October 14, 2011

The Honorable Patty Murray, Co-Chair
The Honorable Jeb Hensarling, Co-Chair
Joint Select Committee on Deficit Reduction
825B Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murray and Representative Hensarling:

We appreciate this opportunity to provide our views and recommendations to the Joint Select Committee on Deficit Reduction (Joint Committee) regarding those matters within the purview of the Homeland Security and Governmental Affairs Committee (HSGAC). The Budget Control Act of 2011 states that each committee of the Senate and the House may, by October 14, 2011, transmit to the Joint Committee "its recommendations for changes in law to reduce the deficit" consistent with deficit?reduction goals stated in the statute. We hope the following recommendations and comments will assist you as you prepare the Joint Committee's report, recommendations, and legislative language for consideration by Congress.

Our nation is on an unsustainable fiscal path and it is imperative that we smartly address the challenges of our growing annual deficits and increasing debt. Since the last time the nation's budget was balanced in 2001, our federal debt has nearly doubled in relation to GDP, rising from 33 percent of GDP to 62 percent of GDP in 2010. The retirement of the baby boom generation will place increasing stress on our primary federal social safety programs  Medicare, Medicaid, and Social Security. To prevent federal outlays relative to GDP from continuing to rise to levels that will threaten the future of our nation, significant changes in federal law and policy are essential. It will not be easy for our country to get our fiscal house back in order, but we all know that we must address these challenges, and we are convinced that as a nation we can and must. We are making recommendations in this letter that we would not make if we did not feel they were necessary to save our country from fiscal disaster.

Several bipartisan commissions have recently sought to examine the best ways to address our fiscal situation, such as the National Commission on Fiscal Responsibility and Reform (Simpson?Bowles) and the Debt?Reduction Task Force (Rivlin?Domenici). Also, the President recently submitted his own recommendations and legislative language to the Joint Committee, including proposed savings in several areas under HSGAC's jurisdiction. While we may have differences with specific pieces of each of these proposals, overall they provide a useful starting point and our recommendations build on their efforts.

In this letter we address both matters that fall under the Committee's Governmental Affairs jurisdiction and those issues related to the Department of Homeland Security (DHS or Department).

## I. The Federal Workforce and Governmental Affairs Issues

Federal employees, including members of Congress and our staffs, must sacrifice as part of an urgent need to curtail the cost of the federal government and reduce the national debt. As a strong supporter of our federal workforce, we say this with regret, because we are asking many dedicated, hard?working, and patriotic public servants to pay a price for fiscal and economic conditions for which they are not responsible. But people across the country are struggling, most especially those who are suffering from historic levels of unemployment, and all Americans, including those of us in the public sector, must help get our country out of the hole we are in.

In making cost?cutting proposals affecting federal employees we are mindful that they are at the heart of the many critical missions that we expect our government to perform. We must therefore ensure that any corrective steps we take do not compromise the ability of agencies to retain essential personnel or impair the ability of agency managers to secure the mix of workforce skills and competencies best suited to meeting the agencies' missions.

The sacrifices we ask of federal employees must be part of a comprehensive national effort to get our fiscal house in order. Done correctly, repairing our national balance sheet will strengthen our economy and yield a new and better fiscal reality in which all Americans, including federal employees, can benefit.

### ***Freezing federal civilian pay***

Currently, the federal government's civilian employees are working under a two?year pay freeze for 2011 and 2012. Such a pay freeze not only affects employees in the years in which the freeze is in effect, but also lowers their yearly salary for the rest of their careers in the federal government and negatively affects their retirement benefits as well, which are ultimately calculated based on an average of the employee's salary for his or her last years of service.

Nevertheless, we do believe extending the pay?freeze for one more year offers the potential for significant savings  an estimated $32 billion  without significant disruption to agency mission and activities. We also recommend extending the freeze to the legislative branch  while this will not save significant sums of money, it does represent sacrifice for members of Congress and their staff, and sends an important signal to our nation.

