

**NOMINATIONS OF ERROLL G. SOUTHERS AND
DANIEL I. GORDON**

HEARING

BEFORE THE

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

OF THE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

NOMINATIONS OF ERROLL G. SOUTHERS TO BE ASSISTANT SECRETARY,
U.S. DEPARTMENT OF HOMELAND SECURITY, AND DANIEL I. GORDON
TO BE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY, OF-
FICE OF MANAGEMENT AND BUDGET

NOVEMBER 10, 2009

Available via the World Wide Web: <http://www.fdsys.gov/>

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



U.S. GOVERNMENT PRINTING OFFICE

56-143 PDF

WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

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	ROBERT F. BENNETT, Utah
ROLAND W. BURRIS, Illinois	
PAUL G. KIRK, JR., Massachusetts	

MICHAEL L. ALEXANDER, *Staff Director*

TROY H. CRIBB, *Counsel*

KRISTINE V. LAM, *Professional Staff Member*

JASON M. YANUSSI, *Professional Staff Member*

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

ROBERT L. STRAYER, *Minority Director for Homeland Security Affairs*

JENNIFER L. TARR, *Minority Counsel*

TRINA DRIESSNACK TYRER, *Chief Clerk*

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

LAURA W. KILBRIDE, *Hearing Clerk*

CONTENTS

Opening statements:	Page
Senator Lieberman	1, 16
Senator Collins	2, 17
Senator Bennett	10
Senator Voinovich	13
Senator Kirk	14
Prepared statements:	
Senator Lieberman	29
Senator Collins	31
Senator Kirk	35

WITNESSES

TUESDAY, NOVEMBER 10, 2009

Erroll G. Southers to be Assistant Secretary, U.S. Department of Homeland Security	3
Daniel I. Gordon to be Administrator for Federal Procurement Policy, Office of Management and Budget	18

ALPHABETICAL LIST OF WITNESSES

Gordon, Daniel I.:	
Testimony	18
Prepared statement	141
Biographical and financial information	143
Letter from the Office of Government Ethics	152
Responses to pre-hearing questions	153
Responses to post-hearing questions	186
Southers, Erroll G.:	
Testimony	3
Prepared statement	37
Biographical and financial information	39
Letter from the Office of Government Ethics	66
Responses to pre-hearing questions	67
Responses to post-hearing questions	99
Letters of support	108

NOMINATIONS OF ERROLL G. SOUTHERS AND DANIEL I. GORDON

TUESDAY, NOVEMBER 10, 2009

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

The Committee met, pursuant to notice, at 10:02 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, Kirk, Collins, Voinovich, and Bennett.

OPENING STATEMENT OF SENATOR LIEBERMAN

Chairman LIEBERMAN. Good morning and welcome. The Committee today takes up the nominations of Erroll G. Southers to be the Assistant Secretary of Homeland Security in charge of the Transportation Security Administration (TSA) and Daniel Gordon to be Administrator of the Office of Federal Procurement Policy (OFPP) at the Office of Management and Budget (OMB). And we are going to begin with the nomination of Mr. Southers.

Sir, you have been nominated to administer an agency which in very few years has grown to a large size and to be of great importance to the American people. It is probably one of the Federal agencies that has direct personal contact with more citizens of our country than any other—50,000 employees, a budget of \$7 billion with a very important mission to protect the safety of passengers and cargo traveling by air, road, or rail.

To this job, you bring nearly three decades of experience in public safety, homeland security, and intelligence carried out at all levels of government and, indeed, in academia. In your current position as the Assistant Chief of Homeland Security and Intelligence at Los Angeles World Airports (LAWA), you have had responsibility for the security of Los Angeles' four area airports.

Previously, Mr. Southers taught homeland security and public policy at the University of Southern California and served as deputy director of the California Governor's Office of Homeland Security. He also worked as a Federal Bureau of Investigation (FBI) special agent and as a police officer in Santa Monica, California.

If Mr. Southers is confirmed to be the TSA Administrator, he will be taking charge of an agency that I think has made enormous strides in the last 8 years to strengthen the security of the commercial aviation sector but that clearly must make more progress in-

creasing the security not only of air travel but of other forms of transportation, particularly mass transit including railways.

So I have several questions that I want to ask you in that regard, but for now, it is a pleasure to welcome you here. I appreciate that you are willing to take on this job.

Now I would call on Senator Collins for an opening statement.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman. I join you in welcoming our nominee today for the important position of being the Assistant Secretary for the Transportation Security Administration.

From the first day of its operation, the TSA was given a critical assignment under extraordinary circumstances. It was created to close the serious aviation security gaps that allowed terrorists to board airplanes, overpower the crews in flight, and carry out the deadly attacks against America on September 11, 2001. Eight years later, what was once seen as a new and fledgling agency has become an established security presence at our Nation's airports. Every year, the TSA screens more than 600 million airline passengers. The agency, through its screening and security efforts, has helped to restore America's confidence in air travel.

While progress has been made, some security vulnerabilities persist. For example, there have been troubling reports of undercover inspectors being able to smuggle bomb components and weapons undetected through TSA's security checkpoints. To respond to these troubling findings, TSA must be aggressive in improving its screener training. It must also develop new and innovative technologies to aid in the detection of these threats.

The Secure Flight program is a vital component in TSA's efforts to keep known and suspected terrorists from boarding commercial aircraft. When fully implemented next spring, this program will allow TSA to screen passenger names against the government's No-Fly list.

As TSA manages the Secure Flight program, it must provide a better mechanism for passengers who believe they have been misidentified or put on the list in error. Our security measures must be designed not to unduly hamper legitimate travel while preventing access to aircraft by our enemies.

Aviation is not the only sector of transportation that merits TSA's vigilant security efforts. The agency's mission extends to other modes of transportation as well, including mass transit, and that is for good reason. As the Chairman has noted in the past, we cannot focus all of our resources on terrorist threats to aviation alone as the threat does not stop there. We know that the terrorists will continue to devise new strategies to penetrate our defenses, and TSA cannot be caught flat-footed by focusing only on the techniques that terrorists employed in their last attack.

I want to just close my remarks by mentioning two final points. One is, I am very impressed with the Visible Intermodal Protection and Response (VIPR) teams. These teams bring together Federal air marshals, TSA officers, and canine units to conduct security sweeps at airports, seaports, and transit stations. Two years ago,

I saw them in action in demonstrations at Maine's airports, and I was very impressed how the resources are brought together.

Finally, we cannot forget the importance of the role that the traveling public plays when it comes to identifying threats to mass transit. The See Something, Say Something public awareness campaign, which is underway I know in Los Angeles and New York, as well as the legal liability protections that the Chairman and I included in the 2007 homeland security law helps to prompt individuals to come forward and report suspicious activities.

I look forward to exploring these issues with our witness today. The important mission of TSA will require a focused, talented, and determined leader. The security of our Nation's transportation system depends upon it.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks very much, Senator Collins.

Mr. Southers 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 part of the hearing record with the exception of the financial data, which are on file and available for public inspection in the Committee's offices.

Mr. Southers, I think you know our Committee rules require that all witnesses at nomination hearings give their testimony under oath, so I would ask you at this time to please stand and raise your right hand.

Do you swear that the testimony that you are about to give to this committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. SOUTHERS. I do.

Chairman LIEBERMAN. Thank you very much. Please be seated.

Mr. Southers, we would now welcome an opening statement, if you have one, and the introduction of any family or friends who are with you today.

TESTIMONY OF ERROLL G. SOUTHERS¹ TO BE ASSISTANT SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. SOUTHERS. Good morning, Chairman Lieberman, Ranking Member Collins, and distinguished Members of the Committee. Before I begin, I would like to extend my most heartfelt sympathy and support for the victims of the shooting at Fort Hood and their families.

I am honored to appear before you today as President Obama's nominee to lead the Transportation Security Administration as Assistant Secretary. It is a privilege to be selected by the President and to receive the support of Secretary Napolitano. I look forward to the great challenge of continuing the exceptional work that the men and women of TSA do in protecting our homeland.

With the Committee's indulgence, I would like to thank my parents, James and Thelma; my wife, Caryn; and our children, James and Maia for their love and support. I am so very pleased that Caryn and Maia are able to join me here today.

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

I also must thank and acknowledge the outstanding officers and employees of the Los Angeles World Airports Police Department and my esteemed colleagues at the University of Southern California.

I share Secretary Napolitano's vision that keeping our homeland safe from terrorism is a collective responsibility in which all Americans have a role to play. Protecting our transportation network requires the work of many hands: TSA; the unified resources of the Department of Homeland Security; other Federal agencies; private industry; State, local and tribal governments; our international partners; and most importantly, the traveling public. By engaging these partners, and with the oversight and guidance from Congress, we will more effectively ensure the free movement of the American people and the flow of commerce.

If confirmed, I know the honor of leading TSA will come with great challenges and responsibilities. When Congress created TSA following the terrorist attacks of September 11, 2001, it gave TSA the mission to provide for the security of all modes of transportation. While TSA has made great strides to fulfilling this responsibility, I fully understand that the work will never be complete. We are challenged by a dynamic threat and adaptive enemies who seek to harm Americans and our way of life.

I believe that I am up to the challenge of leading TSA. TSA and its most valuable resource, its people, need leadership. I understand what type of leadership and support the front-line workforce needs to execute a security mission.

For the past 30 years, I have dedicated myself to the challenge of counter-terrorism and public safety at local, State, and Federal levels. This has given me the important perspective to understand how partnerships are critical to success. The crucial need to effectively share information, be it threat information, intelligence, coordinated response planning, or best practices, is something I have lived with, practiced, and experienced. If confirmed, I will bring this same dedication and commitment with me to TSA.

Since 2007, I have served as the Assistant Chief for Homeland Security and Intelligence for the Los Angeles World Airports Police Department. I am proud to wear the uniform of the airport police with the responsibility, in partnership with TSA and other agencies, to protect the people and goods that pass through one of the world's major airports, Los Angeles International Airport (LAX), as well as Van Nuys Airport, one of the busiest general aviation airports in the United States.

LAX has the largest aviation law enforcement agency in the Nation with the largest complement of explosives detection canine teams of any U.S. airport. LAX is also an intermodal hub with an important nexus to surface transportation with its nearby light rail system and transit buses.

LAX has served as an interdisciplinary laboratory in a real-world setting for advances in risk modeling and infrastructure protection. If confirmed, I will seek to further develop and deploy innovative security strategies and technologies to protect our transportation systems.

Since 2006, I have served as Associate Director of the University of Southern California's Center for Risk and Economic Analysis of

Terrorism Events (CREATE), a DHS Center of Excellence. My responsibilities include the development and enhancement of special programs to provide the intellectual underpinnings for the fight against terrorism.

I also developed the executive program on counter-terrorism designed to challenge international counter-terrorism leaders and enhance their analysis, coordination, and response capabilities. My experience with the airport police and CREATE has afforded me the opportunity to collaborate with my international counterparts and other world experts in sharing best practices to combat terrorism. If confirmed, I will continue to draw on these relationships to benefit TSA's mission.

I also had the honor to serve Governor Schwarzenegger as the Deputy Director of the Office of Homeland Security for California. I was responsible for counter-terrorism policy, the protection of California's critical infrastructure in a post-September 11, 2001, environment and participated in the development of DHS's first National Infrastructure Protection Plan.

If confirmed, I will serve as a key member of Secretary Napolitano's leadership team as she continues to forge a unified agency. Having served at both the operational level and as a stakeholder of the Department, I hope that I will bring a fresh perspective to fully integrating TSA operations as part of one DHS.

Every day at LAX, I witnessed firsthand the great work of the transportation security officers, and I understand the challenges they face. I would be honored to serve as their assistant secretary. I will provide them with an effective voice within TSA while fulfilling the agency's critical security mission. A professional, effective workforce will further promote public confidence in TSA while enhancing our country's resilience.

If confirmed, I hope to forge a close relationship with this Committee and with Congress. This is a partnership, and the threat the United States faces requires a unified effort.

Mr. Chairman, Ranking Member Collins, Members of the Committee, thank you again for the opportunity to meet with you and your staff and appear before you today. I look forward to answering your questions.

Chairman LIEBERMAN. Thanks very much for that opening statement, Mr. Southers. I want to start my questioning with the standard three questions we ask 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. SOUTHERS. No, sir.

Chairman LIEBERMAN. 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. SOUTHERS. No, Senator.

Chairman LIEBERMAN. And then 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. SOUTHERS. I do.

Chairman LIEBERMAN. Thank you very much. You are off to a good start. [Laughter.]

Let me ask you a standard question for nominees, but it is, I think, a relevant one. In the general sense in the area of responsibility that you will take on, you have dealt with responsibilities like this. You have had interactions with TSA.

As I have said, this agency has really come a long way in the 8 years, but obviously, it has enormous responsibilities. So my question is, what are your priorities going in, beyond preserving the progress made? In other words, what do you see as threats that you are concerned about that you would like to see us better defended against?

Mr. SOUTHERS. As I mentioned in my opening statement, the threat environment is quite dynamic, especially as it relates to explosives and things of that nature. One of the things that would be a challenge initially is tomorrow's threat as it relates to some of the peroxide-based explosives. There is technology available, and I think going forward, I might look forward to an enhanced relationship with DHS's Science and Technology Directorate to better identify the technology that would be able to identify those types of threats.

Chairman LIEBERMAN. So tell us a little about that, just from the layman's perspective. What is the change that is occurring and what consequences does it have?

Mr. SOUTHERS. The change that is occurring is that these explosives are able to be put in forms that are non-metallic. They are able to be concealed. The ingredients are readily available, and they are quite destructive. So the challenge then comes in being able to detect those types of explosives with the technology and/or training, of course, before they are introduced in the environment.

Chairman LIEBERMAN. Yes, I appreciate your mentioning the Science and Technology Directorate at the Department of Homeland Security. Senator Collins and I put that into the Department of Homeland Security when it was created. It is comparable to an agency at the Department of Defense, and it has been critically important to our national security to be able to use technology to stay ahead of the threat. And we finally have Dr. O'Toole confirmed as Under Secretary, so I am glad you are going to be working with her.

In a somewhat similar regard, the bulk of homeland security dollars spent on improving security within the transportation sector have been spent on protective and defensive measures, obviously, most significantly, personnel but also cameras, security gates, and the like. But as you noted in response to one of the Committee's questions submitted to you prior to the hearing, "Resiliency is a hallmark of effective security." And greater efforts should be made to enhance our capability for the continuity of operations to maintain public confidence in the safety and security of the transportation sector.

So I wanted to ask you to develop that a little bit. What does resiliency in homeland security mean and what more do you think TSA should be doing to promote or require resiliency within the American transportation sector?

Mr. SOUTHERS. I think there are two components to resiliency, a pre-incident component and a post-incident component. Probably the best examples of pre-incident resiliency that I have observed are in London and in Israel. London has dedicated itself to a prevent, detect, deter, and defend posture, most notably at the Royal United Services Institute, an institute in which I have lectured on this very subject. What they have done is engage the public, educated them, made them more aware of the threat, and really helped them form a very integral part of the security layer in London. As you know, Israel has been quite successful with the same in terms of engaging their public.

So going forward, I think what we have to do is reach out to our public, make them more aware, better educated. There is an active campaign now at TSA called WHY, and we are explaining why the policies are in place, what they mean, and hoping that people will become part of that security layer.

Of course, in a post-incident phase, we are looking at the ability to have continuity of operations. We are engaged in two pilot projects now from DHS at LAX focused on continuity of operations in the event we were to have a chemical and/or biological attack. So the ability to respond, to be resilient, and keep our way of life going if we were so victimized is important as well.

Chairman LIEBERMAN. It is somber but very important, I agree with you. As we discussed when you came in to see me, I have had a concern. Understandably, after September 11, 2001, we focused on the security of air travel. But there is also a lot of people in this country who travel on buses and particularly trains and subways. We know from events overseas that subways, trains, have been a target of terrorists. Usually, when we talk about this, people talk about practical problems of applying the same kind of security systems to, for instance, rail and subway transport as we do to aviation. But whenever I hear that, I worry that we are accepting a level of risk that we may not have to accept for people who are traveling by rail or subway.

I wanted to ask you if you have any over-the-horizon thoughts about what is possible here in terms of raising our defenses to protect people who every day ride trains or subways around our country.

Mr. SOUTHERS. Well, as we discussed, certainly looking at some of the attacks that have occurred in the last decade—London, Mumbai, and other locations—rail is certainly a concern as well as buses. And we have to become better in terms of our ability to be risk driven. I think the assessments of these locations, these transmodal hubs throughout the United States, are going to be important in terms of determining what risk level we have.

I think it might be important to emphasize the use of VIPR units in that kind of, if you will, enhancement of presence in terms of deterring operations from occurring there. It has been my experience that pre-operational planning is very dependent upon a lack of security. And when they see a lack of presence or a lack of effective technology, it is something going forward. I have, however, seen a full airport-type security measure in Shanghai before the Olympics last summer.

Chairman LIEBERMAN. For trains or subways?

Mr. SOUTHERS. For trains.

Chairman LIEBERMAN. Yes.

Mr. SOUTHERS. I do not know if that is an effective measure. It certainly would slow your throughput, but it is something that was explored and experimented with before the games. So I think it is important here to have a presence and deter the threat from actually looking at those locations to target.

Chairman LIEBERMAN. Well, I understand the practical problems. I hope you will explore some of those alternatives, including looking at the results from the Shanghai experience. And, of course, we can hope that technology will improve to an extent that we can do some kind of screening of passengers getting on trains and subways without compromising that mode of transportation in terms of its popularity or economic viability.

My time is up. I thank you. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Southers, a great many people whose judgment I respect have spoken very well of you to me, including the new police chief in Portland, Maine, who is from Los Angeles originally and told me that he had a very high opinion of your work.

Mr. SOUTHERS. Thank you.

Senator COLLINS. There is one issue in your background that I want to explore for the record with you. In your responses to the Committee's pre-hearing questionnaire, you indicated that you had received a letter of censure from the FBI. It was many years ago, more than 20 years ago, but it involved your using your official position to resolve a personal concern.

We have asked for a copy of that letter and have not yet received it. So let me ask you some questions about the letter.

Were there any administrative sanctions imposed by this letter or in connection with this letter?

Mr. SOUTHERS. No, there were not.

Senator COLLINS. And was your decision to leave the FBI approximately 6 months later connected in any way to this incident?

Mr. SOUTHERS. No, it was not.

Senator COLLINS. Was it connected to the censure that you received?

Mr. SOUTHERS. No, it was not.

Senator COLLINS. You have taken responsibility for your actions. You have acknowledged your mistake in the personal conversation that we had in my office. It is important that the public have confidence that government officials will not misuse the authority that they have. There is also an issue about access to personal information, which is directly related to the incident at the FBI.

If you are confirmed, you are going to have access to databases that have personal information on many individuals, such as through the Secure Flight program, and it is going to be important for the public to have confidence that you would not in any way misuse your access to the personal information in those databases.

So let me first ask you, have you ever in the past misused your access to databases that the government maintains other than this one incident that led to this censure?

Mr. SOUTHERS. No, Senator, I have not.

Senator COLLINS. And do you commit today that you will respect the privacy and civil liberties concerns that people have with regard to the personal information in these databases?

Mr. SOUTHERS. Yes, Senator, I do.

Senator COLLINS. And do you commit that you will never use your access to those databases to satisfy a personal concern?

Mr. SOUTHERS. Yes, Senator, I do.

Senator COLLINS. Thank you.

I would now like to go to a policy issue. The most frequent interaction that the traveling public has with TSA is through the checkpoint screenings at airports. And those of us who travel frequently know that there seems to be an inexplicable variation in the procedures at one airport versus another airport. These variations do not seem to be attributable to an increased threat level at one airport versus another airport. And a passenger behind me in line at the Boston airport just 2 weeks ago put it very well, and he said, "Why is it that when I am in Los Angeles, I put my shoes in a bin, but in Boston, it has to be directly on the screening belt?" And there does not seem to be any uniformity in what is done, and he was expressing frustration about it because the screener actually chastised him—and I overheard this—for putting his shoes in the bin rather than directly on the belt going through the x-ray machine.

That seems like a very minor point, and in the scheme of things, it is. But it raises a larger issue. Should there not be consistency in how screening is done from airport to airport absent some threat level at a particular airport that would cause for a variation?

Mr. SOUTHERS. Senator, you are absolutely correct. And you are speaking to the public confidence issue, which was raised earlier, that is eroded when, in fact, those policies and procedures are inconsistent. I think what is necessary here, obviously, first is a training issue nationwide that is consistent from airport to airport for those procedures that given the absence of risk or intelligence should be the same.

Second is a management in place that is going to support staff when they make those decisions when anomalies occur or when prohibited items are discovered. And then third, leadership, of course, if confirmed, that I would take responsibility for, to see to it that those practices are in place, that training is in place, and that their compliance is carried out in a method that makes our efficiency of our system enhanced.

Senator COLLINS. Thank you. I think it is a training issue. I also think it is a leadership problem and a communication problem because there do appear to be inconsistent procedures, and I think that is something that you could remedy.

I want to move next to an issue which I hear a lot about from constituents, both pro and con, largely con. And that is an area that Secretary Chertoff identified as a significant unaddressed vulnerability, and that is the potential for terrorists to use general aviation aircraft to smuggle a weapon of mass destruction into the country or to use the airplane itself as a weapon. And as part of its effort to address this vulnerability in October 2008, TSA proposed a set of security regulations for general aviation aircraft, and these regulations would impose significant changes to the way that general aviation operates today.

I have heard a lot of complaints, also, about those proposed regulations, that they are not practical for small airports where general aviation may be landing, that they are too burdensome, that they will lead to unnecessary expense.

It is my understanding that these regulations have generated an astonishing 8,000 comments from stakeholders across the country. And a common theme is that TSA did not reach out sufficiently to the general aviation community to tell them, look, we have a problem here; how would you suggest that we solve it, and involve them more in a negotiated rulemaking rather than a top-down approach of just imposing regulations that may not be very practical.

What is your response to that concern?

Mr. SOUTHERS. Well, Senator, you are absolutely correct. And, certainly, stakeholder input is critical to establishing effective collaborations so we can address an item like this.

As I mentioned earlier, I have three general aviation airports that I am currently responsible for. And what we have tried to do is, if you will, mitigate some of the risk presented by those aircraft there in a couple of ways. First, we have reached out to educate the stakeholders at those airports about the threat they face and made them more aware. We have also given them an opportunity to participate in a 24-hour general aviation hotline for those anomalies, those persons that might be suspicious, those activities that might be suspicious, so that they can feed into our intelligence system, and then that information is provided to the fusion centers in the area. And most importantly, we have been able to move resources in the way of VIPR teams and canine teams to those airports on a random basis to present a different picture, a different view, if you will, to a would-be attacker so that our security posture is not seen as static or the same.

So those have been the deterrents that we have been successful with in the Los Angeles area and that I would look forward to, if confirmed, bringing to the national scale.

Senator COLLINS. Thank you. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much, Senator Collins.

Senator Bennett, good morning.

OPENING STATEMENT OF SENATOR BENNETT

Senator BENNETT. Good morning. Thank you very much and welcome, sir. I appreciate your willingness to serve and take on this responsibility.

I want to discuss an area that has given rise to some concern in my home State, and this has to do with whole-body imaging now known as advanced imaging technology.

Can you explain how this can improve our capability, particularly with respect to plastic explosives and ceramic knives?

Mr. SOUTHERS. Senator, the whole-body imaging technology gives us the ability to identify metallic and non-metallic objects without personal contact with the passenger. Those items you mentioned are the ones that would be able to be located if we had that technology. We are seeing that kind of explosive capability around the world. The technology at present is optional to the passenger. What is important here is a very concerted effort on the part of TSA to balance the security enhancements with the civil liberties and pri-

vacy concerns of the passenger, and I think that is a delicate balance that would have to be maintained going forward.

Senator BENNETT. Yes, that was going to be my next question.

Can you address it a little more in detail? Because a number of people are concerned about what they consider to be something of an intrusion when they are, in their view, exposed, electronically naked, if not physically naked, and there have been some serious concerns about that among some of my constituents.

Can you get a little deeper into how you are protecting privacy?

Mr. SOUTHERS. Well, Senator, the images that are presented on the technology are moving toward, if you will, almost a stick-figure-like image so that what can be identified are those objects that are attached to the body. The operator parameters, meaning the TSA operator parameters, are quite strict with regard to the operator not being located near the passenger. The medium in which the images are collected is not stored. They are having no contact with the individual at all. And most importantly, it is an optional screening methodology for the passenger. If they choose not to go through it, they would be subject to a pat-down search and wandering, if you will.

Senator BENNETT. Does that mean that every passenger that decides not to do it is going to be patted down? Because I go through the standard magnetometer now and I do not get patted down unless there is a little symbol of some kind on my boarding pass that says I have been identified by the computer as potential evil. [Laughter.]

Mr. SOUTHERS. Unless there is some detection of some kind of threat that you might have, you would walk through the metal detector as you do now. If you went to secondary, you would be subject to a pat-down. But if there were no items detected by the metal detector, you would go on as you do now.

Senator BENNETT. Now, let us address the question of speed. For those of us who are very frequent fliers, the biggest challenge to getting to the airplane is getting through the TSA screening. And in my observation, the biggest impediment to getting through it quickly is the individual watching the screen as your luggage goes through. Some individuals are much more willing to challenge things than others, and they nit pick, if you will, every single item that goes by, and others almost seem not to notice the images as they go by. Both of those make me a little nervous.

But I have found that the magnetometer is faster than the alternative methods. If we go to the kind of screening you are talking about here to deal with the plastic explosives and ceramic knives and so on, and that becomes the norm with the opt-out, the magnetometer, is that in fact going to slow things down everywhere and thereby cause people to shun it simply because they want the speed that would come with going through the magnetometer and thereby cut down on your effectiveness?

Mr. SOUTHERS. Well, throughput is obviously important, but not at the expense of sacrificing security.

Senator BENNETT. Right.

Mr. SOUTHERS. The technology is improving. As I mentioned earlier, we would hope to have a greater relationship with our Science

and Technology Directorate. We have a transportation security integration facility at Reagan Airport that tests these technologies.

Senator, I think what is important here is to place the appropriate technology in the environment matched with the necessary training so that we can ensure security and ensure efficiency with throughput on our passengers and achieve a very good balance.

Senator BENNETT. Final question in that regard, I understand this is a very difficult kind of coordination that TSA has to do with the airlines. But the biggest challenge for throughput, to use your term, seems to be scheduling. Unfortunately, there are times when the flights to Washington are always taking off from Salt Lake, when everything is backed up because the schedules of the airlines have a number of planes going at that point. And then when I fly someplace other than Washington at a different time of day, there are TSA people standing around doing nothing because there are not any passengers lined up.

Is there any effort being made to try to coordinate with the airlines at each airport to say these are our heavier periods where we need every station manned and these are periods when we need far less, and we can arrange the TSA schedule to match the airline schedule, and thereby save a little money and maximize the times when we need the personnel?

Mr. SOUTHERS. Senator, that is a very valid concern, and we faced the same challenge when I first arrived at LAX about 3 years ago.

Senator BENNETT. I would think LAX would be the poster child for that.

Mr. SOUTHERS. I am happy to say in most instances we were. What we have done is our police department along with TSA and the airlines gathered the information. They gave us passenger load capacity 2 weeks ahead of time. TSA adjusted their staffing levels to those passenger loads. We then actually used that to dictate some of our randomized deployment of our security measures with those passenger loads. And so we were able to actually accomplish two very important things: TSA was able to match the staffing levels with the passengers, and we were able to look at some of the security threats presented by an increased number of people in a certain location at a certain time.

Senator BENNETT. I thank you for that, and I hope you share that expertise gained at LAX with a number of other terminals that I have gone through that are not that carefully coordinated.

Thank you very much, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Senator Bennett.

Mr. SOUTHERS, just to clarify, how many airports are the whole-body imaging machines at now generally? I do not expect you to know exactly.

Mr. SOUTHERS. Senator, I do not know that answer. Sorry.

Chairman LIEBERMAN. But as far as you know, is it the intention of TSA to have whole-body imaging machines at all the airports or at all the major airports?

Mr. SOUTHERS. I honestly do not know.

Chairman LIEBERMAN. When you have a chance, get back to us.

RESPONSE FROM MR. SOUTHERS

I am told that TSA is currently piloting Advanced Imaging Technology (AIT) as the primary method of screening at six airports: Albuquerque, Las Vegas, Miami, Salt Lake City, San Francisco, and Tulsa. I also understand that TSA is currently using IT at 16 airports in secondary screening.

Chairman LIEBERMAN. Do I have it right that the average person will go through the magnetometer first, and then if there is a problem, they are directed to the whole-body imaging machine or they can opt not to go there and then they will be patted down?

Mr. SOUTHERS. They could actually go through whole-body imaging first.

Chairman LIEBERMAN. Oh, they could?

Mr. SOUTHERS. Yes.

Chairman LIEBERMAN. By their choice or are we setting it up first in some airports?

Mr. SOUTHERS. By their choice, yes, sir.

Chairman LIEBERMAN. Thank you. Senator Voinovich, welcome.

OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. Thank you. I am sorry that I was not here for your opening statement. I really enjoyed the visit we had in my office. And I probably of all the members of the Senate have an intimate relationship with TSA because I have a pacemaker, and I have been patted down by the best and the worst. [Laughter.]

I have experienced whole-body imaging in Cleveland. I went through one here recently in Washington, and the thought was that people that have pacemakers and others would go through the whole-body imaging and eliminate the need to be patted down. But even when you go through the whole-body imaging, after that they still want to, once in a while, pat you down. I really do not believe that this system is going to go in throughout the country, and that is something you are going to have to decide. But as far as I am concerned, it is a nice option, and if it is there, I will use it.

I think one of the things that has been brought up is the issue of how you manage the TSA workforce. And one of the things I think some of my colleagues are not aware of is that we do have a different system with TSA than we have with other Federal employees under title 5. When we stood up TSA, we gave them a separate section of the code, which gave the managers an opportunity to have more flexibility. For example, one of the reasons why we are able to retain part-time people in the TSA, which we need for those peak travel periods where you need more personnel, is that TSA has been able to offer them health insurance.

One of the things that I am very concerned about, as we discussed in my office, is the effort to return TSA to title 5, United States Code, which I think would be a grave mistake. On the other hand, I understand that there is some consideration being given to having Secretary Napolitano grant some collective bargaining rights.

Do you believe that collective bargaining rights should be extended to transportation security officers, and if so, how do you believe the labor relations system should be crafted? If TSA provides for collective bargaining, will TSA alter the Performance Accounting and Standard System, our PASS system, which means that we

have 55,000 people today that are under performance evaluation, which I think is something that many people have encouraged us to be doing.

Where do you stand right now in regard to this?

Mr. SOUTHERS. Well, Senator, what you have noted is that over the years, TSA has made continued improvement, and that is something that is going to be a priority. In fact, what I would like to see is some day where this agency is the international model for transportation security.

Where I would stand on that at this point is I would like to take, if I am confirmed, an opportunity to meet with the stakeholders, meet with the employees, a cross section of the organization to see how this is going to impact them. And we want to be able to protect employees, but our mission is, of course, security. And in my discussions with staff and the Secretary, I have made it clear that I would like to review this matter with the understanding that I would not compromise the security mission. There are certain costs that need to be considered. There are certain timelines that have to be considered if this were going to be engaged.

So my position right now is one of wanting to review it, wanting to be part of the discussion, but I want to be clear that I would not endorse, recommend, or suggest to the Secretary anything that would compromise our mission or in any way would I suggest that we are going to bargain on security.

Senator VOINOVICH. That is good. When TSA stood up, there were problems. I met with several of the managers of the airports and some of the screeners that were complaining. And I think one of the most satisfying things—it just happened recently—is I had an individual who was there just last—yesterday, as a matter of fact. And about 3 years ago, all he did was moan and groan about how bad things were, how they needed a union, and so on and so forth. And in this particular instance, he had nothing to say except that things are going good.

So there has been some real progress, I think, made there. It is not perfect. But, again, I would hate to give up the flexibilities that you have and return the TSA to title 5. If there is some compromise that can be worked out, I think that is good. I am glad to hear that you are not going to compromise the flexibility that we now have so that we can do the job of securing our people just because you get lobbied very hard by some folks out there that want to see TSA come under title 5.

Mr. SOUTHERS. Thank you, Senator.

Senator COLLINS [presiding]. Thank you.

In Senator Lieberman's absence, I temporarily have the gavel. It feels great to have it once again. [Laughter.]

And I am going to recognize our newest member, Senator Kirk, for his questions.

OPENING STATEMENT OF SENATOR KIRK

Senator KIRK. Thank you very much, Senator Collins. The gavel looks comfortable in your hands.

Welcome, Mr. Southers. Thank you for your service. I know some of your relatives are here with you, and we welcome them as well.

Mr. SOUTHERS. Thank you, sir.

Senator KIRK. Massachusetts is my home. Boston, the capital city, is on a port. We have rail service, highways, and airports like so many others. So we obviously have a great interest in and gratitude for what your administration does, and we thank you for your service in that regard.

Understanding fully that your mission is one of security, and that should be foremost, I wanted to ask you about the tensions that sometimes come into play with making sure that security is thorough and enforced, and I am referring to the No-Fly list. I know my predecessor Senator Edward Kennedy found his name on a No-Fly list and had considerable difficulty and challenges getting his name removed from that list. And I wondered if it was difficult for a U.S. Senator to have his name removed from a No-Fly list, what measures or what challenges do you see going ahead for people who perhaps may not be or should not be warranted as no-fly personnel or travelers, and how they can be removed from the list or better protected?

Mr. SOUTHERS. Thank you, Senator. The implementation of the Secure Flight Program is going to mitigate a lot of those challenges that we have been facing in the past with regard to mismatches on the No-Fly list. The redress program known as the Traveler Redress Inquiry Program (TRIP) is one that is working its way forward. Passengers will be given an identification number and then, as you know, with Secure Flight, that vetting is actually occurring before a person gets to the airport.

The goal of the program is to clear people before they even get to the airport. So we are reducing the number of near misses or mismatches on names. We are also reducing the need to have to go to the ticket counter when they arrive. So once this program is rolled out and it has been endorsed by the Government Accountability Office (GAO), I think it is going to greatly reduce those challenges and the problems that we have had in the past as it relates to No-Fly.

Senator KIRK. And when will that be in effect, do you expect?

Mr. SOUTHERS. I believe it is going to be rolled out in the next fiscal year.

Senator KIRK. Another question I had was with respect to the process by which small businesses might be eligible to compete for some of the things that they produce. We have a lot of small technology companies in Massachusetts that are creative with respect to hand devices and other kinds of technology that I would expect would be helpful to advancing the mission of TSA. And I wondered if you could just describe for us what the process is so that small businesses would be able to compete and have their products assessed and evaluated so that they could perhaps be a part of helping you in your mission.

Mr. SOUTHERS. Well, I know that this was part of the efficiency review in which the Secretary engaged earlier this year. The process is going to involve looking at the appropriate requests for proposals, making themselves available to that process, and then competing. We have been quite successful in the Los Angeles area in looking at businesses of all sizes to address some of the challenges that we have.

We do encourage SAFETY Act certification by the Department so they have been recognized by DHS and so we understand that a certain level of vetting has occurred.

But it is a process really of knowing when those opportunities exist and then engaging with the appropriate agency, meaning us, to get into the comparative pool for technologies that we might consider in the future.

Senator KIRK. I would encourage you to consider symposia and other things that might showcase some of the creative and innovative technologies that are coming on stream for two purposes: First, to help you fulfill your mission, and second, to allow the small businesses, which are basically the fuel in a lot of our economic areas, to participate.

Mr. SOUTHERS. Thank you, sir.

Senator KIRK. Thank you. Thank you, Madam Chairman.

Chairman LIEBERMAN [presiding]. Thanks, Senator Kirk. Thank you, Madam Interim Chairman.

Senator COLLINS. You can say it.

Chairman LIEBERMAN. For presiding while I had to be out.

Senator KIRK. Who has the gavel now?

Chairman LIEBERMAN. I have retaken it. It was a peaceful transition. [Laughter.]

Senator COLLINS. We believe in that in America.

Chairman LIEBERMAN. Mr. Southers, thank you very much. We do not have any more questions. We want to move on to the next nominee, but I appreciate all the background that you bring to this. And we are going to keep the record on your hearing open until the close of business on Thursday so we can give people another day to submit any additional questions they want because as soon as we come back, I hope we can move you through as soon as possible. But my thanks to you, and I look forward to working with you.

Mr. SOUTHERS. Thank you, sir.

Chairman LIEBERMAN. Thank you. Let us now go to Daniel Gordon.

OPENING STATEMENT OF SENATOR LIEBERMAN

We will now reconvene and move to the nomination of Daniel Gordon to be the Administrator of the Office of Federal Procurement Policy at the Office of Management and Budget.

The purpose of the Office of Federal Procurement Policy is to bring economy, efficiency, and effectiveness to Federal procurement. And, of course, the job of the Administrator has grown more challenging by the year. The sheer size of Federal contracting puts an enormous amount of responsibility on this office. Just to give you a sense of it, in fiscal year 2008, the latest year for which we have complete data, the Federal Government spent \$539 billion on contracts, an amount that is about two and a half times above what the government was spending at the beginning of the decade. And as the amount of contracting has grown, so has the complexity of what we purchase. Agencies, of course, still make traditional purchases like office supplies and furniture, but they also contract for an astounding array of goods and services, from information technology (IT) systems to pharmaceuticals to intelligence analysis.

I am grateful that President Obama has turned to a real experienced expert in this field to serve as Administrator of OFFP. Since 1992, Mr. Gordon has been an attorney at the Government Accountability Office, so we feel a particular closeness to him, rising up through the ranks to be Deputy General Counsel. Since May, he has served as Acting General Counsel at GAO, and I think it is fair to say he is known throughout the procurement community as a very informed and experienced and thoughtful lawyer.

Mr. Gordon will have no shortages of challenges at OFFP. He is going to need to push agencies to replenish their acquisition workforces, which simply have not kept pace with the growth in contracting. He is going to have to be sure that competition remains the cornerstone of contracting. He will have to improve our Federal data systems that provide transparency into contracting, which too often have inaccurate or untimely information. And he is going to have to help guide agencies in the important task of deciding when it is appropriate to turn to the private sector to perform work and when a function is so central to an agency's public mission that it should remain in the hands of public employees.

If you are still willing to proceed with this hearing after that description of your responsibilities, Mr. Gordon, I welcome you, and I will have questions for you after your opening statement.

Senator Collins.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman.

Seldom has a nominee for Administrator of the Office of Federal Procurement Policy come before the Committee at a more critical time. The Federal acquisition system is under tremendous stress. Between fiscal years 2000 and 2008, acquisition spending by the Federal Government expanded by 163 percent from \$205 billion to \$539 billion.

OFFP plays a central role in shaping the policies and practices Federal agencies use to acquire goods and services that they need to carry out their missions. In so doing, the OFFP has an obligation to ensure that the Federal acquisition system promotes the economy, efficiency, and effectiveness that provide best value to taxpayers.

As a long-time advocate for stronger competition, accountability, and transparency in government contracting, I applaud the steps the Administration has taken to improve Federal contracting. Many of these initiatives originated from contracting reform legislation I co-authored with Senator Lieberman during the last Congress.

But the fact remains that no matter how many laws we pass or how many guidance documents OMB issues, the effectiveness of our Federal acquisition system depends on a vital human component, the acquisition workforce.

While contracting spending has risen dramatically, the number of acquisition personnel who help plan, award, and oversee these contracts has been stagnant. And with roughly half of the current acquisition workforce eligible to retire over the next decade, the difficulties of strengthening that workforce will only become more acute. A well-trained and well-resourced workforce is critical to

keeping pace with increased Federal spending on contracts and with the much more complex procurements of goods and services.

The Administration has identified acquisition workforce development as a pillar for improving acquisition practices and contract performance. I am disappointed, however, by OFPP's latest proposal to supposedly strengthen the acquisition workforce. The 5-year plan released a few weeks ago falls far short of the critical changes that this Committee identified and mandated last year. The plan lacks adequate analysis or substance to serve as a meaningful blueprint to bolster this overburdened cadre of professionals and to foster the training and development of analytical skills necessary to protect the taxpayers' investment.

We must also consider current staffing levels within the OFPP itself. In many ways, they mirror the problems that I have just described in the overall Federal acquisition workforce. OFPP has broad responsibilities and a staff of roughly a dozen appears to me to be simply inadequate. This lack of staffing may explain why OFPP has become increasingly reactive to procurement failures instead of working proactively to prevent them from occurring in the first place.

Mr. Gordon brings with him more than 20 years of public and private experience in the Federal acquisition system ranging from litigating and adjudicating bid protests to teaching about the Federal procurement system. I look forward to hearing from him how he would address these many challenges if he is confirmed to be the next OFPP Administrator.

Chairman LIEBERMAN. Thanks very much, Senator Collins. Mr. Gordon 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 hearing record with the exception of the financial data, which are on file and available for public inspection in the Committee offices.

Mr. Gordon, I think you know that our Committee rules require that all witnesses at nomination hearings give their testimony under oath, so I would ask you to stand please and raise your right hand at this time.

Do you swear that the testimony you are about to give to this committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. GORDON. I do.

Chairman LIEBERMAN. I thank you.

Please be seated. We would welcome an opening statement or an introduction of any family or friends that you have with you this morning.

**TESTIMONY OF DANIEL I. GORDON¹ TO BE ADMINISTRATOR
FOR FEDERAL PROCUREMENT POLICY, OFFICE OF MANAGE-
MENT AND BUDGET**

Mr. GORDON. Thank you, Mr. Chairman, Ranking Member Collins, and Members of the Committee.

¹The prepared statement of Mr. Gordon appears in the Appendix on page 141.

I am honored to appear before you today as President Obama's nominee to serve as the Administrator for Federal Procurement Policy. Because, as you noted, Mr. Chairman, I am a career Federal civil servant, it is especially humbling to be considered for a position that plays such an important role in helping our government achieve better results for the American people.

I am very grateful to have my family and friends with me this morning, and with your indulgence, I would like to introduce my mother, Mae Mace, who I might add, Mr. Chairman, is a graduate of the Norwich Free Academy and Willimantic State Teachers College, as it was known then.

Chairman LIEBERMAN. I had a feeling that there was something special about your mom. Thank you, sir.

[Applause.]

That is actually a great school with a proud tradition.

Mr. GORDON. My stepfather, Colonel Herman Mace, who I am proud to say is a World War II veteran.

Chairman LIEBERMAN. Thank you, sir. Thanks for your service.

[Applause.]

Mr. GORDON. My wonderful partner of 23 years, Paul Cadario; my brother and sister-in-law, Mike and Donna Gordon; my other sister-in-law, Harriet Gordon; and other family members. I am also delighted to be joined by colleagues from GAO, particularly the Office of General Counsel, as well as from the George Washington University Law School where I have been on the adjunct faculty.

Chairman LIEBERMAN. It is great to see everybody here in your support.

Mr. GORDON. Thank you.

Chairman LIEBERMAN. And you began, I presume, not in terms of age but in terms of location.

Mr. GORDON. Yes, sir. Thank you. I would not be here today without the loving support of my family and their guidance as well.

