

S. HRG. 114-573

**NOMINATION OF HON. PEGGY E. GUSTAFSON,
TO BE INSPECTOR GENERAL FOR THE
DEPARTMENT OF COMMERCE**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

MAY 10, 2016

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ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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**NOMINATION OF HON. PEGGY E. GUSTAFSON,
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DEPARTMENT OF COMMERCE**

TUESDAY, MAY 10, 2016

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10:03 a.m. in room SR-253, Russell Senate Office Building, Hon. Roy Blunt, presiding.

Present: Senators Blunt [presiding], McCaskill, Klobuchar, and Blumenthal.

**OPENING STATEMENT OF HON. ROY BLUNT,
U.S. SENATOR FROM MISSOURI**

Senator BLUNT. So let me call the hearing to order. And we're certainly pleased to have Peg Gustafson here today to testify before the Committee to be the next Inspector General of the Department of Commerce. For 6 years, she served as the Senate-confirmed Inspector General for the Small Business Administration. During her time there as Inspector General of the SBA, Ms. Gustafson worked to address challenges at the SBA, like fraudulent schemes affecting several SBA programs, significant losses from defaulted loans, procurement flaws that allow large firms to obtain small business awards, and excessive improper payments.

The U.S. Department of Commerce, of course, with 12 bureaus and nearly 47,000 employees located in 50 states and territories, and in more than 86 countries worldwide, has a broad, wide-ranging stewardship, from the oceans to satellites to the census to telecommunications, and it's important that the new Inspector General be able to hit the ground running. I believe that Ms. Gustafson will be well positioned to have an immediate impact at the Department of Commerce.

Prior to her role at SBA, she served as the General Counsel to Senator McCaskill, a member of this committee. She advised the Senate on Government oversight issues and helped write the Inspector General Reform Act of 2008, among other things she has done.

Senator McCaskill will be introducing Ms. Gustafson in just a minute, but I want to say a couple more things about the challenge at the Department of Commerce. First of all, it has been without an Inspector General since June of last year. Last August, Chairman Thune and Homeland Security Committee Chairman Johnson called on the President to nominate a suitable candidate to be the

permanent Inspector General of the Department of Commerce. Both committees were concerned that a lengthy absence of a permanent Senate-confirmed Inspector General at the Department of Commerce would diminish independent oversight and destabilize the Office of Inspector General.

The mission of the office, of course, is to improve the efficiency and effectiveness of the Department. This mission has been impacted by an unwillingness of the Department in a number of areas to cooperate with the Inspector General. Those are—those issues are covered in my prepared statement, which I’m going to put in the record.

[The prepared statement of Senator Blunt follows:]

PREPARED STATEMENT OF HON. ROY BLUNT, U.S. SENATOR FROM MISSOURI

Today we are very happy to welcome Peg Gustafson to testify before the Committee as we consider her nomination to be the next Inspector General at the Department of Commerce. For the past six years, Ms. Gustafson has served as the Senate-confirmed Inspector General of the Small Business Administration (SBA).

During her tenure as the Inspector General of the SBA, Ms. Gustafson worked to address challenges at SBA, such as fraudulent schemes affecting all SBA programs, significant losses from defaulted loans, procurement flaws that allow large firms to obtain small business awards, and excessive improper payments.

With 12 bureaus and nearly 47,000 employees located in all 50 states and territories, and in more than 86 countries worldwide, the Department’s mission is broad, ranging from stewardship of the oceans and satellites, to the census and telecommunications.

It is important for the new Inspector General to be able to hit the ground running, and I believe Ms. Gustafson will be well positioned to make an immediate impact at the Department of Commerce.

Prior to her role at SBA, Ms. Gustafson served as General Counsel to Senator Claire McCaskill, a member of this committee. She advised the Senator on government oversight issues and helped write the Inspector General Reform Act of 2008, among other things.

Senator McCaskill will be introducing Ms. Gustafson shortly.

From 1997 to 2007, Ms. Gustafson served as General Counsel in the Missouri State Auditor’s Office, and before that, she served as an assistant prosecuting attorney for Jackson County, Missouri.

The Department of Commerce has been without a permanent Inspector General since June of last year.

Last August, Chairman Thune and Homeland Security Committee Chairman Johnson called on the President to nominate a suitable candidate to be the permanent inspector general of the Department of Commerce.

Both committees were concerned that a lengthy absence of a permanent, Senate-confirmed inspector general at the Department of Commerce would diminish independent oversight and destabilize the Office of Inspector General.

The mission of the Office of Inspector General (OIG) is to improve the efficiency and effectiveness of the Department’s programs and operation, as well as to detect and deter waste, fraud, and abuse.

This mission to protect taxpayer dollars is best served when a permanent Inspector General is in place.

I strongly support the mission of inspectors general at the departments and agencies within the Committee’s jurisdiction. Indeed, their independence is absolutely critical to their success.

I am particularly concerned about information access issues the Commerce Department’s Office of Inspector General recently faced.

A bedrock principle of the Inspector General Act of 1978, which established an Office of Inspector General within 72 agencies across the Federal Government, is that inspectors general must have access to “all” agency records and information necessary to conduct oversight.

Unfortunately, since the early days of the Obama Administration, many agencies have systematically thwarted access to “all records” agency inspectors general need to do their job. Even the *New York Times* Editorial Board, in a March 9, 2016, editorial entitled “Let Inspectors General Do Their Job,” has underscored this concern.

Sadly, this pattern of obstruction of inspectors general audits and investigations by the Obama Administration has even involved the Department of Commerce.

The Department of Commerce Office of Inspector General has twice been forced to terminate an audit of the International Trade Administration's Enforcement and Compliance unit after Commerce Department officials refused to grant access to requested information, based on a highly dubious interpretation of a 68-page legal opinion issued by the Obama Justice Department that essentially argued inspectors general were not entitled to "all" agency information.

This opinion from the Obama administration is in direct contradiction of the Inspector General Act of 1978.

The second time the Department of Commerce Inspector General was forced to terminate an audit of the International Trade Administration occurred as recently as last month.

As the *New York Times* editorial states, "for nearly three decades no one questioned the authority of inspectors general to obtain sensitive or protected information." No one, that is, except the self-described "most transparent administration in history."

Last month, the Office of Inspector General advised that the Commerce Department's latest refusal to provide access has now been reversed, allowing the planned audit to proceed.

This is welcome news, but we need to ensure that future presidents will not seek to obstruct the mission of inspectors general as the Obama Administration has done.

Department officials must not hinder the Inspector General's work by denying access to records necessary to complete audits and investigations.

Furthermore, significant delays in granting access to key information are often tantamount to denial, and prevent both the Department and the public from understanding challenges within the Department and the steps it is taking to address them.

In conclusion, although it has been nearly a year since the last Inspector General resigned, we are pleased to have the President's nominee before the Committee.

Once the Senate received Ms. Gustafson's nomination on April 25—only two weeks ago—this Committee acted swiftly to schedule this hearing.

I turn now to Ranking Member Nelson for any remarks he would like to make.

Senator BLUNT. But I want to move now to Senator McCaskill to introduce the nominee.

**STATEMENT OF HON. CLAIRE McCASKILL,
U.S. SENATOR FROM MISSOURI**

Senator McCASKILL. Thank you, Mr. Chairman. It is a pleasure for me to get to introduce Peg Gustafson to the Committee. There are two things that you need to be an Inspector General: one is fearlessness and the other is focus. Rarely do I know a nominee for these jobs, and never have I known a nominee as well as I know Peg. Her background is one of public service. She was raised in Chicago by a father who was a police officer. In fact, two of her sisters went on to work in law enforcement. Peg chose to go to law school. But because of that influence in her childhood, she was drawn to the prosecutor's job.

And I was the elected prosecutor in Kansas City when Peg interviewed for a job. And this story tells you really all you need to know about Peg in terms of her fearlessness. She had come and asked for a job, and I said, "Listen, I think you're a great candidate. I just don't have room right now to hire you."

So she was hired by the county legal counsel and was working for the county in a capacity as their lawyer. There was a lawsuit that I care deeply about, as the elected prosecutor of the county, and I'm sure it will be a shock to Senator Blunt and Senator Gardner that I had very strong opinions about it and that I was not shy about letting those opinions be known to everyone.

So I went to this meeting with the legal counsel for the county. And keep in mind, now, Peg is in this meeting and she has applied for a job with me. Now, we all know there are two kinds of staff, lots of bright staff, but there's the kind of staff that shades what they tell you based on what they know you want to hear, and there's the kind of staff that stands up to you and makes you better and stronger and more capable.

So at this meeting, I kind of expected Peg, based on her demeanor in our interview, to kind of take a low-key approach and shade what she said in order not to offend me because it was very clear to everybody in the room how strongly I felt about this. So imagine my surprise when Peg Gustafson squared her shoulders and stood up to me and told me exactly why I was wrong on the law and exactly why the county should proceed in a different way.

I went back to my office and I called my Chief of Staff in, and I said, "We better hire Peg Gustafson." And we did. And she was a great assistant prosecutor, widely respected by judges and defense counsel and police department because of the work she did.

I took her with me to the State Auditor's Office, where she was the point person on access issues, which is very important for her job as Inspector General because a lot of your job as Inspector General is getting access, and she was the one when a part of government decided they didn't really want to talk to us or didn't want to cooperate with us, she was the one who went toe-to-toe with them on those legal issues.

Once again, she uprooted her family and moved. They're here today, Patrick and Amy and Doug, her two children and her husband, made them come along, came to Washington, and worked in my office, where she did the work in the IG community and was instrumental in passing the IG Empowerment law, which gives more independence to Inspector Generals than they've ever had in our Government.

I think the job she has done at SBA is remarkable. I think she has shown that fearlessness and focus, and I know that she will be that same kind of Inspector General at Commerce, and I only hope that our inability to get our work done here does not impact her swift confirmation because if there was ever a department of Government that needs an Inspector General and needs it now, it's Commerce. There have been a string of failures in that position and the stability and the continuity that Peg would provide to that office are essential at this moment.

So I urge her swift confirmation, and I sit here with a great deal of pride at her success, which she has everything to do with. I have been a big player in watching her rise through the level of public service to obtain this honor to serve in this capacity, and I know she'll do well.

Thank you, Mr. Chairman.

Senator BLUNT. Thank you, Senator McCaskill.

And, Ms. Gustafson, we're pleased you're here. And if you want to say more about your family, we're pleased they're here as well. But we appreciate your opening statement.

**STATEMENT OF HON. PEGGY E. GUSTAFSON, TO BE
INSPECTOR GENERAL FOR THE DEPARTMENT OF COMMERCE**

Ms. GUSTAFSON. Senator Blunt, Senator McCaskill, Senator Fischer, hello. It's an honor to be here today and to be under consideration to serve as Inspector General for the Department of Commerce. I have prepared a written statement and request to have it submitted for the record.

It's been an incredible honor to serve as the IG for the Small Business Administration since October 2009. I'm extremely excited about this new opportunity and possibility to serve at the Department of Commerce, which performs vital functions and provides services to propel America's economy forward.

I want to take just a couple minutes to introduce myself to you and explain why I believe my career in public service and tenure as SBA Inspector General has prepared me to take on the role of Inspector General at Commerce.

I do want to thank my husband, Doug, and my kids, Patrick and Amy, for their love and their support. I want to thank my family for their continued support, my siblings, especially Kelly, my sister, and her husband, John, who flew out on pretty short notice from Chicago to be here. I'm so excited to have their support.

I was born and raised in Chicago. Our father was a sergeant for the Chicago Police Department. I attended public schools in Chicago from kindergarten through high school, had the privilege of attending Grinnell College in Iowa, where I received my bachelor's in political science in 1989 and subsequently received my law degree from Northwestern in Chicago.

After law school, I moved to Missouri and began my legal career as a judicial clerk for the Honorable Don Kennedy at the Missouri Court of Appeals in Kansas City. And from there, I spent 6 years in government serving the people of Jackson County, Missouri. I was an assistant county counselor representing the county in civil litigation. I can't believe you remember that story, but I remember very well, what Senator McCaskill just referred to. I worked as an assistant county prosecutor handling all stages of criminal prosecution for a wide variety of cases, from drug cases to arson to murder to white collar crime.

In 1999, I was asked to serve as the General Counsel for the Missouri State Auditor and handled many oversight responsibilities for the state level auditing activities. I was an integral part of the management team. It was there when I first became familiar with the "yellow book," which are, of course, the government auditing standards promulgated by GAO, and did indeed have a lot of experience and became pretty skilled at ensuring that auditors had access to the records necessary to perform their oversight responsibilities and report on the issues that the taxpayers needed to know about.

