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December 4, 2020

VIA ELECTRONIC MAIL ONLY

Tracking No: OGE FOIA FY 20/048

The U.S. Office of Government Ethics (OGE) is granting your Freedom of Information Act (FOIA) request, which was received by the OGE FOIA Office on May 25, 2020. In your request, you asked for “A copy of the Questions for the Record (QFR) and agency QFR responses to Congress responding to QFRs during calendar years 2017, 2018, 2019 and 2020 to date, for the Office of Government Ethics. These records are likely found in the OGE office that handles legislative affairs/congressional relations.” We are enclosing 19 pages of responsive records. These records are being provided to you without charge. Additionally, see OGE’s website for [Testimony of Emory A. Rounds III, Director, U.S. Office of Government Ethics, Hearing before the Committee on Homeland Security and Governmental Affairs, United States Senate, 115th Congress, May 23, 2018](#), on its [Reports to Congress](#) page. For additional information, see OGE’s [Congressional Correspondence](#) page.

I trust that this information fully satisfies your request. If you need any further assistance or would like to discuss any aspect of your request, please do not hesitate to contact me at 202-482-9216. As OGE’s Alternate Public Liaison, I am available for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

The OGE official responsible for this FOIA determination is the undersigned. If you consider this response to be a denial of your request, you may administratively appeal this determination in accordance with the FOIA, as codified at 5 U.S.C. § 552(a)(6)(A), and OGE’s updated FOIA regulations, at 5 C.F.R. § 2604.304, to the Program Counsel, U.S.



Office of Government Ethics, 1201 New York Avenue, N.W., Suite 500, Washington, DC 20005-3917. Any such appeal must be in writing and must be sent within 90 days of the date you receive this response letter. If you do appeal, you should include copies of your request and this response, together with a statement of why you believe this initial determination is in error. Also, if you appeal, you should clearly indicate on the envelope and in the letter that it is a “Freedom of Information Act Appeal.”

Sincerely,

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Jennifer Matis
Alternate FOIA Officer

Enclosure

Senator Thomas R. Carper
Post-Hearing Questions for the Record
Submitted to Mr. Emory Rounds

Nominations of Emory Rounds to be Director, U.S. Office of Government Ethics; Kelly Higashi to be an Associate Judge, Superior Court of the District of Columbia; and Frederick Nutt to be Controller, Office of Federal Financial Management, Office of Management and Budget
Wednesday May 23, 2018

1. Ethics and the Presidential Transition

Earlier this year, I worked with Senator Warren and Congressman Cummings to introduce the “Transition Team Ethics Improvement Act.” The bill would take a series of steps to enhance the ethics requirements that govern presidential transitions. One of the provisions of the bill requires presidential candidates to develop and release transition team ethics plans.

Please share your vision for OGE’s role in the presidential transition process. Do you believe that there are areas where Congress should consider making reforms to OGE’s role?

Do you believe that making ethics a higher priority in presidential transitions will help new administrations inoculate against potential conflicts of interest?

**Senator Heidi Heitkamp
Post-Hearing Questions for the Record
Submitted to Mr. Emory Rounds**

**Nominations of Emory Rounds to be Director, U.S. Office of Government Ethics; Kelly Higashi to be an Associate Judge, Superior Court of the District of Columbia; and Frederick Nutt to be Controller, Office of Federal Financial Management, Office of Management and Budget
Wednesday May 23, 2018**

1. In your testimony, you noted that a critical component of fostering and maintaining a strong ethics culture within the Executive Branch come through leadership lead by example. I couldn't agree more. You also indicated in your pre-hearing questionnaire that you would use every appropriate proactive procedural and transparency tool necessary to ensure officials are held accountable and comply with ethics rules and regulations.
 - a. **In your view, what are the negative ramifications that could occur if individuals in Executive Branch leadership positions do not comply with ethics regulations?**
 - b. **Could you briefly elaborate on the tools and authorities that you would consider using to encourage officials to comply with ethics rules and regulations?**
 - c. **If those tools and authorities are unsuccessful in getting an official to comply with ethics regulations, what steps would you consider taking?**
 - d. **Do you believe that the tools and authorities granted to the Office of Government Ethics are adequate to ensuring compliance?**
2. In your pre-hearing questionnaire, you indicated that you would have the courage to take the unpopular stand or make a difficult decision to ensure that the integrity of the Executive Branch remains intact.
 - a. **In a general sense, what sorts of stances or decisions could you perceive as being unpopular or difficult to make?**
3. In your pre-hearing questionnaire and during the staff interview, you noted that you would rely on the IGs' investigative and enforcement capabilities when issues arise regarding employees and possible ethics infractions.
 - a. **Could you elaborate on how you plan to engage and collaborate with relevant IGs?**

b. Do you see opportunities to improve the Office of Government Ethic's engagement and coordination with IGs? How so?

