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RANKING MINORITY MEMBER

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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March 13, 2009

The Honorable John M. Spratt, Jr.
Chairman
Committee on the Budget
207 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Spratt:

I am pleased to submit, pursuant to the Congressional Budget Act of 1974 and clause 4(f)(1) of House rule X, the enclosed views and estimates of the Committee on Oversight and Government Reform for the fiscal year 2010 budget.

Please feel free to contact me if you have any questions.

Sincerely,

Edolphus Towns
Chairman

cc: The Honorable Darrell Issa
Ranking Minority Member

Views and Estimates on the Fiscal Year 2010 Budget
Committee on Oversight and Government Reform
U.S. House of Representatives

Each standing Committee of the House is required by the Congressional Budget Act of 1974 and Rule X, clause 4(f) of the Rules of the House to submit to the Committee on the Budget its views and estimates on the budget with respect to matters within its jurisdiction or functions. The following list is not exhaustive, but highlights the views of the Committee on some of the issues addressed in the President's fiscal year 2010 budget that are within the scope of the Committee's jurisdiction. The FY 2009 budget resolution also requires committees to include in their annual views and estimates recommendations for improving the performance of programs within their jurisdictions. The following list includes some of the Committee's recommendations for improving program performance based on the Committee's oversight efforts.

Transparency

The Committee supports the President's commitment to operate his Administration with transparency. Our democracy depends on having a government that is open and accountable to the people. The President has taken a number of important steps to improve public access to information. One example is the President's memorandum on transparency. This memo instructs agencies to make information available online and to offer more opportunities for public participation in decision making. One way the Administration should carry out these goals is through improvements to the electronic rulemaking process that allow for easier access to information related to rulemakings and that encourage public participation in rulemakings.

The President also issued a memorandum restoring the presumption of disclosure under the Freedom of Information Act (FOIA). The Committee supports adequate funding for agency FOIA compliance. Additionally, Congress should provide funds to the National Archives for the Office of Government Information Services established by the OPEN Government Act of 2007.

The Committee also supports adequate resources to ensure effective oversight and transparency of the funding provided by the American Recovery and Reinvestment Act.

Contracting

The Committee strongly supports the President's proposals to reform federal contracting and acquisition. The Committee believes that the responsible management of federal discretionary spending requires the Administration to devote its attention and resources to improving the management and oversight of federal contracts.

The Committee views competition as an effective way to ensure the efficient use of taxpayer dollars. This Committee has previously identified waste and fraud in the

federal contracting system through excessive use of sole source, cost-type contracts, and supports the President's proposal to review the use of these contracts and encourage competition.

The Committee also supports the proposal to improve the quality of the acquisition workforce and encourages investment in building this workforce as a key to long-term savings through improved contract planning and management.

The Committee supports the President's review to clarify which functions are inherently governmental and which are commercial, the proposals to reform Department of Defense acquisition, and the proposal to streamline administrative processes to make it easier for the Internal Revenue Service to collect tax debt owed by federal contractors.

Federal Property Reform

The President's budget states that the President will implement the Government Accountability Office's (GAO) recommendations to improve the management of surplus federal property. The Committee shares this goal. The federal government manages a portfolio of about 8,800 properties worth approximately $68.8 billion.[1] Many of these properties are unused, obsolete, and in disrepair. However, state and local governments can often find public benefit uses for such property. Some of these public benefits can qualify state and local governments to receive surplus federal property at up to a 100% discount.[2] Federal agencies are often reluctant to dispose of their surplus property because they are required to assess and pay for any necessary environmental cleanup before they can dispose of the property.[3] The Committee supports an increase in property disposals through the General Services Administration (GSA), which has government wide authority for property disposal and considerable expertise in federal real property management, and may consider legislation that would allow GSA to pay the initial property disposal costs for other agencies to help facilitate future disposals.

Bureau of the Census

The Census Bureau serves as the leading source of statistical data about the nation's population and economy. Statistics derived from the decennial United States Census and more than 100 annual surveys, guide important decisions bearing on the distribution of governmental resources as well as Congressional reapportionment. The Committee supports the President's proposed increase in funding for the Census Bureau to prepare for and conduct the 2010 Census. The President's budget requests $6.7 billion, an increase of $4 billion from the 2009 likely enacted level of $2.7 billion.

