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NOMINATIONS OF DAVID C. TRYON TO BE CHIEF COUNSEL FOR ADVOCACY OF THE SMALL BUSINESS ADMINISTRATION AND HANNIBAL M. WARE TO BE INSPECTOR GENERAL OF THE SMALL BUSINESS ADMINISTRATION

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

FEBRUARY 14, 2018

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ONE HUNDRED FIFTEENTH CONGRESS

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NOMINATIONS OF DAVID C. TRYON TO BE CHIEF COUNSEL FOR ADVOCACY OF THE SMALL BUSINESS ADMINISTRATION AND HANNIBAL M. WARE TO BE INSPECTOR GENERAL OF THE SMALL BUSINESS ADMINISTRATION

THURSDAY, FEBRUARY 14, 2018

UNITED STATES SENATE,
COMMITTEE ON SMALL BUSINESS
AND ENTREPRENEURSHIP,
Washington, DC.

The Committee met, pursuant to notice, at 3:30 p.m., in Room 428A, Russell Senate Office Building, Hon. James Risch, Chairman of the Committee, presiding.

Present: Senators Risch, Ernst, Young, Kennedy, Cardin, Cantwell, Shaheen, Heitkamp, and Duckworth.

OPENING STATEMENT OF HON. JAMES E. RISCH, CHAIRMAN, AND A U.S. SENATOR FROM IDAHO

Chairman RISCH. The Committee will come to order. I thank all of you for coming today. And we are here to consider President Trump's nominee to be Chief Counsel of the Office of Advocacy of the United States Small Business Administration, David Tryon, and the nominee to be Inspector General at SBA, Mike Ware.

So, gentlemen, we want to thank you for being here. We want to thank you for coming forward for public service. We always appreciate that. What I am going to do is I am going to make a brief opening statement and then we are going to have an opening statement from Senator Cardin. That will be followed by a statement from our witnesses and questions from the Members of the Committee.

First, I would like to recognize Chairman Chabot of the House Small Business Committee to introduce a fellow Ohioan. Congressman, thank you.

STATEMENT OF HON. STEVE CHABOT, A U.S. REPRESENTATIVE FROM THE STATE OF OHIO

Mr. CHABOT. Thank you very much Chairman Risch, Ranking Member Cardin, for the opportunity to appear before you today. I know it is a great privilege to work together in Congress on behalf of our Nation's small businesses, and that is one of the reasons that we are here to join you this afternoon.

I have the pleasure of introducing a fellow Ohioan, David Tryon, who I have enjoyed getting to know during his confirmation process to be the next Small Business Administration, or SBA's, Chief Counsel for Advocacy.

As this Committee knows, the SBA Office of Advocacy is the independent voice for small business within the Federal Government, the watchdog for regulatory flexibility act and the source of essential data and small business statistics. The Chief Counsel leads this important office and ensures that Federal agencies are considering how their proposed regulations will affect small businesses.

Mr. Tryon brings more than 30 years of legal experience to the position on a broad range of complex civil cases. He has handled disputes over contracts, construction, intellectual property, real estate, foreclosure, eminent domain, and U.S. constitutional issues, and, in many cases, he has advocated for the interests of small businesses. In addition, he has handled public interest matters on a pro bono basis. As a result of his extensive legal experience, he has first-hand knowledge of the many problems that small businesses face and how important they are to America's economy.

If confirmed, Mr. Tryon would be assuming the position at a time when Congress has been working to provide regulatory relief to the Nation's small businesses, which continue to experience a crushing weight of Federal regulations on a daily basis. The Office of Advocacy has actively assisted with regulatory reform efforts by holding regional regulatory roundtables across the country, to hear from small businesses facing regulatory burdens.

However, if the Office of Advocacy had a chief counsel in place, these efforts would be enhanced by providing clear direction on regulatory reform and appointing regional advocates who will assist in outreach efforts in the field.

I believe Mr. Tryon's experience will serve America's small businesses well. I encourage this Committee and the full Senate to move swiftly to approve him as the next Chief Counsel for Advocacy. By doing so, we can ensure that America's small businesses have a powerful voice in the Federal Government during the regulatory rulemaking process.

And again, I want to thank you for giving us the opportunity to speak here this afternoon.

Chairman RISCH. Thank you, Chairman Chabot. You are welcome to stay if you want. I know how busy you are——

[Off microphone.]

Mr. CHABOT. Yeah. Thank you very much, Senator.

Chairman RISCH. Thank you.

Mr. CHABOT. Thank you, Senators. Thanks.

OPENING STATEMENT OF CHAIRMAN RISCH

Chairman RISCH. Again, welcome, Mr. Tryon. We all know that the SBA Office of Advocacy is independent from the SBA but is vital for helping the agency achieve its mission. Advocacy is charged with advancing the views, concerns, and interests of small businesses in government, and we all know how important that is when a small business is dealing with the giant Federal Government.

Advocacy oversees the Regulatory Flexibility Act and related executive orders that require regulators to consider the impact of regulations on small businesses. Advocacy also produces research on small business and monitors regulatory activity across the country with 10 regional advocates.

I am confident that Mr. Tryon would serve the office well as its Chief Counsel and I look forward to supporting his confirmation.

Mr. Tryon graduated from BYU—for those of you who are not from our neck of the woods, that is Brigham Young University—in 1981, and from the University of Michigan Law School in 1984. After a brief stint at Chapman and Cutler in Chicago he returned home to Ohio where has been practicing at Porter Wright Morris & Arthur since 1987.

I would also like to welcome his wife, Sandy, and daughter, Lindsay, who have come here today to support him. Welcome.

We also welcome Mr. Ware. Mr. Ware, your lengthy experience in government oversight, particularly your time at the SBA, will serve you well in this post, and I believe that you will be a great addition to the agency. The SBA Office of Inspector General is charged with overseeing the agency to prevent and weed out waste, fraud, and abuse. Congress must ensure that taxpayer dollars are spent effectively and that the SBA can fill the needs of the entrepreneurs and small businesses it exists to serve.

I am confident that Mike Ware is the right person to manage the audits and investigations of the Office of Inspector General, and I look forward to supporting his confirmation.

Mr. Ware graduated from the University of the Virgin Islands in 1991 with a bachelor's degree in accounting. He began working for the Department of Interior's Office of Inspector General while still in college, and served there in different capacities for 26 years. He has been Acting Inspector General at the SBA since 2016.

I would also like to welcome his wife, Elise, his mother, Barbara, his son, Zion, and his pastor, Dr. George Phillips, here to support him.

Before we turn to our nominees I would like to recognize my distinguished Ranking Member, Senator Cardin, for his opening statement.

OPENING STATEMENT OF HON. BENJAMIN L. CARDIN, RANKING MEMBER, AND A U.S. SENATOR FROM MARYLAND

Senator CARDIN. Well, Chairman Risch, first let me tell you what a pleasure it is to join you on the Small Business Committee as the Ranking Member to work with you, in the tradition of this Committee, on a bipartisan basis, to advance the interest of small business.

Chairman RISCH. Senator Cardin, I can tell you it has been very bipartisan. To your right are two people that I have served with in a management capacity on this, and we have—I have enjoyed just an outstanding relationship with them. In fact, the press does not cover us because it is so boring. We do not fight with each other. We try to pull the wagon together.

Senator CARDIN. Well, I agree with you, but I would like to make it less boring.

[Laughter.]

Chairman RISCH. Do not go overboard.

Senator CARDIN. I do want to acknowledge how proud our caucus is, and I think the entire United States Senate, of Senator Shaheen's service on this Committee as Ranking Member. She did an incredible job.

You know, the work that she did in regards to the women's economic empowerment, tackling the gender gap with women entrepreneurs' need to thrive, to me that is a blueprint on what we need to do as a Nation to close the gender gap, and it is very important work of this Committee.

But Senator Shaheen, also, I think, was responsible for bringing a lot of us together to get some good legislation done and oversight that is important. I personally thank her for some legislation that I worked on, that she found a path forward so that we could get that accomplished. I know she is very proud of the Invest in Rural Small Business legislation that is now law, that she worked on and was able to get accomplished.

So under Senator Shaheen's leadership, the Democratic members are very proud of the way that we were able to work with our Republican colleagues in the best interest of small business, and I am very pleased that she is going to be right here on this Committee, but I want her to know that her leadership on small business issues is always welcomed, and we are going to be relying a great deal on what she was able to develop in this Committee.

Senator SHAHEEN. Thank you, Mr. Chairman. If I could, thank you very much, Senator Cardin. I really appreciate those nice words. And let me recognize the minority staff of the Small Business Committee, without whom all of that work would not have happened. So thank you to everybody.

Senator CARDIN. And I agree. A lot of times our staffs go unappreciated for the incredible work that they do, and we come up with, we think, simple ways to get things done and then they have to deliver. So I thank them very much.

Mr. Chairman, we do have a lot of work to do in this Committee. There are still a lot of issues ahead of us. The regulatory issues are there, access to capital to make sure that the government procurement is done in the way that we intended under statute to the protected groups.

So we have work ahead of us to do, and I look forward to working with all the Members of this Committee in order to achieve that agenda.

Today we have two very important positions in which we are holding nomination hearings, the Chief Counsel for Advocacy for the Small Business Administration and the Inspector General of the Small Business Administration. So, Mr. Tryon, I welcome you and your family. Mr. Ware, I welcome you and your family. We thank you very much for your willingness to serve your country. We know that this is a shared sacrifice with your family, so we thank you, the family members, for being willing to allow your spouses and family members to serve our country.

The Inspector General is an important position to hold the SBA accountable. Billions of dollars are appropriated in the SBA. We want to make sure those funds are going to the intended purpose that Congress desires, and we will talk a little bit about different

issues including whether the disaster relief is going as intended, we have had mistake rates, are we doing the best that we can. But we rely on the Inspector General to be that independent voice working with us, the Congress, with the right oversight to make sure taxpayer dollars are going for their purpose, so that we can do what is right.

Mr. Ware, I am telling you, I am very impressed with your background on this area, so you bring a wealth of talent to that position.

The Chief Counsel of the Office of Advocacy also needs to be an independent voice, an independent voice. The cost of regulation on small business is challenging to small business owners, and we want to make sure that we have that type of advocate at the Small Business Administration. And it must go beyond partisan politics. That is not easy in today's environment, but we need to make sure that this position is filled with someone who is going to be an advocate for small businesses in a nonpartisan manner.

So will you help issues such as net neutrality, which is certainly an important issue? But there clearly is a small business interest on access to the high-speed internet services at reasonable price. And we hope that we would see, from the Chief Counsel, that type of interest, to make sure that small businesses are treated fairly.

So during the question-and-answer format I will have a chance to ask you some questions in this regard, but again, welcome and I look forward to our hearing.

Chairman RISCH. Thank you, Senator Cardin.

Gentleman, Mr. Tryon and Mr. Ware, would you stand and raise your right hand, please?

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. TRYON. I do.

Mr. WARE. I do.

Chairman RISCH. Thank you very much. Mr. Tryon, the floor is yours.

TESTIMONY OF DAVID C. TRYON, OF OHIO, TO BE CHIEF COUNSEL FOR ADVOCACY OF THE SMALL BUSINESS ADMINISTRATION

Mr. TRYON. Good afternoon, Chairman Risch, Ranking Member Cardin, and Members of the Committee.

Thank you for the opportunity to appear before you today. I would like to introduce my wife, Sandy, my daughter, Lindsay, and thank them for being with me today and for their support during the nomination process.

I am honored to receive your consideration to serve as Chief Counsel for Advocacy of the Small Business Administration. I want to thank Chairman Chabot for his kind introduction. I also want to thank President Trump for the trust and confidence he has placed in me with this nomination. I have had the privilege of meeting with many of you and your staff. I hope that I will have the opportunity to work with you in the future.

About 15 months ago I was home alone and looking at my dad's picture and his veteran's flag given to me about a year earlier at his graveside. As I thought back on his life I thought about his pa-

triotic service during World War II. I thought about the fact that he had encouraged me to go to law school and I was reminded of my commitment to him to use my law degree to help others. I said to his picture, "Dad, I have not done what I came here to do." That day I decided to do more in public service to honor my dad. So, when I received a call from the White House and was asked if I would be interested in serving as Chief Counsel for Advocacy, I immediately said yes.

I have personally experienced some of the struggles that small entities represented by the Office of Advocacy encounter. For 10 years, as part of my church volunteer work, I helped manage a small not-for-profit apple and strawberry farm with one full-time manager. We harvested about 500,000 pounds of apples and up to 80,000 pounds of strawberries every year. The fruit was used to feed the poor and needy. I, along with two others, was in charge of farm oversight, which included recruiting over 30,000 hours of volunteer time every year and training these volunteers on safety and government regulation compliance. I know from first-hand experience the challenges of small farmers.

I am also familiar with small government entities, which are within the jurisdiction of Advocacy. As school board president, I learned the impact of State and Federal regulations on the school district. It was often difficult to understand those regulatory requirements and it was unclear if they were mandatory and what the consequences were if we failed to comply. These mandates often imposed additional costs, which sometimes forced the school board to cut back on other important programs. During my tenure, the State and the Federal regulators never sought input from us on these issues.

