

Questions for the Record to Mr. Eric Soskin
U.S. Senate Committee on Commerce, Science, and Transportation Committee
Full Committee Nominations Hearing
August 6, 2020

Written Questions Submitted by the Hon. Maria Cantwell to Mr. Eric Soskin.

Acting Inspector General. Earlier this year, the President abruptly removed the acting Inspector General, a career official, and installed the politically appointed PHMSA Administrator to fill both roles simultaneously. The GAO has specifically expressed concerns about the independence implications of such a situation, most recently in GAO-20-639R: *Independence Principles and Considerations for Reform*.

At your nomination hearing, when I asked you whether this created an appearance of bias, you stated that you did not know enough about the specific situation to comment. I trust that since then you have had more time to familiarize yourself with the situation described above, and have been able to review the many news reports regarding this situation, as well as standards applicable to Inspectors General such as those described in the GAO's report referenced above.

Question 1. Do you agree that the abrupt removal of a career acting Inspector General and replacement of them with a political appointee who reports to Secretary Chao as the head of an agency that is also overseen by the Inspector General could create an appearance of bias?

Answer.

As GAO-20-639R (referenced in the preamble to the question) states, “[t]o protect the independence and integrity of the OIG’s work, an acting [Inspector General] should be vigilant in evaluating independence and applying appropriate safeguards.” I agree with the GAO in this regard and with Congress’s emphasis in the Inspector General Act on the importance of objectivity and independence for the Inspector General.

The role of the Inspector General is to carry out objective, fact-finding efforts, using the tools and staff provided by Congress to conduct audits and investigations, conducted in accordance with applicable professional standards, including the Government Auditing Standards established by the Comptroller General and the CIGIE Quality Standards for Investigations. Because I am nominated to be an Inspector General, which requires independence, I do not think it would be appropriate to opine on political matters. If I am fortunate enough to be confirmed, I will uphold the requirements of the Inspector General Act and will seek to carry out audits and investigations with independence, objectivity, and integrity.

Question 2. If your answer to Question 1 is no, explain how your answer conforms to the Inspector General Act or guiding standards and principles that apply to Inspector Generals as outlined in the GAO’s recent report.

Answer.

Please also see my answer to Question 1. In the Inspector General Act, Congress has emphasized the importance of ensuring the objectivity and independence of the Office of Inspector General by having at the head an individual appointed by the President with the advice and consent of the Senate. Also, in the Federal Vacancies Reform Act, Congress further provided that an Acting Inspector General come from a limited pool of candidates, among them the official serving as the first assistant to the position, or a Senate-confirmed official from elsewhere within or outside the agency. As the referenced GAO report (GAO-20-639R) makes clear, it is critical to nominate and confirm a qualified permanent Inspector General when a vacancy occurs and thereby minimize the duration of vacancies, because none of these options can substitute for a permanent official. And as the GAO report further explains, the Acting Inspector General should be vigilant in seeking appropriate counsel and taking steps to safeguard against threats such as bias, familiarity, or undue influence, thereby ensuring that the Acting Inspector General fulfills his responsibilities under the Inspector General Act and appropriate standards.

Question 3. Do you agree that this situation raises concerns – whether you believe them to be founded or not – about the independence of the current acting Inspector General?

Answer.

The role of the Inspector General is to carry out objective, fact-finding efforts, using the tools and staff provided by Congress to conduct audits and investigations, conducted in accordance with applicable professional standards, including the Government Auditing Standards established by the Comptroller General and the CIGIE Quality Standards for Investigations. Because I am nominated to be an Inspector General, which requires independence, I do not think it would be appropriate to opine on political matters. If I am fortunate enough to be confirmed, I will uphold the requirements of the Inspector General Act and will seek to carry out audits and investigations with independence, objectivity, and integrity.

Question 4. If you were confirmed and at some point in your tenure were asked by the President of the United States or the Secretary of Transportation to oversee a modal agency at the Department of Transportation (DOT) in addition to overseeing the Office of Inspector General, either on a temporary or a permanent basis, what would your response be?

Answer.