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[1] Congressional Research Service, *Disposition of Surplus Federal Property* (July 16, 2008) (RS20630).

[2] General Services Administration, Public Buildings Service, *Acquiring Federal Real Estate For Public Uses* (September 2007).

[3] Government Accountability Office, Testimony of Mark L. Goldstein, Director, Physical Infrastructure, *Federal Real Property: An Update on High-Risk Issues*, 19, 20 (May 24, 2007) (GAO-07-895T).

The Census Bureau anticipates spending about $15 billion over the lifecycle of the 2010 Census, compared to the $8.1 billion lifecycle cost for Census 2000. This includes funds to test address canvassing, the opening of local census offices, and the printing and mailing of millions of census questionnaires and forms, complete Non Response Follow-Up (NRFU) and the myriad of other tasks needed to successfully complete the 2010 Census.

The Committee will continue oversight of the Administration's efforts to improve on the 2000 Census by developing plans, outreach strategies and programs to reach the traditionally hard to count populations. The Administration recognizes that the communications campaign and local partnership efforts contributed to the success of Census 2000. They plan to improve on the 2000 efforts with the necessary funding and a more integrated approach, with consistent messaging across advertising, local and national partnerships, and other outreach activities.

Program Assessment Rating Tool

The Committee supports the President's proposal to reconfigure the Program Assessment Rating Tool (PART). The Committee has serious concerns with the PART program as it was administered under the previous Administration. We do not believe that PART, in its current form, is a meaningful analysis of program effectiveness.

The Committee supports the President's proposal to open the performance measurement process to the public, Congress, and outside experts. We support the President's commitment to "eliminate ideological performance goals and replace them with goals Americans care about and that are based on congressional intent and feedback from the people served by Government programs."[4] It is imperative that any assessment of program performance be a transparent, neutral measure of the effectiveness of federal programs.

The PART process has historically applied metrics unevenly and, in some cases, inappropriately. A recent study by the National Academy of Sciences (NAS) raised concerns with the Office of Management and Budget's (OMB) use of outcome-based measures for the Environmental Protection Agency scientific research programs. The NAS committee found that, "for most research programs, ultimate–outcome-based efficiency measures are *neither achievable nor valid*."[5] The Committee urges the Administration to ensure that any performance measures used are appropriate for the program being evaluated.

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[4] *A New Era of Responsibility: Renewing America's Promise*, 39 (Feb. 2009).

[5] National Academies, *Evaluating Research Efficiency in the U.S. Environmental Protection Agency*, 4 (2008).

Federal Workforce

Civilian Employees' Pay

The President's FY 2010 budget proposes a 2.0 % pay raise for federal civilian employees and a 2.9 % pay raise for armed services personnel. Congress has a longstanding policy of pay parity for military and civilian employees. Congress has expressed strong bipartisan support for parity in pay adjustments between military and federal civilian personnel due to the essential service military and civilian employees provide to our nation and the vast wage gap that exists between public and private sector wages.

Postal Service

Postal Reimbursements

The United States Postal Service (the Postal Service) is an independent agency charged with providing customers with reliable mail service at reasonable rates and fees. While the initial submission of the President's FY 2010 budget proposal does not include information on reimbursement to the Postal Service for the statutorily mandated service of providing free mail for the blind and overseas voters in 2010, the Committee wishes to express its support of fully funding free mail services provided by the Postal Service.

The Committee also urges Congress to continue providing reimbursement to the Postal Service for costs incurred in the delivery of mail sent by nonprofits. Under the Revenue Forgone Reform Act of 1993, the Postal Service is to receive a reimbursement of $29 million annually through 2035 to cover these costs. Failure to fund this authorized appropriation places the Postal Service's remaining debt of nearly $700 million at risk of nonpayment. Congress appropriated this amount every year from 1994 to 2009 and it is expected that the Postal Service will request that these funds continue to be provided in FY 2010. The Committee supports fully funding the authorized $29 million reimbursement in FY 2010.

