

**Chairman Gary C. Peters Post-Hearing Questions for the Record
Submitted to Shalanda D. Young**

**Nominations of Shalanda D. Young to be Deputy Director, Office of Management and Budget, and Jason S. Miller to be Deputy Director for Management, Office of Management and Budget
Thursday, March 4, 2021**

- 1. Recently, OMB proposed changes to metropolitan statistical areas – also known as MSAs. This proposal would result in at least 6 Michigan towns losing their MSA status – and as a result – losing access to federal funding and other resources. If confirmed, do you commit to reviewing and revising or rescinding this proposal as quickly as possible?**

If confirmed, I will commit to expeditiously engaging with your office on your concerns you have identified with these proposed changes.

- 2. The CARES Act established detailed reporting requirements to ensure public transparency in pandemic relief spending. Unfortunately, the previous Administration undermined these transparency efforts and issued guidance directing agencies to ignore several of these requirements. If confirmed, will you commit to reviewing, and where needed, updating, this guidance to ensure all agencies are collecting and reporting the required information, including information that may not have been reported due to the previous Administration’s misguided actions?**

I am aware of this issue and if confirmed, I commit to reviewing the existing guidance and, where appropriate, updating it. Accurately recording and tracking funding for pandemic relief spending is essential to facilitating oversight and creating accountability for results. If confirmed, I look forward to working closely with stakeholders and oversight officials, including the Pandemic Response Accountability Committee (PRAC), to ensure CARES Act reporting requirements are met.

- 3. If confirmed, what steps will you take to encourage cooperation with independent oversight entities such as the Government Accountability Office, the Pandemic Response Accountability Committee (PRAC), and agency Inspectors General?**

If confirmed, I will lead by example by partnering with the federal oversight community to ensure constructive coordination in preventing and detecting fraud, waste, abuse and mismanagement of federal funding. Key steps toward this goal would include encouraging continued coordination between OMB and oversight bodies and identifying crosscutting issues that OMB and these entities are uniquely positioned to address.

- 4. Will you commit to ensuring that OMB fully and promptly cooperates with requests from GAO, the PRAC, and Inspectors General, and that you will encourage other agencies to do so as well?**

Yes, if confirmed, I will support the oversight community in achieving their oversight objectives and will ensure that OMB responds appropriately to requests from GAO, the PRAC, and Inspectors General. I will also support and encourage agencies' efforts through existing guidance and best practices to ensure prompt audit follow up and resolution of audit recommendations.

- 5. If confirmed, how will you prioritize research and development of fundamental science in the budget process?**

The Biden-Harris Administration is committed to making investments in fundamental Research and Development (R&D) and breakthrough technologies to enable high-quality job creation in high-value manufacturing and technology.

- 6. The CHIPS for America Act, enacted as part of the FY21 National Defense Authorization Act, authorizes programs to encourage U.S. semiconductor manufacturing and research. Do you support this provision and will you help ensure that it has the resources it needs to be implemented?**

The President believes that the United States needs resilient, diverse, and secure supply chains in many areas, including advanced semiconductor manufacturing, to ensure our economic and national security. If confirmed, I look forward to reviewing the Department of Commerce study on the status of microelectronics technologies in the United States industrial base, as required by the Act, and the report identifying risks in the semiconductor manufacturing supply chains, per the Executive Order on America's Supply Chain. I will work closely with departments and agencies to ensure that resources supporting strong semiconductor capacity are prioritized.

**Senator Kyrsten Sinema
Post-Hearing Questions for the Record
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- 1. Some policy makers have argued that we need more targeted recovery efforts that meet our country's immediate public health and economic needs, without exacerbating our long-term debt and deficit concerns.**

- a. As Deputy Director, what steps can you take to address these types of concerns?**

The American Rescue Plan meets both our country's immediate public health and economic needs and also protects our longer run goals of a strong economy and recovered tax revenue. It was developed to address our vaccination and other public health needs, our schools' needs, the needs of the unemployed, and the needs of all working families during this critical moment of the pandemic. Right now, the economic and public health crises that we face demand that we use every tool at our disposal to respond effectively. The risk of doing too little far outweighs the risk of doing too much, as economists across the political spectrum have emphasized. Certainly, this Administration has worked with Members of Congress to target ARP and those efforts would continue for any future legislative response that may be needed.