Many of my relatives have owned small businesses. My sister, Carol, was a realtor and she and her husband, Kim, owned and ran a small Ford dealership in New Mexico. Another brother-in-law, Rusty, had a home repair and remodeling business in Cleveland, and even my daughter, Lindsay, started a business. I have experienced with them their respective challenges.

From these and other personal experiences, I have learned some of the struggles which small entities face every day.

I am a member of the Ohio Advisory Committee to the United States Civil Rights Commission. In 2014 and 2015, we issued a report titled "Civil Rights Issues Regarding Barriers to Entrepreneurship in Ohio." We learned from minority-owned small businesses of the struggles they face, especially with respect to access to capital and government regulations.

In my 32-year legal career I have advocated on behalf of business clients and individuals. My most rewarding experiences were representing small businesses such as a locksmith with one employee, a masonry company with 30 employees, a small electrical contractor, a small export company, an independent sales representative, and a bank services entrepreneur. I have also filed with the Ohio Supreme Court "Friend of the Court" briefs on behalf of the National Federation of Independent Businesses and I have provided free representation to other small, non-profit organizations. Sometimes my representation involved disputes with other entities and other times it involved addressing government rules, regula-

tions, permits, or programs. Always, they involved the trials and tribulations of a small business that needed help.

If I am honored to be confirmed as the Chief Counsel for Advocacy, I will take the lessons I have learned over the past 32 years and apply them to advocating for all small businesses. I will zealously advocate for veteran-owned, minority-owned, and women-owned small businesses. I will collaborate with this Committee, the SBA, and other organizations and government agencies to help American small businesses thrive and prosper.

Thank you for your time. I look forward to answering your questions.

[The prepared statement of Mr. Tryon follows:]

David C. Tryon, Esq.
Nominee for Chief Counsel
Office of Advocacy, U.S. Small Business Administration

Good afternoon, Chairman Risch, Ranking Member Cardin and members of the Committee:

Thank you for the opportunity to appear before you today. I would like to introduce my wife Sandy and my daughter Lindsay and thank them for being with me today and for their support during the nomination process. I am honored to receive your consideration to serve as Chief Counsel for Advocacy of the Small Business Administration. I want to thank Chairman Chabot for his kind introduction. I also want to thank President Trump for the trust and confidence he has placed in me with this nomination. I have had the privilege of meeting with many of you or your staff. I hope that I will have the opportunity to work with you in the future.

About 15 months ago I was home alone and looking at my Dad's picture and his veteran's flag given to me about a year earlier at his graveside. As I thought back on his life, I thought about his patriotic service during WWII. I thought about the fact that he had encouraged me to go to law school and I was reminded of my commitment to him to use my law degree to help others. I said to his picture, "Dad, I have not done what I came here to do." That day I decided to do more in public service to honor my Dad. So, when I received a call from the White House and was asked if I would be interested in serving as Chief Counsel for Advocacy, I immediately said yes.

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Many of my relatives have owned small businesses. My sister Carol was a realtor and she and her husband Kim owned and ran a Ford dealership, another brother-in-law Rusty had a home repair and remodeling business, and even my daughter Lindsay started a small business. I have experienced with them their respective challenges.

As a mother and a realtor, Carol struggled to balance raising two daughters and running her business. At the same time, she and her husband Kim owned and ran their small Ford dealership

in New Mexico. Both of these businesses are heavily regulated. Periodically they would talk to me about some of their challenges – financing, employee relations, customer and client relations, and legal and regulatory issues. I saw them work hard to take care of their customers and clients and make a reasonable profit to take care of their family. It was not easy.

Rusty's home repair and remodeling business thrived for several years. It had its ups and downs and constant challenges. He also had to deal with local, state and federal laws and regulations with no legal training and no legal department. From time to time he discussed these challenges with me and occasionally sought my personal and professional advice.

When Lindsay was a young teenager, I helped her start a new business making and selling architectural alphabet framed prints. She photographed neat architectural features that looked like letters and framed them in a way that spelled names. She quickly learned some of the obstacles to a small business such as intellectual property laws, sales tax issues, licensing issues, marketing challenges, etc. In the end, the business did not go very far, but it was fun for her while it lasted. From this Lindsay and I learned the reality of how hard it can be to start a business from scratch.

From these and other personal experiences, I have learned some of the struggles which small entities face every day.

I am a member of the Ohio Advisory Committee to the United States Civil Rights Commission. In 2014 and 2015, we issued a report titled "Civil Rights Issues Regarding Barriers to Entrepreneurship in Ohio." We learned from minority-owned small businesses of the struggles they face, especially with respect to access to capital and government regulations.

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If I am honored to be confirmed as the Chief Counsel for Advocacy, I will take the lessons I have learned over the past 32 years and apply them to advocating for all small businesses. I will zealously advocate for veteran-owned, minority-owned and women-owned small businesses. I will collaborate with this committee, the SBA and other organizations and government agencies to help American small businesses thrive and prosper.

Thank you for your time. I look forward to answering your questions.

David C. Tryon

Chairman RISCH. Thank you very much, Mr. Tryon. Mr. Ware, the floor is yours.

TESTIMONY OF HANNIBAL M. WARE, OF THE VIRGIN ISLANDS, TO BE INSPECTOR GENERAL OF THE SMALL BUSINESS ADMINISTRATION

Mr. WARE. Thank you, Chairman Risch, Ranking Member Cardin, and Members of the Committee. I am deeply honored to appear before you today and to have your consideration to serve as the Inspector General of the U.S. Small Business Administration.

I would like to thank the President for nominating me to this position. I can assure you when I began my Federal career as a student intern at the Department of Interior's Virgin Islands IG field office in 1990, the opportunity to serve as an Inspector General was not imagined. I also would like to thank the professional staff of the Committee for their time and assistance in the confirmation process.

It has been an honor to serve taxpayers within the Inspector General community these 28 years. I am very excited about the opportunity to serve as the permanent IG within SBA. I would like to take the next few minutes to introduce myself to you and to explain why I believe my career in the IG community has prepared me to take on the role of Inspector General at SBA.

If I may, I also want to thank my wife, Elise, my mother, Barbara, and my children for their love and their support. Elise, my mom, my son, Zion, and my pastor, Dr. Phillips, are able to be with me here today and have been a source of inspiration and pride in my life. I also want to thank my other family members, friends, and colleagues for their unwavering support of me in my life's endeavors.

I was born and raised in the U.S. Virgin Islands by a strong woman who guided and shaped me into the individual who appears before you today. She instilled a sense of right and justice within me that propels me in my work every day.

As a native of the Virgin Islands, I have lived through major hurricanes and their aftermath. I offer this to you with a profound understanding of SBA's vital role in providing low-interest loans as a form of disaster assistance to homeowners and business owners alike.

In terms of education and experience, I am a career auditor and have served at all levels within an OIG. I hold a bachelor of arts degree in accounting from the University of the Virgin Islands and I am a graduate of the Senior Executive Service Career Development Program. I joined DOI OIG's Virgin Islands field office as an auditor in 1990 and later became the Field Office Supervisor, leading the very office where I was initially hired as a junior in college.

Throughout my oversight career, I performed increasingly challenging and vital roles within the IG community, culminating with my appointment to the Senior Executive Service as SBA OIG's Deputy Inspector General. I have served as the Acting Inspector General since January 9, 2017.

As Deputy Inspector General and now Acting Inspector General, I have seized the opportunity to promote integrity and efficiency within the SBA. In this capacity, I have led an investigative and

audit staff of over 100 employees, and we have provided effective oversight over SBA's programs, which encompass more than $100 billion in guaranteed loans and nearly $100 billion in Federal contracting dollars.

During my tenure, we have continued to provide a significant return on investment to the taxpayer and issued impactful reports and conducted complex fraud investigations. The men and women of SBA OIG are dedicated professionals, and I will support, lead, and champion their efforts to achieve these positive outcomes. I believe I have distinguished myself in leading OIG through decisive action to improve internal processes and to manage our resources. It also has been a priority and will continue to be so to strengthen our relationship with our oversight and appropriations committees. To this end, I appeared as a witness at four congressional hearings in 2017, on topics ranging from SBA's disaster assistance program to SBA's execution of VERA and VSIP authority in 2014.

To further distinguish myself as a leader, I have executed our budget in a manner that has revitalized our disaster assistance oversight and bolstered our oversight of SBA internal management. Finally, I am proud to share with you results of the 2017 Federal Employee Viewpoint Survey as it pertains to our office and corresponds directly to my tenure. We had 55 strength areas out of a possible total of 71, with only 2 challenge areas noted. When the results were presented to me, the SBA Office of Human Resources Solutions official indicated they had to double-check the figures given the unprecedented, single-year increases noted across the key OPM indexes. I believe I am leading the office in the right direction, and, if confirmed, I will continue to focus on the impact of our work and the value of our staff.

As an auditor, I am driven by criteria to make assessments and identify risk. If confirmed, I will continue to focus resources on the areas of highest risk to SBA 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 Administrator, 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 demonstrated integrity, skills, knowledge, judgment, demeanor, and overall track record to serve as the SBA Inspector General. Thank you for your consideration, and I look forward to your questions.

[The prepared statement of Mr. Ware follows:]

Testimony of Hannibal "Mike" Ware
Nominee to be Inspector General
U.S. Small Business Administration
Senate Committee on Small Business and Entrepreneurship
February 14, 2018

Thank you, Chairman Risch, Ranking Member Cardin, and Members of the Committee. I am deeply honored to appear before you today and to have your consideration to serve as Inspector General of the U.S. Small Business Administration (SBA).

I would like to thank the President for nominating me to this position. I can assure you when I began my Federal career as a student intern at the Department of Interior (DOI) Office of Inspector General's (OIG's) Virgin Islands field office in 1990, the opportunity to serve as an Inspector General was not imagined. I also would like to thank the professional staff of the Committee for their time and assistance in the confirmation process.

It has been an honor to serve taxpayers within the Inspector General community these 28 years. I am very excited about the opportunity to serve as the permanent Inspector General within SBA—an agency with the noble mission of aiding, counseling, assisting, and protecting the interests of small business concerns. I would like to take the next few minutes to introduce myself to you and to explain why I believe my career in the Inspector General community has prepared me to take on the role of Inspector General at SBA.

If I may, I also want to thank my wife, Elise Ware, my mother Barbara Donastorg, and my children for their love and their support. Elise, my Mom, my son, Zion, and my pastor from the USVI, Dr. George Phillips, are able to be with me here today and have been a source of inspiration and pride in my life. I also want to thank my other family members, friends, and colleagues for their unwavering support of me in my life's endeavors. I truly feel blessed.

I was born and raised in the U.S. Virgin Islands, surrounded by strong women who guided and shaped me into the individual who appears before you today. They instilled a sense of right and justice within me that propels me in my work each day.

As a native to the U.S. Virgin Islands, I have lived through major hurricanes and their aftermath. I offer this to you with a profound understanding of SBA's vital role in providing low interest loans as a form of disaster assistance to homeowners and business owners alike. If confirmed, providing oversight of these funds to maintain the integrity of the program and to make recommendations to achieve efficiencies will remain a priority for me.

In terms of education and experience, I am a career auditor and have served at all levels within an OIG. I hold a Bachelor of Arts degree in accounting from the University of the Virgin Islands and am a graduate of the Senior Executive Servicer Career Development Program. I joined DOI OIG's Virgin Islands field office as an auditor in 1990 and later became the Field Office Supervisor, leading the very office where I was initially hired as a junior in college.

Throughout my oversight career, I performed increasingly challenging and vital roles within the Inspector General community. From the Virgin Islands field office, I was promoted to Eastern Regional Manager, where I provided leadership of all phases of the technical and administrative operation of the region, including planning and managing audits, inspections, evaluations, and joint investigations. I later moved to DOI OIG's Office of Management as the Deputy Assistant Inspector General for Management. In this capacity, I managed oversight of DOI OIG's independent operating budget and managed the logistical concerns for the office's nationwide presence. In April 2016, I was appointed to the Senior Executive Service as the SBA OIG's Deputy Inspector General. I have served as the Acting Inspector General since January 9, 2017.

As Deputy Inspector General and now Acting Inspector General, I have seized the opportunity to promote integrity and efficiency within the SBA. In this capacity, I have led an investigative and audit staff of over 100 employees, and we have provided effective oversight over SBA's programs, which encompasses more than $100 billion in guaranteed loans and nearly $100 billion in Federal contracting dollars.

During my tenure, we have continued to provide a significant return on investment to the taxpayer and issued impactful reports and conducted complex fraud investigations. The men and women of SBA OIG are dedicated professionals, and I will support, lead, and champion their efforts to achieve these positive outcomes. I believe I have distinguished myself in leading the SBA OIG through decisive action to improve internal processes and to manage our resources. It also has been a priority and will continue to be so to strengthen our relationship with our oversight and appropriations committees. To this end, I appeared as a witness at four congressional hearings in 2017 on topics ranging from SBA's disaster assistance program to SBA's execution of VERA and VSIP authority in 2014.

To further distinguish myself as a leader, I have executed our budget in a manner that revitalizes our disaster assistance oversight and bolsters our oversight of SBA internal management. Finally, I am proud to share with you results of the 2017 Federal Employee Viewpoint Survey (FEVS), as it pertains to our office and corresponds to my tenure.