**Senator Claire McCaskill
Post-Hearing Questions for the Record
Submitted to Mr. Emory Rounds**

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Wednesday May 23, 2018**

QUESTIONS

COOPERATION WITH CONGRESS

Q: If confirmed, will you ensure that you and your staff cooperate with oversight requests issued by the relevant ranking members?

THE STATE OF THE FEDERAL ETHICS PROGRAM

Q: You have stated that a 25% budget increase is necessary for OGE to meet its increased workload. What does it mean for OGE's ongoing work and the federal ethics program if the agency does not get a significant budget increase?

Q: If confirmed, how will you work with Designated Agency Ethics Officials (DAEO) and Alternate DAEOs to support OGE's work?

Q: If confirmed, how will you work with Inspectors General to support OGE's work?

IMPROVING FEDERAL ETHICS COMPLIANCE

Q: What, in your view, are steps that OGE can take to improve ethics compliance by executive branch employees?

Q: What, in your view, are steps that agency heads can take to improve ethics compliance by executive branch employees?

Q: What, in your view, are steps that the President can take to improve ethics compliance by executive branch employees?

Q: What, in your view, are steps that Congress can take to improve ethics compliance by executive branch employees?

Senator Gary C. Peters
Post-Hearing Questions for the Record
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1. The work of the U.S. Office of Government Ethics (OGE) has always been critical, and I share your concern that OGE needs additional resources and staffing. **If confirmed, how do you plan to advocate for an increase in OGE’s resources? Have you communicated with anyone at the White House or at the Office of Management and Budget (OMB) about OGE’s budget and staffing challenges? How would you proceed if you were dealing with a White House and OMB that were antagonistic to your efforts?**

2. In January 2017, President Trump issued Executive Order 13770 requiring all political appointees to sign an Ethics Pledge as a condition of their employment. The executive order appears to allow the President or the White House Counsel to issue waivers to the Ethics Pledge in secret. By all accounts, for months the White House appeared to resist efforts to disclose these secret waivers, and OMB Director Mulvaney even signed a letter questioning OGE’s authority to collect them. The waivers were only made public after the concerted effort of the OGE Director and pressure from Congress. You have underscored the importance of transparency and public disclosure with respect to the executive branch ethics program. On September 21, 2017, OGE issued a Program Advisory requiring all executive agencies to provide copies to OGE of any waivers issued to covered employees at the time they are issued. **Will you commit that, if confirmed, you will maintain this policy and ensure that agencies are complying with the requirement to provide waivers to OGE? Will you further commit that, if confirmed, OGE will continue to publish the certification of ethics agreement compliance forms for Senate-confirmed appointees on the OGE website?**

3. You have expressed support for OGE’s Open Government Plan and “to proactively disclose information to advance transparency, accountability, and openness.” At this time, there are a number of ethics-related documents that are not currently collected or posted on the OGE website for public viewing. There are also occasions when this information is not memorialized in writing, including authorizations issued pursuant to 5 CFR § 2635.502 allowing employees to participate in certain matters where their impartiality may be questioned, as well as records from agencies allowing employees to accept outside gifts. **If confirmed, what efforts will you undertake to proactively**

collect and post previously unpublished information on the OGE website in the interest of transparency?