If I am fortunate enough to be confirmed as Inspector General, I will give the Office of Inspector General my full attention, and I commit to remaining independent and impartial in my undertakings, and evaluating each request on an individual and objective basis.

Question 5. Do you believe that the leader of an agency can fully devote themselves to their duties and to the safety of the American public if they are required to split their time between two full-time agencies?

Answer.

During my career as a civil servant, I have observed that successful public-sector leaders demonstrate their thoughtfulness, passion, and dedication day in and day out. This is a challenge that becomes only greater when a leader temporarily must fill two positions rather than one. Yet it is far from a unique occurrence: filling public-sector vacancies with a high-quality, diverse workforce whose members are dedicated to the American public is a demanding undertaking that typically unfolds at a deliberate pace. As a result, public employees at every level are often called upon to fill more than one role when positions around them are vacant and dedicate themselves to performing both roles successfully. In my experience, most public officials—whether career civil servants or senior appointees—who are faced with such circumstances have the dedication and skill to tackle them successfully.

Top Management Challenges. The Office of Inspector General issues an annual report on DOT's top management challenges to provide a forward-looking assessment for the coming fiscal year to aid DOT's agencies in focusing attention on the most serious management and performance issues facing the Department. As required by the Reports Consolidation Act of 2000 (P.L. 106-531) and the Office of Management and Budget's (OMB) Circular A-136, the Inspector General's reports identify these management challenges as well as assess the Department's progress in addressing challenges identified in the previous year.

Question 1. Which of last year's top management challenges do you believe will be the most pressing and require the most oversight in the coming years and why?

Answer.

I am not currently serving in the DOT or the DOT OIG. The skilled professionals in the DOT OIG, in their report for Fiscal Year 2020, identified nine top management challenge areas for the Department for the current fiscal year. If I am fortunate enough to be confirmed, I will work with my team to identify our highest priority issues and establish a work plan to promptly and efficiently address those issues.

Question 2. Which of these challenges do you believe will require the most attention from DOT in the coming years and why?

Answer.

There are currently 574 open audit recommendations, including over \$8 billion in open financial recommendations, to which DOT should direct its attention. All DOT stakeholders, including members of the public, can see these recommendations via the DOT Office of Inspector General's recommendations dashboard. The DOT OIG has

been an innovator in creating this dashboard as a means of communicating open recommendations, and the Council of the Inspectors General on Integrity and Efficiency (CIGIE) has encouraged other OIGs to follow suit. The dashboard also provides a transparent means of reviewing identifiable action items for the top management challenges described above, one that relies on the recommendations and conclusions of the career professionals in the DOT OIG. To these open recommendations, I would add that DOT will need to give particular attention to the challenges identified in the FY 2020 report regarding oversight of surface infrastructure and transit investments, particularly those associated with relief from natural disasters, as those challenges are likely to be rendered even more acute as investment flows from the CARES Act and other related measures to help ameliorate the economic impacts of COVID-19.

Experience. It is my understanding that the Council of the Inspectors General on Integrity and Efficiency (CIGIE) generally attempts to interview most candidates that seek to serve as Inspector General of a Federal Department or agency.

Question 1. Did you interview or meet with representatives of CIGIE pursuant to your current nomination?

Answer.

Yes.

Question 2. If so, did they assign any rating to your candidacy?

Answer.

I have not had any follow-up communications with the IG Candidate Recommendations Panel of the CIGIE, and the panel has not informed me that they have submitted a rating or other evaluation.

Question 3. Did they express any reservations? If so, please state their specific reservations or concerns about your nomination.

Answer.

Please see my answer to Question 2.

Leadership Skills. The leader of the U.S. Department of Transportation Office of Inspector General (“DOT OIG”) must be independent and objective. Additionally, the DOT OIG must be prepared to handle complex investigations involving technical analysis, multiple jurisdictions, and critical parts of the U.S. economy. For example, the Indonesian Lion Air Flight 610 (JT610) and Ethiopian Airlines Flight 302 (ET302) accidents involving the Boeing 737 MAX aircraft has subsequently raised significant safety concerns about the Federal Aviation Administration

(“FAA”) aircraft certification process, required the engagement of international safety regulators, and impacted America’s aerospace industry, the leading exporter of U.S. manufactured goods.

