his life in battle in the Pacific. My mother worked full time as an X-ray technician, but also served with the Census Bureau in her later years.

I fondly recall how every Sunday, my parents would bring our family down to the Jefferson Memorial for the Marine Band concerts, and while passing the grand Federal office buildings along the District's broad avenues, our father would point up at those buildings and exclaim: "The people who work there serve our country." Thankfully, they still do today.

It was the highest honor of my life when President Obama called to ask me to serve in his Administration in this critically important position. I only wish my parents had lived to see this day, as it was their firm belief in the power of education, their love of country, and their constant and enduring love for me and my sister and brother, that made this day and opportunity possible.

Our country faces many challenges today. I believe the reason the Nation has not only faced, but overcome every challenge in our history, is because during every one of those times, men and women of good will, keen minds and strong hearts have always stepped forward to aid their Nation through service, both in Government and in our Armed Forces.

The Civil Service of today carries forward that proud American tradition. Whether it is defending our homeland against attack, restoring confidence in our financial systems and administering an historic economic stimulus effort, ensuring adequate health care for our veterans and fellow citizens or searching for cures to the diseases which plague us – we are fortunate to have our best and our brightest to rely upon. It is our people who are our most important tool in facing any challenge, and we forget that at our peril. I believe people are not merely a part of the equation, like capital or technology. They ARE the equation.

The Office of Personnel Management exists to serve those men and women and to make sure they have what they need to succeed. It is grounded in accepted truths, which this Congress firmly established in law in 1883, and we refer to today as the Merit principles. In short, they mean we will hire and maintain people based solely on their ability to do the job well, without pollution of any other extraneous and irrelevant characteristics or considerations. Teddy Roosevelt was one of the earliest Commissioners appointed to defend this new approach to Government employment, and he had to fight the prevailing approach of partisan patronage that was the rule of the day to allow the fragile new seedling of a Merit-based system to take root.

I pledge to this Committee that, if I am confirmed, I will, to the best of my abilities, work my heart out on behalf of the men and women of our Civil Service, both active and retired, and defend the Merit system with the same rigor as Roosevelt. Just as he established a firm foundation for the success of the Civil Service in the 20<sup>th</sup> Century, we must today bring the same vigor to guarantee a Civil Service ready for the challenges of the 21<sup>st</sup> Century.

Our workforce and human resource management system does not operate in a vacuum. It is connected and intertwined with every one of the President's priorities for economic recovery, energy, transportation, education and health care. The pressures and demands on OPM are great, nearly as serious as those its predecessor—the Civil

Service Commission, successfully met in the 1930s and 1940s. I believe OPM and its talented employees are ready to rise to these new challenges once again.

We face a new reality. In the next decade, there will be a significant increase in the percentage of those eligible to retire. We need to consider and craft creative approaches that will allow us to engage the skills and experience of our own retirees and the Nation's aging population. At the same time, we must balance our response to this trend with training, mentoring, and providing opportunities for promotion for the new generation entering and advancing through our workforce.

The youth of today may not envision staying with one employer for the entirety of their careers. We need to balance and mix flexible benefit approaches attractive to younger entrants to the workforce with our existing more traditional, tenure-like model, to appeal to the broadest possible range of workers. We need to reach out and attract the best and brightest from all backgrounds and walks of life, and recognize that, in our fast changing world, we must constantly develop job skills through training. We must also commit to training for managers to enable them to face the many complex challenges that confront them.

We need to expect the best from each and every worker, and must ensure fair and effective approaches to encouraging, evaluating, and rewarding superior performance and correcting shortfalls. In exchange, we need to provide competitive pay and benefits, healthy model workplace environments, and sensitivity to employees' responsibilities to family and loved ones. Finally, we need to honor those who have served their country well by ensuring their dignity during their retirement.

It is my opinion that, as the Nation's largest employer, we should be its "Model Employer." We should seek to adopt the best practices for every piece of our human resource operation: recruitment, hiring, retention, work life and work place, pay and benefits, performance management and appraisal, discipline and removal, labor - management relations, and retirement.

My parents were Republicans, and my siblings are split between parties, and so our dinner table was a place of constant searching, discussion, and argument. I learned from those early days that no one party or person has a lock on truth, and that we

need to continually search and be open to good ideas and to always consider what is the right thing to do.

One of the first things I would seek to do, if confirmed, would be to convene a good cross section of practitioners and thinkers from across the Government, the private sector, non-profit world, academia, unions and managers who can help us define "What are the current best practices in use across the Nation?" I look forward to learning from them what has worked well and what has failed. And I look forward to working with you and your staff to build a consensus for what might be possible in advancing our Government towards the title of "Model Employer."

When I look at the Seal of the Office of Personnel Management, I am very pleased to see the Pole star, which symbolizes constancy. The Pole Star for OPM has always been and must remain, the preservation of our Merit-based approach in staffing the important offices of our Government and public service. Its four points represent for me the task before us. If we are to successfully face the challenges before us, OPM must Hire the best, Serve the best, Expect the best, and Honor the best. If we succeed, our challenges will melt to reveal opportunities, that I pray help lead us forward to ever brighter days.

I ask for your support, both now, and if confirmed, in the years ahead, as we seek to maintain the finest Civil Service in the world.

Thank you and I am prepared to answer any questions that you might have.

**BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES****A. BIOGRAPHICAL INFORMATION**

1. **Name:** (Include any former names used.)  
Morrell John Berry
2. **Position to which nominated:**  
Director, Office of Personnel Management
3. **Date of nomination:**
4. **Address:** (List current place of residence and office addresses.)  
  
**REDACTED**
5. **Date and place of birth:**  
February 10, 1959  
Montgomery County, Maryland
6. **Marital status:** (Include maiden name of wife or husband's name.)  
Single; partner of 12 years, Curtis Yee
7. **Names and ages of children:**
8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.  
  
Masters of Public Administration, Syracuse University 1981  
B.A., Government and Politics, University of Maryland 1980  
High School Diploma, Good Counsel, 1977
9. **Employment record:** List all jobs held since college, and any relevant or significant jobs held prior to that time, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)  
  
Director, Smithsonian National Zoological Park 2005-present  
Director, National Fish and Wildlife Foundation 2000-2005  
Assistant Secretary, Policy, Management and Budget, Department of Interior 1997-2000

Director, Government Relations and Senior Policy Advisor, Smithsonian Institution  
1995-1997  
Deputy Assistant Secretary, Law Enforcement, Department of the Treasury 1994-1995  
Legislative Director, Rep. Steny Hoyer 1985-1994  
Maryland State Senate Finance Committee Staff Director 1984-85  
Montgomery County Government, Management Intern, State Affairs and CAO Office  
1982-1984

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.

None

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.

None

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

Cosmos Club, 2006-present  
Accokeek Foundation, Board of Directors 1995-1997

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.
- (b) List all memberships and offices held in and services rendered to any political party or election committee during the last 10 years.
- (c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more during the past 5 years.

Contributions to President Obama \$1000 primary cycle; \$2,300 general cycle  
Hillary Clinton \$2300 primary cycle  
DCCC \$500 annual contribution  
Rep Tammy Baldwin \$500  
Steny Hoyer \$1000 annual contribution for Bull Roast  
John Kerry \$4000, primary and general

Rep Chris Van Hollen \$750  
 Sen Ben Cardin \$500  
 Rep Jim Kolbe \$250  
 Human Rights Campaign \$100-250 annual

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.

Herbert H. Lehman Fellowship, State of New York  
 Summa Cum Laude, University of Maryland, 1980 and Government and Politics Award

15. **Published writings:** Provide the Committee with two copies of any books, articles, reports, or other published materials which you have written.

16. **Speeches:**

- (a) Provide the Committee with two 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. Provide copies of any testimony to Congress, or to any other legislative or administrative body.

None

- (b) Provide a list of all speeches and testimony you have delivered in the past 10 years, except for those the text of which you are providing to the Committee. Please provide a short description of the speech or testimony, its date of delivery, and the audience to whom you delivered it.

Testimony regularly given to Interior Subcommittee on Appropriations from 1997-2000

Expert testimony on conservation issues given primarily before House Natural Resources Committee 1997-present.

17. **Selection:**

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

I have been a long time Federal Employee who has been both an employee and manager. I have solid familiarity with all issues and challenges affecting the Agency and am well known in the community of professionals responsible for Federal Employee and Retiree issues.

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

During my service with Rep. Steny Hoyer, I was primarily responsible for covering Federal Employee and Retiree issues. During that time, I worked closely with Director Constance Newman and her team to negotiate the Federal Employee Locality Pay system which remains in use today. I have a solid record of visionary leadership and problem solving, working carefully with all involved parties and in a bi-partisan fashion. I deeply value my 25 year record of service and hold my integrity dear. I am honored to be nominated and considered for leadership of this important Federal agency, and if confirmed, will work to the best of my abilities to make the Federal Civil Service the model employer for the country, recruiting, retaining and honoring the best for their service and expecting the best of them on behalf of the country.

#### B. 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?  
Yes
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, or to start employment with any other entity?  
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?  
It is my intention to do so.
6. Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis? If so, please explain.  
No

**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.

None that I am aware of.

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 or execution of law or public policy, other than while in a federal government capacity.

None that I am aware of.

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.

Two court actions have been directly related to my position as Assistant Secretary, PMB at Interior. First, I was included as a named plaintiff in the Cobell Indian Trust law suit, recently removed with no penalty or finding.

Second, one of my decisions dealing with an Administrative Law Judge was challenged before EEO and the Federal Court. My actions were taken pursuant to findings and recommendations made to me by the Inspector General, and all my decisions and actions were upheld in both cases.

2. 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.

Nothing other than described above in Number 1.

- 4. For responses to question 3, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.
- 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

E. FINANCIAL DATA **REDACTED**

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.)

AFFIDAVIT

Morrell John Berry 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.

Morrell John Berry

Subscribed and sworn before me this 10 day of MARCH, 20 09

Nicole Bossard-Mack  
Notary Public

NICOLE BOSSARD-MACK  
Notary Public, District of Columbia  
My Commission Expires October 15, 2010

**U.S. Senate Committee on Homeland Security and  
Governmental Affairs  
Pre-hearing Questionnaire for the  
Nomination of M. John Berry to be  
Director, Office of Personnel Management**

**I. Nomination Process and Conflicts of Interest**

1. Why do you believe the President nominated you to serve as Director of the Office of Personnel Management (OPM)?

I have been a long-time Federal employee with experience both as an employee and a manager. I have solid familiarity with issues, challenges, and opportunities affecting Federal employees and managers, as well as a good understanding of the challenges faced by the Office of Personnel Management (OPM). I am also well known by the community of professionals responsible for Federal employee and retiree issues and have a record of integrity and fairness. Finally, I have a solid track record of visionary leadership and creative problem solving, with experience of working carefully with all involved parties in a bi-partisan fashion.

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

The President called me to join his Administration and asked that I do my best to uphold the integrity of the Civil Service, the Merit System, and attract the best and the brightest to government service. I promised him that I would do my best in this regard.

3. What specific background and experience affirmatively qualify you to be Director of OPM?

During my service with Representative Steny Hoyer (D-MD), I was primarily responsible for Federal employee and retiree issues. During that time, I worked closely with OPM Director Constance Newman and her team to negotiate the Federal employee locality pay system which remains in use today.

As Deputy Assistant Secretary and Acting Assistant Secretary for Law Enforcement at the Treasury Department, I was responsible for managing 40 percent of Federal law enforcement, with direct line supervision over the Customs Service; the Secret Service; the Bureau of Alcohol, Tobacco, and Firearms; IRS Criminal Investigation; and the Federal Law Enforcement Training Center.

As Assistant Secretary for Policy, Management and Budget at the Department of the Interior (DOI), I was both Chief Financial Officer and Chief Operating Officer for a Department of 66,000 employees. I successfully launched a Presidential Initiative called

Page 1 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

“Lands Legacy,” created the DOI University for employee and manager training, improved employee morale and enhanced worklife conditions, launched a multi-year complete renovation of the headquarters building, chaired the Executive Resources Board governing Senior Executive Service (SES) hires and performance evaluations, rehabilitated Interior’s budgetary position, and improved diversity in every Bureau of the Department.

Finally, I have experience in the non-profit sector, managing a major Foundation which has handled over \$200 million of Federal grants and the Smithsonian Institution’s National Zoo, which is a small “city” with over 800 staff (Federal, Friends of the National Zoo, Security and Facilities), 2,000 animals, nearly 3 million annual visitors, and over \$100 million capital renovation currently under construction – all on time and on budget.

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

The only commitments that I have made are those I made to the President, discussed above.

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.

I am not currently aware of any. However, should any issue arise that might create an appearance of or an actual conflict of interest, I will immediately notify the designated Agency Ethics Official, and if necessary, recuse or disqualify myself from such action.

## **II. Role and Responsibilities of the Director of OPM**

6. What do you anticipate will be your greatest challenges as OPM Director, if confirmed, and what will be your top priorities?

If confirmed, my first immediate challenge is to put in place a management team that can help me administer the responsibilities of the Office. Second will be to clearly lay out a vision for the Agency, which will govern the organization, its strategic plan and performance plans.

Third will be to assist departments and agencies with filling critical vacancies necessary for the successful implementation of the President’s Recovery Plan and rebuild a good partnership approach between employees and management. Fourth will be to take stock of the many automation efforts currently underway, prioritizing and focusing their

Page 2 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

deliverables. I am sure that there will be many more that I will learn about if I have the privilege of being confirmed.

My top priority will be to make the Federal Government the Model Employer for the Nation, utilizing the best practices for recruitment, hiring, employee work/life, retention, training, accountability, pay and benefits, performance appraisal, recognition, removal, employee-management relations, and retirement.

7. How do you plan to communicate with OPM staff on efforts to address challenges facing OPM?

I firmly believe successful government agencies – and private companies, for that matter – have at least this one common trait...they promote good communications between employees at all levels. I am mindful that communication is a two-way street; information must travel from the top-down and from the bottom-up for the message to be heard and to be clearly understood.

I would meet regularly with my senior management team to discuss issues and challenges facing the agency, and I would expect our discussions, as they apply to fulfilling our mission, to be communicated back to supervisors and employees. I would actively welcome feedback and input, either solicited or unsolicited, from everyone at OPM. To help obtain this input, I would hold regular town hall meetings from headquarters. I am aware the agency has invested in webcasting technology and that in-house talent is in place to webcast these and other meetings, as necessary, to the more than 4,000 field employees – out of 5,800 total employees – who would be able to tune in live from their desktop computers. For those who were unable to view live, the meetings would be available for viewing on the agency's Intranet at their convenience. These meetings would give employees in Washington and elsewhere the opportunity to ask questions they believe are important to me and other participants.