After 8 years in the Auditor's Office, I served as General Counsel to Senator McCaskill and assisted the Senator in areas related to government oversight and financial management. And, again, that is indeed where I became very familiar with the IG community, through that work, especially the work on the IG Reform Act of 2008.

In March 2009, I was nominated to serve as Inspector General of the Small Business Administration, and I was sworn in on October 2, 2009. I am humbled to have been nominated a second time by the President.

As Inspector General, I seized the opportunity to promote integrity and efficiency within the SBA and have strived to make a positive impact within the Federal Inspector General community. Since 2009, I've led an investigative and audit staff numbered at approximately 100 people, and we've provided, I believe, effective oversight over SBA's programs, which encompass more than \$100 billion in guaranteed loans and \$100 billion in Federal Government contracting dollars. In that time, our office has averaged over an eight-fold return on investments to the taxpayer relative to our budget.

As Inspector General, I have actively participated as a member and leader in the Council of Inspectors General of Integrity and Efficiency, CIGIE for short. After becoming Inspector General, I accepted the position of Vice Chair of the Legislation Committee, and then took over as Chair of the Legislation Committee for CIGIE, where I served 5 years, both as the Chair of the Legislation Committee and a member of CIGIE's Executive Council. In that role, I testified several times on behalf of the IG community and telling Congress the tools that we would like to help us perform our function.

I'm very proud of the reputation I've earned in the course of my career in public service, particularly as Inspector General. I bring to these positions a strong commitment to earning and keeping the public trust and to using taxpayer dollars wisely. I always push those who work for and with me to go the extra mile when I feel it's important to press harder and get to the root of a problem. And, additionally, I believe that those of us in positions of oversight must demand of themselves the highest level of ethical activity and serve as a role model for those with whom we interact.

While the Department of Commerce is clearly a larger agency with a more diverse mission, in the realm of the Office of Inspector General, the mission and focus will be the same, to promote economy, efficiency, and effectiveness in the administration of and prevent and detect fraud and abuse in the programs of the agency.

If confirmed, I will focus resources on the areas of highest risk to the Department and against areas identified as top management challenges. I'll also make it a priority, as I have in this position, to maintain a good working relationship with Congress, with this committee certainly, Congress, as a whole, the Secretary, and all the stakeholders, but I also intend to exercise complete independence in regards to choosing and pursuing audits and investigations.

I believe I have the skills, knowledge, the judgment, demeanor, and track record to serve as the Inspector General for the Department of Commerce, and I cannot thank you enough for your consideration, and look forward very much to your questions.

Thank you.

[The prepared statement and biographical information of Ms. Gustafson follow:]

PREPARED STATEMENT OF HON. PEGGY E. GUSTAFSON OF MARYLAND,
TO BE INSPECTOR GENERAL, DEPARTMENT OF COMMERCE

Chairman Thune, Ranking Member Nelson, and Members of the Committee. It is an honor to be here today and to be under consideration to serve as Inspector General of the Department of Commerce.

I believe public service is a noble profession and it has been a privilege to serve as the Inspector General of the U.S. Small Business Administration (SBA) since October 2009. I am very excited about this new opportunity to serve at the Department of Commerce, which works to promote job creation, economic growth, sustainable development, and improved standards of living for Americans. I would like to take the next few minutes to introduce myself to you, and to explain why I believe my career in public service and tenure as SBA Inspector General has prepared me to take on the role of Inspector General at the Department of Commerce. But first, I would like to express my appreciation to this Committee for considering my nomination expeditiously. I also want to thank my husband, Doug Mischeel, and my children, Patrick and Amy, for their love and their support, especially at this time as I seek the Committee's approval for becoming Inspector General at the Department of Commerce. If I may, I also want to thank my family for their continued support, especially those who are here with me today: my sister, Kelly, and her husband, John.

I was born and raised in Chicago, on the near north side. My family has a long history in law enforcement. My father was a sergeant in the Chicago Police Department and my sisters both continue to serve in law enforcement, with my older sister as a sergeant with the Chicago Police Department and my younger sister Jennifer as a Lieutenant in the Cook County Sheriff's Department. I attended Chicago public schools from kindergarten through high school and then had the privilege of attending Grinnell College in Iowa, receiving my bachelor's in political science in 1989, and Northwestern University in Chicago, where I earned my law degree. After law school I moved to Missouri and began my legal career as a judicial clerk for the Honorable Don Kennedy at the Missouri Court of Appeals in Kansas City.

From there, I spent six years in government serving the people of Jackson County, Missouri. First, I was an Assistant County Counselor, representing the county in civil litigation, including the defense of Federal lawsuits filed by jail inmates, personal injury suits filed by persons alleging they were injured on county property, and representing the county in personnel actions. I then worked as an assistant county prosecutor, handling all stages of criminal prosecution for a wide variety of cases, from drug cases to arson to white collar crime to murder. I also represented the county in cases when we sought to remove public officials from office for violations of conflict-of-interest and nepotism laws.

In 1999, I was asked to serve as General Counsel for the Missouri State Auditor. In this capacity, I handled many oversight responsibilities for state-level auditing activities. In addition to the traditional duties of a general counsel, such as advising the auditor and her staff on legal questions arising in the course of audits, I was an integral part of the management team of the office. I became very familiar with the "yellow book," the government auditing standards promulgated by the Government Accountability Office, as well as the appropriate scope of the Auditor's constitutional and statutory duties. I also became skilled at ensuring the auditors were provided access to the records necessary for them to perform their audits and report on any issues of waste, fraud or abuse of the taxpayers' money.

After eight years in the auditor's office, I was provided with the opportunity to serve as General Counsel in the office of Senator Claire McCaskill. In this capacity, I assisted the Senator in areas related to government oversight and Federal financial management as well as on issues related to the Judiciary, Rules and Ethics Committees. It is in this role that I had an opportunity to become very familiar with the Federal Inspector General community, most notably through my work as one of the key staffers who worked on the Inspector General Reform Act of 2008. I also worked extensively on the legislation which gave expanded authority and powers to the Special Inspector General for the Troubled Asset Relief Program. I would be remiss if I did not express my appreciation to my former boss, Senator McCaskill, for these opportunities.

In March 2009, the President nominated me to serve as the SBA Inspector General, and, following confirmation of my nomination by the U.S. Senate, I was sworn in on October 2, 2009. I am humbled to have been nominated a second time by the President. As Inspector General, I seized this opportunity to promote integrity and efficiency within the SBA, and I also have strived to make a positive impact within the Inspector General Community.

SBA was created in 1953 as an independent agency of the Federal Government to aid, counsel, assist and protect the interests of small business concerns, to preserve free competitive enterprise and to maintain and strengthen the overall economy of our Nation. The President elevated SBA to his Cabinet in 2012. Though the Department of Commerce is much more expansive in size and mission, SBA parallels some of its activities focusing on building America's future and helping the United States compete in today's global marketplace by providing assistance to small businesses across the Nation through credit, contracting, and counseling programs. The SBA helps Americans start, build, and grow businesses. Through an extensive network of field offices and partnerships with public and private organizations, SBA delivers its services to people throughout the United States, Puerto Rico, the U.S. Virgin Islands, and Guam.

With 12 bureaus and nearly 47,000 employees located in all 50 states and territories and more than 86 countries worldwide, the Department of Commerce is substantially more diverse in its critical programs that touch the lives of every American. However, in the realm of the Office of Inspector General, the mission and focus is the same—to promote economy, efficiency, and effectiveness in the administration of, and to prevent and detect fraud and abuse in, such programs and operations of the establishment.

Since 2009, I have led an investigative and audit staff of approximately 100, and my office has provided effective oversight of SBA's programs, encompassing more than \$100 billion in guaranteed loans and nearly \$100 billion in Federal contracting dollars. In this time, we have averaged over an eight-fold return-on-investment to the taxpayer relative to our office budget and have issued 136 reports containing 747 recommendations for corrective action. We have promoted the suspension and debarment process within the SBA and have balanced the focus of our investigative resources to combat fraud in both the credit and the contracting programs.

Early in my tenure, I recognized the importance of an Office of Inspector General's Hotline operation. Not only does the Hotline provide a means for the public to report fraud, waste, and abuse, but it is also a lifeline to whistleblowers. At SBA Office of Inspector General, I've made the Hotline the heart of operations, serving as a principal tool in promoting the integrity, efficiency, and effectiveness of SBA programs. The Hotline receives and processes reports of fraud, waste, abuse, mismanagement, or misconduct involving SBA programs or employees—approximately 700 annually involving millions of dollars of Federal funds. I have worked with the Congress to direct additional resources toward our Hotline, and I have taken a number of actions to enhance its functionality. We elevated the Hotline to be under the purview of the Chief of Staff and implemented a comprehensive Hotline policy, which balanced the information needs of complainants with the operational needs of the office. Importantly, this policy has enhanced privacy protections for complainants and other interested persons. I also integrated our Hotline across multiple platforms, including the public website, a complaint tracking system, and an Integrated Voice Response system for telephone callers. If confirmed, I will ensure an effective and secure Hotline operation is available to those wanting to report fraud, waste, or abuse to the Department of Commerce Office of Inspector General. I also will ensure these complaints are processed in an efficient manner.

As noted, I have worked with the Congress to secure necessary resources to provide effective oversight over SBA programs and operations. I strive to keep the Congress and the Administrator fully and currently informed, dedicating a member of my immediate staff to communicate with the Congress. In these communications, my office has demonstrated fiscal responsibility and long term savings, which has resulted in an approximate 22 percent increase in budget authority from the beginning of my tenure to the present. We've increased investigative capacity while simultaneously pursuing reduced cost for full time equivalent positions. Specifically, we are utilizing unsworn law enforcement personnel to support the investigative efforts of our criminal investigators. Such personnel have significantly reduced costs to that of criminal investigators and have increased the investigative capacity of our traditional law enforcement resources.

I recognize technology acquisition and development pose significant challenges to Federal agencies. At SBA, I focused resources against such challenges, and one technology initiative is particularly noteworthy for being over budget and delayed in its delivery. I fully understand the critical role that Offices of Inspectors General have in overseeing such projects and the positive results that recommendations for corrective action can achieve. I am proud of my office's part in ensuring taxpayer money was not squandered as SBA upgraded its Loan Management and Accounting System (LMAS), a project that was subject to significant Congressional scrutiny and vital to SBA operations. If confirmed, I am poised to provide leadership to ensure similar

projects at the Department of Commerce receive scrutiny by the Office of Inspector General.

As SBA Inspector General, I have actively participated as a member and a leader on the Council of the Inspectors General on Integrity and Efficiency, otherwise known as CIGIE. I was elected by my peers to serve two consecutive terms as the Chair of CIGIE's Legislation Committee, and as such, served as a member of CIGIE's Executive Council for five years. In this leadership capacity, I endeavored to keep the Congress informed of the matters of most pressing interest to the Inspector General Community. I testified on several occasions on behalf of CIGIE, whereby legislative priorities to promote independence and to facilitate effective oversight were championed. I've also led several cross-cutting projects within CIGIE resulting in products, including CIGIE's Congressional Relations Handbook and a Program Fraud Civil Remedies Act Practitioners Guide.

I am proud of the reputation I have earned in the course of my career in public service, particularly as an Inspector General. I bring to each new position a strong commitment to earning and keeping the public trust, and to using taxpayer dollars wisely. At the same time, my teams have consistently been cited for being reasonable, fair, and honest with our stakeholders. I have always pushed those who work for, and with, me to go the extra mile when I feel that it is important to press harder and get to the root of a problem. Additionally, I believe that those of us in positions of oversight must demand of themselves the highest level of ethical activity, serving as a role model for all of those with whom we interact.

I believe my leadership abilities and style have had a positive impact at the SBA, and if confirmed, I believe I can create a culture of ownership and pride for those who work in the Office of Inspector General. With my executive team, I will ensure workplace policies are up-to-date and implement new policies where gaps may exist. Ensuring effective policies and procedures are in place and holding personnel accountable to the same standard is the foundation to a workplace that is considered fair and equitable. Though policies and procedures can be reviewed and implemented in reasonable time frames, the ensuing culture change begins to take root when the trust of staff is earned. I have led through changes of leadership at the SBA and also through changes of my own executive staff. If confirmed, I intend to be a steady hand during the change in Administration and also commit to providing steady, independent leadership within the Office of Inspector General.