The challenges that face us in the acquisition system require dedicated management attention if we are going to achieve the type of sustainable improvement that I believe the President envisioned in his March 4 memorandum on government contracting. Accordingly, if I am confirmed as Administrator, I would work with Congress and the agencies to address the following four priorities.

First, as noted by the Ranking Member, increasing the size and improving the training of our acquisition workforce. Our procurement spending, as you have noted, has increased dramatically in the past decade, and the growth in the workforce has not kept pace. We need to focus our attention on developing the acquisition workforce and ensuring that its members get the training that they need.

Second, we need to find ways to save money and reduce risk in our acquisitions. As you know, we are operating in a period of record deficits. A well-trained empowered acquisition workforce can help us structure our procurements in ways that save money and mitigate risk. Moreover, I believe that technology gives us the tools to make the procurement system much more transparent and that the visibility that transparency brings can discourage the improper use of high-risk contracting practices.

Third, improving acquisition planning. We need to work to ensure that our program staff and our contracting staff are working together, that they have the capacity and the tools they need to effectively plan acquisitions because good planning is critical to successful acquisitions.

Finally, strengthening contract management. As stewards of the taxpayers, we must make sure that those who contract with the government deliver what they promise in terms of price, schedule, and performance.

There are no silver bullets. There are no quick solutions for any of these challenges. Each one will require hard work and coordinated actions on the part of multiple stakeholders. If confirmed, I welcome the opportunity to join the topflight team led by Director Peter Orszag, Deputy Director Rob Nabors, and Deputy Director for Management Jeff Zients.

Let me close this brief statement by thanking you again for the honor and the opportunity to be here today. I would also like to thank your staff for the time that they spent with me in preparation for this hearing. If I am confirmed, I look forward to the opportunity to continue to work with this Committee and other Members of Congress.

I would be pleased to answer questions that you may have.

Chairman LIEBERMAN. Thanks, Mr. Gordon. That was an excellent opening statement. And I want to note for the record that Jeff Zients, the aforementioned Deputy Director for Management at OMB, is right here. And that speaks to what I am sure will be a very important and good working relationship.

I am going to start with the standard questions we ask 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. GORDON. No, sir.

Chairman LIEBERMAN. 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. GORDON. No, sir.

Chairman LIEBERMAN. 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. GORDON. Yes, sir.

Chairman LIEBERMAN. Thank you very much.

I am going to ask a few of the questions that I touched on and then perhaps Senator Collins as well touched on in the opening statements. From the beginning of the Obama Administration, the President, as you noted, has put some emphasis on improved contract management. Back in February, Senator Collins and I participated in the procurement session of the President's Fiscal Responsibility Summit, and I have been pleased that OMB has followed up on some of the ideas that were discussed at that session by issuing two rounds of guidance on contracting, first in July and then again last month.

This guidance does not rewrite Federal procurement rules, which is wise, in my opinion, given that we already have very detailed

rules in the Federal acquisition regulation. But the guidance does lay out some best practices for agencies to increase competition, reduce the risk in contracting, and engage in better human resource planning so that the agencies find the right balance between their in-house workforces and outside contractors.

So I wanted to ask you what role you think the Administrator of OFPP should play in making sure that the agencies follow the new guidance.

Mr. GORDON. Mr. Chairman, OFPP and its Administrator can play an important role in ensuring the implementation of the guidance as well as, more generally, the implementation of the statutes and regulations about procurement.

As I understand it, the OFPP Administrator works closely with chief acquisition officers through the Chief Acquisition Officers council and with senior procurement executives. The work with other agencies across the government is critical for the Administrator to hear what is happening, hear lessons learned, and share best practices so that we can implement the guidance and move forward.

Chairman LIEBERMAN. The July guidance from OMB lays out a couple of specific goals, which are, I say with appreciation, real, but I think they are also manageable, which is a reduction in 7 percent of contract spending and a 10 percent reduction in high-risk contracts; that is, non-competitive contracts or cost-reimbursement contracts over the next fiscal year.

So as I said, I think these are achievable goals, but over the long run, the efficiencies that can be wrung out of contracting are going to vary from agency to agency. And I think, therefore, handing down numerical targets may not be the logical way and the next step to proceed to better management.

So I wanted to ask you once we get by these initial reduction targets, what do you think OFPP can do? And in another sense, what leverage does the office have to sustain the momentum for better contract management and how will you manage, what kinds of benchmarks do you think might be established to measure the performance of each agency in this regard?

Mr. GORDON. Mr. Chairman, one of the challenges in this area is more transparency and the need for more transparency. We need to know what is happening out there. In particular, for example, with the use of cost-reimbursement contracting where I know GAO just recently issued a report expressing concern that we do not have enough data on the number of cost-reimbursement contracts. When we have more transparency, as I said in my opening statement, that transparency can highlight the use of high-risk contracting methods, cost reimbursement, non-competed contracts, time and materials contracts. And in my view, that transparency itself can help.

In addition, OFPP and its Administrator can, as I said, ensure that there is communication among the agencies and a sharing of lessons among the agencies to look for ways to reduce our risk and to get away from these higher risk contracting methods.

Chairman LIEBERMAN. That is a good answer, and I thank you. Let me ask you a very different kind of question about automated contract writing, which is a tool that I think can be very useful as

we move to an electronic-based procurement system and away from a paper-based system. An automated system, I think, would help supervisors flag potentially troublesome contracts. And finally, an automated system, I think, would help us get better real-time transparency, which you focused on, of Federal spending.

My understanding is that agencies vary quite a lot in their use now of automated writing systems. And I wanted to ask you if you have any plans to review this area and to see what efficiencies we might gain from better governmentwide contract-writing systems.

Mr. GORDON. If I am confirmed, Mr. Chairman, I would very much like to look into that. I would point out a couple of things. One is that uniformity, using, as you said, a standard contract writing software across the government, has certain advantages. Uniformity in our procurement system can make training easier and less expensive, can make it easier for people to transfer from agency to agency and take their skills with them.

Obviously, there are situations when uniformity is not appropriate where you have agency-specific issues. There are some issues in the Department of Defense (DOD) obviously where they would have different regulations governing their acquisitions. So their system may need to be different. But it is certainly an area that I would want to explore to see if we can squeeze more efficiency out of our system.

Chairman LIEBERMAN. Good. A final question, which is also to raise something on your screen, we are holding this hearing as part of our traditional governmental affairs responsibility. We also now in recent years have had a homeland security responsibility. And we are focused this year, among other things, on cybersecurity as the rest of the government is.

At a hearing we held in April on this subject, there was a very interesting point made, I thought, by one of the witnesses, that the Federal Government itself has tremendous buying power with regard to information technology. One estimate we heard was that in fiscal year 2010, we will spend approximately \$76 billion on information technology matters.

The challenge was raised as to the way in which we can use that spending strategically to improve Federal cybersecurity, and cybersecurity generally, by requiring more of the IT industry in the area of cybersecurity, particularly for such a large client base. I want to ask you if this makes sense to you and if you would take a look at it and hopefully act on that idea once you assume this office, if confirmed.

Mr. GORDON. Mr. Chairman, I would welcome the opportunity to look into that. I see the issue as being part of strategic sourcing more broadly. The government, our Federal Government, as you know, is the largest buyer in the world.

Chairman LIEBERMAN. Right.

Mr. GORDON. We need to be sure that we are taking advantage of our buying power and that we are using it to save money but also to leverage in an area such as cybersecurity, which I would welcome the opportunity to look into.

Chairman LIEBERMAN. Very good, thanks very much. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Gordon, I mentioned in my opening statement my concern about a recent OFPP document on the Acquisition Workforce Development Strategic Plan. It is dated October 27, 2009.

Have you had a chance to read this document yet?

Mr. GORDON. I have, Senator Collins, although, of course, I was not privy to the development of it.

Senator COLLINS. Do you think that we could strengthen the acquisition workforce planning beyond what is in this document?

Mr. GORDON. I heard your statements both today and in the hearing that I think the contracting subcommittee held last week or the week before, and I very much appreciated the point you made. I know that you are an advocate for strengthening our acquisition workforce, and if I am confirmed, I would welcome the opportunity to work with you and your staff to find ways to be sure that we do strengthen the acquisition workforce across the civilian agencies.

Senator COLLINS. I think that is absolutely critical. As I have said, it does not matter how many executive orders are promulgated, how much guidance is issued, or how many laws we pass if we do not have a high quality and sufficiently sized workforce to implement it. So I look forward to working with you on that, which leads me to another workforce issue, which is OFPP's own workforce.

OFPP in recent years has been largely reactive rather than proactive on procurement reforms, and I cannot help but wonder if that is attributable to the small size of the office. I am not looking to create some huge new bureaucracy, but I believe OFPP has only about a dozen full-time employees.

Do you think that is adequate for the mission of the office?

Mr. GORDON. It is an issue that, if I am confirmed, I would welcome the opportunity to look into. I will tell you that I am committed to ensuring that OFPP has adequate staff with the right skill set.

Senator COLLINS. Let me turn to two specific policy concerns that I have. The Acquisition Advisory Council, which was created by Congress in 2003, recommended that multi-agency contracts and certain large dollar single agency indefinite delivery and indefinite quantity (IDIQ) contracts—referred to as enterprise-wide contracts—be centrally coordinated by OMB. And a lot of times, these enterprise contracts are huge. They are enormous. The Navy's SeaPort-e contract has an aggregate ceiling of \$209 billion. The DHS Enterprise Acquisition Gateway for Leading Edge Solutions (EAGLE) contract has an aggregate ceiling of \$45 billion. Both of these are multi-year contracts. And the advisory panel has also observed that the proliferation of contract vehicles dampens the government's ability to leverage its buying power.

How would you address the problem of unnecessary duplication in similar contracts in various Federal agencies?

Mr. GORDON. Senator Collins, I very much appreciate the report of the Acquisition Advisory Council and their recommendations. And the issue of duplication in these IDIQ contracts is a tough issue. I appreciate the logic, as the report pointed out, that sometimes a little bit of competition can be healthy.

But I have heard considerable concern, both on the government side and on the private sector side, that the duplication has gone too far, that there are wasted efforts and wasted money. And potentially, it is acting as the opposite of strategic sourcing. It is essentially dividing up the Federal buying power instead of building it up.

It is an issue that definitely merits attention. I know that OFPP has been looking at insisting that new IDIQ contracts come forward with a business case to justify them. It is definitely an issue that, if I am confirmed, I would want to look into to be sure that duplication is not wasteful of our very limited resources.

Senator COLLINS. Thank you. I am pleased to hear you mention talking with the private sector. I think we should view the private sector as our partners in trying to procure services and goods that the Federal Government needs. Sometimes the relationship becomes too adversarial. On the other hand, there are rampant abuses that have occurred in some contracts because of insufficient oversight. So we need to reach out to the private sector to learn from them, but at the same time, make sure we have aggressive oversight.

The relationship with the private sector brings up an issue that the Chairman and I have focused on many times. As you know, contractors are prohibited by law from performing inherently governmental functions. But defining what is an inherent government function is not always easy. Our Committee, however, has concluded that in the case of DHS, contractors were performing many functions, such as writing specifications for contracts, that clearly should be done in-house.

What would you do to ensure that the proper balance is struck and that agencies are maintaining their ability to perform core functions?

Mr. GORDON. I very much appreciate the concerns that you raise, Senator Collins, on both sides. That is to say, I very much agree that contractors perform important functions. We need to work with the contractors that are helping the government carry out its tasks. But as you said, and I also very much agree with this, we need to be careful that we have not become overly reliant on contractors.

As both the President and the Director of OMB have said, there is real concern that we have gone overboard in contracting out. We need to revisit the contracting out that we have done to be sure not only that inherently governmental functions are performed by Federal employees; that should be a given. But in addition, there are other functions which are critical to the agency's performance of its mission that need to be performed by Federal employees. The agency must not lose control of its operations by outsourcing too much.

I understand that OMB is committed to developing clearer guidance on inherently governmental functions, and if I am confirmed, I would welcome the opportunity to be part of that process.

Senator COLLINS. Thank you. My time has expired, so I am going to submit my further questions for the record.

Let me just in closing say that you also need to pay attention to the use of blanket purchase agreements (BPA). GAO has a new report that indicates that in over half of the sample BPAs that were

reviewed, there was no evidence that agencies sought discounts when establishing these agreements. This is an issue that definitely OFPP needs to take a look at.

Mr. GORDON. I agree.

Senator COLLINS. Thank you.

Chairman LIEBERMAN. Thanks, Senator Collins. Senator Voinovich.

Senator VOINOVICH. Thank you. I would like to build on a couple of questions that Senator Collins mentioned. First of all, have you had a chance to evaluate OFPP's resources?

Are there enough people in your shop to get the job done? Does OFPP have the quality and the numbers to get it done?

Mr. GORDON. I have been very impressed by the people in OFPP that I have worked with over the years, including more recently. I have been impressed by the quality of the work that they do, but I have not formed an opinion yet about the appropriate number.

Senator VOINOVICH. If you find that the right people are not there, are you going to tell Mr. Zients that you need more people?

Mr. GORDON. The good thing about working for Jeff Zients is I think he would view me as part of the team and we would be communicating very frankly and freely.

Senator VOINOVICH. The second question deals with the issue of having the in-house people to have the expertise to work with the contractors that you hire. I have found from my career in the management side that too often agencies farm out acquisition functions and do not have the people in-house to make sure that the people that they have farmed the work out to are doing the job that they are supposed to be doing. And I would be very interested in having an appraisal, assuming you are confirmed, of agencies that you feel lack the capacity in-house to get the job done. I think that is real important, and I am sure there is going to be some standards developed on this issue. But I would like to know after maybe 6 months which agencies you think need to bring some folks back in-house or develop the capacity in-house to get the job done.

The other issue is we had a hearing in August, and we were dismayed to learn that the chief acquisition officer of one of the Federal Government's top purchasers was not aware he could access direct hire authority for acquisition personnel.

If confirmed, what are you going to do to make sure that agencies know what flexibilities they have to get the people they need to get the job done? Also, I would be interested in knowing whether or not you think that the salary levels are adequate to compete for acquisition personnel because there is a big need out there in this area.

Mr. GORDON. There is. Senator, thank you for the questions. If I could say first of all more broadly before addressing some of the specific points you raised, I think we are in a very good situation in that we have a broad consensus from this Committee, from Congress generally, and across the agencies, and obviously at OMB, that we must increase the size of the acquisition workforce. We must increase their training.

Senator VOINOVICH. Now, do you have the flexibilities and the salary schedule to go out and get those individuals?

Mr. GORDON. We absolutely need to be sure that we have that capacity. On the salary, I do not feel like I know enough about the facts, but I have noted it down. I do want to look into that. I am encouraged by the fact that the Office of Personnel Management under the new Administrator, John Berry, is working to streamline the Federal hiring practices. We need to be able to hire people. We need to hire qualified people. Fortunately, the job market today actually facilitates hiring in the Federal Government, but we then need to train them. We need to reward them so that they feel appreciated in our acquisition workforce—very important things that I would view as high priorities if I am confirmed as Administrator.

Senator VOINOVICH. It has been mentioned that you are going to have a lot of retirements from the acquisition workforce.

What policies are in place for hiring back annuitants to train the new people coming on board?

Mr. GORDON. I understand, Senator, that there are some flexibilities there, but I should note that there has actually been growth in the acquisition workforce over the past year and a half, 2 years, and that is somewhat encouraging. But we do need to look to flexibilities such as rehired annuitants, if that is appropriate, and to be sure that agencies, as you say, know what flexibilities they have in hiring.

Senator VOINOVICH. The National Defense Authorization Act of 2008 required OFPP to develop a sustainable funding model to support the hiring, training, and retention of acquisition personnel. The recently released OFPP guidance on acquisition workforce development strategic planning did not provide a specific discussion of the funding mechanism.

Would you please share your views on how efforts to grow the civilian acquisition workforce should be funded and would you support a centralized fund similar to the Defense Acquisition Workforce Development Fund in order to get the job done? In other words, what we are doing, we are giving the budgets of each of the departments and acquisition is included under the personnel line item probably, and then they have to decide how much goes to the acquisition workforce.

If we do have this great need, do you think we should continue that practice or should we set up a separate fund as has been the case with the Defense Acquisition Workforce Development Fund?

Mr. GORDON. I appreciate the appeal of having a fund as we have on the DOD side. Senator, to tell you frankly, I just do not feel like I know enough of the different aspects of the issue to have an opinion yet, but I can commit to you that I would want to look into it. We need to be sure that we have a way to bring on board the acquisition employees that we need.

Senator VOINOVICH. Good. I just think so often we ask people to do a job like the one we are going to be asking you to do, and then we do not have the infrastructure in place so that you can achieve that job. And I would hope that you would be as candid as you can be with Mr. Zients and also with this Committee in terms of whether or not you feel that you are in position to do the job we are going to ask you to do.

Mr. GORDON. Thank you.

Chairman LIEBERMAN. Thanks, Senator Voinovich. Senator Kirk.

Senator KIRK. Thank you. Thank you, Mr. Chairman.

Welcome, Mr. Gordon. Welcome to your family. To your father, we celebrate all veterans, but your service to the country at this particular time is poignant, and we thank you for that.

First of all, I want to identify myself with Senator Collins' comments about the clarification between those contracts that are clearly governmental and those that might be available for commercial bidding and competition. It is clear from the President's memorandum of March 4 that there is a need for greater clarity and clearing the blurs in the lines and so forth.

Can you be more specific about what you would do, if you are confirmed for your new position, to make sure that those lines are clear so people in the commercial sector can know whether and when they can compete?

Mr. GORDON. Yes, Senator. My understanding is that OMB is already working with the Executive Branch agencies to get those agencies to identify on a pilot basis functions where there is a risk that they are, in fact, overly reliant on contractors. I do not know the details, obviously, because I am not in the position. But if I am confirmed, I very much would want to look into that.

As one of your colleagues mentioned earlier, acquisition is a particularly sensitive area. If we have contractors that are playing a role in acquisition, we need to be sure at the minimum that there are not conflicts of interest that would make it inappropriate for a contractor to be working in that area. But as I think is implicit in your question, OMB needs to give Executive Branch agencies guidance and the private sector guidance about what work should not be contracted out but rather needs to be performed by Federal employees. And if I am confirmed, I would welcome the opportunity to be part of that.

Senator KIRK. Thank you. One of the tangential tensions, if you will, with contracting out inherently Federal functions is the risk that personal information of Americans and contractors might be mishandled. And I think most folks would rely on and hope to have assurances that security of their personal information would not be compromised. And I wondered whether you know whether OMB will provide additional guidance on this issue to agencies that handle personal information such as I am describing.

Mr. GORDON. Senator, the issue of personally identifiable information and the need to protect it is a very high priority. I would need to look into the specifics of any role that OFPP might have in that, but I commit to you that, if I am confirmed, I will be happy to look into that issue.

Senator KIRK. Thank you very much. One other important area about no-bid contracts is that they prevent many well qualified small businesses from competing on a level playing field. One of the leaders of small business in my State in Massachusetts said that, "The record has been pretty dismal," when it comes to the ability to compete for Federal contracts.

Would you agree with that characterization? And I wondered what efforts might be made to perhaps make small business more accessible to an ability to compete for some of these contracts?

Mr. GORDON. Opening up opportunities, Senator, for small businesses to compete for Federal contracts is a bedrock principle of

our Federal procurement system, and obviously, it is enshrined in law through the Small Business Act and the regulations implementing it. One of OFPP's functions is to work with the Small Business Administration and through that cooperation remove barriers to entry so that small businesses can participate in the competition for contracts.

I would note that there has actually been quite a bit of success. I appreciate that a small business that does not get a contract may feel frustrated, but, in fact, there is, I understand, a Federal target of roughly 23 percent and we are close to that target. And I think under the Recovery Act, contracts are actually above that target. So progress is made, but as we often say at GAO, more work remains to be done.

Senator KIRK. It is an area where I think a small business is very much the touchstone of our economy and particularly in certain areas of our country, so I would encourage you to keep pushing that forward.

Mr. GORDON. Yes, sir, I will do that.

Senator KIRK. Thank you very much. Mr. Chairman, that is all I have for this morning.

Chairman LIEBERMAN. Thank you very much, Senator Kirk. I appreciate those questions. More work needs to be done. You are right.

Thank you. You have been very responsive to the Committee's questions. I hope I do not jinx your nomination by saying it is, in my experience on the Committee, one of the most broadly supported, uncontroversial nominations, so I hope it continues to be that way.

Mr. GORDON. You are very kind, Mr. Chairman. Thank you.

Chairman LIEBERMAN. You have earned it.

We are going to keep the record of this hearing open until the close of business on Thursday for additional questions or statements, and then we will try to move your nomination through the Committee and the floor as soon as possible to get you to work. I thank you for being here. I thank your family. I cannot repeat too many times how exciting it is to have a graduate of the Norwich Free Academy here in the room. [Laughter.]

Mr. GORDON. You made her day, sir.

Chairman LIEBERMAN. She made mine. With that, the hearing is adjourned.

[Whereupon, at 11:40 a.m., the Committee was adjourned.]

A P P E N D I X



United States Senate
Committee on Homeland Security and Governmental Affairs
Chairman Joseph I. Lieberman, ID-Conn.

Opening Statement for Chairman Joseph Lieberman
Nominations Hearing for Erroll G. Southers to be Administrator, Transportation Security Agency
and Daniel I. Gordon to be Administrator for Federal Procurement Policy, Office of Management and Budget
Homeland Security and Governmental Affairs Committee
November 10, 2009

As Prepared for Delivery

Good morning. Today the Committee takes up the nominations of Erroll G. Southers to be Assistant Secretary of Homeland Security in charge of the Transportation Security Administration, and Daniel Gordon to be Administrator of the Office of Federal Procurement Policy at the Office of Management and Budget.

We're going to begin with the nomination of Mr. Southers. You have been nominated to administer an agency which in very few years has grown to a large size and has great importance to the American people. It's one of the federal agencies that has more direct personal contact with citizens of our country than any other. It is composed of 50,000 employees and has a budget of \$7 billion, with a very important mission to protect the safety of passengers and cargo travelling by air, road or rail.

To this job, you bring nearly three decades of experience in public safety, homeland security and intelligence carried out at all levels of government and in academia.

In your current position as the Assistant Chief of Homeland Security and Intelligence at Los Angeles World Airports, you have had responsibility for the security of Los Angeles' four area airports. Previously, Mr. Southers taught homeland security and public policy at the University of Southern California, and served as deputy director of the California Governor's Office of Homeland Security, and also worked as an FBI special agent and as a police officer in Santa Monica, California.

If Mr. Southers is confirmed as TSA Administrator, he will be taking charge of an agency that I think has made enormous strides in the last eight years to strengthen the security of the commercial aviation sector but that clearly must make more progress increasing the security, not only of air travel, but of other forms of transportation, particularly mass transit, including railways.

I have several questions that I want to ask you in that regard, but for now it's a pleasure to welcome you here. I appreciate that you are willing to take on this job and now I call on Senator Collins for an opening statement.

We will now reconvene and move to the nomination of Daniel Gordon to be the Administrator of the Office of Federal Procurement Policy at the Office of Management and Budget. The purpose of the Office of Federal Procurement Policy, or OFPP, is to bring economy, efficiency and effectiveness to federal procurement, and of course the job of the Administrator has grown more challenging by the year.

The sheer size of federal contracting puts an enormous amount of responsibility on this office. Just to give you a sense of it, in Fiscal Year 2008, the latest year for which we have complete data, the federal government spent \$539 billion on contracts – an amount that's about two and a half times above what the government was spending at the beginning of the decade.

And as the amount of contracting has grown, so has the complexity of what we purchase. Agencies, of course, still make traditional purchases, like office supplies and furniture, but they also contract for an astounding array of goods and services, from information technology systems to pharmaceuticals to intelligence analysis.

340 Dirksen Senate Office Building, Washington, D.C. 20510
Tel: (202) 224-2627 Web: <http://hsgac.senate.gov>

I am grateful that President Obama has turned to a real experienced expert in this field to serve as Administrator of OFPP. Since 1992, Mr. Gordon has been an attorney at the Government Accountability Office, so we feel a particular closeness to him, and he has risen up through the ranks to be Deputy General Counsel. Since May, he has served as Acting General Counsel at GAO. And I think it's fair to say he is known throughout the procurement community as a very informed, experienced and thoughtful lawyer.

Mr. Gordon will have no shortage of challenges at OFPP. He's going to need to push agencies to replenish their acquisition workforces, which simply have not kept pace with the growth in contracting. He's going to have to be sure that competition remains the cornerstone of contracting. He will have to improve our federal data systems that provide transparency into contracting, which too often have inaccurate or untimely information. And he's going to have to help guide agencies in the important task of deciding when it is appropriate to turn to the private sector to perform work, and when a function is so central to an agency's public mission that it should remain in the hands of public employees.

If you're still willing to proceed with this hearing after that description of your responsibilities, Mr. Gordon, I welcome you and I'll have questions for you after your opening statement.

Statement of
Senator Susan M. Collins

"Nomination of Erroll Southers to be Assistant Secretary of Homeland Security"

Committee on Homeland Security and Governmental Affairs
November 10, 2009

★ ★ ★

Today I join the Chairman in welcoming Erroll Southers as the nominee for Assistant Secretary for the Transportation Security Administration.

From its first day of operation, the TSA was given a critical assignment under extraordinary circumstances. It was created to close the serious aviation security gaps that allowed terrorists to board airplanes, overpower the crews in-flight, and carry out deadly attacks against America on September 11, 2001.

Eight years later, what was once seen as a new and fledgling agency has become an established security presence at the nation's airports. Every year, the TSA screens more than 600 million airline passengers. The agency, through its screening and security efforts, has helped restore Americans' confidence in air travel.

While progress has been made, some security vulnerabilities persist. For example, there have been troubling reports of undercover government inspectors being able to smuggle bomb components and weapons undetected through TSA security checkpoints. To respond to these troubling findings, TSA must be aggressive in improving its screener training. It also must develop new and innovative technologies to aid in the detection of threats.

The Secure Flight Program is a vital component in TSA's effort to keep known and suspected terrorists from boarding commercial aircraft. When fully implemented next spring, this program will allow TSA to screen passenger names against the government's No Fly List, instead of entrusting that responsibility to the airlines.

As TSA manages the Secure Flight Program, it must provide a better mechanism for passengers who believe they have been misidentified or put on the list in error. Those passengers should be given an opportunity to

provide information that proves they do not belong on the list or are not the individual who is on the list. Our security measures must be designed not to unduly hamper legitimate travel, while preventing access to aircraft by our enemies.

But aviation isn't the only sector of transportation that merits TSA's vigilant security efforts. The agency's mission extends to other modes of transportation as well, including our mass transit system. And this is for good reason. We cannot focus all our resources on terrorist threats to aviation alone, as the threat does not stop there.

We know that terrorists will continue to devise new strategies to penetrate our defenses, and TSA cannot be caught flat-footed by focusing only on the techniques terrorists employed in their last attack. Our defenses must be nimble, and TSA must foster a culture of continuous improvement to respond to new challenges.

Among the innovative approaches that TSA has employed to add another layer of security to all transportation modes is the Visible Intermodal Protection and Response, or Viper, teams. These teams bring together federal air marshals, transportation security officers, and canine units to conduct security sweeps at airports, seaports, and transit stations. Two years ago, I saw them in action during demonstrations at Maine's transportation facilities.

Finally, we cannot forget the importance of the traveling public when it comes to identifying threats to mass transit. The "see something, say something" public awareness campaign, and the legal liability protections that Chairman Lieberman and I included in the 2007 homeland security law for individuals who report suspicious activity, advance our security. They help ensure that citizens will continue to provide critical warnings to government officials so that they can act before an attack. Indeed, we should consider extending those protections to all individuals who, in good faith, report suspicious activities.

Mr. Southers has more than 30 years of experience in law enforcement. He currently serves as the Assistant Chief of Homeland Security and Intelligence for the Los Angeles Airport - one of the nation's busiest airports. As a result, he knows first-hand that TSA must work with state and local government stakeholders and the private sector to improve our nation's security. I look forward to exploring with him how he would improve these partnerships.

The important mission of TSA will require a focused and determined leader. The security of our nation's transportation systems depends upon it.

Statement of
Senator Susan M. Collins

**"Nomination of Daniel I. Gordon to be Administrator for Federal
Procurement Policy"**

Committee on Homeland Security and Governmental Affairs November 10,
2009

★ ★ ★

Seldom has a nominee for Administrator of the Office of Federal Procurement Policy come before this Committee at a more critical time. The federal acquisition system is under tremendous stress. Between fiscal year 2000 and 2008, acquisition spending by the federal government expanded by 163 percent, from \$205 billion to \$539 billion.

The Office of Federal Procurement Policy plays a central role in shaping the policies and practices federal agencies use to acquire the goods and services they need to carry out their missions. In doing so, the OFPP has an obligation to ensure that the federal acquisition system promotes the economy, efficiency, and effectiveness that provide the best value to taxpayers.

As a long time advocate for stronger competition, accountability, and transparency in government contracting, I applaud the steps the Administration has taken to improve federal contracting. Many of these initiatives originated from legislation I co-authored with Senator Lieberman during the last Congress.

But no matter how many laws we pass or OMB guidance documents are issued, the effectiveness of our federal acquisition system depends on a vital human component - the acquisition workforce.

While contract spending has risen dramatically, the number of acquisition professionals who help plan, award, and oversee these contracts has been stagnant. And with roughly half of the current acquisition workforce eligible to retire over the next decade, the difficulties of strengthening that workforce will become increasingly acute. A well-trained and well-resourced acquisition workforce is critical to keeping pace with increased federal spending and much more complex procurements of goods and services.

The Administration has identified acquisition workforce development as a pillar for improving acquisition practices and contract performance.

I am disappointed, however, by OFPP's latest proposal to strengthen the acquisition workforce. The five-year plan released a few weeks ago falls short of the critical changes that this Committee identified and mandated last year. The plan lacks adequate analysis or substance to serve as a meaningful blueprint to bolster this overburdened cadre of professionals and to foster the training and development of analytical skills necessary to protect the taxpayers' investment.

We must also consider current staffing levels within OFPP. In many ways, they mirror the problems I just described in the overall federal acquisition workforce. OFPP has broad responsibilities for procurement across the federal government, and a staff of roughly a dozen is simply inadequate. This lack of staffing may explain why OFPP has become increasingly reactive to procurement failures - instead of working proactively to prevent them from occurring in the first place.

Mr. Gordon brings with him more than 20 years of private and public experience in the federal acquisition system ranging from litigating and adjudicating bid protests, to teaching about the federal procurement system at a law school. I look forward to hearing how Mr. Gordon would address these challenges if confirmed as the next OFPP Administrator.

STATEMENT OF SEN. PAUL G. KIRK, JR.**Committee on Homeland Security and Government Affairs**

Nominations of Erroll Southers to be Assistant Secretary, Department of Homeland Security, and Daniel I. Gordon to be Administrator for Federal Procurement Policy, Office of Management and Budget

Tuesday, November 10, 2009

Mr. Chairman, I commend you for calling this hearing today to consider the nominations of Erroll Southers to be Assistant Secretary of Homeland Security and chief of the Transportation Security Administration, and Daniel Gordon to be the Administrator for Federal Procurement Policy at the Office of Management and Budget.

Mr. Southers has a distinguished record in public safety and transportation security. He currently serves as Assistant Chief of Homeland Security for the police department at Los Angeles International Airport, one of the busiest airports in the world.

The Transportation Security Administration is most often associated with aviation security, but it actually has a broader mandate that spans many modes of transportation. In the Northeast, we have a heavy concentration of rail, ports, and highways along with our airports, so I look forward to hearing from Mr. Southers about how he will prioritize TSA's mission of providing greater security for Americans in all the ways that we travel.

It's also important for the new Assistant Secretary to work closely with the agency's frontline employees. These men and women are the first line of defense for millions of travelers each year. Clear lines of communication between the Administrator's office and Transportation Security Officers will go far to improve the agency's effectiveness and morale.

With respect to Mr. Gordon, his record seems extraordinarily well suited for the position of head of Procurement Policy for the Executive Branch. I'm especially pleased by the nominee's commitment to implementing the President's March 4th memorandum on government contracting reform. As the memorandum stated, *"the line between inherently governmental activities that should not be outsourced and commercial activities that may be subject to private sector competition has been blurred and inadequately defined."* Providing clear guidance to agencies on this issue must be a high priority for the Office of Federal Procurement Policy, and I look forward to the nominee's views on how he would do so.

I'll also be interested to hear the nominee's ideas for making federal contracts more open and accessible to small-businesses. A leader in the small business community in Massachusetts tells me that "*the record has been pretty dismal*" when it comes to their ability to compete for federal contracts. It's important that small companies willing and able to meet the government's contracting needs are given a fair opportunity to do so.

Again, I commend the Chair for holding this hearing, and I look forward to the testimony of our witnesses.

**Statement of Erroll G. Southers to be Assistant Secretary,
U.S. Department of Homeland Security**

November 10, 2009

Good morning Chairman Lieberman, Ranking Member Collins, and distinguished Members of the Committee. Before I begin, I would like to extend my most heartfelt sympathy and support for the victims of the shooting at Ft. Hood and their families.

I am honored to appear before you today as President Obama's nominee to lead the Transportation Security Administration as Assistant Secretary. It is a privilege to be selected by the President and to receive the support of Secretary Napolitano. I look forward to the great challenge of continuing the exceptional work that the men and women of TSA do in protecting our homeland.

With the Committee's indulgence, I would like to thank my parents, James and Thelma, my wife, Caryn, and our children, James and Maia, for their love and support. I am so very pleased that Caryn and Maia are able to join me today. I also must thank and acknowledge the outstanding officers and employees of the Los Angeles World Airports Police Department and my esteemed colleagues at the University of Southern California.

I share Secretary Napolitano's vision that keeping our homeland safe from terrorism is a collective responsibility in which all Americans have a role to play. Protecting our transportation network requires the work of many hands—TSA, the unified resources of the Department of Homeland Security, other federal agencies, private industry, state, local, and tribal governments, our international partners, and most importantly, the traveling public. By engaging these partners, and with the oversight and guidance from Congress, we will more effectively ensure the free movement of the American people and the flow of commerce.

If confirmed, I know that the honor of leading TSA will come with great challenges and responsibilities. When Congress created TSA following the terrorist attacks of 9/11, you gave TSA the mission to provide for the security of all modes of transportation. While TSA has made great strides in fulfilling this responsibility, I fully understand that the work will never be complete. We are challenged by a dynamic threat and adaptive enemies who seek to harm Americans and our way of life.

I believe that I am up to the challenge of leading TSA. TSA, and its most valuable resource, its people, need leadership. I understand what type of leadership and support the front-line workforce needs to execute a security mission. For the past thirty years I have dedicated myself to the mission of counterterrorism and public safety at the federal, state, and local levels. This has given me the important perspective to understand how partnerships are critical to success. The crucial need to effectively share information, be it threat information, intelligence, coordinated response planning, or best practices, is something that I have lived with, practiced, and experienced. If confirmed, I will bring this same dedication and commitment with me to TSA.

Since 2007 I have served as the Assistant Chief for Homeland Security and Intelligence for the Los Angeles World Airports Police Department. I am proud to wear the uniform of the airport police

with the responsibility, in partnership with TSA and other agencies, to protect the people and goods that pass through one of the world's major airports, Los Angeles International Airport, as well as Van Nuys Airport, one of the busiest general aviation airports in the United States. LAX has the largest aviation law enforcement agency in the United States, with the largest complement of explosives detection canine teams of any U.S. airport. LAX is also an intermodal hub with an important nexus to surface transportation with its nearby light rail system and transit buses.

LAX has served as an interdisciplinary laboratory in a real world setting for advances in risk modeling and infrastructure protection. If confirmed, I will seek to further develop and deploy innovative security strategies and technologies to protect our transportation systems.

Since 2006, I have served as Associate Director of the University of Southern California's Center for Risk and Economic Analysis of Terrorism Events (CREATE), a DHS Center for Excellence. My responsibilities include the development and enhancement of special programs to provide the intellectual underpinnings for the fight against terrorism. At CREATE, I developed an Executive Program in Counterterrorism, designed to challenge international counterterrorism leaders and enhance their analysis, coordination, and response capabilities.

My experience with LAWAA and CREATE has afforded me the opportunity to collaborate with my international counterparts and other world experts in sharing best practices to combat terrorism. If confirmed, I will continue to draw on these relationships to benefit TSA's mission.

I also had the honor to serve Governor Schwarzenegger as the Deputy Director of the Office of Homeland Security for California. I was responsible for counterterrorism policy, the protection of California's critical infrastructure in the post-September 11, 2001 environment and participated in the development of DHS's first National Infrastructure Protection Plan.

If confirmed, I will serve as a key member of Secretary Napolitano's leadership team as she continues to forge a unified agency. Having served at both the operational level and as a stakeholder of the Department, I hope that I will bring a fresh perspective to fully integrating TSA operations as part of "One DHS."

Every day at LAX I witness firsthand the great work of the Transportation Security Officers and I understand the challenges they face. I would be honored to serve as their Assistant Secretary. I will provide them with an effective voice within TSA while fulfilling the agency's critical security mission. A professional, effective workforce will further promote public confidence in TSA while enhancing our country's resilience.

If confirmed, I hope to forge a close relationship with this Committee and with Congress. This is a partnership, and the threat the United States faces requires a unified effort.

Mr. Chairman, Ranking Member Collins, and Members of the Committee, thank you again for the opportunity to meet with you and your staff, and appear before you today. I look forward to answering your questions.

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

1. **Name:** (Include any former names used.)
 - Erroll Gregory Southers
2. **Position to which nominated:**
 - Assistant Secretary of Homeland Security, Transportation Security Administration
3. **Date of nomination:**
 - September 17, 2009
4. **Address:** (List current place of residence and office addresses.)
 - Residence: REDACTED
 - Office: Los Angeles World Airports Police Department, 9841 Airport Blvd., Los Angeles, CA 90045
 - Office: University of Southern California, 3710 McClintock Avenue, RTH 305, Los Angeles, CA 90089
5. **Date and place of birth:**
 - August 9, 1956; Elizabeth, New Jersey
6. **Marital status:** (Include maiden name of wife or husband's name.)
 - Married; Caryn Beck
7. **Names and ages of children:**
 - James Erroll Southers (22 yrs)
 - REDACTED
8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.
 - Scotch Plains-Fanwood High School (Scotch Plains, NJ), 1971-1974, HS diploma, 1974
 - Brown University, 1974-1979, BA degree, 1978
 - University of Southern California, 1995 – 1998, MPA degree, 1998

- University of Southern California (I am currently a student in the doctorate program – DPPD expected in 2011)
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.)
- Assistant Chief of Homeland Security and Intelligence (2007-present)
Los Angeles World Airports Police Department
Los Angeles, CA
 - Associate Director (2006-present)
CREATE (Center for Risk and Economic Analysis of Terrorism Events),
University of Southern California (A Department of Homeland Security "Center of Excellence")
Los Angeles, CA
 - Adjunct Professor of Homeland Security and Public Policy (2003-present)
University of Southern California
Los Angeles, CA
 - Deputy Director for Critical Infrastructure (2004-2006)
California Governor's Office of Homeland Security
Sacramento, CA
 - Chief of Protective Services (1991-1993/1995-1999)
Assistant Vice President/Chief of Protective Services (1999-2004)
Los Angeles County Museum of Art
Los Angeles, CA
 - President & CEO (1997-2004)
Risk Management Consultants International
Los Angeles, CA
 - Executive Director (1994-1995)
Youth, Education & Community Services Unit – City Manager's Office
City of Long Beach, CA
 - Executive Director (1993-1994)
Citizen Police Complaint Commission – City Manager's Office
City of Long Beach, CA
 - Special Agent (1984-1988)
Federal Bureau of Investigation
San Diego, CA

- Faculty and Tactical Officer (1982-1984)
Rio Hondo Police Academy
Whittier, CA
 - Police Officer (1980-1984, 1988-1991)
Santa Monica Police Department
Santa Monica, CA
 - Research Assistant (1978-1979)
Department of Endocrinology, Rhode Island Hospital
Providence, Rhode Island
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.
- LAX Airport Security Advisory Committee (2005-2006)
 - DHS Center for Risk Economic Analysis and Terrorism Events (CREATE)
Government Advisory Board (2004-2006) (This was not a federal advisory committee)
 - U.S. Department of State Overseas Security Advisory Council
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.
- Risk Management Consultants International, President & CEO, (1997-2004)
 - University of Southern California, School of Policy, Planning & Development
Alumni Association
 - Co-Chair (2004-2007)
 - Board Member Emeritus – honorary position (2007-present)
 - Consultancies
 - 2006 Contemporary Services Corporation, Northridge, CA
 - 2006 Risk Management Solutions, Newark, CA
 - 2003 Los Angeles County Office of Education
 - 2003 The Archer School for Girls, Los Angeles, CA
 - 2003 Lewis, Brisbois, Bisgaard & Smith LLP, Costa Mesa, CA
 - 2002 Bret Harte Middle School, Los Angeles, CA
 - 2002 LA Youth Newspaper, Los Angeles, CA
 - 2002 William Mulholland Middle School, Van Nuys, CA
 - 2002 High Museum of Art, Atlanta, GA
 - 2002 Park Century School, Los Angeles, CA
 - 2002 Claypool Law Firm, Pasadena, CA
 - 2002 Natural Resources Defense Council, Santa Monica, CA
 - 2002 Tishman Construction Corporation of California, Los Angeles, CA
 - 2002 Charles M. Schulz Museum & Research Center, Santa Rosa, CA

- o 2002 Fulfillment Fund, Los Angeles, CA
- o 2001 Arnold's All-Stars After School Program, Los Angeles, CA
- o 2001 David Wark Griffith Middle School, Los Angeles, CA
- o 2001 Thomas A. Edison Middle School, Los Angeles, CA
- o 2001 Trammel Crow Company, Dallas, TX
- o 2001 Gruen Associates, Los Angeles, CA
- o 2001 Investment Development Services Inc., Los Angeles, CA
- o 2001 Wilshire Plaza, Los Angeles, CA
- o 2001 United Teachers Los Angeles, Los Angeles, CA
- o 2001 Westside Waldorf School, Santa Monica, CA
- o 2001 Access Management, Little Ferry, NJ
- o 2000 The Center for Early Education, West Hollywood, CA
- o 2000 PSA Advanced Technology Group, Denver, CO
- o 2000 Federal Protective Service, Washington, DC
- o 2000 Primedia Workplace Learning, Carrollton, TX
- o 2000 PM Realty, Woodland Hills, CA
- o 2000 Mid-Peninsula High School, Menlo Park, CA
- o 2000 Turningpoint School, Culver City, CA
- o 2000 Wildwood School, Los Angeles, CA
- o 2000 Wilshire Ebell Theater, Los Angeles, CA
- o 1999 Dallas Museum of Art, Dallas, TX
- o 1999 Scottsdale Museum of Contemporary Art, Scottsdale, AZ
- o 1999 Mashantucket Pequot Museum & Research Center, Mashantucket, CT
- o 1998 California Association of Independent Schools, Santa Monica, CA
- o 1998 The Human Resources Consortium of Cultural Institutions of Massachusetts, Boston, MA
- o 1998 Isabella Stewart Gardner Museum, Boston, MA
- o 1998 Museum of Fine Arts, Boston, MA
- o 1997 Crossroads School for Arts & Sciences, Santa Monica, CA
- o 1996 Pomona College, Claremont, CA
- o 1996 Stonebridge Holdings Inc., Los Angeles, CA
- o 1996 Balboa Medical Center, Granada Hills, CA
- o 1996 Doctors Medical Center, Granada Hills, CA
- o 1996 Physicians Center West, Laguna Beach, CA

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

Current memberships

- Society of Former Special Agents of the FBI, 1997 – present
- International Association of Chiefs of Police, 1991 – 1993/2008 – present
- University of Southern California School of Policy, Planning and Development Alumni Association,
 - o Co-Chair, 2004-2007
 - o Board Member Emeritus, 2007-present

Past memberships

- International Association for Counterterrorism and Security Professionals, Member, 2007-2009
- Miracle Mile Chamber of Commerce, Member, 2004-2005
- University of Southern California Professional Development Mentor Program, Member, 2003-2005
- University of Southern California, School of Policy, Planning and Development Strategic Planning Group, Member, 2003-2004
- University of Southern California Alumni Advisory Committee, Member, 2003-2004
- LA Youth Newspaper Advisory Board, Member, 2003 – 2004
- International Foundation for Cultural Property Protection
 - Chair, 2001-2002
 - Member, 1996 – 2004
- American Society for Public Administration, Member, 1996 – 1998
- Western Museums Association, 1995 – 2004
 - Board of Directors, 1999-2004
 - Member, 1995-1998
- American Association of Museums, Security Committee, Member, 1992 – 2004
- American Society for Industrial Security, 1991 – 2004
 - Member, 1991-2004
 - Chair, Museum and Cultural Properties Committee, 1998-2000
- Brown University Alumni Schools Committee, (approximate dates) 1991-1995/2001-2004)
- Westside Gang Investigators Association, Chairman, 1989-1991
- California Gang Investigators Association, Member, 1988-1991

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.
 - None.
- b. List all memberships and offices held in and services rendered to any political party or election committee during the last 10 years.
 - I served as a volunteer advisor to the Homeland Security Policy Group during Senator Obama's Presidential Campaign. (2008)
- 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.
 - Obama Presidential Campaign \$255

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.