4. Former OGE Director Shaub and Acting Director Apol have both, at times, taken strong and creative action in order to uphold the integrity of the executive branch ethics program and a culture of ethical compliance. For example, Acting Director Apol recently sent a public letter to the Designated Agency Ethics Official at the Environmental Protection Agency (EPA) raising concerns about EPA Administrator Pruitt's pattern of unethical behavior. **To what extent are you prepared to take new or creative actions, or make official statements in novel ways, in support of the ethics program when you identify behavior where it is appropriate to do so? To what extent do you believe that the OGE Director should be a public figure? Do you believe it is appropriate for the OGE Director to raise public awareness about unethical behavior in the executive branch, even unethical behavior by senior officials?**

5. You have stated repeatedly that a culture of ethics in government must start from the top down. At the same time, President Trump's network of business holdings, from which he has not divested, has created opportunities for conflicts of interest that may be outside the scope of the Ethics in Government Act (EIGA) as currently written. **Do you believe OGE has done what it can within the scope of its current authorities to address the President's conflicts of interest? Do you believe OGE has the tools it needs to meaningfully address the President's conflicts of interest? Will you commit to working with Congress to strengthen the EIGA and provide additional authorities to OGE as appropriate?**

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Wednesday May 23, 2018

- 1. In your testimony, you noted that a critical component of fostering and maintaining a strong ethics culture within the Executive Branch come through leadership lead by example. I couldn't agree more. You also indicated in your pre-hearing questionnaire that you would use every appropriate proactive procedural and transparency tool necessary to ensure officials are held accountable and comply with ethics rules and regulations.**
 - a. In your view, what are the negative ramifications that could occur if individuals in Executive Branch leadership positions do not comply with ethics regulations?**

In my view, strong Executive Branch senior leadership support of, and adherence to, the ethics laws and rules is critical to the accomplishment of each agency's mission and the overall work of government. It must be every senior leader's goal each day to encourage and foster a culture of government integrity, free of conflicts and dedicated to impartial decision-making. Experience teaches that decision-making that is free from ethical lapses best enables government leaders to deliver on their important promises, perform their public duties, and serve our country and its people without unnecessary distractions and inefficiencies. With impartial and ethical decision-making, government leaders can have confidence that the tough decisions they make as public servants warrant the public's full confidence.

- b. Could you briefly elaborate on the tools and authorities that you would consider using to encourage officials to comply with ethics rules and regulations?**

If confirmed as OGE's Director, I would use to the fullest extent possible my authority under the Ethics in Government Act and other authorities to carry out OGE's full range of responsibilities, including promulgating and maintaining enforceable standards of ethical conduct; overseeing a financial disclosure system designed to detect and resolve conflicts of interest; issuing regulations and guidance to provide uniformity and clarity of requirements; reviewing agency ethics programs and senior leaders' ethics agreement certifications to ensure compliance with their ethical commitments; providing training and resources so that ethical violations can be avoided; conducting outreach to the general public

and making key ethics documents available so that citizens can hold their government accountable. And, if those efforts fail and ethical lapses occur, as necessary, I would recommend corrective action on the part of an agency and/or an employee and require pertinent report(s) from an agency to ensure that appropriate action was taken.

With the enhanced resources that I would request, if confirmed, OGE could better undertake all of this important work. For example, if sufficiently resourced and staffed, OGE would be able to provide more training for senior leaders and ethics officials, and would offer more educational tools that ethics officials may use to train their agency employees. These efforts go to the heart of OGE's mission to prevent conflicts of interest and ensure impartiality in government decision-making. In addition, with enhanced resources, OGE may be able to increase accountability by increasing the frequency of its review of agency ethics programs from the current five-year cycle to a four-year cycle (or a three-year cycle, subject to resource limitations). Increasing OGE's resources for its transparency efforts would also contribute to improved ethics compliance to the extent that the public, media, NGO stakeholders, and employees can see, and thereby better understand, OGE's overall oversight initiatives.

c. If those tools and authorities are unsuccessful in getting an official to comply with ethics regulations, what steps would you consider taking?

If I am confirmed as OGE Director and face a lack of compliance with the ethics rules by an official, I would use transparency, recommendations of corrective action, referrals, and notification to the President, as necessary and appropriate given the specific circumstances, to gain compliance.

Although the OGE Director is prohibited by law from making a finding that a criminal law has been violated, if OGE became aware of information that suggested a violation, if confirmed as Director, I would notify the appropriate IG or the Justice Department. Regarding a matter involving an individual officer or employee, if confirmed as OGE's Director, I would aggressively carry out the Director's responsibilities under the Ethics in Government Act (set out in subsection (b)(9) of section 402, as enumerated in subsection (e)(2)(A) of section 402).