### ***Federal Retirement***

Many of the deficit reduction proposals made by others like the Simpson?Bowles Commission recommend changes to federal employee retirement programs, including adjusting the percentage of employee contributions to pension plans. For example, the Administration's submission to the Joint Committee increases employee contribution by 1.2 percent; phasing this change in over three years. Currently, the majority of federal employees, who are under the Federal Employee Retirement System (FERS), contribute 0.8 percent of their salary towards their annuity. Under the President's proposal, they would eventually contribute 2.0 percent for an estimated savings of approximately $21 billion over 10 years. Just as important, the Administration does not anticipate that slightly increasing the percentage that employees contribute to their retirement would harm employee recruitment and management or agencies' ability to serve the American people.

While we do recognize the sacrifices that federal workers have already been asked to undergo to help our nation deal with its financial situation, we view the Administration's proposal as a reasonable change to federal retirement programs. However, the President's proposal applies only to employees in the executive branch, and we believe this proposed change should also be applied to the judicial and legislative branches (including Members of Congress).

We also believe that the Joint Committee should reexamine a recent statutory change to the FERS system that allows federal employees to receive employment credit for unused sick?leave upon retirement. The Congressional Budget Office originally scored this benefit as costing $561 million over 10 years, with the costs escalating significantly as more FERS employees reached retirement age. If the reexamination suggests significant savings from repealing the statute that conferred this benefit, we would recommend doing so.

Many deficit?reduction plans also propose reforming civilian retirement by calculating benefits based on a retiree's annual salary from his or her highest five years of service as compared to the current system of calculations based on the highest three years of an employee's salary. A number of state governments have changed from a "High?3" to a "High?5" within the past two years and the actual effect on employee retirement appears to be modest. However, while we see this as a reasonable proposal, any change to this calculation must be structured in a way to limit the negative effects on those closest to retirement who would be most affected by such a change and have been planning on a certain retirement benefit. Otherwise, such a change could result in the forced early retirement of many of the most knowledgeable and experienced federal employees, and would be detrimental to agencies' missions. Savings from such a change could equal $4 to $5 billion dollars by 2020.

We believe it would be unwise to impose rigid, arbitrary limitations on hiring or on federal?employee levels. This approach could force agencies to rely on a less efficient mix of personnel, including more expensive contract personnel, and

have the counterproductive effect of actually raising the cost of achieving the agency's mission. Generally, the most effective way of reducing the cost of government programs is not by imposing rigid hiring restrictions, but by capping appropriations levels and reducing missions. For example, the limits on discretionary spending put in place under the Budget Control Act will force departments and agencies to take a view across the whole spectrum of their spending, allowing managers to determine where costs can best be absorbed with the least effect on agencies' ability to perform their missions.

***Pharmacy Contracting under the Federal Employee Health Benefit***

The Administration also proposes streamlining pharmacy contracting for the Federal Employee Health Benefit (FEHB), resulting in an estimated savings of $1.6 billion over 10 years. Current law requires each FEHB plan to enter into a contract with a pharmacy benefit manager; the Administration's proposal would authorize OPM to contract directly with pharmacy benefit management services on behalf of all FEHB participants, simplifying the overly complex current process. We believe this proposal is sound policy that would increase competition, benefit federal employees, and save money. We ask that the Joint Committee consider including it in its final
proposal.

***Contractor Costs***

Spending on federal contracts in Fiscal Year 2010 was approximately $540 billion  a level that is more than double the amount spent on contracts at the beginning of the decade. To its credit, the Administration has recognized that contract spending has been on an unsustainable trajectory and has taken a number of steps to reduce wasteful spending. For example, OMB has promoted strategic sourcing to leverage the buying power of the federal government, ended or fundamentally altered failing information technology projects, and forced agencies to reduce their use of cost?reimbursement and non?competitive contracts. OMB has also issued new guidance designed to prevent agencies from placing inherently governmental jobs in the hands of contractors, and to ensure that agencies themselves, and not contractors, are in control of critical functions. While savings from these initiatives are hard to project, the impact on the budget will be positive, as contract spending has stabilized after more than a decade of increases.