- USC Widney Alumni House Award (2007)
- American Assembly of Columbia University Next Generation Fellow (2007)
- UCLA School of Public Affairs Senior Fellow (2006-2009)
- Certified in Homeland Security Program Top Achiever Award (2006)
- Los Angeles Miracle Mile Civic Coalition Good Heart Award (2005)
- USC School of Policy, Planning and Development Outstanding Alumni Award (2004)
- International Organization of Black Security Executives Leading Edge Award (1999)
- Police Department Medals for: Counterterrorism, 1984 Olympics, Professional Achievement and Marksmanship
- Rio Hondo Police Academy Outstanding Cadet Award (1980)

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

- International Research Proposal: Peroxide-Based Explosives Detection Technologies and Risk Assessment – This was a grant proposal the University of Southern California submitted in 2007 to the Department of Homeland Security. I co-authored the proposal. (This is not a public document.)
- International Counter-Terrorism Conference (Herzliya, Israel) Abstract – In 2008, at the World Summit on Counter-Terrorism, I presented information on aviation related terrorism. (I do not have text of the abstract.)
- Nuclear Power Plant Conference Abstract – In 2007, at the National Radiological Emergency Preparedness Conference, I outlined a brief history of the lessons learned from a variety of international incidents, my studies abroad, and work undertaken by the Homeland Security Centers of Excellence. (I do not have text of the abstract.)
- Counter-Terrorism Tools and Approaches Abstract – In 2006, at the LA Terrorism Early Warning Group Conference, I presented information describing the beginning of an interdisciplinary response to the proposed implementation of the National Infrastructure Protection Plan (NIPP). (Abstract is attached.)

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.

- I provided testimony before the United States House of Representatives Committee on Homeland Security on May 6, 2008 at a hearing on the following topic – “The Resilient Homeland – Broadening the Homeland Security Strategy.” See attached.
- I do not retain copies of speeches, and mostly speak from notes or extemporaneously.
- 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.

2009

Joint Chiefs of Staff Level IV Antiterrorism Seminar
 “Social Network Analysis and the Protection of Critical Infrastructure”
 McLean, VA

International Terrorism Intelligence (ITI) Conference
 “Threat Categorization and Pro-Active, Intelligence-Led Preventive Security”
 Washington, DC

Airport Security Coordinator Training Program
 “Homeland Security and the Protection of the Aviation Domain”
 Los Angeles, CA

CPM 2009 West – Business Resilience Strategies
 Keynote Speaker
 Las Vegas, NV

10th Annual California Tourism Safety & Security Conference
 Keynote Speaker
 Anaheim, CA

Stanford University
 Guest lecturer – “Dilemmas in Counter-Terrorism Decision-Making”
 Palo Alto, CA

Redondo Police Department Citizens Academy
 “Counter-Terrorism 101”
 Redondo, CA

2009 International AVSEC Conference
 “Strategies Against Terrorism”
 Hong Kong, Hong Kong

Joint Chiefs of Staff Level IV Antiterrorism Executive Seminar
 “Social Network Analysis and the Protection of Critical Infrastructure”
 Tysons Corner, VA

Federal Air Marshals International Group
 "LAX Counter-Terrorism Brief"
 Los Angeles, CA

Los Angeles Mayor's Office Retreat
 "LAX Homeland Security and Intelligence"
 Los Angeles, CA

The Boeing Corporation
 "Industrial Security Counter-Terrorism Brief"
 Huntington Beach, CA

El Segundo Law Enforcement Roundtable
 "Social Network Analysis & The Protection of Critical Infrastructure"
 El Segundo, CA

2008

DHS and USC Roundtable on Security & Liberty: Perspectives of Young Leaders
 "Toronto, London and Madrid: Could it Happen Here?"
 Los Angeles, CA

19th Annual ISAC Seminar
 "Terrorist Networks & Protecting Critical Infrastructure"
 Long Beach, CA

California Governor's Office of Homeland Security Training Conference
 "Threat Briefing"
 Monterey, CA

Chairman, Joint Chiefs of Staff Level IV Antiterrorism Executive Seminar
 "Terrorist Networks & Protecting Critical Infrastructure"
 Washington, DC

Research Security Associates Seminar
 "Analyzing, Mitigating, Responding and Managing Threats and Emergencies"
 Fountain Valley, CA

World Summit on Counter-Terrorism
 "Aviation Terrorism: Common Sense or Ticking Boxes"
 Herzliya, Israel

Visit to California of British Columbia Officials
 "Social Networking and Critical Infrastructure Protection"
 Los Angeles, CA

Governor's Office of Homeland Security Annual Conference

"Social Networking and Terrorism"
Palm Desert, CA

Great Lakes Homeland Security Training Conference & Expo
"Keynote"
Great Lakes, MI

National Radiological Emergency Preparedness Conference
"The Terrorist Threat in America: What CNN Hasn't Told You!"
Las Vegas, NV

Chairman, Joint Chiefs of Staff Level IV Antiterrorism Executive Seminar
"Terrorist Networks & Protecting Critical Infrastructure"
Washington, DC

2008 Beijing Olympics
Terrorism Update and Counter-terrorism Assessment
Beijing, Shanghai & Qingdao, China

Homeland Security S&T Stakeholders Conference – West
Keynote Speaker
Los Angeles, CA

2007

Boeing National Security Briefing
"Counter-Terrorism Update"
Huntington Beach, CA

Greater LA ISAC Seminar
"The Terrorist Threat"
Long Beach, CA

LAX Chamber of Commerce Annual Protector's Breakfast
"Intelligence and Counter-Terrorism"
Los Angeles

Center for Asymmetric Warfare Conference
"Terrorism Radicalization and Indoctrination"
Los Angeles, CA

Western Museums Association Annual Conference
"Counter-Terrorism Update"
Oakland, CA

USC Executive Management in Leadership Master's Program
"Guest Lecture – Leadership in Adversity"
Los Angeles, CA

Aviation Career Education Graduation
 "Career Development"
 Los Angeles, CA

Santa Monica Rotary Club
 "LAX – Intelligence & Counter-Terrorism"
 Los Angeles, CA

Sacramento Homeland Security Regional Training
 "Counter-Terrorism High Rise Training Class"
 Sacramento, CA

2007 American Council of Young Political Leaders - UCLA
 "The Ethics of Decision Making"
 Los Angeles, CA

2007 University of Southern California Commencement
 "Alumni Address"
 Los Angeles, CA

National Radiological Emergency Preparedness Conference
 "Terrorism: The Threat, The Response"
 Newport Beach, CA

Chicagoland Chapter of Young Presidents Organization
 "Terrorism: The Threat, The Response"
 Chicago, IL

Boeing Aerospace
 "Reducing the Risks After 9/11"
 Anaheim, CA

University of Southern California Board of Trustees Annual Retreat
 CREATE panel presentation
 La Quinta, CA

Whittier College Homeland Security Conference
 "America at Risk: The Nexus of Homeland Security and Transportation Policy"
 Whittier, CA

Ottawa Law School
 "Terrorist Targeting Methodology: Lessons Learned"
 Ottawa, Canada

Global Futures Forum
 "An Interdisciplinary Perspective: Preventing & Contributing to Social Tension-
 The Paradox of Education in Multiculturalism"

Ottawa, Canada

Los Angeles District Rotary Meeting
 "Creating Networks to Counter Terrorist Networks"
 Los Angeles, CA

2006

CALSAGA 2006 Annual Conference
 "Report on California Homeland Security"
 Temecula, CA

17th Annual ISAC Seminar
 "Critical Infrastructure: The Terrorist Threat – The Response"
 Long Beach, CA

LA Terrorism Early Warning Group Conference
 "Counter-Terrorism Tools and Approaches"
 Santa Monica, CA

Long Beach Rotary Club
 "Responding to the Terrorist Threat: Creating Networks to Combat Terrorist Networks"
 Long Beach, CA

CalTrans Response and Recovery Conference
 "Responding to the Terrorist Threat: Creating Networks to Combat Terrorist Networks"
 Rancho Cordova, CA

The One Hundred Club of Contra Costa County
 "Responding to the Terrorist Threat: Building Networks to Counter Terrorist Networks"
 San Ramon, CA

California Alliance for Response
 "The Terrorist Threat – Building Networks to Fight Networks"
 Los Angeles, San Diego, San Francisco & Sacramento CA

Irvine Police Department Public/Private Partnership
 "Countering the Terrorist Threat"
 Irvine, CA

Los Angeles Police Protective League Annual Delegates Conference
 "Homeland Security"
 Rancho Mirage, CA

Black Journalists Association of Southern California

"Homeland Security and the Terrorist Threat"
Los Angeles, CA

Los Angeles County 2006 Commissioner's Leadership Conference
"Luncheon Speaker"
Los Angeles, CA

San Diego Regional Terrorism Threat Assessment Center Briefing
"OHS and the State of Critical Infrastructure Protection"
San Diego, CA

CREATE – The Risks and Economic Impacts of Terrorist Attacks Conference
"Risk Based Decision Making Panel"
Los Angeles, CA

Anti-Defamation League Advanced Security Training for Jewish Institutions
"Homeland Security – Keynote"
Los Angeles, CA

Rotary GSE Forum
"Homeland Security"
Wilmington, CA

Chemistry Industrial Council of California
"Critical Infrastructure"
Los Angeles, CA

Office of Homeland Security Community College Briefing
"Critical Infrastructure"
Long Beach, CA

The Security Network Seminar on the Protection of Critical Infrastructure
"Homeland Security"
San Diego, CA

International Organization of Black Security Executives Annual Conference
"Status of Homeland Security"
Orlando, FL

Project GRAD
"Careers in Justice: A Town Hall Meeting"
Van Nuys, CA

UCLA Spring 2006 Lecture Series on National and Human Security Worldwide
"California Counter-Terrorism UNCLASSIFIED: Everything You Thought You
Heard on CNN but Didn't"
Los Angeles, CA

California State University OHS Briefing
 "State OHS Strategy"
 Long Beach, CA

Research Security Administrators Seminar
 "State OHS Role"
 San Ramon, CA

Law Enforcement Leadership Management Symposium
 "Law Enforcement's Important Role in Homeland Security"
 San Francisco, CA

Aerospace Security Conference
 "Critical Infrastructure Protection"
 El Segundo, CA

Independent Cities Association Annual Conference
 "Homeland Security"
 Santa Barbara, CA

Office of Homeland Security Regional Conference
 "Critical Infrastructure"
 Los Angeles, CA

Office of Homeland Security Regional Conference
 "Critical Infrastructure"
 San Jose, CA

Chief Executive Forum – Criminal Intelligence Bureau
 "Critical Infrastructure Protection"
 San Diego

HID Corporation Seminar
 "Take Control in a Rapidly Changing Security Market"
 Houston, TX

2005

Chief Executive Seminar
 "Homeland Security and Infrastructure Protection"
 Monterey, CA

International Association of Museum Facilities Administrators
 "Homeland Security"
 San Francisco, CA

San Jose Water District
 "Terrorism Threat Update"

San Jose, CA

California State Conference of the NAACP
 "Governor's remarks"
 Los Angeles, CA

USC Graduate Policy Administration Community
 "Leadership Series"
 Los Angeles, CA

Peace Officers Association of Los Angeles County
 "Luncheon Keynote"
 Montebello, CA

American College of Forensic Examiners Institute Homeland Security Conference
 Homeland Security Keynote
 San Diego, CA

St. Mary's Medical Center Emergency Preparedness Forum
 Critical Infrastructure and the Terrorist Threat
 Long Beach, CA

ASIS Law Enforcement & Security Officer Appreciation Day
 Keynote Address
 Studio City, CA

Orange County Ready Disaster Conference
 "Homeland Security and Emergency Preparedness"
 Garden Grove, CA

MCI Security Conference
 "Homeland Security"
 Santa Ana, CA

Monterey County Chief Law Enforcement Officers
 "California Critical Infrastructure Protection Strategy"
 Salinas, CA

Orange County American Society of Safety Engineers Professional Development
 Conference
 "California Homeland Security in 2005"
 Costa Mesa, CA

Infragard 2005 Security Symposium
 "The Terrorist Threat and Disaster Preparedness"
 Sacramento, CA

California Fire Technology Director's Association

"Homeland Security and Emergency Preparedness"
Sacramento, CA

Chief Special Agents Association
"Homeland Security"
Oakland, CA

Miracle Mile Safety Summit
"Emergency Preparedness and the Local Community"
Los Angeles, CA

Long Beach Pipeliners Association
"Critical Infrastructure and the Terrorist Threat"
Long Beach, CA

MCI Security Conference
"Homeland Security and Buffer Zone Protection Plans"
Sacramento, CA

Southeast Region Community Awareness and Emergency Response Forum
"Buffer Zone Protection Plans and the Chemical Industry Sector"
Whittier, CA

LAPD Law Enforcement and Private Security Conference
"Homeland Security and Private Security"
Los Angeles, CA

Los Angeles Sheriff's Department University Graduation
"Commencement Keynote Address"
Whittier, CA

Chiefs Executive Seminar on Criminal Intelligence
"Critical Infrastructure Protection and the Buffer Zone Protection Plan"
Monterey, CA

California College & University Police Chiefs Association Conference
"Weapons of Mass Destruction and the Terrorist Threat"
South Lake Tahoe, CA

American Legal Institute-American Bar Association
"Preventative Planning and Emergencies, Including Terrorism"
San Francisco, CA

Computer Crime Conference
"Homeland Security"
Los Angeles, CA

Department of Justice – Criminal Intelligence for Executives

"Identifying Critical Assets & the Use of Criminal Intelligence to Analyze Pre-Incident Indicators"
San Diego, CA

South Bay Cities Council of Governments Task Force on Homeland Security
"Homeland Security and Buffer Zone Protection Plans"
El Segundo, CA

South Bay Industrial Security Meeting
"Homeland Security Update"
El Segundo, CA

National Conference on Cultural Property Protection
Keynote: "Homeland Security"
Las Vegas, NV

Independent Cities 17th Annual Winter Forum
"Homeland Security Forum: Be Prepared"
Santa Barbara, CA

Baaden, Hoy and Iannone 4th Annual Security Symposium
"Homeland Security"
Torrance, CA

California Community Awareness & Emergency Response Association
"Buffer Zone Protection Plans"
Carson, CA

USC Capitol Career Day
"Careers in Government"
Sacramento, CA

2004

UCLA School of Public Affairs Homeland Security Conference
"Local and State Preparedness"
Los Angeles, CA

Fire Chiefs Leadership Seminar
"Homeland Security Strategy and Exercise/Training Programs"
Monterey, CA

Los Angeles Tenth Council District Public Safety Fair
"Emergency Preparedness"
Los Angeles, CA

International Foundation for Cultural Property Protection Conference
"Homeland Security Update"

Las Vegas, NV

Los Angeles Sheriff's Department Community Advisory Conference
 "Homeland Security"
 Los Angeles, CA

Los Angeles County Fire Chiefs Meeting
 "Homeland Security"
 Los Angeles, CA

USMC Antiterrorism and Critical Infrastructure Protection Conference
 Closing Keynote for Governor Schwarzenegger
 San Diego, CA

Tri-Valley Human Resources Association
 "Homeland Security"
 Pleasanton, CA

Second Annual Bay Area Conference on Homeland Security
 "Building State and Regional Preparedness"
 Oakland, CA

Homeland Security Forum
 "California Office of Homeland Security"
 Irwindale, CA

Mayor James K. Hahn Homeland Security Leadership Summit
 "California Roundtable: The State of Preparedness"
 Los Angeles, CA

League of California Cities Conference
 "Homeland Security and Emergency Preparedness"
 Long Beach, CA

National Association of Emergency Medical Services Educators
 Invited Speaker – Represented Governor Schwarzenegger
 Hollywood, CA

Release of Souls USA Tour – 9/11 Salute to Uniformed Personnel
 Guest Speaker
 San Diego, CA

Release of Souls USA Tour – 9/11 Salute to Uniformed Personnel
 Master of Ceremonies
 Pasadena, CA

Southern California Petroleum Club
 "Homeland Security"

Long Beach, CA

California State University Police Chiefs
"Homeland Security"
Long Beach, CA

International Electronics Security Group
"The Governor's Office of Homeland Security"
Santa Clara, CA

General Accounting Office
"Terrorism in a Post-9/11 World"
Los Angeles, CA

Miracle Mile Residential Association Annual Meeting and 21st Anniversary
Celebration
"Emergency Preparedness for the Miracle Mile"
Los Angeles, CA

Independent School Association of the Southwest Conference
"How Big Is Your Security Blanket?"
Dallas, TX

Foundations Inc. Beyond School Hours Conference
"How Big Is Your Security Blanket?"
San Diego, CA

2003

Culver City Rotary Club
"Terrorism in a Post 9/11 World"
Culver City, CA

National Middle School Association Annual Conference
"How Big Is Your Security Blanket?"
Atlanta, GA

Los Angeles County Office of Education Regional Training
"Security and Safety for After-School Programs"
Los Angeles and Long Beach, CA

International Foundation for Cultural Property Protection
"Cultural Institutions and the Terrorist Threat" "Homeland Security"
San Simeon, CA

Mid-Atlantic Association of Museums Annual Conference
"Security in a Post-9/11 World"
Newark, NJ

RTK Architects/Risk Management Consultants International Seminar
 "Rethinking Public Safety: Security Through Design"
 Santa Monica, CA

California League of Middle Schools Annual Conference
 "How Big Is Your Security Blanket?"
 San Diego, CA

California League of High Schools/National High School Association
 "How Big Is Your Security Blanket?"
 North Lake Tahoe

2002

University of Southern California, School of Policy, Planning and Development
 "Intergovernmental Management"
 Los Angeles, CA

California League of High Schools/National High School Association Annual
 Conference
 "How Big Is Your Security Blanket?"
 Monterey, CA

International Foundation for Cultural Property Protection Training Seminar
 "Changing the Face of Security," "Emergency Preparedness/Evacuations"
 "Insider Theft"
 Dallas, TX

International Foundation for Cultural Property Protection Training Seminar
 Certified Institutional Protection Manager Training
 Athens, GA

Museum Association of Arizona Annual Conference
 "Stealing Away: Preventing Theft Inside and Out"
 Camp Verde, AZ

American Legal Institute-American Bar Association Annual Conference
 "Safeguarding and Security of Museums, Visitors, Staff, Collections, and
 Facilities: Practical Issues"
 "Disaster Planning and Response"
 Los Angeles, CA

National Conference on Cultural Property Protection
 "The Pros and Cons of Contract Security"
 Charleston, SC

California Association of Independent Schools Trustee/Heads Annual Conference

"The Independent School in a Changed World: Security Implications"
San Francisco, CA

Pueblo Grande Museum Regional Training Seminar
"How Big is Your Security Blanket?"
Phoenix, AZ

2001

University of Southern California, School of Policy, Planning and Development
"The FBI and Local Government"
Los Angeles, CA

International Foundation for Cultural Property Protection Annual Conference
"Emergency Preparedness," "Workplace Violence," "Domestic Terrorism, Gangs
and Subversive Groups"
Keystone, CO

Los Angeles County Museum of Art Docent Council
"Security – At Work and At Home"
Los Angeles, CA

Western Museums Association Annual Conference
"Threats in Museums"
Palm Springs, CA

American Association of Museums Annual Meeting
"Blockbuster Planning and Recovery"
St. Louis, MO

Association of Art Museum Administrators Conference
"The Visitor Experience"
Los Angeles, CA

Texas Association of Museums Annual Conference
"Preparing for the Inevitable: Emergency Preparedness and Response"
San Antonio, TX

Los Angeles County Museum of Art Docent Training Session
"Security Awareness"
Los Angeles, CA

National Conference on Cultural Property Protection
"Challenges in Managing the Blockbuster Exhibition: Designing a Visitor
Services Plan"
Arlington, VA

International Foundation for Cultural Property Protection Annual Conference

"Emergency Preparedness / Workplace Violence"
Denver, CO

The Center for Early Education Parent Night
"Conceptual Protection Plan"
West Hollywood, CA

2000

Wildwood School Staff Orientation
"Security Awareness"
Los Angeles, CA

ASIS International 46th Annual Seminar & Exhibits
"Assaults on Public Institutions"
Orlando, FL

Federal Protective Service Regional Director's Conference
"Tactical Ultraviolence: Preparing for Catastrophic Events"
Potomac, MD

American Association of Museums
"Assaults on Public Institutions-Protecting Life & Valuable Assets in the New Millennium"
Baltimore, MD

International Organization of Black Security Executives Annual Conference
"Lessons Learned from Schoolplace Violence"
Washington, DC

National Conference on Cultural Property Protection
"Preparing for Crisis-Assaults on Public Institutions"
Arlington, VA

California Association of Independent Schools Trustee School Head Conference
"At Risk Youth and Schoolplace Violence"
San Francisco, CA

1999

International Foundation for Cultural Property Protection Annual Conference
"Assaults on Public Institutions: Lessons Learned"
"Subversive Groups, Gangs, Domestic Terrorists"
Denver, CO

KTWV "Points of Light Program"
"Hate Crimes, Workplace & School Violence"
Culver City, CA

ASIS International Annual Seminar & Exhibits
 "Soft Targets and the Terrorist Threat"
 Las Vegas, NV

Western Museums Association Annual Meeting
 "The Impact of Terrorism on Cultural Institutions"
 Sacramento, CA

International Organization of Black Security Executives Annual Conference
 "Terrorism: The Real Threat"
 San Francisco, CA

The Human Resources Consortium of Cultural Institutions of Massachusetts
 "Visitor Services / Emergency Preparedness & Response Seminars"
 Boston, MA

17. Selection:

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

I believe I was chosen because I have had a 30 year career addressing public safety and homeland security issues. I offer specific subject matter expertise and successful progressive organizational operational and/or management experience at every level of government, which will prove essential for the successful leadership of the Transportation Security Administration. I offer a unique interdisciplinary approach to the challenges being faced by the Transportation Security Administration. Inasmuch as I currently serve in a leadership role in a DHS Center of Excellence and a command position in the nation's largest airport homeland security and intelligence agency, I possess the skills to implement innovative methods to develop the agency's human capital, define the science and technology priorities and convene communities to garner public support. Additionally, the international relationships I maintain in countries familiar with terrorist events will facilitate the development of additional collaborative efforts to identify and implement best practices.

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

Over thirty years, I have worked at every level of government, in the private sector and in academia, engaged in efforts to protect the public safety and ensure our national security. As the Associate Director of a DHS Center of Excellence (COE), the Center for Risk and Economic Analysis of Terrorism Events (CREATE) at the University of Southern California (USC), I am responsible for the development and enhancement of educational programs and special projects. In an effort to analyze the counter-terrorism challenges and best practices I have observed around the world, I conceptualized the Executive Program in Counter-Terrorism, which challenges international counter-terrorism leaders and enhances

their analysis, coordination and response capabilities to the evolving terrorism threat. CREATE has also become known internationally for the implementation of the ARMOR (Assistant for Randomized Motoring Over Routes) Program, a game theory, algorithm-based system, we piloted at the Los Angeles International Airport (LAX). As a result of its success, ARMOR has been adopted by DHS for use in other critical infrastructure targets throughout the nation.

As Chief of the Office of Homeland Security and Intelligence for the Los Angeles World Airports Police Division, I am responsible for the security of one of the primary terrorist targets in the United States. I was recruited to join the police division, the largest in the nation, in order to advance the airport's counter-terrorism strategies. During my tenure, we have introduced a number of premier, interdisciplinary projects, garnering the attention of the national security and aviation community. CREATE and LAX have taken the lead in experimenting with solutions to critical infrastructure vulnerabilities, including several projects involving other nations, with long-standing experience with specific terrorist targeting methodologies.

I have also lectured internationally and as an adjunct professor of homeland security and public policy in the Master's Program at USC since 2003. It was a highlight of my career to be invited to Beijing, Shanghai and Qingdao to assess the proposed terrorism counter-measures before the 2008 Olympics. During my tenure as the Deputy Director for Critical Infrastructure in the California Governor's Office of Homeland Security, I was responsible in 2004 for the statewide rollout of Homeland Security Presidential Directive - 7, the identification, prioritization and protection of critical infrastructure. I was also chosen to serve as the California representative for the Protected Critical Infrastructure Information (PCII) Program, an initiative piloted by DHS. I believe that my time at the FBI investigating terrorism and foreign counterintelligence matters and serving on the Bureau's SWAT Team, my ten years as Chief of Protective Services at the Los Angeles County Museum of Art, and the start of my law enforcement career as a patrol officer in the Santa Monica Police Department are all important experiences that I can bring to DHS if I am confirmed.

Ultimately, I understand the importance of a strong work ethic and education. They are the cornerstones of my life and provide the foundation of my leadership style. I have a proven record of increasing education, working with people and providing successful leadership of organizations throughout my career. This is a historic time in our nation's history and I would enjoy the opportunity to serve my country and add value to the achievement of our nation's homeland security mission as a member of the administration.

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?
 - Yes.
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.
 - In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Homeland Security's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics

official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.
 - I served as a volunteer advisor to the Homeland Security Policy Group during Senator Obama's Presidential Campaign. (2008)
 - I provided testimony before the United States House of Representatives Committee on Homeland Security on May 6, 2008 at a hearing on the following topic – "The Resilient Homeland – Broadening the Homeland Security Strategy."
 - In December 2007, I briefed officials at the Department of Homeland Security on ARMOR – Assistant for Randomized Motorist Over Routes.
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.
 - In 1988 I received a letter of censure from the FBI for using my official position to resolve a personal problem. I had asked a coworker's husband, who worked for the San Diego police department, to run a database check on my ex-wife's new boyfriend. The boyfriend had moved in with my ex-wife, from whom I had separated only a short time before, and I was concerned for the safety of her and my infant son, who was also living with them. The database search revealed an outstanding warrant for his arrest, about which I informed my ex-wife. I recognize that it was a mistake to have used my official connections to investigate the matter.
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, except as described in D1 above.
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.
- In 2003, I was the plaintiff in a small claims action in Los Angeles, California against a client for non-payment of services rendered as an expert witness. I was awarded a judgment by the court.
 - In the early 1990s, I was named as a defendant to a law suit in my official and administrative capacity as the Chief of Protective Services of the Los Angeles County Museum of Art. My understanding is that this was a personnel matter, and that there were no allegations of personal wrongdoing on my part. I was not interviewed or otherwise involved in the investigation, and I am not familiar with the details of the complaint or the case's disposition.
 - In 1992, as the Chief of Protective Services of the Los Angeles County Museum of Art, I was accused of discrimination based on race, by an African-American police lieutenant in Protective Services, who was unhappy with the force-wide policies that resulted in his receiving a work assignment he did not want. It is my understanding that he filed a suit against the Museum and me, but I do not recall participating in any legal proceedings. This was resolved in the Museum's favor, and he was required to perform the work assignment.
 - In 1996, as the Chief of Protective Services of the Los Angeles County Museum of Art, I was named, along with two members of my staff, in a sexual harassment/discrimination complaint by a contract security employee. Her supervisor denied her preferred choice of a work assignment and she claimed I failed to support her request because of a romantic relationship between us. Her allegations, both of the relationship and of retaliation, are entirely unfounded. An independent investigation was conducted by the Museum, and her complaint was determined to be unsubstantiated.
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.
- As noted in response to Question 3 above, in the early 1990s, I was named as a defendant to a law suit in my official and administrative capacity as the Chief of Protective Services of the Los Angeles County Museum of Art. My understanding is that this was a personnel matter, and that there were no allegations of personal wrongdoing on my part. I was not interviewed or otherwise involved in the investigation, and I am not familiar with the details of the complaint or the case's disposition.

- As noted in response to Question 3 above, in 1992, as the Chief of Protective Services of the Los Angeles County Museum of Art, I was accused of discrimination based on race, by an African-American police lieutenant in Protective Services, who was unhappy with the force-wide policies that resulted in his receiving a work assignment he did not want. It is my understanding that he filed a suit against the Museum and me, but I do not recall participating in any legal proceedings. This was resolved in the Museum's favor, and he was required to perform the work assignment.
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.
- None.

E. FINANCIAL DATA

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

REDACTED

AFFIDAVIT

ERROL GREGORY SOUTHERS 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.

Errol Gregory Souther

State of California	
County of <u>LOS ANGELES</u>	
Subscribed and sworn to (or affirmed) before me on this <u>22</u> day of <u>OCT</u> , 2009, by <u>ERROL GREGORY SOUTHERS</u> , proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.	
Signature <u>[Signature]</u>	



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

September 29, 2009

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

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Erroll G. Southers, who has been nominated by President Obama for the position of Assistant Secretary, Transportation Security Administration, Department of Homeland Security.

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

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

Sincerely,

Robert I. Cusick
 Director

Enclosures - REDACTED

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Erroll G. Southers to be
Assistant Secretary of Homeland Security**

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Assistant Secretary of Homeland Security?

Response: *I believe I was chosen because I have had a 30 year career addressing public safety and homeland security issues. I offer specific subject matter expertise and successful organizational, operational and management experience at every level of government, which will prove essential for the successful leadership of the Transportation Security Administration. In my current capacity in a leadership role at a DHS Center of Excellence and a command position in the nation's largest airport homeland security and intelligence agency, I possess the skills needed to implement innovative methods to develop TSA's human capital, drive the agency's science and technology priorities and work with the agency's stakeholder communities to garner public support. In addition, the international relationships I have will facilitate the development of additional collaborative efforts to identify and implement best practices.*

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

Response: *No.*

3. What specific background and experience affirmatively qualifies you to be Assistant Secretary of Homeland Security?

Response: *Over thirty years, I have worked at every level of government, in the private sector and in academia, engaged in efforts to protect the public safety and ensure our national security. As the Associate Director of a DHS Center of Excellence (COE), the Center for Risk and Economic Analysis of Terrorism Events (CREATE) at the University of Southern California (USC), I am responsible for the development and enhancement of educational programs and special projects. CREATE has also become known internationally for the implementation of the ARMOR (Assistant for Randomized Motoring Over Routes) Program, a game theory algorithm-based system that we piloted at the Los Angeles International Airport (LAX). As a result of its success, ARMOR has been adopted by DHS for use in other critical infrastructure targets throughout the nation.*

As Chief of the Office of Homeland Security and Intelligence for the Los Angeles World Airports Police Division, I am responsible for the security of one of the primary terrorist targets in the United States. During my tenure, we have introduced a number of premier, interdisciplinary projects, garnering the attention of the national security and aviation community.

I have also lectured internationally and have served as an adjunct professor of homeland security and public policy in the Master's Program at USC since 2003.

During my tenure as the Deputy Director for Critical Infrastructure in the California Governor's Office of Homeland Security, I was responsible in 2004 for the statewide rollout of Homeland Security Presidential Directive – 7, the identification, prioritization and protection of critical infrastructure. I was also chosen to serve as the California representative for the Protected Critical Infrastructure Information (PCII) Program, an initiative piloted by DHS.

I believe that my time at the FBI investigating terrorism and foreign counterintelligence matters and serving on the Bureau's SWAT Team, my ten years as Chief of Protective Services at the Los Angeles County Museum of Art, and the start of my law enforcement career as a patrol officer in the Santa Monica Police Department are also all important experiences that I bring to DHS if I am confirmed.

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

Response: *I have made no commitments other than to do my best to ensure that TSA employees do their utmost to provide the best security across the transportation sector, while providing world-class customer service and ensuring the freedom of movement of people and commerce.*

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.

Response: *There are no current issues nor do I foresee any issues affecting TSA that would require me to recuse or disqualify myself because of a conflict of interest or the appearance of a conflict of interest. However, if such a situation should arise I would immediately consult the Department's Designated Agency Ethics Official to seek advice and guidance.*

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.

Response: *No.*

7. In your answers to the Committee's biographical questionnaire, you indicated that you had received a letter of censure from the FBI in 1998. Please describe the circumstances that led to your being censured, including dates, for the following questions:

- a. When did you request a colleague run the background check?

Response: *This occurred approximately twenty-two years ago, in late 1987 or early 1988.*

- b. When were you notified that the FBI was reviewing the incident?

Response: *I was notified immediately after the incident.*

- c. How long after your censure was it before you left the FBI?

Response: *I left the FBI approximately six months later. My departure was unrelated to the letter of censure.*

- d. Did you at any time deny making the request for the background check?

Response: *No.*

- e. Have you ever requested any other improper background check on another person?

Response: *No.*

II. Role and Responsibilities of the Assistant Secretary of Homeland Security

8. What is your view of the role of the Assistant Secretary of Homeland Security and head of the Transportation Security Administration (TSA)?

Response: *In my view, there are two critical issues associated with the role of the Assistant Secretary of Homeland Security and head of the TSA. First is that the Assistant Secretary has responsibility to secure, based on risk, the critical infrastructure sectors that have been targeted most often around the world – transportation hubs and specific modes of transportation. Second, the head of TSA represents the most visible workforce in the Department of Homeland Security—and therefore must ensure that TSA employees provide world-class customer service to the traveling public.*

9. In your view, what are the major internal and external challenges facing the Department of Homeland Security (“DHS” or “the Department”) and TSA? What do you plan to do, specifically, to address these challenges?

Response: *The security strategy of the Transportation Security Administration is defined as consisting of three areas: people, process and technology, and partnerships. I believe the top three challenges facing the TSA exist within those areas, which I will re-define as people, science and technology, and public confidence.*

People

The TSA employs the most visible workforce in the Department of Homeland Security. Despite the successes of the organization during its young lifespan, I understand that job satisfaction is a major challenge that must be addressed if we expect to meet the DHS mission. It should be noted, however, that 91 percent of the people who work at the department think the work they do is important.

If confirmed I will work to select the "best" people and invest the resources to identify these individuals, recruit them, train them, emphasize their importance to the success of the organization and retain them by providing opportunities for professional development.

Increased performance is directly related to quality training and moves the organization to become more results-oriented, as opposed to incident-driven.

Science & Technology

A consistent challenge I hear mentioned involves the use of technology and the importance of strategic long-term planning as it relates to future enhancements.

My experiences in Israel and the United Kingdom suggest that an engaged and informed public is more resilient and supportive of security policies and technology. As we integrate science and technological advances into our operations across the country, we would benefit from consulting the public during the course of our implementation to garner support through better overall understanding.

Public Confidence

It has become increasingly important for the Transportation Security Administration to invest the time and resources to educate the public in an effort to provide accurate information regarding threats. An informed public, with a better understanding of the risks, has more reasonable and balanced expectations of TSA's security measures, and will be more likely to participate in the shared responsibility of protecting our nation.

10. How do you plan to communicate to TSA staff on efforts to address relevant issues?

Response: *If confirmed, I plan to leverage the TSA Office of Strategic Communication/Public Affairs (OPA) internal communication capabilities to communicate to TSA staff on efforts to address relevant issues, in addition to making myself as available as time allows for forums and other events to discuss in-person those issues affecting the TSA workforce. I also intend to fully take advantage of TSA's web-based tools for employee engagement—particularly IdeaFactory, TSA web casts, TSA Today and Security Evolution communications.*

III. Policy Questions

General

11. What are your views on how the Department can best strike the appropriate balance between the need to protect the traveling public while not disrupting the flow of people and commerce in each of the transportation sectors (aviation, surface, maritime)?

Response: *My experiences at CREATE, the DHS university-based Center of Excellence for Risk and Economic Analysis of Terrorism Events and specifically while responsible for the protection*

of critical infrastructure in the California Governor's Office of Homeland Security suggests this balance is best addressed by effective risk management. It is important to communicate a very important concept to the public and our business stakeholders: we are in the risk management or reduction business, as the elimination of risk is not possible. Keeping that in mind, I believe the Department would be well served by working with the relevant DHS university-based Centers of Excellence and other experts to identify and determine the best and most cost-effective measures to mitigate risk. The inter-disciplinary approach we adopted for one of the critical infrastructure sectors in the state of California resulted in the opportunity to reduce the threat level by more than 50%, with the application of Urban Areas Security Initiative (UASI) grant funds.

12. To what extent should TSA focus more on building, or encouraging system operators to build on, resiliency – the ability to recover quickly from an incident or “bounce back” – rather than protection?

Response: *Resiliency is a hallmark of effective security. We cannot stop every terrorist attack and predict every disaster; however, we can reduce the risk and enhance the capability for our continuity of operations by strengthening resiliency.*

13. If you agree that more resiliency is desirable, how could TSA better incorporate resiliency and protective measures into its operations?

Response: *I understand that TSA, as the Sector-Specific Agency for the Transportation Systems Sector, is revising the Sector-Specific Plan required by the National Infrastructure Protection Plan (NIPP) to include discussion of the approach to identification of resiliency-related risks and the development of programs to address those risks. The key step is understanding the capabilities required in the public and private sectors necessary to achieve resiliency objectives. Additionally, many current security initiatives related to the preparedness, response and recovery phases of the event continuum also serve a resiliency function.*

14. Implementing transportation security policy requires strong coordination between TSA and stakeholders at all levels of government and the private sector. Nonetheless, the Government Accountability Office (GAO) has reported that, despite TSA efforts to strengthen stakeholder collaboration, additional progress is needed.

- a. What strategies might be considered to ensure that TSA builds on its successes while employing innovative approaches to strengthen collaborations with stakeholders?

Response: *The successes we have experienced in Los Angeles are the result of a conscious effort to identify the most diverse representation of stakeholders groups possible and actively seek policy input from our partners. The key has been the development of policies, procedures and institutional frameworks within our organization to ensure our internal mechanisms involve relevant stakeholders. This is no more evident than by the creation of our Airport Security Advisory Committee, comprised of prevention and first responder agencies from all levels of government and the private*

sector, who have a stake in the continuity of operations at LAX. If confirmed, I would look forward to bringing this experience to the challenges at TSA identified by the GAO.

- b. How could TSA work more effectively with international partners to, for example, enhance the security of air cargo transported into the United States?

Response: *I have had extensive and very positive interactions with my security counterparts all over the world, including the International Civil Aviation Organization (ICAO). By synchronizing our enforcement efforts, we can significantly reduce our vulnerabilities to security threats. Such coordination serves an important role not only on the issue of air cargo, but also with regard to passenger screening, prohibited items, and other transportation security issues.*

- c. How can you ensure that policies, operations, and future plans are seamlessly coordinated with the rest of DHS?

Response: *I understand that a major goal of Secretary Napolitano is to ensure that there is effective communication and a common purpose amongst DHS operating components and DHS offices. If confirmed, I intend to be a key member of the Secretary's leadership team to ensure that this occurs.*

15. DHS and TSA have repeatedly said they would employ risk management principles to better target its security programs, activities, and resources, yet recent GAO reports (including a report on the Transit Security Grant Program, GAO-09-491; and another on Mass Transit and Passenger Rail Security, GAO-09-678) show that more could be done to fully implement these principles in key program areas. As an Associate Director for a DHS Center of Excellence, USC's Center for Risk and Economic Analysis of Terrorism Events (CREATE), risk management is a principle you are familiar with. If confirmed, to what extent will risk management play a role in designing and funding future security programs and activities at TSA? Based on your experience with CREATE and as the Assistant Chief for the Los Angeles World Airports Police Department, are there particular areas or programs where you believe TSA should focus on improving its utilization of risk management?

Response: *If confirmed, I hope to replicate the successes we have experienced at LAX as a result of our relationship with CREATE. As a result of our interdisciplinary approach to counter-terrorism strategies, we routinely worked with the DHS Science and Technology Directorate and the Centers of Excellence in our efforts to identify security countermeasures, reduce costs, maximize resources and define desired outcomes. Through our Government Advisory Council at CREATE, we invite representatives of critical infrastructure sectors and locations, to learn what we are engaged in and solicit security challenges for future research efforts. The relationship has been critical to translating research from the laboratory directly to the field. The development and implementation of viable security countermeasures are a return on investment for DHS.*

Risk is a function of threat, vulnerability and consequence. Using tactical and strategic risk assessments and analysis, we can then determine our risk landscape on which to base judgments for making specific tactical, operational, and resource allocation decisions. By employing effective risk management principles, we can focus on which risks to better understand, manage and reduce. Once we have determined which areas of transportation to fortify, we must effectively communicate not only our goals and objectives, but our rationale for these decisions to all transportation stakeholders throughout our nation responsible for protecting the homeland.

We also must explore the development of resilient systems which ultimately reduce the consequences of an event, and therefore modifies the risk equation.

16. Information security continues to be a serious and growing problem throughout government. TSA has suffered from several security breaches and vulnerabilities over the past several years, including a notable security vulnerability with TSA's traveler redress program which was the subject of a 2008 House Committee on Oversight and Government Reform report.
- a. Are you familiar with the responsibilities for agency heads that were established under the Federal Information Security Management Act of 2002 (FISMA) (P.L. 107-347)?