Finally, if confirmed, I will focus resources on the areas of highest risk to the Department and also against areas identified as top management challenges. I also will make it a priority to maintain a good working relationship with this Committee, Congress as a whole, the Secretary, and others—but I also intend to exercise complete independence in regards to choosing and pursuing audits and investigations. I believe that I have the skills, knowledge, judgment, demeanor, and overall track record to serve as the Inspector General of the Department of Commerce.

Thank you for your consideration, and I look forward to your questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):
Peggy Elizabeth Gustafson.
2. Position to which nominated: Inspector General, Department of Commerce.
3. Date of Nomination: April 25, 2016.
4. Address (List current place of residence and office addresses):
Residence: Information not released to the public.
Office: Small Business Administration, Washington, DC 20416.
5. Date and Place of Birth: September 21, 1967; Chicago, IL.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
Douglas Micheel, Assistant General Counsel, PEPCO, Washington, DC.
7. List all college and graduate degrees. Provide year and school attended.
Grinnell College, Grinnell, IA, BA Political Science 1989.
Northwestern University School of Law, Chicago, IL JD, 1992.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Inspector General, Small Business Administration, October 2009 to present.
 General Counsel, Sen. Claire McCaskill, 2007–October 2009.
 General Counsel, Missouri State Auditor 1999–2007.
 Assistant Prosecuting Attorney, Jackson County, MO 1995–1999.
 Assistant County Counselor, Jackson County, Missouri 1993–1995.
 Judicial Law Clerk, Missouri Court of Appeals 1992–1993.

9. Attach a copy of your resume. See Attachment A.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last ten years: None.

11. List all positions 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 within the last ten years.

Board member, Senate Employees Child Care Center, 2007–2009

12. Please list each membership you have had during the past ten years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Member, Missouri Bar, 1992 to present (currently inactive)

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt. No.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past ten years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period. None.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements. None.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed. None.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

Congressional testimony in my capacity as Inspector General of SBA and Chair of the Legislation Committee of Council of Inspectors general for Integrity and Efficiency. (a position I held from 2010–2015). Testimony is available at <https://www.sba.gov/oig/category/oig-navigation-structure/reading-room/congressional-testimony>. See also, Attachment B.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

In my current role as Inspector General of the Small Business Administration, I believe I have developed a skill set which will enable me to meet the responsibilities as Inspector General of the Department of Commerce if I am confirmed. In my previous roles in public service, I have demonstrated an ability to identify challenges, formulate recommended solutions and work constructively with senior leaders of an agency to resolve problems and overcome challenges. If confirmed, I would welcome the opportunity to apply the skills and lessons I've learned in my previous roles to promote integrity and efficiency within the Department of Commerce to help the agency achieve its mission.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

Having served as an Inspector General for a cabinet-level Federal agency since 2009, I am well versed in the office's responsibilities under the Inspector General

Act of 1978 as amended. IG offices are tasked with performing reviews and investigations of their agency with the goal of improving the economy, efficiency and effectiveness of the agency's programs. I have been the Inspector General for the SBA, which office has an annual budget of approximately \$20 million and 103 FTE for over six years. The Department of Commerce Office of Inspector General is slightly larger but I believe I have the experience necessary to manage the organization successfully.

20. What do you believe to be the top three challenges facing the department/agency, and why?

As Inspector General of the Small Business Administration, I find that one of our most useful reports is our annual report on the Top Management Challenges facing the SBA. This report is used not only by Congress, but by the agency to inform their decisions on where to focus their attention when it comes to making the agency more efficient. Should I be confirmed as Inspector General of the Department of Commerce, I would refer to the office's Management Challenges report to determine what I believe the top management challenges for the agency are. I would also confer with my staff, as well as agency stakeholders and Congress when considering that question.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I have been a public servant my entire career, and possess one defined compensation plan from the State of Missouri to which I no longer contribute. I also have two defined benefit plan accounts, from Missouri and from Jackson County, Missouri, which will pay me a monthly amount upon retirement at age 62 or 65. Details are available on my OGE Form 278e, filed with the Office of Government Ethics.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain. No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. None.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. None.

5. Describe any activity during the past ten years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

None, save for the Congressional testimony in my capacity as SBA IG, noted above.

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and Department of Commerce ethics officials 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 of Commerce and that has been provided to this committee. I am not aware of any other potential conflicts of interest.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics, professional misconduct, or retaliation by, or been the subject of a complaint to, any court, administrative agency, the Office of Special Counsel, professional association, disciplinary committee, or other professional group? If yes:

- Provide the name of agency, association, committee, or group;
- Provide the date the citation, disciplinary action, complaint, or personnel action was issued or initiated;
- Describe the citation, disciplinary action, complaint, or personnel action;
- Provide the results of the citation, disciplinary action, complaint, or personnel action.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain. No.

3. Have you or any business or nonprofit of which you are or were an officer ever been involved as a party in an administrative agency proceeding, criminal proceeding, or civil litigation? If so, please explain. No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain. No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain. No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination. None.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

ATTACHMENT A

RESUMÉ OF PEGGY E. GUSTAFSON

Professional Experience

October 2009–Present

Inspector General, Small Business Administration

- Head of office responsible for conducting audits, investigations and other reviews of the programs of the Small Business Administration.
- From 2009–2015 also served as Vice Chair, then Chair of the Legislation Committee of Council of Inspectors General on Integrity and Efficiency (CIGIE) and member of CIGIE's executive council.

January 2007–October 2009

General Counsel, Senator Claire McCaskill

- Served as aide to United States Senator in areas of homeland security, government oversight, judiciary issues, and ethics.
- Staffed Senator at hearings of Homeland Security and Government Affairs Committee, and hearings in other committees involving legal issues, such as SASC hearing on interrogation methods used at Guantanamo Bay.
- Granted TOP SECRET clearance, December 2008

February 1999–January 2007

General Counsel, Missouri State Auditor's Office

- Represented State Auditor's Office in litigation relating to fiscal notes prepared for statewide ballot initiatives, up to and including briefs before Missouri Supreme Court.
- Served as legal counsel for Auditor's office in personnel matters.
- Advised audit staff on legal questions arising in course of audits.
- Counseled State Auditor on legal issues regarding official duties and powers of State Auditor, such as access to records and permissible scope of audits.
- Involved in management of auditor's office as member of executive staff.

1995–February 1999

Assistant Prosecuting Attorney, Jackson County, Missouri

- Tried felony criminal cases of every type, including first degree murder cases
 - Had sole responsibility for charging and trying of arsons.

- Team leader of white collar crime trial team.
- Worked with U.S. Attorneys' Office as Special Assistant U.S. Attorney, in areas of white collar crime and public corruption.
- Attended ATF Arson School for Prosecutors at FLETC in Georgia.
- Attended two week arson investigator school at National Fire Academy, Emmitsburg, Maryland.
- Had sole responsibility for appellate practice (misdemeanor appeals and appeals of rulings *in limine* to exclude evidence.) for prosecutor's office.
- Had primary responsibility for drafting motions for writs of prohibition and mandamus and handled appeals in those cases.
- Assisted Prosecutor with cases involving removal of officials for misconduct through writ of *quo warranto*.

October 1993–1995

Assistant County Counselor, Jackson County Counselor's Office

- Represented Jackson County in litigation, including defense of county and corrections officers in cases arising out of 42 U.S.C. Sec. 1983.
 - Tried Federal jury trial in which county prevailed in case brought by prisoner alleging abuse.
 - Represented county in Federal case defending county's adult business zoning ordinance.
 - Represented county hospital and doctors in hearings seeking involuntary commitment of mentally ill individuals.
 - Prosecuted county ordinance violations in Jackson County Associate Circuit Court.

May 1992–October 1993

Law Clerk, the Honorable Don Kennedy, Missouri Court of Appeals

- Researched and drafted appellate opinions in all issue areas.

May–August 1991

Summer Associate, Williams and Montgomery, Chicago, Illinois

- Drafted legal memoranda and general legal research for law firm in area of insurance defense litigation.

May–August 1990

Research Assistant, Professor Richard Speidel, Northwestern University School of Law, Chicago Illinois

- Assisted professor with revision of casebook on contract law.

1985–1989

Worked at Grinnell College Library, Grinnell, Iowa for work-study program.

ATTACHMENT B

Wednesday, March 16, 2016	<u>SBA Inspector General Peggy E. Gustafson.</u>	On March 16, 2016, SBA Inspector General Peggy E. Gustafson issued a Statement for the Record before the U.S. House of Representatives, Committee on Small Business. The hearing was titled, "SBA Management and Performance Challenges: The Inspector General's Perspective."
Thursday, April 10, 2014	<u>SBA Inspector General Peggy E. Gustafson</u>	On April 10, 2014, SBA Inspector General Peggy E. Gustafson and Chair of the Legislation Committee for the Council of the Inspectors General for Integrity and Efficiency (CIGIE), issued a Statement for the Record before the U.S. Senate, Committee on Homeland Security and Government Reform, Subcommittee on Financial and Contracting Oversight. The purpose of the hearing was to review the processes and mechanisms by which small agencies and other federal entities without statutory inspectors general receive oversight.
Wednesday, April 9, 2014	<u>SBA Inspector General Peggy E. Gustafson</u>	On April 9, 2014, SBA Inspector General Peggy E. Gustafson testified before the U.S. Senate Committee on Small Business and Entrepreneurship. The purpose of the hearing was to discuss the President's budget.
Wednesday, January 15, 2014	<u>SBA Inspector General Peggy E. Gustafson</u>	On January 15, 2014, SBA Inspector General Peggy E. Gustafson and Chair, Legislation Committee for the Council of the Inspectors General for Integrity and Efficiency (CIGIE), issued a Statement for the Record before the U.S. House of Representatives Committee on Oversight and Government Reform. The purpose of the testimony was to discuss CIGIE's role and opportunities to strengthen agency oversight through the community of Inspectors General.
Tuesday, November 19, 2013	<u>SBA Inspector General Peggy E. Gustafson</u>	On November 19, 2013, SBA Inspector General Peggy E. Gustafson testified before the U.S. Senate, Committee on Homeland Security and Government Affairs, Subcommittee on Efficiency and Effectiveness of Federal Programs and the Federal Workforce. The purpose of the hearing was to discuss whether oversight positions are appropriately tasked and appropriately filled. It also sought to identify challenges that may be preventing or impairing the federal oversight workforce from effectively carrying out its mandate within its respective federal agency.
Wednesday, June 5, 2013	<u>SBA Inspector General Peggy E. Gustafson</u>	On June 5, 2013, SBA Inspector General Peggy E. Gustafson testified before the U.S. House of Representatives Committee on Small Business. The purpose of the hearing was to examine the Inspector General's audits, management assessments, and investigations of improper activity by Small Business Administration personnel to help the agency become a more efficient organization.
Wednesday, April 17, 2013	<u>SBA Inspector General Peggy E. Gustafson</u>	On April 17, 2013, SBA Inspector General Peggy E. Gustafson testified before the U.S. Senate Committee on Small Business and Entrepreneurship. The purpose of the hearing was to discuss the President's budget.
Wednesday, April 10, 2013	<u>SBA Inspector General Peggy E. Gustafson</u>	On April 10, 2013, SBA Inspector General Peggy E. Gustafson testified before the U.S. House Committee on Appropriations Subcommittee on Financial Services and General Government. The purpose of the hearing was to discuss the OIG's oversight activities of SBA programs and

		operations.
Thursday, March 29, 2012	<u>SBA</u> <u>Inspector</u> <u>General</u> <u>Peggy E.</u> <u>Gustafson</u>	On March 29, 2012, SBA Inspector General Peggy E. Gustafson testified before the U.S. Senate Committee on Small Business and Entrepreneurship. The purpose of the hearing was to discuss the President's budget proposal for the SBA.
Tuesday, December 6, 2011	<u>SBA</u> <u>Inspector</u> <u>General</u> <u>Peggy E.</u> <u>Gustafson</u>	On December 6, 2011, SBA Inspector General Peggy E. Gustafson testified before the U.S. Senate Committee on Homeland Security and Government Affairs, Subcommittee on Contracting Oversight. She provided this testimony in her capacity as Chair of the Legislation Committee for the Council of the Inspectors General on Integrity and Efficiency. The focus of the hearing was whistleblower protections for government contractors.
Thursday, October 27, 2011	<u>SBA</u> <u>Inspector</u> <u>General</u> <u>Peggy E.</u> <u>Gustafson</u>	On October 27, 2011, SBA Inspector General Peggy E. Gustafson testified before the House Subcommittee on Investigations, Oversight, and Regulations, Committee on Small Business, regarding Preferential Contracting Programs and related audits and investigations.
Thursday, June 16, 2011	<u>SBA</u> <u>Inspector</u> <u>General</u> <u>Peggy E.</u> <u>Gustafson</u>	On June 16, 2011, SBA Inspector General Peggy E. Gustafson testified before the Senate Committee on Small Business and Entrepreneurship regarding waste, fraud, abuse, and inefficiencies in SBA procurement and loan programs, and regarding SBA OIG suggestions to Congress on reducing the cost of SBA programs.
Wednesday, April 21, 2010	<u>SBA</u> <u>Inspector</u> <u>General</u> <u>Peggy E.</u> <u>Gustafson</u>	Statement of Peggy E. Gustafson, Inspector General, U.S. Small Business Administration Before the Small Business Committee United States House of Representatives April 21, 2010.

