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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510–6250

May 12, 2011

President Barack Obama
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

We are writing regarding a recent draft Executive Order that would require businesses seeking contracts with the federal government to disclose a broad range of political contributions and expenditures. As Chairman and Ranking Member of the Senate Homeland Security and Governmental Affairs Committee and Chairman and Ranking Member of the Committee's Subcommittee on Contracting Oversight, we have concerns specifically related to the draft Executive Order's potential impact on the contracting process.

The draft Executive Order requires that businesses disclose political contributions and expenditures when making offers for federal contracts. According to Section One, this requirement is intended to help ensure that "every stage of the contracting process … be free from the undue influence" of politics and to ensure that taxpayers "have the utmost confidence" that the contracting process is fair. We share your commitment to ensuring that the federal contracting process is not influenced by political activity or favoritism.

However, we are concerned that requiring businesses to disclose their political activity when making an offer risks injecting politics into the contracting process. Federal contracting law already precludes the consideration of political activity in evaluating contract offers. Under the Federal Acquisition Regulation, the award of a contract must be based on the evaluation of quality, price, past performance, compliance with solicitation requirements, technical excellence and other considerations related to the merits of an offer. The requirement that businesses disclose political expenditures as part of the offer process creates the appearance that this type of information could become a factor in the award of federal contracts.

We are also concerned about the impact that this draft Executive Order may have on the federal government's acquisition workforce. Considering that the acquisition workforce is already straining to adequately manage and oversee federal contracts, the draft Executive Order may create new, unnecessary burdens for these officials.

In addition, we have questions regarding the draft Executive Order's requirement that the disclosure information be included on data.gov. We have tracked closely the Administration's ongoing efforts to create one integrated system for federal contracting information, including

contractor certifications and disclosures. The draft Executive Order's requirement to create a new repository for this type of contractor information on data.gov may complicate these efforts.

We respectfully request that you consider these concerns. We look forward to continuing to work with your Administration.

Sincerely,

Joseph I. Lieberman
Chairman

Susan M. Collins
Ranking Member

Claire McCaskill
Chairman
Subcommittee on Contracting Oversight

Rob Portman
Ranking Member
Subcommittee on Contracting Oversight