

United States Senate

WASHINGTON, DC 20510

February 1, 2010

The Honorable Peter R. Orszag
Director, Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

Dear Director Orszag:

It is our understanding that the Administration is considering issuing a government-wide policy establishing a preference in the award of Federal contracts to contractors who adopt labor practices beyond those currently required by Federal labor laws. We are concerned that the imposition of these requirements, during a time of significant economic turmoil in the private sector and tight Federal budgets, could have serious, negative consequences, especially for our nation's small businesses. Moreover, injecting such an arbitrary variable could jeopardize the integrity of the Federal competitive source selection process.

It is our understanding that the proposed "High Road" preference would give potential Federal contractors that pay wages or provide benefits above those required by our laws additional weight in the source selection process. An agency contracting officer would be required to weigh this factor in addition to required factors such as cost, past performance, and the contractor's ability to meet stated contract requirements.

We are concerned that the addition of this factor to the source selection process could increase the cost of Federal acquisitions. The factor could unduly distort the best value proposition and undermine the government's responsibility to act as a good steward of Americans' tax dollars. Furthermore, increased costs associated with procurements could hinder the government's ability to procure the goods and services necessary to complete its mission, particularly during this time of increased budget pressures.

Small businesses are critical to the success of our economy, creating an estimated two-thirds of new jobs annually. Small firms provide innovation and diversity in the Federal contracting arena, yet the proposed reforms could preclude them from competing effectively for contracts unless they shouldered the often unmanageable burden of more costly pay and benefits packages. Ultimately, these small businesses could choose not to compete for Federal contracts, undermining the diversity of the Federal contracting base and lessening competitive pressure on

larger Federal contractors. With small businesses' departure, large contractors may be free to charge significantly more for projects, further eroding the government's ability to procure required materials and services at a fair and reasonable price.

To address these concerns, we request that our staffs be provided a briefing on the Administration's proposal, including any efforts that could mitigate the expected negative impact on the cost of Federal contracts, to our nation's small businesses and the American taxpayers. This briefing should include an assessment of the mechanics of utilizing an additional best value source selection evaluation factor in a fair and equitable manner and the ability of the Federal acquisition workforce to integrate this requirement into an already complex source selection process.

Thank you for your attention to this crucial matter. If you have any questions, please have your staff contact Molly Wilkinson, Deputy General Counsel with the Senate Committee on Homeland Security and Governmental Affairs, (202) 228-3141.

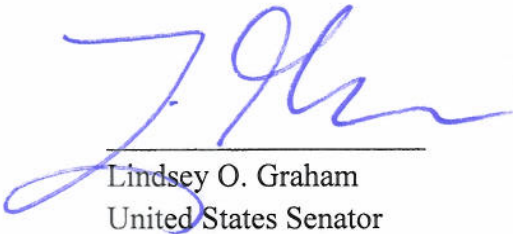
Sincerely,



Susan M. Collins
United States Senator



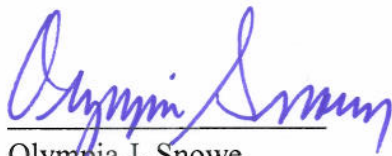
Robert F. Bennett
United States Senator



Lindsey O. Graham
United States Senator



Tom A. Coburn, M.D.
United States Senator



Olympia J. Snowe
United States Senator