Senator BLUNT. Well, thank you. We are glad you're here.

Let me ask unanimous consent that Chairman Thune's statement be included in the record without objection.

[The prepared statement of Senator Thune follows:]

PREPARED STATEMENT OF HON. JOHN THUNE, U.S. SENATOR FROM SOUTH DAKOTA

Today we are very happy to welcome Peg Gustafson to testify before the Committee as we consider her nomination to be the next Inspector General at the Department of Commerce. For the past six years, Ms. Gustafson has served as the Senate-confirmed Inspector General of the Small Business Administration (SBA), an agency I'm very familiar with, having once worked as the Chief of Staff for then-Administrator Jim Abdnor.

During her tenure as the Inspector General of the SBA, Ms. Gustafson has worked to address challenges at the SBA such as fraudulent schemes affecting all SBA programs, significant losses from defaulted loans, procurement flaws that allow large firms to obtain small business awards, and excessive improper payments.

I believe Ms. Gustafson's experience at SBA will serve her well in her new role as the Inspector General at the Department of Commerce, should she be confirmed. With 12 bureaus and nearly 47,000 employees located in all 50 states and territories and more than 86 countries worldwide, the Department's mission is broad, ranging from stewardship of the oceans and satellites, to the census and telecommunications. It is important for the new Inspector General to be able to hit the ground running, and I believe Ms. Gustafson will be well positioned to make an immediate impact at the Department of Commerce.

Prior to her role at SBA, Ms. Gustafson served as General Counsel to Senator Claire McCaskill, a member of this committee. She advised the Senator on govern-

ment oversight issues and helped write the Inspector General Reform Act of 2008, among other things and Senator McCaskill will be introducing Ms. Gustafson shortly. From 1997 to 2007, Ms. Gustafson served as General Counsel in the Missouri State Auditor's Office, and before that, she served as an assistant prosecuting attorney for Jackson County, Missouri.

The Department of Commerce has been without a permanent Inspector General since June of last year. Last August, along with Homeland Security Committee Chairman Johnson, I called on the President to nominate a suitable candidate to be the permanent Inspector General of the Department of Commerce. Senator Johnson and I did this because we were concerned that a lengthy absence of a permanent, Senate-confirmed Inspector General at the Department of Commerce would diminish independent oversight and destabilize the Office of Inspector General.

The mission of the Office of Inspector General (OIG), which is to improve the efficiency and effectiveness of the Department's programs and operation as well as to detect and deter waste, fraud, and abuse, in order to protect taxpayer dollars, is best served when a permanent Inspector General is in place.

I strongly support the mission of inspectors general at the departments and agencies within the Committee's jurisdiction. Indeed, their independence is absolutely critical to their success. That is why I have directed my staff to work closely with these IGs to ensure that they have the tools they need to carry out their important work and that departments and agencies heed and implement OIG recommendations in a timely manner.

I am particularly concerned about information access issues the Commerce Department's Office of Inspector General has faced recently. A bedrock principle of the Inspector General Act of 1978, which established an Office of Inspector General within 72 agencies across the Federal Government, is that inspectors general must have access to "*all*" agency records and information necessary to conduct oversight. Unfortunately, since the early days of the Obama Administration, many agencies have systematically thwarted access to "*all records*" agency inspectors general need to do their job. Even the *New York Times* Editorial Board, in a March 9, 2016, editorial entitled "Let Inspectors General Do Their Job," has underscored this concern.

Sadly, this pattern of obstruction of inspectors general audits and investigations by the Obama Administration has even involved the Department of Commerce—something Chairman Johnson and I wrote to Secretary Pritzker about last year, making the case for OIG access. The Department of Commerce Office of Inspector General has *twice* been forced to terminate an audit of the International Trade Administration's Enforcement and Compliance unit after Commerce Department officials refused to grant access to requested information, based on a highly dubious interpretation of a 68-page legal opinion issued by the Obama Justice Department that essentially argued that inspectors general were not entitled to "*all*" agency information, in direct contradiction of the Inspector General Act of 1978.

The second time the Department of Commerce OIG was forced to terminate an audit of the International Trade Administration occurred as recently as last month.

As the *New York Times* editorial states, "for nearly three decades no one questioned the authority of inspectors general to obtain sensitive or protected information." No one, that is, except the self-described "most transparent administration in history."

Last month, the OIG advised that the Commerce Department's latest refusal to provide access has now been reversed, allowing the planned audit to proceed. This is welcome news, but we need to ensure that future presidents will not seek to obstruct the mission of inspectors general as the Obama Administration has done. Department officials must not hinder the Inspector General's work by denying the OIG access to records necessary to complete audits and investigations.

Furthermore, significant delays in granting access to key information are often tantamount to denial, and prevent both the Department and the public from understanding challenges within the Department and the steps it is taking to address them.

In conclusion, although it has been nearly a year since the last Inspector General resigned, and more than eight months have passed since Senator Johnson and I called on President Obama to nominate a permanent Inspector General at the Department of Commerce, we are pleased to have the President's nominee before the Committee. Once the Senate received Ms. Gustafson's nomination on April 25—only two weeks ago—I acted swiftly to schedule this hearing. I promised a prompt and thorough vetting of the President's nominee, and today's hearing is a fulfillment of that promise. I turn now to Ranking Member Nelson for any remarks he would like to make.

Senator BLUNT. My first question would be to talk a little bit about the fact that the Inspector General's Office two times now has been forced to terminate Commerce audits, specifically an audit of the International Trade Administration's Enforcement and Compliance Unit, after Commerce Department officials refused to grant access to requested information based on I think it's a highly dubious interpretation of a 68-page legal opinion issued by the Justice Department that essentially argued that the Inspector General was not entitled to all—"all" being the operative word—agency information. This appears to me to be in direct contradiction to the Inspector General law. The second time, the Inspector General was forced to terminate an audit of the International Trade Administration just last month. *The New York Times* editorial, a group I don't quote very often—

[Laughter.]

Senator BLUNT.—said that, "For nearly three decades, no one has questioned the authority of inspectors general to obtain sensitive or protected information, no one, that is, according to them, except, according to them, the most transparent administration in history."

Last month, the Office of Inspector General advised that the Commerce Department's latest refusal to provide access has now been reversed, allowing an audit to proceed, but what I'm wondering is, What do you think you've learned in the work you've done at SBA that particularly prepares you to meet with that kind of resistance that has now terminated two different audits at the Commerce Department?

Ms. GUSTAFSON. Thank you, Senator Blunt. I think that not only my tenure as SBA Inspector General, which I certainly will talk about, but also my 8 years in that Auditor's Office, if it's taught me one thing, and it's taught me a great deal, it's that first and foremost the oversight entity, be it the auditor or the Inspector General, has to be completely independent and be able to make the decisions on where they need to go, what they need to look at, and what they need to be able to see in order to do those reviews. And what I've learned is if there are issues with that, and if there's interference, that really is a direct threat upon the independence of that entity and has to be dealt with swiftly and quite strongly such that, you know, be it a delay of access to materials, which happens very often, you know, I think those even need to be managed in such a way that we are certain, as the oversight entity, that we're getting what we need when we need it, that we're clear what we need and why we need it and when we need it. And if those—if there are issues with that and if there are problems with that, that is a situation that needs to be elevated and dealt with.

I certainly don't know anything outside of what the process reported as far as the issues that have been facing certain inspectors general, but my thoughts on when that happens is that simply needs to be elevated and brought to the stakeholders, brought to Congress' attention, and being given attention, and people's feet need to be held to the fire to make sure that we get the access.

I agree with you, Senator, 6A, the access provisions in the Inspector General Act, are extraordinarily clear, and as you noted, it says "all" and it says the IG shall have access to all records that

they need. And when we don't get access, that has to be something that immediately is discussed and figured out and resolved.

Senator BLUNT. And so you would be willing to challenge a Justice Department legal opinion that—basically the opinion we're talking about.

Ms. GUSTAFSON. So I don't profess to be a legal expert on what that legal opinion says, but I do commit to fighting for that access that we need under the IG Act, no matter what the agency is saying, bringing that to attention and not giving up on our insistence when we need that information when it's information in the hands of the agency, that we are to get it. So what that means as far as what steps I would take, I certainly think it takes an elevation, and it needs to be brought to people's attention and not—and dealt with, whatever the—

Senator BLUNT. Did you have any similar situations as the Inspector General? Have you had any similar situations at SBA where information was not provided?

Ms. GUSTAFSON. We have not had any denial of access to information that we have asked for. What my message to my auditors was, and is, even when I first came into the office is, what I wanted to know, immediately upon taking that job, is, Are we having issues getting information timely? Not even just access in general, but are we having issues getting it timely? Because, again, I think that that interferes with our ability to do our job.

And so I wanted to know, Are there times when we're not getting it when we need it? And if so, let's stop that from happening. Let's work on that and make sure that the agency is getting us what we need and work through it. Because the timing of an audit can be— is crucial as well, too. If an audit is taking longer than it needs to take, because you're not getting the information you need to, even if you eventually get it, that's a problem, and that's something that I think needs to be faced with. It happened in the Auditor's Office, as Senator McCaskill noted, and it had to be managed, and I think sometimes it happens in IG offices.

So none of that is—all of that has to be managed and we have to be serious and sincere and intent on getting what we need.

Senator BLUNT. Thank you.

Senator MCCASKILL. I would just like to place in the record the statement that Senator Nelson wanted to add.

[The prepared statement of Senator Nelson follows:]

PREPARED STATEMENT OF HON. BILL NELSON, U.S. SENATOR FROM FLORIDA

Good morning.

Let me start off by welcoming Ms. Gustafson, and extending my congratulations on your nomination to be the Inspector General at the U.S. Department of Commerce.

I thank you for your many years of public service at the Small Business Administration.

And I also want to thank Chairman Thune for quickly scheduling this hearing—and to get the process moving to fill this critical position.

Inspectors General have the important task of combating waste, fraud, and abuse within Federal agencies.

Their work plays a key role in government oversight and helps improve the efficiency and effectiveness of our Federal agencies.

IGs keep the agency and Congress informed of serious problems at the agency, and they also play the important role of receiving whistleblower complaints.

The independent nature of IGs contributes to the success of their work, which ultimately increases the trust that the American people have in our government.

The Commerce Office of Inspector General oversees the expansive portfolio of the Department, including the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and the National Telecommunications and Information Administration.

The important programs and operations of these bureaus contribute to a wide variety of sectors including telecommunications, science, and weather—and we need strong, effective oversight of those programs.

I look forward to hearing about your plans to bring long-overdue, stable leadership to the Commerce IG.

Again, thank you for appearing before us today, Ms. Gustafson.

Senator McCASKILL. And the only question I have for Ms. Gustafson is a question about testimonial subpoena. Just so everybody understands, IGs can get documents, but they can't get information from witnesses if the witness has no longer—has left Government, and we are trying very hard to get this changed. It is very difficult for investigations to be thorough and complete if you are thwarted from getting information because of your inability to have a testimonial subpoena.

And I know that you have been Chairman of CIGIE, which is the Council of Inspector Generals. You have worked with the Inspector General community now for a number of years. You also are familiar with the Department of Justice and having worked with the Department of Justice, certainly when you were a prosecutor, in a cooperative fashion and worked with them on various cases.

Based on your experience in the IG community, Ms. Gustafson, do you think testimonial subpoena power is any more susceptible to abuse within the IG community than it is within the Department of Justice?

