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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

MICHAEL L. ALEXANDER, STAFF DIRECTOR
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

October 14, 2011

The Honorable Patty Murray
Co-Chair
Joint Select Committee on Deficit Reduction
825B Hart Senate Office Building
Washington, DC 20510

The Honorable Jeb Hensarling
Co-Chair
Joint Select Committee on Deficit Reduction
825B Hart Senate Office Building
Washington, DC 20510

Dear Senator Murray and Representative Hensarling:

As Chairman of the Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, I am writing to provide my recommendations for your upcoming deficit reduction legislation.

First, I respectfully request that the legislation not include additional measures directed at Federal employee pay and benefits. While I agree it is important that Federal employees share the sacrifice in these challenging economic times, I believe they have already done so. The two-year Federal pay freeze will save approximately \$60 billion over the next decade. It is important to remember that the two-year freeze affects employees much longer than the two years it is in place; their salaries will build from a lower base throughout the duration of their careers. The pay freeze also will reduce retirement benefits, which are calculated using a lower high three years' of earnings than otherwise would have been the case.

Nearly two thirds of our two million Federal employees are employed by the Departments of Defense, Veterans Affairs, or Homeland Security, where they do critical work to keep our Nation safe and care for our veterans. Approximately 85 percent of Federal employees work outside of the Washington, DC area, and they are our neighbors and constituents. Like the rest of our constituents, they are struggling with the deepest recession since the Great Depression. Although fortunate to have more job security than some private sector employees, many have unemployed spouses and adult children, their home values and retirement savings have fallen dramatically, and like everyone else they face high health care, college, and other costs. Further cuts to Federal pay and benefits will not only hurt these individual families, but will hinder the larger economic recovery.

It is worth emphasizing that, notwithstanding various studies purporting to show that Federal employees are paid more than private sector employees, the President's pay agent, under both Democratic and Republican Presidents, has determined that Federal employees are paid substantially less than private sector employees when comparable jobs and experience are taken into account.¹

¹ See, e.g., Annual Report of the President's Pay Agent, *Report on Locality-Based Comparability Payments for the General Schedule* (2010), available at <http://www.opm.gov/oca/payagent/2010/index.asp>.

Shrinking agency budgets are already forcing agencies to freeze hiring, downsize, or lay off workers at a time when the Federal government must address pressing, complex challenges on multiple fronts. The remaining employees are working harder than ever harder to accomplish their missions. At a time when agencies struggle with staffing shortages in critical defense, national and homeland security, intelligence, veterans' services, and other functions, we must be cautious about taking any steps that could drive attrition or harm recruitment of our most skilled employees.

With close to half our Federal workforce soon eligible to retire, it is critical to ensure that the Federal government has the ability to recruit the best and brightest to government service. I have been working with my colleagues to adopt policies to ensure that people view the Federal government as an employer of choice. Guaranteeing fair and competitive compensation for its civilian workforce is necessary to fulfill our commitment to the American people that Federal government has the right individuals with the right skills to provide essential government services in an effective and efficient manner.

While I oppose specific cuts to pay and benefits, I think that President Obama included a number of commonsense workforce reforms in his *Plan for Economic Growth and Deficit Reduction* that merit the Committee's consideration.

- I support the President's proposal to cap the salaries of top-level executive contractors at \$200,000, a reduction from the current cap of \$700,000. I would further recommend the Joint Select Committee consider taking this one step further to include a \$200,000 cap for *all* contractor employees doing work for the Federal government, not just contractor executives. If we are to cap taxpayers' payments for contractor executives, surely taxpayers should not pay more for lower-level employees. Often contractors are working side by side with Federal employees doing similar work and this cap on contractor salaries will provide greater parity for Federal employees and contractors. According to the President's proposal, the cap on executive salaries alone would save approximately \$3 billion over ten years, and extending the cap to all contractor employees would be expected to add further savings.
- I support the President's proposal to streamline the pharmacy benefit program under the Federal Employees Health Benefits Program (FEHBP). This proposal, which is projected to save \$1.6 billion, would allow the Office of Personnel Management (OPM) to contract with a single Pharmacy Benefit Manager (PBM) on behalf of all enrollees to negotiate prescription drug prices rather than continuing to allow participating health plans to each contract individually with a PBM. This will give OPM greater purchasing power and help ensure lower prescription drug prices that will reduce costs not only for enrollees but also for the taxpayer.
- I support provisions in Title I of the President's proposal to stabilize the Postal Service. The prepayment of retiree health benefit premiums was a laudable goal when the Postal Service was flush with income, and was accounted for in such a way that offset the U.S. Treasury's debt. Unfortunately, this payment has put the Postal Service on the brink of

insolvency and should be overhauled to bring the Postal Service more in line with other Federal agencies and return it to financial stability. While I support many of the President's other postal proposals, I caution the Committee that moving to five-day a week delivery is a risky option that, according to the Postal Regulatory Commission, may not save as much as the Postal Service has estimated.² Five-day delivery could further hurt businesses that rely on regular delivery, causing negative consequences for the fragile economy.

- I support a proposal put forth by the Office of Personnel Management to implement the option of phased retirement to address the high costs of reemployed annuitants with dual compensation waivers, which allows them to receive full salary and full retirement annuities at the same time. As detailed in Senator Coburn's *Back in Black* Report, the number of reemployed annuitants has increased exponentially since 2000. While Senator Coburn's report recommends simply eliminating dual compensation waivers, I am concerned that would create significant hardship both for agencies that rely on reemployed annuitants to meet critical staffing needs and current reemployed annuitants. I would support implementing phased retirement, which would, for example, allow an employee to continue working half time for half salary while receiving half of an annuity, as an alternative to dual compensation waivers. Once the phased retirement program was implemented, *new* dual compensation waivers could be prohibited. OPM estimates that a phased retirement option would save \$569 million over ten years. (Note that OPM's proposal would not bar new dual compensation waivers, so it is possible that adding this prohibition would increase the expected savings.)