Question 1. How would you describe your leadership style?

Answer.

As a leader, I seek to build a strong team environment with a culture of respect and professional excellence. I encourage an ethical culture by leading with integrity and honesty, and a culture of learning where everyone has the opportunity to expand their proficiency, to receive useful, skill-building feedback, and engage in dialogue with each other.

Question 2. How do you believe your subordinates would describe your leadership style?

Answer.

I believe that subordinates recognize that my leadership style is directed at fostering a team environment, that it offers them both respect for their professional talents and communication to help them understand how to meet and exceed expectations, and ultimately, that it helps them produce their best work. I believe that they would say I provide the right balance between setting a direction for the team and providing flexibility and freedom for them to execute in their roles without feeling like there is constantly a second set of hands on the steering wheel.

Question 3. How many investigations have you personally led that involved detailed technical analysis, multiple international jurisdictions, and a critical part of the U.S. economy? Please provide specific examples.

Answer.

I have led investigations as needed to defend civil lawsuits, gathering the information needed to successfully represent the United States in individual cases, and I’ve also worked with law enforcement agencies and become familiar with the investigative techniques and approaches that have been used to meet the appropriate legal standards, as well as the challenges of protecting underlying investigative information, the confidentiality of informants, and secret grand jury information from disclosure.

Investigations associated with cases have involved detailed technical analysis, witnesses and evidence spanning international jurisdictions, and critical portions of the U.S. economy. For example, I have worked with experts to conduct technical analysis of critical sectors of the agricultural and housing industries. My cases have also involved evidence-gathering from witnesses located in foreign countries and physical and documentary evidence collected from sources around the world. As with information

collected as part of criminal investigations, many avenues that are pursued do not lead to information that is ultimately used and made public, so it would not be consistent with the confidentiality of the attorney-client relationship for me to disclose the specific nature of investigative activities undertaken in any given case.

Question 4. Historically, what has been your investigative approach? What lessons have you learned?

I strive to carry out investigations in an objective, impartial, and thorough manner. My teams follow the facts where they lead, and subject these facts to independent consideration in light of the relevant law, without favor or bias.

While each investigation is unique, the process that I've followed to investigate and develop the facts necessary to litigate cases at the Department of Justice aims to be thorough and impartial. It begins with the receipt of information that suggests an investigation may be warranted, which may come from a variety of sources. Such information is then assessed in light of applicable law, other known facts, and the scope of my responsibilities to create an initial plan for the investigation. This plan is then used to guide investigative activities and information collection, which is then evaluated and analyzed to draw conclusions and develop the appropriate final output from the investigation.

In conducting investigations, I've learned that the initial plan for the investigation must be regularly evaluated and revised as necessary to account for information developed during the course of the investigation. I've also learned that agency operations and activities are often perceived far differently by line personnel than by managers and administrators.

Question 5. What are the quantifiable results of investigations that have been completed under your leadership? Please provide specific examples.

Answer.

The types of investigations that I have led are not the types that create quantifiable results. Rather, they are designed to provide the United States with the information needed to successfully litigate high-stakes, challenging lawsuits that affect millions of Americans or involve hundreds of millions of dollars of potential liability, and to ensure that the Department of Justice's representation is in the interests of the United States and in accordance with professional standards.

The Boeing 737 MAX Investigation. In June 2020, the DOT OIG released an audit report on the "Timeline of Activities Leading to the Certification of the Boeing 737 MAX 8 Aircraft and Actions Taken After the October 2018 Lion Air Accident." The June audit was the first of

several reports Congress expects to receive as the DOT OIG continues its investigation of the FAA's aircraft certification process.

Reportedly, there are several other investigations being led by both the FAA and the Department of Justice regarding the certification process of the 737 MAX aircraft and whether Boeing exerted undue pressure, at multiple Boeing facilities, on its Organization Designation Authorization ("ODA") program members, who have delegated authority under the FAA.