Ms. GUSTAFSON. Senator McCaskill, as you noted, I am keenly aware of this issue. We personally, at SBA IG, did have an instance when we were trying to look at somebody who has been—who had bid for a contract, and we wanted to talk to them, and so, again, we didn't—they weren't Federal employees, and they basically told us to go pound sand, they didn't want to talk to us. And so I know that that's a real problem.

In all candor, I think it's offensive to think that for some reason the Inspector General community can't handle testimonial subpoena authority. I think it's something—I think it's a tool that we have personally, speaking as the former Chair of the CIGIE Legislation Committee and having worked on that bill, your bill, quite frankly, in 2008, where at one point it was a part of the bill, and this new bill, that's a Senator Johnson, Grassley, McCaskill bill, I think is an important tool, and I guess I never really understood why there seems to be some feeling out there that inspectors general would want to run amok if being given that authority. And, again, I think given the track record that inspectors general have, as the broad authority that we have now, and how I think we do a pretty good job in Government and are good stewards for the taxpayers, I don't understand that argument.

Senator McCASKILL. I don't either, and it's being blocked, and I think it's something that everyone needs to understand, that the oversight function performed by the Inspector General community will never be thorough and never be complete as long as there is information that is not available to the Inspector General commu-

nity. And sometimes arm wrestling “Mother Justice” over their cooperation, and keep in mind that it’s not uncommon for an investigation at DOJ—and I know both Senator Klobuchar and Senator Ayotte will back me up on this because they have worked with Department of Justice—they have a different timetable than State and local law enforcement, and that’s putting it politely. I mean, their investigations can literally take years and years. And the notion that we cannot do important policy work through oversight, waiting for them to complete what they’re doing or not doing, I think is really shortsighted. So I hope that we can continue to work on that and get you all testimonial subpoena.

Thank you, Mr. Chairman.

Senator BLUNT. Senator Klobuchar.

**STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Mr. Chairman. And congratulations, Ms. Gustafson, on your nomination, and it’s good to be here with Senator McCaskill after all the work she has done in this area, and I’m sure she’ll make sure everything goes smoothly, if you get confirmed here and everything gets done.

But I did want to ask you one question somewhat along the lines of what Senator McCaskill was talking about. One reason that we have inspectors general, of course, is to make sure that Government is more accountable, but you can only fulfill this goal if you have access to the information and if the public then has information to your reports. And there are concerns that some IGs have not released their findings or have taken too long to release them. What are the legal and policy guidelines? Do you think this needs clarification? And do you commit to releasing your reports as soon as possible?

Ms. GUSTAFSON. I think that one of the really great, quite frankly, protections for inspectors general built into not only the IG Act of 1978, that created the IGs, but the 2008 Act which mandated publishing on the website the reports of the Inspector General. The wonderful thing about that is it ensures that the agency understands that we need to tell the public what is going on. Our biggest job and our biggest stakeholders, Congress is a huge stakeholder, the agency is a huge stakeholder, but the American taxpayer is really our biggest stakeholder. We are there to try to ensure that the agency is being a good steward for the money and running these programs the way that they need to be run. And by having that, by having a law that envisions that our work is public really helps that happen, really helps the agency understand that our role is, you know, although we are inside the agency, we have a dual reporting requirement to Congress and, again, the public gets to know what we’re doing.

So to your point, I think that the law has gotten better, even in 2008, and that it did kind of acknowledge that now it’s easier to get the reports published faster and get the public access to them because now every IG has a website, as every agency has a website.

So it’s certainly—I can certainly commit to you that that’s always been a priority for me, that our work get published that way and

be made public, and I would continue that practice at the Department of Commerce. I see no reason—quite frankly, I think it only benefits an Inspector General because our work gets noticed.

Senator KLOBUCHAR. Right. And so you have this dual role where you, of course, are an independent voice—

Ms. GUSTAFSON. Right.

Senator KLOBUCHAR.—to uncover whatever ways fraud, abuse, is going on. At the same time, you work closely with the agency that you're tasked to monitor. And so what's your view of the appropriate working relationship between the Office of the Inspector General and the Secretary of Commerce? And how would you balance consulting with senior Commerce leadership and maintaining independence?

Ms. GUSTAFSON. Again, my experience, both having gotten to know the IG community when I was on the Hill, and then being the IG for six and a half years, it's really—it's such a unique position in Government and really was designed by Congress since, of course, it was created by an Act of Congress, in this amazing way where, yes, we're within the agency, but we have such strong independence.

We have so many tools and protections for our independence built into the way that we are designed, such as the dual reporting role, where we have to keep Congress fully informed in addition to the agency head, such as the removal provisions where any IG, who, should they be removed, first Congress gets to know that first, you know, and 30 days with a reason why, such as very specific language that says the agency shall not direct us and tell us what to do or what not to do.

And I think that the way I balance that role is I go—I strive to have a collaborative relationship and a collegial relationship with the agency because a good working relationship makes things run smoother, and you want—I want to have a good relationship with the agency because I want them to pay attention to the work of the IGs, to the work of the IG employees.

So it's important that we have that understanding that we're there to help make the agency better, but, on the other hand, nobody can tell us what to do, you know. And so with that understanding, I think that really fashions the relationship. And my experience so far, and there have been two administrators at the SBA since I've been there, it has helped to have a very professional yet independent relationship with them, and that's something that I would bring to Commerce, just kind of my knowledge of that's what you need to do to be a strong and independent IG, and approach my relationship with the stakeholders and the agency in that manner.

Senator KLOBUCHAR. All right. Thank you very much.

Ms. GUSTAFSON. Thank you, Senator.

Senator BLUNT. So while Senator Blumenthal settles in, you mentioned in March in your testimony before the House Small Business Committee, you talked about the serious shortcomings at SBA in securing information. You know, cybersecurity is obviously something that the Government has not been nearly as good at as we would have hoped the Government would have been. What do

you think, taking from SBA to this bigger agency, that you can bring to that important discussion there?

Ms. GUSTAFSON. One of the things that's patently clear to me both through my work as the IG at the Small Business Administration, of course, being within the IG community and being part of the community where we discuss issues, as to your point, Senator, cybersecurity is an issue in every single agency for several reasons. One, because it's such an important issue because vulnerabilities in IT systems can wreak such havoc both with the public's information and just with the systems in general. Also the fact that cybersecurity, the understanding that that's always going to be a moving target because there's always going to be people out there figuring out different ways to try to take advantage of vulnerabilities within systems.

So one of the things that I noted in reviewing, for example, the top management challenges at Commerce and comparing them to our top management challenges at SBA is cybersecurity is on both of those lists for clear reasons. I think it's one of those issues that has to—I kind of think of it as something that will probably always be there, and it doesn't mean that it doesn't deserve attention, what it means is it kind of deserves constant attention, not overwhelming, but constant attention, and both on behalf of the agencies and on behalf of the overseers. You know, it would not be surprising for that to be a longstanding management challenge just because of the very nature of the technology, which is changing as I speak.

Senator BLUNT. Senator Blumenthal.

**STATEMENT OF HON. RICHARD BLUMENTHAL,
U.S. SENATOR FROM CONNECTICUT**

Senator BLUMENTHAL. Thank you, Mr. Chairman. Welcome to our Committee, and thank you for your service and to your family, for their service.

Ms. GUSTAFSON. Thank you.

Senator BLUMENTHAL. I want to focus on a perhaps very specific and limited issue—NOAA recognizes the importance of promoting aquaculture. And as you know, aquaculture is an industry of growing significance to many states, including Connecticut because it has the potential to greatly increase marine-related jobs in the United States, meet consumer demand for domestically grown shellfish, and other products. Beyond its economic benefits, it has the potential to increase water quality through filtration, and aquaculture research has produced a great many techniques and best practices for strengthening marine environmental conditions.

The reports reaching me through a number of sources in my state, shellfish producers and others, are that one of the Nation's key contributors to the United States aquaculture industry, the Northeast Fisheries Science Center in Milford, Connecticut, has been asked to work on stock assessment and other NOAA priorities, but they have not been provided essentially with the resources or the support to do so.

If confirmed, what do you see as your role in ensuring that the work occurring at the Milford Lab and other facilities and institutions promoting aquaculture is in synch with NOAA's own stated

priorities of increasing domestic aquaculture production and shellfish consumption? And in the course of your preparation to come here, have you heard anything about these issues?

Ms. GUSTAFSON. Senator Blumenthal, I want to thank you very much for a question that I absolutely cannot give you a really good answer to because it's a fascinating question. One of the things that has been so interesting to me as I'm going through this confirmation process, that clearly, I mean, it comes as no surprise to me, was that the intense—the incredible breadth of what Commerce is and all the bureaus.

And I will tell you actually, and it has been very heartening and it has been really wonderful, I've met with a lot of staffs, including your staff, even though this was on very short notice, which is nice because it's great to already begin to hear what issues are of interest to Members and are important.

And so while I cannot speak about aquaculture, I will tell you that I have heard it many times. I mean, I can tell that this is an area of great interest to Members. I actually had a staffer come up to me right before the hearing and said, "Fish." I wish—I know it's more complex than that, but it's already apparent to me that this is something of interest. And I look forward to, should this process go forward and should I be confirmed, to listening—

Senator BLUMENTHAL. I will give you, happily give you, a pass—

[Laughter.]

Ms. GUSTAFSON. OK.

Senator BLUMENTHAL.—as long as you commit to doing a report, giving me some response on this question.

Ms. GUSTAFSON. I'm very happy and absolutely commit to meeting with you because what I would want to do is hear from you on if anything has been done before by the IG's Office, and what type of review is wanted.

My general attitude toward Congress—"attitude" is a terrible word—but I think it's important to know what Congress is interested in for several reasons. Congress is a stakeholder much as the agency. Again, we have a dual reporting requirement to Congress. But also it's been my experience that if Congress isn't paying attention to the work of the IG Office, then nobody is paying that much attention.

So I definitely want to hear from the Members and to hear further, should I be confirmed, on what issues are—would be of interest and would be—what you would be interested in.

Senator BLUMENTHAL. I want to ask you another question that also relates to fishing, and this one is equally, if not more, a priority and has broader reach. As you know, quotas for specific amounts of fish that can be taken in all varieties and species of fish are set by an elaborate structure under the Federal law that provides authority to the Department of Commerce to oversee that structure. There have been claims about unfairness and inefficiency, and both environmental and economic detrimental impacts from the current structure, as it is now implemented. To give you one example, Connecticut fishermen are limited as to the numbers of flounder and sea bass they can take, and yet the warming of waters has driven more of those fish to Connecticut offshore and

Rhode Island fisheries as opposed to the middle Atlantic states, Virginia and North Carolina, where just a short time ago they were in much greater abundance.

So, in effect, the fish population has moved; the quotas have not kept pace. It's a matter of basic science. It seems to me that's an issue that ought to be within your purview, particularly if those quotas or the misapplication of those quotas are the result of potential improper influence on those councils. Would you agree?

Ms. GUSTAFSON. You are speaking about a lot of stuff that I don't know about, but what I would agree with is it sounds like that at some—first off, I would note that somewhere sitting behind me is somebody from the Commerce Inspector General Office, and I certainly know and hope that they are listening because if it's a concern to you today, it needs to be a concern to them whether or not, you know, I'm IG. So hopefully those are conversations that—

Senator BLUMENTHAL. I see somebody may be taking notes—

Ms. GUSTAFSON. Taking notes.

[Laughter.]

Ms. GUSTAFSON. So, and if you have concerns about the efficiency of a program or whether a program is serving the people that it should serve, you know, whether the right—which, quite frankly, we do deal with a lot at SBA because we have, for example, the set-aside contracting programs that are meant to provide economic development opportunities to certain groups of people.

And so if there are similarities there, that's something that I would be happy to sit down and talk to you about, and, again, in the context of wanting to know where, should I be confirmed as IG, where we should be devoting our resources, the reviews that we should be doing. And I'm happy to commit to you to have—talk to you.

Senator BLUMENTHAL. Well, I would like you to give me a commitment that you will look into this issue and report back.

Ms. GUSTAFSON. Into the issue of? The quota issue.

Senator BLUMENTHAL. Exactly.

Ms. GUSTAFSON. So—

Senator BLUMENTHAL. Well, the structure of the implementation process, the question of what kinds of influences may have been brought to bear, and other questions relating to implementation of this process.

Ms. GUSTAFSON. I will commit to you to making that a priority as far as bringing that to, were I to be confirmed to Commerce IG, bringing that to the IG staff and the audit staff and saying this is something that is important to a Senator, and it is very important to Senator Blumenthal that that be looked at, and having that discussion early on. And I certainly would commit that to you, you know, as I would to—

Senator BLUMENTHAL. Well, I appreciate your doing that.