As with decisions about the number of federal employees, we believe that the best way to achieve desired cost savings in contracting is through the statutory limits on spending that were put in place under the Budget Control Act. Such an approach to reducing spending will ensure, for example, that any reductions in the number of federal employees will not merely be offset by increases in the number of contractor employees, who may, depending on the services procured, be more expensive than federal employees. However, control of contractor costs,

as well as federal employee costs, must be a key component of deficit reduction. We therefore recommend that the Joint Committee consider requiring that agencies reduce their reliance on management support services contracts by 15 percent in Fiscal Year 2012 (as OMB has proposed), for a savings of $6 billion.

***Capping federal reimbursement of the pay of federal contractor executives***

We support capping the federal reimbursement for the pay of all federal contractor executives, not just senior management as under the current cap, because federal government contractors should also share the efforts at cost?savings measures during these tough fiscal times. Under cost?reimbursement contracts, the government pays the contractor for costs incurred in performing the work, and federal auditors review the reasonableness of those costs. Contractors are allowed to bill part of their executives' salaries as an indirect cost, subject to a cap. The cap is based on a formula that is tied to compensation levels of executives of large private firms, and due to the dramatic escalation of executive pay in recent years, the cap has risen significantly. We believe that taxpayers should not be required to reimburse contractors for "unreasonable or excessive compensation paid to company executives." That is why we voted to expand the application of the executive compensation cap, not only to senior management but to all executives and managers, in this year's National Defense Authorization Act, which applies to defense contractors. We suggest that the cap be applied more broadly to government?wide contractors as well. We also suggest that Congress direct the Office of Federal Procurement Policy to revisit the formula for the cap to address the escalation of recent years.

***Postal Reform***

The U.S. Postal Service  which is essential to our nation's commerce and communications  is a troubled institution on the verge of not having the money to operate. Business lost to the internet, and more recently America's economic troubles, have led to a 22 percent drop in mail handled and a gross revenue decline of more than $10 billion over the past five years. If nothing is done, the Postal Service will soon run out of money and be forced to severely slash service and employees, a prospect that would make our nation's dismal unemployment picture even worse. The President's recent deficit reduction plan includes language to restructure and defer Retiree Health Benefit (RHB) pre?funding payments, provide USPS a refund over two years of its $6.9 billion overpayment to FERS retirement system, and proposes legislation to enable the Postal Service to better align its costs and revenues over the long run. Our Committee is currently developing legislation that would go beyond the Administration's proposal in enabling the Postal Service to align its costs and revenues, and ensuring that essential mail service is maintained. Once we complete work on the proposed legislation, we will share it with the Joint Committee.

***Reform of the Federal Employees' Compensation Act (FECA)***

The Committee has been looking at potential reforms to the Federal Employees' Compensation Act (FECA), which is the workers' compensation program for federal employees. In its annual budget submissions, the Administration proposed substantial legislative reform of the program, including a reduction in benefits for employees who were permanently disabled on the job and have reached retirement age without having returned to work. The proposal would save the government about a half billion dollars over 10 years. It would also improve management of the FECA program by better helping injured employees return to work and by providing increased financial incentives for them to do so. Another proposal, introduced as S. 315 by Senator Collins, would address this same problem through different means by transitioning FECA beneficiaries to the federal retirement system once they reach the age of retirement. We ask the Joint Committee to consider addressing this opportunity for savings and program improvement.

