

**U.S. Senate Committee on Energy and Natural Resources
May 12, 2016 Hearing: Nomination of Susan Beard
to be Inspector General of the U.S. Department of Energy
Questions for the Record Submitted to Ms. Susan Beard**

Questions from Senator John Barrasso

Question 1: On July 12, 2006, the Government Accountability Office (GAO) wrote a letter to Senator Pete Domenici, then Chairman of the Committee on Energy and Natural Resources. GAO's letter found that the Department of Energy (DOE) violated the miscellaneous receipts statute when it transferred \$62 million in excess uranium to USEC.

In response, Eric J. Fygi, Deputy General Counsel, wrote a letter (including an enclosure), dated May 2, 2006, to GAO, disputing GAO's finding.

During the hearing, you testified that you have worked on the miscellaneous receipts statute as it relates to DOE's transfers of excess uranium.

A. Did you provide any legal advice with respect to DOE's transfers of excess uranium to USEC that were the subject of GAO's July 12, 2006 letter?

Yes, to the best of my recollection.

B. Did you contribute, in any way, to, or provide any work product that was used as the basis of, the December 10, 2004 Agreement between DOE and USEC?

Yes, to the best of my recollection.

C. Did you contribute, in any way, to, or provide any work product that was used as the basis of, DOE's May 2, 2006 letter (including the enclosure) to GAO?

Yes, to the best of my recollection.

Question 2: In September 2011, GAO issued a report entitled, "Excess Uranium Inventories: Clarifying DOE's Disposition Options Could Help Avoid Further Legal Violations." GAO's report found that DOE violated the miscellaneous receipts statute when it transferred \$256 million in excess uranium to USEC and Fluor-B&W Portsmouth (FBP) in exchange for decommissioning services at DOE's gaseous diffusion plant in Piketon, Ohio.

In response, Peter B. Lyons, Assistant Secretary for Nuclear Energy, and Eric J. Fygi, Deputy General Counsel, wrote a letter, dated September 12, 2011, to GAO, disputing GAO's finding.

During the hearing, you testified that you have worked on the miscellaneous receipts statute as it relates to DOE's transfers of excess uranium.

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A. Did you provide any legal advice with respect to any of the transactions that were the subject of GAO's September 2011 report?

Not to the best of my recollection.

B. Did you contribute, in any way, to, or provide any work product that was used as the basis of, DOE's September 12, 2011 letter to GAO?

Yes, to the best of my recollection.

C. Have you provided any legal advice with respect to any of DOE's excess uranium transactions involving FBP that have taken place since June 2011?

Not to the best of my recollection.

Question 3: In May 2014, GAO issued a report entitled, "Department of Energy: Enhanced Transparency Could Clarify Costs, Market Impact, Risk, and Legal Authority to Conduct Future Uranium Transactions." GAO's report found that DOE violated the USEC Privatization Act and the Atomic Energy Act with respect to four uranium transactions involving USEC in 2012 and 2013.

In response, Eric J. Fygi, Deputy General Counsel, wrote a letter (including an enclosure), dated April 18, 2014, to GAO, disputing GAO's finding.

During the hearing, it was unclear from your testimony whether you have worked on the USEC Privatization Act or the Atomic Energy Act as it relates to the transactions at issue in GAO's May 2014 report.

A. Did you provide any legal advice with respect to any of the transactions that were the subject of GAO's May 2014 report?

Not to the best of my recollection.

B. Did you contribute, in any way, to, or provide any work product that was used as the basis of, DOE's April 18, 2014 letter (including the enclosure) to GAO?

Not to the best of my recollection.

C. Please provide a copy of the enclosure to DOE's April 18, 2014 letter to GAO.

Copy enclosed.

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Question 4: Who, if anyone, according to DOE's Office of General Counsel, has standing to file a complaint in federal court alleging a violation of the miscellaneous receipts statute as it relates to DOE's transfers of excess uranium?

I do not have the authority to speak on behalf of the General Counsel on this matter; therefore, I am not in a position to answer this question.

Question 5: If you did not identify a party with standing (or describe the characteristics of a party who would have standing) in question 4, how do you propose to resolve the legal question as to whether DOE's transfers of excess uranium violate or have violated the miscellaneous receipts statute?

I do not have the authority to speak on behalf of the General Counsel on this matter; therefore, I am not in a position to answer this question.

Question 6: During the hearing, you stated that you would recuse yourself from matters involving legal opinions, related to excess uranium transfers, to which you contributed.

If confirmed, would you be willing to recuse yourself from all matters related to DOE's transfers of excess uranium? If not, please describe, in detail, the extent to which you will recuse yourself from matters related to DOE's transfers of excess uranium?

If I am confirmed, I would recuse myself from any Office of Inspector General matter regarding a legal opinion I worked on while employed in the Office of General Counsel. I would rely on the advice of the Office of Counsel to the Inspector General in determining which matters require my recusal.