And finally, I would continue the agency's internal newsletter – OPMomentum, which publishes solicited and unsolicited news items from agency employees from coast to coast who eagerly use it as a platform to share important business and personal news.

8. How do you view the various roles of OPM? For example, OPM not only develops and proposes broad human resource (HR) strategies for managing the federal workforce, but also administers and enforces certain specific HR policies and requirements, consults with and advises federal agencies on HR matters, and provides HR services to agencies, sometimes for a fee.
- a. How do you believe OPM should balance its roles as a strategist on HR, as an administrator and regulator, as a consultant, and as a fee-based service provider?

OPM is the Administration's chief advisor on human resources (HR) management issues. The employees of the Federal Government are the force that drives the results for the citizens of this Nation, and, without the employees with the right skills and abilities, agencies cannot accomplish their missions. Therefore, I need to stay focused on the goal of developing the right strategies to build and maintain the best workforce, which the American people deserve. With my commitment to that goal, I believe the remaining duties of the position of OPM Director become clear. I will need to work with agency officials to help them build their workforces since the Government's mission is carried out by individual agencies.

I look forward to building a strong partnership community among the Chief Human Capital Officers and our other partners across the Government – a partnership that enables us to speak openly and frankly with each other about our shared concerns on Federal human resources issues. Creating a culture of respect and trust will enable us to work toward common goals, even if there are points of disagreement.

I also will need to reach out to employees and to the groups that represent them and can help me identify policies and administer the benefits that will enhance the employees' workplace. Where statutory impediments to the delivery of first-rate human resources management exist, I will work with you to develop legislation to remove them. I will oversee the elimination of old or cumbersome regulations, and provide service within OPM's portfolio that will help the Federal Government build the workforce necessary to achieve its mission.

- b. Do you believe OPM may face any conflicts between or among any of these roles, and, if so, how might such conflicts be addressed?

Extreme care must always be used to ensure that all laws and regulations are applied and fairness and professionalism are exercised in fee-for-service programs.

9. In your most recent role as Director of the Smithsonian National Zoological Park, you have been responsible for overseeing a staff of approximately 240 people and overseeing both the 163-acre facility in Washington, DC and the 3,200 acre-facility in Virginia. You have also served in high managerial positions at the Departments of Interior and Treasury. If confirmed as the Director of OPM, you will be responsible for directly managing more than 4,800 employees at OPM as well as setting the human capital agenda, which will impact approximately 3 million federal employees throughout the 50 states and U.S. territories. As OPM Director you will be responsible for managing an organization that is more than ten times the size of your current employer, as well as overseeing the human capital system for the nation's largest employer.
- a. Generally, what specific background and experience do you bring to the various roles that you would assume as Director of OPM?

Please see Question 3, as I believe that fully answers this question.

Page 4 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

- b. What different challenges do you envision at OPM, as compared to those you have experienced at the National Zoological Park and in your other managerial positions?

From the answer to question 2, you can clearly see that my management experience is far broader than the Zoo alone. At Interior, for example, I was responsible for managing 66,000 employees, with a presence in all fifty states, including the territories.

Each Agency is different, with a unique culture and history, and I plan to carefully learn and integrate myself within the new Agency, if confirmed. At the same time, I believe my service at the National Zoo has sharpened my skills and appreciation for the amazing complexity Federal employees face each day. The Zoo manages over 2,000 animals and operates within a larger Smithsonian family, just as OPM resides within a larger Executive branch. It must negotiate with the Institution, OMB, and The Hill to secure annual resources, just as OPM must do. We have nearly 3 million visitors a year who evaluate us every day but Christmas, and a community that is keenly aware of our every step both on-line and in traditional media. I have learned that the key is respectful communication and outreach, with full transparency.

- c. What changes do you believe would be required in your management style to effectively assume and fulfill your new responsibilities?

I believe that good management skills are the same anywhere and are fully transferable. My personal approach for a large organization is the following: Be a person of strong integrity and character, who is accessible and transparent. Be clear in what you want to accomplish and encourage and support people as they creatively seek to implement that vision and the agency's mission. Treat everyone with respect, encourage teamwork, let people know when they are succeeding and/or failing, and celebrate success. Finally, be of good cheer - ALWAYS.

10. OPM plays a central role in helping agencies improve and even transform their human capital management functions, in order to better achieve agency mission and program goals. What specific background and experience can you describe where you have designed, led, or implemented human capital reforms?

My Executive branch experience has given me the opportunity to address a number of personnel management challenges. For example, as I noted in my response to question 3, while at the Department of the Interior, I created the DOI University to improve access to training for employees and managers. That complemented the program of training and development for Senior Executives and mid-level managers that was provided under my leadership. I also established a health unit for employees that was instrumental in improving the working conditions and health prospects of individuals employed by the Department. Additionally, I created a disability technical assistance program within the Department.

Page 5 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

While those examples are actions taken in an agency-wide context, during my tenure in the Legislative branch, I was deeply involved in the development of the legislation that became the Federal Employees Pay Comparability Act of 1990, affecting General Schedule employees throughout the Government and world-wide.

11. As OPM Director, you will be responsible for looking out for the interests of the federal workforce. However, at times you may find that this can be a difficult task within any administration, given the often competing interests within the Executive branch alone. Please describe the general approach that you would apply for tackling strategic human capital problems in an environment of competing interests.

I understand that, if I am confirmed as Director OPM, I will face many challenges in balancing conflicting interests during a time when budgets are constrained and some sought-after employee benefits maybe unaffordable. But I also know from my previous positions that Federal employees value the work they do and believe the missions of their agencies are important. Federal employees can get the job done well and under adverse conditions. Therefore, I believe that if I can focus all parties -- employees, managers, agencies, and unions -- on our common goal of accomplishing the Government's work efficiently and effectively, we can reach a consensus on how best to care for and deploy our most valuable asset, which is our employees, in a way that is beneficial to all.

12. As the Director of OPM, how will you work with the Office of Management and Budget (OMB) with respect to human capital issues? What do you believe are the respective roles of both OPM and OMB with respect to human capital issues?

By law, the Director of OPM serves as the President's chief advisor on Federal human resources management issues. The ultimate goal of OPM's work is to support all agencies in managing their people effectively so results are achieved for the American people. Since the work of Government is accomplished by its workforce, OPM must have clear leadership in efforts to strengthen agency performance through strategic human resources management. OPM and OMB should have a strong partnership and work hand in glove in linking human resources to broader management issues.

13. How do you see your role as the primary human resources executive working with the chief performance officer, the newly created position at OMB?

I anticipate that my relationship with the Deputy Director for Management of the Office of Management and Budget will be one of cooperation and mutual respect. I will be as helpful as possible on issues of mutual interest, while maintaining independence on those issues which are entrusted to OPM as a matter of law.

14. Do you believe that OPM has the appropriate resources to fulfill its various roles and functions in helping agencies develop and meet their human capital goals?

Page 6 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

I fully support the President's Fiscal Year 2009 budget as it was presented to Congress. I believe there are financial challenges at OPM. These include the project most recently called Retire EZ. This effort has had great difficulty. It will take time to reassess the plans for Retire EZ.

If confirmed, I look forward to making my own assessment as to the needs of the agency specifically and human resources programs throughout the Government.

### **III. Policy Questions**

#### *Human Capital Management*

15. What role should OPM play in assisting agencies with successful human capital management activities? Do you believe that OPM has the appropriate resources to help individual agencies develop and meet their human capital goals?

OPM should play a central role in guiding and assisting agencies in human resource issues. If confirmed, I will review work that been accomplished, report that have been written and involve stakeholders to assessing the appropriate role for OPM and the appropriate resources needed to meet the agency's needs.

16. The Government Accountability Office (GAO) designated strategic human capital management as a high-risk area in its January 2009 High Risk Update (GAO-09-271). Furthermore, federal agencies continue to face fundamental capacity challenges with new demands, limited resources, and a retirement wave within the immediate future. Given the many challenges in this area, what do you believe are the most important things that should be done to improve human capital management in the federal government, and what would you do, as Director, to further this goal?

Good Government starts with good people. There needs to be a Government of talented people who can respond effectively to highly complex issues. We need to build and sustain agency leaders who enable and value Federal employees' contribution to mission. We need to hire and retain a workforce, and give them the right policies and programs to get the job done. To this end, I would assume the role of recruiter-in-chief and promote the President's call to Federal service. As the President has said, we need to all work to make the Government cool again. We need a 21<sup>st</sup> century mindset to create new systems for a workforce ready to meet future challenges. Under my leadership, I will focus OPM's efforts on workforce improvement and assistance to agencies seeking to create high performing workplaces. An investment in HR competencies can help agencies attract and retain high-quality people to carry out the Government's national priorities.

17. The GAO January 2009 report also identified four specific areas within strategic human capital management that need improvement. These include leadership within agencies to address human capital and related organizational transformation issues, strategic human capital planning, acquiring, developing, and retaining talent, and a results-oriented

Page 7 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

organizational culture. Do you agree with these findings and recommendations, and, to the extent that you do, how would you plan to improve human capital management in these four areas?

If confirmed, I will review GAO's recommendations, meet with stakeholders and report back to the Committee on a plan to improve human resource management.

18. The Partnership for Public Service, along with Universum USA, recently released a report on what students want in an employer and how federal agencies can deliver. The report indicated that interest in government service is lower among groups government needs most, such as students with a technical/scientific background. As OPM Director, how would you improve the federal government's recruitment efforts for students and other applicants with technical and scientific skills?

In a recent survey that I saw, Google was the highest-rated employer among students, although the Federal Government was not far behind. As the Government's chief recruiter, I will strengthen student employment programs and coordinate with departments and agencies to expand employment opportunities for students, consistent with merit system principles, drawing fairly from all segments of society. I won't be happy until the Government is in the first place in this arena.

There is not a "one size fits all" approach to recruiting. In other words, the Government needs to think differently about how it hires. Recruitment is not a back-office function for HR to perform in isolation. Agency leaders and managers -- the folks who are on the front lines of our business -- are our best recruitment tool. Agency leaders need to be given the responsibility for corporate recruitment. We should also be using social networking technology to reach the next generation of workers. If we want to recruit and keep technical and scientific talent we have to speak their language and market the types of work environments they seek.

19. Performance metrics are essential for effective oversight and holding agencies accountable for results. What metrics do you feel are appropriate for gauging OPM's and agencies' human capital efforts?

I believe in metrics and if confirmed, I will engage employees, managers, labor and other stakeholders to develop appropriate measurements for effective oversight.

20. Some believe that developing indicators to measure our progress towards improving the federal civil service, and renewing them on a regular basis, will provide necessary information to help make important decisions, improve research, and increase public awareness about the state of government service in America.

Do you believe better data is needed to measure and assess the condition of the federal civil service? If so, how will you improve the availability and use of measures to determine the state of public service?

Page 8 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

I believe measures are critical to determining progress and if confirmed, I will review the measures that OPM uses to chart the state of human resources in the Government today. It is too soon to tell if “better” or “more” data is needed, but I will commit to improving on the work OPM is doing and continue to identify and highlight best practices.

21. In February 2009, GAO recommended the Director of OPM develop a systematic approach to share information broadly throughout the federal government on agency practices in order to recruit and retain mature, experienced workers, given that 46% of the federal workforce will be eligible for retirement by 2012 (GAO-09-206). What is your opinion of this recommendation and, how would you encourage federal agencies to recruit and retain older workers?

I have not seen this report, but I am keenly aware that the skills of eligible and retired employees can still be of great benefit to the nation and will seek ways in which the Government will continue to benefit from those skills.

22. The demographics of the nation’s workforce, and the workforce as a whole, are in flux. For the first time, four distinct generations will be in the workforce together, and each group possesses unique values, attitudes, and expectations. For example, the younger workforce appears to be more transient than in generations past. Given these differences among the generations within the workforce, how should the employer-employee relationship adapt to these changes in order to build an inclusive work environment that supports success?

I believe in creating work environments that get the best from every person. People’s work styles differ – and managers need to know how to create a work culture that celebrates diversity and focuses on mission. This requires using the range of tools available to us like telework and alternative work schedules, technology-based collaboration, and mentorship relationships that help bridge generational divides. We can find common ground in values such as Excellence, Unity, Integrity, Collaboration and Respect. But in order to engage the workforce we cannot focus on one generation alone, but must take all into consideration in order to achieve success now and in the future.

23. The federal acquisition workforce has been experiencing an increasing workload and complexity of responsibilities without adequate attention to its size, skills and knowledge, and succession planning. The 2008 National Defense Authorization Act (P.L. 110-181) created an Associate Administrator for Acquisition Workforce Programs at the Office of Federal Procurement Policy (OFPP) to develop a strategic human capital plan for the acquisition workforce of the Federal Government.
- a. What is your opinion about the present capacity and the need for improving the acquisition workforce within the federal government?

The acquisition community has certainly received a lot of attention regarding its capacity to meet mission requirements, and the need for improving the acquisition workforce. If confirmed, I will assess the success of programs now underway and, if necessary, will recommend additional enhancements.

- b. What should OPM's role be in the development of a strategic human capital plan for the acquisition workforce?

OPM's leadership role in Federal human capital puts us in a good position to serve as strategic partner to the acquisition community. OPM has been working closely with the Office of Federal Procurement Policy (OFPP) to develop strategic approaches to Federal acquisition workforce management. OPM also works with each agency to help interpret the results of their acquisition competency assessments, and to develop effective strategies to close competency gaps. If I am confirmed as Director of OPM, I am going to look for ways to capitalize on the successes this partnership has had and determine other places such strategies will be successful.

- c. How do you believe OPM should coordinate its efforts in human capital planning with the efforts of OFPP?

To the best of my knowledge, OPM is already coordinating its efforts with OFPP. It is a strong partnership that began last year and continues to grow through such efforts as joint workshops, outreach and community support.

24. The Fiscal Year 2008 National Defense Authorization Act (NDAA) established, by statute, a government-wide Contingency Contracting Corps that would be available for deployment in responding to disasters, natural and man-made, and contingency contracting both within and outside the United States. OFPP is charged with (1) establishing and administering the Corps, (2) establishing and paying for educational and training requirements, (3) clothing and equipping members, (4) submitting an annual report to Congress regarding the progress of these responsibilities of OMB/OFPP. Are you aware of this Corps? How do you see OPM's role in assisting OFPP and other federal agencies in staffing this Corps?