OIG had a response rate of 76% eligible OIG employees, as contrasted with the government-wide rate of 45.5%. We can be assured the results include input from the vast majority of staff. OIG had 55 strength areas out of a possible total of 71, with only 2 challenge areas noted. When the results were presented to me, the SBA Office of Human Resources Solutions official indicated they had to double-check the figures given the unprecedented, single

year increases noted across the key OPM indexes. These increases included a 17 % increase in Global Satisfaction, 21 % increase in Leadership/Knowledge Management, 28 % increase in Diversity and Inclusion, 11 % increase in Employee Engagement, and 7 % increase in Results Oriented Performance Culture, among increases in other OPM indexes. The improvements noted in our own internal employee engagement survey conducted later in the year were even more noteworthy, with giant leaps in every single category. I believe I am leading the office in the right direction, and if confirmed, I will continue to focus on the impact of our work and the value of our staff.

As an auditor, I am driven by criteria to make assessments and identify risk. If confirmed, I will focus resources on the areas of highest risk to SBA 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 Administrator, 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 demonstrated integrity, skills, knowledge, judgment, demeanor and overall track record to serve as the SBA Inspector General. I have attained the support of the Council of the Inspector's General on Integrity and Efficiency (CIGIE) in pursuing this position and am committed to collaborating with my Inspector General colleagues to oversee SBA's programs and operations.

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

Chairman RISCH. Thank you very much. We are going to proceed to a round of five-minute questioning. We will do it on order of appearance. I am going to reserve my time and I am going to call on Senator Cardin.

Senator CARDIN. Thank you, Mr. Chairman. Once again, I thank both of our nominees.

The reason why we have a Committee on Small Business is because of the importance of small business to our country. It is where job growth is. That is where innovation takes place. And the Office of Chief Counsel for Advocacy is to be the advocate for small business.

So there are a lot of subjects in which there will be some challenges but they are not going to be deep challenges of conflicts between different interests. But in some areas there is going to be conflict, and I mentioned net neutrality in my opening statement.

I have traveled to all parts of Maryland. I can tell you, particularly in our rural areas in western Maryland, Eastern Shore, we are dominated by small businesses. That is where the jobs are, small businesses. The access to broadband is absolutely essential. Access to affordable, high-speed internet service is critically important to be competitive. And we know there is building conflict between the large entities and access by small companies to the internet.

So, Mr. Tryon, I want to know how you will approach that issue, recognizing there is going to be controversy within the Trump administration and that there is a small business interest here that may be different than the position within the Administration itself. How do you see your role in this position in representing the interests of small business in America?

Mr. TRYON. Thank you, Senator Cardin, for that question. I would say first of all you have mentioned the importance of independence, and I agree that the Chief Counsel needs to be an independent position. Indeed, when President Trump nominated me for this position he nominated me to be an independent voice for small businesses and to advocate on their behalf. And as an advocate, a trained advocate for the past 30-some years, that is exactly what I will do, and act independently on behalf of the small businesses.

As to net neutrality, that is a difficult issue, I understand, and I would, if confirmed, want to—it sounds like your staff is—has become well versed in it. I would hope to have the opportunity to meet with you and/or your staff to understand your viewpoint on this, and then to work with other small business groups, small businesses themselves, to try and understand the impact of those complex rules and that complex conversation. And then once I determine what that interest of small businesses, advocate for those small businesses to help them in any way that I can.

Senator CARDIN. And I will be glad to share with you my views, and my staff will certainly work with you. But I think it is more urgent to understand the needs of the small business community. We will help you understand those issues that are brought to our attention.

But I just need your commitment that you are going to be guided by the role of your position and exercise that independence, regard-

less of whether it is popular or not within the politics of the issue with the Administration.

Mr. TRYON. Yes, Senator, I appreciate that, and if I can just illustrate my intention to be independent through something in my law practice, if I may. And that is sometimes in your law practice you are representing a client, but it is funded by someone else. For example, an insurance claim. You may be representing an individual funded by an insurance—the representation is funded by an insurance company. The insurance company may say, we want you to do something that you do not agree that it is good for your client. You represent the client. You tell the insurance company, "No, this is who I represent. I appreciate that you are funding this but I have a legal and fiduciary obligation to represent my client."

Senator CARDIN. Let me point out, in the last Administration, the person that held that position, at times, was very much against the Obama administration's regulatory policies, and we appreciated that independence and we expect that from this position.

Let me mention a second issue which may not become so apparent but after you think about it, and that deals with the decision made by the Secretary of Interior on opening up drilling off the Atlantic coast. Go down to Ocean City, Maryland, and you are going to see 95 percent of the businesses are small businesses. They are put out of business if there is an oil spill on the East Coast of the United States—out of business. They will not return.

We need someone in your position who is going to understand the sensitivity to small businesses, what happened in the 2010 disaster, but what could happen again if we do not protect the vulnerabilities of small businesses. Are you prepared to do that?

Mr. TRYON. Senator, thank you. I will commit to working with those small businesses, trying to understand their interests, and then advocating for their business—for their position.

Senator CARDIN. Thank you. Thank you, Mr. Chairman.

Chairman RISCH. Thank you very much. Senator Kennedy, I think you were first on our side. You are up.

Senator KENNEDY. Thank you, Mr. Chairman. Mr. Ware, could you walk me through, one more time, about the—I think it was in terms of the audit or the auditor, the 77 criteria and the 55 that you scored high on. I was a little confused there.

Mr. WARE. Yeah. I could definitely do that. So in these indices they really are about employee engagement.

Senator KENNEDY. Yes, sir.

Mr. WARE. So that is what they are about. So there are 71 different ways in which they break this out, in terms of determining whether your employees are happy in a productive and safe environment.

Senator KENNEDY. Mm-hmm.

Mr. WARE. And 55 of those were strength areas, which I believe mean that you score above 60 percent in those. We only had two challenge areas. Those two challenge areas, I could tell you right now, they were the ability to move up in the job, so promotion capability, and salaries, I believe, was the other one, two things that are——

Senator KENNEDY. You mean somebody was unhappy with his salary?

[Laughter.]

Mr. WARE. Two things that are very tough when you are in a small organization. But even that we have been working on, in terms of—well, the salary is what the salary is, but in terms of providing opportunities for—at least to have an opportunity to be promoted.

Senator KENNEDY. And these high marks were under your leadership?

Mr. WARE. They were definitely under my leadership——

Senator KENNEDY. Right.

Mr. WARE [continuing]. And the leadership of my executive staff.

Senator KENNEDY. And you have been Acting for, what, over a year?

Mr. WARE. Yes. Yes, sir.

Senator KENNEDY. Have they been paying you like you were there permanently, I hope?

[Laughter.]

Mr. WARE. No, sir. No, sir.

Senator KENNEDY. We need to do something now.

Mr. WARE. Yes, sir.

Senator KENNEDY. That would seem fair to me. Well, congratulations.

Mr. WARE. Thank you very much.

Senator KENNEDY. I am a little more familiar with that than I am letting on. That is quite an honor.

Mr. WARE. Thank you.

Senator KENNEDY. You and your team ought to be very proud of that.

Mr. WARE. Thank you very much. I appreciate it.

Senator KENNEDY. Mr. Tryon—is it Tryon? Am I saying that right?

Mr. TRYON. Yes, Senator. That is correct.

Senator KENNEDY. I read your resume. You have a very impressive resume. There were some allegations made way back when, when I believe you were a poll-watcher. I have read everything about that. Tell me about them, in your own words, and what happened, or what allegedly happened.

Mr. TRYON. Senator, thank you for the opportunity to respond to that. So, in 2004, I was acting as an official poll observer, appointed by the Cuyahoga County Board of Elections.

Senator KENNEDY. Yes, sir.

Mr. TRYON. At that time, they were seeking both Democrat and Republic poll observers.

Senator KENNEDY. Mm-hmm.

Mr. TRYON. And I volunteered to do that——

Senator KENNEDY. Mm-hmm.

Mr. TRYON [continuing]. As I had done four years earlier, and visited the polls that I had been assigned to visit, and everything went fairly well, as far as I was concerned. And then, subsequently, I heard someone make an accusation that I had tried to prevent people from voting, and——

Senator KENNEDY. Mr. Chandra—is that his name?

Mr. TRYON. That is a person who conveyed the accusation.

Senator KENNEDY. Oh, okay.

Mr. TRYON. And it simply did not happen. I am not sure how the information came about or why it was believed that happened, but it simply did not happen, and I can say, unequivocally, that it not only did not happen but I would never do anything like that. I have a very strong reputation in the community, with the legal community and the civic community, that of integrity and honesty, and I would never do anything like that.

Senator KENNEDY. I understand our staff has looked into it, have they not, Mr. Chairman?

Chairman RISCH. Senator Kennedy, the staff has looked into it, both the minority and the majority, and this happens. People get accused of things and it is—it sticks sometimes when it should not stick. In Mr. Tryon's case, I can tell you, that it was found to be absolutely baseless, and it is unfortunate that these accusations have been made, but we have found absolutely nothing. Senator Shaheen and I have been poll-watchers before, in Georgia, and we know how these false accusations go at the polls. This was a county in Georgia, by the way.

Anyway, thank you. Thank you for the question, and Mr. Tryon, I can tell you, unequivocally, that there was absolutely nothing found there at all, so thank you.

Senator KENNEDY. That is certainly good enough for me.

Mr. TRYON. Thank you, Senator.

Senator KENNEDY. Thank you both, gentlemen. I think you will both do an extraordinary job, I am sure, and I hope they pay you correctly now.

[Laughter.]

Chairman RISCH. Senator Shaheen.

Senator SHAHEEN. Thank you, Mr. Chairman, and congratulations to both of you on your nominations.

I would like to follow up, Mr. Tryon, with an issue that Senator Cardin raised with respect to offshore drilling. An alliance of more than 41,000 businesses and 500,000 fishing families, from New Hampshire to Florida, has weighed in opposing oil and natural gas drilling in their communities. And this is a particular concern to us in New Hampshire, where we have an 18-mile coastline, the shortest coastline in the country, but very important to us.

But we have a lot of small businesses along that coast that depend on the outdoor economy, and just today the Department of Commerce released a report pointing out that the outdoor economy is as large as the oil and gas sector, that it contributes nearly 2 percent of the gross domestic product and employs more than 4 million people in the United States.

And so I believe that it is very important that the Department of Interior listens to those small businesses along the coast with respect to whether they believe it is in their interest to drill offshore, and I wonder if you can tell me if you think the Department of Interior should keep the interests of small businesses in mind when it comes to the risks of offshore drilling.

That is a gimme question, so——

[Laughter.]

Mr. TRYON. Senator Shaheen, thank you. I believe that we should always take into consideration those things in the office. If I am confirmed as Chief Counsel I would certainly advocate on be-

half of those small businesses that are impacted by any of those decisions.

Senator SHAHEEN. Thank you. You talked, in your opening statement, about your experience working with small businesses that have been harmed by regulations. Do you have any experience working with small businesses who believe that regulatory rollbacks will hurt them, especially by tilting the playing field in favor of large corporations? And I raise this because one of the businesses that we have in New Hampshire is a farm enterprise called Pete and Gerry's Organic Eggs. You may have seen those eggs in the grocery store. They sell at more than 9,600 locations across the country.

And they were very concerned when, in December, the USDA overturned a rule that strengthened the organic label, because according to Jesse, the owner of Pete and Gerry's, this decision is a tragedy for small farmers like those we work with every day, who will continue to have to try to absorb the actual costs of responsible farming while their giant competitors ignore those costs. So he is very concerned that what that rule does is change the level playing field for organic farms like his.

So have you experienced small businesses who are concerned about that rollback of regulations?

Mr. TRYON. Senator, thank you. I have not experienced that, but it sounds like your office, you and your office have experienced that with your constituents. And it would certainly be my intention, if confirmed as Chief Counsel, to explore those types of issues that might be impacted by any deregulations, both with your constituents, that one in particular, I suppose, and then any others that have those concerns. And after I have the opportunity to learn from small businesses on those issues, then I would certainly advocate on behalf of their position.

Senator SHAHEEN. Good. I appreciate that. I think what we have found in New Hampshire, where 99 percent of our employers are small businesses, is that regulations can work both ways, and that it is important for us to recognize when they are harmful and when they are helpful.

Mr. Ware, the Office of Advocacy recently awarded a Federal contract to a company called Interaction Analytics, whose past work has been criticized for using unreliable methodology and flawed data. The firm's previous study on the relative burden of Federal regulations on small businesses included criticism that they failed to accurately transfer OMB data on environmental regulatory costs, that they potentially doubled counting the cost of regulations, that they used the highest cost estimate from OMB reports, and that they misinterpreted and misused data from the World Bank's regulatory index.

So, if confirmed as Inspector General, will you investigate the process that was used to award this taxpayer-funded study and hopefully improve upon how that award is made in the future?

Mr. WARE. As Inspector General, or Acting Inspector General now, and if confirmed to be Inspector General, I could tell you this, that we are very attentive to the requests that come from this Committee or from the individual Members, and if we get a request to do so, I would certainly take it under very heavy consideration.