Response: *It is my understanding that in accordance with DHS policy and Management Directive 4300A, The TSA Administrator is required to:*

- *Appoint the Chief Information Officers (CIO) and the Chief Information Security Officer (CISO);*
- *Ensure that an Information Security Program is established and managed in accordance with DHS policy and implementation directives;*
- *Ensure that the security of IT systems is an integral part of the life cycle management process for all IT systems developed and maintained within TSA;*
- *Ensure that adequate funding for IT security is provided for TSA IT systems and that adequate funding requirements are included for all IT systems budgets;*
- *Ensure that IT system data are entered into the appropriate DHS Security Management Tools to support DHS IT security oversight and FISMA reporting requirements; and*
- *Ensure that the requirements for an IT security performance metrics program are implemented.*

I also understand that FISMA is included as a metric in both the CIO performance plan as well as for the current agency head.

- b. Please describe your experience with developing information security procedures for large organizations.

Response: *Although I do not claim to have expertise as an information security professional, I certainly appreciate the need for a strong information security program from my 30-year career as a law enforcement professional, including my position in the Office of the Governor of California. The protection of law enforcement, intelligence, personally identifiable information, and other sensitive information is critical to TSA. If confirmed, I will review current information security procedures and implement measures to strengthen TSA's information security procedures where warranted.*

- c. What will you do, if confirmed, to ensure that TSA is meeting its responsibilities under FISMA and protecting its information and information systems overall?

Response: *If confirmed I will execute my FISMA responsibilities as TSA Administrator and ensure accountability of security events through the following:*

- *Instructing my CIO and CISO to maintain visibility and oversight of all TSA systems using the certification and accreditation process and in accordance with the authority granted to them by FISMA, DHS, and TSA regulations and directives;*
- *Ensure that an appropriate amount of funding is provided by programs in order to maintain compliance and implement good metrics-based security performance for TSA IT systems and those physical sites with access to TSA systems;*
- *Maintain the Information Protection Oversight Board (IPOB) to communicate key information security concerns and policy changes to TSA programs and offices;*
- *Support the EINSTEIN initiative and deliver security event information to US-CERT through use of the Trusted Internet Connections;*
- *Monitor and provide oversight of information security incidents and threats to TSA systems and IT assets through TSA's new Security Operations Center;*
- *Maintain good information assurance compliance and oversight by supporting the Office of Information Technology in its FISMA and Enterprise Data Protection (EDP) compliance programs.*

Aviation Security

17. Intelligence indicates that the transportation network continues to be a key and attractive target for those wishing to harm U.S. interests and that the terrorist threat continues to evolve. DHS has made considerable progress in strengthening the security of commercial aviation since September 11, 2001, but must continue to adapt security measures to counter evolving threats, balance resources across missions, and enhance technologies to strengthen security.
- a. In your view, what are the most significant challenges facing the department in its efforts to secure the nation's aviation system?

Response: *I have had the opportunity to visit and review the protective measures with my colleagues at several airports considered to be prime targets, including: Ben Gurion in Israel, considered to be one of the world's most secure; Heathrow in Great Britain, the world's busiest airport; and Beijing International in China, which recently opened the world's largest terminal and hosted the 2008 Olympic Games. We all agree on three basic realities – reducing the risk of terrorism and public safety is paramount, emergency response efficiency is critical, and we must ensure the continuity of operations in the event of a natural disaster or terrorist attack.*

- b. Is there a need to reassess TSA's layers of aviation security, and, if so, how would you propose doing so?

Response: *The dynamic aspect of terrorism requires the implementation of regular assessments and the identification of evolutionary and interdisciplinary countermeasures. In my experience as Deputy Director in the California Governor's Office of Homeland Security, the assessments we undertook proved very helpful in maintaining an effective and flexible security network.*

- c. How can TSA better ensure that the flying public's experience is as seamless and comfortable as possible without sacrificing greater security?

Response: *From my own observation of TSA operations at LAX and other airports under the purview of the Los Angeles World Airports, and my travels throughout the country and around the world, I believe that TSA has made great strides in balancing security with passenger convenience.*

The Security Evolution training that was provided to every frontline employee this year provided enhanced, intelligence-based training that empowered officers to go beyond Standard Operating Procedures to mitigate threats. The training also gave officers skills to better engage passengers and calm down those who are agitated at the checkpoint. With a more experienced workforce, the TSA is able to design its technical training programs to not only ensure that the fundamental screening techniques and procedures are executed in a consistent and effective manner, but to also integrate competencies such as critical thinking, which allows its officers to use their experience to identify and resolve anomalies throughout the screening process.

The Black Diamond Self Select Lanes are another example of making the passenger experience seamless and comfortable while providing strong security. These lanes give passengers with children and special needs added time and assistance to get through the checkpoint, while moving experienced travelers who know the security drill through their own lane. Overall, they improve the customer experience without sacrificing security.

In addition, a key to ensuring a seamless and comfortable experience for the flying public is to have adequate screening capacity (both lanes and staffing) at each checkpoint. TSA provides this through its screening models which use actual flight schedules and

passenger load factors at each airport. This minimizes passenger wait times and helps to keep the Transportation Security Officers (TSOs) focused on security effectiveness.

TSA is continuing to build its training portfolio to promote a team approach to security. Specialized training for Behavior Detection Officers and Bomb Appraisal Officers not only supports the technical aspects of their positions, but also clearly defines how each of these positions supports our front line officers. From my personal experience at LAX, where explosives are a high-threat concern, I have come to particularly appreciate the professionalism and skill of the Bomb Appraisal Officers whose expertise has avoided costly and time consuming terminal closures. I know that TSA is committed to continually building the proficiency and competency of its security team through ongoing training efforts that will challenge our workforce to strive to achieve an even better security system. If confirmed, I will continue these efforts.

d. How do you propose to use cost-benefit, feasibility, alternatives or other analyses to assess the success or failure of TSA's layers of aviation security?

Response: If confirmed, I intend to engage the appropriate subject matter experts to assist us with this challenge. My experience in this regard has involved working with think-tanks and other agencies to provide analyses to guide short and long-term policy efforts. I would like to see that both quantitative and qualitative analyses are performed. Upon completion, it will be important to review annually and modify accordingly, focusing on maximizing the use of the performance data

e. What metrics should the DHS and TSA use to properly evaluate the effectiveness of operations and technological solutions?

Response: In my view, effectiveness measures should focus on risk mitigation and cost. Metrics need to evaluate overall system performance so we understand the interaction of layers of security and their benefit. Specific to technology, developing solutions to known capability gaps should be measured against clear milestones to achieve those solutions. I believe that DHS Science and Technology and TSA should be completely aligned in these goals and milestones, and if confirmed I will work toward that goal.

18. In early 2009, TSA began assuming responsibility for checking airline passengers against watchlists when it began implementation of the Secure Flight Program. Though the program began with TSA checking just a few flights a day, TSA has been gradually expanding the program throughout the year, and will continue to do so throughout 2010.

a. If confirmed, what will you do to ensure TSA continues the smooth implementation of Secure Flight?

Response: It is my understanding that TSA is well positioned to complete implementation of the Secure Flight program. TSA is working with the air carriers to

implement Secure Flight in phases, with each airline incorporating the necessary changes into their systems. The key to success for this program is collaboration; if confirmed, I will continue to work with the airlines and other stakeholders to achieve timely implementation.

- b. In May 2009, GAO issued a report (GAO-09-292) which stated that Secure Flight had generally achieved nine statutory conditions, but one condition related to life-cycle costs and schedule estimates was only conditionally achieved. If confirmed, will you use GAO's best practices for cost and schedule estimates when developing or improving programs?

Response: I would welcome any investigative or regulatory agencies or groups that want to support TSA's efforts to become more efficient and effective. If confirmed, I look forward to working with the GAO to resolve the remaining issue with the Secure Flight program and incorporating their recommendations into other TSA programs.

- 19. The development and implementation of many of TSA's programs, including Secure Flight and cargo screening, have required extensive outreach with stakeholder entities and foreign governments. In the past, and in some current instances, these relationships are strained due to a lack of clear communications channels. Have you had experience in working with stakeholder groups or foreign countries on divisive issues? If confirmed, as Assistant Secretary, what would be your strategy for reaching out to these groups?

Response: The Los Angeles World Airports is comprised of four airports, including LAX, the number one point-of-origin, point-of-destination airport and Van Nuys Airport, one of the nation's busiest General Aviation Airports. The successes we have experienced in all of our airports are as a result of our extensive outreach and collaborative efforts.

In Los Angeles, I was involved in the development of the Airport Security Advisory Committee, which focuses specifically on safety, security, response and recovery challenges by engaging onsite and community stakeholders through education and awareness programs.

I have extensive relationships with counter-terrorism colleagues in North America, Europe, the Middle East and Asia. If confirmed, I look forward to working with these colleagues to address issues faced by TSA. Our successful outreach to these countries has consisted of the sharing of best-practices and collaborative site visits to facilitate the learning process first-hand.

- 20. GAO and TSA covert tests have identified vulnerabilities in TSA's baggage and passenger screening process.
 - a. What steps can be taken to improve the performance of Transportation Security Officers and reduce the identified vulnerabilities?

Response: *I am aware of the results of investigations indicating there are vulnerabilities. Despite these reports, it has been my experience that the Transportation Security Officers are very effective at identifying possible Improvised Explosive Devices (IEDs), as communicated to me by our police Bomb Technicians and the TSA Bomb Appraisal Officers (BAOs). Having said that, I believe the steps to reduce identified vulnerabilities must include more training and supervisory or organizational support.*

- b. Should TSA's covert testing program be expanded to include other layers of security, such as Visible Intermodal Prevention and Response (VIPR) teams or travel document checkers?

Response: *Yes. In April 2006, TSA moved from a static, inflexible model of checkpoint screening to a more dynamic and multi-layered security environment. Using this "layers of security" approach, TSA strengthened each individual layer, increasing the number of layers and added additional flexibility and unpredictability to the equation. I have seen this successful approach utilized at LAX and during my trips to Israel and London. I believe it is critical to test all layers of security, in order to determine the capacity and resilience of the overall security system, and if confirmed I would support such an effort.*

- c. How can TSA ensure better uniform procedures for personnel responsible for screening bags and people?

Response: *I understand that TSA has Standard Operating Procedures (SOPs) that govern the processes by which its Transportation Security Officers (TSOs) screen passengers and their baggage. In order to ensure that the SOPs are understood and followed, it is necessary that its Officers receive appropriate training on a continuous basis. If confirmed I will review the SOPs and training programs.*

21. Through its ENGAGE training for Transportation Security Officers and its Screening of Passengers by Observation Techniques (SPOT) program, TSA has taken steps to expand its security efforts to screen for passengers with suspicious behaviors in addition to screening for prohibited items.

- a. What is your vision for expanding TSA's behavior-based programs?

Response: *I would like to carefully study TSA's behavior-based screening programs, such as ENGAGE! and SPOT, before determining how to expand these programs or committing to a method for gauging their success. I think one of the critical issues associated with this program is the need to clearly train employees and communicate the program's design to ensure that suspicious behavior are identified and that no improper "profiling" takes place.*

- b. How will you gauge the success of this new layer of security?

Response: *This challenge may represent an opportunity to convene a group of relevant stakeholders to solicit their input into the development of a comprehensive evaluation process for this new layer of security. If confirmed, I would like to explore the possibility of an open and transparent process, designed to illustrate TSA's efforts to balance security and civil liberties, to evaluate this new layer of security. I would also support the development of appropriate metrics to assist in measuring the effectiveness of behavior detection programs.*

- c. How can TSA ensure passengers' rights are protected under this program, and what protections do you believe TSA should have in place to ensure the program does not rely on profiling?

Response: *TSA's and the Department of Homeland Security's consistent view has been that racial, ethnic, or religious profiling is counterproductive to the mission of providing aviation security and to the larger counterterrorism responsibilities of the Department and the federal government. I share that view.*

The prospects of success for any policy initiatives that we implement will be significantly enhanced if we adopt a concerted effort to explain our initiatives and the reasoning behind them. An engaged and empowered public creates the potential for an understanding ally in our security mission. The development of this partnership will require a sustained and significant commitment to public outreach. TSA's "Why" campaign, designed to answer the public's security-related procedural concerns, is a step in the right direction.

22. As an Assistant Chief for the Los Angeles World Airports Police Department, what experience do you have with general aviation security? Do you believe TSA has done enough to secure general aviation? Some experts have suggested that general aviation security is under-resourced and warrants increased attention. Do you agree? If so, what resources would you advocate be dedicated to improving general aviation security?

Response: *As someone who has worked on counterterrorism matters at the federal, state, and local level for 30 years, and most recently as an Assistant Chief for Homeland Security and Intelligence for the Los Angeles World Airports (LAWA) Police Department, I understand the challenges of securing both commercial and general aviation airports. The balance between ensuring the free flow of commerce and protecting our nation's vital transportation systems is critical to TSA's mission.*

In my current position, I am responsible for security at Van Nuys Airport, one of the busiest general aviation airports in the country. What I have seen in my experience is that as we worked to harden security at LAX, there was concern that the risk might be pushed out to our other three general aviation airports. As we worked to mitigate that risk, we engaged and educated our stakeholders so that they were a part of our mission and were empowered to report suspicious activity.

Additionally, at LAWA we have made a concerted effort to engage our general aviation partners in education and awareness programs designed to describe the threat picture in their area and provide ways for them to communicate any unusual activities.

I believe in collaborative approaches like this one, and if confirmed, I am committed to reaching out to stakeholders, particularly those in general aviation community, to build on their partnership with TSA to ensure best practices and risk-based solutions are implemented. I look forward to the opportunity to work with this Committee on this issue moving forward.

23. DHS has proposed a Large Aircraft Security Program (LASP) rule which would subject general aviation passengers and crew to a prescreening process similar to the one used for commercial aviation. The general aviation community has argued that the implementation of such a rule could require significant investments from the general aviation community, which includes many small businesses.

a. Do you support a requirement for prescreening general aviation passengers and crew?

Response: *I understand that after receiving more than 8,000 public comments and holding public meetings and comment sessions with stakeholders throughout the country, TSA is developing a supplemental Notice of Proposed Rulemaking for the LASP program. I look forward to reviewing these comments and working with stakeholders and this Committee to assess prescreening general aviation passengers and crew beyond the current vetting requirements.*

b. As TSA assumes responsibility for reviewing passenger records for commercial flights, do you believe it would be appropriate for TSA to require general aviation operators be responsible for checking passenger and crew lists against the watchlists?

Response: *As the development of the LASP is still underway, I look forward to researching this proposal further and moving TSA's vetting programs forward in a manner that balances commerce and security.*

c. Do you think DHS should consider helping the general aviation community implement such a rule in some manner? If so, how?

Response: *I am responsible for security at Van Nuys Airport, one of the busiest general aviation airports in the country. As stated above, as we worked to mitigate risks at Van Nuys, we engaged and educated our stakeholders so that they were a part of our mission and were empowered to report suspicious activity. I believe in collaborative approaches like this one, and if confirmed, I am committed to reaching out to stakeholders, particularly those in general aviation community, to build on their partnership with TSA to ensure best practices and risk-based solutions are implemented. I look forward to the opportunity to work with this Committee on this issue moving forward.*

24. TSA established the Crewmember Self Defense Training Program after Congress legislatively directed TSA to issue rules for flight crew training. Although, TSA does not

require all crewmembers receive such training, it is supposed to make it available to any crewmember who requests it. Training includes both instructional materials and a hands-on training session at one of several, approved community colleges. Some crewmembers have expressed concern that TSA doesn't require this training, that the locations and times for such classes are too limited, and that airlines sometimes make it difficult for crewmembers to take time off for this training.

- a. Do you believe TSA's program for flight crew training is sufficient? Do you believe it should be mandatory?

Response: *I understand that TSA's Crew Member Self Defense Training is a valuable resource for airline crew members and has been well received by those who have participated. If confirmed, I would work with airlines and flight crews to explore ways to make this program more widely available for interested crew members without unduly interfering with the schedules of the airlines and attendees.*

- b. As Assistant Secretary, how would you work with airlines and flight crews to ensure all crewmembers who wished to receive training aren't prevented from doing so?

Response: *If confirmed I would like to build upon the efforts by TSA to promote this program with stakeholder groups and facilitate the efforts of airlines that have volunteered space and resources to host this training.*

- c. Should TSA work with airlines and flight crews to test wireless emergency communication systems onboard aircraft, to improve flight crew security and aviation security generally?

Response: *If confirmed, I would consider exploring the testing of wireless emergency communication systems with the input of the FAA and our aviation partners. I believe we should be looking for new technologies that bolster security and enhance our ability to detect and respond to threats in an aircraft.*

25. The Federal Air Marshal Service (FAMS) is an important layer in our nation's approach to aviation security. In the past, however, their policies and procedures have come under intense public scrutiny and internal debate.

- a. What is your view of the FAMS role within TSA?

Response: *The FAMS is a major asset to TSA and a crucial line of defense in aviation security providing a risk based and rapidly deployable force. I understand that FAMS enabled TSA's quick and comprehensive responses to events such as Hurricane Katrina and the 2006 UK bomb plot threat and that the FAMS has strong relationships with Federal, state and local law enforcement agencies through the Visible Intermodal Prevention and Response teams (VIPR) and FBI Joint Terrorism Task Forces.*

- b. How will you work to properly support and integrate FAMS operations, while maintaining a proper balance between the vital layers they provide and the other layers of aviation security?

Response: I understand that the FAMS is fully integrated with TSA. Although it is best known for its aviation security role, OLE/FAMS also operates the Transportation Security Operations Center (TSOC)—the communications hub of TSA that provides 24/7 domain awareness in all transportation environments—and the Joint Coordination Center, which coordinates TSA's Visible Intermodal Prevention and Response (VIPR) program. The VIPR program, of which FAMS is a part, permits TSA to deploy a deterrent presence across all transportation sectors, including mass transit, rail, ferry, and pipelines.

As a career law enforcement officer, I will ensure that the FAMS maintains the correct balance in its law enforcement role. I believe the FAMS is a valuable, mobile asset, which can be deployed on the basis of risk and is highly responsive to intelligence.

- c. The practice of allowing armed federal law enforcement officials on aircraft, in addition to FAMS, is another potential layer of aviation security. How do you propose working with other federal law enforcement services, the airlines, airports, and other stakeholders to better coordinate policies, trainings, and operational procedures with regards to this security practice?

Response: I am told that the FAMS have strong interaction with other federal law enforcement agencies whose officers must fly armed in the performance of their official duties and provide a required training course to them. This presence provides a supplement to the presence of FAMS on high-risk flights. Additionally, I understand that the FAMS maintains a strong liaison role with a supervisory presence at major airports to facilitate issues, and a dedicated Liaison Division at the headquarters level to proactively engage air carriers before potential issues arise.

Traveler Redress

26. A recent DHS Office of Inspector General (OIG) report entitled, *Effectiveness of the Department of Homeland Security Traveler Redress Inquiry Program* (OIG-09-103), cited numerous concerns with DHS' Traveler Redress Inquiry Program (TRIP). TSA concurred with most of the recommendations, but many of the projects required for implementing the recommendations will not be complete until the end of Fiscal Year (FY) 2010.
- a. If confirmed, will you ensure that TSA continues to place sufficient emphasis on the Traveler Redress Inquiry Program and completes the tasks laid out in the report in a timely manner?

- b. The OIG reports that Customs and Border Protection (CBP) and TSA share related information about redress results, but do not use the information effectively, leading to increased screening difficulties that could be prevented for misidentified travelers. The OIG recommended that TSA utilize CBP's Primary Lookout Over-Rides to help rule out possible No Fly and Selectee list matches identified through Secure Flight. While DHS concurred with this recommendation, it is still open. If confirmed, how will you ensure that TSA is adequately using CBP information on misidentified travelers?
- c. Another security concern that was raised in the OIG report was that TSA does not check its cleared list against the No Fly or Selectee list frequently enough to ensure that individuals on the cleared list have not been subsequently added to one of the watch lists. DHS concurred with the OIG's recommendation to automatically compare the cleared list with the watch lists when changes are made to the lists, but it was unclear how TSA would implement the recommendation. How will you work to ensure that the cleared list does not have names on it that are added to the watch list?
- d. The report also cited the information technology system, Redress Management System, as a source for a number of problems, but also noted that TRIP faced obstacles in replacing the program. If confirmed, how will you ensure that information technology systems are appropriately prioritized?
- e. Ten federal agencies and offices participate in TRIP, but these agencies are not bound by any formal written agreement, arrangement or directive to commit resources, perform case activities, or process or communicate case status. If confirmed, how will you work with other agencies to ensure that TRIP has the cooperation of all participating agencies? In general, what is the importance of having formal agreements amongst agencies outlining responsibilities?

Response: (a-e) *I have been briefed on the DHS Traveler Redress Inquiry Program (TRIP) and am aware of the recent report released by the Office of the Inspector General (OIG report); however I am not familiar with all the specifics of the report. I understand that DHS has concurred with the vast majority of the recommendations and that the full implementation of the Secure Flight program will address many of the remaining recommendations.*

If confirmed, I will continue to work with all DHS TRIP stakeholders to strengthen the program. I understand that DHS is preparing a charter for DHS components and other Federal partners to supplement the existing inter-departmental memorandum of understanding that governs the roles and responsibilities of Federal agencies supporting the redress process. Within TSA, I understand TSA has taken steps to replace the existing DHS TRIP information technology system with a new system in an effort to make the program more efficient and more effective.

Air Cargo

27. The Implementing Recommendations of the 9/11 Commission Act of 2007 (the 9/11 Commission Recommendations Act) (P.L. 110-53) required that TSA establish a system to enable the screening of all air cargo transported by passenger aircraft, and mandated that 50% be screened by February 1, 2009 and 100% be screened by August 2010. However, the legislation gave TSA some flexibility in determining who screens the cargo. To meet the deadlines, TSA has established a Certified Cargo Screening Program, which has already certified more than 100 facilities, and continues to certify more. Have you had any experience with this program, in your capacity as Assistant Chief of the Los Angeles World Airports Police Department? Do you consider TSA's oversight mechanisms to verify facilities stay in compliance with the program sufficient?

Response: *I understand that TSA has made great strides in implementing the 9/11 Act air cargo security mandates. This includes enhanced development of the Certified Cargo Screening Program (CCSP) at airports such as LAX, which are major links in the air cargo supply chain. I understand that TSA has a significant number of air cargo security inspectors to assure that the program participants are in compliance with the CCSP and other requirements in the recently issued Interim Final Rule on air cargo screening. If confirmed, I will ensure that TSA retains a robust air cargo security compliance program.*

Registered Traveler Program and U.S. Visit-Exit

28. The Registered Traveler Program is a key layer in TSA's aviation security system, and allows passengers who voluntarily submit themselves to a more thorough background check to utilize faster screening checkpoints at the airport. In June 2009, one of TSA's authorized service providers under the Registered Traveler Program abruptly ceased operations. Participants in this particular provider's program expressed concern that personally identifiable information may not have been adequately protected as a result of the abrupt end of the program. Do you believe TSA has sufficient safeguards in place, or requires sufficient safeguards of its authorized service providers, to ensure travelers private information is securely maintained and disposed of? Would you support a requirement under the Registered Traveler Program for authorized service providers to pre-arrange and pay for the secure disposal of personally identifiable information?

Response: *I understand that, consistent with section 567 of the Fiscal Year 2010 Department of Homeland Security Appropriations Act (public law 111-83), Registered Traveler service providers are required to protect personally identifiable information (PII) of customers in a manner consistent with Federal guidelines. If confirmed, I will work to ensure an appropriate review process is implemented to determine the status of customer PII data. I would also engage the stakeholders on exploring ways to bolster the protection of PII, if necessary.*

29. In a 2008 notice of proposed rulemaking (NPRM), DHS proposed that the airlines be responsible for collecting biometrics from passengers as part of a US-VISIT exit solution.

However, Congress subsequently required that DHS conduct pilot programs designed to test potential biometric exit solutions for the US-VISIT program, prior to the issuance of a final rule. TSA's pilot was conducted in Atlanta's Hartsfield Jackson International Airport, and required TSA staff to collect biometric information with handheld devices from foreign travelers subject to the US-VISIT requirement. A final report on the pilot programs is still pending; however, concerns already have been raised about its feasibility. For example, once a traveler enters the secure part of an airport after a TSA screening, that traveler may connect through a number of airports before ultimately boarding an international flight without being screened again. This likely means that, should TSA be required to collect the US-VISIT exit data, it would have to do so at every airport in the nation. This also likely means that there is no way to verify that the individual who was screened by TSA actually exited the country. Requiring TSA to conduct biometric screening of foreign travelers could also adversely impact checkpoint wait times at airports throughout the country.

- a. Do you believe that TSA should have a role in collecting biometric data for the US-VISIT exit component?

Response: *If TSA were given this task on top of the agency's existing duties at the checkpoint, I would want to carefully study the impact on our security mission, particularly on passenger wait times at the checkpoint. If confirmed, I will closely examine this issue and work with DHS to implement the best policy.*

- b. Given your long experience working in airports, where do you believe that this biometric data collection should take place?

Response: *If confirmed, I will work with US-VISIT, stakeholders, and federal partners as necessary to effectively fulfill this goal.*

Privacy and Civil Liberties

30. Actions to increase transportation security may have the potential to implicate privacy and civil liberties concerns. As Assistant Secretary, you will frequently be required to evaluate programs to determine how best to protect the homeland while at the same time protecting individuals' privacy, civil rights, and civil liberties. What basic principles do you believe should guide such evaluations?

Response: *The most important consideration is to communicate and demonstrate that security, privacy and civil liberties are not in conflict with each other. The paramount basic principle is one of transparency. This challenge may represent an opportunity to convene a group of relevant stakeholders to solicit their input into integrating security, privacy, and civil liberties. If confirmed, I would like to explore the possibility of such an open and transparent process.*

31. Secure Flight is one example of an initiative that has had to be substantially restructured when a privacy assessment revealed significant privacy and civil liberties concerns. Early

and active involvement by the DHS Privacy Office in the development of such initiatives might have avoided costly mistakes by building privacy protections into the program from the ground up. How will you ensure that privacy and civil liberties concerns are considered early on and throughout the development of new programs and policies?

Response: *In my experience with the Los Angeles World Airports Police Department, we found it very effective in dealing with privacy concerns to reach out to stakeholders, travelers, and specific religious groups at the outset of formulating new policies or programs. For example, we've partnered with the Sikh community and invited them to participate in the training of our officers. These partnerships are vital as we move forward to ensure that we have the best balance of privacy and security possible.*

If confirmed, I would continue this approach by using the resources of the TSA and DHS Privacy Offices to perform training, program reviews, and outreach to ensure TSA's security programs and policies are compliant with privacy requirements.

32. TSA has been piloting the use of Whole Body Imaging (WBI) equipment at aviation checkpoints, to improve the agency's ability to detect both metallic and non-metallic threats. Some privacy advocates have expressed concerns about the privacy implications of using such equipment, leading TSA and the equipment manufacturers to adopt a number of safeguards to protect a traveler's privacy.

- a. Do you support the use of WBI equipment, provided current safeguards remain in place? What experience do you have with this equipment?

Response: *I believe the effort to provide effective aviation security requires a balance between technology, privacy, and security. It is my understanding that TSA's current protocol includes a number of privacy protections, and that the images that are displayed use the most advanced privacy filters currently available.*

I support TSA's long-term goal to advance the technology so the human image appears as a stick-figure while still displaying anomalies. It is my understanding that TSA is actively working with vendors to achieve this capability. If confirmed, I will work to ensure the privacy of the traveling public is protected while providing the necessary security to protect them.

- b. Do you support TSA's recent proposal to utilize WBI equipment in primary screening?

Response: *If confirmed, I will ensure that passengers may request alternative screening procedures—as is TSA's current policy. If a passenger opts to not use imaging technology, they will receive equivalent, alternate screening.*

- c. Do you believe TSA has a sufficient process in place to regularly review the privacy implications of this equipment, or any other screening technologies which may affect a traveler's privacy? What safeguards do you believe are necessary, at a minimum?

Response: *The most importance balance that we face with this equipment is between security, privacy and civil liberties. In my experience at the Los Angeles World Airports Police Department, we found it very effective in dealing with similar privacy concerns to reach out to stakeholders, travelers, and specific religious groups. These partnerships are vital as we move forward to ensure that we have the best balance in privacy and security possible.*

Research and Development

33. We know that harnessing the nation's research and development prowess is essential to hardening our domestic defenses against a variety of threats. DHS's Science and Technology (S&T) Directorate has been given the responsibility for directing research and development efforts and priorities in support of the Department's mission.
- a. What is your vision of how the S&T Directorate and TSA should work to develop and deploy advanced technologies to address challenging homeland security missions?

Response: *The terrorist threat is both dynamic and diverse. The academic community fulfills a critical role in securing America through the Department of Homeland Security Centers of Excellence (COE) Program under the Science and Technology Directorate. This integrated network of university-based consortia conducts multi-disciplinary research and develops innovative educational programs to advance homeland security missions. If confirmed, I would like to explore the possibility of leveraging the research being conducted at the COEs to identify possible solutions to challenges facing the operational environment.*

- b. How can S&T and TSA better use technology goals and transparent standards as a means of challenging industry to be more innovative?

Response: *From my perspective, TSA will need to establish clear performance standards for industry and help drive S&T's research effort. Clearly there needs to be a collaborative approach between all research and technology partners to push innovative efforts forward. Industry needs to understand the capability gaps and desired end state to be able to target their own development resources and effort. DHS, and specifically TSA and S&T, need to work with international partners to standardize goals to focus industry's efforts on a unified purpose.*

34. DHS's S&T Directorate funds several Centers of Excellence, whose purpose is to bring together experts and researchers to conduct research and education into particular homeland security portfolios.

- a. As an Associate Director for USC's Center for Risk and Economic Analysis of Terrorism Events (CREATE), how would you build on your experience to guide TSA's relationship with S&T, the Transportation Security Lab, and private sector research and development firms?

Response: *CREATE works with each of these entities collaboratively. In fact, CREATE created a Scientific Advisory Committee, comprised of representatives from academia, research and development firms, and government labs to provide information about the work being conducted by CREATE and to solicit input for future joint research projects. If confirmed, I would like to explore the potential to leverage this successful model on a national scale.*

- b. In response to a concern that DHS was not doing enough to improve the security of surface transportation, Congress mandated the creation of a National Transportation Security Center of Excellence. However, the Center has only received a fraction of the funding authorized for it. Do you believe TSA and S&T are sufficiently investing in transportation security research and development?

Response: *I have seen first-hand the benefits of a collaborative approach to security. If confirmed, I will make sure the TSA works closely with S&T on the investment and development of new technology to enhance transportation security.*

35. TSA has been working with S&T on a program to determine how much threat material, stored in various places within a commercial aircraft, could take down an airplane. TSA and DHS could then use this information to develop an updated standard for explosives detection equipment used at airports. It is currently using a standard based on (and modified as additional data has become available) data from the Lockerbie bombing, more than 20 years ago. To date, the Department has accumulated data from testing on one, older airframe. S&T advised DHS acquire data from tests and modeling on additional airframes in order to accumulate more comprehensive data.

- a. Do you agree that DHS should pursue a more aggressive study?

Response: *If confirmed I will work with TSA, S&T, and the National Laboratories that support this effort to determine the correct level of testing required for this important study.*

- b. DHS received \$1 billion for new explosive detection equipment for airports, as part of the passed earlier this year. The equipment purchased with funding will have improved capabilities over existing equipment, but it will still be measured against the explosives detection standard developed almost two decades ago. Do you believe the development of a modern standard should be a priority for the Department?

Response: *Yes, going forward I believe the development of a modern standard should be a priority for the Department and that this will better inform the development of new technology.*

36. In recent years, TSA has conducted a number of pilots to identify new technologies and new ways of using technology. Some of these pilots have expanded or developed into long-term programs. Is there a process for evaluating pilots and determining if they should become permanent programs? Should there be? Do you believe TSA is doing enough to facilitate the transfer of information or technologies, developed under its various pilot programs, to the system operators and law enforcement authorities that, more often than not, are primarily responsible for the safety and security of a system?

Response: *If confirmed it will be one my priorities to ensure that pilot programs are fully evaluated so that TSA and the Department of Homeland Security can determine whether they were successful and should be further deployed. The sharing of information, both technology based and intelligence based, is an important part of TSA's mission.*

Transportation Security Grants

37. Although the Federal Emergency Management Agency (FEMA) awards transit and rail security grants, TSA provides the subject matter expertise for the Department when helping to evaluate the merits of proposed projects. Several years ago the Department began awarding transit security grants on a regional basis, reflecting the fact that a single transit system may run through more than one state. However, regional cooperation and the process for allocating awards among jurisdictions within a single region remains a concern, and local officials have expressed a concern that TSA still lacks a viable process for coordinating and mediating regional working groups. If confirmed, would you review TSA's involvement in rail and transit security grant programs, and look for ways for TSA to ensure regional cooperation within these programs is improved?

Response: *If confirmed, I will work closely with FEMA to ensure that the Transit Security Grant Program is functioning as efficiently and effectively as possible. I understand that TSA is already involved in assessing lessons learned, and I see that role expanding through, for example, continued and greater involvement of the Transportation Security Inspectors in conducting Baseline Assessment for Security Enhancement reviews, which should allow TSA to glean lessons learned from grant recipients more frequently.*

Furthermore, I understand that TSA partners closely with mass transit and passenger rail agencies' security and safety officials, law enforcement, and emergency response professionals during the grant review process. If confirmed, I will look to build upon these initiatives. I am committed to maintaining direct communications with officials in the mass transit and passenger rail systems.

38. Since 9/11, there have been several terrorist attacks around the world on rail and mass transit systems, such as the attacks in Spain (2004), London (2005), Mumbai (2006), and more recently in China (2008). These attacks suggest that mass transit systems could be a target of future terrorist action. In addition, freight rail is the primary mode by which hazardous materials are transported throughout the nation, with railroads typically carrying about 1.8 million carloads of hazardous materials annually. These materials also serve as a potential target for terrorists.
- a. What experience do you bring that would help you to successfully manage the Department's approach for protecting surface transportation systems such as mass transit and passenger and freight rail?

Response: *As a result of my experience being responsible for managing California's critical infrastructure protection efforts in the Governor's Office of Homeland Security, I am uniquely positioned, if confirmed, to leverage the strategies used there on a national scale. I will pursue advancing a collaborative security strategy that integrates key stakeholders - mass transit and passenger rail systems, local law enforcement departments, the emergency response community, and our local, tribal and federal government partners. I will continue to use TSA's Visible Intermodal Prevention and Response (VIPR) teams, to expand the scope of resources applied to deterrent security activities.*

I understand from briefings with TSA officials that a five-pronged strategic approach is in place and these priorities are:

- *Protect High Risk Assets and Systems;*
- *Elevate the Security Baseline;*
- *Build Security Force Multipliers;*
- *Assure Information Flow; and*
- *Expand Partnerships for Security Enhancement*

If confirmed, I will review this approach carefully, with the specific purpose of identifying opportunities to enhance our effectiveness, including the sustainability of our efforts, in this important area. The regional and collaborative approach we have adopted in the Los Angeles - Long Beach area has served us well. Our approach has allowed us to engage in the implementation of security best practices and facilitates information sharing.

- b. What changes, if any, do you envision making in TSA's current organizational approach for addressing the security needs of the surface transportation and aviation modes in a limited resource environment?

Response: *If confirmed, I would like the opportunity to carefully study TSA's current organizational structure before determining what changes, if any, are necessary.*

I will certainly ensure that TSA continues collaboration with its security partners to reduce the vulnerability of all modes of transportation.

- c. What additional capabilities, if any, should TSA develop to better support mass transit, passenger, and freight rail operations?

Response: If confirmed I would like the opportunity to thoroughly review surface transportation security programs, funding, coordination with other stakeholders that have funding, security responsibilities, and/or proposed initiatives, before committing to a specific course of action. This is an area that requires careful study, and the completion of several ongoing activities related to risk assessments and the development of regulations required by the 9/11 Commission Act will better inform this process.

39. Historically, DHS has adopted a different approach to rail and mass transit security than it has adopted for aviation security, in large part because of the obvious operational role the TSA has in protecting the aviation sector. In the past, the agency more often embraced a regulatory role, rather than an operational one, when it came to rail and mass transit security. With the Administration's recent proposals to expand the Visible Intermodal Protection and Response (VIPR) teams, and the hiring of additional Surface Transportation Security Inspectors, TSA appears to be embracing a greater operational role, though it necessarily assists local officials who retain the primary operational responsibility. Another area where DHS might be able to do more to protect local transit systems is in fostering or certifying security technologies that local operators could then purchase and deploy. What do you consider the highest priority gaps in mass transit protection, and what do you think TSA and DHS can do to address these gaps expeditiously?

Response: With regard to surface transportation security, we must continuously pursue efforts to expand our awareness and understanding of a dynamic threat environment and ensure we share accurate intelligence and security information with our partners—the owners and operators of surface transportation systems, law enforcement and security officials, and local, tribal and Federal government partners—in a timely and effective manner.

If confirmed, I will focus on the following surface transportation priorities: the reduction of risk, intelligence- and information- sharing, developing best practices, security training for frontline employees, a robust exercise program, focused use of new technology, and deployment of random, unpredictable security assets. Going forward, it will be critical that TSA and surface transportation providers also focus on developing resilient systems that can recover quickly. If confirmed, I look forward to collaborating with our mass transit and rail partners together with the DHS Science & Technology Directorate to pursue new technologies.

My experience with the California Office of Homeland Security and the Los Angeles World Airports Police Department has demonstrated that coordination with stakeholders,

in both the public and private sectors, is a key element in strengthening our nation's ability to prevent and recover from attacks on surface transportation systems.

40. In June 2009, GAO released a report with regard mass transit and passenger rail security programs (GAO-09-678), which highlighted a number of unmet requirements of the Implementing Recommendations of the 9/11 Commission Act of 2007. If confirmed, how will you work with stakeholders and others to ensure these requirements are expeditiously met?

Response: *I understand that many of the outstanding requirements of the 9/11 Commission Act relate to the issuance of regulations through the notice and comment rulemaking process. This is a time consuming process that requires careful thought and consultation with all relevant stakeholders as the regulations are developed. I have been told that these rulemaking projects are underway, and that TSA continues to work with stakeholders on interim voluntary risk reduction measures. True collaboration is essential to maintaining a unified approach that integrates the broad range of people, institutions and organizations involved in surface transportation security and emergency management. If confirmed, I will continue to reach out and include the relevant stakeholders.*

41. TSA's Surface Transportation Security Inspection Program faces several key challenges. GAO has reported that the Surface Transportation Security Inspection Program is at risk of being unable to meet its expanding responsibilities because TSA does not have a workforce plan for the program. A recent report by the DHS OIG found that TSA's complement of Transportation Security Inspectors – Surface (TSIs) is woefully inadequate for the responsibilities they are expected to fulfill. In fact, it found that TSIs have only been able to profile about half of the mass transit stations in the United States, and this workforce will be further strained when TSA begins using more inspectors to oversee pipeline security matters. By comparison, the Department of Transportation employs more than 1,350 surface safety inspectors for the same infrastructure that TSA must help protect. This year the President proposed increasing the number of TSI's, though even with the increase included in the FY2010 appropriations bill, TSA will still have approximately 1,000 fewer inspectors than the Transportation Department.

- a. If confirmed, will you prioritize the development of a workforce plan?

Response: *I understand that TSA has a growing staff of surface transportation security inspectors, and I am told that the recently enacted FY 2010 DHS Appropriations Act provides funds for additional expansion of this workforce. Additionally Congress has acted to expand TSA's capabilities to augment security in surface modes through Visible Intermodal Prevention and Response (VIPR) team deployments, appropriating funds that enabled the present deployment of 10 standing teams in metropolitan areas around the nation. I understand the FY 2010 DHS Appropriations Act supports creation of up to 15 more standing teams.*

If confirmed, I would like the opportunity to carefully study TSA's current staffing levels before determining what changes, if any, are necessary.

- b. Do you support further increasing the number of TSI's, to strengthen TSA's role in surface transportation security?

Response: *I understand Congressional actions have enabled TSA to expand its capabilities in surface transportation security. If confirmed, I look forward to researching this issue further and working with stakeholders to determine the appropriate staffing level.*

Establishing a Backup to GPS

42. The Administration has proposed terminating the LORAN-C program because it is costly, rarely used, and, by itself, cannot be a backup to GPS since it has no timing element to its signal. However, prior to this proposal, the federal government invested \$160 million over the last 10 years to modernize LORAN-C infrastructure in an effort to facilitate the deployment of eLORAN as a national Position, Navigation, and Timing (PNT) back-up to GPS. GPS, because it uses a low-power satellite signal, is vulnerable to atmospheric interference and jamming. DHS is currently reviewing the needs of the federal government, private sector and critical infrastructure for a backup to GPS, and has sought guidance from these stakeholders.
- a. If confirmed as Assistant Secretary of Homeland Security, how would you assist the Department's efforts to collect information from the transportation sector and analyze that information?
- b. TSA has worked with the trucking and rail industry to test monitoring systems for the transportation of hazardous materials. These systems typically rely on GPS to provide visibility into the movement and location of hazardous materials. Do you believe TSA has a large stake in the determination of a need for a backup to GPS?
- c. Do you believe that DHS should refrain from disposing of federal property, or otherwise dismantle infrastructure, that could be used for the deployment of eLORAN or some other system to back up GPS, until a final determination has been made on a backup to GPS?

Response: *(a-c) It is my understanding that the U.S. Coast Guard is the lead Federal agency for the LORAN-C program and its role with the Global Positioning System (GPS). If confirmed, I will work collaboratively with the Coast Guard, other DHS partners, and key transportation security sector stakeholders to determine the reliance on GPS by land modes of transport, specifically rail and truck, and the role of a GPS backup system. Based on my thirty years in law enforcement and counterterrorism, I understand the critical importance of developing resilient security systems that not only provide protection, but can also respond and recovery quickly to an attack.*

Intelligence and Information Sharing

43. The National Infrastructure Protection Plan and TSA's Transportation Systems Sector-Specific Plan emphasize the importance of working with private sector partners to coordinate protection activities and share information. However, the transportation sector has had difficulty establishing an overarching Sector Coordinating Council (SCC) – an entity called for in these plans to coordinate these efforts. Do you think it is important for TSA to establish an SCC or are there better ways for the agency to coordinate with its private sector partners?

Response: *My experience with the California Office of Homeland Security and the Los Angeles World Airports Police Department has demonstrated that coordination with all of the appropriate stakeholders, in both the public and private sectors, is a key element in strengthening our nation's ability to prevent and recover from attacks on transportation systems.*

I understand that although TSA has not established a Sector Coordinating Council (SCC) at the transportation sector-level, SCCs have been formed based on the modes of transportation (i.e. aviation, highway, pipeline, freight rail, mass transit, and maritime). If confirmed, I will continue work with the DHS Office of Infrastructure Protection to explore the creation of an overarching transportation-level coordination group within the current structure.

44. What do you believe are TSA's top intelligence priorities today, and how can TSA improve its efforts to address them?

Response: *Because transportation security is a global enterprise, TSA must have access to timely intelligence reporting on existing and evolving terrorist threats around the world that could impact our transportation systems. If confirmed, I will make it a priority for TSA to analyze all available information on terrorist tactics, techniques, and procedures to help the agency take actions, such as defining detection standards for technology development, maximizing resource allocation, and develop/expand relationships with foreign partners to enhance security at last-points-of-departure overseas.*

I believe TSA can improve its efforts to address its top intelligence priorities by continuing to work closely with DHS Intelligence & Analysis and working collaboratively with Intelligence Community organizations to develop trusted relationships and share information.