- b. Congress needs a strong partnership with OMB to guide appropriate federal investments toward public health and economic recovery programs that will have the most impact. What steps can you take to improve this type of partnership?**

In my role as OMB Deputy Director, I pledge to be as responsive as possible to ensure the Executive and Legislative Branches work in concert to deliver economy recovery and improved public health for all Americans. If confirmed, I will directly engage Congress and help coordinate across all relevant agencies. OMB has a critical role to play to monitor, evaluate and facilitate federal investments, and I look forward to working with you and every member of Congress to bolster our response to these historic crises.

- 2. I have partnered with Senator James Lankford in asking GAO for a comprehensive federal review of the government's response to the pandemic. This will include the failure to provide safe and working personal protective equipment, or PPE. During the pandemic, faulty or substandard PPE was provided to law enforcement, firefighters,**

hospitals, nursing homes, and Indian Health Services hospitals serving Navajo Nation, some through federal contracts.

- a. As the Deputy Director of OMB, what can you do to improve federal agency procurement processes to ensure the government can meet its obligation to provide working PPE?**

The Federal Government's ability to meet critical mission needs, whether during a pandemic or during any other type of emergency, requires that acquisition processes be efficient and effective in enabling and supporting relief efforts. If confirmed, I will work closely with the Deputy Director for Management and the Administrator for Federal Procurement Policy, once they are confirmed, to review the GAO's recommendations for strengthening the responsiveness of federal buying practices.

- 3. The National Defense Authorization Act (NDAA) for Fiscal Year 2021 included provisions from the Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act, which would establish federal incentives to stimulate domestic advanced semiconductor manufacturing, increase U.S. supply chain security and competitiveness in the microelectronics ecosystem, and help ensure long-term national security. The CHIPS Act language impacted several different federal agencies, because it is clear that for America to be successful in maintaining its competitive global advantage in semiconductors, it will take a whole-of-government approach.**
 - a. Perhaps the most important aspect of the bill is the authorized appropriations figures it contains. As we are about to start to consider appropriations for Fiscal Year 2022, how is the Administration going to prioritize this area in its budget request?**

The President believes in strengthening national competitiveness and making investments that encourage innovation to rebuild American supply chains and create good-paying American jobs across many industry sectors, including semiconductor R&D and manufacturing. If confirmed, I look forward to working closely with the Department of Defense, the Department of Commerce, and other necessary departments and agencies to prioritize resources to support domestic semiconductor manufacturing and research.

- 4. The Suitability and Security Clearance Performance Accountability Council (PAC) is the principal interagency body responsible for security clearance reform, with the Office of Management and Budget as the Chair.**
 - a. As Deputy Director of OMB, will you ensure that security clearance reform is given proper attention?**

I agree that personnel vetting is essential for quickly onboarding and sustaining a skilled and trusted workforce. Security clearance reform—along with improvements to suitability/fitness determinations and credentialing—help ensure agencies can meet their missions. Over the last few years, I understand that the

PAC has made significant progress in speeding background investigations, and if confirmed, I will work with OMB's Deputy Director for Management, who chairs the PAC, to implement these and other reforms.

b. With as little as 3 percent of initial secret investigations meeting the processing objectives, how do you envision speeding up the process while maintaining a high level of scrutiny?

Despite some successes in reducing timeliness over the past few years, more work remains to be done to meet timeliness standards. If confirmed, I would work in coordination with the Deputy Director for Management, ODNI, OPM, and DOD as to assess resource needs to ensure we can quickly improve background investigations. I also believe OMB is essential in bringing these agencies to maintain a high level focus on this critical issue.

c. The Government Accountability Office reports that the PAC has not yet completed the development of quality measures for investigations. Will you prioritize the development investigation quality measures and report to Congress on that development?