Additionally, on August 7, 2020, the FAA made public its Safety Culture Assessment Report, which indicates systemic problems with the agency's safety culture. The report confirms that the rank-and-file FAA staff are concerned that external pressures from industry are undermining safety and that FAA senior leadership has failed to uphold FAA's safety mission. Survey participants believe the FAA has delegated too much authority to industry and that the ODA model is causing FAA to move further away from its safety mission and results in confusion about the FAA's roles.

Chairman Wicker and I have introduced bipartisan legislation, *S. 3969, The Aircraft Safety and Certification Reform Act of 2020*, which would clearly detail the FAA's oversight authority over the aircraft certification process, and includes fundamental reforms of the ODA program. One of the possible changes to the legislation would be to limit the life cycle of an original type certificate to no longer than 25 years. Some advocates argue that the 737 aircraft designed in the 1960s is vastly different than the 737 MAX aircraft that was developed during the last decade.

Question 1. What steps do you think are necessary to reform the ODA program and ensure accountability in the FAA's system of delegation?

Answer.

As stated in its most recent Strategic Plan, Strategic Goal 1 of the DOT OIG is to "increase the effectiveness of DOT safety programs and deter activity that threatens the safety of the national transportation system," and the 737 MAX investigation and oversight of the FAA and ODA program are an important part of fulfilling that goal. I am not currently serving at the DOT or the DOT OIG. If I am fortunate enough to be confirmed as the Inspector General, I will independently assess the program and evaluate ways to ensure transparency and accountability. I will work with my team of career professionals at the Office of Inspector General and ensure that DOT OIG's audits and investigations are completed thoroughly, objectively, and impartially in accordance with the applicable professional standards.

Question 2. Do you believe that the FAA should approve the amendment of aircraft type certificates that were designed and developed more than a generation ago involving dated technology that does not comply with the most recent airworthiness standards?

Answer.

I am not currently serving at the DOT or the DOT OIG. I agree that this is an important issue for the FAA to consider as it reviews the events that led to the Boeing 737 MAX crashes. If I am fortunate enough to be confirmed as Inspector General, I will independently assess the ODA program, the certification of aircraft using amended type certificates, and airworthiness standards. I will work with my team of career professionals to ensure that DOT OIG's audits and investigations are completed thoroughly, objectively, and impartially in accordance with the applicable professional standards.

Question 3. Please provide your impartial perspective of the FAA's Changed Product Rule under 14 C.F.R. § 21.101?

Answer.

I am not currently serving at the DOT or the DOT OIG. As the DOT OIG's timeline report, "The Boeing 737 MAX 8 Aircraft and Actions Taken After the October 2018 Lion Air Accident" makes clear, the certification of aircraft using amended type certificates is an important issue. 14 C.F.R. § 21.101 and Advisory Circular 21.101-A are commonly known as the "Changed Product Rule." These provide that when an aircraft is certified using an amended type certificate, *i.e.*, as a derivative of an already-certificated aircraft, only systems or areas that have been significantly changed need to be brought up to newly-implemented regulatory standards. If I am fortunate enough to be confirmed as Inspector General, I will work with my team of career professionals to ensure that the DOT OIG's review of these issues is carried out thoroughly, objectively, and impartially in accordance with the applicable professional standards.

Question 4. Please provide your definition of "safety culture" and describe how you have promoted and developed this culture in your career? How should the FAA improve its safety culture?

Answer.

A safety culture is defined as a set of organizational values, actions, expectations, and behaviors that place a commitment to safety above competing goals and priorities. While I have not worked in an operational environment where safety is at the heart of the organizational mission, I have promoted workplace safety as an emergency evacuation coordinator and by ensuring that members of my team are aware of the resources and channels available to solve workplace safety issues. If I am fortunate enough to be confirmed as Inspector General, I will work with my team of career professionals at the Office of Inspector General to continue to evaluate the FAA's safety culture, and we will ensure that the DOT OIG's review of this issue is carried out thoroughly, objectively, and impartially in accordance with the applicable professional standards,

Question 5. Following up on our discussion at your nomination hearing, if you are confirmed as Inspector General, will you commit to not interfering in any investigation that may involve the DOT Secretary, senior DOT executives, or any other political appointee at the department?

Answer.