45. The TSA Office of Intelligence is considered an intelligence component of the DHS under Sec. 207 of the Homeland Security Act, and under the requirements of that section, the head of that office is responsible for supporting and integrating into the broader intelligence mission of DHS as led by the Under Secretary for Intelligence and Analysis. If confirmed, how would you ensure that the TSA Office of Intelligence is integrated into

the DHS intelligence enterprise, and that TSA cooperates fully with the DHS Office of Intelligence and Analysis?

Response: *I understand that the TSA Assistant Administrator for Intelligence will continue to serve as a member of the Homeland Security Intelligence Council, which defines and sets policy for the DHS Intelligence Enterprise, as well as continue to collaborate daily with DHS Intelligence & Analysis (I&A) on analytic intelligence training, analysis, production, and dissemination of information. If confirmed, I will ensure that TSA will continue to share information with and seek advice and support from DHS I&A; further, TSA will continue to rely on DHS I&A to represent TSA requirements to the Intelligence Community.*

Human Capital Management

46. What do you consider to be the principal challenges in the area of human capital management at TSA? If confirmed, how do you intend to address these challenges?

Response: *If confirmed, the TSA workforce will be a top priority. Throughout my career, I have focused on effectively utilizing my workforce, which includes training and preparing employees for new challenges. I understand that TSA has enacted a series of workforce initiatives to reward and incentivize employees for their work, including full-time benefits for part-time employees, a peer review program, career progression opportunities, and enhanced training. In my experience, education incentives, professional development, and leadership development are key to both attracting and retaining a quality workforce. If confirmed, I look forward to using tools like these to recruit and develop tomorrow's leaders within TSA.*

47. As Assistant Secretary, how will you balance the interests of both labor and management, while improving the overall state of labor-management relations within TSA?

Response: *If confirmed, I will undertake a thorough assessment of all of TSA's operational and organizational issues. My 30 years as a law enforcement officer have taught me that the mission comes first. I will focus on protecting the nation's transportation systems, while maximizing the talents and abilities of the workforce in a collaborative and respectful way.*

48. The 2009 Best Places to Work in the Federal Government survey, conducted by the Partnership for Public Service, ranked TSA 213 out of the 216 agency subcomponents, even though it increased its score from 40.6 in 2007 to 49.7 in 2009. If confirmed, how would you assess the nature and causes of such a low ranking at TSA and how would you determine what steps are needed to address them so that TSA could rise to a higher ranking?

Response: *Focusing on the TSA workforce is one of my top priorities. Education incentives, professional development, and leadership development are key, not only for*

attracting but also for retaining a quality workforce. If confirmed, I look forward to using tools like these to recruit and develop tomorrow's leaders within TSA.

49. The human resource system applicable to Transportation Security Officers (TSOs), who perform security screening at airports for the Transportation Security Administration (TSA), does not allow collective bargaining, but does include certain employee rights and protections, similar but not identical to those generally available to federal employees. TSA also has established a pay-for-performance system for TSOs. If confirmed, will you reconsider TSA's current workforce system and, in so doing, what criteria will you apply?

Response: *If confirmed, I would need the opportunity to assess operational and organizational issues as well as to talk with stakeholder groups and former TSA administrators before making any recommendation to the Secretary.*

Contract Management

50. GAO found in its report, *Department of Homeland Security: Billions Invested in Major Programs Lack Appropriate Oversight*, GAO-09-29, that major investments that were not subject to appropriate milestone reviews experienced cost, schedule, and performance problems and, therefore increased program risk. For example, between FY2007 and the second quarter of FY2008, TSA's Electronic Baggage Screening Program experienced 10 percent cost growth. What will you do to ensure that major TSA investments receive appropriate oversight and that actions are taken to mitigate cost, schedule, and performance risks?

Response: *The need to control costs is more important than ever in the current economic climate. I am told that TSA is currently in the midst of a competitive procurement for Explosive Detection Systems equipment that will use total ownership cost as one of the evaluation factors. Further, the Transportation Systems Integration Facility (TSIF) at Ronald Reagan Washington National Airport is dedicated to testing and refining airport security equipment and processes to maximize cost and efficiency of transportation security systems. If confirmed, you have my commitment to review these efforts in detail and to work closely with TSA's Office of Security Technology and the Department of Homeland Security's Transportation Security Laboratory to ensure that TSA continues to maximize cost and efficiency.*

Although I am not familiar with the details of this particular GAO report, I assure you that, if confirmed, TSA will implement applicable processes to manage major investments and comply with established investment review policies.

51. TSA is responsible for a number of major investments, that is, programs with estimated acquisition costs of at least \$50 million, such as the Electronic Baggage Screening

Program and the Secure Flight Program. How will your past experiences enable you to successfully oversee the management of such large acquisition programs?

Response: *I have had the opportunity to work in large organizations with significant contracts both as a senior member of the Los Angeles World Airports Police Department and in my work with the State of California. If confirmed, I will work closely with TSA programs and acquisition executives to ensure that taxpayer funds are spent wisely.*

52. In July 2008, TSA awarded a contract to Lockheed Martin for human resource services. The total value of the contract for services to TSA is approximately \$1.2 billion, and the contract also provides flexibilities for DHS headquarters use of Lockheed Martin human resource services, creating a possible contract worth \$3 billion. Given the enormity of the contract, there is a risk that work will be transferred from federal employees to the contractor without DHS going through the required competition requirements under OMB Circular A-76.
- a. Will you commit to reviewing whether any A-76 requirements are violated by the terms of the contract itself, and whether precautions are in place to prevent work of TSA employees from being shifted to the contractor in circumvention of A-76 requirements in the future?
 - b. Contractors are prohibited by law from performing so-called "inherently governmental functions." However various sources define inherently governmental differently and in any event, it is not unusual for contractors to provide services that, even if they do not technically meet the definition, closely support inherently governmental functions. What will you do to strengthen TSA's own ability to perform those tasks at the core of its operations, whether inherently governmental or closely supportive of inherently governmental functions?
 - c. Based on your experience and given TSA's extensive reliance on contractors, what would you suggest are the key considerations in determining the appropriate role for contractors in supporting the agency (particularly, in the areas that border on inherently governmental functions, such as policy making or human resources management)?
 - d. Contractor employees often work side-by-side with TSA employees, and also perform the same or similar functions as their government counterparts. Have you had any experiences managing an intermingled workforce?
 - e. If confirmed, what safeguards would you ensure were in place, to prevent conflicts of interest by contractor employees?

Response: *(a-e) I have been briefed on TSA's Office of Human Capital and am aware of the Lockheed Martin contract for human resource services; however, I am not familiar with all the specifics of the contract.*

I share the Secretary's vision for Departmental transparency and efficiency. If confirmed, I will ensure that TSA strives to provide the best support for its workforce in the most cost effective manner, and complies with the Secretary's Efficiency Review initiative to determine the most effective balance of contractors and federal employees while maintaining appropriate oversight.

IV. Relations with Congress

53. 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?

Response: *Yes.*

54. 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?

Response: *Yes.*

V. Assistance

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

Response: *These answers are my own. I have had pre-confirmation briefings and discussions with staff at DHS and TSA.*

AFFIDAVIT

I, EROW SOMERS, 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.

Errow Somers

Subscribed and sworn before me this 6th day of April, 2009.

[Signature]
NOTARY PUBLIC

My Commission Expires February 28, 2014

DISTRICT OF COLUMBIA

**Post-Hearing Questions for the Record
Submitted to Mr. Erroll G. Southers
From Senator Daniel K. Akaka**

November 10, 2009

1. The Transportation Security Administration (TSA) has been plagued with high attrition rates and low morale. In the 2009 Partnership for Public Service Best Places to Work Survey, TSA was ranked 213th out of 216 agencies, and it ranked close to the bottom of the list in the categories of effective leadership, teamwork, and pay and benefits.

If confirmed, what steps would you take to improve retention and morale at TSA?

Response: *Throughout my career, I have made workforce development a top priority. If confirmed, I will make TSA an employer of choice by recruiting and retaining a top-caliber workforce and through education incentives, professional development, and leadership development. I will also make use of existing TSA structures, such as reward and incentive programs, peer review, career progression opportunities, and enhanced training. In recent years, TSA has markedly reduced the level of voluntary attrition; if confirmed, I will strive to build on this success.*

2. As agencies develop their strategies to accomplish their missions, human capital planning should be considered a priority. Unfortunately, many agencies have not taken a strategic approach to human capital planning. This undermines their ability to meet agency objectives and hinders recruitment and retention of a well-qualified workforce.

If confirmed, how will you ensure that strategic human capital planning is a priority at TSA?

Response: *I appreciate the magnitude of the responsibility for providing leadership for an agency with more than 50,000 employees and an extensive national and international presence. If confirmed, I will work closely with the TSA Office of Human Capital to ensure that TSA's human capital programs reflect and incorporate the Department's vision relating to long-term planning needs to sustain a diverse, well-trained, and engaged workforce.*

3. A well-trained workforce will support TSA's national security mission, and improved training also may help boost morale and retention.

Please discuss your overall approach to training and how you would align training to TSA's strategic priorities, if confirmed?

Response: *The training of the workforce is essential to TSA's ability to effectively provide security to the nation's transportation networks. This extends beyond the Transportation Security Officers that so many Americans encounter each day at airports—the workforce includes inspectors, Federal Air Marshals, and canine handlers, to just name a few. Throughout my career, I have personally undertaken the same training that my officers undergo in order to better understand its effectiveness and how it relates to the demands on the job—a practice I will continue at TSA if I am confirmed. I will also work with TSA's training offices within the Office of Human Capital and the operational offices to ensure that TSA is providing meaningful training that enhances security and customer service.*

**Senator Mary Landrieu
Additional Questions for the Record
Nomination Hearing of Erroll Southers
November 10, 2009**

1. Several times you have referenced the need to leverage technology to assist TSA with providing enhanced screening and security at U.S. airports. Specifically, you indicated that it is important to utilize technology to enhance officers' skill sets and not replace them.
 - a) Will you please elaborate on your goals for testing and deploying the best mix of screening technologies?

Response: *If confirmed, I will work to ensure that TSA uses risk-based technology to enhance security. A close working relationship with the Department's Science and Technology Directorate is critical to achieving these goals. I understand that TSA has recently stood up its Transportation Systems Integration Facility (TSIF) at Ronald Reagan Washington National Airport. This facility is dedicated to testing and refining airport security equipment and processes to enhance security, minimize cost, and maximize efficiency.*

- b) Under your watch, what efforts will TSA take to finally allow travelers to keep their shoes on their feet, their coats on their backs and their laptops in their bags?

Response: *Based on my many years of involvement in counter-terrorism and public safety, I fully understand the dynamic nature of the threat to aviation security. It is essential that TSA have the tools necessary to respond to this threat, while also providing world-class customer service. If confirmed, I will work with the Department's Science and Technology Directorate and with the aviation industry to provide superior, customer-friendly and cost effective technology. We will continue to work to improve the convenience and efficiency of the screening process for travelers without lowering our security standards.*

2. Nearly one-third of passengers arriving by air in the U.S. must take a connecting flight to reach their final destination within the U.S. Once these passengers have cleared through U.S. Customs and Border Protection (CBP) inspection processes, they must obtain their checked luggage, plan for additional regulations (limited quantity of liquids and gels, for example), re-check baggage with their airline and undergo a Transportation Security Administration (TSA) passenger screening process before boarding their connecting flight. This TSA re-screening process affects not only connecting passengers, but also other international arriving passengers who may be forced to wait in the federal inspection services portion of the airport because of congestion in the TSA screening

area, as well as purely domestic passengers who must compete to use limited TSA screening resources. Since all of these passengers were screened before boarding their original flight to the U.S., this re-screening of passengers may appear to be redundant, cumbersome and a wasteful use of TSA resources.

- a) Would you be willing to work with U.S. Customs and Border Protection and airport authorities to determine if there is a secure way to address this matter?

Response: *In confirmed I will certainly work with U.S. Customs and Border Protection (CBP) and airport authorities on this matter. I am committed to working with CBP to achieve a solution that generates efficiencies for passengers, adheres to Federal law and satisfies our security requirements.*

- 3. You have mentioned your concern for both protecting the transportation system and ensuring the ability of law-abiding citizens to travel freely in the United States. A survey conducted by the U.S. Travel Association in the spring of 2008 demonstrated that millions of travelers had decided to cancel trips by air due to the hassle factors inherent in the system, including the TSA passenger screening process.

- a) As the TSA modifies its approach to research, procurement and deployment of new passenger checkpoint screening technologies in response to concerns raised by the October 2009 GAO report on aviation security, do you believe it is important that TSA evaluate these technologies to determine which ones are not only the most effective in terms of screening and detecting prohibited items, but also which technologies can assist in streamlining and improving the process for travelers?

Response: *I agree that it is critical to provide both security and exceptional customer service to the traveling public. As an example, I understand that TSA's extensive Checked Baggage Screening Program, which aims to provide optimal checked baggage screening solutions at our nation's airports, has and will continue to significantly improve screening efficiency and minimize hassles at ticket counters and airport lobbies, while also enhancing our capacity to detect threats. If confirmed, I will make it a priority to improve the traveling experience for the public and better engage the public in the security process.*

- 4. Throughout your confirmation process you have spoken about your extensive relationships with counter-terrorism colleagues in North America, Europe, and the Middle East and Asia. Your biographical questionnaire also indicated that you were involved in international conferences, speaking engagements, and partnerships in both Israel and China.

- a. What are some of the lessons you have learned from these international relationships that you would apply to TSA?

Response: *My international travels and engagement with international partners have impressed upon me the need to synchronize our security measures with our allies, so that we can significantly reduce our vulnerabilities to security threats. Such coordination serves an important role with regard to passenger screening, prohibited items, air cargo security, and other transportation security issues. One common theme that emerges from my interactions is that we all agree on three basic realities – reducing the risk of terrorism and improving public safety is paramount, emergency response efficiency is critical, and the continuity of operations must be ensured in the event of a natural disaster or terrorist attack.*

- b. If confirmed, how do you intend to apply these lessons to better execute the goals and mission of TSA?

Response: *If confirmed, I will continue my engagement with international partners, including the International Civil Aviation Organization, the European Community, the Quadrilateral Working Group (United States, Canada, Australia, European Union), and enhance relationships with bilateral partners in Africa, Asia-Pacific, Europe, the Middle East, and North/Central/South America and others who share our common objective of protecting the traveling public and providing for the free flow of commerce. I understand that TSA has an extensive international engagement program through its Office of Global Strategies, and if confirmed, I look forward to leveraging that office's accomplishments to date to take TSA's international relationships to the next level.*

5. In your discussion of privacy issues, you mentioned that Los Angeles World Airport has effectively implemented programs to reach out to stakeholders, travelers, and specific religious groups at the outset of formulating new policies or programs. In particular, you referenced the department's outreach to the Sikh community and inviting them to provide input on officer training.

- a. Would you consider implementing a similar program at TSA? If so, how would you implement such a program?

Response: *If confirmed I will look to expand TSA's outreach with stakeholders so that they can contribute their ideas on how to improve TSA's security processes, and so that they can share their concerns about how TSA affects their constituencies. I am firmly convinced that TSA's and the Department's homeland security mission require an engaged and active public who participate in the shared responsibility of making our country ready for and resilient in the face of threats.*

- b. How do you see this program fitting in to the existing training structure at TSA?

Response: *If confirmed I would like the opportunity to review TSA's internal training programs, as well as its external stakeholder engagement, to look for ways to effectively incorporate this important goal into the processes.*

Senator Jon Tester
Additional Questions for the Record
Nomination Hearing of Erroll G. Southers
November 10, 2009

1. Nearly two years ago, Montana's seven Essential Air Services (EAS) airports chose to "opt out" of TSA screening services and instead chose to rely on privatized screeners in the Screening Partnership Program (SPP). The airports chose to "opt out" and join the SPP after they concluded that they would be better served in relying on security from a local firm. They also concluded that taxpayers would be better served if they did not have to pay to rotate out-of-state screening personnel through the state's EAS airports.

Over the past two years, TSA missed several self-imposed deadlines to release the RFP for the screening contract. After finally releasing the RFP, TSA missed several self-imposed deadlines to award the contract. TSA also missed a statutory deadline to award the contract and kept airport applicants minimally informed throughout the process. TSA finally awarded the contract to a firm in August.

Three non-EAS Montana airports now intend to join the SPP. How will you ensure that these three airports – or any other Montana airports that choose to opt out in the future – do not endure a similar years-long delay in joining the SPP?

Response: *If confirmed, I will ensure that TSA responds in a timely manner to requests from airports for participation in the Screening Partnership Program. I will also ask TSA's staff to put these requirements into practice as quickly as possible.*

2. Under current regulations, individuals piloting vessels that carry for hire more than six (6) passengers on a navigable waterway are required to obtain a Transportation Worker Identification Credential (TWIC). TSA administers the TWIC program.

The TWIC obligation extends to tour boat operators in Montana. In order to obtain a TWIC, these tour boat operators must travel to the nearest available enrollment processing center, which is often more than 500 miles away in Seattle. Furthermore, they must make a return trip weeks later once their card is issued. This burdensome situation also applies to individuals living in states like Idaho, Wyoming, North Dakota, South Dakota, Nebraska, Colorado, and Utah and leads to millions of dollars and thousands of hours in lost productivity as workers must travel to distant locales to obtain their TWIC.

How do you plan to rectify this problem?

Response: *If confirmed, I will ask the TSA staff that manages the TWIC program to look for all possible ways to make the application and enrollment process for applicants as customer-friendly as possible, including exploring the use of mobile enrollment. I will coordinate possible solutions with the U.S. Coast Guard to ensure that we maintain the Department's security standards, pursue a cost effective operation, and utilize a reasonable fee structure for all applicants.*

Senator Susan M. Collins
Additional Questions for the Record
Nomination Hearing of Erroll G. Southers
November 10, 2009

1. For nearly a year, under the direction of the Under Secretary for Management, DHS has been conducting a survey to assess the needs of users of the Global Positioning System (GPS) for a backup in the event of a disruption or outage and whether the Long Range Aides to Navigation (LORAN) system could provide that backup. Although the Department committed to completing this task by July 30, 2009, the survey of government agencies and the 18 critical infrastructure sectors has not been completed. The Department has reported that it has had difficulty with its outreach for input from critical infrastructure owners.

When surveyed on its GPS backup requirements in 2007, the Department of Energy's National Nuclear Security Administration (NNSA) stated that LORAN provides location information on nuclear material shipments in the event of blocked-sky visibility and intentional or non-intentional jamming of GPS. It recommended that the LORAN system remain in operation and that it be enhanced to improve its accuracy and reliability. In addition to the NNSA, it is well known that hazardous material transporters rely on GPS to track shipments.

If confirmed, will you ensure that comprehensive input is gathered from transportation sector stakeholders regarding their needs for a GPS backup?

Response: *I understand that through a provision in the 2010 Department of Homeland Security Appropriations Act, Congress has provided very detailed direction to the Secretary of Homeland Security and the Commandant of the U.S. Coast Guard regarding the LORAN-C system. If confirmed, I will coordinate with the Secretary and the Coast Guard, as well as with transportation sector stakeholders, to follow Congress' instruction and ensure that options are available to ensure the tracking of security sensitive materials in accordance with the Department's and industry's needs.*

Senator George V. Voinovich
Additional Questions for the Record
Nomination Hearing of Erroll G. Southers
November 10, 2009

1. What is your understanding of the timeline for the decision on whether or not to extend collective bargaining rights to Transportation Security Officers?

Response: *I do not have a specific timeline. If confirmed, I will conduct a thorough assessment of the current situation before making my recommendation to the Secretary.*

2. If confirmed, what will your role be in the ongoing review of whether or not to extend collective bargaining rights to Transportation Security Officers?

Response: *If confirmed, I will assess the operational and organizational issues and subsequently provide my recommendation to the Secretary. I expect to engage in extensive stakeholder outreach—both internal and external to the Transportation Security Administration (TSA)—to ensure that TSA's security mission will always come first while preserving the operational and human capital flexibilities that TSA needs to remain a successful organization. I would make my recommendation to the Secretary only after this full assessment is complete.*

3. Do you believe collective bargaining rights should be extended to Transportation Security Officers? If so, how do you believe the labor relations system should be crafted?

Response: *If confirmed, I will conduct a thorough assessment of the current situation before making my recommendation to the Secretary. Forming an opinion at this time would be premature and would not allow the opportunity for research and discussion.*

4. If TSA provides for collective bargaining, do you believe TSA should engage in collective bargaining at the national level? Should TSA provide for bargaining at local airports?

Response: *If confirmed, I would first like to engage with all relevant stakeholders prior to making any recommendation regarding collective bargaining and how it might best be structured.*

5. If TSA provides for collective bargaining, will TSA alter the Performance Accounting and Standards System (PASS)? Will the PASS system be subject to negotiation? If so, which elements will be subject to negotiation? Please explain all changes you understand will be required to PASS if TSA provides for collective bargaining.

Response: *I support performance-based programs. If confirmed, I would first like to engage with all relevant stakeholders prior to making any recommendation regarding collective bargaining. At this point, it would be premature to comment on whether I*

would recommend any restructuring or elimination of the Performance Accounting and Standards System (PASS).

6. Your predecessors' maintained collective bargaining would limit TSA's ability to prepare for and respond to emergencies. What assurances can you provide me that TSA's mission performance will not suffer if collective bargaining rights are extended to Transportation Security Officers?

Response: *In my discussions with the Secretary and with many Members of Congress during my confirmation process, I have made it clear that I would like to review this matter thoroughly. Let me reiterate: as a 30-year law enforcement officer, the mission comes first. If confirmed, I will also reach out to prior Administrators of the Transportation Security Administration (TSA) so that I have better insight into their decisions.*

7. If collective bargaining rights are extended via administrative action, will you seek and/or support legislation to codify such rights?

Response: *If confirmed, I look forward to engaging with this Committee and Congress should the Secretary or I determine that legislation is needed to address the Transportation Security Administration's human capital needs.*

8. If confirmed, will you seek to modify the current personnel flexibilities for the TSO workforce? Please explain what, if any, modifications to the benefits and processes available to TSOs you will pursue.

Response: *If confirmed, I would need the opportunity to assess operational and organizational issues, as well as to talk with stakeholder groups and former TSA Administrators, before making any recommendation to the Secretary on the TSA human capital system. Forming an opinion at this time would be premature and would not allow the opportunity for research and discussion. If confirmed, the TSA workforce will be a top priority for me, and I will explore education incentives, professional development, and leadership development to assist in attracting and retaining tomorrow's leaders within TSA.*



November 17, 2009

The Honorable Joseph Lieberman
Chairman
Homeland Security and Governmental Affairs Committee
340 Dirksen Office Building
Washington, DC 20510

The Honorable Susan Collins
Ranking Member
Homeland Security and Governmental Affairs Committee
350 Dirksen Office Building
Washington DC 20510

Dear Chairman Lieberman and Ranking Member Collins:

On behalf of the 600,000 federal workers represented by the American Federation of Government Employees, AFL-CIO (AFGE), including 38,000 Transportation Security Officers (TSOs), I strongly urge the Committee on Homeland Security and Governmental Affairs to favorably report out the nomination of Erroll Southers to be Assistant Secretary for the Transportation Security Administration (TSA). The combination of Mr. Southers' education, experience, and commitment to security and justice make him ideally suited to lead TSA.

TSA is in desperate need of a strong, knowledgeable leader to fulfill its incredibly important mission of ensuring safety for the flying public. TSA has been plagued with problems of mismanagement ranging from the waste of millions of dollars of taxpayer money on questionable contracting out of government functions to a TSO workforce that has among the highest attrition and injury rates and the lowest morale in federal government. Mr. Southers is a proven manager with experience as the assistant chief for homeland security and intelligence at the Los Angeles World Airports, expertise as the Associate Director for educational programs at the Center for Risk and Economic Analysis for Terrorism Events and Adjunct Professor of Terrorism and Public Policy at the University of Southern California, and practical knowledge from his years of public service as a City of Santa Monica police officer and Federal Bureau of Investigations special agent. Mr. Southers has proven his abilities with regard to every aspect of TSA's mission.

80 F Street, N.W., Washington, DC 20001 • (202) 737-8700 • FAX (202) 639-6490 • www.afge.org

TSA is evolving from an agency hastily stood up in the months following the terrible events of September 11, 2001 to one that must work in partnership with its workers to meet future challenges. Despite the agency's refusal to grant them the enforceable rights of other federal workers, a lack of day-to-day clarity in their duties and mission, and the often misinformed perceptions of the flying public, TSOs have successfully kept air travel safe for the public. The TSO workforce looks forward to the confirmation of a leader such as Mr. Southers who will work with them as valued members of the team protecting the flying public from acts of terrorism.

Again, AFGE strongly urges you to vote in favor of reporting out the nomination of Erroll Southers to be Assistant Secretary of TSA.

Sincerely,



Beth Moten
Legislative and Political Director



October 9, 2009

The Honorable Joseph Lieberman
The Honorable Susan Collins
Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Lieberman and Collins,

It is with both great privilege and honor that I write this letter of recommendation for Chief Erroll Southers in his nomination to be Assistant Secretary for the Transportation Security Administration (TSA), in the Department of Homeland Security.

While greatness is always in short supply, it is truly rare to find an individual like Chief Southers who so gracefully and unselfconsciously combines both spectacular professionalism with genuine personal goodness.

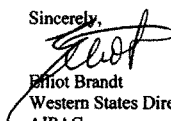
Chief Southers' resume speaks for itself. He is the consummate agent and analyst, instructor and manager and someone who is both trusted and sought after by officials at all level of government. After more than 30 years in the field, he has earned the respect of security experts across America and in countries around the globe.

The talents and experience of Chief Southers are quite obvious even just from reading his resume. What can not be delineated or quantified on a curriculum vitae are character traits. He is humble, thoughtful, creative and clever. He shares credit as easily as he shares his own ideas. The Chief is held in the highest esteem by everyone - junior staff members, his colleagues and superiors. This is in part because Chief Southers is someone from whom everyone has something to learn, and in larger part because he respects the views of all those around him, irrespective of title or jurisdiction.

Chief Southers lives in the most demanding of worlds, where mistakes are neither forgotten nor forgiven, and the consequences for bad judgment are severe. Nevertheless, countless Americans are safer as a result of someone they have never met, but to whom they, and we, owe a tremendous debt of gratitude.

I recommend Chief Southers with my highest praise and thanks.

Sincerely,


Elliot Brandt
Western States Director
AIPAC

Southern Pacific Region
6310 San Vicente Blvd.
Suite 275
Los Angeles, CA 90048
Tel 323-937-1184
Fax 323-937-8949

Main Office
251 H Street, NW
Washington, DC 20001
202-639-5200
www.aipac.org

19433 Mill Dam Place
Leesburg, VA 20176
6 October 2009

The Honorable Joseph Lieberman
The Honorable Susan Collins
Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Honorable Sir and Madam,

I would like to express my whole hearted support and endorsement for the appointment of Mr. Erroll G. Southers as a nominee for the position of Assistant Secretary for the Transportation Security Administration. Mr. Southers' career path has continuously intersected many, if not most, of the major conditions that would constitute the ideal candidate for a senior position within the Department of Homeland Security and, particularly, for the position as the Assistant Secretary for the Transportation Security Department. Those qualifications are: (1). Someone with recent and senior level experience in the area for which he is being nominated (Current Chief of Homeland Security and Intelligence for the Los Angeles World Wide Airports Police Department); (2). Someone with previous experience working inside the Federal establishment (A former Special Agent with the Federal Bureau of Investigation); (3). Someone with a solid understanding of State and Local government and State and Local perspectives (Former Local Police Officer in Santa Monica, CA; Associate Director for Special Programs at the National Homeland Security Center for Risk and Economic Analysis; and former CA Deputy Director for Critical Infrastructure in the California Office of Homeland Security); (4). Someone who has had continuous and direct knowledge of terrorist tactics and techniques and direct access to current intelligence products at the Top Secret Level (Current Adjunct Professor for Homeland Security and Public Policy and responsible for developing the USC Executive Program in Counter-Terrorism, the first American invited to assess the terrorism countermeasures for the 2008 Beijing Olympics and current access to TS information concerning threats to critical infrastructure); and (5). Someone with the leadership experience and higher education required to perform at the Assistant Secretary level of the Federal Government (Leadership experience in the FBI , as a Deputy Chief and in his current Chief's position and his undergraduate degree from Brown University, Masters from USC, Doctoral candidate at USC, Senior Fellow at UCLA School of Public Affairs).

In addition to all the qualifications previously mentioned, Mr. Southers not only is a recognized Local, State and National figure in the protection of critical infrastructure, he is also recognized internationally as a terrorist expert, has been a respected lecturer for senior military officers (Joint Chiefs of Staff) and has previous experience testifying before Congress.

Mr. Southers current position at LAX means he could not be a more up to date, informed and ideal candidate as he deals first hand with the daily issues confronting the people, protective measures and policies that affect a large sector of TSA's critical

infrastructure responsibilities. His superb performance in handling these tough issues, and his relaxed and engaging demeanor, confident approach to problem solving and clear and articulate guidance in problem resolution, make him an ideal candidate to fill the Transportation Administration's Chief position. I am confident that Mr. Southers will prove to be the most informed and capable leader, to date, in TSA's short but tumultuous history; bring notable innovation and substantive changes to national security measures; and prove to be an exceptional leader to the tens of thousands of employees within that agency.

Respectfully Submitted,

Matthew E Broderick
Brigadier General (Ret) USMC
Former Director of Operations for the Department of Homeland Security

ARNOLD SCHWARZENEGGER
GOVERNOR



Cal EMA
CALIFORNIA EMERGENCY
MANAGEMENT AGENCY

MATTHEW R. BETTENHAUSEN
ACTING SECRETARY

October 6, 2009

Mr. Joe Lieberman
Chairman
Homeland Security and
Governmental Affairs Committee
706 Hart Office Building
Washington, DC 20510

Mrs. Susan M. Collins
Ranking Member
Homeland Security and
Governmental Affairs Committee
413 Dirksen Senate Office Building
Washington, DC 20510

Subject: Nomination as TSA's Assistant Secretary

Dear Senators Lieberman and Collins:

As Governor Schwarzenegger's Homeland Security Advisory and Secretary of the California Emergency Management Agency (Cal EMA), I write in strong support of the nomination of Erroll Southers as the Assistant Secretary for the Transportation Security Administration (TSA) with the Department of Homeland Security.

Mr. Southers is an excellent selection and he brings vast homeland security experience at the federal, state and local levels, along with hands-on airport security expertise. California and our Office of Homeland Security, now Cal EMA, benefited greatly from his expertise and national leadership. California is safer and better prepared because of his hard work, dedication and innovative thinking.

The Transportation Security Administration faces many challenges in its vital efforts to protect America's airports, railroads, ports and mass transit systems and I am confident Erroll Southers has the ability and talents to meet those challenges. Undoubtedly, Erroll's experience and steadfast commitment to the highest professional standards and his indefatigable work ethic will also inspire TSA's workforce to perform at their best. We look forward to his speedy confirmation and working closely with him in this new role.

If you have any questions or need additional information, please feel free to contact me.

Sincerely,

Matthew Bettenhausen

3650 SCHRIEVER AVENUE • MATHER, CA 95655
(916) 845-8506 • (916) 845-8511 FAX



California POLICE CHIEFS Association Inc.

P.O. Box 255745 Sacramento, California 95865-5745 Telephone (916) 481-8090 FAX (916) 481-8008
E-mail: lmcgill@californiapolicechiefs.org • Website: californiapolicechiefs.org

October 20, 2009

EXECUTIVE BOARD

President
BERNARD K. MELEKIAN
Pasadena

1st Vice President
SUSAN MANHEIMER
San Mateo

2nd Vice President
ROY WASDEN
Modesto

3rd Vice President
DAVE MAGGARD
Irvine

Immediate Past President
JERRY P. DYER
Fresno

Director at Large
SCOTT SEAMAN
Los Gatos/Monte Sareno

EXECUTIVE DIRECTOR
Leslie McGill, CAE

GOVERNMENT RELATIONS
John Lovell

LEGAL COUNSEL
Martin J. Mayer

The Honorable Joe Lieberman
Chairman
U.S. Senate Committee on Homeland Security and
Governmental Affairs
706 Hart Office Building
Washington, DC 20510

The Honorable Susan M. Collins
Ranking Member
U.S. Senate Committee on Homeland Security and
Governmental Affairs
413 Dirksen Senate Office Building
Washington, DC 20510

Subject: Nomination as TSA's Assistant Secretary

Dear Senators Lieberman and Collins:

The California Police Chiefs Association (CPCA) strongly encourages your support for the nomination of Assistant Chief Erroll Southers. As the new Assistant Secretary for the Transportation Security Administration (TSA), Chief Southers is an extraordinary candidate for this critical position with the U.S. Department of Homeland Security (DHS).

Chief Southers has a myriad amount of state, local and federal homeland security experience. He gained invaluable terrorism expertise while serving as the first Deputy Director of Critical Infrastructure Protection at the California Governor's Office of Homeland Security and in his current position as Assistant Chief for the Los Angeles World Airports Police Department's Office of Homeland Security and Intelligence.

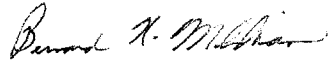
Throughout his career in public safety, Chief Southers has had the opportunity to serve in law enforcement agencies at levels giving him a vast knowledge for his new position. Additionally, Mr. Southers also serves as the Associate Director at the DHS's Center for Risk and Economic Analysis of Terrorism Events at the University of Southern California giving him integral academic experience.

CPCA understands the great work that Mr. Southers has done not only for the state of California but the nation. His leadership and innovation on a numerous fronts has been the driving force behind many of our nation's current program successes which have resulted in a safer and more secure homeland.

Joc Lieberman, Susan Collins
October 20, 2009
Page two

With all of his great work and commitment, Chief Southers is the clear choice for this vital national position. For these reasons and many others, we strongly urge the Committee to unanimously confirm his nomination.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bernard K. Melekian".

Bernard K. Melekian
President



1455 Response Road, Suite 190 | Sacramento, CA 95815 | 916-263-0541 | 916-263-6090

October 26, 2009

The Honorable Joe Lieberman
Chairman
U.S. Senate Committee on Homeland Security and
Governmental Affairs
706 Hart Office Building
Washington, DC 20510

The Honorable Susan M. Collins
Ranking Member
U.S. Senate Committee on Homeland Security and
Governmental Affairs
413 Dirksen Senate Office Building
Washington, DC 20510

Subject: Nomination as TSA's Assistant Secretary

Dear Senators Lieberman and Collins:

The California Peace Officers' Association (CPOA) strongly encourages your support for the nomination of Assistant Chief Erroll Southers as the new Assistant Secretary for the Transportation Security Administration (TSA). Chief Southers is an extraordinary candidate for this critical position with the U.S. Department of Homeland Security (DHS).

Chief Southers has an immense amount of homeland security experience. He gained invaluable terrorism expertise while serving here in California as the first Deputy Director of Critical Infrastructure Protection in the Governor's Office of Homeland Security and in his current position as Assistant Chief for the Los Angeles World Airports Police Department's Office of Homeland Security and Intelligence. Throughout his career in public safety, Chief Southers has had the opportunity to serve in law enforcement agencies at the federal, state and local levels. Additionally, Mr. Southers also serves as the Associate Director at the DHS's Center for Risk and Economic Analysis of Terrorism Events at the University of Southern California giving him integral academic experience.

CPOA understands the great work that Mr. Southers has done not only for the state of California but the nation. His leadership and innovation on a myriad of fronts has been the driving force behind many of our nation's current program successes which have resulted in a safer and more secure homeland.

With all of his great work and commitment, Chief Southers is the clear choice for this vital national position. For these reasons, we strongly urge the Committee to unanimously confirm his nomination.

Sincerely,

Bureau Chief John Standish
President



California State Sheriffs' Association

Organization Founded by the Sheriffs in 1894

October 23, 2009

Officers

President
Clay Parker
Sheriff, Tehama County
1st Vice President
Curtis Hill
Sheriff, San Benito County
2nd Vice President
Mark Pizzin
Sheriff, Merced County

Secretary
Keith Royal
Sheriff, Nevada County

Treasurer
Craig Abner
Sheriff, Alameda County

Sergeant-at-Arms
Adam Christensen
Sheriff, Stanislaus County

Adj. Cooper
Sergeant-at-Arms, Emeritus
Immediate Past President
Ed Bonatz
Sheriff, Placer County

Directors

Bob Brooks
Sheriff, Ventura County
Bill Coghill
Sheriff, Sonoma County
John Crawford
Sheriff, Alpine County
Dennis Downum
Sheriff, Calaveras County
Pat Hodges
Sheriff, San Luis Obispo County

Mike Kanakakis
Sheriff, Monterey County
John McComness
Sheriff, Sacramento County
Steve Moore
Sheriff, San Joaquin County

Ed Pries
Sheriff, Yuba County
Perry Reuliff
Sheriff, Butte County

Martin Ryan
Sheriff, Amador County
Donny Youngblood
Sheriff, Kern County

President's Counsel

Robert Doyle
Sheriff, Marin County

Bill Koleader
Sheriff, San Diego County

Warren Rupp
Sheriff, Ventura County
Laurie Smith
Sheriff, Santa Clara County

Sheriff Jim Denney (Ret.)
Executive Director

Nick Warner
Legislative Director

Martin J. Mayer
General Counsel

The Honorable Joe Lieberman, Chairman
Senate Committee on Homeland Security and
Governmental Affairs
706 Hart Office Building
Washington, DC 20510
Fax: 202-224-9750

The Honorable Susan M. Collins, Ranking Member
Senate Committee on Homeland Security and
Governmental Affairs
413 Dirksen Senate Office Building
Washington, DC 20510
Fax: 202-224-2693

Subject: CSSA Support of Erroll Southers' Nomination as Assistant Secretary for the Transportation Security Administration

Dear Senators Lieberman and Collins:

On behalf of the California State Sheriffs' Association (CSSA), we are pleased to support the nomination of Erroll Southers for appointment as Assistant Secretary for the Transportation Security Administration (TSA). He is an excellent candidate for this critical position with the U.S. Department of Homeland Security (DHS).

Chief Southers has extensive experience in state, local and federal homeland security operations. He gained invaluable terrorism expertise while serving as the first Deputy Director of Critical Infrastructure Protection at the California Governor's Office of Homeland Security and in his current position as Assistant Chief for the Los Angeles World Airports Police Department's Office of Homeland Security and Intelligence.

Throughout his career in public safety, he has had the opportunity to serve in law enforcement agencies at levels giving him a vast knowledge for his new position. Additionally, Mr. Southers also serves as the Associate Director at DHS's Center for Risk and Economic Analysis of Terrorism Events at the University of Southern California giving him integral academic experience.

CSSA recognizes the great work that Mr. Southers has done not only for the state of California, but for the nation. We trust you will give his nomination your most positive consideration.

Sincerely,

Clay Parker, President
Sheriff, Tehama County

Curtis Hill, Political Action Committee Chair
Sheriff, San Benito County

CDP/CJH/mmc

cc: All California Sheriffs
Sheriff Jim Denney (Ret.), CSSA Executive Director
Nick Warner, CSSA Legislative Director

1231 I Street, Ste 200 * Sacramento, California 95814
P O Box 958 * Sacramento, California 95812
Telephone 916/375-8000 * Fax 916/375-8017 * Website www.calsheriffs.org * Email cssa@calsheriffs.org



FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

P.O. Box 326 Lewisberry, PA 17339

www.fleoa.org

(717) 938-2300

Representing Members Of:
 AGENCY for INTERNATIONAL DEVELOPMENT
 AGRICULTURE-OIG and FOREST SERVICE
 COMMERCE

Export Enforcement, OIG
& NOAA Fisheries Law Enforcement

DEFENSE

Air Force - OIG

Army - CID

Defense Criminal Investigative Service

Naval Criminal Investigative Service

OIG

EDUCATION - OIG

ENERGY - OIG

ENVIRONMENTAL PROTECTION AGENCY - CID & OIG

FEDERAL DEPOSIT INSURANCE CORPORATION - OIG

GENERAL SERVICES ADMIN - OIG

HEALTH & HUMAN SERVICES

Food & Drug Administration & OIG

HOMELAND SECURITY

Border Patrol

Coast Guard Investigative Service

Immigration & Customs Enforcement

Federal Air Marshal

Federal Emergency Management Agency

Federal Protective Service

US Secret Service

Transportation Security Administration

HOUSING & URBAN DEVELOPMENT - OIG

INTERIOR

Bureau of Indian Affairs

Bureau of Land Management

Fish & Wildlife Service

National Park Service

OIG

U.S. Park Police

JUSTICE

Bureau of Alcohol, Tobacco, Firearms & Explosives

Drug Enforcement Administration

Federal Bureau of Investigation

US Marshals Service

OIG

J.S. Attorney's Office-CI

ABOR - OIG & Racketeering

NATIONAL AERONAUTICS & SPACE ADMIN - OIG

NUCLEAR REGULATORY COMMISSION - OIG

POSTAL SERVICE-OIG & Inspection

RAILROAD RETIREMENT BOARD - OIG

SECURITIES & EXCHANGE COMMISSION - OIG

SMALL BUSINESS ADMINISTRATION - OIG

SOCIAL SECURITY ADMINISTRATION - OIG

STATE DEPARTMENT

Bureau of Diplomatic Security & OIG

TRANSPORTATION-OIG

TREASURY

FINCEN & OIG

Internal Revenue Service - CI

TIGTA

J.S. COURTS (JUDICIAL)

Probation, Parole & Pretrial Services

VETERANS AFFAIRS - OIG

NATIONAL OFFICERS

President

JOHN ADLER

Executive Vice-President

NATHAN CATURA

Vice President - Operations

LAZARO COSME

Vice President - Agency Affairs

CHRIS SCHOPFMEYER

Vice President - Membership Benefits

JOHN RAMSEY

Secretary

MARIA COSCIA

Treasurer

JAMES OTTEN JR.

Legislative Director

DUNCAN TEMPLETON

National Chapters Director

RASHEED TAHIR

National Awards Director

SHARON MAST-MACPHERSON

Legislative Consultants

McAllister and Quino

Andy Quino

Legislative Counsel

James & Hoffman

October 18, 2009

The Honorable Joseph I. Lieberman

Chairman, Homeland Security and Governmental Affairs

United States Senate

The Honorable Susan M. Collins

Ranking Member, Homeland Security and Governmental

Affairs

United States Senate

Dear Chairman Lieberman and Ranking Member Collins:

As the National President of the 26,000 members of the Federal Law Enforcement Officers Association (FLEOA), I am writing to you in support of the nomination of Chief Erroll Southers as the next Transportation Security Administration (TSA) Assistant Secretary. This letter is supported by my Federal Air Marshal Service and Assistant Federal Security Director members.

Chief Southers clearly possesses the requisite knowledge and experience necessary to effectively lead TSA. President Obama has wisely selected a career law enforcement candidate who has distinguished himself as a dedicated leader in both airport security and counterterrorism. His impressive experience will allow Chief Southers to circumvent what could otherwise be a perilous learning curve if the wrong person were to be selected.