Ms. GUSTAFSON. Yes.

Senator BLUMENTHAL. I would also like a commitment that you will respond to the question that I've raised—

Ms. GUSTAFSON. Right.

Senator BLUMENTHAL.—as to whether it is a proper topic for inquiry.

Ms. GUSTAFSON. Right.

Senator BLUMENTHAL. If it's outside your jurisdiction for some reason, I don't believe it's outside your jurisdiction——

Ms. GUSTAFSON. Right.

Senator BLUMENTHAL.—but if for some reason it is, it is a Department of Commerce program——

Ms. GUSTAFSON. Right.

Senator BLUMENTHAL.—it's a Department of Commerce responsibility——

Ms. GUSTAFSON. Right.

Senator BLUMENTHAL.—which has been delegated, but still remains legally within your jurisdiction, and the Department of Commerce ought to be held accountable. Your job is to hold the Department of Commerce accountable for its legal responsibilities, so I want to know why there should be no further inquiry or report if that's the decision by the Office of the Inspector General.

Ms. GUSTAFSON. I will definitely commit to you to getting an answer to that. Again, you are talking about a fact situation about which I will not even say I have limited, I have no knowledge, but to your point, if you're saying, "I want to know if you're saying it's not within the purview," or something, absolutely, I think you would be owed an answer to that, and I would commit to giving you an answer to that.

Senator BLUMENTHAL. I appreciate it.

Ms. GUSTAFSON. OK.

Senator BLUMENTHAL. Thank you.

Ms. GUSTAFSON. Sure.

Senator BLUNT. Senator McCaskill, do you have any additional?

Senator MCCASKILL. I do not.

Senator BLUNT. Well, following up on that discussion, just sort of give me a sense of having done this for six and a half years, what do you see as your relationship with the Congress when Members reach out or when committees reach out?

Ms. GUSTAFSON. So, as I've noted before, I am keenly aware, and I think it's a tremendous protection actually for inspectors general that we have a dual reporting requirement, and we have a legal duty to keep Congress fully and currently informed of any issues going on in the agency, you know, almost concurrently, or concurrently, with the agency. The sentence in the IG Act actually says agency and Congress fully and currently informed.

So I'll tell you that my practice has always been even in the context of developing our audit work plan, when our auditors sit down to decide, "Where is it within our limited resources at SBA IG that we should be looking?" before that plan is finalized, we have meetings.

I make sure that we have meetings with our stakeholders, and that's not only the program heads at SBA, but it's the congressional stakeholders. Where is it that they think, because they often have a lot of knowledge that would be helpful for us, not only where do they think the IG should be focusing, but where do they know that there are problems?

And I think it's important to do that because, again, as I've noted before, the agency pays a lot more attention to the work of an IG when Congress is paying attention to the work of an IG, so I think it's important to have that very open dialog and to have an under-

standing of what the priorities are for the authorizers in the chambers for the appropriate—for anybody, for any of the stakeholders in Congress, and that's something that we do at SBA when we are devising our work plan, which, you know, is constantly changing.

And I think that that's something that I would certainly envision doing, as I was hoping I was making clear to Senator Blumenthal, you know, that that's something that I would bring to Commerce IG, sitting down with anybody who wants to sit down, "Where do you think we should be? Here's where we are. I do think we're on the right track."

And I will tell you just anecdotally when we have those meetings, we often get a lot of good insight from Congress on areas of concern. We don't get it so much from the agency, shockingly enough, you know, they don't tend to say, "I want you to look at this," but the meetings with Congress I think are extraordinarily helpful and important when we're fashioning and deciding where to use those, you know, limited resources to look at any agency that we're looking at.

Senator BLUNT. Well, the flounder count and how it relates to the middle Atlantic states would only be something that a Member of Congress would be likely to bring to attention——

[Laughter.]

Senator BLUNT.—and there may be more of that.

Well, thank you for your work so far, both in Missouri and in Senator McCaskill's office here and in the job you're doing now. And we appreciate your responsiveness today.

The hearing record will remain open for 2 weeks. A number of conflicts this morning, including Senator Bennett's funeral.

And so I think there will be Members that may have some questions to submit, and they are asked to do that upon receipt. You're asked to submit your written answers to the Committee as soon as possible.

Senator BLUNT. And with that, the hearing is concluded with our great thanks to you and your family for being here.

Ms. GUSTAFSON. Thank you.

[Whereupon, at 10:45 a.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO
HON. PEGGY E. GUSTAFSON

Question 1. The Department of Commerce (DOC) Office of Inspector General (OIG) reduced the audit scope for Federal Information Security Management Act (FISMA) compliance for the Fiscal Year 2014. As a result, the Office of Management and Budget (OMB) was unable to compute a compliance score for DOC as compared to the other Chief Financial Officers Act agencies in OMB's Annual Report to Congress on FISMA.

Question 1a. During your tenure at the U.S. Small Business Administration (SBA), how did the SBA OIG work with the agency to improve information security protection? What have you learned in performing those audits that will inform how you will conduct FISMA reviews at the DOC?

Answer. As SBA Inspector General, I ensured that the OIG met its statutory obligation to conduct an annual audit in compliance with the FISMA and publish its findings. Given the complexity and resources necessary to perform this review, we contracted with an independent public accountant to perform this audit; we oversaw their work. Through our FISMA reviews, the OIG has identified systemic problems with the SBA's IT systems, and this remains one of the most serious management challenges facing the Agency.

FISMA requires that the OIG review the SBA's Information Technology Security Program. This review found that the SBA continues to progress in certain FISMA evaluation categories. However, the SBA still needs to implement 32 longstanding open recommendations and related unresolved vulnerabilities in the SBA's FISMA areas. Until the SBA takes steps to address these longstanding weaknesses in its IT systems and control structures, the Agency will be at risk of data loss or system penetration.

Question 1b. If confirmed as the Inspector General, will you commit to performing a comprehensive annual independent evaluation of the Department's information security programs and practices, as required under FISMA?

Answer. If confirmed, I will provide leadership to ensure mandated reviews are completed in a timely manner, and if necessary, work with the Congress to ensure the OIG has the necessary resources to fulfill these mandates.

Question 2. The DOC OIG has issued a number of recommendations that remain open and unimplemented.

Question 2a. In your role at SBA, what specific actions do you take to ensure that agency officials implement the OIG's recommendations in a timely manner?

Answer. As Inspector General, I ensured that there is an established standard operating procedure (SOP) to conduct follow up on open recommendations in compliance with OMB Circular A-50 Revised. When the SBA rescinded its SOP in 2012 that set forth review follow up procedures, I immediately directed my staff to engage Agency stakeholders. As a result, a new SOP was implemented that achieves timely responses from the Agency on draft reports in compliance with the Government Auditing Standards (the "Yellow Book"), as well as a recommendation dispute resolution process that parallels OMB's circular. In addition, I have directed our Assistant Inspector General for Audit to seek a status update on open recommendations not more than every 90 days until corrective action is implemented.

Question 2b. In your role at SBA, have you ever escalated an open and unimplemented OIG recommendation to a higher level of agency management? If so, please describe.

Answer. Yes, as part of the review follow up process, unresolved recommendations (*i.e.*, recommendations that the SBA either disagreed with or did not provide a sufficient plan for corrective action) are elevated to the Audit Followup Official (AFO) in accordance with OMB Circular A-50.

If management disagrees with an audit recommendation or finding, or if OIG disagrees with the management decision, then management and OIG has 60 days after the date of the final audit report to attempt to reach agreement or notify the Audit Follow-up Official (AFO) of the disputed issue. At SBA, the Deputy Administrator is designated the Agency AFO. This process has occurred on several occasions during my tenure.

In May 2015, my office published a report titled *Improvements Needed In SBA's Management Of The Women-Owned Small Business Federal Contracting Program*. Aside from the resolved recommendations of this report, the report pointed out that the Women-Owned Small Business Federal Contracting Program (WOSBP) would undergo some major programmatic changes based on the National Defense Authorization Acts for FY 2013 and 2015. Specifically, the changes in law permitted contracting officers to award sole-source, unlimited value contracts and mandated SBA to implement a certification program. When SBA increased programmatic risk and implemented the contracting provisions without the certification program, I directed that our office provide public comments during the rulemaking process and notified Congressional overseers of the risk to promote corrective action. The SBA subsequently initiated a rulemaking process to comply with the statutory mandate.

Question 2c. If confirmed, what steps will you take at DOC to ensure that any open and unimplemented recommendations are closed and implemented?

Answer. If confirmed, I commit to reviewing the audit follow up process in place at the Department of Commerce. If necessary, I will provide leadership to ensure a process is implemented that complies with OMB Circular A-50 Revised. I also will endeavor to keep the Agency Head and the Congress fully and currently informed, to include statutory processes to alert the Agency Head and the Congress of any particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department of Commerce.

Question 3. A bedrock principle of the Inspector General Act of 1978, as amended, is that inspectors general must have access to *all* agency records and information necessary to conduct oversight and investigations. On August 5, 2014, 47 inspectors general wrote to the then-chairmen and ranking members of the House Committee on Oversight and Government Reform (OGR) and the Senate Committee on Homeland Security and Government Affairs (HSGAC) about access to records issues impeding the work of the inspectors general at the Peace Corps, the Environmental Protection Agency, and the Department of Justice (DOJ). You were not among the signatories. At the time, you also served as Chair of the Legislation Committee for the Council of the Inspectors General for Integrity and Efficiency (CIGIE). Why did you choose not to sign this letter? Do you concur with the letter?

Answer. I believe Inspectors General have a duty to keep the Agency and Congress fully and currently informed, and the letter signed by 47 Inspectors General is a means to do so. As Inspector General of SBA, I had not experienced access denials. Nonetheless, I testified on several occasions on behalf of CIGIE that I believe "all means all" relative to Section 6(a)(1) of the Inspector General Act, as amended, and my perspective is consistent with those who independently decided to sign this letter.

As Chair of the Legislation Committee, I also served on CIGIE's Executive Council. The Executive Council had previously expressed a strong opinion to the Department of Justice's Office of Legal Counsel (OLC) that "all means all." Given this dialogue was open between the Executive Council and the OLC, it was prudent as an Executive Council member representing CIGIE to receive OLC's response on the matter prior to transmitting a letter to the Congress. After a great deal of discussion of this matter at Executive Council, and in light of the dialogue being undertaken at that time, all but one member of Executive Council decided to refrain from signing the letter. After OLC issued its opinion, I believe CIGIE was best-positioned to inform the Congress and seek redress on behalf of the Inspector General community, to include any legislative remedies. As such, I was a signatory to the letter responding to the OLC opinion, which was consistent with the decision of the Executive Council.

Question 4. On July 20, 2015, the Justice Department's Office of Legal Counsel (OLC) issued a 68-page opinion arguing that the IG Act's general instruction that inspectors general have access to "all records" in an agency's possession necessary to complete their work cannot be read to override more narrow prohibitions on the disclosure of certain types of information. Using this opinion as justification, the DOC has twice declined to grant the DOC OIG information necessary for an audit of the International Trade Administration (ITA), leading to cancellation or suspension of the audit.

Question 4a. On August 3, 2015, CIGIE wrote to the chairmen and ranking members of House OGR and Senate HSGAC expressing serious concerns with this July 20, 2015, OLC opinion, stating “[t]he OLC opinion’s restrictive reading of the IG Act represents a potentially serious challenge to the authority of every Inspector General and our collective ability to conduct our work thoroughly, independently, and in a timely manner.” You signed this letter, along with 67 of your inspector general colleagues. Why did you sign this letter and not the prior August 5, 2014, letter?

Answer. Please see my response to question #3.

Question 4b. At your confirmation hearing, in response to a question from Senator Blunt, you stated that you were not an expert on this OLC opinion. Yet, you had signed the August 2015 letter referenced above. Please elaborate further on your response to Senator Blunt and provide your analysis of the opinion. Do you agree with its conclusions regarding restrictions on OIG access to agency records?

Answer. I believe Congress intended Inspectors General to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under the Inspector General Act of 1978, as amended. The only exceptions to this access are those principally found in Section 8 of the Act such as Section 8(e). My testimony was meant to indicate that I do not have first-hand knowledge of the specific records to which the Inspector General of the Department of Justice is being denied access relative to their bearing on Section 8(e), Special Provisions Concerning the Department of Justice. I am unaware of any such special provisions that apply to the Department of Commerce, and as such, my position is that as far as access to records as provided in Section 6(a), “all means all.”