I am not aware of the Contingency Contracting Corps, or the role that OPM has played in assisting OFPP and other Federal agencies in staffing this Corps. However, I am more than willing to explore this further if I am confirmed. I am certain, given OPM's role in helping agencies build an effective workforce, that there is a way for OPM to assist with this important mission.

25. The FY2008 NDAA also requires the Director of OMB to submit a report regarding the implementation of the recommendations of the Acquisition Advisory Panel, in particular, the recommendations regarding acquisition panel workforce. Which of these recommendations do you agree with? Why or why not? How do you define the federal acquisition workforce?

Page 10 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

I am not familiar with this report or the recommendations of the Acquisition Advisory Panel as it relates to the acquisition workforce. Therefore, I cannot comment on their recommendations. Once I have had a chance to review both the requirements and the AAP's recommendations, I will be in a better position to define the Federal acquisition workforce.

26. Many federal employee and management groups have testified to the need for better management training in the federal government, and a number of bills have been introduced to address the deficit of management training in the federal government.
- a. What do you believe needs to be done to improve management training across the federal government? Do you believe that there should be a requirement for initial and ongoing training for managers in the federal government?

I wholeheartedly agree that managers are critical to the success of an agency and they should be provided the training they need to be good managers. A lot of research indicates employees leave organizations because of their first-line supervisors. Many different studies conducted in organizational performance and retention have linked supervisors and managers to workforce retention and performance. Requiring such training sends a very strong message regarding their critical roles and the need for supervisors and managers to be accountable for their actions. Such training also would be welcomed by Federal managers who are eager to improve their skills.

If I am confirmed, I will explore ways OPM can provide additional support to the ongoing development of managers that enhance employee engagement across the Federal Government, and ensure all necessary leadership competencies are included in agencies' human resources management strategies for development. I also will ensure that OPM develops its own guidance and tools to evaluate the impact of managerial training.

- b. What do you believe OPM can do to help promote and improve mentorship programs across the federal government?

I believe mentoring is critical and can happen in many ways—through formal programs and through day-to-day interaction with one's supervisors.

If I am confirmed, I will explore additional ways OPM could support agencies in integrating mentoring into their human capital management strategies. For example, we must prepare Federal workers to share their unique talents in some of the newer web-assisted mentoring environments, so employees engaging in mentorships can share their experiences with others. We must strive to ensure that all workers who are interested in mentoring opportunities are provided the right people and technology connections to stimulate individual growth and enhance their advancement and retention.

Page 11 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

I will explore ways that OPM can help foster the institutionalization of mentoring programs (formal and informal, spontaneous and planned) so that these programs become a part of an organization's culture and not a separate entity set apart from the other daily operations of the organization. To do this, we can continue to communicate best practices, establish communities of practice, promote interagency collaboration, and provide guidance on how agencies can create their own mentoring programs and sustain their own highly efficient and effective mentoring programs.

27. The President issued Executive Order (E.O.) 13434 on National Security Professional Development (NSPD) in May 2007, and issued a strategy and implementation plan pursuant to the Executive Order which establishes a roadmap for strengthening the national security workforce. The Project on National Security Reform and the Commission on the Prevention of WMD both issued reports in December 2008 highlighting the importance of building a modern national-security workforce by investing in training and education programs and by establishing joint duty programs. The Director of OPM along with OMB worked on this program.

- a. What is your assessment of E.O. 13434 and the successive strategy and implementation plan?

I have not reviewed E.O. 13434 and the strategy and implementation plan that followed. However, I firmly believe the Federal Government must always be prepared to defend the national security. If I am confirmed as Director of OPM, one of my primary responsibilities will be to ensure that strategies are available to recruit, hire, and retain the men and women who will protect this nation's security.

- b. What steps will you take as OPM Director to continue to strengthen the national security workforce?

If confirmed, I will reach out to the agencies involved in the national security mission to determine where they face challenges in recruiting and developing the workforce needed to carry out this critical mission and develop strategies to overcome those challenges.

28. What is your opinion of the current state of labor-management relations within the federal government, and what do you believe the Director of OPM can and should do to improve those relations?

My sense is there are places in the Federal Government where the labor-management relationship is healthy and productive, others where it is a daily struggle, and many that fall somewhere in between. I do believe agency management and labor organizations have a shared commitment to provide the best service possible to the American public. I believe positive labor-management relationships can do much to enhance and improve Government operations and employee working conditions. As Director of OPM, I would

Page 12 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

work with agencies and unions to foster greater communication, mutual trust, and understanding of each party's role and obligations. I believe these are essential elements of establishing and maintaining successful working relationships.

29. OPM's recent plans prepared under GPRA (Government Performance and Results Act of 1993) were intended to provide managers with a disciplined approach – developing a strategic plan, establishing annual goals, measuring performance, and reporting on the results – for improving performance and service quality, increasing customer satisfaction, and strengthening internal management. During your tenure, how would you reinforce accountability with your senior leadership for accomplishing OPM's performance goals? How would you cascade accountability throughout the organization?

I plan to reinforce performance and accountability not only at the executive level, but throughout the OPM organization. During the spring and summer of FY 2009, I'll oversee the development of OPM's FY 2010 – 2014 strategic plan. I'll make sure that the goals and strategies in the plan address the major personnel issues that will face the Federal government over the next several years. These goals and strategies will be outcome oriented and measurable. To support the implementation of our new strategic plan, I'll direct that each major program office and organizational element develop yearly operational plans that will include detailed actions and milestones to support the goals and objectives in our strategic plan. I'll hold senior leadership accountable to execute their operational plans and to cascade operational plan milestones into supervisor and employee performance plans so that every employee in OPM will have a direct link in their performance agreements to at least one strategic / operational goal. By doing this, employees at all levels of OPM will have a stake in the organization's overall success.

30. Under President Clinton's E.O. 12871, labor-management partnerships were established, which required, among other things, that agencies establish labor-management committees to create partnerships at appropriate levels, that a National Partnership Council be established to promote partnership efforts throughout the executive branch, and that agencies negotiate over matters as to which negotiation is permissible. E.O. 12871 was repealed during the Bush Administration. Based on your experience, what is your opinion of labor-management partnerships in the federal government?

I believe effective partnerships between labor and management can help ensure the Government's workforce has the tools and skills necessary to be successful. However, the best chance for creating an effective partnership is to allow the parties to determine how that relationship will work. I am looking forward to reaching out to representatives of labor organizations and agencies to get their ideas on how best to build the relationship.

#### *Hiring Process and Flexibilities*

Page 13 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

31. What are your views with respect to the current hiring process within the federal government, and how would you recommend that it be improved?

As a person with a long career in public service, I am committed to a hiring process that provides opportunities for the best qualified applicants from across our country and for our Nation's veterans according to the veterans' policies provided by law. Therefore, I am committed to strengthening the competitive process so that it draws on the strengths of our citizens. I have much to learn about some of the Federal Government's hiring practices. But I do know that, unless we design a process that recruits from a broad pool of applicants from diverse cultures, we will not be taking advantage of the great talent this Nation has to offer.

32. Research has consistently shown that "leadership" is one of the most critical factors in determining workforce effectiveness. Not only is leadership one of the most important contributing factors to organizational health, it is also one of the areas where our federal government most dramatically lags behind the private sector. Employees in the federal sector are twice as likely as their counterparts in private industry to report that their supervisors do not have the leadership and management skills needed to do their jobs effectively.

Making matters worse, the federal leadership ranks are facing a numbers crunch. Due in part to a hiring freeze in the 1990s, the number of mid-career and senior federal employees who will retire in the next several years will exceed the number of highly qualified candidates ready to replace them. In addition, studies suggest that agencies are not doing enough to identify, select, develop and evaluate supervisors. Most agencies are using just-in-time strategies to deal with leadership voids – filling vacancies among supervisors with the next-highest-level employee, regardless of managerial competence.

Yet, despite the critical role of leadership in determining workforce effectiveness, no single agency "owns" leadership development across government.

- a. In your opinion, what officer or entity should be responsible for developing and executing a government-wide strategy to ensure that the federal government is identifying and preparing its next generation of leaders?

For the reasons cited in your question, I agree that development of future leaders is critical, and I believe it needs to be addressed in a strategic, systematic way. If confirmed as the Director of OPM, I will champion leadership development in my role as chair of the Chief Human Capital Officers Council, and with the many stakeholders. I would encourage the various agencies working on the issue in a strategic way to share best practices and lessons learned. Finally, I would convene experts in the field of leadership development from the public, private, and not-for-profit sectors to give advice on ways to make leadership development in the Federal Government the best of any employer.

- b. What is your view on what OPM's role should be in leadership development in the federal government?

OPM's role in leadership development should be to champion and lead the development and implementation of innovative, flexible, merit-based policies and tools. OPM must excel in providing high-quality, timely, and cost-effective leadership development services.

33. The current economic challenges facing the federal government are considerable, and fiscal restraint will clearly be needed as part of the response to those challenges. Given this situation, how can the federal government also make the critical investments needed to attract, select, develop, motivate, and retain the highly qualified and productive workforce that the American people expect and deserve?

Even with the current economic challenges facing Federal agencies, including OPM, there are numerous things we can do as a community to attract, select, develop, motivate and retain a highly-qualified and productive workforce that do not require a substantial outlay of actual dollars. For example, mentoring is an inexpensive and rewarding way we can motivate and retain highly-qualified individuals. Setting aggressive, yet attainable, goals is another inexpensive way to ensure the workforce is productive and achieving the Federal Government's mission on behalf of the American people.

34. Many job-seekers complain about the tedious process of finding and applying for federal jobs, as well as the amount of time it takes to get through the hiring process. It is argued that some federal agencies continue to require the candidate to apply by submitting more information than is needed for an initial review of the applicant, including knowledge, skills, and abilities essays and official transcripts. Furthermore, applicants complain about the challenges in using the usajobs.com website, difficulties understanding the position descriptions, and the lack of regular or timely communication from agencies on the status of their application.

In 2008, GAO identified numerous factors that have contributed to problems in the federal government's hiring process, including unclear job vacancy announcements and time-consuming paperwork processes (GAO-08-762T). With many employers laying off highly-skilled professionals and a renewed attention to government service, this sentiment among job-seekers is likely to be exacerbated, and many qualified applicants may not even apply for federal jobs because of the process. Agencies will sometimes argue that the merit system principles, including veterans' preference, and the competitive process are the problem.

- a. What role do you believe OPM can play in any reform effort to the recruitment and hiring process?

OPM's role is to drive the reform efforts through legislation, regulations, measures and, most importantly, leadership. I believe there is a tremendous amount of talent

Page 15 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

within OPM that can be tapped to reform the recruitment and hiring process. OPM's work with the Federal Acquisition Institute and the Chief Human Capital Officers Council are two examples of where OPM's leadership and creativity have served the Federal workforce well. I will work to expand that role and the efforts to date.

- b. If confirmed, how do you plan to address these issues raised by job-seekers, applicants, and others?

I believe in the truth and power of the merit system principles. In America, we should hire people on the basis of one consideration and one consideration only – their qualifications. In addition, I share our Nation's value for those who have served in our defense. I strongly support veterans preference as currently enshrined in law and regulation.

I recognize that our best efforts still leave agencies frustrated. I believe, with a renewed commitment to streamlining the hiring process, we can find ways to receive only the necessary information from applicants and thus entice highly-qualified candidates to apply for Federal jobs. Working for the citizens of this country is an important job, and that alone will attract talented applicants. Our job is to make the job offer as quickly as possible.

It is incumbent upon us to constantly assess our hiring process. The Merit Systems Protection Board (MSPB) recently wrote that OPM's End-to-End Hiring Initiative is a step in the right direction in "fixing the hiring process." I would like to expand this effort, in partnership with the Chief Human Capital Officers Council, to tackle some of the underlying issues that keep the Federal Government from making real progress in fixing the hiring process. For example, workforce planning is crucial to our overall success. We must know what our mission requirements are, what skills we need, what skills we currently have on board, etc., if we are going to then devise the right recruiting strategy. "Hiring" is not just about accepting an application—it is also about knowing what skills you need and advertising properly to attract those skills. Moreover, the OPM End-to-End Roadmap addresses orientation, which is too often overlooked. Orientation is not a one-day event. It involves ongoing leadership coaching and mentoring, and especially during the first year, so that we can ensure we retain the employees we worked so hard to recruit and hire.

Basically, what I'd like to do is work with the agencies in a partnership to go after those issues that we know for a fact are at the heart of applicants' frustration. I would also like to do so with the clear understanding that we still have principles that are near and dear to us as the Federal Government—merit principles and veterans' preference.

- c. What do you believe is needed to reform the recruitment and hiring process at federal agencies while adhering to the merit system principles and the competitive process?

I think, if we look at this from the applicant's experience, we can make real progress in reforming the recruitment and hiring process. I will ask the tough questions inside and outside of OPM that get to the heart of why we are not communicating with applicants. If it is an IT system issue, then I will look for ways to change or develop an IT system that will solve the problem. If it is a business process or leadership issue, then OPM will lead the effort to effect change. Together with all stakeholders, though, we can make progressive reforms that are in the best interest of the American public and the Federal workforce.

35. Many political appointees come to their jobs as "first-timers," never having served in a political position before and never having worked in an environment with both political and career employees.

What will you do to ensure that your agency employees, particularly the political appointees, are well-oriented to the federal environment and trained to work effectively with career civil servants?

It is critical to the success of OPM that political and career staff works seamlessly. To that end, if confirmed, I will ensure that OPM's work is the product of career and political points of view and I will build a management team based on mutual trust and respect.

36. Over the past year, OPM has worked with the Chief Human Capital Officer Council to develop new hiring guidelines for federal agencies known as the *End to End Hiring Roadmap* initiative. The intent of the initiative is to address the timeliness, communication, and ease with which OPM is currently working to train agency human resource professionals on the five-part plan. What is your opinion of the guidelines in the Roadmap, and what steps do believe OPM should take to ensure that agencies follow desirable hiring practices?

If confirmed, I will look forward to studying this issue and working with the Congress and the Chief Human Capital Officers Council to address it. I happen to share MSPB's opinion that the guidelines in the End-to-End Hiring Roadmap are an excellent start to helping agencies see how the components of the hiring process are integrated. Clear steps, with aggressive timelines and measures, have been provided to the agencies. It is my understanding this is the first time the entire process was mapped out—from workforce planning through orientation. What it shows me is that folks at OPM do understand the importance and significance of the applicant experience and that, in order for the agencies to succeed, they must first understand the entire scope of the process. I'd like to explore with those who developed this Roadmap the next steps in driving these changes. If it takes legislative or regulatory changes, then I'd like to support those efforts. If it takes tighter accountability through metrics, then I'd like to partner with the agencies to make that happen. I think I can review what has been done to date, redesign what may need to be changed, and leverage the successful pieces of that initiative and,

Page 17 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

working with the Chief Human Capital Officers Council, drive real change in the hiring process.