When circumstances warrant, I would recommend to the employee's agency head that the agency investigate a possible violation of the ethics laws and rules, and take any appropriate action. If the agency head fails to act on my recommendation to conduct an investigation, or if it is the agency head who is of concern, I would make the appropriate recommendation to, and seek action from, the President. If I order specific action to end a violation, and there is not compliance, then I would promptly notify the agency head or the President, as appropriate. Finally, I would also use transparency with regard to OGE's actions, as appropriate, to encourage compliance with the ethics laws and rules.

d. Do you believe that the tools and authorities granted to the Office of Government Ethics are adequate to ensuring compliance?

I believe that OGE currently has the tools and authorities it needs to prevent and resolve conflicts of interest and impartiality concerns regarding Executive Branch officials and employees. If confirmed, I would study proposed reforms with OGE's senior leadership and provide technical assistance to Congress, as requested and as appropriate. I currently have no plans for OGE to propose specific substantive reforms to Congress regarding the Ethics in Government Act. I would support an initiative for all three of the government's branches to consider the branches' collective "lessons learned" over the past several years with the goal of strengthening each branch's ethics initiatives and authorities under the Ethics in Government Act.

2. In your pre-hearing questionnaire, you indicated that you would have the courage to take the unpopular stand or make a difficult decision to ensure that the integrity of the Executive Branch remains intact.

a. In a general sense, what sorts of stances or decisions could you perceive as being unpopular or difficult to make?

My experience teaches that the most unpopular and difficult decisions are generally those that affect an employee's ability – or inability – to retain or obtain a financial interest while undertaking his or her official duties. There are many times when an ethics advisor may consider an employee's question – such as whether a gift may be accepted, whether a financial instrument may be kept or purchased, whether an outside position may be retained or taken, whether an event may be attended personally or officially, and so on – and allow the employee to do so. There are many times, however, when an ethics advisor, the Designated Agency Ethics Official, or OGE's Director must consider the facts and circumstances of a given request or matter and deny the request. For example, in cases when, based on his or her job duties and reported financial interests, a President's prospective nominee may not retain an asset or position, but must divest or resign in consideration of the ethics laws and rules, we must say "No."

3. In your pre-hearing questionnaire and during the staff interview, you noted that you would rely on the IGs' investigative and enforcement capabilities when issues arise regarding employees and possible ethics infractions.

a. Could you elaborate on how you plan to engage and collaborate with relevant IGs?

I fully support and would embrace OGE's excellent working relationships with the various Executive Branch Inspectors General (IGs).

I look forward, if confirmed, to membership as OGE's Director on the Council of the Inspectors General on Integrity and Efficiency and to meeting with IGs on such cases of mutual interest as from time-to-time arise, as well as continuing OGE's longstanding training of IG staffs. As part of my plan to meet with agency heads as soon as possible, if confirmed, I hope to incorporate a meeting with the agency IG to ensure and facilitate future communication.

b. Do you see opportunities to improve the Office of Government Ethics' engagement and coordination with IGs? How so?

If I am confirmed as OGE's Director, I would meet with OGE's senior leadership team to consider whether there are any further or additional opportunities to improve OGE's engagement and coordination with IGs. At this point, it seems that OGE and the IG community currently enjoy a strong working relationship. Certainly, as a member on the Council of the Inspectors General on Integrity and Efficiency, if confirmed, I would promote OGE's readiness to assist the IG community, to the extent resources permit. I believe that it is vital that the ethics and IG communities work together to ensure the integrity of the Executive Branch's personnel and programs.

OGE's symbiotic relationship with the IG community began at inception, by way of the Ethics in Government Act (EIGA). Both the EIGA and Inspector General Act came out of the same committee at about the same time in the post-Watergate era. IGs are tasked – among other duties – to address fraud, waste, and abuse within the Executive Branch, and OGE's mission to prevent conflicts of interest dovetails with the IGs' missions. OGE, in its preventive role, and I, if I am confirmed as OGE's Director, would continue to rely on the IGs' investigative and enforcement capabilities when issues arise regarding employees and possible ethics infractions. If I am confirmed, OGE would continue to work with IGs who seek guidance regarding the various ethics laws and rules, especially as might affect an ongoing investigation.