If I am fortunate enough to be confirmed as the Inspector General, I will commit to remaining independent and impartial in my activities, including audits, investigations, and other issues. With respect to any specific allegation of misconduct or mismanagement by a DOT employee, including a political employee at the Department, I will evaluate each potential investigation based on the priorities and the resources of the office and I will not allow any undue influence to affect the operations of the OIG. Should the office undertake an investigation of an employee's alleged misconduct or mismanagement, I will ensure that it is done in an independent and objective manner, ensuring fairness and thoroughness to all parties involved, without regard to politics or outside influence, and in accordance with professional standards, such as the CIGIE Quality Standards for Investigations.

Question 6. Will you commit to immediately informing members of this committee if you are subject to political pressure or other influences from the Executive Office of the President, political appointees within the Department of Transportation, or any other outside entities that would prevent you from independently and objectively performing your duties as Inspector General?

Answer.

If I am confirmed, I commit to complying with the Inspector General Act and all other applicable laws governing disclosure to keep Congress and this committee fully and currently informed.

Question 7. In your official capacity, have you ever been assigned a task that you believed to be unlawful or unethical? If so, how did you deal with the situation?

Answer.

As a career civil servant in the Department of Justice I have been entrusted with the responsibility to exercise independence and objective litigating judgment to ensure compliance with the commands of Congress and all applicable professional and ethical standards. Department of Justice attorneys are uniquely situated in their representation of clients because they have the authority to make decisions regarding the conduct of litigation, even when a client holds a different view. I have exercised that authority throughout my career to ensure that the United States does not improperly litigate in defense of unlawful policies or misrepresent factual or legal matters in court. To resolve situations involving unlawful activities or unethical requests, I have sought to work collaboratively in the first instance to persuade other stakeholders to revise their views and come into compliance with legal standards, and when that approach has been unsuccessful, I have marshaled the evidence, presented it to senior Department of Justice leadership, and guided decision-makers as they have ensured that disputes are resolved at the appropriate level.

Question 8. Have any complaints ever been filed against you with the Disciplinary Board of the Supreme Court of Pennsylvania, the DOJ Office of Professional Responsibility (OPR), or any other local, state, or Federal licensing or accrediting entity?

Answer.

No.

Potential Bias. On your Twitter account, you have made several recent statements that may call into question your ability to serve impartially if confirmed as Inspector General of the Department of Transportation.

Question 1. Please explain the following January 17, 2017, post on your Twitter feed made under the screen name Brickyard99: “The #NYTimes – the world’s leading purveyor of #fakenews since Walter Durant.” Would this impact your ability to investigate a transportation safety matter that it first reported on by the New York Times?

Answer.

No. If I am fortunate enough to be confirmed as Inspector General, I commit to remaining independent and impartial in my undertakings, including audits, investigations, inspections, and evaluations and to ensuring that the Office of Inspector General’s activities are undertaken in accordance with the appropriate professional standards, such as the CIGIE Quality Standards for Investigations. In any particular matter where I believed my impartiality might reasonably be questioned, I would consult with designated ethics officials regarding the most appropriate way to proceed.

Question 2. Please explain the following July 17, 2016, post on your Twitter feed made under the screen name Brickyard99: “Mike Pence *is* a grand slam for conservatives and America. But doesn’t change poor choice to nominate Trump” twitter.com/stephenmoore/”

Answer.

As a career civil servant in the Department of Justice, I have served the American people with independence and impartiality for fourteen years, spanning three administrations and serving leaders of both parties without regard to my personal views or feelings. Like millions of Americans, I have occasionally shared my immediate reactions to a wide range of subjects, including political developments, on social media. This post is one such example.

Question 3. Please explain the following June 16, 2016, post on your Twitter feed made under the screen name Brickyard99: “Meanwhile, almost every Democrat in Congress voted this week to force doctors to perform abortions regardless of conscience @ElissaBeth.” Do you believe this accusation compromises your ability to work in an unbiased and non-partisan manner with Democrats in Congress?

Answer.