37. In some areas, OPM has authority to require that agencies follow certain practices and desist from others, but generally OPM can encourage and cajole agencies to improve human capital practices but cannot force agencies to follow its recommendations.

- a. Do you believe OPM's authority should be expanded in this area?

I believe one of my primary responsibilities at OPM will be to identify ways to improve the management of Federal human resources and then lead agencies to adopt these practices. I am confident that I can gain their support for change by convincing them of the value of the changes. If, because of statutory constraints, I am unable to achieve the changes necessary, I look forward to working with the Committee to draft legislation that will enable better human resources management.

- b. More generally, do you believe OPM should be granted greater authority in certain areas to require that agencies follow better practices in addressing critical human capital issues?

Based on my knowledge to date, I believe the best way to bring about change is to champion practices that will be adopted based on their proven value. I believe agencies will be willing to follow OPM if it develops quality products and if we communicate to the agencies what is in it for them.

- c. How can OPM work with OMB to increase the likelihood of compliance?

I think I can bring about better adoption of first rate practices in the management of human resources through developing those practices cooperatively with agencies and OMB. If I am confirmed, I believe I can develop buy-in for those practices by demonstrating to agencies how using those practices will help them find and manage the talent they need to achieve success in their work, and I expect OMB will be a valued partner in driving to this goal.

38. As federal agencies implement provisions of the American Recovery and Reinvestment Act (ARRA), OPM must ensure that the agencies have, and are aware of, the necessary flexibilities and other tools so that they are able to hire qualified individuals in an expedited manner. What do you believe is OPM's role in assisting agencies to expedite the hiring process to meet the demands of effectively implementing the ARRA?

It is my understanding that OPM is working proactively with agencies looking for ways to streamline processes and be as responsive as possible. OPM is holding forums and inter-agency training sessions to share information on flexibilities and tools agencies can use to recruit the talent they need and hire them quickly. OPM has put information on its website specific to agencies' Recovery Act human capital issues. OPM is also meeting

Page 18 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

with agencies individually to address their specific needs. We will continue to look for way to improve the implementation of this legislation.

39. Under current law, most federal retirees who return to work for the federal government, find that their new salary is offset by the amount of their existing annuity, unless their agency is granted a waiver from OPM. In many cases, the offset of salary discourages individuals from seeking out new employment opportunities with the federal government, despite the fact that the individual may possess the necessary skills and institutional knowledge desired and often required by agencies for highly skilled, technical, hard-to-fill positions. Often these individuals are attracted to contractors where they can lend their same skill set, and work side-by-side with their former colleagues, but they do not have to receive less pay.

A few agencies, such as the Department of Defense (DoD) have been granted statutory exemptions, not requiring the OPM waivers, thus making it more attractive to return back to work at the agencies. There has been some confusion, however, among agencies and interested job applicants as to why some re-employed annuitants continue to find their salary fully offset, while others are allowed to receive a full salary and annuity, some working at agencies needing OPM waivers and some working for agencies not needing OPM waivers.

- a. What is your opinion of rehiring annuitants and what other flexibility mechanisms do you believe need to be in place in order for agencies to hire many people quickly while remaining competitive with the private sector?

Rehiring annuitants should be viewed as one of many tools agencies have to meet their mission needs. Hiring people quickly is important, but also just as important is hiring the right person for the right job. There is a balance that needs to be achieved when using the many authorities agencies have at their disposal. Rehiring annuitants is just one tool, not the entire answer.

- b. To what extent do you believe OPM should apply a uniform government-wide policy regarding the authorization to rehire annuitants without offsetting their salary, or to what extent would you support allowing each agency to make such human resources decisions independently?

As I noted earlier, it is critically important for us to find ways to engage the talents of persons of all generations. I would like to better understand how this authority is being used across the Government before I would make recommendations.

- c. More generally, do you believe that any changes are needed in current OPM practices or regulation regarding the rehiring of annuitants?

I am aware that OPM has proposed legislation that would provide an opportunity to rehire annuitants on a limited basis. As I just mentioned, I would like to take the time

Page 19 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

to review this legislation, along with OPM's current regulations and practices, and make an informed decision regarding any potential changes to law, regulation, or OPM policy.

- d. Do you believe that legislation providing additional authority would be desirable?

At this point, I'm not sure whether legislation providing additional authority is desirable. It may be that the current legislation is fine and that OPM needs to revise its regulations instead. Again, I'm not sure at this point, given my newness to this area.

*Workplace Flexibilities*

40. Over the past eight years, Congress has enacted a number of workforce flexibilities for agencies to use in the recruitment and retention of highly qualified applicants. Some believe that flexibilities such as category rating, student loan repayment programs, direct hire authority, and recruitment, retention and relocation bonuses are not used as often as they should be. However, many agencies continue to seek independent statutory authority partly because agencies do not know that the flexibilities are available for them to use or they do not know how to use them.
- a. What do you believe to be the value of workplace flexibilities such as these, and what is your opinion about whether agencies are using them enough?

Well-designed human resources flexibilities are essential in helping employers address workforce recruitment and retention difficulties. From the guidance and reports to Congress on OPM's website, flexibilities such as student loan repayments and retention incentives appear to be valuable compensation tools, and their use by Federal agencies appears to have grown over the last several years. I cannot comment on whether agencies are making sufficient use of such flexibilities. However, I would think that use of human resources flexibilities may be dependent on a number of factors, including mission requirements, the criticality of the recruitment or retention problem, and budget considerations.

- b. How will you help educate agencies on the availability of such flexibilities and how to use them?

While I have seen the information on OPM's website on human resources flexibilities, I am not familiar with the current range of OPM's educational activities. However, I believe it is important to make sure agencies understand how best to use the existing flexibilities to help meet their critical workforce challenges. Therefore, I plan to look for ways to improve OPM's outreach to agencies on how to maximize effective use of flexibilities through all the means available today, such as webcasts, video broadcasts, and increased information on the websites.

- c. Do you believe that there are additional workforce flexibilities needed to help agencies build a modern workforce?

I believe agencies need a wide range of flexibilities to recruit employees with the right mix of skills to achieve their missions. If the current workforce flexibilities do not provide sufficient authority to help agencies build a modern workforce, I will need to find out why the flexibilities are inadequate, gain an understanding of the improvements that may be needed, and then develop the flexibilities to meet those needs.

41. Agencies often come to Congress seeking permission to gain flexibility for hiring purposes when OPM could have granted a waiver for the same. This has been seen especially in agencies seeking direct hire authority.

- a. How do you believe OPM can work with agencies in being effective with the already established authorities?

I believe there is room for OPM to work with agencies to deal effectively with already established authorities. I think, in some cases, when agencies do not receive the answer they are looking for from OPM, they tend to seek their own legislation.

- b. Are there any concerns about whether there are inconsistent authorities caused by agencies seeking out their own carve-out exceptions to the current hiring provisions?

My concern with the approach some agencies take in seeking their own legislation is that we end up with inconsistent application across the Federal Government of important authorities such as direct hire. I'm also concerned that, when OPM is cut out of the discussions regarding legislation, often folks with little experience in human resources management are driving policies that at times are counterproductive. I would like to see a more collaborative approach to legislation when it comes to setting human resources policy across the Federal Government.

42. Flexible work arrangements referred to generally as "telework," have become an increasingly important component of the federal government's efforts to create continuity of operations plans (COOPs) and to develop modern approaches to effective human capital management. Additionally, telework allows employees and managers flexibility to create work arrangements that are accommodating, boost employee morale, and increase trust and communication between employees and managers. In 2007, the Oversight of Government Management Subcommittee held a hearing on telework opportunities within the federal government. At the hearing, experts testified to the benefits of expanding telework opportunities for federal employees.

- a. How do you plan to work with agencies in developing robust telework policies in their COOPs?

As an experienced Federal manager, I know the importance of having a solid continuity of operations plan (COOP), and I believe that telework capacity must be an integral part of an effective plan. Therefore, I would advance the work OPM already does to support agency telework programs, not only as necessary for COOP but also as one of an array of flexible work arrangements that are part of the Federal Government's human capital management toolbox. Although OPM is not the lead agency for COOP issues, I believe it should have a leadership role in advising agencies on integrating telework into their COOP planning. I know that OPM published the "[Guide to Telework in the Federal Government](#)," which includes specific information about emergency response and telework, including COOP and pandemic influenza.

- b. More generally, what do you believe are the advantages and disadvantages of telework within federal agencies?

When implemented effectively, telework generates a "win-win" outcome: providing work arrangements that support organizational effectiveness while enhancing employees' wellbeing. Telework can help agencies be ready for emergencies, it can reduce real estate costs, and it can help reduce our negative impact on the environment. Particularly in today's technology-driven environment, where service can often be delivered seamlessly from anywhere, the Federal Government is well-positioned to be an employer of choice for telework and other flexible work arrangements. By being an employer of choice, we help recruit and retain the right people, and by offering flexible arrangements we can help our employees get their work done. The key is to encourage growth of these flexible work arrangements while still ensuring that agencies have sufficient discretion to implement programs that fit their mission, culture, and workforce. As public servants, our primary goal is to deliver effective service to the American public. I want to help Federal agencies establish effectively designed telework programs that promote that goal.

- c. Do you support increasing telework opportunities in federal agencies, and, if so, how do you believe it can be accomplished?

I want to see an expansion of telework because I believe in the benefits we can derive from it. Telework is another way of getting work done, and as I've already mentioned, it is one of a wide array of flexible arrangements. But it should not be a goal in and of itself. In an environment of tight budgets and high levels of security concerns, we can move forward only if we are smart about our path. OPM can and should provide support and consultation to agencies, showcasing best practices,

giving feedback on policy, and advising on implementation. In the end, however, agencies need to determine their own goals for the program, based on the value it brings to their organizations and the desired outcomes.

*Compensation and Benefits*

43. Some have argued that the current General Schedule (GS) pay system is antiquated and that we need a market-based pay-for-performance system for our federal workforce. Others believe that the General Schedule is fundamentally sound, though it might be better implemented in some respects.

- a. What is your opinion about the General Schedule and what improvements do you think are needed?

The system has operated with little modification for more than 50 years, so it is not surprising that some feel that work level definitions are outdated or that the General Schedule pay structure should be more sensitive to the market. Before considering changes to the General Schedule system, I would like to hear more from interested stakeholders regarding the perceived problems with its implementation and operation, and, if confirmed, I will seek to do so.

- b. What guiding principles would you follow in any review and improvements of the General Schedule pay system and its implementation?

I want the Federal Government to be the model employer and to implement and achieve best practices, and that is the lens through which we will conduct our review.

44. In the legislation authorizing the creation of the National Security Personnel System (NSPS), Congress intended OPM to be a full partner in the development of the NSPS. However, section 9901.105 of the proposed regulations issued by DoD and OPM on February 14, 2005, state that OPM may review and comment on proposed DoD implementing issuances, but that in cases where the Director of OPM does not concur with the proposed action of DoD, the Department may implement it anyway. What recourse do you believe the Director of OPM should have in cases where OPM does not concur with the actions of DoD regarding NSPS?

If confirmed, I will work with the Department of Defense and the White House and all relevant agencies to ensure the adoption of best practices.

45. Certain agencies currently have the authority to waive a number of provisions in the government-wide civil service law, in the areas of pay and performance-management to create a human capital management system. Some have been successfully implemented, while others have failed.

- a. What has been your experience working with pay-for-performance personnel systems

Page 23 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

in government agencies, and what has been your experience with systems under which pay is less flexibly tied to performance? What conclusions have you drawn from these experiences?

I have managed employees under the General Schedule system and found that it has tools to reward performance, such as Quality Step Increases (QSIs). I have not had experience with other human resources systems having stronger performance-based pay components. If confirmed, I will be learning more about such systems, since OPM has made a commitment to participate with the Department of Defense in a review of the National Security Personnel System (NSPS).

- b. Do you believe that pay-for-performance systems can work without the use of quotas or forced distributions?

Yes.

- c. How do you plan to address concerns raised by employees and managers about the use of quotas and forced distributions?

Forced distributions are illegal. If confirmed, I will ensure that OPM enforces the law.

- d. Generally, what is your opinion about the desirability and feasibility of extending the use of pay-for-performance in the federal government?

It is my opinion that pay-for-performance already exists in major Federal pay systems, and that is important that we assess how well each system is accomplishing its goals. If confirmed, I will make such an assessment.

46. Since 1949, federal employees in the non-contiguous states and territories have received a non-foreign cost of living allowance (COLA) that is based on a cost of living comparison between the COLA area and Washington, DC. The allowance cannot exceed 25 percent of base pay, does not count toward retirement, and is not subject to federal taxes. When the Federal Employee Pay Comparability Act was enacted, the measure did not cover federal employees in these areas for purposes of locality pay. Since then, there has been a retirement inequity for Federal employees in the non-foreign areas and the federal employees in the 48 contiguous States. In May 2007, OPM submitted a draft legislative proposal to Congress that would transition employees out of COLA and into locality pay. The proposal offered a seven-year phase-in and an 85 percent COLA offset to help with the added taxes and retirement contributions. In May 2008, Senators Akaka, Stevens, Inouye, and Murkowski introduced the Non-Foreign Area Retirement Equity Assurance Act to phase-in locality pay and phase-out COLA over three years with a 65 percent offset with the understanding that federal employees take home pay should be protected. The measure was not enacted in the last Congress and was reintroduced on March 2, 2009 as S. 507 and H.R. 1266.

Page 24 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

- a. Do you support a transition from non-foreign COLA to locality pay?

If confirmed, I look forward to working with the Committee to shape a solution to this long-standing issue in a way that will merit the support of the Administration and the Congress.

- b. Do you agree with the other key elements of the pending legislative proposal? (Including: No employee's take-home pay should be reduced by the transition? A three-year phase-in of locality pay?)

I agree with the sense of Congress provisions in S. 507 and H.R. 1266 that it should be a goal that employee take-home pay should not be reduced because of the transition from non-foreign COLA to locality pay. I also agree with the three-year phase-in of locality pay as stipulated in the legislation as introduced. However, it is my understanding that neither bill contains a provision that an employee may opt out of any transition from COLA to locality pay.

- c. What level of commitment can you provide that OPM will help educated employees in the non-contiguous United States about the transition from non-foreign COLA to locality pay prior to or after enactment of S. 507 or H.R. 1266, including traveling to Hawaii, Alaska, and the Territories?