Question 4c. Do you still agree with CIGIE’s warning in the letter you signed that the OLC opinion “represents a serious threat to the independent authority of not only the DOJ–IG but to all Inspectors General?” Please answer yes or no.

Answer. Yes.

Question 4d. In your view, does the plain language of the Inspector General Act entitle you to obtain all necessary information and materials to complete the audits and investigations you undertake? Please answer yes or no.

Answer. Yes.

Question 5. A second OLC opinion, issued on April 27, 2016, revised the first opinion in the context of a rider in the FY 2016 omnibus appropriations bill that clarified that DOJ may not use appropriated funds “to deny [its] Inspector General . . . timely access to any records . . . or prevent or impede that Inspector General’s access to such records . . . under any provision of law, except a provision of law that expressly refers to the Inspector General and expressly limits the Inspector General’s right of access.” Only then did DOC officials reverse course, finally granting DOC OIG access to the required records for its ITA audit. Given that the appropriations rider only applies to FY 2016 and may not be permanent, DOC may in future years resume using the July 20, 2015, OLC opinion as justification for denying the OIG access to requested information. If confirmed, how will you overcome such an obstacle to information access if this situation arises? Please describe the specific steps you will take if Commerce Department officials deny you access to information you require.

Answer. Any denial of access by the Department of Commerce or its components would represent a serious threat to the independent authority of my office. It is my position that no one can prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation. Denying or delaying access to records strikes at the core of my independent authority to conduct such reviews.

The Inspector General Act of 1978, as amended provides several powerful tools to Inspectors General to resolve any access questions. First, in accordance with Section 6(b)(2), I would independently make a determination whether or not access has been unreasonably refused or not provided. I would then report the circumstances to the head of the establishment involved without delay. If the head of the establishment makes a decision that in any way prohibits a review or investigation from proceeding independently, I would deem this as being significant and flagrant and invoke Section 5(d) of the Inspector General Act of 1978, as amended, whereby the Agency Head would be compelled to provide my report and their comments to the Committees of jurisdiction. Notwithstanding these tools, I see no limitations to engage the Congress directly to seek assistance as part of my duty to keep the Congress fully and currently informed.

Question 6. Following Superstorm Sandy, which struck the northeastern United States in October 2012, the SBA OIG received \$5 million in appropriated funds to

conduct investigations and audits of SBA disaster loans made as a result of Superstorm Sandy to identify potential waste, fraud, and abuse.

Question 6a. What was your approach to handling this increased responsibility and funding?

Answer. I directed that an Audit Work Plan specific to oversight of Superstorm Sandy be developed and implemented. We utilized term auditors and full time staff to perform this oversight fully appreciating the value of this oversight to the Congress. As planned, we recently increased our investigative capacity by hiring a criminal investigator and contracting for analytical support to combat fraud that begins to evidence itself as the loans mature and potentially default. We anticipate these supplemental funds will be fully expended as oversight is ongoing.

Question 6b. What were the results of this oversight? Please describe in detail any reports issued, hearing testimony, referrals for criminal prosecution, or any other related activity.

Answer. To date, we have issued 6 audit reports containing 18 recommendations for corrective action. The monetary impact of these recommendations is \$520,264 in Questioned Costs and \$9,141,309 in Funds for Better Use. A list of these reports is as follows:

- Report 14–14: Improving Accuracy of Performance Reporting to Better Manage Disaster Loan Processing Time Expectations
- Report 14–16: Effectiveness and Timeliness of the Hurricane Sandy Disaster Loan Closing and Disbursement Processes
- Report 15–05: SBA's Evaluation of Principal's Repayment Ability for Hurricane Sandy Business Loans
- Report 15–13: Hurricane Sandy Expedited Loan Processes
- Report 15–14: SBA's Controls to Prevent Duplication of Benefits with Community Development Block Grants.
- Report 15–15: SBA Needs to Improve Its Management of Disaster Technical Assistance Grants

Due to the nature of SBA disaster loans, fraudulent loans are not immediately identified, as they have a deferment period for repayment and take years to default. Based on past experience, fraud investigations normally do not begin to materialize until two to three years after the disaster. There is a five-year statute of limitations (from the date of the last false statement) to prove a false statement to the SBA. With the passage of the RISE Act, the potential for Superstorm Sandy-related criminal and civil investigations will continue until at least 2022. As of May 25, 2016, we have opened 54 criminal investigations involving SBA disaster assistance loans related to Superstorm Sandy. Our investigative efforts have resulted in 30 indictments/informations/complaints/summons, 9 arrests, 22 convictions, and \$912,414 in criminal monetary recoveries. We also have participated in approximately 19 training and outreach opportunities.

Question 6c. What lessons from performing this oversight will you apply at DOC OIG if confirmed?

Answer. The work we have performed related to Superstorm Sandy, as well as the other work we have performed using appropriated funds given to us for a specific purpose (such as Hurricanes Ike and Gustav, and the Recovery Act) has taught me how to manage situations where new and pressing needs occur and resources need to be allocated to perform oversight work not originally included on a work plan. Many of the same rules apply such as seeking input from stakeholders on what reviews should be undertaken and formulating a work plan which spells out the anticipated time the reviews will take. However, there also are decisions that need to be made as far as how to staff up to meet the new needs, and in what manner (*e.g.*, term employees vs. permanent FTEs, how many auditors are needed, how many investigators). And all this must be done while making every effort to ensure that these new responsibilities do not impede our ability to continue to perform the already-planned work in a timely, efficient manner.

Question 7. I believe that strong leadership of the DOC OIG is critical to the successful performance of its mission. Having served as the Inspector General for the SBA for many years, I ask that you provide an assessment of your own leadership.

Question 7a. How would you describe your management and leadership style?

Answer. I think my management style can be described as involved and collaborative. I strive to learn from my senior managers and make sure they know they are an invaluable part of the process. I want people to know they should not be afraid to give me unvarnished advice, and that the last thing I want or need are

“yes men” (or women). I care very deeply about my employees and know how hard it can be to be a public servant, and I strive to make sure that the SBA OIG employees know that their contributions are valued. Additionally, I establish reasonable expectations and create a culture of ownership and pride for those who work in the Office of Inspector General.

Question 7b. How do you think your subordinates would describe your management and leadership style?

Answer. As noted in my statement for the record, I believe I provide steady and consistent leadership, ensuring our workforce can independently conduct reviews and investigations. I believe subordinates would describe me as approachable and fair, having a high degree of integrity. I have promoted work life balance within the office, and I believe there is a positive morale in the office, which is high functioning.

Question 7c. How often do you meet with senior division heads within the SBA OIG?

Answer. As SBA Inspector General, I have an open door policy to not only my senior leaders but all OIG employees. Early in my tenure, I met weekly with my senior leaders at an executive staff meeting. These weekly meetings were in addition to my daily interaction on matters of interest. Currently, I have recurring executive staff meetings every three weeks, though I meet one on one as-needed, and on a regular basis.

Question 7d. How often do you receive updates on pending OIG matters and from whom?

Answer. I receive updates from my senior leaders in real time on matters of interest to me and as determined by those senior leaders.

Question 7e. How would you characterize the frequency and quality of your engagement with your subordinates at the OIG?

Answer. I would characterize the frequency of engagement with my subordinates relative to the daily operations of my office as more than adequate. I strive to achieve a shared understanding in all these engagements.

Question 7f. What has been your mission guidance to OIG staff and how has it been conveyed and reinforced?

Answer. The SBA OIG operates under a five-year strategic plan that I implemented in Fiscal Year 2012. Our mission is clear: *Provide independent, objective oversight to improve the integrity, accountability, and performance of the SBA and its programs for the benefit of the American people.* My vision for the SBA OIG also is clear: *To be the most effective OIG in the Federal Government.*

Question 7g. During your tenure at the SBA OIG, have you used climate surveys or other formal or informal tools to assess your performance or the performance of other agency managers and the morale of employees? If so, what has been the result of these efforts?

Answer. A “climate survey” was conducted during development of SBA OIG *Strategic Plan for Fiscal Years 2012–2017*. The results of the survey were the basis for establishing the three strategic goals set forth in the strategic plan.

Question 7h. What steps have you taken to build, maintain, or improve employee morale or *esprit de corps* within the SBA OIG?

Answer. In context of SBA OIG’s strategic goal #3, to create a work environment that attracts, develops, and retains quality staff and promotes innovation, we have taken a variety of actions to achieve three objectives:

1. Improve internal communications and collaborations.
2. Ensure that the OIG has a professional, technically proficient and satisfied workforce.
3. Leverage technology and people to improve OIG methods in carrying out our mission.

Question 8. I believe a strong relationship with Congress and key stakeholders is also critical to the success of an inspector general.

Question 8a. As SBA Inspector General, how would you characterize your relationship with Congress?

Answer. As SBA Inspector General, I have strived to build an open and collaborative relationship with the Congress. I established a goal in our strategic plan to “enhance relationships with Congress, the SBA, and other entities.” To achieve the objectives of this goal, I established a new position on my leadership team to serve as a single point-of-contact for congressional and external affairs. As a result, the office is positioned to keep the Congress fully and currently informed of the work

of our office and to provide timely responses to congressional inquiries and correspondence.

Question 8b. How would you characterize your responsiveness to congressional inquiries?

Answer. I would characterize my responsiveness to congressional inquiries as timely, thorough, and complete.

Question 8c. Please describe your relationship and level of interaction with other key stakeholders in your current position.

Answer. As with the Congress and SBA leadership, I have strived to build open and collaborative relationship with other key stakeholders. I am an active and contributing member of the Council of the Inspectors General for Integrity and Efficiency (CIGIE), having served five years in leadership on the Legislation Committee and four years on the Executive Council. I also have accepted invitations or made my staff available to provide briefings or presentations to external stakeholders to promote the mission and work of the OIG. I view this as a regular and recurring part of my duties as SBA Inspector General.

Question 8d. Will you commit to meeting with and updating Commerce Committee staff on a periodic basis, and upon request, if confirmed?

Answer. If confirmed, I commit to meeting with and updating Commerce Committee staff on a periodic basis, and upon request.

Question 9. What is your relationship with the SBA Administrator? Do you have regular meetings with the SBA Administrator and with senior agency officials?

Answer. I believe I have a respectful, working relationship with the SBA Administrator. As prescribed by the Inspector General Act of 1978, as amended, I have ensured I have an open and direct line of communication to the Administrator. I have met with the SBA Administrator on matters of interest to her, such as achieving a shared understanding of the role of the semi-annual Report to Congress. More routinely, I interact not less than monthly with the Deputy Administrator or the Chief of Staff to keep all parties apprised of current initiatives within the office or to resolve any concerns that may be brought to my attention by my staff.

Question 10. If confirmed, what would your approach be to building a relationship with the Secretary of Commerce and other senior DOC officials?

Answer. If confirmed, I would envision having a similar relationship with the Secretary and the Deputy Secretary as I do with the Administrator and the Deputy Administrator of SBA. I would expect open lines of communication and to be afforded access to them whenever I might need it. I would approach them as stakeholders and would seek to engage them regularly on the work of my office. My expectation will be that the Secretary, Deputy Secretary and other senior leaders of the Department will work constructively with me and my office to make the Department of Commerce the most efficient and effective department possible, including using OIG reports as a valuable tool in identifying areas that can be improved.

Question 11. In your current role, how do you identify areas of inquiry for the SBA OIG? Do you take a proactive role in creating the office's work plan? How is the office work plan created and how are priorities determined?

Answer. The Audit Work Plan is developed by the Assistant Inspector General for Audit. The Work Plan is risk-based, and uses criteria with which I agree. It is developed by the AIGA in consultation with the Audit Directors and their respective teams. Legislative mandates, congressional interest, and Hotline and investigative activity are key factors in prioritizing work. To ensure the Work Plan reflects the most current priorities of the office, I have directed that the Work Plan be updated quarterly, with Congressional outreach occurring prior to each publication.

Question 12. Based on your tenure at the SBA OIG, what is your view as to the biggest challenge the SBA faces in carrying out its mission? What is your view as to the biggest challenge the DOC faces in carrying out its mission?