**Senator Claire McCaskill
Post-Hearing Questions for the Record
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Wednesday May 23, 2018**

QUESTIONS

COOPERATION WITH CONGRESS

Q: If confirmed, will you ensure that you and your staff cooperate with oversight requests issued by the relevant ranking members?

Yes. OGE has so complied through its existence as an agency within the Executive Branch, and I agree to continue this practice.

THE STATE OF THE FEDERAL ETHICS PROGRAM

Q: You have stated that a 25% budget increase is necessary for OGE to meet its increased workload. What does it mean for OGE's ongoing work and the federal ethics program if the agency does not get a significant budget increase?

If I am confirmed as Director, I would ensure that OGE's core mission to prevent conflicts of interest in the Executive Branch remains the agency's top priority, budgetary constraints notwithstanding. Over the years OGE has done more with less, but currently, resources are stretched very thin. Financial disclosure reports are increasingly more complicated and need more attention and time-consuming review. Agency program reviews should be undertaken more often. The legal issues for agency attorneys are becoming more difficult and require more intense research. Requests for information from outside sources have increased exponentially, and more questions are posed as the program's visibility increases. Important Congressional inquiries must be answered, but further redirect resources.

If OGE is not provided a budget increase, the following initiatives would not be possible, although if I am confirmed as OGE's Director, I would advocate strongly both to provide adequate resources for current initiatives and to institute improvements vital to long-term success. For example, if confirmed, I would seek to increase the frequency of OGE's program reviews of agencies and departments by increasing staff and resources for the compliance team. If confirmed, I would seek to enhance OGE's outreach to its constituent agencies by increasing the number of desk officers and by establishing "tiger teams" that could quickly be assigned to an agency program that requires additional assistance. If confirmed, I would seek to ensure that OGE's financial disclosure e-filing

system – *Integrity* – remains technically viable in the face of its popularity and growth as well as technical advances, and that this program is fully available to its Executive Branch agencies. If confirmed, I would seek to enhance OGE’s public affairs and transparency initiatives through additional staffing and tools.

OGE’s staff is dedicated to completing its mission, whatever it takes to do so – but OGE’s leadership must challenge budgets that do not keep pace with the ever-increasing demands on OGE.

Q: If confirmed, how will you work with Designated Agency Ethics Officials (DAEO) and Alternate DAEOs to support OGE’s work?

OGE’s Director has leadership and oversight responsibilities over the DAEOs as well as their agencies’ ethics programs. If confirmed as OGE’s Director, I would continue that oversight and leadership role, but in partnership – as the “senior partner” – with the DAEOs as we work together as a team to better prevent conflicts of interest in the Executive Branch.

I believe that DAEOs are critical members of the Executive Branch’s ethics team. Each DAEO is the senior agency leader responsible for his or her agency’s ethics initiatives in execution of the Executive Branch’s ethics mission. The Executive Branch-wide ethics program is purposefully designed to be de-centralized, and relies on the DAEO – and his or her agency subordinate ethics advisors – to execute an agency’s day-to-day ethics program.

To this end, I would fully support DAEOs as they seek to better perform their duties and responsibilities, and would ensure that there is at all times an “open door” to OGE and such OGE assistance and resources as may be needed, as we work together as a team to prevent conflicts of interest. If confirmed as OGE’s Director, I would take the overall lead in the promulgation of branch-wide ethics rules, policies, and procedures. This would ensure consistency as to the applicability and application of the standards of conduct to all Executive Branch employees. OGE’s compliance team would regularly conduct program reviews of agency ethics programs to ensure DAEOs are leading compliant programs. OGE would continue to hold agency heads accountable if their ethics programs are not meeting OGE’s programmatic requirements, are not providing necessary agency training, or are not using the many available ethics tools – such as OGE’s e-filing system, *Integrity*.

As OGE’s Director I would expect that the day-to-day execution of the Executive Branch’s rules, policies, and procedures remain the primary responsibility of each DAEO. DAEOs are given a large measure of independence and discretion within the Executive Branch’s ethics program, subject to OGE’s leadership in its oversight mandate. OGE would be available to offer its advice and counsel to a DAEO when the need arises, as it has done over its existence. OGE would continue, if I am its Director, to listen carefully to such concerns and recommendations a DAEO and/or the DAEO community may have regarding the Executive Branch’s ethics initiatives. This would

ensure that the ethics program is operating at peak efficiencies, to better guard against conflicts of interest. As Director I would recognize that each agency's mission and government business practices – within the basic paradigm of governing – can be different as compared to another agency, and sometimes even within a department or agency.