On paper, Chief Southers is an obvious choice. However, what may not be as readily apparent, but nonetheless significant, is how he is regarded by those he has taught and led. Chief Southers is regarded as a great listener with an open mind that embraces new ideas. In addition to being an accomplished executive in law enforcement, Chief Southers is also an experienced trainer and educator. These combined skills will enable him to bring together all the components involved in air travel safety, and strengthen our homeland defense.

Additionally, Chief Southers' diverse law enforcement background will assist him in bringing local, state and federal law enforcement agencies together as one team. The former TSA Assistant Secretary failed to do this. Chief Southers possesses the law enforcement perspective that embraces all levels of government, and he has the vision and experience to unify all components. As a former member of the FBI's highly reputed tactical team, Chief Southers understands the challenging mission that the Federal Air Marshal and Assistant Federal Security Directors carry out every day.

Secretary Napolitano has done a commendable job building a strong team of leaders within the Department of Homeland Security, and Chief Southers will serve to strengthen this. I hope your committee will objectively review Chief Souther's impressive credentials and promptly confirm his nomination. Should you have any questions, I am available to assist your committee or provide you with additional input from the FLEOA membership.

Respectfully submitted,

J. Adler

J. Adler

National President

COMMITTEE ON
HOMELAND SECURITY
SUBCOMMITTEE ON
INTELLIGENCE, INFORMATION SHARING
& TERRORISM RISK ASSESSMENT
CHAIR
SUBCOMMITTEE ON
BORDER, MARITIME AND
GLOBAL COUNTERTERRORISM
BLUE DOG COALITION
CONGRESSIONAL
SPACE POWER CAUCUS
CO CHAIR



CONGRESSWOMAN JANE HARMAN
36TH DISTRICT, CALIFORNIA

COMMITTEE ON
ENERGY AND COMMERCE
SUBCOMMITTEE ON HEALTH
SUBCOMMITTEE ON
ENERGY AND ENVIRONMENT
NEW DEMOCRAT COALITION

October 7, 2009

The Honorable Joseph Lieberman
The Honorable Susan Collins
Senate Committee on Homeland Security & Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Lieberman and Ranking Member Collins:

It is with great pleasure that I write in support of the nomination of Chief Erroll Southers to be Assistant Secretary for the Transportation Security Administration. For more than 30 years, former FBI Special Agent has managed public safety organizations at every level of government.

Most important to my Congressional District in Southern California is Southers' role as Chief of Homeland Security and Intelligence for the Los Angeles World Airports Police Department – the nation's largest airport law enforcement agency and responsible for securing the biggest terror target on the West Coast. Southers also serves as Associate Director for Special Programs at the National Homeland Security Center for Risk and Economic Analysis of Terrorism Events (CREATE) at the University of Southern California (USC). CREATE is a DHS Center of Excellence that consistently produces critical security analysis and proposed solutions.

As an Adjunct Professor of Homeland Security and Public Policy at CREATE, the Chief developed USC's Executive Program in Counter-Terrorism and is responsible for implementing of several homeland security programs developed by CREATE, including a program to randomize vehicle security.

Chief Southers' broad experience and expertise will service him well as the leader of the Transportation Security Administration – a role that requires strategic vision and an ability to create and implement policies that maintain an efficient transportation system while protecting American lives. I believe Erroll Southers is uniquely qualified for this post.

Regards,

RESPOND TO:

EL SEGUNDO:
2321 ROSECRANS AVENUE
SUITE 3270
EL SEGUNDO, CA 90245
PHONE: (310) 643-3636
FAX: (310) 643-6445

WASHINGTON, DC:
2400 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-8220
FAX: (202) 226-7290

WILMINGTON:
544 NORTH AVAIGON BOULEVARD
SUITE 307
WILMINGTON, CA 90744
PHONE: (310) 549-8782
FAX: (310) 549-8250

Website: www.house.gov/harman
PRINTED ON RECYCLED PAPER

October 5, 2009

The Honorable Joseph Lieberman
The Honorable Susan Collins
Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Lieberman and Senator Collins:

The purpose of this letter is to respectfully express my strong support for the appointment of Mr. Erroll Southers to the position of Assistant Secretary for the Transportation Security Administration.

I have had the pleasure of knowing Mr. Southers, both professionally and personally, for the past 5 years. He is a man of unquestioned integrity who for the past 30 years has dedicated his life to public service.

Shortly after I was asked by California Governor Arnold Schwarzenegger to serve as his Director of the California Office of Homeland Security, I secured Erroll's appointment by the Governor as my Deputy Director. Erroll's strong experience in managing public safety organizations at various levels of government, in addition to leading private sector security teams, coupled with his unparalleled ability to develop and nurture collaborative relationships, served the Governor and the people of California well.

I am also aware of Erroll's recent accomplishments as Chief of Homeland Security and Intelligence for the Los Angeles World Airports Police Department. His vision and innovative approaches to addressing the significant challenges of securing LAX have been truly impressive.

Erroll has distinguished himself throughout his illustrious career as a courageous innovator, an effective collaborator and a respected leader. My hope is that his next challenge will be to serve our country in this critically important position.

If I can be of any further assistance to you in your consideration of Mr. Southers' nomination, please do not hesitate to contact me. Thank you.

Respectfully,



Ronald L. Iden
Senior Vice President
Chief Security Officer
The Walt Disney Company
(818) 560-6500 office
(818) 919-3707 cell

BOARD OF FIRE COMMISSIONERS

GENETHIA HUDLEY-HAYES
PRESIDENT

CASIMIRO H. TOLENTINO
VICE PRESIDENT

DIANA M. BONTÁ
ANDREW FRIEDMAN
JILL FURRELO

BLANCA GOMEZ-REVELLES
EXECUTIVE ASSISTANT II

CITY OF LOS ANGELES

CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

FIRE DEPARTMENT

MILLAGE PEAKS
FIRE CHIEF

200 NORTH MAIN STREET
LOS ANGELES, CA 90012

(213) 978-3800
FAX: (213) 978-4815

<http://www.lafd.org>

October 13, 2009

The Honorable Joseph Lieberman
The Honorable Susan Collins
Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators:

As the Fire Chief of the Los Angeles Fire Department, I submit this letter to serve as my formal recommendation for Errol G. Southers to the position of Assistant Secretary for the Transportation Security Administration (TSA), in the Department of Homeland Security.

Mr. Southers has been a tremendous asset to our City and contemporary subject matter expert for our Department's Homeland Security Division. I have known Mr. Southers for over five years and most recently worked directly with him on several high-level public safety projects at the Los Angeles World Airport. Through his leadership and commitment to excellence, he has improved the safety and security at one of the world's busiest and complex airports. He has consistently demonstrated a strong work ethic and a dedication to success.

I feel that Mr. Southers' over thirty years of public safety and executive level leadership will serve him well in his position at the Department of Homeland Security. His education, background, and experience will provide tremendous value to our Country and the communities we serve. For these reasons, I highly recommend Mr. Errol G. Southers for the position of Assistant Secretary for the Transportation Security Administration (TSA), in the Department of Homeland Security.

If you have any questions regarding Mr. Southers or this recommendation, please contact me at (213) 473-9989.

Sincerely,

MILLAGE PEAKS
Fire Chief

AN EQUAL EMPLOYMENT OPPORTUNITY - AFFIRMATIVE ACTION EMPLOYER



ANTONIO R. VILLARAIGOSA
MAYOR

November 16, 2009

The Honorable Joseph Lieberman
Senate Committee on Homeland Security and Governmental Affairs
300 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Lieberman:

I write to offer my strong endorsement and support for Erroll G. Southers and his nomination for Assistant Secretary for the Transportation Security Administration (TSA). I have known Erroll in his capacity as Assistant Chief for Homeland Security and Intelligence for the Los Angeles World Airports Police Department (LAWA Police) and he is a committed public servant and exemplary leader. He would be an outstanding Assistant Secretary for the TSA.

As Mayor of the City of Los Angeles, I am well aware of the threat to the public safety of our entire nation if security of the Los Angeles International Airport (LAX) were compromised. In his time as Assistant Chief for the LAWA Police Erroll Southers ensured that the largest airport police department in the United States was well equipped to prevent and respond to any threat to the safety of LAX. He is a valued partner on the Joint Terrorism Task Force (JTTF) in Los Angeles. He is also globally recognized as an expert in counterterrorism and airport security and has developed an Executive Program in Counterterrorism as an Adjunct Professor of Homeland Security and Public Policy at the University of Southern California.

Erroll's career in public safety spans over thirty years, during which time he has served in a management capacity at the state, local, and federal levels. He has developed several cutting-edge homeland security programs including the Assistant Randomized Motoring Over Routes (ARMOR) and has lectured internationally on topics of homeland security and counterterrorism. I believe Erroll's experience and intellect is precisely what this nation needs during a period of continuing threats to our homeland security.

200 NORTH SPRING STREET • LOS ANGELES, CALIFORNIA 90012

PHONE: (213) 978-0600 • FAX: (213) 978-0750

FAXED: (213) 978-0750

23

The Honorable Joseph Lieberman
November 16, 2009
Page Two

Erroll's educational background is also impressive; he is currently a doctoral candidate at the University of Southern California's School of Policy, Planning and Development. His prior experience and the exemplary manner in which he has served as Assistant Chief for LAWA Police makes Erroll an outstanding choice for Assistant Secretary of the TSA. He is a dedicated public servant who has the intellect, dedication, and leadership skills to excel in this important position. I offer my unqualified support for his nomination.

If you have any questions or desire any further information, please do not hesitate to contact me.

Sincerely,



ANTONIO R. VILLARAIGOSA
Mayor

ARV:ar



LEROY D. BACA, SHERIFF

County of Los Angeles
Sheriff's Department Headquarters
 4700 Ramona Boulevard
 Monterey Park, California 91754-2169



October 5, 2009

The Honorable Joseph Lieberman
 The Honorable Susan Collins
 United States Senate Committee on
 Homeland Security and Governmental Affairs
 340 Dirksen Senate Office Building
 Washington, D.C. 20510

Dear Senators Lieberman and Collins:

**SUPPORT OF APPOINTMENT FOR ERROLL G. SOUTHERS
 TO THE POSITION OF
 ASSISTANT SECRETARY OF THE
 TRANSPORTATION SECURITY ADMINISTRATION**

I am writing this letter in support of Chief Erroll G. Southers, whom I have known for several years. Erroll is a well-respected professional in the law enforcement community and a world-renowned leader in matters associated with homeland security and terrorism.

For more than 30 years, former FBI Special Agent Erroll Southers has managed public safety organizations at every level of government, consulted and lectured throughout the United States, Canada, Great Britain, Israel and more recently China, when he was the first American invited to assess the terrorism countermeasures for the 2008 Beijing Olympics. He served as an advisor to President Obama's Homeland Security Policy Group during the campaign and Governor Schwarzenegger's appointee to Deputy Director for Critical Infrastructure in the California Office of Homeland Security. Erroll has testified before the full Congressional Committee on Homeland Security and lectures at the Joint Chiefs of Staff Level IV Antiterrorism Seminars. Chief Southers is the Chief of Homeland Security and Intelligence for the Los Angeles World Airports Police Department, the nation's largest airport law enforcement agency and the Associate Director for Special Programs at the National Homeland Security Center for Risk and Economic Analysis of Terrorism Events (CREATE) at the University of Southern California (USC).

A Tradition of Service

He is an Adjunct Professor of Homeland Security and Public Policy and developed the USC Executive Program in Counter-Terrorism. Chief Southers is responsible for the implementation of several interdisciplinary, homeland security programs, including ARMOR (Assistant Randomized Motoring Over Routes), a game-theory, randomization algorithm, used to deploy counter-terrorism resources at LAX. Erroll earned his Bachelor of Arts degree at Brown University and his Master of Public Administration in the USC School of Policy, Planning and Development, where he is a doctoral candidate. He is a Senior Fellow of the UCLA School of Public Affairs.

It is my view that Erroll has the professional and intellectual attributes to effectively carry out the duties and responsibilities associated with the position of Assistant Secretary for the Transportation Security Administration. Given his extensive background, practical experience, and commitment to United States, I can strongly recommend his consideration for appointment. Should you require additional information, please do not hesitate to call me at (323) 526-5000.

Sincerely,



LEROY D. BACA
SHERIFF



SCOTT M. GORDON
COURT COMMISSIONER

The Superior Court
111 N. HILL STREET
LOS ANGELES, CALIFORNIA 90012

TELEPHONE
(213) 974-6334

September 28, 2009

The Honorable Joseph Lieberman
Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

RE: CHIEF ERROLL G. SOUTHERS

Dear Senator Lieberman:

I am thrilled and honored to commend Chief Erroll G. Southers to you for appointment as the Assistant Secretary for the Transportation Safety Administration of the United States. I have had the pleasure of writing many letters of recommendation throughout my career in public service and education, but this is the one that I write with the greatest enthusiasm and least reservation.

I first met Chief Southers almost thirty years ago when we served as uniformed police officers for the Santa Monica Police Department in California. Erroll was, and remains, an outstanding law enforcement officer. He approached his duties with enthusiasm, dedication, fairness, knowledge and compassion. During his tenure as a Santa Monica Police Officer he built a reputation for honesty and dedication.

When I left the police department after graduation from law school, Erroll became a Special Agent with the Federal Bureau of Investigation. As I am sure you know, during his career with the FBI, Erroll distinguished himself by tackling the most challenging assignments and job positions.

After leaving the FBI, Erroll has built an international reputation as an expert in issues of homeland security, terrorism and infrastructure protection. He has

The Honorable Joseph Lieberman
Page 2

become a national voice in the area of homeland security and terrorism research and education through his work at the University of Southern California.

But, I am sure that you are well aware of Erroll's amazing resume and career accomplishments. I have also known Erroll for three decades as a friend and colleague. I have turned to him in times of triumph and times of challenge. He is and was always there---strong, wise and understanding.

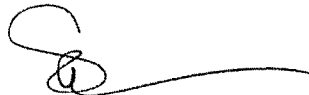
When my son told me that he wanted to pursue a career in public service and asked me who he should talk to, the first person I directed him to was Erroll.

Probably the greatest compliment I can pay Chief Southers is that he has become a mentor and role model for my son.

At a time when our nation is dealing with many challenges, we need to bring our best and brightest into public service. Erroll is among the best we have to offer. I am honored to be counted among those who support this important appointment.

Thank you for any consideration you can give this correspondence. If I can provide any further information please do not hesitate to contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'SCOTT M. GORDON', with a long horizontal flourish extending to the right.

SCOTT M. GORDON
Court Commissioner



**BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES**

866 KENNETH HAHN HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012 / (213) 974-2222

MARK RIDLEY-THOMAS
SUPERVISOR, SECOND DISTRICT

October 29, 2009

The Honorable Joseph Lieberman
Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Susan Collins
Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators:

I am writing to urge the Committee on Homeland Security and Governmental Affairs to join the Commerce, Science and Transportation in recommending confirmation of Erroll Southers to head the Transportation Security Administration (TSA) to the full Senate.

The protection and security of the American people against the threat posed by domestic and foreign sources of terrorism demands talented administrators. The TSA needs an Administrator who is well versed in the management of public safety organizations and has operational experience at every level of government. Mr. Southers possesses the qualifications and the background required to effectively lead the TSA.

His 30 year career spans the spectrum of federal, state and local public safety-related assignments. As a former Federal Bureau of Investigation Special Agent, Mr. Southers' expertise in terrorism countermeasures and undercover work in the field provides him with first hand knowledge of the skills, resources and support needed by law enforcement agents. As Chief of Homeland Security and Intelligence for the Los Angeles World Airports Police Department, the nation's largest airport law enforcement agency, he has an appreciation of the need for and the role of intelligence in making threat assessments and securing the assets of our transportation system. In this capacity he is responsible for the implementation of several interdisciplinary, homeland security programs, including ARMOR (Assistant Randomized Motorist Over Routes), a game-theory, randomization algorithm, used to deploy counter-terrorism resources at Los Angeles International Airport (LAX).

Moreover, Mr. Southers' association with the University of Southern California as an Adjunct Professor of Homeland Security and Public Policy has provided him the rare opportunity to reflect on his experiences, tap the resources of the academy and provide

practical leadership and training opportunities for management-level law enforcement professionals. He developed the USC Executive Program in Counter-Terrorism and serves as Associate Director for Special Programs at the National Homeland Security Center for Risk and Economic Analysis of Terrorism Events (CREATE).

With this background, Mr. Southers has consulted with various foreign governments, including Canada, Great Britain and Israel. He was the first American invited to assess the terrorism countermeasures for the 2008 Beijing Olympics. As a testament to his expertise, Mr. Southers was Governor Schwarzenegger's appointee to Deputy Director for Critical Infrastructure in the California Office of Homeland Security and has testified before the full Congressional Committee on Homeland Security and lectured at the Joint Chiefs of Staff Level IV Antiterrorism Seminars.

For these reasons, I firmly believe our country would be well-served by the United States Senate's confirmation of Mr. Erroll Southers and strongly urge your Committee's favorable recommendation and disposition of his nomination.

With hope,



MARK RIDLEY-THOMAS
Supervisor, Second District

CC: Senator Dianne Feinstein
Senator Barbara Boxer



Los Angeles World Airports

September 28, 2009

The Honorable Joseph Lieberman, Chair
Senate Committee on Homeland Security &
Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Lieberman:

LAX

LA/Ontario

Van Nuys

City of Los Angeles

Antonio R. Villareigosa
Mayor

Board of Airport
Commissioners

Alan I. Rubenberg
President

Velarde C. Velasco
Vice President

Joseph A. Aredas
Michael A. Lewson
Sam Nazarian
Fernando M. Torres-Gil
Walter Zifkin

Gina Marie Lindsay
Executive Director

My name is James T. Butts, Jr., I am a 37 year veteran of law enforcement. I am the former Chief of Police for 15 years of the Santa Monica Police Department and currently serve as the Deputy Executive Director for Public Safety of Los Angeles World Airports which includes Los Angeles International (LAX).

I have known Erroll Southers for the past 18 years and monitored his growth and ascension as one of the preeminent authorities on terrorism and terrorism countermeasures on a national and international level. When I took command of security at LAX, both the security infrastructure and intelligence connectivity were inconsistent with a location that has been identified as one of the most desirable terrorist targets on the west coast of the United States. LAX has been the subject of terrorism acts six times in the past 2-1/2 decades. When I was tapped by LAWA, I assembled a team of law enforcement, traffic control and security specialists to overhaul the public safety capacity of the airport system. My pick for my first Assistant Chief of Homeland Security and Intelligence was easy; it was Erroll Southers, a former FBI SWAT agent and Deputy Director for Critical Infrastructure in the California Office of Homeland Security.

I knew of his background as an Associate Director for Special Programs at the National Homeland Security Center for Risk and Economic Analysis of Terrorism Events (CREATE) at USC. He also serves that institution as an Adjunct Professor of Homeland Security and Public Policy where he developed the USC Executive Program in Counter-Terrorism. The respect of the intelligence community for Chief Southers immediately removed connectivity barriers and reservations regarding the credibility and professionalism of the Airport Police Division at LAWA.

As I made plans for the overhaul and upgrading of the physical security and technological situational awareness capacities of LAX, Erroll Southers was my chief advisor in the realm of intelligence situational awareness. His work at LAWA resulted in hi being the first American invited to assess terrorism countermeasures for the 2008 Beijing Olympics. He has testified before the full Congressional Committee on Homeland Security and has been invited to lecture before the Joint Chiefs of Staff at their Level IV Antiterrorism Seminars.

Chief Southers was instrumental in the implementation of several interdisciplinary, homeland security program here at LAX, including ARMOR (Assistant



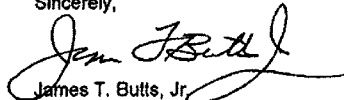
1 World Way Los Angeles California 90045-9803 Mail P.O. Box 92216 Los Angeles California 90008-2216 Telephone 310 646 5262 Internet www.lawa.aero

The Honorable Joseph Lieberman
Senate Committee on Homeland Security & Governmental Affairs
September 28, 2009
Page 2.

Randomized Motoring Over Routes), a game-theory, randomization algorithm, used to deploy counter-terrorism resources at LAX. We have become a security model of progressive, innovative, forward-thinking for CAT X airports across the country in large part due to the efforts of Erroll Southers.

I can think of no other person more qualified to assume responsibility for leading and developing the Transportation Security Administration into the next decade. Erroll Southers will serve our country well and assist the Secretary of DHS in keeping our transportation modalities secure.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Butts, Jr.", with a stylized flourish at the end.

James T. Butts, Jr.
Deputy Executive Director
Airport Law Enforcement & Protection Services

JTB:jko



MAJOR CITIES CHIEFS ASSOCIATION

Atlanta, Georgia
Austin, Texas
Baltimore City, Maryland
Baltimore Co., Maryland
Boston, Massachusetts
Buffalo, New York
Calgary, Alberta
Charlotte-Mecklenburg, North Carolina
Chicago, Illinois
Cincinnati, Ohio
Cleveland, Ohio
Columbus, Ohio
Dallas, Texas
Denver, Colorado
Detroit, Michigan
Edmonton, Alberta
El Paso, Texas
Fairfax County, Virginia
Fort Worth, Texas
Honolulu, Hawaii
Houston, Texas
Indianapolis, Indiana
Jacksonville, Florida
Kansas City, Missouri
Las Vegas Metro, Nevada
Long Beach, California
Los Angeles, California
Los Angeles Co., California
Louisville, Kentucky
Memphis, Tennessee
Miami-Dade, Florida
Milwaukee, Wisconsin
Minneapolis, Minnesota
Montgomery Co., Maryland
Montreal, Quebec
Nashville, Tennessee
Nassau Co., New York
New Orleans, Louisiana
New York City, New York
Newark, New Jersey
Oakland, California
Oklahoma City, Oklahoma
Ottawa, Ontario
Philadelphia, Pennsylvania
Phoenix, Arizona
Pittsburgh, Pennsylvania
Portland, Oregon
Prince George's Co., Maryland
Salt Lake City, Utah
San Antonio, Texas
San Diego, California
San Francisco, California
San Jose, California
Seattle, Washington
St. Louis, Missouri
Suffolk Co., New York
Toronto, Ontario
Tucson, Arizona
Tulsa, Oklahoma
Vancouver, British Columbia
Virginia Beach, Virginia
Washington, DC
Winnipeg, Manitoba

October 6, 2009

The Honorable Joseph Lieberman
Chairman
Committee on Homeland Security
and Governmental Affairs
U.S. Senate
Washington, DC 20510

The Honorable Susan M. Collins
Ranking Member
Committee on Homeland Security
and Governmental Affairs
U.S. Senate
Washington, DC 20510

Dear Senators Lieberman and Collins:

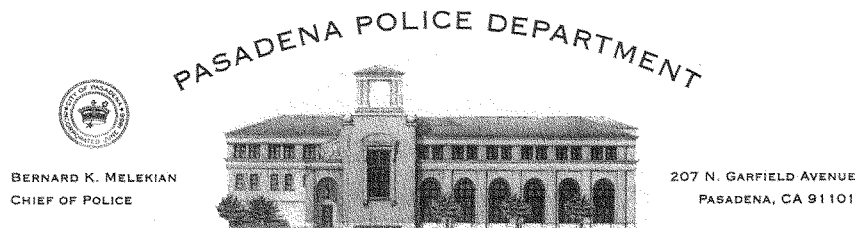
On behalf of the Major Cities Chiefs, representing the 56 largest jurisdictions across the Nation, I am writing to support the nomination of Erroll Southers to be the Assistant Secretary for the Transportation Security Administration.

Mr. Southers comes to the job with experience in aviation security and an impressive record of achievement in Federal, State and local law agencies. With this distinguished background in law enforcement, we look forward to working with him to keep our air transportation system safe from terrorist attacks. In his current role as the Assistant Chief for Homeland Security and Intelligence for the Los Angeles World Airports Police Department, Mr. Southers has gained the experience needed to be TSA's Assistant Secretary. Mr. Southers has also worked with state and local police departments throughout his career. We believe the knowledge and skills he has gained are exactly the right fit for TSA.

American law enforcement has always looked to you for leadership and we again turn to you to move the nomination of Erroll Southers quickly through the confirmation process. TSA is too critical an agency not to have all of the top officials in place.

All the best,

William J. Bratton
Chief of Police, Los Angeles, California
President, Major Cities Chiefs' Association



BERNARD K. MELEKIAN
CHIEF OF POLICE

207 N. GARFIELD AVENUE
PASADENA, CA 91101

October 12, 2009

The Honorable Joseph Lieberman
Senate Committee on Homeland Security
and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Honorable Joseph Lieberman:

It is my privilege to support the nomination of Mr. Erroll Southers for Assistant Secretary to the Transportation Security Agency (verify title for TSA). I have had the pleasure of working with Mr. Southers in both academic and professional environments. He is a person of unquestioned integrity, energy and professional skill.

My Southers and I were police officers together for several years. His attention to duty and his commitment to strict adherence to the truth marked him as a true leader within our profession. Over the years, our paths continued to overlap at various times. It was clear that, both as an FBI agent and a security director, his commitment to both duty and the truth remained paramount.

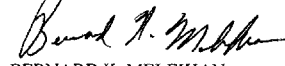
Erroll's leadership was on display at the University after the formation of the Center for Risk and Economic Analysis of Terrorist Events (CREATE). This academic hub was created in the aftermath of 9/11. Erroll played a critical role in bringing the Center on-line and in ensuring its relevance for the region's law enforcement agencies. This was typical of the talent and dedication that Erroll brings to bear on any project he undertakes.

Erroll takes an innovative, collaborative and interdisciplinary approach to homeland security. He is well versed in managing large and complex organizations. He is well respected by his professional peers and the elected bodies that oversee them. He has a number of international friendships that allow him to reach out in a global sense to learn best practices.

Excellence • Innovation • Integrity

The TSA (verify title) would be well served with Erroll Southers as the Assistant Secretary. Please do not hesitate to contact me if I can provide any additional information.

Sincerely,



BERNARD K. MELEKIAN
Chief of Police

BKM:bb

UCLA SCHOOL OF PUBLIC AFFAIRS

Department of Public Policy

BARBARA J. NELSON
Professor of Public Policy
Founder, The Concord Project

3250 School of Public Affairs Building
 337 Charles E. Young Drive East
 Los Angeles, CA 90095-1656
 USA
 Tel: +1-310-206-7979
 Fax: +1-310-206-5773
 nelson@spa.ucla.edu

October 7, 2009

The Honorable Joseph Lieberman
 The Honorable Susan Collins
 Senate Committee on Homeland Security and Governmental Affairs
 340 Dirksen Senate Office Building
 Washington, DC 20510

RE: Letter of Support for Errol Southers

Dear Senator Lieberman and Senator Collins:

It is my pleasure to write in support of the confirmation of **Erroll Southers** for the position of Assistant Secretary for the Transportation Security Administration (TSA), in the Department of Homeland Security. I strongly support Mr. Southers' appointment to this new position. He is a world-renowned expert on fixed site security, has outstanding abilities to work across party lines, is an accomplished and respected institution builder and leader, and is a person of great patriotism, honor, and discretion.

I have known Mr. Southers for five years. During most of this time I was the Dean of the UCLA School of Public Affairs, where I recruited him to be a Senior Fellow in 2005-06. The Senior Fellowship program brings policy leaders and executives from the public, private, and nonprofit sectors from all political persuasions and substantive areas of expertise to participate as reflective practitioners in the community of scholars and students.

For five years Mr. Southers has been a very active participant in public programs on security, as well as a successful and sought after mentor by our students. His first program participation at UCLA was a 2004 public conference on "*Homeland Security: Intelligence and Investment at the Federal, State, and Local Levels*" when he was Deputy Director, California Department of Homeland Security, appointed by California Governor Arnold Schwarzenegger. As a result of his sterling participation, Mr. Southers was invited to be a Senior Fellow in 2005-06, where he gave a major address on "*California Counter-Terrorism UNCLASSIFIED: Everything You Thought You Heard on CNN, but Didn't.*" This speech was part of a series on National and Human Security Worldwide, where Mr. Southers also participated in the Dean's Policy Circle discussion of the speeches by Representative Jane Harman (D, CA) and the Rt. Hon. Paul Murphy (Labour, Torfaen, Wales), Chair of the British Intelligence and Security Committee, on "*Legislatures and Terrorism: American and British Views.*"

<http://www.concord.spa.ucla.edu>
<http://www.spa.ucla.edu>

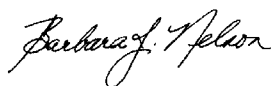
The Honorable Joseph Lieberman
 The Honorable Susan Collins
 Senate Committee on Homeland Security and Governmental Affairs
 Page 2

In 2007, now the Chief of Homeland Security and Intelligence for the Los Angeles World Airports Police Department, Erroll Southers led a session on "*The Elements of Decision Making*" with Professor Amy Zegart at the executive education program "*The Art of Strategic Leadership*" for the American Council of Young Political Leaders. In 2009, Mr. Southers participated in an invitation only meeting on leadership at the Harvard Kennedy School, where I was on sabbatical, which, among other topics, developed the strategic directions of The Concord Project. During these years, Mr. Southers also arranged for many of our professional masters students to attend security conferences, apply for summer internships in security policy at LAX, and take behind the scenes security tours of the airport.

I mention Mr. Southers' participation with the UCLA School of Public Affairs in detail because, through participating in these programs with him, I have come to understand in depth his professional and political skills. As his appointments show, he has the confidence of elected officials of both parties, is sought after for his security expertise in many countries, leads by building learning institutions, and follows through on his commitments with energy and attentiveness, regardless of a rigorous work schedule. He has led large, complex organizations with imagination and efficiency and has added permanent value to the structure and operations of every institution with which he has been associated. Erroll Southers has an understanding of the real and pressing threats facing the nation and a deep commitment to democratic security.

One of the great strengths of American democracy is that each president recruits a wide variety of people to serve in the executive branch, bringing new strengths to policy making. The country will be excellently served by the leadership and expertise of Mr. Erroll Southers as Assistant Secretary for the Transportation Security Administration (TSA), in the Department of Homeland Security.

Sincerely yours,



Barbara J. Nelson
 UCLA Professor of Public Policy
 Dean Emerita, UCLA School of Public Affairs

<http://www.concord.spa.ucla.edu>

<http://www.spa.ucla.edu>



UNITED STATES
AIRPORT & SEAPORT POLICE
 Office of Intergovernmental Affairs
 and National Coordination

Jay B. Grant
 Director

1000 Wilson Blvd, 30th Floor
 Arlington, VA 22209
 T: 202.595.9111
 D: 571.303.9425

E: JGRANT6@LEO.GOV
 E: JAY.GRANT@LEO.PORTPOLICE.US
 W: USPORTPOLICE.ORG

November 9, 2009

Senator Joseph Lieberman, Chairman
 Senator Susan Collins, Ranking Member
 Senate Homeland Security Committee
 United States Senate
 Washington, D.C. 20510

Dear Senators Lieberman and Collins,

The men and women of our Nation's airport and seaport law enforcement and public safety play an important role in protecting passengers, cargo and critical infrastructure 24/7. From terrorism to public safety our work involves thousands of hours of training to ensure our country's transportation network remains as safe as possible. Just as an example, our canine units have been in place for 34 years and preparation for quarantine of public facilities is on going. To accomplish this task we work daily with several federal agencies. Department and personnel relationships are paramount. Trust plays an important part each and every day, especially when an emergency occurs.

We wanted to reach out and offer our overwhelming support of the nomination of Erroll G. Southers as Administrator of the Transportation Security Administration. He is a colleague of ours as Deputy Chief of Homeland Security at the Los Angeles World Airports in Los Angeles, California. Many of us know of his excellent qualifications and skill set. Our senior police leadership at the Airport and Seaport in Los Angeles, Chief Ron Boyd of the Port of Los Angeles - who serves as the President of the International Association of Airport and Seaport Police, in particular, cannot say enough about the talent, character and professionalism of Chief Southers. We look forward to his strong leadership at TSA.

We ask for your personal support and that of your committees of this nomination. We will then look forward to the support of all the Members of the Senate.

Sincerely,



*U.S. Department of Homeland Security
Center of Excellence*

October 5, 2009

The Honorable Joseph Lieberman
The Honorable Susan Collins
Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building Washington, DC 20510

Dear Senator Lieberman & Senator Collins,

CREATE

Homeland Security
Center for Risk and
Economic Analysis of
Terrorism Events

On behalf of the National Center for Risk and Economic Analysis of Terrorism Events (CREATE), it is with great sincerity and conviction that I offer my strong support of Mr. Erroll Southers for the position of Administrator of the Transportation Security Administration (TSA).

As Associate Director for Special Programs, Mr. Southers has been an essential member of our team at CREATE, the first university Center of Excellence established by U.S. Department of Homeland Security. For more than three years, our research center has been strongly impacted by the many positive contributions of Mr. Southers in the areas of homeland security research and education.

Mr. Southers has been successful in helping CREATE discover real-world applications for our research in order to achieve homeland security solutions. For example, he is responsible for the implementation of several interdisciplinary homeland security programs, including ARMOR (Assistant Randomized Motoring Over Routes), a game-theory, randomization algorithm, used to deploy counter-terrorism resources at the Los Angeles International Airport and the Federal Air Marshals. As well, Mr. Southers has made great strides in the area of homeland security education, an emerging field now enhanced by his contributions. It was Mr. Southers' pioneering vision and dedication that created one of our most successful professional programs for homeland security practitioners, the Executive Program in Counter-Terrorism. Mr. Southers also has been teaching graduate students at the University of Southern California about terrorism as an Adjunct Professor of Homeland Security and Public Policy.

Erroll Southers has already earned steadfast support from the U.S. Department of Homeland Security Secretary Janet Napolitano, who asserted that his expertise in counterterrorism and airport security will be a great asset to the Department in our efforts to ensure the safety of the nation's transportation systems. I and my colleagues at CREATE wholeheartedly agree and believe Mr. Southers is capable of making great strides in the area of transportation security and shows tremendous potential to transform the TSA in meaningful ways.

Mr. Southers is one of the brightest, most energetic and charismatic professionals I have had the pleasure of working with. A leader in the homeland security community for many years, Mr. Southers is widely respected by his peers across the nation. His innovative approach to homeland security solutions combined with impeccable character and drive make him an outstanding nominee.

Sincerely,


Stephen C. Hora
Director, CREATE

University of
Southern California
3710 McClintock Avenue
Ronald Tutor Hall of
Engineering 314
Los Angeles,
California 90089-2902
Tel: 213 740 5514
Fax: 213 821 3926
e-mail:
create@usc.edu
web page:
<http://www.usc.edu/create>



October 6, 2009

The Honorable Joseph Lieberman
 The Honorable Susan Collins
 Senate Committee on Homeland Security and Governmental Affairs
 340 Dirksen Senate Office Building
 Washington, DC 20510

Dear Senators Lieberman and Collins:

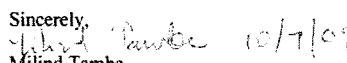
Computer Science
Department*Subject: Letter for Support for Mr. Erroll Southers*

This letter expresses my strongest possible support for the nomination of Mr. Erroll Southers to the position of Assistant Secretary for the Transportation Security Administration (TSA). I have been very fortunate to have known Erroll for the past several years as a research collaborator and fellow faculty member at the University of Southern California, as well as in his capacities as the associate director of CREATE (an interdisciplinary national research center based at the University of Southern California and funded by the U.S. Department of Homeland Security) and as assistant chief of police at the Los Angeles World Airports (LAWA).

I have been most impressed with Erroll's dynamic leadership at CREATE and with LAWA police, his exceptional expertise in the area of counter-terrorism and above all his absolutely extraordinary vision for improving the security of our nation. Erroll has initiated an unprecedented partnership between academia and the operational world, leveraging the investment DHS has made in research centers of excellence towards the security of our nation in the most innovative fashion. Just as one example, Erroll initiated a ground-breaking inter-disciplinary partnership between LAWA and CREATE, putting into practice the latest academic research via ARMOR, a software program that intelligently randomizes checkpoints and canine patrols at the Los Angeles International Airport (LAX). ARMOR has been tremendously successful in its operations at LAX since 2007, stopping a large number of weapons and drugs from entering LAX. Erroll also initiated the highly successful executive program on counter-terrorism at CREATE. These are but two examples of the many bold interdisciplinary projects Erroll has initiated, inspiring students and faculty at USC to contribute to homeland security.

I am completely convinced that with Erroll's vision and leadership, TSA will enter a new era of intelligent and public-friendly security, where the latest science and technology will wisely deployed towards our transportation security, where the traveling public will be made full partners of the security process and where other nations will look to ours as a model of transportation security.

Sincerely,


 Milind Tambe

Professor, Computer Science Department
 University of Southern California
 3737 Watt Way, Los Angeles, CA 90089
 Email: tambe@usc.edu; Tel: 213-740-6447

Computer Science
 Department
 University of Southern California
 3737 Watt Way, Los Angeles, CA 90089
 Tel: 213-740-6447
 Fax: 213-740-2785
 Email: tambe@usc.edu
<http://www.usc.edu/cs>
 09/2009

Statement of Daniel I. Gordon
Nominee to Serve as Administrator for Federal Procurement Policy
Before the Committee on Homeland Security and Governmental Affairs
United States Senate
November 10, 2009

Mr. Chairman, Ranking Member Collins, and Members of the Committee:

I am honored to appear before you today as President Obama's nominee to serve as the Administrator for Federal Procurement Policy at the Office of Management and Budget.

I am very grateful to have my family with me this morning, supporting me today as they always have. I would like to introduce my beloved mother, Mae Mace, and step-father, Col. Herman Mace; my partner of 23 years, Paul Cadario; and my brother and sister-in-law, Mike and Donna Gordon. I would not be here today without the loving support and guidance from my entire family.

Because I am a career federal civil servant and someone who teaches about public procurement, it is especially humbling to be considered for a position that plays such an important role in helping our government achieve better results for the American people. With 22 years of experience in federal acquisition issues, 17 of these with the Government Accountability Office, I have gained a keen appreciation for the critical impact acquisition has in supporting the accomplishment of agency missions. I also have developed a deep respect for the many women and men in our workforce who have dedicated their careers to ensuring that our acquisition system delivers the best possible results for our taxpayers. I welcome the opportunity, if my nomination is confirmed, to serve as Administrator, and to work closely with them, and with you, in improving the federal acquisition system.

The challenges facing us in the acquisition system require dedicated management attention to achieve the type of sustainable improvement that I believe the President envisioned in his March 4, 2009, Memorandum on Government Contracting. Accordingly, if confirmed as Administrator, I would work with Congress and the agencies to immediately address the following priorities:

Increasing the size and improving the training of the acquisition workforce. Our procurement budget has increased dramatically in the past decade, yet the growth in the workforce has not kept pace. We need to focus our attention on developing an acquisition workforce -- including contracting officers' technical representatives and program managers, as well as contracting officers and contract specialists -- that allows us to meet our mission goals and deliver value to the public. If confirmed, I will strengthen our commitment to their development and training and ensure they have the knowledge and tools necessary to excel.

Finding ways to save money and reduce risk in our acquisitions. We find ourselves operating in a period of record deficits that compel us to save resources, even as the government faces unprecedented challenges, both at home and overseas. Savings can be achieved not only through more effective acquisition practices, but also by reducing high-

risk contracting. We must be vigilant to guard against improper use of sole-source, cost-reimbursement, and time-and-materials contracts. I believe that technology gives us the tools to make our procurement system much more transparent, and the visibility that transparency brings contributes to discouraging the improper use of high-risk contracting practices.

Improving acquisition planning. Too often, pressure to move forward quickly comes at the expense of good acquisition planning. We must work to ensure that our program and contracting staff work together and that they have the capacity and tools to effectively plan acquisitions, for example we must ensure that we're buying something that is appropriately provided by contractors and that we've adequately defined what we want to buy.

Strengthening contract management. As stewards of the taxpayers, we must make sure those who contract with the government are delivering what they promised, in terms of price, schedule, and performance. By promoting sound contract management practices and sharing best practices, we can work to rebuild the American people's confidence in the government's ability to produce results. I am honored that, if confirmed, I would be part of an Administration committed to helping agencies improve their performance and achieve the results that the American people expect.

Unfortunately, there are no silver bullets or quick solutions for these challenges. Each will require hard work and focused attention. These challenges will also require coordinated actions. Acquisition offices must work closely with their human capital offices to develop and execute hiring plans to close identified skills gaps. Contracting and program offices must work together more closely, each applying its respective skills to improve requirements definition and contract management. Our Chief Acquisition Officers and Senior Procurement Executives must work closely with OFPP, the Federal Acquisition Institute, and the Defense Acquisition University to improve the delivery of needed training to our workforce. If these steps are taken, I am confident significant improvements will be realized. I welcome the opportunity to help the acquisition community meet these challenges. I look forward to joining the knowledgeable, experienced, and enthusiastic team led by Director Peter Orszag, Deputy Director Robert Nabors, and Deputy Director for Management Jeff Zients.

Thank you again for allowing me to appear before you today. I have enjoyed talking with, and hearing the ideas of, your staff – some of whom I have had the privilege to work with over the years at GAO. If I am confirmed, I look forward to working with this Committee and other members of Congress in increasing the public's trust in our acquisition system and ensuring it serves our taxpayers' needs.

Mr. Chairman and Members of the Committee, I would be pleased to answer any questions you may have.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)
Daniel Ira Gordon
2. **Position to which nominated:**
Administrator, Office of Federal Procurement Policy, Office of Management and Budget
3. **Date of nomination:**
October 5, 2009
4. **Address:** (List current place of residence and office addresses.)
Residence: REDACTED
Office: U.S. Government Accountability Office, 441 G St., N.W.,
Washington D.C. 20548
5. **Date and place of birth:**
May 5, 1951; Annapolis, Maryland
6. **Marital status:** (Include maiden name of wife or husband's name.)
Not married
Note: Married to Paul M. Cadario under Ontario, Canada law
7. **Names and ages of children:**
None
8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.
 - Annapolis High School (1965-68, High School Diploma 1968)
 - Brandeis University (1968-72, B.A. 1972)
 - Studied at Institute of Political Studies, Paris (1970-71); University of Munich (1971); and University of Marburg (1972)

- Oxford University (1972-74, M.Phil. 1974)
- Studied at Tel Aviv University (1981-82)
- Harvard Law School (1983-86, J.D. 1986)

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.)

- Kibbutz Revivim (Israel): kibbutz member (raised chickens & taught high school) (1974-82)
- Temple Sinai (Washington, DC): Hebrew teacher (1982-83)
- American Friends of Peace Now (Washington, DC): speaker (1982-83)
- Bnai Brith Youth Organization (Washington, DC): editorial assistant (1982-83)
- American Civil Liberties Union (Washington, DC): summer intern (1984)
- Milbank, Tweed (Washington, DC): summer associate (1985)
- Hogan & Hartson (Washington, DC): summer associate (1986)
- U.S. Court of Appeals for the D.C. Circuit (Washington, DC): court law clerk (1986-87)
- Fried, Frank, Harris, Shriver & Jacobson (Washington, DC): associate (1987-91)
- U.S. Government Accountability Office (Washington, DC) (1992-present)
 - Senior Attorney, 1992-1995
 - Assistant General Counsel, 1995-1997
 - Associate General Counsel, 1997-2000
 - Managing Associate General Counsel, 2000-2006
 - Deputy General Counsel, 2006-Present
 - Acting General Counsel, May 2009-Present
- George Washington University Law School (Washington, DC): Adjunct Faculty (2001-present)

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.