Yes, I recognize the importance of reliable quality measures and, if confirmed, will work with the PAC to ensure they are developed. I also support the PAC's current practice of providing joint quarterly briefings to Congress to keep interested committees updated on personnel vetting reform initiatives.

d. Can you pledge to be transparent with Congress and the public, including continuing to update the progress of key reforms through www.performance.gov, or another accessible platform?

Yes, and I agree that transparency is essential for both success and accountability. If confirmed, I will commit to continuing progress updates and working with Congress to be sure the public has access to this important information.

5. Cross-border infrastructure investments, such as ports of entry, and the transnational Interstate-11, promote economic development and trade, not only in border communities, but across the United States. What mechanisms can OMB utilize to ensure the full economic impact of these investments are considered and prioritized?

The Administration recognizes that investing in transportation and port of entry infrastructure, as part of a network of cross-border infrastructure, is crucial to trade, commerce, the Nation's economy, and our quality of life. At the ports, investment opportunities weigh impacts on efficient and effective screening for legitimate trade and travel, as well as capabilities to identify criminal (e.g., narcotics) and trade violations (e.g., intellectual property rights; dumping) in order to protect our economy from their harmful effects. With respect to highways, most federal funding is distributed to States, which are given considerable latitude in selecting projects with national and regional economic

benefits. DOT also administers smaller discretionary grant programs for surface transportation projects that consider economic benefits, among other factors, for selecting awards. OMB works with the relevant agencies to ensure that, to the extent possible, Federal investments across these domains are properly coordinated and prioritized because of their crosscutting nature and broad benefits. I look forward to working with Congress on these important issues.

- 6. The work of the Army Corps of Engineers (USACE) includes the restoration of ecosystems through large-scale projects. These projects not only benefit the goals of conservation, but buttress these environments from the continuing impacts of climate change and the prolonged drought facing the western United States. Unfortunately, many of these projects languish due to funding shortfalls and inattention from decision makers in Washington, D.C. In Arizona, efforts such as the Environmental Protection Agency’s “Rio Reimagined Urban Waters Federal Partnership” projects reinvigorates the USACE priority of ecosystem restoration and resilience. What steps can OMB take to ensure these projects are properly funded and executed?**

I appreciate the importance to the Nation of the Army Corps of Engineers aquatic ecosystem restoration projects. If confirmed, I look forward to working with the Army Corps of Engineers as they prioritize these important projects across the country as part of the President’s Budget. Similarly, if confirmed, I will utilize the expertise of the Army Corps of Engineers during execution of funding provided by Congress.

Senator James Lankford
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On the Regulatory Process:

- 1) **In your HSGAC questionnaire, in response to a question on the rulemaking process, you wrote:**

The rulemaking process is one of the greatest tools provided to the Executive Branch to implement laws. It is necessary that the process for public input be robust and that the analysis of the impact of regulations for the public be rigorous. I believe in the use of best available science.

Question: How do you define the “best available science”?

Best available science varies across agencies, but the standard should be that it is reliable and accurate based on the scrutiny of the scientific community. The Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking issued by President Biden stated that it is the policy of the Administration to “make evidence-based decisions guided by the best available science and data.” This memo directs all heads of agencies to ensure that all agency activities are conducted in accordance with the 6 principles set forth in section 1 of the Presidential Memorandum of March 9, 2009, and the 4 foundations of scientific integrity in government set forth in part I of the Director’s Memorandum of December 17, 2010. If I am confirmed, I will adhere to those principles and the recommendations issued by the task force established in that memo.

Question: Does the public have a right to know and have the ability to review scientific studies are being used by taxpayer funded agencies?

The Biden Administration has committed to transparency in the rulemaking process. If confirmed, I will ensure that OMB’s activities are consistent with this principle, including promoting access to data relied upon in the rulemaking process with appropriate protections for privacy to prevent the unlawful release of sensitive information such as personally identifiable information, confidential business information, and information with national security implications.