Over the last fourteen years, I have worked in three administrations with public servants and political figures from both parties without regard to my personal views or feelings. I have found that the common ground we all share is a desire to serve the American people, and that we all recognize that there are others with whom we have good-faith disagreements about specific issues. If I am fortunate enough to be confirmed as Inspector General, I commit to working with Congress objectively, impartially, and without regard to politics, in accordance with the requirements of the Inspector General Act.

Question 4. On January 26, 2016, in response to a Tweet from Adrian Moore @reasonpolicy stating “California’s plan to kill the driverless car fee.org/freeman/califo... Can’t allow anything that might empower people!#tlot#tcot,” you responded under your Brickyard99 screen name that, “Sadly. 1st instinct of many Republicans is to regulate, too: Bush, Kasich, maybe all except Cruz & Paul #Cruz2016.” In light of this statement, do you believe that, if confirmed, you would be able to impartially investigate rules or other regulatory actions involving autonomous vehicles?

Answer.

Like millions of Americans, I have occasionally shared my immediate reactions to a wide range of subjects, including public policy initiatives, on social media. As a career civil servant in the Department of Justice, I have served with independence and impartiality for fourteen years, spanning three administrations and serving leaders of both parties without regard to my personal views or feelings. If I am fortunate enough to be confirmed as Inspector General, I will approach every issue without bias and in furtherance of the statutory commands of Congress and the Department of Transportation’s critical role in upholding the safety of the traveling public. In any particular matter where I believed my impartiality might reasonably be questioned, I would consult with designated ethics officials regarding the most appropriate way to proceed.

Question 5. Please explain the following January 26, 2016, post on your Twitter feed made under the screen name Brickyard99: “Just saw highway law included Low Vol Mfg deregulation bill. 3D printed replica cars? Faster pls!” In light of this statement, do you believe this calls into question your ability to effectively oversee that provision in the Fixing America’s Surface Transportation Act (FAST) Act (P.L. 114-94)?

Answer.

Like millions of Americans, I have occasionally shared my immediate reactions to a wide range of subjects, including public policy initiatives, on social media. As a career civil servant in the Department of Justice, I have served with independence and impartiality

for fourteen years, spanning three administrations and serving leaders of both parties without regard to my personal views or feelings. If I am fortunate enough to be confirmed as Inspector General, I will approach every issue without bias and in furtherance of the statutory commands of Congress and the Department of Transportation's critical role in upholding the safety of the traveling public, and in any matter where I believed my impartiality might reasonably be questioned, I would consult with designated ethics officials regarding the most appropriate way to proceed.

Question 6. In response to a January 11, 2016, Twitter post of a picture of a diner with a sign stating "Gun Control Could Be Your Child" and the heading "Owned by a Democrat," you responded under the screen name Brickyard99: "Should say 'Gun Control could kill your child.'" Please explain.

Answer.

As a career civil servant in the Department of Justice, I have served the American people with independence and impartiality for fourteen years, spanning three administrations and serving leaders of both parties without regard to my personal views or feelings. However, like millions of Americans, I have occasionally shared my immediate reactions to a wide range of subjects, including political issues, on social media. This post is one such example.

Independence. Ensuring the independence of the Inspector General is critical to the office's credibility and effectiveness. A recent Government Accountability Office (GAO) report highlighted that IGs must be independent both of mind and in appearance. Auditors need to identify any threats that might compromise their professional judgment or that would cause a reasonable and informed third party to conclude that the integrity, objectivity, or professional skepticism either of an auditor or of the audit organization had been compromised.

Question 1. Do you agree that even the appearance of bias can impact an Inspector General's independence and ability to oversee agency actions?

Answer.

In the Inspector General Act, Congress has emphasized the importance of ensuring the objectivity and independence of the Office of Inspector General. This mandate for independence is essential to carrying out the critical missions of the Inspector General in combating waste, fraud, and abuse, improving agency operations, protecting whistleblowers, and reinforcing public confidence in their government. To be effective in these missions, the Inspector General must therefore maintain true and full independence.

Question 2. If your answer to Question 1 is no, explain how and why an appearance of bias could not impact an Inspector General's independence or ability to conduct his or her job?

Answer.

Please see my answer to Question 1 above.

Written Questions Submitted by the Hon. Amy Klobuchar to Mr. Eric Soskin.