No additional service or positions

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.

Fabrangen Tzedakah Collective, an informal charity group associated with
 Fabrangen, a Jewish congregation (Washington, DC): Treasurer (2007-September
 2009)

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

American Bar Association (1990-September 2009)
 District of Columbia Bar (1987-present)

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.

None.

- (b) List all memberships and offices held in and services rendered to any political party or election committee during the last 10 years.

None.

- (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.

Sept. 13, 2008: \$100 Obama for America
 July 30, 2007: \$50 Bill Richardson for President
 Oct. 11, 2006: \$50 Farrell for Congress
 Oct. 11, 2006: \$50 Kilroy for Congress
 Oct. 11, 2006: \$50 Wetterling 06
 Oct. 11, 2006: \$50 Emily's List Consolidated
 Oct. 11, 2006: \$50 Darcy Burner for Congress
 Oct. 12, 2006: \$50 Sherrod Brown for Senate
 Oct. 11, 2006: \$50 James Webb for Senate
 Oct. 19, 2006: \$50 James Webb for Senate
 Oct. 20, 2006: \$50 Sherrod Brown for Senate
 Oct. 21, 2006: \$50 McCaskill for Missouri
 Oct. 29, 2006: \$50 James Webb for Senate
 Oct. 31, 2006: \$50 Emily's List Consolidated
 Oct. 31, 2006: \$50 Emily's List Consolidated
 Oct. 31, 2006: \$50 Emily's List Consolidated
 Oct. 31, 2006: \$50 Emily's List Consolidated
 Oct. 31, 2006: \$50 Linda Stender for Congress
 Sept. 4, 2006: \$50 Sherrod Brown for Senate
 Sept. 6, 2006: \$50 McCaskill for Missouri
 Sept. 6, 2006: \$50 Wetterling 06
 Sept. 6, 2006: \$50 Linda Stender for Congress
 Sept. 6, 2006: \$100 Emily's List Federal Operation

Sept. 23, 2006: \$100 James Webb for Senate
 Sept. 24, 2006: \$50 Sherrod Brown for Senate
 Aug. 27, 2006: \$50 James Webb for Senate
 July 15, 2006: \$50 McCaskill for Missouri
 July 15, 2006: \$50 Tinker for Congress
 July 24, 2006: \$50 Act Blue
 July 25, 2006: \$50 Joe Donnelly
 July 25, 2006: \$50 Sherrod Brown for Senate
 July 24, 2006: \$50 James Webb for Senate
 June 13, 2006: \$250 Emily's List Federal Operation
 May 4, 2006: \$100 Emily's List Federal Operation
 May 25, 2006: \$100 Emily's List Federal Operation
 Feb. 17, 2005: \$50 Tammy Baldwin for Congress
 Jan. 31, 2005: \$50 Emily's List Federal Operation
 Oct. 5, 2004: \$100 Democratic National Committee
 Oct. 11, 2004: \$100 moveon.org
 Oct. 11, 2004: \$50 Safer Together
 Sept. 24, 2004: \$100 moveon.org
 Sept. 24, 2004: \$50 www.democrats.org
 Aug. 29, 2004: \$100 moveon.org
 Aug. 22, 2004: \$100 moveon.org
 Aug. 21, 2004: \$100 www.democrats.org
 Aug. 13, 2004: \$50 www.democrats.org

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.

- Arthur S. Flemming Award for Excellence in Federal Service (2004)
- GAO Meritorious Service Award (1995)
- GAO Distinguished Service Award (2000 & 2008)

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

Task-Order Contracting in the U.S. Federal System: The Current System and Its Historical Context, with J. Kang, in REFORM OF THE UNCITRAL MODEL LAW ON PROCUREMENT: PROCUREMENT REGULATION FOR THE 21ST CENTURY (S. Arrowsmith, ed.) (2009)

Accountability in Indefinite-Delivery/Indefinite-Quantity Contracting: The Multifaceted Work of the U.S. Government Accountability Office, with N. Bleicher, W. Dunn and J. Kang, 37 PUB. CONT. L. J. 375 (2008)

Constructing a Bid Protest Process: The Choices That Every Procurement Challenge System Must Make, 35 PUB. CONT. L. J. 427 (2006)

Organizational Conflicts of Interest: A Growing Integrity Challenge, 35 PUB. CONT. L. J. 1 (2005)

In the Beginning: The Earliest Bid Protests Filed with the US General Accounting Office, 13 PUBLIC PROCUREMENT L. REV. 5 (2004)

Annals of Accountability: The First Published Bid Protest Decision, THE PROCUREMENT LAWYER, Vol. 39, No. 2 (Winter 2004)

Dismissals of Bid Protests at the General Accounting Office, THE PROCUREMENT LAWYER, Vol. 37, No. 2 (Winter 2002)

Alternative Dispute Resolution at GAO: An Update, (with John L. Formica) FEDERAL CONTRACTS REPORT, Vol. 74, No. 17 (Nov. 7, 2000)

GAO's Use of "Negotiation Assistance" and "Outcome Prediction" as ADR Techniques, FEDERAL CONTRACTS REPORT, Vol. 71, No. 3 (Jan. 18, 1999)

Unbalanced Bids, 24 PUB. CONT. L. J. 1 (Fall 1994)

Limits on Extremist Political Parties: A Comparison of Israeli Jurisprudence With That of The United States and West Germany, 10 HASTINGS INT'L & COMP. LAW REV. 2 (Winter 1987)

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.

Speech to Air Force Acquisition Conference, audience consisted primarily of Air Force procurement officials Newport News, Virginia, on federal procurement issues (October 21, 2008)

Talk at U.S.-China Procurement Training Program, at request of U.S. Trade Representative, addressed various aspects of U.S. procurement system, audience was mostly Chinese government officials, Beijing (June 2008)

Testimony before the Air and Land Forces Subcommittee, Committee on Armed Services, House of Representatives: *Air Force Procurement: Aerial Refueling Tanker Protest*, GAO-08-991T, July 10, 2008

Presentation to Czech government officials about public trust in government and the transformation of government, at request of U.S. Embassy, Prague (September 2007)

Testimony before the Subcommittee on Airland, Committee on Armed Services, U. S. Senate: *AIR FORCE PROCUREMENT Protests Challenging Role of Biased Official Sustained*, GAO-05-436T, April 14, 2005

- (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.

During the last 10 years, I have given informal talks on procurement-related issues to various academic and professional groups, typically about GAO's bid protest function. I have identified below the instances that I have been able to reconstruct from my records:

American Bar Association (ABA) Section of Public Contract Law panelist addressing "Oversight Challenges in Economic Stimulus Contracting," to attendees at the ABA Annual Meeting in Chicago (August 3, 2009)

Remarks introducing panel addressing appropriations issues for political appointees, audience was federal appropriations law attorneys, Appropriations Law Forum, GAO headquarters in Washington, DC (March 2009)

Army Judge Advocate General (JAG) School; talks on procurement law topics to students and practitioners, mostly government employees and uniformed service personnel, Charlottesville, Virginia (speak once or twice a year over past 10 years)

WTO Workshops on Public Procurement, audience is government officials from countries in region where workshop is held, Vienna, Montevideo, Istanbul, Muscat (since 2005)

A-76 Institute workshops, addressing public-private competitions under OMB Circular A-76, audience was predominantly federal employees, at various locations in the U.S., (regular presenter, 1998-2002)

Navy educational program for federal procurement officials (CON 101), topic was usually GAO's bid protest process (regular presenter between 1997-2002)

Academic programs, usually under the aegis of George Washington University Law School, on various areas of public procurement, audience consisting of students, professors, and practitioners, Washington, DC and abroad. (Since 2004, these have included talks in Bergen, Norway (2004); Viterbo, Italy (June 2008); University of Bochum, Germany, guest lecture, procurement law class (July 2008); University of Paris, guest lecture, international trade class (Feb. 2009); London, U.K. (March 2009)).

American Bar Association CEBLI Rule of Law Initiative, week of training on public procurement systems, audience consisted of government officials from Eastern Europe, Prague (2007)

ABA Section of Public Contract Law panelist addressing federal procurement issues, typically GAO's work in the area, especially GAO's bid protest process, in ABA meetings (since approximately 1997)

17. Selection:

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

I believe that the President selected me based on my more than 20 years of experience in federal procurement, as well as my familiarity with, and respect for, the multiple stakeholders in our procurement system.

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

Including time in both the private sector and in public service, I have more than 20 years of experience in the federal procurement system. This includes experience testifying before congressional committees, working with Senate and House staff, managing procurement-related functions at GAO, litigating (in private practice) and adjudicating (at GAO) bid protests, and teaching about our federal procurement system at The George Washington University Law School and other academic and professional venues in the US and abroad.

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?

Yes.

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.

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

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

None

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

Yes

D. LEGAL MATTERS

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

No

2. 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.

I was arrested in approximately November 1971 during an anti-Vietnam War protest in Washington, DC. I pleaded "nolo contendere." I believe that the arrest was only for a misdemeanor, but I have no documentation. When I tried many years ago (I believe in connection with my application for admission to the bar in 1986) to get records from D.C. Superior Court, I was told the court had no record of it.

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

No

4. 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.

N/A

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

None.

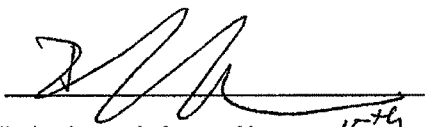
E. FINANCIAL DATA

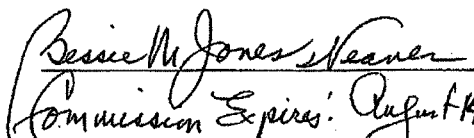
All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

AFFIDAVIT

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


Subscribed and sworn before me this 15th day of October, 2009.


Commission Expires: August 14, 2014 Notary Public



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

October 13, 2009

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

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Daniel I. Gordon, who has been nominated by President Obama for the position of Administrator, Office of Federal Procurement Policy, Office of Management and Budget.

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Don Fox", written over a horizontal line.

Don W. Fox
General Counsel

Enclosures - REDACTED

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the Nomination of
Daniel I. Gordon to be Administrator, Office of Federal Procurement Policy,
Office of Management and Budget**

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Administrator of the Office of Federal Procurement Policy (OFPP)?

I believe that I was nominated based on my more than 20 years of experience in federal procurement, as well as my familiarity with, and respect for, the multiple stakeholders in our procurement system.

2. Were any conditions, expressed or implied, attached to your nomination?

No.

3. What specific background and experience affirmatively qualifies you to be the Administrator of OFPP?

Including time in both the private sector and in public service, I have more than 20 years of experience in the federal procurement system. This includes managing procurement-related functions at GAO, litigating (in private practice) and adjudicating (at GAO) bid protests, and teaching about the federal procurement system at The George Washington University Law School and other academic and professional venues in the US and abroad. I have also testified before congressional committees on procurement-related matters.

4. How do your experiences in an oversight organization such as the Government Accountability Office (GAO) shape your view of the role of the Administrator of OFPP?

My work at GAO has helped me understand the challenges we face in the federal procurement system. I think that my approach to the procurement system has been shaped in a positive way by my having worked at an organization that is committed to helping improve the efficiency and effectiveness of government programs and activities, and to increasing transparency and accountability in government through fact-based, objective work.

In particular, my years of work in the bid protest unit of GAO, as a line attorney and later a manager, helped me see problems that appear with some frequency in individual protested procurements, such as organizational conflicts of interest. From GAO's wide range of audit work in the area of acquisition, I have learned about broader challenges such as those presented by interagency contracting. GAO's position in the legislative branch also meant that I have had the

opportunity to work with Congress, especially with congressional staff, which has deepened my appreciation for the important role that Congress and its committees play in the federal acquisition system. In addition, I have been active in myriad outreach activities, from meeting with hundreds (if not thousands) of contracting personnel in training sessions over the years, to attending and speaking at conferences held by professional groups, to smaller open-agenda outreach meetings with agencies, federal employee unions, and contractor and attorney groups. Overall, I would say that my experiences at GAO have helped instill in me an appreciation of the complexities of procurement system and recognition of the many stakeholders and their varied interests.

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

None, except that I have made clear to officials at OMB that I fully agree with, and am personally committed, if I am confirmed, to implementing the President's policies in the area of government contracting, as set forth in particular in the President's March 4, 2009 Memorandum on Government Contracting and the OMB Director's July 29, 2009 Memorandum on Improving Government Acquisition.

6. 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.

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

II. Role of the Administrator, Office of Federal Procurement Policy

7. What is your view of the role of the Administrator of OFPP?

I view the OFPP Administrator as the person responsible for providing overall direction within the Executive Branch for acquisition policy. The role has many components, among which I believe the following are particularly important:

(1) Ensuring that Congressional direction, as set forth in statute, is appropriately implemented through the Federal Acquisition Regulation and other related processes;

(2) Working to implement the President's procurement policies, including in particular:

(a) serving as a catalyst in the ongoing efforts to improve the efficiency and effectiveness of the federal procurement system in delivering the best value for the taxpayers, especially through efforts to encourage innovative and technologically sophisticated approaches;

(b) collaborating with stakeholders across the federal government to develop guidance for addressing situations where agencies have concern that certain services that have been outsourced should more appropriately be performed by federal employees;

(c) working, together with stakeholders from both the government and the private sector, to develop useful guidance on improving the definition of requirements in federal contracts;

(d) working with others, particularly at the General Services Administration, to continue to increase the transparency of the procurement system, especially by addressing ongoing challenges in the Federal Procurement Data System; and

(e) developing concrete guidance that will help agencies improve the management of contracts;

(3) Serving as Congress's point of contact regarding the Administration's procurement policies, and consulting regularly with the relevant committees of the Senate and House regarding OFPP's initiatives and strategy;

(4) Providing overall direction of the procurement regulatory process, pursuant to the statutory responsibilities of the OFPP Administrator, through the FAR Council, and fulfilling the statutory role of Chair of the Cost Accounting Standards Board;

(5) Ensuring that the concerns of the federal acquisition workforce are heard and addressed, including the need to increase their numbers and improve their training; and

(6) Seeking the views of all the stakeholders in the federal procurement process, including those in both the public and private sectors, and communicating the Administration's procurement policies to those stakeholders.

8. If confirmed as OFPP Administrator, what key performance goals would you want to accomplish during your tenure, and how will this Committee know whether you have accomplished them?

While I am not yet in a position to identify specific performance goals, I would, if confirmed, work with the Deputy Director for Management in establishing goals for my leadership at OFPP. I would anticipate that those goals will grow out of, and be aligned with, the Administration's key acquisition initiatives, implementing the President's Memorandum on Government Contracting to ensure that agencies are taking steps to save money, reducing high-risk contracting practices, ensuring effective contract management, using contractors only to perform functions that are appropriately performed by the private sector, and improving the capability and capacity of their acquisition workforce. These goals were emphasized by the Deputy Director for Management at a recent hearing before the Senate Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs.

9. As the government's reliance on contractors has increased and become more complex, OFPP's mission in bringing economy, efficiency and effectiveness to federal procurement has become more challenging, and yet the staffing level at OFPP has remained relatively stagnant in recent years, at roughly a dozen FTEs.
- a. In light of the fact that federal government contract spending is well over \$500 billion annually, do you believe that OFPP has adequate funding and staff to execute its statutory responsibilities effectively?

This is an issue that, if confirmed, I would explore further with OMB management. At this point, I can offer the following comments: First, I have been impressed by the quality of the OFPP staff as well as the quality and even the quantity of the work product that currently produced. Second, I view OFPP's role as one of leader and catalyst, and for that role, a small staff may be appropriate.

- b. Do you believe that the current structure of OFPP is effective for executing its statutory responsibilities?

This, again, is an issue that, if confirmed, I would plan to study and consider carefully.

- c. Given the small number of staff at OFPP, how would you focus your priorities to have the greatest impact on federal procurement?

With a small number of employees, OFPP needs to focus its efforts on the highest priorities. If confirmed, I would focus OFPP's priorities on those set out in my responses to the prior questions, consistent with the Administration's goals. Fortunately, OFPP's work with the Chief Acquisition Officers Council and the Senior Procurement Executives allows it to leverage those groups' expertise and authorities, thus serving as potential multipliers for OFPP's work.

10. Some experts in the acquisition community have suggested that OFPP should focus on the whole acquisition cycle, with a greater emphasis on pre- and post-contracting responsibilities such as requirements planning and program accountability. What is your view of this suggestion? What kind of additional resources would OFPP need to expand its focus beyond "procurement" to "acquisition"?

I agree with the experts who have talked about the need to look at the entire acquisition process, which can be said to have three phases: acquisition planning, contract formation, and contract management. In my view, we need to focus more on acquisition planning (in particular, to ensure that we are not contracting out work that should be performed by federal employees and that solicitations adequately set out the government's requirements) as well as contract management. I view both as high priorities and, if confirmed, I would strive to expand the work that I understand OFPP's staff and the Chief Acquisition Officers Council and the Senior Procurement Executives are already doing to identify ways to make improvements in both areas. Both the acquisition planning phase and the contract management phase are ones where collaboration between procurement personnel and program staff are especially important to success. I am not in a position at this point to address the question of the level of resources needed.

11. What do you see as the appropriate relationship between OFPP and the acquisition policy functions of the General Services Administration (GSA) and of other federal agencies?

OFPP's success depends on close collaboration with the General Services Administration, the Department of Defense, and other agencies. GSA's acquisition policy functions derive in part from its historical role as a kind of central purchasing agency; DoD's important position in acquisition policy reflects its very large procurement budget and the many unique features of defense acquisition, particularly with regard to major weapons systems. In addition, the Small Business Administration has important acquisition policy functions in promoting the goals of increasing participation by small businesses in the federal procurement system, as does the U.S. Trade Representative with respect to government contract provisions in our multinational and bilateral trade agreements. Overall, I view OFPP's responsibility as providing leadership on procurement policy, but always in the context of consultation and collaboration with these and other agencies.

III. Policy Questions

Contract Management

12. The amount of goods and services procured by the federal government on an annual basis has grown dramatically over the last decade, from \$189 billion in 1999 to \$532 billion in 2008. Across the government, a number of trends have led to wasteful spending, including an over-reliance on noncompetitive contracts, misuse of inter-agency contract vehicles, inappropriate use of "cost-plus" contracts, poor requirements planning, and insufficient oversight of contractors. What do you believe are the most critical changes that need to be made on a government-wide basis to improve the efficiency of federal contracting?

In addition to the points made in response to prior questions, I would add the following to respond to the specific question here: I do not incline to the view that the problems set out in this question require changes to procurement statutes, although some amendments to the procurement regulations addressing these issues are required, for example, to clarify and strengthen policies and practices for the use of cost-reimbursement contracts (consistent with requirements set forth in section 864 of the FY 09 NDAA), the quality of competition for large task and delivery orders (in accordance with the provisions of section 843 of the FY 08 NDAA), and to prevent misuse of inter-agency acquisitions (consistent with section 865 of the FY 09 NDAA). Instead, we need to ensure that contracting officials understand and comply with, existing statutory authorities, such as the competition requirements of the Competition in Contracting Act and the 2008 National Defense Authorization Act, and that we share best practices across the government, an effort in which I believe OFPP can play an important role. In this regard, I view the President's March 4, 2009, Memorandum on Government Contracting and the OMB Director's July 29, 2009 Memorandum on Improving Government Acquisition as setting appropriate direction. I am currently reviewing the guidance that was just issued by OFPP to address use of competition, contract type selection, and acquisition workforce planning. For all of the issues identified in this question, increasing the size of the acquisition workforce and improving training are critical changes that, while they have begun, need to continue and be expanded.

13. On July 29, 2009, the Office of Management and Budget (OMB) issued a memo requiring agencies to reduce their use of high-risk contracting practices such as using non-competitive contracts, cost-reimbursement contracts, and time-and-materials contracts. The memo requires agencies to reduce by at least 10 percent the dollars obligated in Fiscal Year (FY) 2010 through new contracts using these high risk practices and provide plans to achieve this goal to OMB by November 2, 2009:

- a. Do you agree that setting a fixed percentage is the appropriate way to address the issue of inappropriate use of high-risk contracts?

Setting a minimum percentage for the reduction in dollars obligated using these high-risk practices can be a useful way to focus attention and spur concrete action, and it has the virtue of allowing individual agencies to

determine the method of achieving the reductions in a way suited to their circumstances, a results- and performance-focused approach.

- b. What other means would you consider appropriate to reduce the use of these high-risk practices?

Transparency and training can both play key roles: transparency, because it sheds light on instances where these high-risk practices are occurring; and training, because it can help our acquisition workforce learn about what may be appropriate alternatives to those practices.

- c. What elements will you look for in these plans to ensure success in meeting this goal?

As in all such plans, the key is to set out steps that are specific, concrete, and feasible.

14. Cost, schedule and performance problems often arise because agencies do a poor job of setting requirements before negotiating contracts, project unrealistic cost estimates, or change requirements after entering contracts. What actions do you believe OFPP can take to improve the processes of setting requirements for contracts, especially for complex acquisitions, and of developing more realistic cost estimates?

This is a very challenging area and one where success may be particularly dependent on OFPP's ability to work collaboratively with the contracting agencies. I understand that OFPP is currently working on these important issues, and, if confirmed, I look forward to becoming fully engaged in that. One of the most important steps OFPP can take is to work with agencies to improve the capacity and capability of the acquisition workforce to plan, execute, and manage contracts. Skills related to requirements development and cost and price estimation may be particularly critical for addressing the types of problems described in the question. OFPP must also work with agencies to improve their use of performance-based management to ensure the effective integration of acquisition, project, and program activities. This integration is a prerequisite to achieving desired cost, schedule, and performance outcomes.

15. The federal government awarded more than \$500 billion to over 160,000 contractors last year for a wide variety of goods and services. Holding contractors accountable for past performance is an important tool for making sure the federal government receives good value from its contracts. However, in April GAO found that contracting officials were reluctant to rely on currently available past performance data in making contract award decisions because of concerns about the reliability and relevance of the data (*Federal Contractors: Better Performance Information Needed to Support Agency Contract Award Decisions*, GAO-09-374 (Apr. 23, 2009)).

- a. If confirmed, what will you, as Administrator of OFPP, do to implement GAO's recommendations and improve the collection and reliability of past performance data?

Paying increased attention to past performance is one of the accomplishments of procurement reform from the Clinton Administration, and, if confirmed, I would very much want to continue the effort to give past performance a key role in the selection of contractors. Contractors need to know that the quality of their performance – good or bad – will play a role in future contract award selections. I understand steps are being taken to improve the collection and reliability of past performance data: in July 2009, a change to the Federal Acquisition Regulation established the Past Performance Information Retrieval System (PPIRS) as the single, web-based government-wide repository for agency assessments of contractor performance. Additionally, OFPP issued further guidance in July that they plan to conduct regular compliance assessments and quality reviews. If confirmed, I look forward to working with the community to ensure critical past performance information is improved.

- b. Considering the quantity and complexity of the past performance data collected by various federal agencies, do you believe a government-wide 'Past Performance Fusion Center,' akin to that of intelligence community designed to promote information sharing and coordinated analysis would be helpful?

While I am not familiar with that system, I do support better sharing across agencies regarding contractor assessments so that our contracting officers have reliable and timely information upon which to base critical award decisions. If confirmed, I would want to explore this, and other models to improve information sharing.

16. GAO has designated contract management as a high-risk issue in three agencies – the Department of Defense (DOD), the Department of Energy (DOE), and the National Aeronautics and Space Administration (NASA) – and has identified problems in individual acquisitions at numerous other agencies, including the Department of Homeland Security (DHS).

- a. What steps will you take as OFPP Administrator to address those challenges?

As discussed in response to prior questions, contract management is an area that needs more attention than it has received. OFPP's role in this area can be helpful in multiple ways. First, OFPP can highlight the need to strengthen the numbers of the acquisition workforce and their training, which should help with contract management. I understand that the Chief Acquisition Officers Council has a Human Capital Working Group that is looking into these issues, and, if confirmed, I would vigorously support that group's work. In addition, it is important to recognize the key role, and improve the training

of those who serve as contracting officer technical representatives, because of their importance to good contract management. Second, OFPP can build on what I understand it is currently doing with the Chief Acquisition Officers Council and the Senior Procurement Executives to share 'lessons learned' and identify ways to improve contract management. Further, I understand OMB's Deputy Director for Management considers the review of agency progress on their corrective action plans a high priority, and, if confirmed, I will work with him to ensure these issues are addressed.

- b. What steps will you take to ensure that individual agencies are effectively performing their contract management responsibilities, and more specifically, how do you plan to work with DOD, DOE, NASA and DHS to make substantive progress toward resolving these high-risk issues?

As mentioned, if confirmed, I will support the Deputy Director for Management's actions to work with these agencies as they resolve these high-risk issues. Additionally, if confirmed, through my leadership of the Chief Acquisition Officers Council, and through improved transparency in contracting, so that agencies' successes and failures in these areas are more visible to the taxpayers and the other stakeholders, I would expect to see progress toward improved contract management practices at these agencies.

Interagency Contracting

17. As you know, GAO designated management of interagency contracting a government-wide high-risk issue in January 2005. GAO stated that this method of procurement, when used properly, provides government personnel with a simplified means to acquire goods and services. However, GAO deemed interagency contracting as a high-risk area in part because of the need for stronger internal controls, clear definitions of roles and responsibilities between agencies that award umbrella contracts and agencies that issue individual orders under those umbrella contracts, and training to ensure proper use of interagency contracts. In its 2009 update of its high-risk report, GAO acknowledged that OMB has issued policy guidance and agencies have begun to take actions in response to GAO's recommendations, but noted that problems remain with how agencies are implementing guidance on interagency contracting. Also, there is still no complete and reliable data to track the use and costs of interagency contracting. Please describe your view OFPP has, or should have in addressing the issues with interagency contracting, and, more generally, with improving procurement processes that cross organizational boundaries?

I view interagency contracting as a valuable tool that can enable agencies to conduct procurements more quickly and at lower overall cost – one of the lasting achievements of procurement reform from the 1990s. Interagency contracting also raises concerns, however, often due to the lack of clear accountability regarding roles and responsibilities of the multiple agencies. I believe that the

government needs to find a way to continue to benefit from interagency contracting while addressing the associated risk. In my view, OFPP needs to continue to follow up with agencies to monitor implementation of issued guidance. We also need to work with the FAR drafters to issue regulatory guidance addressing the development of business cases for multiple award contracts. In addition, the lack of complete and reliable data on interagency contracting relates to the larger challenge of improving the data collection system and enhancing the transparency of the federal procurement system, an area where, as addressed above, OFPP plays a key role. Finally, OFPP has a role, both through the FAR Council and otherwise, in addressing the ongoing concern regarding transparency, competition, and accountability with respect to the award of individual orders under interagency contracts (which are typically indefinite-delivery, indefinite-quantity contracts), as discussed below in my response to question 37.

18. How important is the issue of transparency in interagency contracting – for example, knowing what contracts exist, how they are being used by federal agencies, what fees are paid, what costs are incurred, and what savings are achieved? How would you, as Administrator of OFPP, propose improving transparency in this area?

I view transparency as key to the President's policies for improving the federal procurement system, and I believe that OFPP, in continued collaboration with the General Services Administration and other agencies, is contributing to and needs to continue to contribute to ongoing improvements in this area. Technology, particularly use of the Internet, offers an opportunity to provide unprecedented transparency to our acquisition system without imposing an undue burden, either in terms of time or cost. It is also important to maintain a balance between transparency and security and privacy issues.

19. The Acquisition Advisory Panel, created by Congress in the Services Acquisition Reform Act of 2003 (P.L. 108-136), recommended that Multi-Agency Contracts and certain large dollar single-agency Indefinite Delivery, Indefinite Quantity Contracts, referred to as "enterprise-wide contracts," be centrally coordinated by OMB to avoid unnecessary duplication. Examples of enterprise-wide contracts include Navy's SeaPort-e which has an aggregate ceiling of \$209 billion for its 15-year period and DHS' Enterprise Acquisition Gateway for Leading Edge Solutions (EAGLE) which has an aggregate ceiling of \$45 billion over seven years. The Panel also observed that while proliferation of contract vehicles dampens the government's ability to leverage its buying power, some competition among interagency contract vehicles is desirable and even fundamental to maintaining the health of government contracting.

- a. What are your thoughts on the Panel's conclusions?

In my opinion, the Acquisition Advisory Panel did a masterful job of addressing key issues facing the federal procurement system and, while I may not agree with every recommendation in the report, if confirmed, I would want to carefully review the report and recommendations. On the specific issue presented here, I recognize the risks of duplication and loss of buying power leverage, but also the benefits of competition among agencies' contracts.

- b. How would you address the problem of unnecessary duplication of similar contracts in various federal agencies?

Consistent with my response to the prior question, I have an open mind on this issue, and I am concerned about the waste of resources, on the part of both the government and the private sector contractors, associated with duplicative contracts for the same goods and services. Agencies who develop and manage these umbrella contracts need to make a clear case for the value added in establishing a new interagency contract.

20. Congress has authorized state and local governments to purchase goods and services off the General Services Administration (GSA) schedules in limited circumstances. The E-Government Act of 2002 (P.L. 107-347) authorized state and local governments to purchase information technology equipment from GSA schedules. Congress again granted similar purchasing authority, known as "cooperative purchasing," in 2007 by authorizing state and local governments to use the GSA schedules for purchases related to recovery from disasters, acts of terrorism, or nuclear, biological, chemical or radiological attack. Last year, Congress enacted the Local Preparedness Acquisition Act (P.L. 110-248) authorizing state and local purchasing under GSA Schedule 84, which covers products and services related to law enforcement and security. Congress is currently considering expanding cooperative purchasing to purchases made by state and local governments with funds from the American Recovery and Reinvestment Act (Recovery Act) (P.L. 111-5) and for certain green products and services.

- a. Do you believe that cooperative purchasing is a concept that should be further expanded? In your view, does cooperative purchasing create any risks, either for GSA or for state and local governments?

This is an area where I am not yet familiar enough with the views of the various stakeholders and therefore have not yet formed an opinion. As a general matter, I would say that I am open to innovation in procurement, but would want the risks to be fully assessed before decisions are made, and I have not yet adequately studied the risks associated with cooperative purchasing.

- b. Currently, federal grantees are specifically excluded from participating in the cooperative purchasing. What are the risks to the federal government in

expanding the cooperative purchasing program to include federal grantees receiving Recovery Act funds?

As mentioned above, I am not yet familiar with this issue but look forward to reviewing this more closely, if confirmed.

Recovery Act

21. The Recovery Act requires an unprecedented level of transparency and accountability for recipients of stimulus funds, including contractors. The Federal Acquisition Regulation (FAR) Council issued an interim rule on March 31, 2009 to implement those requirements with respect to contractors. Under this rule, prime contractors and first-tier subcontractors are required to submit quarterly reports in their use of funds received under the Recovery Act.
- a. Some commentators have expressed disappointment that reporting requirements will flow only to first-tier subcontractors. What do you see as the major challenges in having reporting requirements flow down to sub-tiered contractors?

I agree that the Recovery Act calls for an unprecedented level of transparency, and I applaud that. I know that this has been a very high priority for OFPP and other offices within OMB and, if confirmed, I would welcome the opportunity to contribute to this effort. I understand that OFPP's role is focused on the reporting requirements associated with the award of federal contracts, which are expected to account for approximately \$60 billion of Recovery Act funds. While I have not studied the recipient reports that have been produced recently, I would expect that public reporting of uniform data on such a broad scale will present challenges and I look forward to working with OFPP and others in OMB involved with Recovery Act implementation to review the experiences from the October reporting process.

- b. According to the June OMB Guidance, it appears that if, a Federal agency awards grant money to State A, who then sub-awards to County B, who then sub-awards to City C, who then enters into a contract with Company D, Company D contract information will not be collected. Considering that the public would be most interested in transactions between a government entity (whether it be Federal, State, or local) and a private company, do you believe the reporting requirements should be adjusted to include all such transactions?

I am not familiar with the discussions regarding transparency at this level of a grant transaction, but, if confirmed, will continue to support transparency efforts that provide value.

- c. In the future, and using the Recovery Act as a starting point, how can the government provide greater transparency on contract spending as money flows down to subcontractors?

I would want to study this issue further before expressing a view on it. If we can provide greater and more meaningful transparency at the level of federal contracts, that would be a worthwhile achievement.

- d. In what ways do you think that Recovery Act reporting will set new precedents for government-wide reporting on contract actions?

I hope that significant improvement in the level and quality of transparency in federal contracting will be one of the achievements of this Administration and, if confirmed, I expect that our experiences implementing Recovery Act reporting will shape our actions moving forward as we move toward full implementation of the Federal Funding Accountability and Transparency Act.

22. The usefulness of Recovery Act reporting will depend on the reliability of the data.

- a. Do you think there will be enough consistency in the reporting by Recovery Act recipients to give an accurate overall picture of jobs directly created or saved by programs funded under the Act?

I have not studied this issue enough to respond with confidence to the question. It is my understanding that OMB is working diligently with the various stakeholders to ensure that the reporting requirements of the Recovery Act are properly implemented.

- b. How would you address data reliability concerns with respect to reporting by contractors, and what steps do you think could be taken to further improve the quality of the data reported?

Again, I would, if confirmed, need to study this issue more. It seems that efforts to assess and improve data quality should begin with a recognition of the challenge inherent in collecting data from such a diverse base of recipients. The improvement process should be one that builds on lessons learned, in terms of collecting, monitoring, maintaining, presenting, and interpreting the data.

Acquisition Workforce

23. Total spending on government contracts has roughly doubled since 2000, 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% in the 1990s. 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.

- a. What are your views on the adequacy of the federal acquisition workforce?

I believe that we need to build the capacity and capability of the workforce to meet current and future demands. I believe that the Administration's efforts to strengthen the acquisition workforce are vital to improving agencies' acquisition practices.

- b. What specific actions should OFPP take to better define the scope of the federal acquisition workforce?

OFPP can work to ensure the recognition of the broad scope of the acquisition process and, consequently, the broad scope of the acquisition workforce. Specifically, program personnel who help define the requirements for an acquisition play a key role, as do individuals who serve as contracting officers' technical representatives during performance. Many of the current concerns in our procurement system derive from poorly defined requirements and weak contract management, so that recognizing the broad range of personnel involved can be important to success.

- c. If confirmed, what steps would you take to ensure that the federal acquisition workforce is capable of meeting the government's future acquisition needs and challenges?

If confirmed, I would do whatever I can, and ensure that OFPP does whatever it can, to help agencies strengthen their acquisition workforce. The Department of Defense has already announced plans for a substantial increase in the size of its acquisition workforce, which I view as a step in the right direction, although more action will certainly be needed, including in the area of training. I understand that OMB has issued an acquisition workforce development strategic plan for civilian agencies, consistent with the mandate of the 2009 National Defense Authorization Act, and I believe that such a plan can be helpful in this regard. If confirmed, I would also want to see to it that there is adequate consultation with the Office of Personnel Management, particularly with respect to improving recruitment efforts and OPM's very important hiring reform initiative.

- d. What metrics should agencies use to gauge whether they have sufficient numbers of in-house staff to maintain institutional capacity to carry out the full range of acquisition functions?

While I would want, if confirmed, to consult with others inside and outside OMB before forming an opinion as to metrics, the issue here is plainly both one of numbers and training, rather than simply numbers. Moreover,

different agencies may have different needs and circumstances and I understand the recently issued strategic plan accommodates those differences. If confirmed, I would look forward to working with the acquisition community as they engage in a more rigorous workforce planning process.

- e. In assessing the functions of OFPP, what priority would you assign to improving the size and skills of the federal acquisition workforce?

A very high priority, as will be evident from my answers to these questions.

24. Currently, the Federal Acquisition Institute (FAI) is housed in GSA and its director reports to GSA, and yet, FAI serves a government-wide function and is directly accountable to the OFPP's supervision.

- a. How do you, if confirmed as OFPP Administrator, plan to work with FAI to improve the quality of courses offered by the Federal Acquisition Institute?

If confirmed as OFPP Administrator, I would plan to work closely with the staff at the FAI, and, more generally, GSA, to ensure that courses offered are of high quality.

- b. Civilian acquisitions were approximately one-third of the total \$532 in federal acquisitions in Fiscal year 2008. We understand that FAI has a total budget of around \$8 million. By contrast, the Defense Acquisition University has a budget in excess of \$100 million – a much larger budget in relation to DOD's acquisitions than FAI's in relation to civilian contracting. Do you think that FAI has adequate budget and resources? What should the budget of FAI be?

If confirmed, I would plan to discuss this with the staff at the FAI. I am not in a position today to express a view on this question, other than to underscore my commitment to improving the training, including web-based training, of our acquisition workforce.

25. Section 869 of the National Defense Authorization Act for FY2009 required OFPP to develop, within one year of enactment of the Act, an acquisition workforce development strategic plan that would examine the state of the federal acquisition workforce and lay out a plan for filling gaps in the workforce. Section 869 also calls for an examination, among other things, of the development of a sustainable funding model and a strategic human capital plan for the acquisition workforce. What specific steps do you intend to take to ensure that both OFPP and agencies follow up on this plan once it is issued?

I view this as a very high priority for OFPP. I fully share the sentiment expressed by OMB's Deputy Director for Management at the October 26, 2009 hearing before the Senate Ad Hoc Subcommittee on Contracting Oversight that a strong workforce is the backbone of our acquisition system. I was pleased to read in his

written statement that OMB is "committed to a sustained management focus on growing both the capability and capacity of the [acquisition] workforce so that we can improve acquisition outcomes and agency performance." I am currently reviewing the acquisition workforce development strategic plan for civilian agencies that OFPP released just prior to the hearing. While there is much work yet to be done, I know the Administration and the Congress are united in their support of, and commitment to, the acquisition workforce. If confirmed, I would welcome the opportunity to work closely both with agencies and the Congress in achieving appropriate growth and other improvements to support better acquisition outcomes.

Managing the Multi-Sector Workforce

26. Reliance on contractors, especially for services that closely support inherently governmental work, raises a risk that government decisions are not adequately independent of contractor judgments. For example, in its report, *Department of Homeland Security: Improved Assessment and Oversight Needed to Manage Risk of Contracting for Selected Services* (GAO-07-990 (Sept. 17, 2007)), GAO concluded that contractors provided numerous services that closely supported inherently governmental functions and that program officials neither assessed the risk of using contractors for these functions nor exercised adequate control oversight. While contracting can be an effective means of fulfilling some responsibilities of government, it is critical that each agency retain the core competencies to perform their missions.

- a. Are there, in your opinion, contract management activities that should be performed solely by the government? If so, what functions are they?

As the President stated in his March 4, 2009, Memorandum on Government Contracting, it is essential that the federal government have the capacity to carry out robust and thorough management and oversight of its contracts. While not all contract management activities may qualify as inherently governmental, any contractor involvement in contract management activities merits close scrutiny to ensure that it is appropriate. Of particular concern would be activities that involve the exercise of judgment, and care needs to be taken to avoid organizational conflicts of interest.

- b. What would you do to ensure that agencies maintain the ability to perform their core functions, whether inherently governmental or closely supportive of inherently governmental functions?

These decisions need to be made by individual agencies, since they know best what their core functions are. In my view, OFPP can be helpful by providing clear management guidance. OMB's July 29, 2009 guidance offered a good start, such as by reminding agencies of the need to be vigilant in watching for situations where they may be overly reliant on contractors and taking

appropriate and timely actions to ensure they have the internal capability required to maintain control of their operations. Both the President and Congress have called for more clear rules and effective management practices and, if confirmed, I look forward to working with agencies and the Congress on these important matters.

- c. What steps would you take as Administrator to assure that agencies clearly establish roles and responsibilities for support contractors as well as provide effective oversight of support contractors?

If confirmed, I would work with OFPP staff and officials at other agencies to address these concerns. Strengthening the acquisition workforce is a critical step needed to ensure effective oversight during contract performance.

27. Increased reliance on contractors across the federal government has substantially raised the risks of both organizational and personal conflicts of interest. Do you have specific suggestions for improving agency methods for preventing and mitigating conflicts of interest?

I have written about organizational conflicts of interest as a growing integrity challenge, and the increasing use of contractors to obtain services also highlights the risk of personal conflicts of interest on the part of the contractors' employees. I note that GAO issued a report addressing the issue of personal conflicts of interest on the part of contractor employees at the Department of Defense (GAO-08-169).

I think section 841 of the FY 09 NDAA lays out an appropriate set of deliverables to address personal and organizational conflicts of interest, including a review of current FAR coverage to, among other things, identify contracting methods, types and services that raise heightened concerns and ensure that the FAR includes adequate policy and procedures on how best to mitigate organizational conflicts of interest. If confirmed, I welcome the opportunity to work with the FAR Council members and the Office of Government Ethics in reviewing these issues and making appropriate improvements to our guidance and regulations.

28. Under OMB's Circular A-76, commercial-type functions are competed between public and private sources in a process commonly referred to as "competitive sourcing." Under the last Administration, OMB touted billions of dollars in savings achieved under the competitive sourcing initiative, yet many have questioned the savings, and both federal workers and the private sector have complained about the fairness of the process.

- a. In your view, how should the government decide which services should be provided by government employees and which would be appropriate to be potentially provided by contractors?

Contractors perform very important functions for the government, and I expect the government to continue to benefit from their services. That said, we need to ensure, first, that all inherently governmental functions are performed only by federal employees; and second, that agencies not outsource critical functions needed to protect the agencies' internal capabilities and capacity to maintain control of their operations. For functions that an agency determines could be performed by either the public or the private sector, we need processes that are transparent and fair to all sides, including both contractors and federal employees.

- b. How do you intend to balance the requirements under Circular A-76 with current insourcing initiatives?

I believe that the two are compatible. The Circular provides guidance on conducting public/private competitions, but it recognizes the government's management authority to identify functions that need to be performed by federal employees. Moreover, the recent statutory direction on in-sourcing (which, of course, would override the Circular, if there were a conflict between them) reinforces the government's authority to have work performed by federal employees when, as a management decision, agencies determine that that is necessary.

29. GAO has reported that federal agencies have not developed comprehensive cost estimates associated with public-private competitions under Circular A-76. For example, in a recent review of competitive sourcing practices at the Department of Labor (DOL) (GAO-09-14), GAO found that DOL reports of savings from competitive sourcing were unreliable. In its estimates of savings, DOL excluded a number of substantial items, including the time in-house staff spent on competition activities, pre-competition planning, transaction costs, and post-competition oversight. GAO recommended that OMB require agencies to systematically report all costs associated with competitive sourcing.

- a. Do you agree with GAO's recommendation?

The credibility of public/private competitions under Circular A-76 depends on, among other things, the reliability of the calculation of the cost of performance by each competing side and accurate reporting on costs and savings following a competition. In my work at GAO, including as counsel to the congressionally-mandated Commercial Activities Panel, I learned of the challenges in calculating each side's costs in a fair and defensible way. For these reasons, I think the GAO's recommendations should be carefully considered.

- b. What steps will you take to ensure that agencies keep track of time and expenses related to conducting cost comparisons in-house?