Q: If confirmed, how will you work with Inspectors General to support OGE's work?

I fully support and would, if confirmed, embrace OGE's excellent working relationships with the various Executive Branch Inspectors General (IGs). I look forward, if confirmed, to membership as OGE's Director on the Council of the Inspectors General on Integrity and Efficiency. I would also look forward to meeting with IGs on such cases of mutual interest as from time-to-time arise, and to continuing OGE's longstanding training of IG staffs.

I see it as no coincidence that OGE's symbiotic relationship with the Inspector General community began at inception, by way of the Ethics in Government Act (EIGA). Both the EIGA and Inspector General Act came out of the same committee at about the same time in the post-Watergate era. IGs are tasked – among other duties – to address fraud, waste, and abuse within the Executive Branch, and OGE's mission to prevent conflicts of interest dovetails with the IGs' missions. OGE, in its preventive role, and I, if I am confirmed as OGE's Director, would rely on the IGs' investigative and enforcement capabilities, when issues arise regarding employees and possible ethics infractions. OGE would continue to work with IGs who seek guidance regarding the various ethics laws and rules, especially as might affect an ongoing investigation.

IMPROVING FEDERAL ETHICS COMPLIANCE

Q: What, in your view, are steps that OGE can take to improve ethics compliance by executive branch employees?

If I am confirmed as Director, one of my first priorities would be to challenge OGE's senior leadership to propose any steps that OGE should undertake to even further enhance ethics compliance by Executive Branch employees, within existing resources.

In my view, it is a well-informed workforce that will best serve to improve the ethics culture of, and compliance by, Executive Branch employees. With the enhanced resources that I plan to request if confirmed, OGE will be able to provide more training for senior leaders and ethics officials, as well as provide more educational tools ethics officials may use to train their agency employees.

Also, as part of these education efforts, I plan to meet with agency heads and DAEOs to discuss my belief that the agency head must provide strong "top-down" leadership in support of the various ethics initiatives within his or her agency. I would re-iterate that the agency head must personally comply with the ethics laws and standards of conduct. I would reemphasize that the agency head must also demand high ethical standards of the

agency's senior leadership and foster an ethical culture throughout the agency. I would encourage that the agency's ethics program be provided the resource support it needs, as a strong signal that the "tone from the top" supports the agency's ethics program and initiatives.

In my view, in addition to education, both the review of agency ethics programs (to strengthen the programs and hold agencies accountable for the ethics services they are providing to their employees) and transparency initiatives are effective ways to improve compliance. If confirmed as Director, I plan to request enhanced resources for both of these areas. With additional resources, OGE could increase its program review schedule from the current five-year cycle to a four-year cycle (or a three-year cycle, subject to resource limitations). OGE's continued transparency efforts also contribute to improved ethics compliance to the extent that the public, media, NGO stakeholders and employees can see, and thereby better understand, OGE's overall oversight initiatives.

Under my leadership, if confirmed, OGE also would continue its commitments to agency ethics officials through training, advice, and counseling initiatives and would provide assistance to IGs and other executive branch entities. OGE senior leadership would continue to meet with DAEOs and IGs, one-on-one and in group sessions, to listen to their concerns and work to resolve any systemic weaknesses in the ethics program. I would task OGE's staff to take yet another look at OGE's website, to determine if there are ways to improve OGE's outreach initiatives and better educate employees as to the standards of conduct rules.

Q: What, in your view, are steps that agency heads can take to improve ethics compliance by executive branch employees?

An agency head is the leader of the overall ethics program in the agency. He or she should fully embrace and support his or her agency's ethics program, by way of compliance with the ethics laws and rules, by fostering an ethical culture, by setting high standards that other officers and employees must meet (and exceed), and by supporting the agency's ethics program with sufficient resources and visibility. The ethics office should be neither literally nor figuratively in some back corridor, but must have a "seat at the table" in every way.

Q: What, in your view, are steps that the President can take to improve ethics compliance by executive branch employees?