Question: If confirmed, will you commit to issuing new OMB guidance to agencies on what constitutes the “best available science,” including a requirement that all studies used in a rulemaking must be made publically available?

If I am confirmed, I will adhere to those principles and the recommendations issued by the OSTP task force established in President Biden’s memo, “Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking.”

- 2) **OMB Circular A-4 has been has been the guidebook for agency economic analysis since 2003. In President Biden’s Memorandum titled “Modernizing Regulatory Review” he called for a A-4 to be “modernized and improved” so as to promote “policies that reflect new developments in scientific and economic understanding, fully accounts for regulatory benefits that are difficult or impossible to quantify, and does not have harmful anti-regulatory or deregulatory effects.”**

Question: If confirmed, you would lead this effort to revise A-4, what would you look for when accounting for “regulatory benefits that are difficult or impossible to quantify”?

Many policies have impacts that are difficult to quantify but are nonetheless essential to the public good. For example, regulations that improve the environment have aspects such as increased biodiversity or ecosystem services that are difficult to quantify. But costs can be also difficult to quantify such as when manufacturers are asked to develop or adopt new technologies. The goal of the modernizing process would help agencies to identify difficult to quantify effects more transparently for decision makers and the public.

Question: In a cost-benefit analysis, what weight would you give to benefits that are difficult or impossible to quantify?

The regulatory impact analysis should show the benefits, costs, and tradeoffs that are important in evaluating policies. How these different factors are weighted in a final decision including whether or not to proceed with the regulation is a policy decision that depends on the case at hand.

- 3) **In the same Memorandum, “Modernizing Regulatory Review,” the President writes that the Director of OMB should “consider ways that OIRA can play a more proactive role in partnering with agencies to explore, promote, and undertake regulatory initiatives that are likely to yield significant benefits.”**

Question: OIRA’s regulatory review process has traditionally been one of a gatekeeper, they check to make sure the agencies followed the law and all procedural steps in a rulemaking. But OIRA is not an advocacy organization, this

memorandum appears to call for a significant change in the mission of OIRA. Would OIRA under the Biden Administration become a policy making office?

OIRA has always played a key role in helping agencies produce rigorous analysis that informs their policy decisions including on the analysis to identify potential alternatives with significant net benefits for society. That role is often guided by statutory requirements. This charge from the modernizing memo continues OIRA's role by bringing analysis and good process on regulatory policy development. The decision to regulate and how much to regulate remains a policy judgment for the agencies and the President to make.

- 4) Executive Order 12866 was issued by President Clinton in 1993 and has served as the standard for agency regulatory analysis for nearly 30 years. E. O. 12866 directs each agency to “assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.”**

In order to make a regulation's benefits “justify” its costs, agencies have been creative with the time periods in which they measure costs and benefits – measuring costs over a shorter time period than they measure benefits.

Question: Do you believe that costs and benefits should be measured in an equal manner?

The regulatory impact analysis under EO 12866 should strive to provide an accurate assessment of the impacts. Some impacts take place immediately (for example, purchases of pollution control equipment) but some impacts accrue over time (for example, health effects that lag exposure). However, the guidance on regulatory impact analysis clearly states that the timeline for both benefits and costs should be the same. Recognizing that benefits and costs do not occur at the same time, the guidance states that both benefits and costs be discounted appropriately. The timescale where agencies measure costs and benefits stems from the facts on the ground and the issues at hand.

For example, if unquantifiable benefits are considered in cost-benefit analysis, should unquantifiable costs also be considered?

Yes, the EO 12866 and the associated guidance state that regulatory impact analysis should consider unquantifiable impacts.

If, for example, a 50-year period is used to measure potential benefits for a rule, should the same time period be used to measure costs?

Yes, both benefits and costs should be measured over the same timeline. If there are limitations in data or methodology that prevent such consistency, the agency should acknowledge the relevant analytic challenges in the regulatory impact assessment.