***Maintaining Program Integrity***

We also support the Administration's proposal to maintain and improve program integrity efforts throughout the federal government, including at the Internal Revenue Service (IRS). Significant revenue is lost through uncollected taxes and we must give the IRS the tools and resources to do a better job of collecting taxes owed including from federal employees, contractors, and grantees, who, receiving taxpayer dollars, have a special obligation to pay the taxes that they owe. The IRS' tax enforcement efforts generate a positive return on investment and help maintain the basic fairness of our nation's tax system. As noted by the Administration, the Budget Control Act provides funding for program integrity efforts in the Social Security Administration and the Department of Health and Human Services but not the IRS. The Administration is asking for an incremental 10?year "tax enforcement investment" of approximately $350 million, plus the inflationary costs of maintaining current IRS enforcement activities. The Congressional Budget Office scores this initiative as reducing the deficit by $3.2 billion over 10 years and we recommend that the Joint Committee support such efforts in its final recommendations and legislative language.

Collection of improper payments made by the government is another important means of ensuring program integrity. The Improper Payments Elimination and Recovery Act of 2010 provided a useful framework for the federal government's efforts in this area, and we recommend that the Committee consider the additional measures provided for in the Improper Payments Elimination and Recovery Improvements Act of 2011 (S. 1409), introduced earlier this year by Senators Carper and Collins, as further means of ensuring that funds are not improperly paid out by the federal government or, in those cases where funds are mistakenly paid, that they are ultimately collected. According to the Government Accountability Office, for fiscal year 2010 alone, federal agencies reported an

estimated $125.4 billion in improper payments. Improved collection of even a fraction of these payments would save billions of dollars a year.

## II. Homeland Security

Given the perilous state of our nation's finances, all government agencies need to be working to control and reduce costs where they can  a fact recognized, and codified, through the discretionary spending caps enacted as part of the Budget Control Act. Even before the passage of the Budget Control Act, the Department of Homeland Security had identified over $800 million in savings, most of it annual savings, in its FY 2012 budget. Because DHS, however, is only eight years old, wholesale reductions in DHS's discretionary funding beyond those necessary to meet the spending caps specified in the Budget Control Act, would be unwise, threatening reversal of the progress that has been achieved in creating an integrated Department and imperiling the Department's ability to protect our citizens from terrorism and natural disasters. Nevertheless, this Committee has just passed reauthorization legislation that eliminates or consolidates several programs and could be used to guide the Department's efforts to meet the discretionary spending caps in the Budget Control Act.

***Auctioning of Broadband Spectrum.***

The President's plan calls for spectrum auctions as a way to both generate significant revenues for deficit reduction and fund a nationwide, interoperable broadband network for first responders on the "D Block" of spectrum. The President's plan is similar to proposals put forth in legislation that Senators Lieberman and McCain have introduced as well as legislation authored by Senators Rockefeller and Hutchison, which has been reported with strong bipartisan support from the Senate Committee on Commerce, Science, and Transportation. A nationwide public safety network would significantly enhance homeland security and would prevent the catastrophic breakdowns in communications that we saw on 9/11 and during Hurricane Katrina. Establishing a nationwide interoperable network for public safety is one of the major unfulfilled recommendations of the 9/11 Commission and Congress now has a unique opportunity to fulfill that recommendation while achieving sizable deficit reduction. We therefore strongly urge the Joint Committee to identify available spectrum for auction, authorize voluntary incentive auctions, reallocate the D Block to public safety, and set aside resources for a nationwide, interoperable broadband public safety network.

## Conclusion

The Joint Committee itself stems from a bipartisan compromise. You now have the opportunity to continue to work across party lines to help solve the tremendous budgetary challenges our government faces. Now is the time for Congress to adopt constructive proposals that will reduce the debt and preserve

our fiscal future. We urge you to take advantage of this opportunity and heed the words of Alan Simpson and Erskine Bowles, the Co?Chairs of the President's National Commission on Fiscal Responsibility and Reform "Go big, be bold, and be smart."

We are hopeful that the recommendations and information contained in this letter will help the Joint Committee in its daunting and historic task. Please feel free to reach out to us or our Committee staff should you have any questions or need technical advice about any issues under the jurisdiction of the Homeland Security and Governmental Affairs Committee.

Thank you for your consideration.

Sincerely,

Joseph I. Lieberman
Chairman

Susan M. Collins
Ranking Member