If confirmed, after achieving consensus on this issue, I pledge to fully educate employees on the provisions of the law.

*Federal Employee Health Benefits Program*

47. What changes, if any, do you envision for the Federal Employee Health Benefits Program (FEHBP)? What do you believe needs to be done to help reduce premiums without sacrificing access to quality care?

I understand as the Director of OPM, I will be responsible for overseeing the largest employer-sponsored health insurance program in the United States, covering approximately 8 million Federal employees, retirees, and their dependents. I think being a leader of this program during this time of national changes in health insurance will be one of the most exciting parts of my job. I believe OPM has a good track record of conducting tough negotiations with the private health plans to maintain comprehensive benefits and to restrain premium increases on behalf of the Government and Federal Employees Health Benefits (FEHB) Program enrollees. I will look for ways to improve benefit design that will lead to healthier and efficient outcomes.

The Government's contribution to FEHB premiums is established by law, but there is no Government contribution to the new Federal Employees Dental and Vision Insurance Program (FEDVIP). We plan to review these programs, within the context of the

Page 25 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

Administration's overall healthcare reform strategies, while ensuring that we are fiscally prudent in managing the Government's compensation and employee benefits costs.

Health care costs have continued to rise in the United States, including steadily increasing premiums for employer-sponsored health insurance. I understand the FEHB Program has not been immune to this trend, but that its rate changes have generally compared favorably to the cost of coverage industry-wide. In 2007 and 2008, overall average rate increases were about 2 percent or under. But, last year, overall rate increases were about 7 percent overall.

To control premium costs, OPM must continue to encourage market competition among carriers and promote consumer choice. I will also make sure that OPM encourages FEHB carriers to implement industry best practices to reduce healthcare costs, including increased offering of preventive care services and disease management programs. I think there is also an opportunity for the FEHB to lead the way in the implementation of health information technology. The more efficient sharing of information has great potential to reduce costs by eliminating duplicative tests and delivering information for more informed diagnosis. Under my direction, OPM will take necessary action to ensure that the FEHB Program continues to offer quality benefits programs at affordable premiums.

48. In 2003, Congress passed the Medicare Prescription Drug Improvement and Modernization Act, which provided a subsidy for employers who continue to pay the prescription drug benefits of their Medicare eligible employees and retirees. The federal government, as an employer, is eligible to apply for this subsidy like any other employer that provides its retirees with a certain level of prescription drug coverage. However, OPM has not requested the subsidy offered to employers under the Act and has prevented the Postal Service from requesting the subsidy. According to GAO testimony, "if OPM had applied for the subsidy and used it to offset premium growth, the subsidy would have lowered the 2006 premium growth by 2.6 percentage points from 6.4 percent to about 4 percent" (GAO-07-873T, pg. 10).
- a. What do you understand to be the reasons for OPM's decisions, and what do you believe are the advantages and disadvantages of making the Medicare prescription-drug subsidy applicable to federal agencies and the Postal Service?

I have not discussed the subsidy with officials at OPM, and therefore I do not know the reasoning behind not taking the subsidy. I am very concerned about the cost of health care. I know this is a much needed benefit for employees and their families, and paying the increasing cost of the premiums reduces money available for other services for them and their families. On the other hand, I know that the coverage is good, and we do not want to eliminate valuable services that afford a high degree of protection without fully considering the impact on employees, other than cost. Therefore, I will need to find out why the subsidy was declined and what the impact was. If I do not believe the rationale is a good one, I will see what other options might be available.

Page 26 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

- b. Do you intend to reconsider this decision, if confirmed?

We are committed to examining all possibilities to reduce our spending for prescription drug coverage.

49. The FEHBP has long served as a model employer-sponsored group health insurance plan that provides coverage to active and retired federal employees. When high deductible health plans (HDHPs) with health savings accounts (HSAs) were added to the FEHBP as a voluntary option, some expressed concern that they could have an adverse impact on the risk pool.

- a. Generally, what are your views on advantages and disadvantages of offering HDHPs and HSAs under the FEHBP?

If confirmed, I am going to review HDHPs to determine whether they offer the comprehensive benefits that the FEHB Program is known for and which Federal employees and deserve.

- b. What do you believe may be the effect of HDHPs on the shared risk pool, and do you believe that this consideration warrants limiting the addition of more HDHPs into FEHBP?

I believe these plans have the potential to adversely impact the cost of other plans by attracting only healthy enrollees. If confirmed as Director, I will include determining whether such an impact is occurring as part of my review of the plans..

*Chief Human Capital Officer (CHCO) Council*

50. The Chief Human Capital Officers Act of 2002 established the Chief Human Capital Officers (CHCO) Council to advise and coordinate the agencies' activities with respect to human resource issues. The Act also requires the Director of OPM to serve as the chairperson of the CHCO Council. In the CHCO's 2008 Annual Report to Congress, the report listed building and sustaining federal employee leadership as an emerging issue. As chair of the CHCO Council, how will you work with the Council to identify and develop recruitment and retention strategies for:

- a. Attracting and motivating the next generation of leaders in the federal government?

The Chief Human Capital Officers (CHCO) Council collaboratively identified emerging issues in its 2008 Annual Report to Congress – one of which was building and sustaining Federal leadership. I intend to continue to work with the Council to develop Governmentwide strategies to build organizational agility, learning cultures, performance-based rewards and career mobility. Metrics and results data to support executive decisions will also be a key focus.

Page 27 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

- b. Facilitating inter-agency and intra-agency career paths that encourage collaboration and information sharing?

The CHCO Council has a number of recommendations, and I will use the Council as a platform to facilitate inter-agency developmental assignments, career paths, and support of critical Federal initiatives that require concerted inter-agency, inter-Governmental, and public-private action. Cyber security, information technology, and acquisition are critical mission areas that we can start working on.

*Diversity/Equal Opportunity*

51. OPM and the Equal Employment Opportunity Commission (EEOC) are both involved in ensuring equal opportunity in the federal workplace. In what ways can OPM and EEOC work collaboratively in providing leadership to ensure equal employment opportunity?

OPM and the Equal Employment Opportunity Commission (EEOC) share a common goal of assuring that selections for employment are based on merit and that all employees are afforded equal opportunities and are free from discrimination in the workplace. If confirmed, I look forward to working with the EEOC to find ways to work collaboratively to assure these common goals are met.

52. In testimony presented to the Oversight of Government Management Subcommittee on diversity in the Senior Executive Service on April 3, 2008, GAO showed that diversity in the Senior Executive Service (SES) has improved over the past nine years, but that the SES remains less diverse than the candidate pool for the SES, which includes GS-14 and GS-15 employees (GAO-08-609T, pg. 4). Furthermore, the Senior Executives Association testified at the same hearing that "in the past OPM has had [an SES oversight office] and it worked effectively to monitor and manage the SES, government-wide. Currently, different offices within OPM share the responsibility for managing the SES with policy in one office and implementation of that policy in another office. In our opinion, the effect has been a diminishment in the effectiveness of the management of the government-wide SES corps. With respect to diversity, this means that agencies use different systems and standards for recruiting into the SES with varying outcomes on diversity resulting in different agencies." Among the proposals to address these concerns are (a) that SES Executive Review Boards be made up of a diverse body of reviewing officials and (b) that a Senior Executive Service Resource Office be established to be focus solely on SES policy and support. What is your opinion about the relative lack of diversity within the ranks of the SES, and the more general lack of focus on SES issues within OPM, and what do you believe should be done to address these issues?

I am familiar with concerns about Senior Executive Service (SES) diversity and share your interest in making progress toward an SES that more closely reflects the makeup of the Federal workforce as a whole. I think this is a goal we all share. The only question is how we go about achieving it.

Page 28 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

If confirmed as Director of OPM, I will take a close look at this issue, to see what actions might be taken to make progress toward this laudable goal.

*Automation Efforts/Privacy*

53. OPM has been working on the Retirement Systems Modernization (RSM) program to convert all retirement processing from a paper format to an electronic format. OPM contracted Hewitt Associates to develop the electronic system. According to a GAO Report from January 2008 (GAO-08-345), “[OPM’s] management of RSM in areas that are important to successful deployment of new systems has not ensured that system components will perform as intended.” In May 28, 2008, OPM issued a “stop work” and “show cause” order to Hewitt and claimed that Hewitt failed to meet the performance standards and quality levels in the contract, including failing to comply with OPM’s Earned Value Management System guidelines. Hewitt had been paid \$21 million so far for the work they had done to develop the system. On October 16, 2008, OPM terminated its contract with Hewitt and since has begun the process of reexamining the issue.

- a. What steps do you plan to take to address the problems that arose with the Hewitt contract and ensure that RSM is implemented smoothly?

I understand and appreciate that this is an extremely complex situation and, if confirmed, I pledge to study the situation and report back to the Committee.

- b. How do you plan to address the internal management issues described by GAO in any future RSM contract?

As I noted to the response to the previous part of this question, a thoughtful review of the situation will be needed before the next steps can be determined.

54. OPM plans have a vast collection of federal employee human resources information in conjunction with records in OPM’s Enterprise Human Resources Integration project and electronic information created under the Retirement System Modernization project. In recent years, various federal agencies have experienced data breaches or had personally identifiable information compromised. Moreover, government data containing sensitive personal information is subject to a number of statutory requirements regarding privacy and data integrity, including (a) the Privacy Act of 1974, which requires agencies to identify systems of records, provide public notice of such determinations, and provide the public with opportunities to review and correct personally identifiable information; (b) the E-government Act of 2002 and OMB Memorandum 03-22, which call for agencies to conduct privacy impact assessments of new systems; and (c) the Federal Information Security Management Act (and implementing policy published by OMB and the National Institute of Standards and Technology), which require agencies to conduct risks analyses of new systems and to certify and accredit new systems before commencing operation.

Page 29 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

Please describe what steps you would take to address such federal privacy and security requirements and concerns regarding OPM records and systems.

If confirmed, I would place the protection of personal information of Federal civilian employees, annuitants, and private citizens among my highest priorities. Considering that OPM is the recipient of Governmentwide data on Federal civilian employees and applicants for Federal positions, I will ensure that each system conforms to the proscriptions of the Privacy Act of 1974, that each system has a completed privacy impact assessment as necessary, and that all risk analyses and certifications are completed as required. Additionally, I will ensure that all OPM systems are certified and accredited for operation based on security control assessments consistent with relevant Office of Management and Budget memoranda and National Institute of Standards and Technology policy guidance.

55. OPM is responsible for collecting and maintaining accurate information on the federal workforce. OPM also defines data standards and gives instructions to agencies on how to collect, code, and edit data to assure accurate, accessible information. Each month, the federal agencies use the Standard Form-113 Summary Data Reporting System to report their workforce data to OPM. This is a predominantly paper-based process that relies on Excel spreadsheets and the data collection skills of a small team of OPM professionals. Some believe that this process is cumbersome and outdated. OPM could, instead, gather workforce data from the agencies whenever it is needed through the widespread use of automated timekeeping systems that offer web-based reporting that is accurate, verified and fully auditable. If confirmed as OPM Director, would you consider automating the SF-113 process across all of the agencies in order to increase accessibility and efficiency?

If confirmed, I will ensure that efforts to facilitate information-sharing, streamline reporting, and improve efficiency through automation continue. Providing workforce data to Congress, other agencies, and taxpayers is vital, and it will be my goal to ensure the data is accurate, timely, easily accessible for those who need it, and accomplished in a cost-effective manner. At the same time, I will ensure all necessary security precautions are taken to protect personal information and the security of our data systems.

#### *Security Clearances*

56. Since 2004, this Committee, through the Oversight of Government Management Subcommittee, has worked closely with OPM, through the Federal Investigative Services Division (FISD), in reforming the current security clearance process, which remains on GAO's Office's High Risk List. Until recently, the backlog for obtaining a security clearance was unacceptably long. In 2004, the Intelligence Reform and Terrorism Prevention Act tasked OMB with coordinating clearance policy and ensuring reciprocity of clearances between agencies. This resulted in the formation of the Performance Accountability Council at OMB through E.O. 13467 which is the body responsible for enacting policies related to suitability determinations and security clearances.

Page 30 of 33

*U.S. Senate Committee on Homeland Security and Governmental Affairs Pre-hearing Questionnaire*

- a. What additional steps do you believe OPM could take to streamline and expedite the process of issuing security clearances, both for new hires and for existing federal and contract personnel?

It is my opinion that we can achieve increased efficiency in the process of issuing security clearances. If confirmed, I will work with all relevant agencies to adopt best practices to further their efficiencies.

- b. Will you continue working with our Committee on this important issue

I certainly will look forward to working with the Committee, should I be confirmed as Director of OPM.

*Human Resources Lines of Business*

57. The Human Resources Line of Business (HR LOB) initiative has been initiated and administered by OMB and OPM over the past few years. Under this initiative, some HR practices and functions remain within individual employing agencies, but other functions – that are transactional and not linked to agency missions – are moved out of individual agencies to shared-service providers. Thus, to upgrade their HR information systems, agencies have been required to allow for competition for the work among approved shared-services providers, some of which are within other agencies, and some of which are in the private sector. OPM itself provides certain services for a fee under this program.

- a. What is your opinion of the HR LOB program generally, and what changes, if any, do you believe would be desirable?

I do not currently have an opinion on this program, and if confirmed, I pledge to consult knowledgeable employees and stakeholders and assess what changes may be needed in the future.

- b. Do you have any concern that a conflict might arise between OPM's role as an administrator and regulator of agencies with respect to their HR activities, and its role providing fee-based services to these same agencies subject to OPM's authority?

This issue is sufficiently complex that I will need time to study it. If confirmed, I will do so and report back.

- c. Do you have any concern that OPM's role as a fee-based service provider under HR LOB might divert attention from OPM's core mission? If so, how do you believe such concerns could be addressed?

There is not a conflict in the execution of OPM's HR LOB responsibilities and the Office of Personnel Management's fee based service unit. The fee for service arm of OPM acts independently of the HR LOB, resides in a separate OPM organization, and is subject to all competitive regulations the same as any private or public entity.

**IV. Relations with Congress**

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

I do.

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

I do.

**V. Assistance**

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

Although I have consulted with the Office of Personnel Management regarding background information to use in responding to these questions, the answers are my own.

AFFIDAVIT

I, M. John Berry, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

M. John Berry

Subscribed and sworn before me this 20<sup>th</sup> day of MARCH, 2009.