- 5) **Independent agencies and commissions were created by Congress to be outside of the political process, but they were never designed to operate as an unaccountable fourth branch of government. These agencies have taken on a larger role in the regulatory process and issue regulations that are equally as legally binding as those issued by Executive Branch agencies, except rules issued by independent agencies do not go through centralized review by OMB's Office of Information and Regulatory Affairs. Studies by the Administrative Conference of the United States and the Government Accountability Office has found that regulatory analysis by independent agencies is not as searching and thorough as analysis by agencies clearly within the Executive Branch¹ and former OIRA Administrators from both parties have called for OIRA review of these agencies.²**

Question: Do you believe independent agencies and commissions should held to the same standards in their rulemaking procedures as Executive Branch agencies?

Whether the regulatory impact analysis requirements of EO 12866 can apply to independent agencies and commissions may be dependent on their underlying statute. The appropriateness or legality of independent agencies rulemaking would be determined by counsel of those agencies and potentially the courts.

Question: Should regulations issued by independent agencies and commissions be subject to centralized review by the Office of Information and Regulatory Affairs? If no, please explain why regulations issued by independent agencies and commissions should be treated differently than regulations issued by Executive Branch agencies.

Congress decides the independence of certain agencies and commissions. Whether the regulatory impact analysis requirements of EO 12866 can apply to independent agencies and commissions is a legal and policy decision to be made by the appropriate agency counsels and potentially the courts.

On the GAO High Risk List:

¹ See, GAO, Dodd-Frank Act: Agencies' Efforts to Analyze and Coordinate Their Rules, p. 10 (Dec. 2012), at <http://www.gao.gov/assets/660/650947.pdf>; and Curtis W. Copeland, Economic Analysis and Independent Regulatory Agencies (Apr. 30, 2013), at <https://www.acus.gov/sites/default/files/documents/Copeland%20Final%20BCA%20Report%204-30-13.pdf>.

² Susan Dudley and Sally Katzen, One Trump-Era Notion Biden May Want to Embrace, Wall Street Journal, Jan. 3, 2021.

- 1) Question: The Program Management Improvement Accountability Act, which became law in 2016, requires OMB to conduct “portfolio reviews” of items on the High Risk List. Mr. Dodaro noted that there has been no meaningful progress on implementing this requirement. Are you aware of this statutory requirement? If confirmed, will you begin review of the items on this year’s High Risk List?**

I am aware of this statutory requirement and recognize the important role OMB can play to promote progress on GAO’s High Risk List. If confirmed, I plan to review progress to identify where implementation efforts may be improved.

On the Federal Workforce:

- 1) Question: OMB’s involvement with federal workforce policy has varied from administration to administration. If confirmed, what type of relationship do you expect to have with OPM and how involved will OMB be in setting federal workforce policy?**

OMB and OPM have distinct roles regarding Federal workforce policy and by working in concert, both agencies can provide the necessary leadership to achieve Administration priorities. If confirmed, I expect to continue the collaborative relationship with OPM, and ensure alignment of Federal workforce policy with legislative, management, and budget proposals.

- 2) According to data compiled by OPM and the Partnership for Public Service, there are approximately 2 million federal employees, about 6% are under the age of 30, while 18% are eligible to retire. OPM has a time-to-hire goal of 80 days, which is not being met – in 2018, which is the most recent data, time-to-hire was 98.3 days.**

Question: The Federal Workforce faces a number of problems, from hiring and retention to closing critical skill gaps. What specific steps can OMB take to address these long-standing problems?

OMB plays a pivotal role in developing and guiding the President’s Management Agenda (PMA), which is an effective tool in helping agencies address Federal workforce challenges. In this role, OMB coordinates efforts among OPM, OMB, and agency leadership to streamline and modernize regulations, policies, and processes supporting Federal human capital management. The PMA also provides a forum for agencies to share leading practices and, if confirmed, I look forward to working with our human capital community and Congress to tackle the challenges facing the Federal workforce.