As a matter of fact, we have created, within—that was part of shifting of some resources—created, within our audit division, a team that is set up to do those type of quick dives, based on your requests, and have also added a little bit more into our 19 requests, to bolster that up, so we should be able to handle requests such as those.

Senator SHAHEEN. Thank you very much. Thank you both.

Chairman RISCH. Thank you.

Senator Ernst.

Senator ERNST. Thank you, Mr. Chair, and Mr. Tryon, I really believe our small businesses, what they need to get going is a favorable regulatory environment. And we have heard a few examples here today where agencies are impacting small business, and, boy, have I got legislation for everybody on the Committee.

I have introduced legislation that would give small businesses a stronger voice in the regulatory process, and it is called the Prove It Act. And in the event that there is a difference of opinion between an agency and the Office of Advocacy on the economic impact of a rule on small businesses, like we saw in the Waters of the U.S. rule and others, the Prove It Act would give the Office of Advocacy the opportunity to request that that other agency take a second look at its analysis. So it would give relief to some of these businesses, and opportunity to go back and push on those regulatory agencies, such as EPA, USDA, Interior, whatever it is, and so they would have to take a look and prove that their analysis is right.

This is a good government bill that would encourage Federal agencies to carefully consider the impacts of the rules on small businesses. And as Chief Counsel for Advocacy, would having this tool at your disposal be helpful to you?

Mr. TRYON. Senator, thank you for that question. I am aware of the Prove It Act, and multiple other pieces of litigation designed to assist the Office of Advocacy, and I would certainly be anxious to review those with you and your office, as well as, if confirmed, my office, to go through those things and assist you and the Committee in strengthening that—those tools.

Senator ERNST. Mm-hmm. I think it would be a very, very helpful tool out there, so I hope that we can take a look at that together. I am happy to work with you on language and so forth.

But beyond the Prove It Act, what are some of the other ways Congress then could be helpful to empower the Office of Advocacy so that it can better protect our small businesses? Have you thought about other ways that you could protect those businesses from harmful and excessive regulation?

Mr. TRYON. Senator, thank you. As I said, I know that there are multiple bills out there. Frankly, my last count was, I think, it is up to 17. And there are a lot of great ideas in those, and I would love to work with you and other members of the Committee to try and find the best way, not only which particular mechanisms would be most effective but which ones are most likely to get through Congress and get a signature from the President. So I would really look forward to the opportunity to work on that with you, and it sounds like this is top of your mind, and so I hope I can.

Senator ERNST. Yeah. I definitely think we want to look at it through the lens of small business.

And, Mr. Ware, in your testimony you described some of your accomplishments, and I know that Senator Kennedy had touched upon some of those. But can you go into further detail and just describe, maybe, the environment that you created within your workspace?

Mr. WARE. Right. I am on. Thank you, Senator. Thank you very much. One of the things that—well, one of the first things I did when I came to SBA OIG as the Deputy was that I said we should have an internal survey. We were having some, well, quite a bit of turnover in one of our divisions, and I wanted to find out what was the reason behind it. And that internal survey was very informing.

Coming on the heels of that, what I decided to do was to start an employee engagement council, and started it. So we started from the grassroots up, working with leadership to get at the root causes of what the morale issues were and everything like that. And we did—that group, along with the leadership, did an incredible job in turning things around.

So in terms of specifics, we came up with a more collaborative approach to our work, the way that we were doing things. We cross-pollinated, cross-collaborated, changed the way we were hiring, started to bring in some lower grades—that is the way to put that—lower-graded employees, train them up. We started to really beef up our training efforts. Put forward—set forward quite a bit of new procedures, internal, that were missing, procedures that dealt with telework, modernizing our workplace, putting a really critical look at how we were dealing with our technology, moved our—I think we became the first IG and the first platform within SBA to move our audit work paper system, TeamMate, into the cloud.

So those were some of the things that were done, and folks latched onto it.

Senator ERNST. That is very helpful, and the way you described that, it almost sounds like you are very much a servant leader, someone who is striving to better his employees as well. And I very much appreciate that leadership style.

Thank you, gentlemen, both, for being here today. Thank you, Mr. Chairman.

Mr. WARE. Thank you, Senator Ernst.

Chairman RISCH. Senator Duckworth.

Senator DUCKWORTH. Thank you, Mr. Chairman. I would like to thank you and the Ranking Member for convening today's hearing, and thanks to the nominees for coming before this Committee.

Mr. Tryon, you have extensive experience advocating for large corporate interests, and you have touched on that and some of my colleagues have as well, whether successfully defending corporations in matters such as wrongful death cases or helping corporate clients prevail in contract disputes. No one can deny your effectiveness in championing industry interests.

And this really matters because the key to serving as a successful leader of this Office of Advocacy is possessing either deep expertise in small business law or real-world experience complying with regulations as a small business owner. I am somewhat concerned

that you do not have those experiences from the small business perspective. Can you simply confirm that you have devoted your career to being a successful corporate lawyer and do not have the expertise or experience either serving with SBA or running a small business yourself?

Mr. TRYON. Senator——

Senator DUCKWORTH. It gets better than this. This is the tough first question.

[Laughter.]

Do not get too nervous. It gets better. I just want to establish that you do not have the experience.

Mr. TRYON. No, Senator Duckworth, I feel that I do have experience.

Senator DUCKWORTH. Okay.

Mr. TRYON. I have, as I indicated in my opening statement, that I have many family members that have run small businesses, and they have consulted with me in how to deal with issues. I have had many of my clients that were small businesses, a small masonry contractor with about 30 employees, a small locksmith contractor. Many of my employees have also been smaller folks, smaller businesses. And some of my personal experience, one of the organizations that is covered by the Office of Advocacy is small government organizations. I was the president of the school board. We handled a lot of regulatory issues there. And as running a small farm, I dealt with issue handling the small rural farmers would be dealing with. So I have had many of those experiences.

Senator DUCKWORTH. What percentage of your professional experience do you think has been serving to the benefit of small businesses?

Mr. TRYON. My guess would be 30 percent.

Senator DUCKWORTH. Thirty percent. Okay. You know, we should be looking for common-sense solutions to help small businesses without benefiting large corporations or endangering workers in environment or public health in the Office of Advocacy.

When regulations do not make sense, I am the first to sign up to fix it. In fact, last spring, I authored a bipartisan bill that repealed a well-intended yet flawed Obama administration regulation that was bad for infrastructure development.

I would like to see if you, in that spirit, could identify types of small business relief that you would champion if you were confirmed to this office. Could you identify a few specific Federal regulations that Congress could repeal or amend to help small businesses, without jeopardizing vital consumer protections or benefiting giant corporations?

Mr. TRYON. Thank you, Senator Duckworth. I am not prepared, at this moment, to identify any specific regulations. I think that would be unfair to me—of me to do that without first consulting with the small business community and finding out their views on this particular—on these particular issues and specific regulations and consulting with the staff of the Office of Advocacy, as well as perhaps your staff may have some sense, as well, as what should be—how those things should be handled.

So I commit to you that I will investigate those things and work with you and your office in trying to accomplish that.

Senator DUCKWORTH. Okay. Thank you.

Mr. Ware, the NDA, the National Defense Authorization Act, signed into last this past December, included one of my amendments, making it easier for small businesses to get Department of Defense contracts. My proposal amends a small business act that required that SBA commercial marketing representatives are empowered to guide and advocate for small business owners within the Department of Defense and its prime contractors.

If confirmed, will you commit to working with my office to support congressional oversight of the implementation of this new law and keep my office informed if implementation efforts are delayed or ineffective?

Mr. WARE. Thank you for that question, Senator Duckworth, and just as I said before, we have a process in place that if you make this request from your office or from the Committee, we take them very, very seriously, and we are confirmed to making sure that the Small Business Administration is following those laws as Congress has intended. So I would definitely be committed to doing so.

Senator DUCKWORTH. Thank you so much. I yield back, Mr. Chairman.

Chairman RISCH. Thank you very much, Senator.

Well, thank you both for your appearance and testimony today. I want to thank everyone who attended, and I think this was a productive hearing and certainly aired our ability to judge your qualifications, and I certainly look forward to supporting your nominations. We will move those as rapidly as we can.

The deadline for questions for the record is close of business Friday, February 16th. The record will also be kept open for two weeks to edit statements, submit letters, and any other relevant materials.

With that, if there is nothing else for the good of the order, the hearing is adjourned.

[Whereupon, at 4:25 p.m., the Committee was adjourned.]

APPENDIX MATERIAL SUBMITTED

Senate Committee on Small Business and Entrepreneurship Hearing
February 14, 2018 Follow-Up Questions for the Record

Questions for Mr. David C. Tryon

Questions from:

Ranking Member Cardin

Offshore Oil Drilling

At your nomination hearing, Senator Shaheen and I expressed concerns over the Secretary of Interior's plan to open up the Atlantic coast to offshore oil drilling.

Hosting a roundtable is one of the primary mechanisms the Chief Counsel of Advocacy has at its disposal to gather first-hand information about the impact of federal regulations on small businesses.

QUESTION 1:

Will you commit to hosting a series of roundtables in Maryland and other coastal communities to hear directly from the small businesses whose livelihoods depend on a clean coastline and would be economically devastated by an environmental disaster similar to the 2010 Deepwater Horizon oil spill?

> **Yes. If confirmed, I will have one or more roundtables to meet with small business stakeholders in the coastal regions with regard to offshore oil drilling and related issues.**

QUESTION 2:

Will you commit to actively seeking out the views of the tourism, fishing, and outdoor recreation industries even if they run counter to the Administration's oil exploration policy?

> **Yes. If confirmed, I will seek out the views of these industries on all government regulations, including offshore drilling, regardless of the Administration's position.**

QUESTION 3:

In 2013, the Office of Advocacy examined the devastating impact the 2010 Deepwater Horizon oil spill had on small businesses in the Gulf of Mexico. Will you agree to conduct an economic analysis of the impact the Administration's offshore drilling plan would have on small businesses in coastal communities?

> **If confirmed, I will be glad to explore this with your office.**

Benefits of Environmental Regulations to Small Businesses

Throughout my time in public service, protecting and improving the health of the Chesapeake Bay has been a top priority for me. I have worked with governments from six

states and the District of Columbia, the federal government, and private sector partners to reclaim and protect the Chesapeake Bay.

This has been an enormous and sustained effort. We asked our farmers to do more. We asked our developers to do more. We asked our local governments to change the way they treat their wastewater and to do more. We have made significant progress and today we are reaping the fruits of that labor.

Restoration efforts have produced a healthier Chesapeake Bay *and* a stronger economy. The Chesapeake Bay is a powerful engine of economic growth fueled by small, family-owned businesses in the tourism, boating and fishing industries.

In Maryland, ocean-related industries contributed to more than 91,000 jobs, $3.4 billion in wages, and more than $7 billion to the Gross Domestic Product (GDP).

I am concerned this Administration's relentless efforts to roll back vital environmental protections will reverse the progress we have made and threaten the livelihood of thousands of small businesses in the tourism, boating and fishing industries.

QUESTION 4:

Do you share my concerns that the Administration's efforts to roll back environmental protections will harm small businesses in coastal communities?

> **I am from Cleveland, Ohio. I was 11 years old when the Cuyahoga River, which runs through Cleveland, caught on fire. That would not happen today because we have cleaned up the river. A lot of people, governments and companies contributed to that success. I recognize that sometimes regulatory rollbacks could have a detrimental impact on the environment and small businesses. If confirmed, I would be happy to meet with you and your staff to learn more on this issue because small businesses are the lifeblood of employment for our communities.**

QUESTION 5:

If confirmed as Chief Counsel, will you be independent of the Trump Administration and SBA and commit to be a voice for these small businesses whose livelihoods depend on a healthy and thriving marine environment?

> **Yes. If confirmed, and as I stated in the confirmation hearing, I will be an independent voice for small businesses and represent the interests of small businesses irrespective of the voices of other entities.**

QUESTION 6:

If confirmed as Chief Counsel, how will you identify win-win regulatory solutions that allow small businesses to grow and flourish without hindering environmental protections?

> **Win-win solutions are best obtained through discussions of all parties interested in the specific issue. I have done this in many ways and many times in my private practice and, if confirmed, I expect to apply the same approach as Chief Counsel.**

Small Business Outreach

As you know, the Office of Advocacy is an independent organization within the Small Business Administration. Part of its mission is to advance the views of small businesses across the federal government. This office plays a highly influential role in the regulatory process.

Critics of the Office of Advocacy say it promotes special interests over the needs of small businesses. In a hearing before the Small Business Committee last March, Frank Knapp, the President of the South Carolina Small Business Chamber of Commerce, testified that small business outreach is "primarily to Washington insiders who want to clog up the regulatory process through heavy lobbying [and] litigation, creating public anxiety by quoting huge, bogus costs."

I think it is fair to say the Office of Advocacy can do a better job promoting the interests of small businesses.

QUESTION 7:

If confirmed as Chief Counsel of Advocacy, what steps would you take to ensure that the views of small businesses are heard during the regulatory process and not overwhelmed by well-funded special interests?