[Signature]  
Notary Public

NOTARY PUBLIC.  
DISTRICT OF COLUMBIA

My Commission Expires February 28, 2014



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

March 10, 2009

The Honorable Joseph I. Lieberman  
Chairman  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510-6250

Dear Mr. Chairman:

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

We have reviewed the report and have also obtained advice from the Office of Personnel Management concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated March 5, 2009, from Mr. Berry to the agency's ethics official, outlining the steps Mr. Berry will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of his confirmation date with any action he agreed to take in his ethics agreement.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Robert I. Cusick".

Robert I. Cusick  
Director

Enclosures

**REDACTED**

**Senator Susan M. Collins  
Additional Questions for the Record  
Nomination of the M. John Berry  
March 26, 2009**

1. In your most recent role as Director of the Smithsonian National Zoological Park, you have been responsible for overseeing a staff of approximately 240 people and overseeing both the 163-acre facility in Washington, DC and the 3,200 acre-facility in Virginia. If confirmed as the Director of the Office of Personnel Management (OPM), you will be responsible for directly managing more than 4,800 employees at OPM as well and setting the human capital agenda that will impact approximately 3 million federal employees throughout the 50 states and U.S. territories.

As OPM Director, you will be responsible for managing an organization that is more than ten times the size of your current employer, as well as overseeing the human capital system for the nation's largest employer.

What specific background and experience do you bring to the various roles that you would assume as Director of OPM?

During my service with Representative Steny Hoyer (D-MD), I was primarily responsible for Federal employee and retiree issues. During that time, I worked closely with OPM Director Constance Newman and her team to negotiate the Federal employee locality pay system which remains in use today.

As Deputy Assistant Secretary and Acting Assistant Secretary for Law Enforcement at the Treasury Department, I was responsible for managing 40 percent of Federal law enforcement, with direct line supervision over the Customs Service; the Secret Service; the Bureau of Alcohol, Tobacco, and Firearms; IRS Criminal Investigation; and the Federal Law Enforcement Training Center.

As Assistant Secretary for Policy, Management and Budget at the Department of the Interior (DOI), I was both Chief Financial Officer and Chief Operating Officer for a Department of 66,000 employees. I successfully launched a Presidential Initiative called "Lands Legacy," created the DOI University for employee and manager training, improved employee morale and enhanced worklife conditions, launched a multi-year complete renovation of the headquarters building, chaired the Executive Resources Board governing Senior Executive Service (SES) hires and performance evaluations, rehabilitated Interior's budgetary position, and improved diversity in every Bureau of the Department.

Finally, I have experience in the non-profit sector, managing a major Foundation which has handled over \$200 million of Federal grants and the Smithsonian Institution's National Zoo, which is a small "city" with over 800 staff (Federal, Friends of the National Zoo, Security and Facilities), 2,000 animals, nearly 3 million annual visitors,

and over \$100 million capital renovation currently under construction – all on time and on budget.

2. Under current law, most federal retirees who return to work for the federal government, find that their new salary is offset by the amount of their existing annuity, unless their agency is granted a special waiver from OPM. In many cases, the offset of salary discourages individuals from seeking out new employment opportunities with the federal government, despite the fact that the individual may possess the necessary skills and institutional knowledge desired and often required by agencies for highly skilled, “hard technical, hard-to-fill” positions. Often these individuals are attracted to contractors where they can use their same skill set, and work side-by-side with their former colleagues, but they do not have to receive less pay.

A few agencies, such as the Department of Defense (DoD) have been granted statutory special exemptions, not requiring the OPM waivers, thus making it more attractive to return back to work at the agencies. There has been, however, some confusion among agencies and interested job applicants as to why some re-employed annuitants continue to find their salary fully offset, while others are allowed to receive both a full salary and an annuity. In addition there is confusion as to why some employees work at agencies needing OPM waivers and some who work for agencies that do not.

Reemploying these annuitants was brought up at a recent Committee hearing – the first to explore oversight of the American Recovery and Reinvestment Act (ARRA) spending – which included a discussion about hiring needs for those entities responsible for overseeing the spending of stimulus dollars. These entities, among others, include the Inspectors General Offices (IGs) and the Government Accountability Office (GAO). The Acting Comptroller General, Gene Dodaro, stated that GAO currently is permitted to compensate a returning annuitant without offsetting the annuity. Mr. Dodaro stated that this was an essential authority when circumstances arise that require rapid staffing increases. The sentiment was echoed by the current President of the Inspectors General Council, Phyllis Fong, who indicated that she would like similar authority for her agency (Department of Agriculture) to hire back auditors and investigators.

Last week, I introduced a bipartisan bill with Senators Voinovich and Kohl (S. 629) that seeks to address the current disparity among agencies and would give agencies, government wide, the authority and flexibility to rehire annuitants for a temporary period of time, without offsetting their salaries by the amount of their annuity. This bill is supported by the Partnership for Public Service, the National Active and Retired Federal Employees Association and the Government Managers Coalition.

If confirmed as the Director of OPM, will you support the bipartisan Part-Time Reemployment of Annuitants Act of 2009 (S. 629) introduced by Senators Voinovich, Kohl, and me, which will allow agencies to have increased flexibility to rehire annuitants for limited periods of time without requiring their salary to be offset by the amount of their annuity?

As I stated previously, I think it's critical for us to find ways to engage the talents of people from all generations. I would like to take time to review this proposal, as well as what current regulations and policies provide and how they are working, so that I can make an informed decision about what specific approach to support.

3. The federal government spends more than \$530 billion annually in procurements and we have a fast-approaching crisis in acquisition workforce. Total spending on government contracts has increased by more than 140% since 2001, yet the number of Federal acquisition specialists who help plan, write, and oversee these contracts has remained fairly constant, following a downsizing of approximately 50 percent in the 1990's. The shortage in this area of expertise will become even more acute over the next few years, when roughly half of the acquisition workforce is eligible to retire.

To help address this, Senator Lieberman and I included a provision in the FY 2009 Defense Authorization Act to require the Office of Federal Procurement Policy (OFPP) to prepare an Acquisition Workforce Development Strategic Plan, including a specific and actionable five-year plan, to increase the size of the acquisition workforce by 25 percent over the next 5 years and to operate a government-wide acquisition intern program.

What do you plan to do to address this dire acquisition workforce crisis?

I am pleased to say that OPM has already undertaken steps in partnership with the Federal Acquisition Institute to address some of the hiring practices agencies have used over the years. For example, OPM and FAI have streamlined job announcements, cutting the announcements by up to 75 percent and have written them in plain language. In addition, OPM and FAI have jointly held hiring fairs and used very successful centralized registers to share qualified applicants across the agencies. If confirmed, I will increase OPM's focus on this very important issue.

4. The current economic challenges facing the federal government are considerable and fiscal restraint will clearly be needed as part of the response to those challenges.
  - a. Given this situation, how can the federal government also make the critical investments needed to attract, select, develop, motivate, and retain the highly qualified and productive workforce that the American people expect and deserve?

Even with the current economic challenges facing Federal agencies, there are numerous things the Federal Government can do to attract, develop, and retain highly-qualified employees that do not cost a tremendous amount of money. For example, one way to ensure that we retain the talent we work hard to acquire is to ensure that we have a top-notch mentoring program. Taking the time to grow our talent into tomorrow's leadership is crucial for the Federal Government.

- b. What additional hiring flexibility should the federal government explore to improve the federal hiring process, particularly in light of the coming wave of federal retirements?

I am not convinced we need more hiring authorities and flexibilities. Having said that, though, if confirmed, I will conduct a top-to-bottom review of the hiring process in consultation with the Chief Human Capital Officers Council, to see whether current flexibilities provide sufficient authority for agencies to build effective workforces. I also believe we need to focus on building the skills of the human resources community. They are the key to the future of successful hiring and, without a strong foundation in basic human resource practices, we will fall short in managing the coming wave of Federal retirements.

5. The President issued Executive Order 13434 on National Security Professional Development (NSPD) in May 2007, and issued a strategy and implementation plan pursuant to the Executive Order which establishes a roadmap for strengthening the national security workforce. The Project on National Security Reform and the Commission on the Prevention of WMD both issued reports in December 2008 highlighting the importance of building a 21st national security workforce by investing in training and education programs and by establishing joint duty programs. The Director of OPM along with the Office of Management and Budget (OMB) worked on this program.

- a. What is your assessment of government's efforts to implement Executive Order 13434, including the associated strategy and implementation plan?

I do not have detailed knowledge of how the Government is implementing the Executive order. As I understand it, agencies have only just begun. I understand that the December 2008 reports of the Project on National Security Reform (PNSR) and the Commission on the Prevention of WMD highlight the risk our country is in and how important it is for all agencies, not just the key national security ones (Homeland Security and Department of Defense), to work on finding ways to coordinate across programs. Both reports highlight the need for the Federal Government to develop a national security workforce. If confirmed, I will look into how well agencies are implementing the Executive order and determine the best strategy to move forward.

- b. What additional measures are required to strengthen the national security workforce?

If confirmed, I will reach out to the agencies involved in the national security mission to determine where they face challenges in recruiting and developing the workforce needed to carry out this critical mission and develop strategies to overcome those challenges.

6. The 2008 Survey of Federal Human Capital Officers, "Elevating Our Federal Workforce: Chief Human Capital Officers Offer of Advice to President Obama," indicates that 69 percent of the 54 Chief Human Capital Officers (CHCO) believe that the current General Schedule (GS), pay system should be eliminated either immediately or gradually over a set period of time because "the GS system (established back in 1949) is antiquated and we need a market-based pay-for-performance system" for our federal workforce. Others

believe that the General Schedule is fundamentally sound, though it might be better implemented in some respects.

What is your opinion about the General Schedule and what improvements do you think are needed?

More than half the Federal workforce is managed today under the General Schedule, so in that respect the system appears sound. However, I am aware, through published reports, that Federal agencies have expressed concerns about the General Schedule classification and pay system for quite some time. The system has operated with little modification for more than 50 years, so it is not surprising that some feel that work-level definitions are outdated or that the General Schedule pay structure should be more sensitive to the market. Before considering wholesale change to the General Schedule system, I would like to hear more from interested stakeholders regarding the perceived problems with its implementation and operation.

**Senator George V. Voinovich**  
**Additional Questions for the Record**  
**Nomination of M. John Berry**  
**March 26, 2009**

1. What would be your key near-term priorities to improve the effectiveness of the Office of Personnel Management (OPM)?

The first priority will be establishing my team and learning about the existing organizational structure and why it appears so cumbersome. After meeting with all relevant parties, a reorganization may be necessary. In parallel with this effort, we will be developing a new strategic plan for the agency, and seeking buy-in from employees, interested parties, and the Hill. The results of this effort would guide the need for alterations to the organization structure, as appropriate.

At the same time, I would like to convene a conference of national experts on human resource management from public and private sector sources, and discuss specific approaches to establishing best practices for each of the relevant human capital management processes, with the goal of making the Federal Government the Model employer for the Nation.

In addition, I intend to learn what exactly is underway with information technology updates and improvements, and seek to establish a clear priority and work plan, and schedule for deliverables.

Finally, I will focus on hiring reform, with immediate focus upon positions required for successful implementation of the President's American Recovery and Reinvestment Act.

2. Are there any particular competencies or skills that you will be emphasizing or seeking to develop in OPM's staff?

OPM staff will need to maintain cutting edge tools necessary to compete effectively with all other human resource efforts underway in the country. After we have received the input of the conference discussed in Question 1, we will review our existing competencies and skills of staff and strengthen those which already exist and enhance those where we may have competitive weaknesses through training or targeted recruitments, if necessary.

3. What specific steps would you take to improve the cohesiveness of OPM and ensure that all federal agencies are working together toward improving the federal workforce?

I am committed to making OPM a "Model" agency and to that end I want to meet with as many employees as I can to get a feel of the pulse of the organization. I will encourage and expect open and honest communication and collaboration, including cross-agency communities of practice and technology platforms. My intent is to communicate a clear

vision and to rally all employees around a common purpose and a set of shared values. If necessary, I will set up an ombuds office where neutrality and independence are maximized.

Using my work at OPM as a guide, I will carry the message of common purpose – developing and sustaining the best Federal workforce – to the Chief Human Capital Officers Council. The Council and I will be able to encourage mutual cooperation across agencies and drive specific improvement initiatives.

4. What principles will guide your decision making regarding performance management systems?

The major principles that will guide my decisions regarding performance management systems are that agency performance management systems are fair, transparent, and tied to agency mission and goals. Performance management should be a joint effort between managers and employees so that everyone understands the goals and objectives of the organization. As OPM Director, I would work to make sure that agencies work under these guiding principles.

5. Do you believe performance management systems underway, including the National Security Personnel System and TSA PASS system, should continue?

The performance management systems for the National Security Personnel System and TSA PASS are currently in the early stages of implementation. As Director of OPM, I would work with the Department of Defense and Department of Homeland Security to assess these systems to ensure they are in keeping with the Governmentwide merit system principles. If it is found that the systems do not work well or violate merit system principles, I would work with the agencies to fix the systems.

6. Having been a manager, what are your views on any amendments to Title 5 that might strengthen the tie between performance and pay? Would you agree that pay should be determined by productivity, effectiveness, and the contributions of employees?

At this time, I believe sufficient authority exists within title 5 for agencies to appropriately link pay to performance. I strongly believe that employee pay should be determined by productivity, effectiveness, and contributions to agency mission. As Director of OPM, I intend to focus on best practices that exist within agency performance management systems and encourage agencies to adopt those practices.

7. As you know, I have sponsored legislation to require agencies to develop rigorous performance management systems for employees and would prohibit employees who receive an unacceptable performance appraisal from receiving a raise. The latter provision would impact less than one percent of the 1.8 million federal employees, whose failure to perform can lower workplace morale for their peers who go above and beyond each day to serve the public. I'm encouraged by the President's focus on improving government performance.

- a. If confirmed, would you support legislation to improve individual performance?

Yes, I look forward to working with you and others in Congress to enact legislation to accomplish this.

- b. Would you be willing to work with me on this legislation?

Yes, absolutely.

- c. Do you believe this legislation would contribute to the President's goal to improve government performance?

Yes. Good performance management will help focus employees on improving the productivity, efficiency, and effectiveness of the Federal Government and help the President accomplish his initiative to make the Government more accountable.

8. Since 1990, the Government Accountability Office (GAO) has periodically reported on government programs and operations that it identifies as high risk. This effort has allowed us to focus on some of the major challenges costing the government billions of dollars each year. One high risk area GAO has identified is the Department of Defense security clearance program, which has been on the high risk list since 2005. Together with the Department of Defense, the Office of Management and Budget, the Office of the Director of National Intelligence, and the Office of the Assistant to the President for National Security Affairs, OPM has developed plans to improve the timeliness and effectiveness of the security clearance process. This group has set a number of security clearance reform goals for 2009.

