

United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP

WASHINGTON, DC 20510-6350

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March 18, 2015

The Honorable Katherine Archuleta
Director
Office of Personnel Management
1900 E St. NW
Washington, DC 20415

Dear Director Archuleta:

I am in receipt of your March 13, 2015 response to my multiple previous letters to you requesting information on Office of Personnel Management's (OPM) September 30, 2013 rule allowing Congress to obtain health insurance benefits on the District of Columbia Health Benefits Exchange Authority's small business exchange. Your response consisted of a letter discussing the history of the rule and approximately 200 pages of public comments on the rule that were already publically accessible. Unfortunately, you failed to disclose, or even address, the information I have asked for since October 2013, provided below:

1. Prior to issuing the September 30, 2013 rule did anyone within OPM advising on this particular matter argue that OPM did not have the authority to determine that Federal Employee Health Benefits (FEHB) contributions could be used towards purchasing a plan on an exchange or with a private insurance plan outside FEHB?
2. Please disclose all email correspondence in any way relating to the issuing of the rule, including emails regarding meetings OPM officials had with Members of Congress and/or any of their staff prior to issuing the proposed rule on August 2, 2013, and prior to issuing the final rule on September 30, 2013.
3. Please disclose all email correspondence, including meetings, that OPM officials have had with the White House, including the President, with regard to the formulation and issuance of this rule.
4. Was there at any point disagreement between OPM, Members of Congress, the White House, and their respective staff with regard to OPM's authority to authorize FEHB subsidies for health plans on an exchange? If so, please describe the nature of the disagreement and disclose the person/persons involved.
5. Please disclose all correspondence involving, and meetings that OPM officials have had, with the U.S. Senate Disbursing Office and/or the Chief Administrative Officer of the U.S. House of Representatives suggesting staff report Congress only employs 45 full-time equivalent employees to qualify as a "small business."

The public comments you included in your response – which you acknowledged represented a tiny fraction of the thousands of comments received on the rule – provide solid proof of the strong negative feelings the American people share regarding this unfair rule and its highly questionable drafting and implementation. Americans have a right to a full, transparent account and explanation of any rule that confers taxpayer-backed/taxpayer funded benefits or contributions to Congress that conflicts with the law. Permitting Congress, with its thousands of employees, to enjoy benefits on an exchange set up for businesses that must employ less than 50 full-time equivalent employees is a prime example. The fact that you continue to withhold the information requested only further strengthens my suspicions with regard to this rule.

Accordingly, I once again request that you provide the above information. I ask not only on behalf of the Senate Committee on Small Business and Entrepreneurship and the American public, but also in the spirit of this being “Sunshine Week,”¹ which “is a national initiative to promote a dialogue about the importance of open government and freedom of information.”² I ask that you direct your response to the Committee in the Russell Senate Office building, Room 428A, by Friday, March 27, 2015. If you have any questions, please call the Committee at (202) 224-5175.

Sincerely,



David Vitter

Chairman

Senate Committee on Small Business and Entrepreneurship

¹ SUNSHINE WEEK, <http://sunshineweek.rcfp.org/> (last visited March 17, 2015).

² ABOUT SUNSHINE WEEK, <http://sunshineweek.rcfp.org/about-sw/> (last visited March 17, 2015).