Postal Regulatory Commission

The Postal Regulatory Commission (PRC) is an independent agency that has exercised regulatory oversight over the Postal Service since 1970. The Postal Accountability and Enhancement Act (PAEA) (P.L. 109-435) assigned new responsibilities to the PRC, including providing regulatory oversight of the pricing of USPS products and services, ensuring USPS transparency and accountability, and serving as a forum to act on complaints with postal products and services.

The PRC is expected to receive funding in the amount of $14,043,000 for FY 2009, which in accordance with PAEA, was derived from the "off-budget discretionary" Postal Service Fund. The expected $14,043,000 appropriation in FY 2009 matched PRC's recommended funding level and the President's requested funding level for FY

2009. For FY 2010, the Committee expects the PRC to once again submit a budget that is consistent with the Commission's expenses and scope of work, as mandated by PAEA. Given the vital regulatory role the PRC plays with regards to the Postal Service, the Committee supports full funding of the PRC in FY 2010.

Office of the Inspector General, U.S. Postal Service

The Postal Service Office of the Inspector General (OIG) is an independent organization charged with reporting to Congress on the overall efficiency, effectiveness, and economy of the Postal Service's programs and operations. As required by PAEA (P.L. 109-435), the Postal Service OIG is now required to submit its upcoming fiscal year budget to OMB for inclusion in the President's overall budget and funding for the OIG is to be transferred from the Postal Service Fund, which is revenue generated from postal services and ratepayers.

In FY 2009, the OIG is expected to receive an appropriation of $239 million. For FY 2010, the Committee recommends increased funding for the Postal Service OIG in order to ensure that the OIG is able to effectively carry out the enhanced duties assigned to it under PAEA as well as to meet the office's recently identified increased workload and demand.

USPS Employee/Employer Benefit Contributions

The Administration's FY 2010 budget submission contains a proposal intended to realign USPS employee/employer benefit contributions. The proposed modification calls for statutorily reducing the Postal Service's employer contribution to the Federal Employees' Health Benefit Program (FEHBP) on behalf of its employees to a level consistent with the employer contribution in the executive branch. Currently, the average executive branch employer FEHBP contribution is set at 72%, where as the Postal Service's employer contribution hovers around 83%.

In addition to recommending adjustments to the Postal Service's employer health benefit contribution, the President's FY 2010 budget proposal recommends that the Postal Service's employer contribution to the Federal Employees Group Life Insurance Program on behalf of its employees be statutorily reduced to mirror the employer contribution in the executive branch, which would result in a contribution reduction for the Postal Service from 100% to 33% between 2010 - 2019.

It is estimated that the President's proposal would generate roughly $9.4 billion in savings for the federal government from 2010 through 2019. However, the Committee is concerned by both the proposal's potential infringement on the collective bargaining rights of Postal employees as well as by the process through which such changes are being sought. The Committee, therefore, opposes the President's proposal in its current form and strongly recommends that any such changes in this area be considered through the appropriate authorizing channels.

District of Columbia

District of Columbia Tuition Assistance Grant Program (DC TAG)

The District of Columbia Tuition Assistance Grant (TAG) Program was established by the District of Columbia College Access Act of 1999 and was amended by the DC College Access Improvement Act of 2002. DC TAG is designed to equalize postsecondary education opportunities for students from the District of Columbia by enabling them to attend any public college or university in the nation at in-state tuition rates. DC TAG provides college-going students limited financial assistance in the form of scholarships to help cover costs of attendance at private colleges in the DC metropolitan area and at historically black colleges and universities (HBCU) throughout the country.

During the 110th Congress, the Committee reauthorized DC TAG for an additional five years. Over the course of the 2007 - 2008 school year, the DC TAG program provided over $30 million to support the college pursuits of more than 4,560 DC students. DC TAG is expected to be appropriated $35,100,000 in FY 2009 for the purposes of awarding eligible students grants of up to $10,000 annually for in-state tuition at most public colleges or up to $2,500 annually to attend private institutions. In support of the continuation of this successful program, the Committee recommends that adequate funding be provided for DC TAG in FY 2010.