- a. Do you support those plans and goals?

Yes, I support OPM's plans and goals for improving the timeliness and effectiveness of the security clearance process. OPM eliminated a substantial backlog of pending background investigations it inherited after absorbing the Department of Defense's Personnel Security Investigation function in February 2005. OPM is current in its processes and consistently exceeds the timeliness goals set in the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA). OPM is also making great strides to meet the 2009 timeliness provisions of the Act. In fact, in March 2009, OPM closed 57,111 initial clearance investigations with the fastest 90% completed within an average of 39.1 days – well ahead of the IRTPA mandate to complete 90% of initial clearance investigation within an average of 40 days by the end of 2009. OPM's achievements can be credited to effective leadership, excellent personnel and workload management, solid contractor performance oversight and accountability, and the outstanding work its employees have done to modernize the ways it collects and processes information.

- b. As part of plans to reform the security clearance process, OPM and the Army have worked to demonstrate electronic receipt of personnel security investigation results from OPM. If confirmed, do you anticipate continuing this work, and will OPM work with more agencies to expand the use of this technology?

OPM and the Department of Army piloted a method for electronic delivery of completed background investigations to the agency. Based on the success of the pilot, electronic agency delivery was made available to all agencies who obtain their investigations from OPM in August 2007. To date, over 490,000 completed investigations have been sent to Army and four other agencies using the electronic agency delivery method.

OPM is currently working with the Defense Industrial Security Clearance Office, Department of Homeland Security, Department of Justice, Internal Revenue Service, and Department of the Air Force to implement electronic agency delivery. A number of other agencies have expressed interest in using this delivery method.

I will support and encourage OPM to expand its use of the electronic agency delivery because of the efficiency it provides to the investigation process, eliminating mail and handling time and costs. It also provides additional protection of personally identifiable information (PII) by sending it via an encrypted, password-protected electronic file.

- c. What other plans would you implement to help OPM improve its role in the security clearance process?

The imaging and electronic agency delivery process is just one of the ways OPM is employing technology to transform the security clearance and investigation process. OPM currently has a major project underway to transform its suite of investigation systems and applications, referred to as *EPIC*. The EPIC transformation will align technologies of many systems and applications to enable OPM to meet the needs of its customer agencies while delivering their investigative products more effectively and efficiently. The transformation project is a multi-year effort and provides an environment to:

- Rapidly respond to governmentwide increased demand for security clearances through the use of best-business processes and technology scalability;
- Modernize the technology platform; and,
- Provide the agility of our systems to adjust quickly enough to meet changing business needs.

In addition, OPM working on a number of other projects that will benefit the security clearance and investigation process:

- Expand the method of collecting subject provided information through the electronic application process;
- Develop a national training program for investigators and adjudicators to improve quality and promote reciprocity of investigations and adjudicative decisions;
- Manage workload and program performance through the Dashboard Management Reporting System; and
- Continue to work with federal, State, and local third party record providers to improve access to the ten of thousands of records and timeliness of responses. This is critical in order to consistently meet the 2009 timeliness provisions of the IRTPA.

9. As Chairman and now Ranking Member of the Subcommittee since 1999, I have worked hard to enact flexibilities to ensure the federal government has the right people at the right place at the right time to do the job we've asked them to do. Some agencies have failed to use these flexibilities appropriately. Others, such as the Nuclear Regulatory Commission, have received unique authority outside of title 5 and remain at the top of the Best Places to Work rankings. What are your views on whether recruitment, retention, and relocation incentives and hiring flexibilities should be continued, and perhaps, enhanced, or whether individual executive branch agencies should be authorized to establish their own personnel systems?

I believe agencies need a wide range of well-designed flexibilities to recruit and retain employees with the right mix of skills to achieve their missions. If the current workforce flexibilities do not provide sufficient or appropriate authority to help agencies build a modern workforce, I will need to find out why the flexibilities are inadequate, gain an understanding of the improvements that may be needed, and then develop the flexibilities to meet those needs. Ideally, similar compensation and hiring flexibilities should be made available to all agencies. However, a one-size-fits-all approach may not be appropriate for agencies with unique missions and workforce requirements. One way to provide transparency, consistency, and fairness would be for OPM to develop Governmentwide parameters within which agencies could operate their systems to best accomplish their missions.

10. How can we ensure agencies better engage in short- and long-term strategic human capital planning, including appropriate use of flexibilities?

OPM will continue to review agency strategic human capital plans and provide on-going consultative and technical guidance for the implementation of those plans. We will also look at the results and work with agencies to collect and disseminate best practices and to recommend alternate solutions where appropriate. I support providing the most up-to-date information on HR authorities and flexibilities and training Federal HR professionals, as well as line managers, on application and usage. I also plan to work with the Chief Human Capital Officers Council to identify and correct any gaps in agency understanding of flexibilities. Their insight and feedback will help me prioritize action plans.

11. In 1961, President Kennedy issued a "Memorandum on the Need for Greater Coordination of Regional and Field Activities of the Government," which led to the creation of 10 Federal Executive Boards (FEBs) to "increase the effectiveness and economy of Federal agencies." Today, oversees 28 of these FEBs. In 2007, GAO examined "Additional Steps Needed to Take Advantage of Federal Executive Boards' Ability to Contribute to Emergency Operations" and noted that FEBs have no congressional charter and rely on voluntary contributions from their member agencies for funding. GAO recommended that OPM develop a proposal to address the uncertainty of funding sources for FEBs, and OPM submitted such a proposal to the Senate last year. If confirmed, will you support legislation provides for the establishment, administration and funding of FEBs?

With almost 700,000 federal employees covered by a Federal Executive Board, it is critical to ensure their existence. If confirmed, I will review the proposed legislation and GAO report and submit my comments to your committee.

12. The hiring process is broken, and must be simplified if we are to recruit the right people at the right place at the right time to get the job done. How do you plan to accomplish this? If confirmed, will you support legislation to improve the federal hiring process?

As I mentioned at the hearing, there is no doubt the hiring process needs to be simplified, and I am positive much of that can be done without further legislation. Having said that, though, if I am confirmed I will conduct a top-to-bottom review of the hiring process in concert with the Chief Human Capital Officers Council and will strongly encourage the agencies to work with OPM to implement the End-to-End Hiring Roadmap. We need to make sure that agencies are using job announcements that convey in clear, plain language the requirements of the job, that applicants are not asked for extraneous information, and that they receive prompt feedback.

13. OPM establishes the qualifications for administrative law judges (ALJ), administers the ALJ examination, and is responsible for maintaining a listing of qualified candidates for ALJ employment by federal agencies. In the current process, OPM determines when the ALJ Register should be refreshed. The most recent vacancy announcement opened on July 30, 2008 and closed the following day, July 31, 2008. The previous vacancy announcement was open for 4 days. I am concerned this limits the opportunity for qualified individuals to apply to fill this critical occupation and is less sensitive to hiring needs of agencies, including the Social Security Administration (SSA). SSA has a growing backlog of disability claims pending review. As of January 2009, the backlog of claims was 776,000, and continues to grow.
- a. If confirmed, will you support a regularly scheduled vacancy announcement or an open announcement that would allow OPM to refresh the ALJ Register more frequently?

OPM is already committed to regularly reopening the vacancy announcement as needed to address agency needs. OPM does this, however, based on the three-year projected hiring needs of agencies that hire ALJs rather than on an arbitrary calendar date. At this time, OPM has an ALJ Register that is large enough to address all of the projected hiring needs of all ALJ hiring agencies through fiscal year 2010. Specifically, we understand from the Social Security Administration, that in addition to the 162 new positions they are currently filing, they expect to request names to fill a similar number of positions in FY 2010, for a total of 320 positions. Other ALJ hiring agencies expect to need, in total, approximately 50 – 75 ALJs from now through FY 2010. The current register is large enough that even after all of these projected hires, several hundred highly qualified candidates will remain available for hiring.

OPM also notes while the ALJ announcements in 2007 and 2008 were opened for limited times, OPM received applications from a large number of experienced and talented practitioners. Not all of those applicants, however, completed the examination process. For one part of the examination, the Accomplishment Record (AR), applicants provided written statements of their accomplishments, which were scored (provisionally-only for purpose described next). All applicants were ranked based on their AR scores, including any applicable veterans' preference points. The applicants who were among the highest group of AR scores from all eligible applicants were identified and moved on to the next stages of the assessment process. Applicants who did not reach the highest group of AR scores did not receive any further consideration. Consequently, the candidates ultimately selected to appear on the register are highly qualified. In fact, OPM received a letter from an agency that hires numerous ALJs attesting to the high quality of the choices available to that agency in its hiring over the past year.

Please note that OPM tried a continuously open announcement process with the 1993 ALJ Examination. As you may be aware, that open process resulted in a register with more than 2500 candidates at its peak and still had 1100 candidates when the register was closed in 2007. Moreover, years before the register was closed, some in the Federal government complained these individuals had become "stale" because their names remained on the register. OPM disagreed with that view, but that view did appear to influence some agencies' hiring decisions at that time. Given that there are not likely to be more than a few hundred ALJ hires in a given fiscal year, OPM does not believe it is an effective use of agency resources to build a register that is nearly a hundred times larger than projected needs. Moreover, OPM does not believe it is fair to ALJ applicants who complete the ALJ process to have their ongoing skill development disregarded just because their names remain on a list for an extended period of time. Finally, OPM will continue to check in with agencies on an annual basis as to their projected three-year needs. Moreover, OPM has advised agencies that if events change that affect their initial projections, they should inform OPM so that change can be incorporated into OPM's assessment as to when to next open the vacancy announcement.

- b. Prior to the regulations established in 2006, it is my understanding that OPM published the process by which ALJ candidates would be evaluated. OPM argued that requiring the regulatory process to change the evaluation of ALJ candidates was unnecessarily burdensome. Do you support publishing the evaluation standards used in scoring ALJ candidates?

In accordance with the updated regulations and changes in the professional field of test assessments, the ALJ Examination underwent extensive updates and revisions. As part of this current examination, however, OPM continues to advise ALJ applicants of the process by which ALJ candidates are evaluated through the issuance of stand alone qualification standards, which are published on its website at <http://www.opm.gov/qualifications/alj/alj.asp>. In addition, the ALJ vacancy announcement contains specific information as to the various elements of the examination; information about qualifying and not qualifying experience, including military experience; the processes for appeals and retaking the examination; the scale for scores (1-100) as well as the Accomplishment Record portion of the ALJ examination and the minimum qualification requirements. Further, applicants who successfully completed the ALJ examination and received a final rating also received a notice from OPM explaining that the current ALJ examination evaluates applicants on the competencies<sup>1</sup> essential to the work of an ALJ rather than on the basis of the part scores used in the 1993 ALJ Examination.

By using the various formats noted above to provide information regarding the ALJ process, OPM can better ensure that applicants are receiving accurate and up-to-date information regarding the application process. The issuance of the ALJ Examination through vacancy announcements is consistent with 5 U.S.C. § 3330 and the process used for most competitive hiring in 5 CFR 300.104(b), 330.102(b) and 330.707. As you aware, ALJs are in the competitive service. In addition, OPM posted the ALJ qualification standards for comment prior to finalizing and placing on its website. OPM will continue to use this practice in the event of future changes to the ALJ qualifications.

- c. How do you balance administrative flexibility with process transparency?

OPM believes it has reached a proper balance through the issuance of stand alone qualification standards, which can be found on the OPM website, and the use of the ALJ vacancy announcements for notice based examination. The past practice of embedding qualifications and other testing information into regulations inhibited OPM's ability to ensure that the ALJ examination remained consistent with current testing standards to identify the best qualified applicants because it required a revision of the regulations, a multi-layered governmental process. Suggestions that absent inclusion in regulations key information will be lost or will change without notice are inaccurate. As described in the previous section, applicants are provided relevant

<sup>1</sup> Competencies: 1) Decision Making, 2) Interpersonal Skills, 3) Oral Communication, 4) Writing, 5) Judicial Analysis, 6) Judicial Management, 7) Reasoning, 8) Self Management, and 9) Stress Tolerance.

information in a variety of formats before, during and after the application process to ensure clear understanding of the examination process.

14. Currently, OPM does not conduct "suitability" reviews of candidates prior to placing them on the ALJ Register. This means that individuals with criminal convictions, pending criminal or ethical violations, federal tax evasion, or poor employment records could be placed on the ALJ Register. Do you agree that OPM's evaluation process should not include a review of previous criminal convictions or other "suitability" reviews prior to placing candidates on the register? Should OPM conduct a review of previous or pending criminal and ethical violations prior to placing candidates on the register? For those already on the ALJ Register, should OPM conduct periodic reviews for criminal convictions, ethical violations or reviews of inappropriate conduct? How often should these reviews take place?

Prior to being placed on a register, applicants are reviewed to determine that they meet basic qualification requirements. Background investigations and suitability assessments are not conducted until an individual is actually considered for the position. The OPM investigation and the employing agency suitability assessment are typically conducted pre-employment.

Many of those on registers may not be considered or offered a position that would justify the intrusive background screening processing. Given that investigative workloads are both current and timely (no backlogs exist), the current process provides the employing agency with all information needed for suitability screening prior to actual employment.

15. With such limited suitability review of the candidates by OPM, many federal agencies conduct extensive reviews prior to selecting ALJs. These costs are in addition to the funding federal agencies provide OPM for maintenance of the ALJ Register, and can be time consuming and expensive. Given that federal agencies pay OPM for ALJ services, why doesn't OPM conduct a suitability review prior to placement on the ALJ Register? Do you support the OPM position that "suitability" reviews should be done post-employment?

Suitability reviews are typically completed after agency selection from the register but before actual employment. OPM determines basic qualifications before placing individuals on a register, but the extent to which agencies conduct pre-selection screening should be limited. Once offered a position, a full scope background investigation is conducted by OPM, at the agency's request, to provide a full, comprehensive investigation to support the final suitability determination. Screening all individuals prior to being placed on the register could add significant cost to the process given the number of individuals that may never be considered for a position. The process as currently designed is effective and efficient and does not overly delay actual employment of ALJ's given the timeliness of the investigations process today.

16. OPM does not consider subject matter experience to be a factor in the scoring of ALJ candidates. Thus, an international trade attorney with 20 years of experience might receive the same score as a district attorney with no prior knowledge of international trade law. Either candidate may score higher than an attorney with an SSA hearings office with specific knowledge and experience of the unique process and workloads.

- a. Should OPM include subject matter experience in its evaluation scoring? Would you support a sublisting for subject matter experience?