Similarly, in my view, a President is a critical part of the overall Executive Branch ethics program and "top-down" ethics culture. Presidential leadership of the ethics program involves complying with all applicable ethics laws and rules, fostering a strong ethical culture for the Executive Branch, setting high standards that other Executive Branch officers and employees must meet (and exceed), holding senior leaders accountable for ethical conduct, and supporting Executive Branch ethics programs with sufficient resources and visibility. A President's significant leadership interest in, and his or her strong support of, the various ethics initiatives within the Executive Branch will serve to

ensure that no Executive Branch ethics office is either literally or figuratively in some bureaucratic back corridor, but instead has a “seat at the table” in every way.

Q: What, in your view, are steps that Congress can take to improve ethics compliance by executive branch employees?

Congress should reauthorize OGE. Congress should also provide OGE and agency ethics programs with sufficient ongoing appropriations to support and enhance their important work of ensuring the integrity of, and impartiality in, government decision-making.

**Senator Thomas R. Carper
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Wednesday May 23, 2018**

1. Ethics and the Presidential Transition

Earlier this year, I worked with Senator Warren and Congressman Cummings to introduce the “Transition Team Ethics Improvement Act.” The bill would take a series of steps to enhance the ethics requirements that govern presidential transitions. One of the provisions of the bill requires presidential candidates to develop and release transition team ethics plans.

Please share your vision for OGE’s role in the presidential transition process. Do you believe that there are areas where Congress should consider making reforms to OGE’s role?

If I am confirmed as Director, I would be fully committed to OGE’s strategic goal relating to its preparations for future Presidential elections and transitions. As provided in its Strategic Plan for 2018-22, OGE would be an active participant in federal transition planning efforts, collaborate with other transition stakeholders, update necessary resources (to include its e-filing financial disclosure system), publish advisories on relevant topics, and provide training to federal ethics officials and other transition stakeholders on transition-related topics. OGE would also coordinate with Presidential candidate transition officials regarding financial disclosure reporting and potential conflict issues.

One of my early goals, if confirmed as Director, would be to task OGE’s senior leadership and transition stakeholders with reviewing OGE’s transition efforts in light of the most recent transition. I would seek recommendations as to what more OGE could do to ensure an even more efficient and smoother Presidential transition. These recommendations would serve to inform any recommendations OGE may have in the future.

Do you believe that making ethics a higher priority in presidential transitions will help new administrations inoculate against potential conflicts of interest?

Yes.

**Senator Gary C. Peters
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**Nominations of Emory Rounds to be Director, U.S. Office of Government Ethics; Kelly Higashi to be an Associate Judge, Superior Court of the District of Columbia; and Frederick Nutt to be Controller, Office of Federal Financial Management, Office of Management and Budget
Wednesday May 23, 2018**

1. The work of the U.S. Office of Government Ethics (OGE) has always been critical, and I share your concern that OGE needs additional resources and staffing. **If confirmed, how do you plan to advocate for an increase in OGE's resources? Have you communicated with anyone at the White House or at the Office of Management and Budget (OMB) about OGE's budget and staffing challenges? How would you proceed if you were dealing with a White House and OMB that were antagonistic to your efforts?**

If confirmed as OGE's Director, I plan to personally advocate OGE's need for increased resources directly to the appropriate White House and OMB officials. In my current role and as a nominee, I have not communicated with anyone at the White House or at OMB about OGE's budget and staffing challenges. If met with reluctance, I would persevere using the appeal process and personal advocacy to continue to insist on funding that fully supports OGE's stewardship of the Executive Branch's ethics program.

2. In January 2017, President Trump issued Executive Order 13770 requiring all political appointees to sign an Ethics Pledge as a condition of their employment. The executive order appears to allow the President or the White House Counsel to issue waivers to the Ethics Pledge in secret. By all accounts, for months the White House appeared to resist efforts to disclose these secret waivers, and OMB Director Mulvaney even signed a letter questioning OGE's authority to collect them. The waivers were only made public after the concerted effort of the OGE Director and pressure from Congress. You have underscored the importance of transparency and public disclosure with respect to the executive branch ethics program. On September 21, 2017, OGE issued a Program Advisory requiring all executive agencies to provide copies to OGE of any waivers issued to covered employees at the time they are issued. **Will you commit that, if confirmed, you will maintain this policy and ensure that agencies are complying with the requirement to provide waivers to OGE? Will you further commit that, if confirmed, OGE will continue to publish the certification of ethics agreement compliance forms for Senate-confirmed appointees on the OGE website?**

Yes, to both questions. If confirmed as OGE's Director, I would exercise OGE's plenary authority under the Ethics in Government Act to collect such information and records as are necessary to perform OGE's oversight authority, including waivers. I would also continue OGE's current practice of posting certification of ethics agreement compliance forms for Senate-confirmed appointees on OGE's website.