DC School Improvement Payment

The Committee recognizes that since 2004, the President's budget has consistently requested funding to support improvements and reforms in the District's public education system. In this regard, funding over the past five years has been both requested as well as appropriated specifically for what is known as the "Three-Sector Approach" to DC public school improvement. This supplemental approach to educational reform entails dedicating funding to support traditional DC public schools, DC public charter schools, and to administer the DC Opportunity Scholarship Program. The DC Opportunity Scholarship Program provides annual scholarships to eligible students to attend private educational institutions in the District of Columbia.

The Committee strongly agrees with the federal government's recent emphasis on improving public education in the District of Columbia. The Committee therefore urges a continuation of funding to support the District's traditional public school system, which is responsible for the education of over 50,000 students, and its burgeoning public charter school system, which provides educational services to nearly 27,000 students. The Committee is aware that federal funding for the DC Opportunity Scholarship program will not be provided beyond the 2009 - 2010 school year, unless the program's enabling legislation is reauthorized. Currently, the Committee is unaware of any pending legislation to reauthorize the DC school voucher initiative. Therefore, the Committee does not anticipate reauthorizing the program. The Committee does, however, recommend that funding be provided in FY 2010 to assist the District of Columbia

government in the potential transition of DC Opportunity Scholarship Program students following the 2009-2010 school year."

District of Columbia Water and Sewer Authority (DCWASA)

The Committee has continually supported funding to continue implementation of the District of Columbia Water and Sewer Authority's (DC WASA) $2.2 billion Combined Sewer Overflow Long-Term Control Plan (CSO). The project is entering the construction phase and will require in excess of $200 million over the next two fiscal years. FY 2009 funding for the project was made contingent upon DC WASA providing a 100% match for the payment.

While the Committee supports funding the implementation of the CSO plan, the Committee also asks that full consideration be given to providing funding in FY 2010 to assist with DC WASA's other major capital improvement projects, the Blue Plains Total Nitrogen Program, and necessary investments in water distribution and sewer collection systems.

Washington Metropolitan Area Transit Authority (WMATA)

In addition to providing requisite formula dollars to the Washington Metropolitan Area Transit Authority (WMATA) through the Department of Transportation's FY 2010 budget, the Committee also urges that direct funding be provided in FY 2010 to support WMATA's operational and/or capital improvement costs. The federal government has always recognized the special role of WMATA, sometimes known as "America's Subway." Many Metrorail stations were built at the request of the federal government and nearly half of all stations are located at federal facilities. In addition to the federal workforce, millions of others use the WMATA system each year to visit the nation's capital or conduct business with the federal government. WMATA is also a critical component for ensuring continuity of federal government operations during an emergency and federal recovery plans rely heavily on WMATA.

Because of WMATA's role in serving the federal government and because the federal government does not pay local taxes to support the transit system, Congress passed Title VI of the Passenger Rail Investment and Improvement Act (P.L. 110-432) last year, which authorized $1.5 billion over 10 years for WMATA's capital and preventive maintenance needs. The legislation provides that federal grants are to be for 50 % of the net cost of projects, with the matching funds to be provided by WMATA's local jurisdictions. The Committee requests that the FY 2010 budget resolution include $150 million for maintenance and upkeep of the WMATA transit system as authorized by P.L. 110-432.

Office of National Drug Control Policy (ONDCP)

The Administration's FY 2010 budget summary does not provide detailed allocations for the Office of National Drug Control Policy (ONDCP), but the Committee would like to take the opportunity to set forth recommendations for both ONDCP's

budget and the larger National Drug Control budget that ONDCP coordinates and certifies to support the goals and objectives of the National Drug Control Strategy.

With respect to ONDCP programs, the Committee believes that the Drug Free Communities program is essential to reducing drug use and its harmful consequences and should therefore be increased in FY 2010. The Committee also believes that there must be increased oversight over how Drug Free Communities funding is distributed in order to ensure that the money is being used for local prevention and treatment programs, as intended. The Committee disagrees with the prior Administration's efforts to reduce and dismantle the High Intensity Drug Trafficking Areas (HIDTA) program and believes that the program funding should be increased beyond its prior peak funding level. Finally, the Committee supports a reduction in funding for the Media Campaign. The Campaign has yet to establish new results or evaluation means to demonstrate the effectiveness of any modifications, as mandated by the ONDCP Reauthorization Act of 2006.[6] If funding is not eliminated, the Committee recommends that an independent evaluation be adequately funded to monitor program changes and effectiveness in reducing youth drug use.