> **The enabling statute for the Office of Advocacy commands that it look after and protect the interests of small businesses. If confirmed, I will follow Congress' mandate to protect and promote small businesses, not big business. I am not familiar with the testimony of Mr. Knapp, but one of the purposes of the ten regional advocates is to represent small businesses in their respective states to ensure that Advocacy effectively represents all small businesses.**

Immigration and the Impact of Temporary Protected Status on Small Businesses

Due to changes by the Trump Administration, hundreds of thousands of immigrants from Haiti and Central America stand to lose their temporary protected status (TPS), a program that allows immigrants to live and work in the U.S. because their home countries are unsafe. These immigrants have been living here for years - in some instances decades - are now must leave the country or risk deportation.

The decision to revoke the protected status of these immigrants will have a devastating effect on our workforce and economy. TPS beneficiaries from El Salvador, Honduras and Haiti predominately work in industries struggling to recruit workers, such as construction, food services, landscaping, and child care.

Small businesses will be particularly harmed. Firms that employ TPS workers would be forced to fire them, resulting in a labor shortage that would likely leading to serious financial losses. This would have a devastating effect on my state of Maryland, which has one of the largest TPS populations from El Salvador, Honduras and Haiti.

QUESTION 8:

Mr. Tryon, the Office of Advocacy serves as the independent voice for small business within the federal government - even when those interests conflict with the position of the

Administration that nominated you. How would you approach the issue of small businesses concerned about a shallow labor pool that will shrink even more when the Trump Administration's TPS policies go into effect?

> **I recognize that Advocacy addresses regulations relating to immigration laws and that Advocacy has done so aggressively in the past. If confirmed, I would continue to do so and listen to small businesses on these issues and then advocate on their behalf.**

Minority Small Business Disparities

This month, the Office of Advocacy released a study, "Financing Patterns and Credit Market Experiences: A Comparison by Race and Ethnicity for U.S. Employer Firms." The report by Dr. Alicia Robb analyzed data collected from the Census Bureau's 2014 Annual Survey of Entrepreneurs. The findings were discouraging for businesses owned by Blacks and Hispanics. Specifically:

- Blacks and Hispanics continue to be under-represented in business ownership;
- Blacks and Hispanics are less likely to receive business bank loans;
- When they do get loans, they are less likely than Whites to get the full amount requested;
- Blacks and Hispanics rely more on savings for startup capital, but have less overall wealth than Whites;
- Blacks and Hispanics are more likely to be undercapitalized when they start businesses.

At the end of the report, there were suggestions for future studies. For example, one suggested study would look at trends in capital access for minority entrepreneurs over time, and a second one would study the role of alternative finance and online lenders in expanding the credit supply to minority-owned small businesses.

QUESTION 9:

Have you reviewed these suggestions for additional reports regarding access to capital for minorities?

> **Access to capital for minorities is an important issue and I would hope to work with the SBA and private organizations to try to find ways to assist minorities with capitalization needs. Notably, in 2015 I was part of the Ohio Advisory Committee to the United States Civil Rights Commission which issued the report, *"Civil Rights Issues Regarding Barriers to Entrepreneurship in Ohio."* We received extensive testimony on this issue and, if confirmed, this will be an important area of focus for me.**

QUESTION 10:

Do you believe access to capital gaps for underserved entrepreneurs deserves more study and analysis?

> **I have not fully examined all of the currently available data to determine whether or not additional studies are required. If confirmed, I will examine these issues to determine if it is time to take action or initiate more studies.**

Discrimination as a Barrier to Entrepreneurship and Set-Asides for Minority Enterprises

Mr. Tryon, in your opening statement, you referenced your work on the Ohio Advisory Committee to the United States Civil Rights Commission and your role in its 2015 report, *"Civil Rights Issues Regarding Barriers to Entrepreneurship in Ohio. "*

In that report, members were unable to come to an agreement about whether or not discrimination is a significant barrier to entrepreneurship in Ohio. As a result, the Ohio Advisory Committee decided to include both sides of the argument in its report to the U.S. Civil Rights Commission.

QUESTION 11:

Mr. Tryon, do you believe that discrimination is a significant barrier to entrepreneurship?

> **The evidence, as recited in our civil rights report, revealed that discrimination impedes minority entrepreneurship in Ohio.**

In the appendix of the report, you wrote,

"The minority set-aside programs only work on the governmental level because they are mandated by law. They are unfair to groups excluded by the set-aside programs, such as underprivileged non-minorities. Further, since by definition they are discriminatory in favor of minorities based on minority status only, they are becoming increasingly disfavored by the courts."

As you may know, the 8(a) Business Development Program exists to help firms that are owned and controlled at least 51% by individuals who are socially and economically disadvantaged gain a foothold in government contracting, including access to sole-source contracting. This program presumes certain groups, such as Black Americans and Hispanic Americans, to be socially disadvantaged. In FY2015 alone, the program helped 5,400 small businesses. With sales of nearly $26 billion, these 8(a) participating firms made significant contributions to the economy and federal, state and local tax bases, and provided more than 116,000 jobs.

QUESTION 12:

Mr. Tryon, do you support the 8(a) program?

> **Yes. The 8(a) program is the law and I support the law. The Chief Counsel for Advocacy represents small businesses including those in this program. If confirmed, that would be part of my duties.**

2004 Election Complaint

As you know, the Committee received an affidavit from the then-prosecuting attorney of the City of Cleveland alleging that you interfered with voters at a predominately African-American polling location in East Cleveland during the 2004 general election.
You denied the allegations, both in a written response to the former Ranking Member and at your nomination hearing responding to a question from Senator John Kennedy.

Because the alleged incident took place more than 13 years ago, Committee staff was unable to confirm the accusations raised in the affidavit or your response claiming to not have been at the polling location in question, Lakeside Baptist Church in the City of East Cleveland.

As you are aware, serious concerns were raised about election irregularities during the 2004 election in Ohio.

According to a January 2005 report by the House Democratic Judiciary Staff:

> The Ohio Republican Party...engaged in a massive campaign to challenge minority voters at the polls. The Republican Party lined up poll challengers for 30 of Ohio's 88 counties, and the vast majority were focused in minority and urban areas. In addition to intimidating minority voters, this scheme helped lead to increased delays and longer waits in voting lines in these areas. This was a particularly damaging outcome on a day of severe adverse weather in Ohio.

You have stated that you were a Republican Official Poll Observer in 2004 assigned to polling locations in the City of East Cleveland.

QUESTION 13:

Do you have any knowledge of efforts by the Republican Party in Ohio to target minority and urban areas with poll observers as a means to depress the number of votes during the 2004 general election?

I do not.

Questions from:

Senator Shaheen

Mr. Tryon, at your nomination hearing you referenced your work on the Ohio Advisory Committee to the United States Civil Rights Commission and your role in its 2015 report, *"Civil Rights Issues Regarding Barriers to Entrepreneurship in Ohio."*"

In the appendix to that report, you expressed your view that minority set-aside programs are *"unfair to groups excluded by the set-aside programs, such as underprivileged non-minorities. Further, since by definition they are discriminatory in favor of minorities based on minority status only, they are becoming increasingly disfavored by the courts."*"

As you may know, the Small Business Administration (SBA) runs the women-owned small business (WOSB) contracting program with the goal of expanding opportunities for WOSBs to win Federal contracts. Similar to minority set-aside programs, the WOSB program allows WOSBs to compete for set-aside contracts or receive sole-source awards in industries where women-owned firms are substantially underrepresented.

Women continue to be excluded from the federal procurement process, barring them from lucrative contracts that can substantially expand their business ventures. In 2014, the Department of Commerce found that the odds of a business owned by a woman winning a federal contract are about 21 percent lower than similar companies. Congress enhanced the WOSB program in 2014 to address this gap.

QUESTION 1:

Given your previous statements on set-aside programs, do you support the women-owned small business (WOSB) program, including the goal of awarding five percent of federal contracts to WOSBs?

> **If confirmed as the Chief Counsel, I would be representing the interests of the women-owned small businesses enrolled in the WOSB program and I would follow the law and advocate on their behalf.**

Questions from:

Senator Hirono:

Mr. Tryon, as a U.S. Senator and a member of the Senate Small Business and Entrepreneurship Committee, it is my responsibility to ensure the fitness of individuals nominated to serve within the Small Business Administration and other federal agencies. I am asking all nominees to the Small Business Administration to answer the following two questions:

QUESTION 1:

Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?

No.

QUESTION 2:

Have you ever faced discipline, or entered into a settlement, related to this kind of conduct?

No.

Mr. Tryon, the Small Business Administration is an agency that relies heavily on its district and regional offices serve local small businesses in communities throughout the United States.

QUESTION 3:

How do you plan to utilize the knowledge and insight that the Small Business Administration's (SBA) district and regional offices bring related to the unique circumstances within the areas in which they serve?

If confirmed, it is my intent to use all possible resources, including working with district and regional SBA offices to achieve the Congressional mandates for the Office of Advocacy. I would require Advocacy's Regional Advocates to work with the district and regional SBA offices to make sure there is effective collaboration between the organizations.

QUESTION 4:

Can you commit to making sure that your office coordinates with regional and district offices to make them aware of the SBA and the Office of Advocacy's (OA) national initiatives?

Yes.

QUESTION 5:

Can you commit to working with regional offices to make sure that they coordinate directly with district offices (particularly in states like Hawaii, where it is especially important for them to do so in order to better understand the unique circumstances on the ground), to maximize the SBA and the OA's effectiveness in the promotion national and regional

initiatives? Specifically, I would like to see more coordination between the OA's regional advocates and the SBA's district offices so that local offices are aware of the programs and events happening in their communities.

While protecting Advocacy's independence, I believe it is important for the office's Regional Advocates to work with the SBA's district and regional offices to share information on Advocacy initiatives and collaborate where appropriate.

Mr. Tryon, it is important for the Chief Counsel for Advocacy to recognize that certain regulations, such as those pertaining to clean air and clean water, can provide benefits to small businesses that rely on our natural resources. Indeed, according to a national poll report published by the American Sustainable Business Council in 2014, 80 percent of small business owners favor regulations that protect clean water. This is especially important for Hawaii, where our national parks, coastlines, oceans, coral reefs, and other natural resources support important economic activities within our state

QUESTION 6:

Do you recognize that federal regulations which protect our clean air, clean water, and other natural resources can have a positive impact on small businesses in local communities, and, if confirmed, will you consider the positive impact of these regulations when making decisions about regulations in your role as Chief Counsel for Advocacy?

Yes. I am from Cleveland, Ohio. I was 11 years old when the Cuyahoga River, which runs through Cleveland, caught on fire. That would not happen today because we have cleaned up the river. A lot of people, governments and companies contributed to that success. If confirmed, I will carry out the statutorily defined duties of the office, including those in the Regulatory Flexibility Act which directs the office to work with the agencies to minimize the negative impact of the regulations on small businesses.

QUESTION 7:

Will you commit to ensuring that the Small Business Administration's Office of Advocacy solicits and takes into account the diverse views of small business owners and other relevant stakeholders, particularly those who may be supportive of stronger regulations to preserve the environment and natural resources on which many small businesses rely, when making decisions about regulations?

Yes. If confirmed, I will work with you and your office to ensure that the views of all small businesses are considered.

Mr. Tryon, particularly in states like Hawaii, where we have more than 44,000 women-owned small businesses and 74,000 minority-owned small businesses, programs that support women, minorities, and other difficult-to-serve populations are important to the growth of the economy.

QUESTION 8:

As Chief Counsel for Advocacy, can you commit to working with me to address the needs of these populations in Hawaii and throughout the rest of the country?

Yes. It is my understanding that one of the charges of the Office of Advocacy is

to help women-owned and minority-owned small businesses. Advocacy's reports and website report that Advocacy currently directs its efforts to these groups. If confirmed, I will continue this important work in Hawaii and the rest of the country.

QUESTION 9:

The Office of Advocacy (OA) has done important work to promote women-owned small businesses and minority-owned small businesses that I hope you will continue to prioritize so that we can better understand the barriers these populations encounter within the U.S. entrepreneurial ecosystem?

If confirmed, I will do so.

QUESTION 10:

Will you commit to incorporating these populations within the OA's research agenda?

One of the Office of Advocacy's responsibilities is to help women-owned and minority-owned small businesses. Advocacy currently directs its economic research efforts to these groups. If confirmed, I will continue this important work.

QUESTION 11:

Many times, district offices can provide important insights about the specific issues these populations and others encounter within local communities—will you commit to soliciting the views of the Small Business Administration's district offices when determining the OA's research agenda and carrying out that agenda?

While protecting Advocacy's independence, I believe it is important to work with the Small Business Administration's district and regional offices to gather local concerns, share information on Advocacy initiatives and collaborate where appropriate.

Mr. Tryon. as you know, the Small Business Administration's Office of Advocacy has a legal responsibility to advocate on behalf of small businesses in the federal regulatory process

QUESTION 12:

What are your views regarding federal regulations?

Congress, through legislation, has delegated significant authority to federal agencies to enact regulations. This is a powerful authority, which is subject to oversight by Congress and the President to ensure democratic accountability. Executive Order 12866, signed by President Clinton and endorsed or followed by every President since, is excellent legal and policy guidance regarding federal regulations. If confirmed, I will follow the laws and executive orders relating to federal regulations.

QUESTION 13:

What approach do you intend to take with respect to evaluating proposed regulations and their impact on small businesses?