3. You have expressed support for OGE's Open Government Plan and "to proactively disclose information to advance transparency, accountability, and openness." At this time, there are a number of ethics-related documents that are not currently collected or posted on the OGE website for public viewing. There are also occasions when this information is not memorialized in writing, including authorizations issued pursuant to 5 CFR § 2635.502 allowing employees to participate in certain matters where their impartiality may be questioned, as well as records from agencies allowing employees to accept outside gifts. **If confirmed, what efforts will you undertake to proactively collect and post previously unpublished information on the OGE website in the interest of transparency?**

OGE must be, and would continue to be, at the "cutting-edge" of good government initiatives. I fully support OGE's strategic goal of engaging the public in overseeing government integrity by informing the public about OGE and the Executive Branch ethics program and making ethics information publicly available. Toward those efforts, I would continue to seek additional ways for OGE to be proactively transparent, if I am confirmed. To this end, I would commit as an early priority, if I am confirmed, to a continuing review and evaluation of such other data sets that may be amenable to posting. I also fully support OGE's efforts to better refine its communication efforts to assist the public in knowing what documents are available, where they can access them, and how the documents help them play their part in overseeing government integrity. If confirmed as OGE's Director, I would work with OGE's senior leadership to review OGE's current public engagement initiatives to determine how OGE's outreach can be made stronger, subject to fiscal and other resource constraints.

4. Former OGE Director Shaub and Acting Director Apol have both, at times, taken strong and creative action in order to uphold the integrity of the executive branch ethics program and a culture of ethical compliance. For example, Acting Director Apol recently sent a public letter to the Designated Agency Ethics Official at the Environmental Protection Agency (EPA) raising concerns about EPA Administrator Pruitt's pattern of unethical behavior. **To what extent are you prepared to take new or creative actions, or make official statements in novel ways, in support of the ethics program when you identify behavior where it is appropriate to do so? To what extent do you believe that the OGE Director should be a public figure? Do you believe it is appropriate for the OGE Director to raise public awareness about unethical behavior in the executive branch, even unethical behavior by senior officials?**

I intend to use a variety of tools as Director, if I am confirmed, to communicate official statements. It would be clear to OGE's many audiences – whether Executive Branch officials and civil servants, the public, or outside groups – what is official OGE guidance, policy, and data. I would ensure that substantive OGE policy and process guidance is disseminated in such a way that it is clearly identified as official OGE guidance.

OGE's Director provides leadership and oversight of the Executive Branch ethics program and initiatives. To this extent, OGE's Director should play a visible role in

promoting Executive Branch ethics initiatives. If confirmed as Director, I would conduct outreach and increase transparency as necessary to strengthen the Executive Branch ethics program.

5. You have stated repeatedly that a culture of ethics in government must start from the top down. At the same time, President Trump's network of business holdings, from which he has not divested, has created opportunities for conflicts of interest that may be outside the scope of the Ethics in Government Act (EIGA) as currently written. **Do you believe OGE has done what it can within the scope of its current authorities to address the President's conflicts of interest? Do you believe OGE has the tools it needs to meaningfully address the President's conflicts of interest? Will you commit to working with Congress to strengthen the EIGA and provide additional authorities to OGE as appropriate?**

In my opinion, OGE has been steadfast in executing its mission to prevent conflicts of interest of the officers and employees in the Executive Branch using the authority granted by the Ethics in Government Act. If confirmed as Director, I would work with OGE's senior leadership to assess the need for additional authorities. I also would support an initiative for all three of the government's branches to consider the branches' collective "lessons learned" over the past several years with the goal of strengthening each branch's ethics initiatives and authorities under the Ethics in Government Act.