The Committee believes that the formulation of the National Drug Control Strategy should be based on science, evidence, and data rather than ideology. The Strategy should place much more emphasis on demand reduction programs and strategies. From FY 2002 to FY 2009, funding for supply-reduction initiatives like interdiction efforts has doubled and funding for international programs has risen faster than funding for demand-reduction strategies like treatment, domestic law enforcement, and prevention efforts. However, interdiction and source-country eradication have not led to net decreases in overseas drug cultivation, increases in drug prices, or decreases in the drug purity or domestic availability,[7] and overall demand for illicit drugs went unabated. The Committee believes funding for these programs – which have not demonstrated much success in preventing drug abuse – should be reduced or eliminated. Meanwhile, as stated above, the Committee believes that funding for HIDTA should be increased to ensure that domestic law enforcement efforts against drug trafficking and distribution remain a focus.

Demand-reduction strategies overall, such as prevention and treatment, have been proven by decades of research and evaluation to be more effective in reducing drug abuse.[8] The Committee encourages the new Administration to significantly increase the ONDCP budget for prevention and treatment services, including research on effective programs.

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[6] P.L. 109-469.

[7] *See, e.g.*, Government Accountability Office, *Plan Colombia, Drug Reduction Goals Were Not Fully Met, but Security has improved; U.S. Agencies Need More Detailed Plans for Reducing Assistance* (Oct. 2008) (GAO-09-71).

[8] *See* Testimony of former ONDCP official John Carnevale and Economist Rosalie Liccardo Pacula, co-Director of the Drug Policy Research Center at the RAND Corporation, Hearing on "The National Drug Control Strategy for 2008, the Fiscal Year 2009 National Drug Control Budget, and Compliance with the ONDCP Reauthorization Act of 2006; Priorities and Accountability at ONDCP," Subcommittee on Domestic Policy of the House Committee on Oversight and Government Reform, 110th Congress, 2nd Session (Mar. 12, 2008).

The Committee applauds the Administration's commitment in the Health and Human Services Budget to expand the treatment capacity of drug courts and its recognition that "[s]ubstance addiction is a preventable and treatable chronic condition."[9] The Committee also strongly supports the Administration's decision to increase the Department of Justice's budget for prisoner reentry programs, including drug treatment. The Committee hopes that these budget allocations signify that the ONDCP budget itself will also place a high priority on renewing a public health approach – focusing on demand reduction services – to addressing our nation's drug abuse epidemic.

The recently released report by the National Academy of Public Administration (NAPA) evaluating ONDCP's management practices agreed with Congress that ONDCP's practice of submitting a limited Annual Budget Summary that excludes the budgets of drug-related agencies and other key programs "does not adequately inform the public or the policymakers about federal drug control expenditures."[10] The Committee expects that the new Administration will reverse this trend and create a unified and performance-based budget summary that supports Drug Control Strategy's measurable goals, which will allow for more effective drug policy and better inform the public and policy makers about federal drug control expenditures.

Finally, the Committee remains deeply concerned that ONDCP has not met its statutory obligation to provide a comprehensive performance measurement accountability system to evaluate the overall effectiveness of the National Drug Control Strategy. It is essential that such a system be restored to enable Congress and the American people to monitor and evaluate the nation's progress in reducing drug use and its harmful consequences.

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[9] *A New Era of Responsibility: Renewing America's Promise*, 70 (Feb. 2009).

[10] National Academy of Public Administration, *Building the Capacity to Address the Nation's Drug Problems* (Nov. 2008).

Edolphus Towns

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Minority Views
Committee on Government Oversight and Reform
Views and Estimates Regarding the President's Proposed Budget for FY 2010

In some areas, we concur with the views of the Majority regarding the President's proposed budget for FY 2010. This list highlights selected areas of concern, but is not exhaustive. The President's budget outline provides only a limited view into the programs, priorities, and reforms of this Administration. As additional details emerge, we expect to highlight additional issues that we believe deserve greater focus.