The most valuable tool that the Office of Advocacy and small businesses have in the Federal regulatory process is the process itself, as laid out in the Administrative Procedure Act, the Regulatory Flexibility Act, and Presidential oversight of rulemaking through Executive Order 12866. When an agency regulates, it must base its decisions on a detailed administrative record, open the record to public review and comment, and respond to those comments. When the agency cannot preclude a significant economic effect on a substantial number of small entities, it must consider regulatory alternatives that will minimize the impacts on small entities. When the agency must submit its rules to the Office of Management and Budget under EO 12866, thanks to EO 13272, the Office of Advocacy participates in the interagency review process to raise small business concerns and advocacy for better solutions for small businesses.

Small businesses are different than large businesses. Federal regulations that do not recognize these differences, impose disproportionate costs on small businesses, jeopardize competitiveness and reduce the vibrancy of the U.S. economy. My approach would be to leverage the Office of Advocacy resources to bring a multiplicity of small business voices to the regulatory table. I want to make sure that their views are represented in the agency docket, their concerns are reflected in the Regulatory Flexibility Analysis and presented to the President through the EO12866 process, and their needs and capability are given due respect in the final agency decisions.

Questions from:

Senator Cantwell:

(Women Entrepreneurs)

Mr. Tryon, if you are confirmed as Chief Counsel for Advocacy at the Small Business Administration, you will be expected to be an independent voice for small business owners. You will be tasked with conducting research on a wide variety of issues facing small businesses.

Back in 2014, when I had the privilege of Chairing of this committee, we looked closely at the challenges women entrepreneurs face.

I introduced a number of bills aimed at expanding the SBA microloan program, reauthorizing the SBA Intermediary Lending program, increasing funding for Women's Business Centers, and achieving gender parity in terms of securing federal contracts.

We did see progress. In March 2015, for the first time in history, the federal government announced that it achieved its five percent women-owned small business contracting goal, enacting provisions from my legislation, the Women's Small Business Procurement Parity Act.

Women's entrepreneurship has been growing rapidly over the past two decades. Women are now the majority owners of 38 percent of the country's businesses, up from 29 percent in 2007, and overall revenues among women-owned firms have increased by 35 percent since 2007, compared to 27 percent among all U.S. firms.

Moreover, women are driving innovation and business creation, with the number of women-owned firms growing by 45 percent between 2007 and 2016 - this is five times faster than the national average.

However, I believe we still haven't fully unleashed the full potential of women's entrepreneurship, and I believe the SBA - and the Chief Counsel for Advocacy in particular - must play a strong role here.

QUESTION 1:

Will you commit Advocacy resources to research on issues and remaining challenges for women owned businesses?

> **Yes. One of the Office of Advocacy's responsibilities is to help women-owned and minority-owned small businesses. Advocacy currently directs its economic research efforts to these groups. If confirmed, I will continue this important work.**

QUESTION 2:

What research and policy analyses do you intend to conduct on these issues?

> **Advocacy's mandate is to represent the interest of women-owned businesses before federal agencies and to identify policy changes that are needed to ensure that these business owners have an equal opportunity in the federal marketplace. This will be the roadmap for future research on these issues. I look forward to talking with you and your staff regarding research ideas that you may have on women-ownership issues. At that point I will be able to give a more definitive and specific answer.**

(General)

According to the information you provided to this committee, you have no experience managing a small business. You have not dealt with regulations as a small business owner.

Small businesses across the country rely on the SBA Office of Advocacy to hold federal agencies accountable and to take impacts on small business into account when they develop regulations.

QUESTION 3:

What past experiences have prepared you to effectively lead you to lead the office of Advocacy?

> **My 32 years as a lawyer representing clients with many interests and my personal direct involvement in many small entities has prepared me to lead the Office of Advocacy. As a litigator and an advocate, my role is to effectively and zealously represent my clients. As litigators we learn our clients' problems and then advocate for them. When clients hire me, I learn their business, their issues and their concerns before I start advocating. That is the exact procedure that I would follow as Chief Counsel. In this case, rather than the interests of one specific client, it is the interests of small businesses as a whole. I have learned that the most important skill as a litigator is not how to apply the rules of evidence, but rather to learn about the client and its specific issues and then to advocate for them with the goal of resolving the client's problem as effectively as possible. This is done through negotiation, collaboration, mediation and, only as a last resort – litigation. I have developed these problem solving skills for over 32 years and I bring those skills to the table here to advocate for small businesses in many ways.**
>
> **I participated in Leadership Cleveland in 2016 ("LC Class of 2016"), which is an organization designed to bring together community and business leaders to enhance the collaborative leadership skills of the participants. It is a highly sought-after, invitation only, opportunity. In Leadership Cleveland I worked with many types of groups and the individuals leading those groups. We all worked together on how to collaborate and otherwise work towards a common goal. These skills that I further honed in Leadership Cleveland are very valuable in the context of representing the interests of small businesses. I have**

also learned how to work effectively with others having differing viewpoints or interests. This skill and attitude is particularly useful in a politically charged climate because, as the Chief Counsel, I will be working with all parties in solving problems for small businesses. As my many letters of recommendation submitted to the Committee attest, I am effective at listening to others of different views or political parties with respect and working with them to reach a common goal.

In addition, and as I stated in my opening statement, many of my clients have been small businesses and I have helped them deal with regulatory issues. I have represented small businesses in the construction industry, the hospitality and lodging industry and other heavily regulated industries. I have also provided extensive *pro bono* services to other small not-for-profit organizations. I have filed *amicus curiae* briefs in the Ohio Supreme Court on behalf of the National Federation of Independent Businesses in connection with small business issues against large business interests. In one such case we succeeded in overturning an eminent domain case in which a large developer had taken properties from individuals and small businesses. The final ruling overturned a statute that powerful large companies had been using to force small businesses (and others) to sell their businesses to their detriment.

Some of my clients have been small one or two employee companies. Some have been solo entrepreneurs. Many have been in the size range of 10 – 100 employees. Further, many of my family members are or have been small business owners in several industries, and I have assisted them with regulatory and other issues.

Often I have helped clients address rules and regulations, such as in the construction industry. Construction companies have to deal with multiple government and regulatory bodies. Often it is in the local arena. Many of these same types of rules and regulations arise in the context of federal regulations governing small construction businesses doing work for the federal government. Indeed, one of the more interesting representations was of a small demolition company that was doing work for NASA in a "federal enclave". The matter involved a breach of contract which included issues involving environmental regulations in the context of demolition of a federal building. These issues were critical to the resolution of the case. Ultimately the case was successfully resolved through negotiation rather than hard knuckled litigation tactics.

In the past few months I settled a case involving properties owned and managed by a small business. This case required applying creative solutions to a very complex and acrimonious situation. The key to solving difficult conflicts or legal issues often requires creative solutions rather than straight line thinking or win-lose demands. These are the types of skills the Chief Counsel will need to navigate the complexities of the RFA and other actions in the Office of Advocacy.

Also, I have managed, or helped manage, a variety of entities. I was the school board president of a school district which is an organization covered by the Office of Advocacy and is very heavily regulated by the state and the federal

government. In that capacity I supervised an organization with a budget of about $48,000,000 and about 350 employees. I was instrumental in making significant improvements in how we ran the school district. I also supervised the operation of a non-profit 200-acre farm for ten years - which was also subject to state and federal regulations. In that situation I managed over one-thousand volunteers and trained them in various aspects of farm management and farm work.

As a partner in my law firm, I have been involved in setting and meeting yearly budgets, properly serving our clients, serving on the technology committee, dealing directly with clients for the firm and overall addressing many other issues facing all businesses. In my practice I have earned the prestigious Martindale and Hubble ranking of AV Preeminent. Martindale & Hubble is the oldest and most prestigious international legal directory. The A is the highest rating given for skill and the V is the highest rating given for ethical standards. The ratings are based on information obtained from my peers, including those adverse to me. I have also been appointed by the Ohio Supreme Court to a committee addressing appointing judges versus electing judges, as is currently the process in Ohio.

I have also been involved in professional organizations which have addressed the challenges which regulations have imposed on small businesses. I have belonged to two Inns of Court. The Inns of Court organization is a highly respected organization in which attorneys with differing views and opposing legal practices work together collaboratively. Separately, I have organized many luncheons with speakers on a wide range of legal topics, many of which involve regulations and laws that have a serious impact on small businesses. I am a member of the Program Committee of the Cleveland City Club, the Citadel of Free speech. As such I have helped organize speeches and debates on many issues of interest to the community and business organizations.

These experiences, among many others, have prepared me to effectively lead the Office of Advocacy and work with other agencies to benefit small businesses.

QUESTION 4:

Name the top three ways you will advocate for small businesses if you are confirmed for this position.

If confirmed: First, I will continue the work of regulatory review under the RFA, including meeting with Cabinet members and Agency heads to assert the interests of Advocacy's stakeholders. Second, I will conduct research that is beneficial to small businesses. Third, I will meet with Congress to solicit the input that they are receiving from their constituent small business and incorporate this feedback into a proactive plan of promoting small business growth and development.

(Net Neutrality)

Small businesses in small towns across the country are in the crosshairs and stand to be the

biggest losers when ISPs start to pick winners and losers in this digital economy.

QUESTION 5:

Do you think Chairman Pai's new rules are sufficient enough to ensure a level playing field for small businesses?

> **I agree that internet access is very important to our small businesses in urban and rural communities. If confirmed, my objective will be to ensure that the rules are sufficient and fair for small businesses**

In small towns and rural areas, high speed internet access provides new economic opportunities for small local businesses to be part of the digital economy and connects local businesses to the global marketplace. The small business community asserts that it is critical to have an open internet in order to keep an equal playing field for their businesses.

QUESTION 6:

Can you explain how Chairman Pai's rules would not be a barrier to entry?

> **If confirmed, I will continue to do outreach to ensure that small businesses are able to fully participate in the internet economy.**

(Offshore Drilling)

On February 6th, I led a bipartisan, bicameral letter with 15 members from the Washington and Oregon Congressional delegation, including all members on the coast, regarding our opposition to offshore oil and gas development in the Washington/Oregon planning area. The National Outer Continental Shelf Oil and Gas Leasing Program for 2019-2024 could allow oil and gas development off our coasts, even though many coastal small businesses would be negatively impacted by exploration, development, or an oil disaster. Many small businesses have spoken up in opposition to this short-sighted plan to develop oil and gas resources in federal waters in the Pacific Northwest.

Many small businesses have submitted public comment in opposition to the inclusion of the Washington/Oregon planning area in the National Outer Continental Shelf Oil and Gas Leasing Program for 2019-2024.

QUESTION 7:

How do you view the role of the SBA Office of Advocacy in advocating to protect these small businesses from this plan?

> **The Office of Advocacy has a legislative mandate to be the voice for small businesses in the Federal arena. To this end, if confirmed I will advocate for small businesses that may be harmed by the plan.**

QUESTION 8:

How will you work to ensure their voices are heard in the Department of Interior OCS leasing process?

I will hold roundtables and listening sessions with the small businesses to better understand their concerns and what they may view as workable solutions. I will then meet with the Secretary of Interior and other appropriate administration officials (such as OIRA) to convey the concerns of these businesses.

QUESTION 9:

If small businesses in Washington ask you to stand up for them, will you support sending a letter of opposition from your agency to the Department of the Interior, or the President?

If confirmed by the Senate, my job as Chief Counsel will be to support small businesses and that support may be in the form of a letter or a request for a meeting as stated in my answer to your question 8 above.

Questions from:

Senator Booker:

The SBA 7(a) loan guarantee program is a very important tool for expanding access to capital for our nation's small businesses, to encourage entrepreneurship and help grow our economy. However, it is critical that we take steps to ensure that the program is not being misused to subsidize and underwrite abusive and anti-competitive practices by large agribusinesses.

QUESTION 1:

If confirmed, would you work with me to investigate these concerns, to determine what mechanisms and protections should be put in place to ensure that the SBA 7(a) program does not subsidize and encourage abusive contracting practices in our nation's poultry and livestock markets.

> **If confirmed, I look forward to working with you and your office to address these concerns.**

The USDA has betrayed President Trump's commitment to helping small farmers by rolling back the GIPSA rules.

QUESTION 2:

Do you plan on helping those farmers by supporting their efforts to petition the USDA and the Trump Administration to bring back these rules that directly benefit small farmers?

> **I recognize that this is an important issue and, if confirmed, I would be willing to meet with your office and relevant small business organizations to better understand this issue and learn the interests of these small businesses and then represent their interests as much as possible.**

Advocacy has traditionally supported immigration policies that encourage more rather than less immigration on the basis of that being better for small business.

QUESTION 3:

Given this administration's position on restricting immigration, can you ensure that SBA will continue to support immigration policies that provide small businesses with the workforce they need to be successful?

> **I recognize that Advocacy addresses regulations relating to immigration laws and that Advocacy has done so aggressively in the past. If confirmed, I would continue to do so and listen to small businesses on these issues and then advocate on their behalf. I further understand that Congress is considering legislation on these issues. The Office of Advocacy will evaluate any resulting regulations in the context of the Regulatory Flexibility Act.**

QUESTION 4:

Can you commit to commissioning a study on the impact of repeal of the Deferred Action

for Childhood Arrivals (DACA)—and ensuing Congressional inaction—on the ability for small businesses to have a skilled and capable workforce.

