



July 23, 2007

The Honorable Joseph Lieberman
The Honorable Susan Collins
Homeland Security and Governmental Affairs Committee
U.S. Senate
Washington, D.C. 20510

The Honorable Kent Conrad
The Honorable Judd Gregg
U.S. Senate
Washington, D.C. 20510

Dear Chairman Lieberman, Ranking Leader Collins, Chairman Conrad and Ranking Leader Gregg:

We are writing to urge your respective committees to move cautiously in considering the confirmation of former Rep. Jim Nussle (R-IA) as director of the Office of Management and Budget. The hearings you have scheduled for July 24 and 26 provide an opportunity to ask a range of important questions that should guide the Senate's consideration of the nomination. We hope your respective committees will pose tough, penetrating questions and that Mr. Nussle will be straightforward and candid in responding.

Mr. Nussle has considerable experience with budget matters, a key aspect to running OMB. However, he has demonstrated less experience in other areas of OMB's responsibilities, including management issues dealing with regulatory review, information management and dissemination, procurement policy, and grants management. Each of these areas begs thorough discussion about the nominee's viewpoints.

Even in the budget area where Mr. Nussle has extensive experience, there are numerous questions we think need to be resolved, including:

- How he will interact with Congress. Mr. Nussle was chair of the House Budget Committee at a time when there was a one-party town. Now that there is two-party control, we would like to know if his past confrontational style will continue to prevail.
- What his budget priorities will be during the remaining months of this administration. Disasters, such as Hurricane Katrina, have shown us that federal government must continually invest in its people and communities to improve quality of life. How does Mr. Nussle propose to put our fiscal house in order over the longer range? Will he oppose investing in children's health care, education, nutrition programs, housing, environmental protection, and home energy assistance? If he supports these types of investments, how will he contain longer-range deficits? Will he continue to oppose PAYGO rules, a proven mechanism for holding deficits in check and enacting responsible fiscal policy? If

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he does, what ideas does he have to pay for the policies – both mandatory spending and tax cuts – the president seeks to enact?

- How he will strengthen accountability of the budget process. OMB has recently begun tracking earmarks in the appropriations process. Will that be expanded to cover earmarks originating from either Congress or through the contracting process within the purview of the executive branch? Why shouldn't existing contractors disclose their lobbying activities when they are seeking more money for themselves? Will the website be made searchable? On another matter, OMB is responsible for implementing the Federal Funding Accountability and Transparency Act (commonly called the Coburn-Obama law) which requires OMB to implement a searchable website of nearly all government spending by January 1, 2008. To what extent will Mr. Nussle forcefully implement the law? And what ideas does he have for expanding it? For example, when it comes to procurement, the website should include the actual contract, or at least an accurate summary of the contract. There should be information about whether government contractors are complying with federal laws and regulations to ensure that government is not doing business with scofflaws.

We also have concerns about the management side of OMB. Mr. Nussle will be inheriting a new regulatory review executive order, Executive Order 13422, that President Bush signed in January. The executive order, which takes effect on July 24, the date of Mr. Nussle's first confirmation hearing, is highly controversial. It expands the power of agency Regulatory Policy Officers and requires that these RPOs be presidential appointees. The E.O. states that "no rulemaking shall commence" without approval from the RPO, putting these political appointees in a position of unquestioned power.

We hope your committees will question Mr. Nussle about the implementation of this E.O. and urge him to recommend revision of the E.O. If RPOs must be presidential appointees with such enormous power, then the Senate should confirm individuals holding these positions. Additionally, much greater transparency is needed to understand how the actions of the RPOs affect the rulemaking process. Will Mr. Nussle support these types of changes?

We hope Mr. Nussle's will also identify his top priorities in implementing OMB's regulatory review responsibilities.

As director of OMB, Mr. Nussle would have the opportunity to strengthen government transparency by encouraging agencies to make information it collects publicly accessible through the web and other means. How will Mr. Nussle enforce existing policies that call for agency dissemination of government information? And will he provide greater disclosure of OMB's role during "pre-rulemaking" stages where the agency has powerful, but undocumented, sway over agency decision-making?

The director of OMB has significant powers to oversee executive branch operations, from budget to regulation to transparency to management. Too often OMB functions like the Wizard of Oz, all-powerful but hidden behind a curtain.

We hope your two committees will shed sunlight on OMB's powers and Mr. Nussle's views on how he will exercise those powers. The public has a right to know about Mr. Nussle's views before the Senate considers confirmation rather than after.

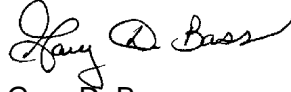
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Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Gary D. Bass". The signature is written in black ink and is positioned above the printed name.

Gary D. Bass
Executive Director