In addition, I support an overall reduction in civilian and defense service contracts. For years, agencies have turned to service contractors to fulfill personnel needs when they did not have the authority to hire additional Federal workers, or simply to evade Federal hiring or personnel rules. The Project on Government Oversight (POGO) recently released a report documenting the high costs of spending on service contractors versus hiring employees directly.³ In addition, our past reliance on risky contracting vehicles made it all too easy to lose oversight of massive service contracts. As recommended in Senator Coburn's *Back in Black* Report and by POGO, I support requiring agencies to reduce their reliance on contractors. Although I believe agencies should be given flexibility to determine the appropriate mix of contractors and Federal employees given their individual missions and constraints, I believe an overall 15 percent reduction would be an appropriate target. Additionally, because agencies, including Intelligence Community elements, may rely on more expensive service contractors simply because they do not have authorization to hire additional Federal employees, I support eliminating Federal personnel ceilings to allow agencies additional flexibility within their budget authority to find the appropriate contractor-Federal employee mix.

² See United States of America Postal Regulatory Commission, Advisory Opinion on Elimination of Saturday Delivery (Docket No. N2010-1) (2011), available at http://www.prc.gov/Docs/72/72327/Advisory_Opinion_032411.pdf.

³ See Project on Government Oversight, *Bad Business: Billions of Taxpayer Dollars Wasted on Hiring Contractors* (2011), available at <http://www.pogo.org/pogo-files/reports/contract-oversight/bad-business/co-gp-20110913.html>.

Finally, I would urge the Committee to include a number of good government proposals that will help improve government efficiency and lead to cost savings in the future.

- The Whistleblower Protection Enhancement Act (S. 743) is a bipartisan bill (Akaka, Collins, Grassley, Lieberman, and others) to clarify and strengthen whistleblower protections. Whistleblowers protect the American people by disclosing waste, fraud, abuse, and illegal activity. Research indicates that whistleblowers are the most important source of information about fraud.⁴ This bill would strengthen the Whistleblower Protection Act and restore congressional intent that whistleblowers be protected from retaliation, thereby encouraging whistleblowers to step forward. This protection is crucial to efforts to improve government management, cut the deficit, protect public health and safety, and to secure the nation. The previous version of this bill (S. 372) passed the Senate and the House by unanimous consent in the 111th Congress, but in different forms that were not reconciled before Congress adjourned.
- The Federal Hiring Process Improvement Act of 2011 (S. 1628; House companion H.R. 3064) would help agencies modernize and streamline the broken Federal recruitment and hiring process. The Federal government needs to adapt, just as the private sector has, to create a modern, streamlined hiring process. Outdated hiring processes waste agencies' time and money, and turn away many top-notch candidates. Even in a tight budget climate where hiring will be restricted, we should all be able to agree that those positions that do need to be filled should not rely on lengthy, bureaucratic processes. The previous version of this bill (S. 736) passed the Senate by unanimous consent in the 111th Congress.
- The Federal Supervisor Training Act (S. 790; bipartisan House companion H.R. 1492) would improve supervisory training in the Federal government. The private sector invests much more than the Federal government in supervisor training because they know training is critical to achieving good results. Properly trained supervisors are critical to the Federal government's ability to efficiently and effectively provide essential services to the American people.⁵ Investing in supervisory training now will help the Federal government save money in the long run. The previous version of this bill (S. 674) was unanimously reported out of Committee in the 111th Congress.
- The Federal Acquisition Institute Improvement Act (S. 762) is a bipartisan (Collins, Akaka, McCaskill, Brown) bill, which would strengthen the Federal Acquisition Institute (FAI), a component of the Office of Federal Procurement Policy. This office provides training services and monitors the overall state of the Federal acquisition workforce. While contracting dollars have risen sharply over the last decade to \$500 billion per year,

⁴ See, e.g., Alexander Dyck, Adair Morse, and Luigi Zingales, *Who Blows the Whistle on Corporate Fraud* (2009), available at <http://faculty.chicagobooth.edu/finance/papers/who%20blows%20the%20whistle.pdf>; Association of Certified Fraud Examiners, *2008 Report to the Nation on Occupational Fraud and Abuse*, available at <http://www.acfe.com/documents/2008-rttn.pdf>.

⁵ See Report of the Senate Committee on Homeland Security and Governmental Affairs on the Federal Supervisor Training Act of 2010, S. Rep. No. 111-364, at 2-3, 7-8.

the size of the acquisition workforce has remained stagnant. This bill would provide stronger, more accountable leadership for FAI, and should increase utilization of this important government-wide resource. In turn, this will strengthen the acquisition workforce to prevent waste in contract spending. The previous version of this bill (S. 2902) passed the Senate by unanimous consent in the 111th Congress.

If you have any questions or need additional information, please contact Lisa Powell or Kata Sybenga of my Subcommittee staff at 202-224-4551, lisa_powell@hsgac.senate.gov, or kata_sybenga@hsgac.senate.gov. Thank you for your consideration.

Aloha pumehana,



Daniel K. Akaka
Chairman
Subcommittee on Oversight of
Government Management, the
Federal Workforce, and the
District of Columbia