DACA is currently under legislative and judicial review. If confirmed, and new regulations are issued on DACA related issues, I would be willing to meet with you and your staff to discuss this issue and then act accordingly to ensure that small businesses have and maintain a skilled labor force.

Questions from:

Senator Heitkamp:

The role of regulation can be a controversial subject. Regulations can, and sometimes do, create barriers to entry, and increase costs for small entities that larger businesses can absorb more easily. However, I have heard from many small businesses that they appreciate the role regulations play in evening the playing field, and ensuring that small entities have a real opportunity to compete against larger and more established businesses.

QUESTION 1:

Do you believe that regulations can, at times, have a positive impact on small businesses?

> **Yes.**

QUESTION 2:

Do you believe that both quantifiable and qualified benefits are important in understanding the costs of compliance?

> **My understanding of the reason that the Office of Advocacy measures the costs of government regulations is because the enabling statute directs Advocacy to measure the costs of government regulations on small businesses. The Regulatory Flexibility Act directs the office to work with the agencies to minimize the negative impact of the regulations on small businesses.**

QUESTION 3:

Do you believe that deregulatory efforts can, in some instances, have a negative impact on small businesses? And would you be willing to fight against those deregulatory efforts that could negatively impact small businesses?

> **I am not aware which deregulatory efforts might have a negative impact on small businesses. If confirmed, I will seek input from your office to learn which efforts your office has observed as harmful to small businesses. Such deregulatory efforts may also end up before the Office of Advocacy through the RFA for review and analysis. If confirmed, I will represent the interests of small businesses in those situations.**

QUESTION 4:

How large do you believe a business has to be for the Office of Advocacy to cease advocating on its behalf?

> **I understand that the Office of Advocacy follows the SBA size standards as all Federal Agencies do. Once a business exceeds that size standard, then it is no longer small and Advocacy can no longer advocate on its behalf.**

QUESTION 5:

If you could only accomplish one thing while the Chief Counsel, what would that be?

> **I know the Office of Advocacy is doing a lot of things very well. My vision is that the office be highly visible and be recognized and respected as a strong and effective advocate for small businesses and that it use that visibility and advocacy to significantly increase the number of business startups and the growth of those businesses. Everything the office does should be with that end in mind.**

In some circles, there is serious concern regarding the perceived politicization of the Office of Advocacy. As I try to work towards common sense solutions to improve the regulator system I find push back - not against the policies for which I am advocating - but against actions that would improve the functioning of the Office of Advocacy. One recurring example I hear, the decision to award the study on the "burden of regulations on small businesses" to an analytics and research firm whose past work has been criticized for using unreliable methodology and flawed data. I understand that mistakes do happen and that this study is different in scope and expectation. Finding common ground on the issue of regulatory reform is no simple task. We should never find ourselves in a situation where we have brought Democrats and Republicans together, only to find pushback because people don't trust the agency we wish to empower.

QUESTION 6:

I understand that you are not responsible for this situation, but I want you to understand the current state of play. Will you commit to meeting with me in the next 90 days so that we can discuss your thoughts on how to improve the image of the Office of Advocacy moving forward?

> **Yes. If confirmed, I would be happy to meet with you in the next 90 days.**

The Office of Advocacy's mission is to elevate the voice of America's small businesses during the rulemaking process. A large piece of this is examining agency certifications that a proposed regulation will not have a "significant economic impact on a substantial number of small entities." However, what constitutes a "significant economic impact on a substantial number of small entities" is not defined in the Regulatory Flexibility Act.

QUESTION 7:

As Chief Counsel, how would you direct your staff to define a "significant economic impact on a substantial number of small entities?"

> **My understanding is that the Regulatory Flexibility Act requires agencies to conduct a Regulatory Flexibility Analysis for any rulemaking that goes through notice and comment, which includes determining if the rules will have a significant economic impact on a substantial number of small entities. If confirmed, I would determine the methodologies currently used by the agencies and work with you and my staff to improve those methodologies.**

Questions from:

Senator Duckworth:

Women-. Minority- and Veteran-Owned Small business challenges

Mr. Tryon, one of the most important responsibilities of the Office of Advocacy is research. In fact, my colleagues, Senators Ernst and Gillibrand, introduced legislation that passed this Committee last year which directed the Small Business Administration (SBA) to conduct a comprehensive research study on the participation of women small businesses in the multiple award contracts from the federal government.

The legislation also required SBA to examine the participation of other socio-economic categories of small businesses, including service-disabled Veteran-owned small businesses, and those participating in the Historically Underutilized Business Zones (HUBZone) program.

QUESTION 1:

Mr. Tryon, if confirmed, can I get your commitment to conduct this research as well research on the state of women, minority and Veteran-owned businesses so that you can better understand the challenges they face and better serve them as the Chief Counsel for the Office of Advocacy?

> **Women, minority and Veteran-owned businesses are extremely important and the enabling legislation for the Office of Advocacy specifically directs the office to assist those businesses in specific ways. If confirmed, I will continue my efforts to better understand their challenges and better serve them. I know that the Office of Advocacy already has staff dedicated to help these groups and I would continue that. If additional research is necessary or helpful I will endeavor to have that research conducted.**

Commitment to Reasonable Small Business Relief

Mr. Tryon, last spring I introduced a bill that repealed a Department of Transportation final ruling that would have forced many local metropolitan planning organizations (MPO's) in the same region to merge. It gained bipartisan support—unanimously passing the Senate and overwhelmingly passing the House—because it was a common sense solution to a misguided regulation.

I believe the Office of Advocacy should be looking for other common sense regulatory solutions that support small businesses as opposed to sweeping regulatory cuts that might inadvertently aid large corporations, harm workers or tear down important environmental protections.

QUESTION 2:

Mr. Tryon, if confirmed, what common sense regulatory solutions would you pursue to help small businesses meet their regulatory standards as oppose to lowering those standards for them?

It is my understanding that under the Regulatory Flexibility Act the Office of Advocacy has the responsibility to evaluate new regulations to find common sense solutions to lessen regulatory burdens on small businesses while maintaining the intent of the statute. If confirmed, I look forward to receiving input from your office and your small business constituents to continue to identify commons sense reforms.

QUESTION 3:

Would you support any of the following common sense solutions that protect small businesses competitiveness without undermining workers, environmental protections and public health and safety?

- Providing monetary assistance to small businesses so that they can meet higher regulatory standards.
- Exploring different ways of partnering small businesses that will help them meet regulatory obligations in mutually beneficial ways.

If confirmed, I will explore this type of common sense solution in the context of the RFA and specifically:

As to the first bullet point, I will investigate this concept with your office and my staff and the relevant agency.

As to the second bullet point, assisting small businesses that are partnering or collaborating with each other and with other organizations to help address regulations would be positive and effective for small businesses as long as it does not conflict with other laws.

Senate Committee on Small Business and Entrepreneurship
Hearing February 14, 2018
Follow-Up Questions for the Record

Questions for Mr. Hannibal M. Ware

Questions from: Ranking Member Cardin

Disaster Loans

As you know, SBA's Office of Disaster Assistance has played a critical role in the recovery from Hurricanes Harvey, Irma and Maria. I was pleased to see that SBA received substantial funding in the recent budget agreement so that it can continue to make direct disaster loans to small businesses and homeowners who survived these natural disasters.

SBA' s Office of the Inspector General plays an important role protecting the taxpayer and ensuring the integrity and efficiency of SBA programs. That role is heightened during a disaster when decisions are made more quickly.

During Hurricane Sandy, for example, the SBA IG found that 361 loans totaling $4.3 million defaulted early and were not approved in accordance with SBA and federal requirements.

In a separate report, the IG found that while the improper payment rate on disaster loans was down to 5.2 percent in fiscal year 2016 (from 8.13 percent in fiscal year 2015), this rate was still above the statutory guidelines defined by the *Improper Payments and Elimination and Recovery Act* (1.5 percent).

Looking ahead, it is possible that disaster lending to small businesses and households resulting from the 2017 hurricanes could be the highest on record.

And, I believe the IG is responsible for identifying ways the Office of Disaster Assistance can minimize errors in preparation for when the next disaster will inevitably strike.

QUESTION 1:

What is the Office of Disaster Assistance doing to minimize and reduce improper payments? What is it doing to ensure that disaster loans are being approved according to federal requirements?

Response: I also believe that my role as Acting Inspector General, and if confirmed, as Inspector General, is to identify ways for the Office of Disaster Assistance to minimize errors now and in preparation for the next disaster. We continue to plan and conduct reviews to accomplish this end. My office has identified balancing competing priorities to deliver timely disaster assistance and reducing improper payments in the Disaster Assistance Program as a Top Management Challenge. To reduce disaster loan improper payments, SBA's Office of Disaster Assistance should strengthen controls

related to loss verification, documentation and affordability, and other program requirements that have been identified as the most prevalent errors in the program. In our fall 2017 assessment of SBA's progress in mitigating risks associated with this challenge, we noted that substantial progress has been made.

While SBA has made progress in reducing improper payments in the disaster loan programs, on February 13, 2018, we published report 18-12, *Audit of the Accuracy of the FY 2015 Disaster Loan Program Improper Payments Rate.* This report presents the results of our audit of SBA's FY 2015 improper payments rate for the Disaster Loan Program. The Improper Payments Elimination and Recovery Act of 2010 and related legislation require agencies to annually report statistically valid estimates of their improper payments, and Inspectors General to annually determine agency compliance with key criteria in the Act.

We found that SBA did not detect all improper payments when conducting improper payment reviews to estimate its FY 2015 rate for the Disaster Loan Program. Consequently, they understated the FY 2015 improper payments rate for the Disaster Loan Program. SBA reported improper payments of $24.6 million, or 8.13 percent, of the $302.3 million in disaster loans disbursed during the year. We determined the improper payment rate to be at least 9.89 percent, or $29.9 million. Our audit of a statistical sample of 31 loans identified 10 improper payments totaling $1,698,700, while SBA's review of the same loans resulted in 4 identified improper payments, totaling $650,200.

We found that SBA's review did not detect all improper payments because the review guidance used by Quality Control (QC) staff excluded relevant laws and regulations, the QC staff did not always follow the standard operating procedure, management overturned identified improper payments without clear justification, and QC staff did not consider relevant documents in the loan file if they were dated after loan disbursement. We also determined that SBA did not include all detected improper payments in its rate calculation. Consequently, SBA did not accurately report and assess the risk of improper payments in the program and could not establish appropriate reduction targets or properly implement corrective actions to reduce improper payments and enhance program integrity.

My perspective of what the Office of Disaster Assistance is doing to ensure that disaster loans are approved according to federal requirements is informed by our oversight work. As part of our audits of the Disaster Assistance Program, assessments of internal controls are included within the scopes of such reviews. Many of our recommendations have been and are focused on strengthening these internal controls to ensure compliance with federal requirements. In addition to corrective actions planned to close open recommendations associated with two recent reviews (Report 18-12 and 18-09), OIG also has identified four recommendations directed at the challenge areas associated with the Disaster Assistance Program. If confirmed, I am committed to conducting persistent follow up for these recommendations.

QUESTION 2:

Do you believe enough is being done at SBA to minimize losses to the taxpayer and to maximize benefits to survivors?

Response: In the past 20 years, our reviews have resulted in numerous recommendations to improve SBA's Disaster Assistance Program. By implementing corrective action and SBA taking proactive steps to attain efficiencies in the program, SBA arguably has taken positive steps to minimize losses to the taxpayer and to maximize benefits to survivors. However, with an improper payment rate of at least nearly 10 percent and with challenges SBA faces in meeting performance metrics to deliver timely assistance to survivors in the wake of significant disasters, I believe more can be done to improve the program. If confirmed, I am committed to reviewing the areas of highest risk and making recommendations directed at the root causes of problems and challenges identified. Systemic improvements are key to reducing fraud and delivering efficient services.

QUESTION 3:

Are there any previous IG recommendations that the Office of Disaster Assistance has yet to act on that would help these efforts?

It is noted that the Office of Disaster Assistance has implemented corrective action in response to OIG recommendations. The Office of Disaster Assistance currently has five open recommendations for corrective action that are in an open status. Three of these recommendations stem from a report made public on February 13, 2018. Report 18-12, *Audit of the Accuracy of the FY 2015 Disaster Loan Program Improper Payments Rate* presented the results of our audit of SBA's FY 2015 improper payments rate for the Disaster Loan Program. We provided four recommendations to improve SBA's accuracy in reporting the estimated improper payments rate for the Disaster Loan Program. SBA management agreed with three recommendations and partially agreed with one recommendation. Management has committed to implementing our recommendations related to the incorporation of Code of Federal Regulations requirements into improper payment test criteria, management override of improper payments, consideration of all documentation available during review, and ensuring that all identified improper payments are included in the final improper payment rate calculation.

The other two recommendations are from Report No. 18-09 *Audit of RISE Act Eligibility Controls* issued on January 19, 2018. We provided two recommendations to improve SBA's management of the Disaster Assistance Program to prevent loans to ineligible borrowers and protect against fraud. SBA agreed to implement both recommendations, stating they would require additional support for the total loss amount when damages have been fully or partially repaired and implement refresher training to loan officers and loss verifiers to ensure thorough examination of loan documents to prevent loans to ineligible borrowers and protect against fraud.