OPM has considered this issue at various times over the course of its many years administering the ALJ examination. OPM also uses subject matter experts – sitting or former ALJs – as a key part of its test development process. ALJs are expected to serve across agencies in a number of areas of law. The competencies evaluated for determining those best suited to carry out the duties of an ALJ can be demonstrated across legal specializations and are not determined based on job titles. For example, an applicant who may have served as a judge for another administrative body will not necessarily score high if he or she fails to demonstrate how the knowledge, skills and abilities obtained in his or her prior career(s) fit into the competencies needed to by an ALJ. Similarly, an attorney who may have worked for years with ALJs will not score high on the ALJ examination if, during the examination process, he or she fails to personally demonstrate the competencies assessed in the examination. Thus, it is not enough to just have held certain jobs or to have certain job titles. Neither of these items are appropriate demonstrations of the job-related skills needed to serve as an ALJ.

As noted above, OPM has received compliments as to the high caliber of the applicants who are placed on the ALJ Register. These candidates are from within the government and from the private sector.

- b. Currently, ALJs receive a lifetime appointment, with a few exceptions for conduct. ALJs can be removed from office for poor work quality or neglect of duty. Do you believe ALJs should have a lifetime appointment? Should ALJs be given a 15 year appointment subject to renewal, as many federal judges are?

ALJs appointment status was established by the APA and recognized by the Supreme Court in *Ramspeck v. Fed. Exam'rs Conference, et al.*, 345 U.S. 128, 141 – 142 (1953) (ALJs are tenured positions from which they could be removed only for good cause, and they are “not to be paid, promoted, or discharged at the whim or caprice of an agency or for political reasons.”). OPM does not have a view as to whether the appointment tenure should change, except that the need for independent judgment by ALJs remains paramount.

- c. Do you support the establishment of performance standards to evaluate the quality of work conducted by ALJs? Should ALJs be subject to the same performance standards as other federal employees?

Under the APA, OPM has the responsibility to ensure the independence of an administrative law judge in matters of appointment, tenure, and compensation, as well as to ensure independent judgments from administrative law judges. See 5 U.S.C. 1305 (authorizing OPM to regulate and investigate agencies to give effect to 5 U.S.C. 3105, 3344, 4301(2)(D), and 5372); *Ramspeck v. Fed. Trial Examiners Conf.*, 345 U.S. 128, 139-142 (1953). Consequently, under current law, agencies may not rate the job performance of ALJs or provide an award or incentive to an ALJ. 5 CFR 930.206. Unless there is a change in the law, OPM does not believe the performance standards applied to other Federal employees may be applied to ALJs.

- d. Do you believe that performance and quality standards conflict with qualified decisional independence? Do you believe that ALJs who conduct only a fraction of the cases their peer ALJs conduct should be allowed to continue in that position?

As to the first part of the question, within the legal limits noted above, OPM does not believe that performance and quality are necessarily inconsistent with decisional independence.

As to the second part of the question, OPM does not employ ALJs. As a general matter, however, OPM does not believe that numbers alone are a sufficient basis for determining the performance or quality of an ALJ. For example, if an ALJ completes many cases but his or her rulings are regularly overturned on appeal, it is not clear this person is a better performer than an ALJ who completes fewer cases that are regularly affirmed. Moreover, if an ALJ is overseeing a complex litigation, then a numerical comparison to an ALJ who handles more routine matters does not seem appropriate.

17. The Subcommittee remains disappointed with the lack of progress on the Retirement Systems Modernization project. How will you ensure OPM's information technology projects stay on time, on budget, and achieve the planned objectives?

Uncertainty of the unknown is a fundamental challenge to all technology projects. In February 2009, OPM re-affirmed the vision, objectives and drivers of the RetireEZ program and developed a five-phased implementation strategy. This phased implementation approach enables OPM to manage incremental goals and to direct measurable outcomes. Strong solid project management is a proven weapon to combat cost, schedule and scope challenges that bring about project failure. OPM is currently solidifying its information technology project management responsibilities and institutionalizing project management discipline within the agency. By ensuring accountability, top/down transparency and meaningful performance measures are combined within the execution of sound project management; creative approaches may be implemented to establish the firm foundation of success necessary to deliver information technology projects on time, on budget and within scope.

18. Veterans' preference is a long standing hiring policy for the federal government. The current fiscal crisis has had an especially harsh impact on the men and women who are

returning from military service in Iraq and Afghanistan. According to the March 19, 2009 *USA Today* article, "Jobless rate at 11.2% for veterans of Iraq, Afghanistan," one in nine of our veterans from these two wars are out of work.

- a. What further policies might OPM undertake to help veterans, particularly those who are wounded or disabled, find government jobs?

I would like to better understand what policies currently exist relating to veterans, including the rate at which current special hiring authorities for veterans are being used. I'm concerned that, like some of the other hiring flexibilities that currently exist, special hiring authorities for veterans perhaps are not being used to the extent they could be by agencies. One of the first steps we may need to take is an education campaign on the available veterans' hiring tools, especially those that were designed to employ the wounded and disabled.

- b. What types of career guidance and training should OPM provide to veterans seeking employment with the government?

I believe this is one area where OPM could work in partnership with the Department of Veterans Affairs, which has responsibility for retraining veterans, and the Department of Labor. We will work with the VA to identify where the jobs are and what training VA might want to do. As I mentioned above, one of my first orders of business will be to review what we currently have in place to assist veterans and then map out a collaborative strategy to meet their growing needs.

19. The March 3, 2009 edition of *GovExec Online* contained an article concerning your nomination to be the Director of the Office of Personnel Management. In that article, Mr. John Gage, the president of the American Federation of Government Employees, reportedly stated that he had spoken with you recently and expected to work with you on a number of issues including "union involvement in shaping the Federal Employees Health Benefit Program." Did you discuss the Federal Employees Health Benefits Program with Mr. Gage, and what you have in mind regarding union involvement in shaping the Program? Was your discussion taken out of context in the article?

I have spoken with the head of every major union and management organization and conveyed ONLY the following to each during my conversations: "I am very proud to be nominated, and if confirmed, I look forward to working with each of them to make our Civil Service the Finest in the world. I promise that I will be as transparent and inclusive as possible and will to the best of my abilities, seek open communication that should avoid major surprises for all involved." I did not discuss any specific issue with anyone. I believe that the press were reporting on what Mr. Gage might seek to discuss with me, should I be confirmed.

20. The Subcommittee is committed to identifying additional tools to help the federal government become a model employer. One way to do this is through competitive benefit options that support a healthy work-life balance. I am developing legislation to

establish a self + 1 option for the Federal Employee Health Benefits Program and to provide a cafeteria plan that can be tailored to the needs of individual employees. What are your views on flexible benefit options? If confirmed, would you be willing to work with me on this legislation?

I am interested in exploring ways to enhance and expand the Federal Government's ability to be a model employer. Pay and benefits are critical in ensuring that the Government can recruit and retain the talent needed to carry out its role in serving the American people. I am open to new ideas regarding ways to ensure the Government uses modern compensation approaches. I look forward to working with the Congress and other stakeholders to explore the feasibility of new flexible benefit options, such as a cafeteria plan, for the Federal workforce.

21. If confirmed, will you commit to responding to minority subcommittee requests for information in the same manner as requests from the majority?

I will respond to all appropriate Committee and Member requests to the best of my ability.

22. As legislative director for Representative Steny Hoyer, you were instrumental in the crafting of the Federal Employees Pay Comparability Act (FEPCA) that established the current system of basic and locality pay for federal employees. Fifteen years into the implementation of FEPCA, and drawing upon your experience as a manager in the executive branch, what changes in the federal government's compensation system need to be considered? What might be among your first actions with regard to examining this issue?

If Federal agencies are to recruit, manage, and retain staff needed to accomplish their missions, the General Schedule pay system must transparently and fairly achieve the principle of providing equal pay for work of equal value, provide agencies the means to offer competitive salary levels on a timely and rational basis, recognize merit, and effectively orient employee efforts and rewards toward agency mission accomplishment. I am aware that FEPCA's locality pay component has not been fully implemented and that certain other difficulties exist that may hinder the Government's ability to recruit and retain employees. One such concern is the cap on salaries for senior executives. As OPM Director, my first actions would include working together with OPM's compensation staff, the Federal Salary Council, and stakeholder groups to gain a complete understanding of these problems and determine the best course of action to address them.

23. What specific approaches might be used to enhance the development of telework in federal agencies and diminish the still significant resistance to telework from many federal managers and supervisors?

The Federal Government offers employees a broad range of flexibilities with regard to work schedules and locations, which management can use to accomplish work, recruit

and retain employees, and generally help achieve the mission. Telework is one of these flexibilities, and while, for a variety of reasons, it hasn't become as widespread as the very popular alternative work schedules, telework is an option that has grown in importance over the last few years.

Management resistance is frequently cited as one of the barriers to the expansion of telework in the Federal Government, but there are other practical barriers as well. Many of our employees are in jobs that don't lend themselves to telework because they must communicate face-to-face with their customers or for other reasons. At the National Zoo, for example, our veterinarians would not be able to work from home. The Federal Government also has a particular interest in preserving national security, so remote connectivity may be impractical based on the work that is being performed.

That said, I do think there are some steps that we can take at OPM and at the agency level that will help more employees who can and should be able to telework to take advantage of the program.

Specifically, these steps would focus on measurement, accountability, and tying telework more strategically into the mission of each organization. Agencies should be setting goals for their telework programs, in terms of both participation and desired outcomes. OPM's role is to help agencies meet their goals for their telework programs, by providing consultation on policy and program development and by assisting with measuring success.

More local solutions would include management and employee training – focusing on performance management, not just telework – and sufficient funding for the necessary technology infrastructure.

24. Given the current responsibilities assigned to and challenges confronting executive branch departments and agencies, and drawing on your past management experience in the executive branch, are there particular types of training (e.g., foreign language, familiarity with the procedures and processes in both the executive and legislative branches) that OPM employees, specifically, and federal employees, generally, should be receiving to ensure optimal performance of the mission?

From my past experience in the executive branch, I know all Federal employees are required to participate in specific training such as computer security awareness and ethics awareness. In addition, training of the acquisition workforce has been extremely important, even more so after the passing of the American Recovery and Reinvestment Act. Beyond that, every agency has its specific mission and strategic goals. Some agencies are service-oriented and other agencies are regulatory in nature. All agencies, including OPM, need to determine the most appropriate training to ensure their employees help meet the mission. Training and development initiatives and strategies must support individual agencies' missions; there is not a specific training curriculum that will help all agencies, including OPM, meet the variety of missions of the Federal Government.

Each agency needs to conduct a needs assessment based on its specific missions, determine critical competencies, assess the extent employees possess those competencies, and then provide employees the training needed to close any gaps.

25. The general public's satisfaction with visits to the National Zoo would be an important part of the Zoo's performance of its mission. What lessons and initiatives related to customer service from your experience as the Zoo's director might you seek to transfer to the performance of OPM's mission by the agency's employees and to policies that might apply government-wide?

It is important to elevate customer service as a key strategic goal of organizations that serve the public and integrate it into the other mission related goals of the organization.. Under my leadership at the National Zoo, we made "an unsurpassed visitor experience" one of the five organizational goals and pillars of the organization, along with Excellence in Animal Care, Science, Education, and Sustainability. We launched training programs for seasonal employees in customer service and monitored and rewarded employees based on metrics and scores derived from so called "secret shoppers" (trained shoppers unknown to our employees) who evaluated our employees on how they greeted, thanked and answered customer questions.

26. As an assistant secretary at the Department of the Interior, budgetary responsibilities were included in your portfolio. Fiscal discipline has never been a more critical requirement for federal departments and agencies. With regard to OPM specifically, I have been concerned about the clarity, accuracy, and content of OPM's budget justifications that have accompanied the President's budget proposals. What approaches did you apply in your previous positions to ensure that appropriated monies were used as intended and what specific mechanisms enabled you to manage and evaluate the budgets that you were responsible for? Did you use metrics to assist you in making funding determinations?

We worked closely with OMB and the Congressional Appropriations subcommittees to define appropriate metrics and yardsticks for performance. We moved from a more narrative based budget presentation to one based on data and outcomes. Internally within the Department of the Interior where we had to set budget priorities for eight bureaus with separate appropriations (ranging from the National Park Service to US Geological Survey, I reviewed each entity's budget and recommended and set with the Secretary of the Interior the funding and personnel levels we would seek from OMB and the Congress. The competition from programs of varying scales and complexity was handled in a fair and transparent basis utilizing factual information as the foundation for decision making.

27. Last year, federal employees confronted substantial increases and coverage changes in their health insurance premiums, which were not well known until the Federal Employees' Health Benefits open season began. Confusion and complaints abounded and an extension of the deadline for choosing plans was necessary. In your view, what

measures and mechanisms should be implemented to ensure that a similar situation does not recur?

Although I have not discussed this topic with OPM representatives, communication about benefit changes is extremely important so that employees can understand their FEHB plan choices and costs as they consider whether and what changes to make during Open Season. It is important to make information available in multiple forms, and to make it easily accessible to employees and retirees through various media. This requires a strong partnership between the sources of information—OPM, agencies, and health plans. I will also discuss with OPM representatives what else OPM can do to make health plan benefits and costs as transparent as possible and ensure that information is made available as soon as possible for employees and retirees

28. I mentioned in my opening remarks my concern with the quality of services OPM provides to agencies on a fee-for-service basis. In certain situations, it may inappropriate for OPM to be selling human resource products and services to agency customers who are subject to OPM regulation and oversight. While some services, such as the background investigations tied to the security clearance process, were required by Congress, others have come about possibly at the expense of agency expertise being devoted to oversight and policymaking. What are your views on the core mission of OPM and the nexus between core mission-related activities and fee-for-service products and services? To assist the subcommittee in its evaluation of fee-for-service activities, please submit a complete inventory the products and services OPM provides to agencies on a fee-for-service or reimbursable basis.

As I understand it, OPM is structured to mitigate the potential for conflict of interest between its policy, oversight, and operational functions, and as such does not have a concern that a conflict might arise between its role as an administrator and regulator of agencies and its role of providing fee-based services to these same agencies. The fee-for-service activities within OPM help OPM meet its mission of ensuring the Federal Government has an effective civilian workforce. The Human Resources Products and Services (HRPS) Division is fee for service and does not have a role within OPM to provide policymaking or oversight.

Through the optional products and services provided by HRPS, Federal agencies have a choice in both the variety of services provided and the service provider (either OPM or another entity). The success and quality of HRPS fee-for-service activities are evident by excellent customer service satisfaction feedback of HRPS customer agencies. I will be happy to provide an extensive list of products and services if I am confirmed.