Question: What long-term changes should be made in telework and remote work for the federal workforce after 2020-2021?

Telework and remote work have proven to be important tools in keeping our Federal workforce safe during COVID-19, while still meeting mission requirements and providing essential customer services. Based on this experience, there are clear opportunities for OMB, OPM, and agencies to develop a vision around how Federal agencies will operate in the future, and how the promotion of telework and remote work policies can support better work/life balance, reduce the carbon footprint, and ensure continued services in emergency situations.

On the Hyde Amendment and Weldon Amendment:

- 1) **Question: Congress has continued to maintain the Hyde Amendment on a bipartisan basis each year in annual funding bills since 1976. If confirmed, will you continue to uphold and enforce the restrictions of the Hyde amendment – that no federal funding can pay for abortions except in the case of rape, incest or to protect the life of the mother – as enacted by Congress?**

If confirmed I will follow the laws put forth by Congress and signed by the President. The President has spoken in favor of Congress ending the Hyde Amendment as part of his commitment to providing comprehensive health care for all women. Further, eliminating the Hyde Amendment is a matter of economic and racial justice because it most significantly impacts Medicaid recipients, who are low-income and more likely to be women of color.

- 2) **Question: Congress has also continued to include conscience protections for individuals who have a religious or moral objection to participating in an abortion. Specifically, the Weldon amendment, which has been included in funding bills since 2005, restricts federal funding from going to agencies or programs that discriminate against health care providers that do not provide, pay for, provide coverage of or refer for abortions. If confirmed, will you continue to uphold and enforce the Weldon amendment and other conscience protections enacted by Congress to ensure that no health care providers are discriminated against with federal dollars?**

If confirmed I will follow the laws put forth by Congress and signed by the President. The President has laid out a health care plan that would provide comprehensive health care for all women, including reproductive health care services.

Senator Josh Hawley
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- 1) **As you know, the Hyde Amendment is a decades-long bipartisan budget policy that simply says federal tax dollars should not go to elective abortions. If confirmed, will you advise that the President’s budget request to Congress for the next fiscal year exclude the Hyde Amendment, or will you support its continued inclusion in the budget?**

The President has spoken in favor of ending the Hyde Amendment as part of his commitment to providing comprehensive health care for all women. Further, eliminating the Hyde Amendment is a matter of economic and racial justice because it most significantly impacts Medicaid recipients, who are low-income and more likely to be women of color.

- 2) **Another bipartisan pro-life policy, the Weldon amendment, has passed in every Labor-HHS appropriations bill since 2005. The amendment restricts federal funding from States and programs that discriminate against providers and health plans on the basis that they do not provide, cover, or pay for abortions. If confirmed, will you advise that the Weldon amendment be excluded from the President’s budget for the next fiscal year, or will you support its continued inclusion in the budget?**

The President has laid out a health care plan that would provide comprehensive health care for all women, including reproductive health care services. If confirmed, I will work with the Department of Health and Human Services to determine the effect the Weldon Amendment has on healthcare implementation, especially vulnerable populations.

- 3) **You discussed in your testimony that you grew up in a small rural town in Louisiana. I grew up in a small rural town in Missouri. I believe one of the challenges of policymaking is making sure that our public policy—whether it be relief packages, appropriations, or otherwise—reaches Americans living in those rural areas. Can you elaborate for me what you think the challenges or hurdles are for rural areas accessing federal programs, and how you will address these barriers to access if you are confirmed?**

I agree that one of the challenges of policymaking is making sure that our public policy reaches Americans living in those rural areas where we grew up. I understand that the Biden Administration intends to fundamentally change how the federal government interacts with rural communities that so often do not have access to federal programs. If confirmed, I commit to looking for and pursuing opportunities, such as the proposed StrikeForce effort, to partner with rural communities to help them fully access federal resources to create jobs and build wealth. Further, the pandemic has shown a need to ensure smaller localities have dedicated sources of funding. I heard from mayors of medium-sized and rural towns that felt left behind in the allocation of Federal funds.