Census

The Constitutionally mandated decennial census is the very heart of our system of representative democracy because it determines political representation through reapportionment of seats in the House of Representatives and the allocation of federal funding. Because of this, it is of vital importance to count every person once, and only once, and in the right place. The Minority continues its support for the President's proposed increase in funding for the Census Bureau for the preparation and conduct of the 2010 Census. It is the view of the Minority that each and every person in the United States on Census Day needs to be counted and will continue its support of efforts to ensure the Census Bureau has more than adequate funding to achieve this Constitutionally required actual enumeration.

Contracting

While there is no doubt we must continue to exercise strong oversight over the federal acquisition process, we look forward to examining President Obama's recent proposed changes. The current legal and regulatory framework for doing business with the government is complex and built on case law precedent. Consequently, reform must be achieved with a view to how proposed changes affect the entire acquisition system.

While many of the President's goals are laudable, the devil will be in the details. It is often in the government's best interest to engage the services of small businesses who serve specialized market niches.

We must seek to continue to diversify our supply base – not with more set asides and other non-competitive programs – but with innovative arrangements that allow the most competitive suppliers access to our acquisition system. Competition is the key to keeping government costs low. Any sweeping acquisition policy changes – such as those proposed by the President – should be implemented with thoughtful and deliberate consideration.

With regard to the Administration's call to assess "which functions are inherently governmental and which are commercial", when it comes to utilizing private contractors, we must keep an open mind, and avoid jumping to rash conclusions about the government's best interests. That being said, we believe that a robust, experienced, and well trained acquisition workforce is the fundamental core of an effective acquisition system. At every point in the contracting process, from award through the life of the program, we must have competent skilled individuals to combat waste, fraud, and abuse.

District of Columbia -- DC Opportunity Scholarship Program

Although the program has adequate funding for the current school year, if it is to continue beyond 2010 it needs reauthorization and adequate funding. In the past this Committee and Congress has shown bi-partisan support for the program. It is unfortunate the Majority, without holding any hearings or conducting bipartisan consultation, have indicated they are not willing to reauthorize this program for the future of the District's children.

Citing the absence of a current bill as justification for not authorizing the D.C. School Choice program is outrageous – will a bill introduced in the first two months of this Congress be a prerequisite for consideration of all other authorizations this committee will consider?

The D.C. School Choice program enjoys strong local support and fills a great need in a city with a history of deeply troubled schools. Demand is high, with a long waiting list, and selection for the program is by lot. President Obama himself attended an elite private high school in Hawaii, and his children attend one in Washington, D.C., where they now have classmates who are recipients of these scholarships.

The "poison pill" language inserted into the Omnibus Appropriations Bill by Senator Durbin, if signed by the president, would require reauthorization, as well as approval by the City Council for this federal program. It was wrong to insert such language into an omnibus appropriation bill, and we consider it a gratuitous attempt to undercut this worthy program.

The original legislation in 2004 reflected a bi-partisan agreement to add new money to DC schools across the board. While we are grateful that the Senate will apparently give floor time for a full debate on this program later in the year, we are concerned that the inappropriate attempt to terminate this program in the Omnibus Bill might result in many members taking a different view of the extra funding that has been provided for DC public schools.

This program should be immediately reauthorized with adequate funding to continue the program for another five years.

Office of National Drug Control Policy

The ONDCP budget should be broadly inclusive of all the factors contributing to illicit drug use including supporting the role of security and law enforcement, prevention, public health, treatment, research, and economic and social development. With respect to the National Drug Control Strategy, increased investments in demand reduction programs should not be done to the detriment of investments in long-term supply reduction initiatives. Disruption of the illicit drug marketplace through supply reduction initiatives should remain a priority of the National Drug Control Strategy and failure to continue the United States commitment to supply reduction could result in a surge in the domestic availability of illicit drugs as well as destabilize regions and countries with significant drug trade.

Postal Service

The budget should accommodate reforms that acknowledge the Government Accountability Office report this January calling for aggressive actions to reduce costs. The Nation's postal system is in trouble, its finances are deteriorating, and the pressure must be alleviated soon by seriously addressing these issues. The budget should accommodate these reforms, which are critical to the United States Postal Service and the broader postal and delivery sector of the economy, and are more responsive to the health of USPS and to the overall national economy than the President's proposal to cut benefit contributions for postal employees

M.C.