The tragic crashes of Boeing 737 Max 8 aircraft in both Indonesia and Ethiopia highlight the need for strong aviation safety. On June 29, 2020, the Office of Inspector General (OIG) issued a report examining key safety issues faced by companies that certify the safety of their own aircraft. Two additional Inspector General reports regarding the Boeing 737 Max 8 aircraft are anticipated in the near future.

Question 1. If confirmed, will you commit to ensuring that DOT addresses the key safety concerns outlined in these reports?

Answer.

As stated in its most recent Strategic Plan, Strategic Goal 1 of the DOT OIG is to “increase the effectiveness of DOT safety programs and deter activity that threatens the safety of the national transportation system,” and the 737 MAX investigation and oversight of the FAA are an important part of fulfilling that goal. I am not currently serving at the DOT or the DOT OIG. If I am fortunate enough to be confirmed as the Inspector General, I will independently assess the program and evaluate ways to ensure the safety of the traveling public. I will work with my team of career professionals at the Office of Inspector General and ensure that DOT OIG’s audits and investigations are completed thoroughly, objectively, and impartially in accordance with the applicable professional standards.

Question 2. What steps will you take to ensure that OIG conducts investigations thoroughly and impartially?

Answer.

If I am fortunate enough to be confirmed as Inspector General, I commit to remaining independent and impartial in my undertakings. I will ensure that Office of Inspector General investigations adhere to the applicable professional standards, such as the guidelines for independence set forth in the CIGIE Quality Standards for Investigations. Adherence to these standards assures that OIG personnel remain free, in both fact and appearance, from personal, external, and organizational impairments to independence and maintain an independent and objective attitude from the initiation to the completion of investigations.

Better Utilizing Investments to Leverage Development (BUILD) grants are an effective tool for financing local infrastructure projects. DOT awarded \$900 million in BUILD grants in fiscal year 2019 and Minnesota was one of fifteen states that did not receive any funding—although other states received up to three grants. In November, I led the Minnesota delegation in asking DOT to provide clarity to the competitive applicants from Minnesota that did not receive any funding this year.

Question 1. If confirmed, will you commit to providing clarity to applicants regarding the selection process used to award BUILD grants?

Answer.

I am not currently serving at the DOT or the DOT OIG. If confirmed as Inspector General, I will work with the staff of career professionals on my team to evaluate potential audits and investigations based on the priorities and the resources of the office, including by reviewing the BUILD grant issue you have identified.

Written Questions Submitted by the Hon. Gary Peters to Mr. Eric Soskin.

Inspectors General prevent and uncover waste, fraud, and abuse in the Federal Government. These watchdogs are critical for holding government accountable to taxpayers. For example, from 2013-2017, the Department of Transportation IG's office produced \$35 in savings for every \$1 of taxpayer expenditures. In decades past they have had strong bipartisan support—particularly among Republicans in Congress. That's why I have been concerned by recent events that threaten the independence, integrity, and effectiveness of these positions.

Question 1. Do you think that it would ever be appropriate for a DOT official or other senior Administration official to direct the Inspector General to drop or change a valid inquiry? *If so*, under what circumstances would such interference be appropriate?

Answer.

No. The Inspector General Act prohibits agency officials, including the Secretary, from preventing or prohibiting the Inspector General from initiating, carrying out, or completing any audit or investigation.

Question 2. Do you believe it is appropriate for an Inspector General to be removed for political reasons?

Answer.

Congress has made explicit in the Inspector General Act that the appointment of an Inspector General may not be based on political affiliation and that the removal of an Inspector General is not an action to be taken lightly: removal is a power reserved to the President and Congress has required that, in the event that powers is exercised, the President must provide the reasons for doing so to the Congress. These protections for IG independence help facilitate the critical role of the Inspector General in objectively and impartially combating waste, fraud, and abuse and helping to enhance public confidence in federal government activities.

Question 3. If confirmed, what specific steps will you take to protect the independence of your Office?

Answer.