If confirmed, I would work to ensure that agencies have adequate guidance in this area.

- c. What steps will you take to ensure that such costs are taken into account in projecting savings from the A-76 process?

As in response to the prior question, if confirmed, I would work to ensure that OMB has provided adequate guidance to agencies in this area.

30. Many A-76 competitions drag on for years, putting federal employees in limbo about their future and undermining agency morale. What will you do to ensure that A-76 competitions are completed in a timely manner?

The length of A-76 competitions is a subject of concern that I am very familiar with, from my work at GAO, including in connection with the Commercial Activities Panel. I would note that lengthy competitions – like doubts about the fairness of the A-76 process itself – have a negative impact on the private sector as well as on federal employees. If confirmed, I would work to ensure that this concern is adequately addressed.

31. Do you believe that there is new work or work currently performed by contractors that should be subject to public-private competition for possible insourcing? If public-private competitions result in the greatest efficiency for work traditionally performed by government workers, should OMB give federal employees the opportunity to win through competition work that they can perform more efficiently than contractors?

I recognize that the provision in Circular A-76 allowing work to go to the private sector, but not the public sector, without a competition if it is defined as “new” may raise concern, if for no reason other than that one would want to be sure that the “new” label is being used appropriately. As I hope is clear from my answers to other questions, I believe that the prior Administration may have gone too far in its reliance on contractors, and I support the President’s direction to clarify when outsourcing is and is not appropriate. With regard to the specific approach raised in this question (that is, conducting public/private competitions about new work), I would want to consult with others and reflect before reaching a recommendation.

32. In an October report, *Civilian Agencies’ Development and Implementation of Insourcing Guidelines* (GAO-10-58R), GAO noted that OMB has yet to determine what its role will be as agencies move forward with their effort to insource contracted out functions. What role do you envision for OFPP in overseeing implementation of the July 2009 OMB insourcing guidance and the efforts of federal agencies to insource functions?

I understand that OFPP sponsors a working group in conjunction with the CAO Council. At a minimum, OFPP should continue its active sponsorship of this group to facilitate sharing of best practices among agencies. If confirmed, I would want to discuss within OMB other policy and general management actions that might be appropriate to help agencies. With respect to the in-sourcing of specific functions, I view those decisions as being within the management prerogative of the agency and generally outside the scope of OFPP's procurement policy role.

Competition

33. Over the past several years, a number of concerns have arisen pertaining to the adequacy of competition for government contracts.

- a. In your view, do we have enough robust competition in federal contracting?

I think there is clear room for improvement and I support OMB's and OFPP's effort to increase the level of meaningful competition in federal acquisitions. One of the key areas in need of improvement, as recognized in OFPP's recently issued guidance, is the use of competition in the award of task and delivery orders under multiple award contracts. Reliance on those vehicles has grown exponentially since the mid-1990s, so that task and delivery orders now account for a significant percentage of federal procurement dollars. While the multiple award contracts themselves are generally subject to full and open competition, orders under these contracts are subject to limited competition among the successful awardees. However, transparent and disciplined application of the limited competition standard has not always been the norm. Congress has addressed this concern more than once in the past 10 years, most recently in the 2008 and 2009 National Defense Authorization Acts, which required more robust competition for orders and transparency where agencies rely on certain statutory exemptions to competition. I believe that OFPP has a key role to play both in the implementation of these competition rules and in any future deliberations on how to sustain and enhance the benefits of using multiple award contracts.

OFPP must also ensure that agencies take appropriate steps to mitigate risk when noncompetitive actions are justified—for example, where an urgent need to respond to a disaster means that spending the time that competition takes is not an acceptable option. Of course, in specific cases, where a company feels that an agency has abused those exceptions, thus inappropriately excluding it from consideration for a contract, it can file a protest, and GAO and the Court of Federal Claims sometimes sustain those protests about improper restrictions on competition. Similarly, when a company believes that an agency has written specifications so as to “wire” the competition toward its competitor, it can protest that anti-competitive action.

- b. If not, what steps would you take as Administrator to improve the level and effectiveness of competition?

(See my response to the prior part of this question.)

- c. OMB's July guidance on competition ("Improving Government Acquisition") directed agencies to treat sole source awards made under the HUBZone Act or the Veterans Benefits Act as 'not available for competition' and report them under the same competition category as procurement actions pursuant to the Javits-Wagner-O'Day Act. Yet, in contrast to the mandatory AbilityOne program, sole source awards under the HUBZone Act or the Veterans Benefits Act are permissive, not mandatory. The Federal Acquisition Regulation states that an agency MAY do sole-source when there is only one HUBZone or SDVOSB concern that can satisfy the requirement. Considering that a competitive set-aside is considered "full and open competition" and can afford better opportunities for all socio-economic concerns than a sole source award, this OMB policy guidance appears to be overlooking a better, more accurate reporting alternative. Would you consider looking into this and, if necessary, open a FAR case to establish a clearer policy for reporting competition?

As I was not privy to the deliberations underlying OMB's memorandum, I cannot speak to their rationale but, if confirmed, would review this matter with OFPP staff.

34. Do you believe that action is required to increase small business participation in federal contracting? If so, please describe what actions you believe are needed. Do you believe we can increase participation of small businesses in contracting without sacrificing competition?

Our country has a long-standing commitment to small business participation in federal contracting and, if confirmed, I will be equally committed to promoting small business opportunities as the OFPP Administrator. As I have studied and taught international and comparative procurement at the George Washington University Law School, I have learned of the challenges that every public procurement system faces in trying to achieve socio-economic goals while also maintaining the other essential features of a public procurement system, such as competition, transparency, integrity, and value for the taxpayers. In my view, our current system generally provides a reasonable framework for balancing these goals and I look forward to working with the community to further these goals.

35. According to September 2009 GAO report (GAO-09-792), in FY 2008, civilian agencies obligated \$3.2 billion under schedule blanket purchase agreements (BPA) -- up 383 percent from FY 2004. GAO estimates that DOD's obligations ranged from \$0.5 to \$4.7 billion, placing total obligations in 2008 between \$3.7 and \$7.9 billion. Seventy-four percent of BPAs reviewed were established to acquire services as opposed to goods. In about half of the 336 sample BPAs reviewed, GAO found

no evidence that agencies sought discounts when establishing BPAs. At times, such opportunities were missed when the estimated amount of the BPA was in the hundreds of millions of dollars. In addition, contracting officials rarely conducted the required annual reviews. Only 19 of the 320 BPAs that required annual reviews addressed all of the FAR elements. By not conducting annual reviews, agencies miss opportunities for savings and can run the risk of violating competition requirements.

- a. GAO recommended the Administrator of OFPP take steps to ensure that annual reviews are conducted. Considering the lack of attention to a BPA once established, one way to ensure annual reviews would be to limit the base period BPAs to one year and require affirmative option exercise to extend them. Agencies' ability to award multi-year BPA will not be affected. How would you ensure annual reviews are conducted?

As a general matter, I strongly agree that agencies should be annually reviewing their BPAs to determine, among other things, if price reductions can be obtained and if the BPA still represents the best value. These common-sense steps are critical to optimizing the value from BPAs. I would want to consult with others and reflect before offering a specific recommendations.

- b. GAO also recommended that the pending proposed FAR rule on task/delivery order competition that implements Section 863 of the National Defense Authorization Act for FY2009 be expanded to include orders under BPAs. Practical impact of this recommendation would be to require multiple award BPAs when anticipating orders above simplified acquisition threshold. Considering the original intent of a BPA, a 'simplified method of filling anticipated repetitive needs' that functions as a "charge account," such dollar limitation may make sense to ensure adequate balance between administrative convenience and continuous competition at the order level. Do you intend to implement this GAO recommendation?

I think this recommendation warrants careful consideration. As I am not familiar with the details of how the FAR regulatory councils will implement section 863, I would need time to consider how the recommendation and the FAR case would fit together.

Sustainable Acquisition

36. On October 5, 2009, President Obama issued an Executive Order (EO) requiring federal agencies to take certain steps to increase conservation and reduce greenhouse gas emissions. In part, this EO requires agencies to ensure that most goods and services acquired by the government are energy-efficient. The EO also requires GSA, in consultation with other agencies, to make recommendations to OFPP regarding the feasibility of working with the vendor community to provide information that will assist agencies in tracking and reducing greenhouse gas

emissions related to the supply of products and services to the federal government. In both the short- and long-term, what role do you see for OFPP in helping agencies to implement this EO?

I fully support the President's policy to leverage federal purchasing to promote sustainability in the long-term, as expressed in EO 13514. I look forward to GSA's recommendations and, if confirmed, will support their efforts to develop options for vendors to track and reduce greenhouse gas emissions. In addition, I understand that OFPP will perform its traditional role in ensuring the Federal Acquisition Regulation (FAR) is updated appropriately and that agencies are implementing the Executive Order.

Strategic Sourcing

37. Strategic sourcing has been a key initiative of OMB. As stated in an OMB memorandum of May 20, 2005, strategic sourcing "...is the collaborative and structured process of critically analyzing an organization's spending and using this information to make business decisions about acquiring commodities and services more efficiently and efficiently."

- a. Can you please discuss your views regarding strategic sourcing?

I view strategic sourcing as a sound business principle that can help leverage the government's extensive procurement spending. We can improve efficiencies and get more value for our tax dollars by aggregating demand among agencies and promoting the strategic acquisition of common goods and services. In addition, the spend analysis that is part of strategic sourcing can itself lead to better management of acquisition.

- b. What role would you envision for OFPP in helping agencies identify potential areas for employing strategic sourcing approaches?

My understanding is that OFPP works with GSA on various strategic sourcing initiatives and that the Chief Acquisition Officers Council has a Strategic Sourcing Working Group. If confirmed, I would actively promote these initiatives, with the goal of identifying appropriate areas.

- c. How would you assess whether agencies are effectively using this approach?

If confirmed, I would work with colleagues at OFPP and other agencies in making that assessment. In that regard, I believe that the Chief Acquisition Officers Council provides a valuable forum for sharing "lessons learned" as well as challenges.

Procurement Regulations

38. Beginning with major acquisition reform efforts in the 1990s, Congress and the Administration have made a concerted effort to simplify procurement regulations and encourage agency officials to use more business judgment. However, some in the procurement community question whether the government has gone too far and has reduced accountability and transparency in federal contracting, while others believe even more flexibility is needed.

a. In your view, where do we stand on that continuum?

I believe that the procurement reform efforts of the 1990s were beneficial in many ways. Among the other achievements, they greatly increased the speed of purchasing (most notably in the area of commercial items and information technology), and, by generally requiring agencies to consider contractors' past performance, gave the government an important tool in holding contractors more accountable.

However, as a result of the reforms of the 1990s, the procurement system was transformed, and that transformation itself led to other developments that have required attention. In particular, the promotion of the use of multiple-award indefinite-delivery/indefinite-quantity (ID/IQ) contracts led to a dramatic increase, perhaps unforeseeable in the mid-1990s, in the use of those contract vehicles over the past 15 years. These vehicles were intended to serve as a tool for generating competition in a highly efficient manner so that agencies could acquire needed goods and services, especially those of a repetitive nature, in a more timely and cost effective manner. However, the widespread use of multiple-award ID/IQ contracts has led to a decrease in transparency and accountability regarding the award of task and delivery orders under those contracts. The Congress has taken steps, notably in the 2008 National Defense Authorization Act, to increase the transparency and accountability, as well as to formalize certain competition requirements, with respect to orders above specified dollar values.

b. What direction do we need to move toward?

As a general matter, I believe that we need to continue to encourage innovation and continuous improvement in our acquisition system. We also need to continue to increase transparency in our acquisition and (a related point) to take advantage of developing technologies, including web-based technologies, in order to further streamline and modernize our procurement system. With respect to the new rules governing the award of task and delivery orders under ID/IQ contracts, I believe that it would be best to wait for a certain period now before an assessment is made that the new requirements go too far or not far enough. It may make sense to take steps to ensure that the Federal Acquisition Regulation adequately addresses ID/IQ contracts and requests for quotations, which are often used in the competition for orders under those contracts.

I believe we should build on the successes we have had to streamline the acquisition process while being careful to ensure that the principles of competition and transparency remain a high priority.

- c. What role would OFPP take in this regard if you are confirmed?

OFPP plays a key role in all of these efforts and, if confirmed, I would be honored to lead it in playing that role.

Contingency Contracts

39. Section 870 of the National Defense Authorization Act for FY2009 authorized the Administrator of GSA to create a Contingency Contracting Corps whose members will be available for deployment in responding to an emergency or major disaster, or a contingency operation, both within or outside the continental United States. Membership in the Corps is voluntary and is open to all members of the federal acquisition workforce. The Director of OMB has the authority, upon request by an executive agency, to determine when members of the Corps are to be deployed. What role do you think OFPP should play in helping to develop and strengthen the Corps? In deciding when the Corps should be deployed?

This is an area that, if confirmed, I would explore with OFPP, GSA, and, potentially, other agencies. I am not familiar enough with the issues at this point to express an opinion.

40. Some have suggested that a lack of a standard, web-based contract writing system has greatly hampered federal government's ability to manage contingency contracting operations and caused general lack of transparency.

- a. Do you believe a scalable, web-based, open-source contract writing system is desirable in support of the Contingency Contracting Corps?

I am not familiar with such systems or the benefits they provide, but am interested in pursuing solutions that improve operations and enhance transparency.

- b. What is your opinion of working toward a government-wide, web-based, open-source contract writing system to enhance consistency and transparency in contracting across the federal government?

Again, I would need to understand more about how these systems support transparency and improve the federal acquisition system generally.

Purchase Cards

41. Use of government purchase cards for procurement purposes has increased dramatically over the last several years. In August, 2005, OMB issued Annex B to OMB Circular A-123 to require agencies to maintain internal controls that reduce the risk of fraud, waste, and error in the government charge card programs. Yet GAO audits of purchase card controls continue to identify ineffective management oversight and weak internal controls over purchase cards, leaving agencies vulnerable to fraudulent, improper, and abusive purchase card activity. In response to these findings, S. 942, the Government Charge Card Abuse Prevention Act of 2009, which was passed by the Senate on October 7, 2009, proposes additional safeguards to prevent misuse of purchase cards. What additional measures do you believe OFPP should take to prevent the misuse of purchase cards?

I am familiar with the issues associated with the use of purchase cards – both their benefits and their risks in the absence of adequate controls – and I am, of course, familiar with GAO's work in this area. In January of this year, OMB issued updated guidance to Appendix B of OMB Circular A-123, which provided significant updates in response to the GAO recommendations. I understand those updates included, among other things, an expanded description for erroneous and improper purchases, requirements for charge cardholders to reimburse the government for unauthorized transactions, and guidance on disciplinary actions for fraud and other abuses. With respect to additional measures that may be needed on OFPP's part, I would, if confirmed as OFPP Administrator, work with the Controller of OFFM and other Administration officials to develop options for additional measures to prevent the misuse of purchase cards.

Federal Procurement Data System – Next Generation

42. Reliable information is critical to informed decision-making and to oversight of the procurement system. The Federal Procurement Data System (FPDS) has been the Federal government's central database of information on federal procurement action since 1978 and is used by the Congress and executive agencies to assess the impact of government-wide acquisition policies and processes. Recently GAO testified before the Subcommittee on Contracting Oversight that reliability problems continue with data in FPDS-Next Generation. What actions do you believe are needed to improve the reliability of the data in FPDS-Next Generation?

In my view, it is critical that we resolve the continuing reliability problems with FPDS. Accurate information about our procurement is critical – it provides the transparency to assure our taxpayers that their money is being prudently spent, and it is indispensable for intelligent assessments of the state of our procurement system. Without reliable data, we are left to make decisions based on anecdotes – or inaccurate information. I understand that OFPP is working with GSA and the agencies to correct the problems with FDPS – including training and systems changes; if confirmed, I would give that work a high priority.

IV. Relations with Congress

43. 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?

Yes.

44. 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?

Yes.

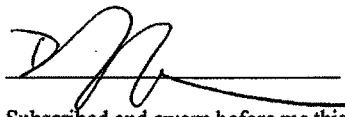
V. Assistance

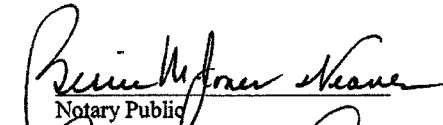
45. Are these answers your own? Have you consulted with OMB or any interested parties? If so, please indicate which entities.

Although I have consulted with OMB for advice and to ensure the factual accuracy of my statements, the answers here set out my views and I take sole responsibility for them.

AFFIDAVIT

I, DANIEL I. GORDON, 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.


Subscribed and sworn before me this 2nd day of November, 2009.


Notary Public
Commission Expires August 14, 2014

Senator Daniel K. Akaka
Questions for the Record
Pre-Hearing Questions for Daniel I. Gordon
Administrator, Office of Procurement Policy, Office of Management and Budget

Role and Structure of OFPP

1. The Office of Federal Procurement Policy (OFPP) within the Office of Management of Budget (OMB) is now responsible for providing "overall direction of Government-wide procurement policies, regulations, procedures, and forms for executive agencies and to promote the economy, efficiency, and effectiveness in the procurement of property and services by the executive branch of the Federal Government." The budget of OFPP has been approximately \$2 million since 2007, which is the lowest funding of any OMB office. In order to effectively carry out its statutory duties, do you believe that OFPP needs enforcement authority? If not, how will you ensure, if you are confirmed, that agencies follow OFPP's directives and guidance?

These are issues that, if confirmed, I would explore further with OMB management. At this point, I can offer the following comments: First, I have been impressed by the quality of the OFPP staff as well as the quality and the sheer quantity of the work product that the very small staff produces. Second, I view OFPP's role as one of leader and catalyst, and for that role, a small staff may be appropriate. With respect to its efforts to ensure that agencies follow OFPP's directives and guidance, it is my understanding that OFPP's work with the Chief Acquisition Officers Council, the Senior Procurement Executives, and the FAR Council plays an important role in that respect.

2. A recent report by the Acquisition Reform Working Group of the IBM Center for the Business of Government and George Mason University recommended that OFPP be given an expanded mission to provide necessary government-wide leadership and coordination. It also recommended that federal agencies be required to take several steps to improve collaboration and coordination of agency-wide acquisition functions. These steps include expanding Chief Acquisition Office authority and designating career senior procurement executives as deputy Chief Acquisition Officers. What are your views on the Working Group's recommendations?

If confirmed, I would want to study the referenced report and form a considered view on its recommendations.

3. Within the federal government, there are multiple entities with significant control, influence, oversight, and management of the procurement process. These include OFPP, the General Services Administration (GSA), agency procurement offices, and several councils, working groups and affinity groups. The overlapping responsibilities of these entities could lead to confusion over government-wide leadership on acquisition policy.

- a. What is your understanding of the OFPP Administrator's authority and reporting relationships within OMB?

The OFPP Administrator reports to OMB's Deputy Director for Management and ultimately to the OMB Director. From my discussions with OMB's Director, Deputy Director for Management, and other senior leaders within OMB, I understand that the OFPP Administrator will be fully integrated into the OMB management team, and will be expected, subject to higher-level management's supervision, to exercise broad authority in all matters related to procurement policy.

- b. What is your understanding of the OFPP Administrator's ability to hold GSA accountable for its implementation of OFPP's programs such as the Federal Acquisition Institute and the Federal Procurement Data System?

While I would intend, if confirmed, to explore this important issue more fully, it is my understanding that OFPP and GSA collaborate closely in these efforts. I look forward to working with the Administrator of GSA, upon her confirmation, on our shared goals and responsibilities to support the federal acquisition system.

4. The authority to participate in the development of government-wide procurement regulations in the Federal Acquisition Regulation is shared among GSA, National Aeronautic and Space Administration, and Department of Defense. In your opinion, should the participants be periodically reviewed and changed as needed? If so, should the statute be revised to not specify the participating agencies and to provide OFPP with flexibility in staffing and coordinating the development of the FAR?

If confirmed, I would welcome the opportunity to engage in stakeholder discussions on that question.

5. In your opinion, is OFPP involved enough in OMB reviews of agency budget or management issues involving procurement? If not, what are your recommendations to strengthen OFPP's role?

It is my understanding that the current leadership of OMB actively involves OFPP in OMB reviews of agency budget and management issues involving procurement. My discussions with the OMB Director and the Deputy Director for Management have given me a high level of confidence that, if the Senate confirms my nomination, they will fully integrate me into OMB's reviews of those issues.

6. This Administration has already taken significant steps to reform federal acquisition practices and is taking strides to improve program evaluation and strengthen performance management. Specifically, the President issued a President's Memorandum on Government Contracting on March 4, 2009, and the Office of Management and Budget has already issued a series of related guidance.

- a. If confirmed, how do you view your role in procurement reform and what are your priorities for additional government-wide reforms?

I view the OFPP Administrator as the person responsible for providing overall direction within the Executive Branch for acquisition policy, and I fully support the efforts underway at OMB and in the agencies to respond to the President's challenge to strengthen our acquisition practices. Consistent with these and other efforts, my priorities include: (1) increasing the size, and improving the training, of the federal acquisition workforce, (2) finding annual savings through better acquisition practices, (3) reducing high risk contracting, (4) making sure that services are not being acquired from contractors when agency management believes they need to be performed by federal employees, and (5) improving contract management.

- b. What types of performance goals and metrics do you plan to establish for OFPP and who will be held accountable for performance outcomes?

While I am not yet in a position to identify specific performance goals, I would, if confirmed, work with the Deputy Director for Management in establishing goals for my leadership at OFPP. I would expect those goals to grow out of, and be aligned with, the Administration's key acquisition initiatives, implementing the President's Memorandum on Government Contracting to ensure that agencies are taking steps to save money, reducing high-risk contracting practices, ensuring effective contract management and using contractors only to perform functions that are appropriately performed by the private sector, and improving the capability and capacity of their workforce. These goals were emphasized by the Deputy Director for Management at a recent hearing before the Senate Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs.

7. In your biographical questionnaire you mentioned your respect for the multiple stakeholders in our procurement system. If confirmed, how often and in what form do you plan to solicit industry input? Do you believe that OFPP has adequate channels to receive information and to initiate any necessary corrective action?

If confirmed, I would hope to continue to build on OFPP's and my own history of active outreach. In addition to formal opportunities (such as the ability to submit comments on draft regulations), I would welcome the opportunity to obtain frequent input from the private sector as well as from other federal agencies, federal employee unions, professional associations, the private bar, and other stakeholders. While, if confirmed, I would expect to learn more about the details of communication channels to and from OFPP, I am not currently aware of inadequacies in that regard. In addition to communication with the various stakeholders listed here, I would, if confirmed, attach very high importance to frequent and open communication with Congress and congressional committees and staff.

Acquisition Workforce

8. Recent surveys of the federal acquisition workforce, including the 2008 Professional Services Council Procurement Policy Survey, have shown that acquisition professionals have serious concerns about the amount and quality of the oversight of acquisition activities. If confirmed, how do you plan to address this concern? Do you believe that OFPP should facilitate enhanced training of investigators, auditors, and inspectors general?

Management and oversight of acquisition activities take many forms. Some aspects of oversight, such as investigations by inspectors general and audits by GAO and Executive Branch auditors, are largely outside OFPP's purview, at least in terms of the conduct of the investigation or audit. Of more relevance to OFPP is how agencies manage their contractors' performance. That issue, contract management, is an area that needs more attention than it has received, and OFPP's efforts in this area can be helpful in multiple ways. First, OFPP can highlight the need to strengthen the numbers of the acquisition workforce and their training, which should help with contract management. In addition, it is important to recognize the key role, and improve the training, of those who serve as contracting officer technical representatives, because of their importance in good contract management. Additionally, I understand that the Chief Acquisition Officers Council has a Human Capital Working Group and, if confirmed, I would vigorously support that work to determine, among other things, how training can support the work of the audit and oversight community.

Second, OFPP can and should leverage the Chief Acquisition Officers Council and the Senior Procurement Executives to share 'lessons learned' and identify ways to improve contract management.

9. As with procurement policy as discussed in question 3, all of the programs, participants, authority, and reporting on the federal acquisition workforce create a very complicated picture. If confirmed, how will you ensure that the acquisition workforce receives the guidance, development, and support it needs, with clearer lines of authority and resources?

I believe that OFPP endeavors, through its own work and the work of the FAR Council and the Chief Acquisition Officers Council, to provide clear guidance. If confirmed, I would welcome the opportunity to work on simplifying and clarifying regulations and guidance and providing the development and support that our workforce need and deserve.

10. What steps would you take to improve morale within the acquisition workforce?

I view one of the OFPP Administrator's most important responsibilities as addressing the needs of the acquisition workforce. One way to improve the morale of our acquisition workforce is to ensure that the current efforts to increase their numbers and improve

their training succeed. Beyond that, if confirmed, I would welcome the opportunity to solicit input from our workforce, whether in writing, in meetings, or otherwise. I have a long history of reaching out to contracting agencies to speak with their acquisition personnel and to hear their concerns, and, if confirmed, I would plan to conduct frequent outreach sessions. The OFPP Administrator needs to communicate with the federal employees who make our acquisition system work, and they need to know that the OFPP Administrator is listening to them and is their advocate.

11. The Federal Acquisition Institute in its Fiscal Year 2008 report found that over half of the existing acquisition workforce will be eligible to retire in the next ten years, further eroding an already understaffed federal contracting workforce. If confirmed, what are your plans to tackle the shortage of qualified federal acquisition employees?

I understand that OFPP and the Chief Acquisition Officers Council devote considerable time and effort focusing on succession planning for our acquisition workforce. As noted above, I view increasing the size, and improving the training, of our acquisition workforce as among the highest priorities that I would bring to the position of OFPP Administrator, if the Senate confirms my nomination. I understand OFPP has issued a strategic workforce plan to address this shortage, and I would want to learn more about these efforts and others supported by the Chief Acquisition Officers Council as I consider what further actions may be appropriate.

12. There often appears to be a disconnection between the acquisition and human capital functions within agencies and within the larger Administration. This may result in acquisition workforce issues largely falling to acquisition staff without the benefit of human capital expertise. At an August 5, 2009, hearing of the Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee, the Department of Energy (DOE) witness testified that DOE's acquisition functions are "not organizationally aligned with our human capital office" so the witness's office was just becoming aware of its existing hiring and retention authorities.

- a. How do you view the role of the OFPP in improving the communication and collaboration between the acquisition and human capital functions within the executive branch?

If confirmed, I would do whatever I can to ensure that OFPP improves the collaboration among agencies as they strengthen their acquisition workforce. I understand that OMB has developed an acquisition workforce development strategic plan for civilian agencies, consistent with the mandate of the 2009 National Defense Authorization Act, and I believe that this plan can be helpful in this regard. If confirmed, I would also want to see to it that there is adequate consultation with the Office of Personnel Management, especially with respect to improving recruitment efforts and OPM's very important hiring reform initiative. I understand that the Chief Acquisition Officers Council, where OFPP plays a central role, has a Human Capital Working Group that I believe is looking into these issues, and, if confirmed, I would vigorously support that work.

- b. If confirmed, how will you ensure greater communication and collaboration between the acquisition and human capital functions in agencies?

I believe that my answer to the prior question is relevant here as well. I believe that strengthening the workforce is a top priority for OFPP, and I understand there is high-level commitment for facilitating communication and collaboration from OFPP and from the Chief Acquisition Officers Council through their human capital working group.

13. The National Defense Authorization Act of 2008 created the position of Associate Administrator for Acquisition Workforce Programs, a Senior Executive Service position with critical responsibilities. These include supervising the training fund, developing a strategic human capital plan for the federal government, reviewing agency acquisition workforce succession plans, and recommending ways to increase and improve the federal acquisition workforce. To date, this position has never been filled. If confirmed, will you commit to filling the new Associate Administrator for Acquisition Workforce as soon as possible?

Yes. I understand this position has been advertised and, if confirmed, I will play a lead role in this selection. I view the issue of increasing the size of, and improving the training of, our federal acquisition workforce as among the highest priorities facing the federal government and, if confirmed, I would welcome the opportunity to leading OFPP's efforts in this regard.

Senator Claire McCaskill
Additional Questions for the Record
Nomination Hearing of Daniel I. Gordon
November 10, 2009

1. As you likely know, on March 4th of this year, the President set forth an ambitious goal to reduce the federal government's reliance on contracting and eliminate waste in the contracting process. Since that time, OMB has put out several pieces of guidance to federal agencies to achieve this goal. As such, on October 28th the Subcommittee on Contracting Oversight held a hearing to consider OMB's guidance and the progress moving forward on additional guidance we expect from OMB. We understand this is going to be a very long and somewhat arduous process so the Subcommittee will be anxious to follow-up on the progress being made at the agencies as well as additional guidance OMB puts forward. Will you make a commitment to me that you will be helpful to making sure the Subcommittee can effectively oversee this process and that you will make yourself available to testify should the subcommittee desire your input?

If confirmed, I will do what I can to be helpful to the Subcommittee and will make myself available to testify, should the Subcommittee request that.

2. We both have a shared interest to improve federal acquisition management. I've been anxiously awaiting this appointment. We can't say it enough: Between 2000 and 2008, government spending on contracts increased 149%, with a record \$525 billion in contract spending in fiscal year 2008. As I mentioned at the Contracting Subcommittee hearing last week, I am encouraged by President Obama's commitment to eliminate the pervasive waste, fraud and abuse. But I am equally concerned that OMB's guidance does not go far enough. We have some metrics and benchmarks but I'm not hearing a lot about enforcement -- how can we hold agencies accountable to meet the targeted contracting reductions for 2010 and 2011 and ensure it's not business as usual? Are there penalties/consequences for those out of compliance? If not, would you recommend certain consequence for lack of compliance?

I understand that OMB is reviewing savings and high risk plans in conjunction with the budget review process. While I am not fully familiar with how OMB's management and budget functions interact on these types of exercises, it strikes me that use of both sides of the organization is precisely what is needed for this initiative. At a minimum, it should signal that this is a high priority initiative and ensure a broader range of management and policy officials at the agencies are actively engaged in the process. If confirmed as Administrator, I would want to meet with the agencies to discuss their progress and work closely with OMB management to understand and evaluate the best ways to use OMB's various tools and processes to address the concerns you raise. With respect to high risk contracting, I was pleased to see that OFPP's guidance includes the expectation for agencies to develop corrective action plans where their current practices are

not effectively helping them reduce the use and mitigate the risk of these authorities.

3. In this vein let me ask what I asked Mr. Zients last week: This is a mammoth undertaking. What are your strategies so when we look back at this hearing many months from now, we'll know we're on the right path. Are there certain mechanisms that can be used to measure change and what are the metrics will help drive change?

As is implicit in the question, having quantifiable performance measures is important in improving performance. While, if confirmed, I would want to work with the Deputy Director for Management and others to develop those performance measures, metrics would presumably include the reduction in contract spending, reduction in spending on higher-risk contracting, and increased numbers of qualified acquisition personnel.

4. I appreciate the commitment to training the acquisition workforce but it's important for them to understand where these reforms are coming from. I know from our experience on this Committee we have often seen major directives only hit high-level leadership and not communicated down to those who are actually doing the work. Do you know how all of the memoranda from OMB and OFPP are disseminated within agencies? How do you know the acquisition folks who are actually doing the work, dare I say, *get the memo*?

My understanding is that OFPP meets regularly with the agencies' chief acquisition officers and senior procurement executives, and those meetings should offer the opportunity to learn how the agencies are disseminating guidance internally. If confirmed, I would also welcome opportunities for OFPP to reach out to 'front line' acquisition staff. Such meetings can be used to learn whether guidance is reaching acquisition staff, those, as you say, who are 'actually doing the work,' as well as to get their input on the usefulness of the guidance, the challenges they face, and other issues they want to raise.

5. Along those lines, the guidance has been criticized because it is not clear and more specific. It hits on generalities of goals and objectives but doesn't dig down deep enough to inform agencies how they can meet the goals of the President. This is of special concern when it comes to training of the acquisition workforce, which ideally would be consistent across agencies. Do you think this is an issue and if so, what can your office do to make sure that there is some consistency within agencies in how they are implementing this guidance?

We need to ensure guidance is clear so that it achieves the intended result of greater efficiency and effectiveness in acquisition practices. For example, I view OFPP's guidance on competition and contract type as a starting point—not as an

end point. If confirmed as Administrator, I would want to work closely with agencies as we review their progress against their high risk and savings targets to identify specific areas in need of additional attention and then develop guidance or policy, as needed, around these areas. Similarly, I would want to work with Chief Acquisition Officers and Senior Procurement Executives, the Federal Acquisition Institute, and the Defense Acquisition University to identify areas in need of targeted training opportunities and, equally important, associated strategies for improving how this training is delivered to the workforce to ensure their needs are being met effectively and on a timely basis.

6. One of the issues I raised when Mr. Zients was before the Subcommittee was how we can stop agencies from making the end of the year rush to contract out in order to spend money they have left. The fear these agencies seem to have is that if Congress finds out they have money left at the end of the year, we won't appropriate as much the following year, so they make this big rush to award contracts to get money out the door. This often results in bad contracting decisions. Are there ideas you have in mind to address this problem?

As a general matter, better acquisition planning and good internal management controls, especially for recurring needs or other needs that can be anticipated, is the best remedy for reducing end-of-year contracting pressures that can lead to the type of wasteful spending practices you describe. Pressures to be more prudent in the use of high-risk contracting, such as time-and-materials contracting, should also help to drive greater discipline into the process. If confirmed, I would welcome the opportunity to discuss with stakeholders other ways to address the challenges of end-of-year contracting.

7. One thing that has really frustrated me since I got to the Senate is this idea that federal agencies contract with each other to purchase goods, and one agency actually makes money off the deal. This idea that there is this idea that agencies are somehow autonomous from the federal government as a whole and it isn't all taxpayer money is ridiculous. The OMB guidance doesn't address this issue. Are you aware of what I am talking about and if so, do you have suggestions of how to prevent this type of absurd contracting?

The question points to one of the problems arising from interagency contracting, which usually involves one agency setting up and managing contracts that are then used by other agencies across the government. Interagency contracting is a valuable tool that can enable agencies to conduct procurements more quickly and at lower overall cost. When done well, interagency contracting can reflect strategic sourcing—ensuring that the government conducts its acquisitions efficiently and obtains prices that reflect the buying power of the government-wide market. Interagency contracting may also provide a useful mechanism through which an ordering agency may benefit from another agency's contracting expertise or capability. These "assisted acquisitions" can create increased risk to the government if not managed effectively, and past mismanagement led GAO

to include interagency contracting on its high-risk list. Your question points to one management concern— how fees charged to the ordering agency are established. While it is reasonable, in my view, for the ordering agency to pay a fee to cover the costs of the contracting agency, the contracting agency should not be making a profit from the transactions. In addition, problems have arisen when there is a lack of clear accountability regarding roles and responsibilities of the contracting and ordering agencies. If confirmed as OFPP Administrator, I would work to ensure that the government continues to benefits of interagency contracting while mitigating the associated risks.

8. At nearly every oversight hearing I bring up the fact that we have contractors sitting next to federal employees doing the same jobs for twice the salary. Mr. Zients said the guidance on defining inherently governmental functions is delayed indefinitely. If confirmed, what can your office do to help ensure that inherently governmental jobs are not outsourced and equalize the balance in the multi-sector workforce?

Consistent with the President's March 4 Memorandum on Government Contracting as well as the OMB Director's July 29, 2009 Memorandum, we must ensure, first, that all inherently governmental functions are performed only by federal employees; and second, that agencies not outsource critical functions needed to protect the agencies' internal capabilities and capacity to maintain control of their operations. If confirmed, I would work to ensure that OMB provides clear and helpful guidance to agencies in this regard.

9. Along these lines, committee staff have been trying for some time to quantify the number of contractors working at DHS. There have been some lower-level data calls but information has not been that helpful. I believe it will be hard to measure reducing our reliance on federal contractors if we don't know how many we have to begin with. If confirmed, what can OFPP do to help DHS – an agency effectively stood up by contractors and probably the worst abuser of employing contractors for inherently governmental work?

If confirmed, I would want to ensure that OFPP works with officials at the Department of Homeland Security to review the concerns that you raise. At this time, I am not familiar enough with the situation at that agency to have a definite view on the specific issues raised in your question.

Senator Jon Tester
Additional Questions for the Record
Nomination Hearing of Daniel I. Gordon
November 10, 2009

1. It is undeniable that small businesses are the engine of this country's economic growth. And now more than ever, we must focus on providing small businesses with the tools and opportunities to grow, prosper, and create jobs.

When it comes to accessing federal contracts, however, too often small businesses in Montana and throughout the rest of the country are left out of the loop. The federal procurement process is too complicated and time-consuming for many of these small businesses to navigate – and those that can endure the process often find a decreasing number of skilled agency contracting officers with whom they can work.

How do you plan to improve the federal acquisition and procurement process so that more small businesses can effectively compete for government contracts?

Our government has a long-standing commitment to small business participation in federal contracting and, if confirmed as the OFPP Administrator, I will be equally committed to promoting small business opportunities. I understand that, working with the Small Business Administration and other stakeholders, we have made progress in reducing the barriers to entry that small businesses face in their efforts to participate in the federal marketplace. However, we must continue to focus on increasing opportunities for small business and, if confirmed, I would want to further efforts to help small businesses compete for federal contracts.

Senator Susan M. Collins
Additional Questions for the Record
Nomination Hearing of Daniel I. Gordon
November 10, 2009

1. According to a September 2009 Government Accountability Office (GAO) report, federal agencies obligated as much as \$7.9 billion in FY2008 under schedule blanket purchase agreements (BPA), which is a contracting vehicle to fill repetitive needs. It basically functions as a “charge account.”

In about half of the 336 sample BPAs reviewed, GAO found no evidence that agencies sought discounts when establishing BPAs. At times, such opportunities were missed when the estimated amount of the BPA was in the hundreds of millions of dollars. In addition, contracting officials rarely conducted the required annual reviews. By not conducting annual reviews, agencies miss opportunities for savings and can run the risk of violating competition requirements.

I understand the recent competition guidance issued by OFPP did not specifically address BPAs. Would you consider taking actions to ensure this contracting tool is not misused?

Yes. Blanket purchase agreements offer agencies ways to obtain lower prices, and failing to do so can mean that the government is spending more than it needs to. In my view, BPAs should be viewed in the larger context of strategic sourcing, in which we analyze the acquisition needs across the government, to ensure that the government obtains prices, and other terms and conditions, that reflect the large quantities the government buys. If confirmed as OFPP Administrator, I would want to hear from the contracting agencies, especially the front-line workforce, to ensure that OFPP and the FAR Council are providing guidance that the acquisition workforce finds useful, so that BPAs and other contracting tools help us obtain the lowest available prices and best possible terms for the government. As with all contracting tools, we cannot get the benefit of BPAs without adequate contracting staff who have the training needed to use them properly.

2. Holding contractors accountable for past performance is an important tool for making sure the federal government receives good value from its contracts. In April, however, GAO found that contracting officials were reluctant to rely on currently available past performance data in making contract award decisions because of concerns about the reliability and relevance of the data. In addition, the increased workload burden put on contracting officers makes it very difficult for them to adequately analyze the information available in the Past Performance Information Retrieval System (PPIRS).

Considering the quantity and complexity of the past performance data collected by various federal agencies, do you believe a government-wide “Past Performance Fusion Center,” akin to an intelligence fusion center, designed to promote up-to-date information sharing and comprehensive analysis would be helpful?

I view the use of past performance information in the selection of contractors as a major benefit of procurement reform from the 1990s, since it recognizes the importance of meeting cost, schedule, and performance commitments in government contracts. I recognize that there have been considerable challenges in ensuring that past performance information is accurate, current, and complete. If confirmed, I would want to explore the interesting idea set out in this question, and to hear from stakeholders on this and other steps that can be taken to ensure that contracting personnel have reliable past performance information available to them.

Senator George V. Voinovich
Additional Questions for the Record
Nomination Hearing of Daniel I. Gordon
November 10, 2009

1. If confirmed, what metrics will you use to demonstrate efficiencies generated by growing the acquisition workforce?

The President and OMB Director have identified cost savings and reduced use of high-risk contracting vehicles as quantifiable metrics for measuring the performance of the acquisition system. I recognize the potential value of identifying additional performance metrics to demonstrate efficiencies generated as we increase the size, and improve the training of, the acquisition workforce, and, if confirmed, I would welcome the opportunity to work with the Committee and other stakeholders in that regard.

2. I applaud the Administration's efforts to generate acquisition cost-savings through strengthening the acquisition workforce and using new technology to improve contract management. However, OMB will also count contract terminations as part of an agency's cost-savings target. I am concerned that agencies may pluck this low-hanging fruit instead of making the long-term investments needed to improve the federal government's ability to manage acquisitions. If confirmed, how will you ensure the cost-savings process generates lasting acquisition improvements?

I understand the concern, and, if confirmed, I would work to ensure that the cost-savings process leads to lasting acquisition improvements. I am pleased that OMB's recent guidance on increasing the capability and capacity of the acquisition workforce sets forth a long-term planning process for developing a workforce that is capable of generating the kinds of improvements you suggest. Additionally, I understand that agencies are identifying improved processes in their savings plans that will generate efficiencies now and in the future. All of this will be reinforced by an increase in transparency, which, as I said at the confirmation hearing before the Committee, can make more visible, and therefore discourage, the use of the improper use of sole-source awards, cost-reimbursement contracts, and time-and-materials contracts.

Senator Robert Bennett
Additional Questions for the Record
Nomination Hearing of Daniel I. Gordon
November 10, 2009

1. Strategic sourcing is the collaborative and structured process of critically analyzing an organization's spending and using this information to make smart business decisions about acquiring goods and services more effectively and efficiently. This process helps federal agencies: (1) optimize performance; (2) minimize price; (3) increase achievement of socio-economic acquisition goals; (4) evaluate total life cycle management costs; (5) improve vendor access to business opportunities; and therefore--increase the value of each dollar spent. In other words, strategic sourcing helps the federal government get a bigger bang for its buck.

You, as OFPP Administrator, will be responsible for reviewing each plan that each federal agency submits yearly, identify several commodities that could be strategically sourced government-wide, and establish an interagency structure for managing the acquisition of these commodities

Can you please respond to the following questions:

- a. What is your familiarity with the process of strategic sourcing?

I very much support strategic sourcing, the analysis of government-wide spending on goods and services to develop ways to make purchases more efficiently and ensuring that the government obtains the benefit of its importance as a large-quantity buyer. Strategic sourcing offers many potential benefits, including not only lower prices, but also smarter decisions about what products and services meet the government's needs, less duplication of contracts among agencies, a reduced burden on the acquisition workforce, and a better focus on opportunities for small businesses.

- b. What commodities are currently identified by OFPP to be strategically sourced?

I understand that OFPP and GSA partner on the Federal Strategic Sourcing Initiative to offer solutions for such services as domestic package delivery and telecommunications expense management. If confirmed, I look forward to engaging fully in that government-wide effort and, additionally, supporting agency efforts to more strategically source goods and services.

- c. Should you be confirmed, will you commit to this Committee, a report on the effectiveness of the federal strategic sourcing initiative that OFPP is responsible for implementing and the ways that you think, as the new Administrator, it can be improved?

I am pleased to work with this committee to further this important initiative, and would be happy to share with you our progress and future plans.