Questions from: Senator Cantwell

(Technical Challenges at SBA)

Mr. Ware, if confirmed as Inspector General, your mission will be to provide independent oversight to improve the integrity, accountability, and performance of the Small Business Administration.

You will be expected to keep the SBA Administrator and the Congress fully informed of any problems, recommend corrective actions, and monitor progress in the implementation of such actions.

A recent GAO report found that the databases for two SBA research and development programs
- the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs - are full of errors and incomplete information.

Starting in 2011, these two SBA programs were required to establish benchmarks in order to evaluate the development and commercialization of the technology these programs fund.

These two programs have together awarded nearly $50 billion in grants since the 1980s. The GAO report found thousands of instances in which basic information like the spelling of a contractor's name was wrong, and resulted in multiple records for the same business. I don' t know how we can begin to verify whether these programs are meeting their benchmark goals when the data they are using is so unreliable.

The GAO report offers 11 recommendations to address these problems.

QUESTION 1:

If you are confirmed, will you commit that that Office of Inspector General will monitor and seek to recommend improvements to the Information Technology challenges at SBA?

Response: If confirmed, I commit to reviewing and making recommendations to improve SBA's information technology systems. I have assessed SBA's "Information Technology Leadership Capabilities Need Strengthening to Address Operational Risks and Challenges" as a top management challenge. As such, I will direct OIG resources against this challenge area. In addition to the mandated review of compliance with the Federal Information Security Management and Modernization Acts, I will focus resources on reviews pertaining to evaluations of SBA's Migration to Cloud Computing and of updates relative to the Federal Information Technology Acquisition Reform Act.

SBA stated in their 2016 budget justification that it "will implement and monitor multiple cross agency initiatives designed to improve program effectiveness, share best

practices, and further improve the SBIR.gov business intelligence data and repository platform."

QUESTION 2:

Will the IG look into whether there has been an effective training protocol for SBIR/STTR recipients and agencies to input their progress?

Annually, we publish our Audits Division Oversight Plan. In preparing this plan, we identify potential reviews based on our internal risk assessments, which include information received from our Hotline and any requests or specific interests expressed by the Congress. After preparing a draft plan, we conduct outreach with congressional stakeholders (authorizing and appropriations committee) and also with SBA leadership to consider any insight or feedback to inform the plan. After this robust process, we publish our oversight plan. I recognize the importance of training new initiatives, especially those that transcend government such as the SBIR and STTR programs. If confirmed, I am committed to considering available options to provide oversight of this training protocol. In such considerations, I will give particular regard to the activities of the GAO with a view toward avoiding duplication and ensuring effective coordination and cooperation.

(Disaster Relief)

Another issue relating to the fiscal health and management of the Small Business Administration is the disaster assistance program.

In October last year, the Office of Inspector General prepared a report which laid out the challenges facing SBA, and you included disaster assistance as an area where there was a real need to balance competing priorities.

The RISE After Disaster Act of 2015 authorized another private lender program, but the SBA has not yet implemented this law.

An issue that I care deeply about is getting loans out in a timely manner. Many small businesses cannot afford to wait for their government for weeks due to backlogs and inefficiencies - especially after a natural disaster.

A previous GAO study found that new SBA loan officers were not properly trained to respond to the loan applications in the aftermath of 2012's Hurricane Sandy.

QUESTION 3:

Will the Office of IG investigate how SBA loan officers responded to last year's Hurricanes Harvey and Maria?

Response: Yes. If confirmed, I will continue to manage our resources to provide effective oversight of SBA's Disaster Assistance Program. Under my direction, OIG

began performing oversight of SBA's response to Hurricane Harvey approximately 30 days after the first SBA loan was approved in response to this disaster. Our Audit Team in Dallas initiated an inspection on September 14, and we issued our report of findings in mid-January. They also conducted a similar inspection relative to SBA's response to Hurricane Irma, and this report is to be published soon. Finally, we have initiated an inspection relative to Hurricane Maria to inform the perspective of SBA's ability to provide an initial response to these major disasters.

Our Investigations Division also has a key role in maintaining the integrity of SBA's Disaster Assistant Program. As a preliminary step to combat fraud related to these disasters, I assigned an additional criminal investigator to Texas, Florida, and Atlanta to conduct outreach, to foster law enforcement partnerships, and to pursue any evidence of fraud against SBA. In addition to its longstanding partnership with the National Center for Disaster Fraud, our office already has joined law enforcement task forces facilitated by U.S. Attorney's Offices in the impacted areas.

In performing oversight of these disasters, I assure you we will not work in isolation. Our office is a member of the Council of the Inspectors General for Integrity and Efficiency's reconstituted Disaster Assistance Working Group. The working group provides a forum to provide joint coordination of Inspectors General activities involved with the response and recovery work and will allow us to jointly develop strategies, coordinate efforts, and speak with a unified voice to our stakeholders. At the working group's inaugural meeting, it was noted that our office was setting the standard for initial response by the IG community.

This unprecedented response by our office is intended to keep the Administrator and the Congress currently and fully informed of SBA's actions and to add a degree of transparency that only OIG can provide. With supplemental funds provided by P.L. 115-123, OIG will review how SBA loan officers responded to last year's Hurricanes Harvey, Irma, and Maria.

QUESTION 4:

Will the Office of IG look into what more can be done to refine the current training approach for SBA loan officers, and what can be done to more quickly meet the needs of disaster-impacted communities?

Response: If confirmed, I will continue to focus on this important question and make any necessary recommendations for corrective action. In fact, I raised this as an important challenge facing the Office of Disaster Assistance in testimony before the Committee on Small Business in the U.S. House of Representatives in April 2017. I also note this as a challenge area for our disaster-related top management challenge.

Prior audits performed by OIG have found that SBA had not taken sufficient steps to prepare for large-scale disasters, such as properly preparing and training a new workforce for high application volumes. As a result, the program often has been unable to provide timely assistance in the aftermath of major disasters. We will seek to provide insight into this important question during in-depth reviews of SBA's response to Hurricanes Harvey, Irma, and Maria.

Questions from: Senator Hirono

Mr. Ware, as a U.S. Senator and a member of the Senate Small Business and Entrepreneurship Committee, it is my responsibility to ensure the fitness of individuals nominated to serve within the Small Business Administration and other federal agencies. I am asking all nominees to the Small Business Administration to answer the following two questions:

QUESTION 1:

Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?

Response: No.

QUESTION 2:

Have you ever faced discipline, or entered into a settlement, related to this kind of conduct?

Response: No.

Mr. Ware, having served as the Acting Inspector General for the Small Business Administration (SBA) since January 2017, you understand that the Inspector General is responsible for directing the Office' s audits and investigations to deter waste, fraud, and abuse.

QUESTION 3:

What is your view on the Inspector General's appropriate role in auditing and investigating potential waste, fraud, and abuse, and how will you continue working to address these issues within the SBA?

Response: My entire 28+ year federal career has been dedicated to service of the Inspector General community, where I have championed the auditing and investigating of fraud, waste, and abuse. I am an auditor by trade and have performed and overseen reviews at all levels, to include serving as an Executive. I have served as the Deputy Inspector General since April of 2016, notably serving as the Acting Inspector General since January 2017. Additionally, I am committed to public service and believe fully in the mission of Offices of Inspector General.

If confirmed, I will continue to provide independent and objective oversight of SBA's programs and operations. I will utilize all available tools to keep the Congress and the Administrator currently and fully informed of my findings. I believe independence is vital to the role of the IG, and it is what makes IGs unique across Government. As I have done with distinction throughout my career, if confirmed, I will guard my independence and that of my staff to ensure we can carry out our mission effectively.

If confirmed, I will direct our resources against the identified top management challenges facing the SBA. That said, in terms of oversight priorities, certainly, the value of the loan portfolio demands my attention. We need to protect the integrity of this program and through oversight, ensure SBA is taking appropriate steps to mitigate potential losses of purchased loans (i.e., paid guarantees). I also am focused on the Disaster Assistance Program. I believe we play an important role and have provided valuable recommendations to promote timely and appropriate assistance to disaster victims. These are two critical areas of oversight in addition to our mandated priorities, namely the financial statement and Federal Information Security and Management Audit (FISMA).

Please know, I am committed to engaging the Congress to ensure our oversight priorities include insight on areas of concern to this Committee.

QUESTION 4:

As Inspector General, what changes or actions would you make to better address these issues within the SBA?

Response: I am fortunate that I have had the opportunity to lead the office this past year as the Acting Inspector General. During this time, I was fully empowered by the Inspector General Act to provide independent oversight of SBA's programs, and I exercised these powers to the full extent. I have taken this leadership opportunity to develop and implement a new strategic plan, update operating policies and procedures, improve internal communication, align our budget with oversight priorities, revitalize our disaster oversight team in Dallas, and stem attrition. All survey indicators in the Federal Employee Viewpoint Survey and our own internal survey indicate the office is moving in the right direction, with improvements across all the indexes. It is this progress and my passion for the job that caused me to seek the position. If confirmed, I will further align our resources with the identified top management challenges and make any necessary adjustments to provide operational support to our auditors and investigators. In short, I will serve as both a champion for our workforce and for corrective action within SBA to ensure accountability and internal control in the management of SBA programs.

Questions from: Senator Heitkamp

QUESTION 1:

Given the broad jurisdiction of the Office of Inspector General in the Small Business Administration (SBA), what do you see as the most important function of the Inspector General within the SBA?

Response: Section 4 of the Inspector General Act of 1978 (the Act), as amended outlines the duties and responsibilities of Inspectors General. As Acting Inspector General, I am proud to lead the dedicated professionals whose mission is to provide independent, objective oversight to improve the integrity, accountability, and performance of the SBA and its programs for the benefit of the American people.

If confirmed, my most important function will be to keep the Congress and the Administrator fully and currently informed, by means of the reports required by section 5 of the Act and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by SBA. In fulfilling this responsibility, I will recommend corrective action concerning such problems, abuses, and deficiencies, and will report on the progress made in implementing such corrective action.

QUESTION 2:

We know there are finite resources available to the Office of Inspector General in the SBA. Given time and resource constraints, can you tell the Committee how you intend to prioritize your activities to focus on the most pressing oversight issues related to SBA's administration of its loan and small business development programs?

Response: In considering where to direct our finite resources, we identify potential reviews based on our internal risk assessments, which include information received from our Hotline and any requests or specific interests expressed by the Congress. Annually, we publish our Audits Division Oversight Plan. The most recent plan was published in mid-February 2018. Additionally, our Investigations Division is charged with investigating allegations of fraud, waste, or abuse and does so both proactively and reactively to Hotline and whistleblower allegations.

After preparing a draft plan, we conduct outreach with congressional stakeholders (authorizing and appropriations committee) and also with SBA leadership to consider any insight or feedback to inform the plan. When planning reviews, we also give particular regard to the activities of the GAO with a view toward avoiding duplication and insuring effective coordination and cooperation. We have a number of reviews ongoing or planned for the next 12 months that will provide oversight of SBA's loan and business development programs.

QUESTION 3:

If confirmed, how will you prioritize addressing open recommendations that have remained unimplemented for years? What steps will you take as Inspector General to encourage the SBA to take corrective action on these recommendations?

If confirmed, I will be unyielding in my commitment to promote corrective action within SBA. Audit follow up is a very important part of the auditing process. I take this responsibility very seriously and consider the Congress a partner in regard to promoting corrective action within SBA. Our audit follow up process is governed by a Standard Operating Procedure. In short, there are prescribed timeframes to provide responses that resolve recommendations. Failure to provide responses that OIG deems acceptable within these timeframes results in elevation of the matter to the Audit Follow Up Official, which is the Deputy Administrator. The safeguard for decisions made by the Audit Follow Up Official is our congressional reporting requirements which provide transparency on any decisions that go against OIG. Under my leadership, we have been assessing each recommendation that has been pending. When necessary, milestone dates can be adjusted to reflect reasonable progress; however, most recommendations are being elevated for resolution by the Audit Follow Up Official.

As Acting Inspector General, I have emphasized and placed focus on audit follow up within the office. Under my leadership, we have integrated audit follow up into our new and updated policies. My goal is to ensure we obtain a commitment from program officials on resolution of recommendations and timely corrective action.

QUESTION 4:

In the past, the SBA Office of Inspector General (OIG) has offered training sessions attended by government employees, lenders, and law enforcement, intended to help these individuals detect fraud and learn how to report suspicious financial activity. This seems to me to be a good way to leverage the OIG's impact. Can you tell the Committee about your overall approach to outreach and training and how you intend to build upon the OIG's previous efforts in this area?

Response: If confirmed, I will continue to leverage OIG's impact by utilizing our expertise to train stakeholders and to conduct outreach. In the 5-year Strategic Plan I issued as Acting Inspector General, I set a goal to "Enhance relationships with Congress, SBA, and other entities for the purpose of greater collaboration." Under this goal, we have a number of objectives and performance measures to promote outreach and training with external stakeholders. As such, it is my priority and will remain so if confirmed. During FY 2017, OIG delivered 220 training and outreach sessions for approximately 3,556 attendees.

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