If I am fortunate enough to be confirmed as Inspector General, I commit to remaining independent and impartial in my undertakings. I will ensure that Office of Inspector General activities adhere to the applicable professional standards, such as the Government Auditing Standards promulgated by the Comptroller General and the CIGIE Quality Standards for Investigations. Adherence to these standards assures that OIG personnel remain free, in both fact and appearance, from personal, external, and organizational impairments to independence and maintain objectivity and independence from the initiation to the completion of audits and investigations. As required by the IG

Act, I will keep Congress, including this committee, fully informed of interference with the Inspector General's statutory independence.

Question 4. Congress passed the Inspector General Empowerment Act of 2016 to affirm that IGs are entitled to full and prompt access to agency records, thereby eliminating any doubt about whether agencies are legally authorized to disclose potentially sensitive information to IGs. Can you state for the record any circumstances you believe an agency could refuse to give an IG records?

Answer.

In the Inspector General Empowerment Act of 2016, Congress explicitly carved out two exceptions to the default entitlement to records that it otherwise created. First, Congress recognized that other provisions of law may expressly carve out categories of records to which an Inspector General is not entitled. Second, Congress gave the Attorney General the authority to make determinations as to whether an Inspector General may have access to federal grand jury materials in light of the implications of granting access for ongoing criminal investigations, undercover operations, or certain other activities. Furthermore, executive privilege protects sensitive Executive Branch information from disclosure and is "fundamental to the operation of Government and inextricably rooted in the separation of powers under the Constitution." *United States v. Nixon*, 418 U.S. 683, 708 (1974).

Question 5. Inspectors general work with the Office of Government Ethics to investigate conflicts of interest by department officials. What are your priorities to ensure conflict of interest requirements are being met within the Department?

Answer.

I am not currently serving at the DOT or the DOT OIG. If confirmed as Inspector General, I will work with the staff of career professionals on my team to review the significant risks of conflicts of interest that the OIG has identified in its activities in recent years. These include recent finding of weaknesses in FAA's major program contract award practices, FHWA's cooperative research and development agreements, as well as long-unresolved recommendations concerning conflicts of interest in the use of Other Transaction Agreements across operating administrations. I will use all of the tools and resources provided to DOT OIG by Congress to ensure that these issues have been, and are continuing to be, addressed. I will also continue to make conflicts of interest in grant recipients a priority for OIG investigative activities, a priority which has led to numerous charges and convictions in recent years.

Question 6. Have you had any experience hiring and overseeing attorneys who specialize in investigations?

Answer.

While serving in the Department of Justice, I have participated in the hiring process in a variety of roles, including in the hiring of attorneys, and have helped the Civil Division build and maintain a talented, diverse, and dedicated workforce. In my litigation work, I have also worked with attorneys who specialize in investigations. I have never directly hired attorneys to specialize in investigations.

Question 7. The current Acting Inspector General is Skip Elliott, the Administrator of the Pipeline Hazardous Materials Safety Administration. I have been grateful for Mr. Elliott's public service there, but the Administration has put him in an impossible position here leading an office that must be free to objectively pursue investigations. Do you believe it is appropriate for a political official to serve as acting Inspector General?

Answer.

In the Inspector General Act, Congress has emphasized the importance of ensuring the objectivity and independence of the Office of Inspector General by having at the head an individual appointed by the President with the advice and consent of the Senate. Also, in the Federal Vacancies Reform Act, Congress further provided that an Acting Inspector General come from a limited pool of candidates, among them the official serving as the first assistant to the position, or a Senate-confirmed official from elsewhere within or outside the agency. Regardless of which of these individuals serves an Acting Inspector General, it is likely that they will face tremendous demands on their time as they try to manage dual leadership roles within the Office of Inspector General or between the Office of Inspector General and another office. Thus, the GAO has recognized that it is critical to nominate and confirm a qualified permanent Inspector General when a vacancy occurs and thereby minimize the duration of vacancies, because none of the available options for an Acting Inspector General can substitute for a permanent official. I share your appreciation for the dual service of Mr. Elliott, as well as the preceding dual service of Mitch Behm, who continues in his role as Deputy Inspector General. They both have excellent reputations as skilled leaders and committed public servants, and should I be fortunate enough to be confirmed as Inspector General, I look forward to joining both of them at the Department of Transportation.