Answer. SBA's programs encompass more than \$100 billion in guaranteed loans and nearly \$100 billion in Federal contracting dollars. Currently, SBA OIG has identified ten top management concerns facing the SBA—*Report On The Most Serious Management And Performance Challenges In Fiscal Year 2016*. The overall goal is to focus attention on significant issues with the objective of working with Agency managers to enhance the effectiveness of SBA's programs and operations. The Challenges are not presented in order of priority, as we believe that all are critical management or performance issues. That said, I believe information technology transcends many of these challenges, and I anticipate the Department of Commerce faces this challenge as well.

Question 13. You have described one of your notable successes during your tenure as IG at SBA as the completion of "Operation Five Aces," which resulted in Federal

criminal convictions stemming from a bribery scheme in which a defendant in the case paid millions of dollars in bribes to corrupt public officials from the U.S. Army Corps of Engineers in return for lucrative government contracts. Please describe in detail your involvement and leadership in "Operation Five Aces."

Answer. Operation FIVE ACES was a bribery scheme in which the defendant paid millions of dollars in bribes to public officials from the U.S. Army Corps of Engineers in return for lucrative government contracts. Twenty individuals and one corporation have pled guilty to Federal charges. The investigation uncovered the largest domestic bribery and bid-rigging scheme in the history of Federal contracting cases, according to the U.S. Attorney's Office. Overall, participants in the scheme stole over \$30 million in government money through fictitious invoices and conspired to steer a nearly \$1 billion government contract to a favored government contractor. To date, through forfeiture, restitution, and civil settlements, the U.S. Attorney's Office has been able to recover over \$30 million of the stolen money.

My role in this investigation was to provide leadership to the Assistant Inspector General for Investigations and the criminal investigators assigned to this investigation. I ensured necessary resources were authorized and provided to support their investigative efforts. Once the initial arrests were made public, I provided briefings to Congressional authorizers and appropriators and participated in an interagency press conference with the U.S. Attorney. I made myself available to the media, as well as the criminal investigator who conducted the investigation. I believe my efforts to champion the outcome of this investigation provides for a longstanding deterrent effect across the Federal contracting community for those who may contemplate wrongdoing. I also believe raising awareness of the impact of our office informs the Congress relative to ensuring the OIG is provided the resources it needs to achieve its mission.

Question 14. If confirmed, what steps will you take to engage with DOC OIG employees in an office that is significantly larger than your current office? Will you commit to making an effort to meet with senior agency officials on a frequent and regular basis, as well as senior division heads within the OIG?

Answer. Clear communication is key to managing. I think a manager should always strive to ensure that their employees have a clear understanding of the processes in place and the decisions being made. Employees want to know that they are part of the process and that their work and input is valued. Further, I am committed to meeting with senior agency officials on a frequent and regular basis to promote the work of the OIG and understand program concerns to inform our oversight plan. DOC OIG managers should expect to be active members of my management team and not be afraid of change (when change is necessary). I will engage OIG managers frequently and regularly to break down communication barriers to avoid the "stovepiping" and tunnel vision that sometimes gets in the way of collaboration, particularly in larger organizations. I think it's important that all divisions within an OIG strive to work together as a cohesive, high functioning office.

Question 15. If confirmed, how would you plan to direct the DOC OIG? Are there issues that you have already identified that the office could tackle to improve the efficiency and effectiveness of DOC programs? How would you develop the list of OIG priorities?

Answer. If confirmed, I would hope to forge strong relationships with stakeholders to help ensure that the work of the OIG is respected and promotes corrective action, which helps ensure that the OIG's work leads to positive change. I anticipate that I would spend most of my time initially with two goals in mind: introducing myself to the employees of the OIG and learning about the current state of the office and what changes and improvements may need to be made. Secondly, I will focus on becoming familiar with the audit work plan and the risk assessment used to develop the work plan, to become familiar with what the DOC OIG believes are the priorities as far as where to direct the resources of the office in conducting oversight of the Department of Commerce. Once I have established that foundation of knowledge, I would then be prepared to more thoroughly consider the short and longer term priorities of the DOC OIG and what changes and improvements may be warranted to ensure those priorities are addressed.

Question 16. Political and institutional independence is critical for an inspector general to be able to be effective in rooting out waste, fraud, and abuse to protect taxpayer dollars. Should you be confirmed, how will you maintain the independence of the OIG?

Answer. The Inspector General Act as amended has provided IGs with tremendous protections and tools to maintain their independence, such as the dual reporting requirement to Congress, transparency of IG budget requests, and the seven day letter provision. If confirmed, I will leverage and exercise every authority available

to me to maintain my independence and the independence of the office. Having already served as an IG for over six years, I am proud of the reputation I have earned as a fair, but steadfastly independent Inspector General.

Question 17. Unfortunately, the previous three DOC inspectors general resigned in the midst of controversy. This is a troubling track record. Should you be confirmed, what do you intend to do to restore confidence in the DOC OIG?

Answer. I believe strongly in personal accountability. If confirmed, I intend to meet with senior leaders and OIG staff to gain an understanding of the culture that exists at the office. I will take decisive action to resolve any structural inefficiencies or other causes that may contribute to negative perceptions within the office. I intend to hold myself to the highest standard and will demand the same of the management team, and expect them to carry forth this ethos to the front line staff.

I believe my leadership abilities and style have had a positive impact at the SBA, and if confirmed, I believe I can create a culture of ownership and pride for those who work in the Office of Inspector General at the Department of Commerce. With my executive team, I will ensure policies are up-to-date and implement new policies where gaps may exist. I will ensure effective policies and procedures are in place and hold personnel accountable to the same standards. I have led through changes of leadership at the SBA and also through changes of my own executive staff. If confirmed, I intend to be a steady hand during the change in Administration and also commit to providing steady, independent leadership within the Office of Inspector General.

Question 18. The Middle Class Tax Relief and Job Creation Act of 2012 created an independent authority within the Commerce Department's National Telecommunications and Information Administration (NTIA) to develop an interoperable nationwide broadband network for first responders known as the First Responder Network Authority, or FirstNet. A high priority of mine is to maintain robust oversight of FirstNet, both here by the Committee and at the DOC OIG. Will you commit to me that you will ensure there is robust, objective oversight of the FirstNet program by the OIG, should you be confirmed?

Answer. FirstNet is subject to oversight by the Inspector General of the Commerce Department. I am aware the DOC OIG has already conducted audits which have examined various aspects of the FirstNet organization and operations. Also, the DOC OIG included FirstNet in its most recent Top Management Challenges report for FY 2016 which indicates FirstNet faces challenges ahead in fulfilling its mission.

Considering the scope and magnitude of the program together with its early stage of organizational development, I believe FirstNet will continue to benefit from OIG engagement and oversight in the future. If confirmed, I will want to learn more details about the audit work which has already been completed and what work is currently planned before making any specific decisions regarding future DOC OIG oversight. I will also seek input from Members of Congress who have an interest in FirstNet in determining how best to allocate OIG resources.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROY BLUNT TO
HON. PEGGY E. GUSTAFSON

Question 1. I understand you began your career in public service in Missouri, as assistant prosecuting attorney for Jackson County, and then as General Counsel in the Missouri State Auditor's office. What are some of the skills you learned working in, and for, Missouri that prepared you for your current role at SBA, and that you will take to the Department of Commerce?

Answer. I spent six years in government serving the people of Jackson County, Missouri. First, I was an assistant county counselor, representing the county in civil litigation, including the defense of Federal lawsuits filed by jail inmates, personal injury suits filed by persons alleging they were injured on county property, and personnel actions. I then worked as an assistant county prosecutor, handling all stages of criminal prosecution for a wide variety of cases, from drug cases to arson to white collar crime to murder. I also represented the county in cases when we sought to remove public officials from office for violations of conflict-of-interest or nepotism laws.

In 1999, I was asked to serve as General Counsel for the Missouri State Auditor. In this capacity, I handled many oversight responsibilities for state-level auditing activities. In addition to the traditional duties of a general counsel, such as advising the Auditor and her staff on legal questions arising in the course of audits, I was an integral part of the management team of the office. Perhaps most importantly, I helped make strategic decisions about which audits and investigations deserved

highest priority. I became very familiar with the “yellow book,” the government auditing standards promulgated by the Government Accountability Office, as well as the appropriate scope of the Auditor’s constitutional and statutory duties. I also became skilled at identifying and gaining access to the records necessary to ensure that state taxpayer money was being spent responsibly and transparently.

I believe all these skills have been extremely useful to me in my time as an Inspector General. These jobs also solidified my love of public service and my belief that a career in public service is one of the most rewarding things one can do.

Question 2. I understand that you when you were in the Senate, you worked on the Inspector General Reform Act of 2008 (P.L. 110–409). As a sitting Inspector General, and now nominated to serve in the same capacity at a much larger Department, what are your thoughts on further legislation to strengthen or empower Inspectors General?

Answer. In my capacity as SBA Inspector General and Chair of the Legislation Committee for the Council of the Inspectors General for Integrity and Efficiency (CIGIE), I have strongly advocated for additional tools to enhance independence of Inspectors General and to increase the efficiency and effectiveness of their oversight. The following are among the legislative proposals I have championed:

- Relief from the Computer Matching and Privacy Protection Act
- Relief from the Paperwork Reduction Act
- 5 USC § 552(b)(3) Exemption to Protect Sensitive Information Security Data
- Testimonial Subpoena Authority
- Appropriate Use of Paid or Unpaid, Non-duty Status in Cases Involving Inspectors General
- Program Fraud Civil Remedies Act Enhancements

Question 2a. Do you have any feedback on Senator Grassley’s Inspector General Empowerment Act (S. 579)?

Answer. S. 579 contains many of the legislative proposals and perspectives noted above that I have championed as an Inspector General and on behalf of CIGIE. CIGIE has expressed its position at various stages of the legislative process for S. 579 on behalf of the Inspector General community. I am supportive of CIGIE’s views and am grateful for the work of Senators Johnson and Grassley, as well as their co-sponsors, on this important piece of legislation.

Question 3. Political and institutional independence is critical for the IG to be able to be effective in rooting out waste, fraud, and abuse and to protect taxpayer dollars. Should you be confirmed, how will you maintain the independence of the Office of the Inspector General?

Answer. The Inspector General Act as amended has provided IGs with tremendous protections and tools to maintain their independence, such as the dual reporting requirement to Congress, transparency of IG budget requests, and the seven day letter provision. If confirmed, I will leverage and exercise every authority available to me to maintain my independence and the independence of the office. Having already served as an IG for over six years, I am proud of the reputation I have earned as a fair, but steadfastly independent, Inspector General.

Question 4. As an Inspector General, how do you view your relationship with Congress?

Answer. As SBA Inspector General, I have strived to build an open and collaborative relationship with the Congress. I established a goal in our strategic plan to “enhance relationships with Congress, the SBA, and other entities.” To achieve the objectives of this goal, I established a new position on my leadership team to serve as a single point-of-contact for congressional and external affairs. As a result, the office is positioned to keep the Congress fully and currently informed of the work of our office and provide timely responses to congressional inquiries and correspondence.

Question 5. Ms. Gustafson, you have served for over six years as the Inspector General at the Small Business Administration. If confirmed, you would be moving from a position as the IG of a relatively small agency to become the IG of a large department with 12 bureaus and nearly 47,000 employees. Should you be confirmed, how will you apply your experience as SBA IG to the greater scope of programs at the Department of Commerce?

Answer. Working as SBA Inspector General has allowed me to take the knowledge I possess about the importance of the role of the Inspector General and the importance of the independence of the role and put it into practice. I have gained experience in ensuring that the agency and Congress are fully informed about challenges

affecting the agency's programs while steadfastly maintaining the independence of the office.

While the Department of Commerce is a larger organization than SBA with more diversity in its programs, I view the essential role of the Inspector General as the same—to promote economy, efficiency and effectiveness, and prevent and detect fraud and abuse in the administration of the agency's programs and operations.

Question 5a. What challenges do you anticipate in making the transition from SBA to the Department of Commerce?

Answer. I am aware that the Department of Commerce OIG has operated without a Senate confirmed IG for almost a year. If confirmed, I intend to meet with senior leaders and OIG staff to gain an understanding of the culture that exists within the office. I believe my leadership abilities and style have had a positive impact at the SBA, and if confirmed, I believe I can create a culture of ownership and pride for those who work in the Office of Inspector General at the Department of Commerce. With my executive team, I will ensure policies are up-to-date and implement new policies where gaps may exist. I will ensure effective policies and procedures are in place and hold personnel accountable to the same standards. I have led through changes of leadership at the SBA and also through changes of my own executive staff. If confirmed, I intend to be a steady hand during the change in Administration. I will provide steady, independent leadership within the Office of Inspector General.



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