

DAN BURTON, INDIANA
JOHN L. MICA, FLORIDA
TODD RUSSELL PLATTS, PENNSYLVANIA
MICHAEL R. TURNER, OHIO
PATRICK McHENRY, NORTH CAROLINA
JIM JORDAN, OHIO
JASON CHAFFETZ, UTAH
CONNIE MACK, FLORIDA
TIM WALBERG, MICHIGAN
JAMES LANKFORD, OKLAHOMA
JUSTIN AMASH, MICHIGAN
ANN MARIE BUERKLE, NEW YORK
PAUL A. GOSAR, D.D.S., ARIZONA
RAUL R. LABRADOR, IDAHO
PATRICK MEEHAN, PENNSYLVANIA
SCOTT DESJARLAIS, M.D., TENNESSEE
JOE WALSH, ILLINOIS
TREY GOWDY, SOUTH CAROLINA
DENNIS A. ROSS, FLORIDA
BLAKE FARENTHOLD, TEXAS
MIKE KELLY, PENNSYLVANIA

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
FACSIMILE (202) 225-3974
MINORITY (202) 225-5051

<http://oversight.house.gov>

EDOLPHUS TOWNS, NEW YORK
CAROLYN B. MALONEY, NEW YORK
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
DENNIS J. KUCINICH, OHIO
JOHN F. TIERNEY, MASSACHUSETTS
WM. LACY CLAY, MISSOURI
STEPHEN F. LYNCH, MASSACHUSETTS
JIM COOPER, TENNESSEE
GERALD E. CONNOLLY, VIRGINIA
MIKE QUIGLEY, ILLINOIS
DANNY K. DAVIS, ILLINOIS
BRUCE L. BRALEY, IOWA
PETER WELCH, VERMONT
JOHN A. YARMUTH, KENTUCKY
CHRISTOPHER S. MURPHY, CONNECTICUT
JACKIE SPEIER, CALIFORNIA

LAWRENCE J. BRADY
STAFF DIRECTOR

October 2, 2012

Mr. Thomas Zumtobel
Chief Executive Officer
Hospitality Health
1901 Las Vegas Boulevard
Suite 101
Las Vegas, NV 98104

Dear Mr. Zumtobel:

The Committee on Oversight and Government Reform is conducting oversight of loans given by the Department of Health and Human Services (HHS) through the new Consumer Operated and Oriented Plan (CO-OP) program. This program, which is authorized by Section 1322 of the Patient Protection and Affordable Care Act (PPACA), provides funding to establish non-profit health insurance issuers throughout the United States by 2014.¹ We are concerned that taxpayers will lose a significant amount of money through the CO-OP program. According to the Obama Administration's own projections, taxpayers will lose over 40 percent of the amount of loans given out through the CO-OP program, with total losses projected to exceed \$3.1 billion.² We are also concerned because the process used to reward CO-OP loans appears to be flawed.

There are two types of loans given through the CO-OP program: start-up loans and solvency loans. Start-up loans offer funding to assist with start-up activities associated with developing a CO-OP; solvency loans enable states to meet insurance solvency and reserve requirements.³ As illustrated in the table on the following page, the Office of Management and Budget estimates that taxpayers will lose \$326 million on start-up loans and \$2.8 billion on solvency loans.⁴

¹ Patient Protection and Affordable Care Act, PUB. LAW 111-148; HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010, PUB. LAW 111-152 §1322.

² *Budget of the U.S. Government, Fiscal Year 2013, Federal Credit Supplement, Table 1.*

³ *Id.*

⁴ *Id.*

Table 1: CO-OP Program Loans and Projected Taxpayer Losses (in millions)

	Amount of Loans	Projected Taxpayer Losses	Percentage Loss
Startup Loans	\$870	\$326.6	37.5%
Solvency Loans	\$6,380	\$2,803.6	44.0%
Aggregate	\$7,250	\$3,130.2	43.2%

Source: OMB, Federal Credit Supplement FY 2013, Table 1

The CO-OP loan program is part of the federal government's Direct Loan Program (DLP).⁵ While loans made through the DLP are inherently risky, the expected taxpayer loss through the CO-OP program is extraordinarily high. By way of comparison, the mean expected taxpayer loss in Fiscal Year (FY) 2012 for other non-educational loans through the DLP is 8.3 percent.⁶ The expected loss of taxpayer funds (43.2 percent) for the CO-OP program is thus five times the expected loss of the rest of the non-educational DLP portfolio.⁷ The CO-OP program also has the highest expected loss percentage of all non-educational direct loans made in excess of \$10 million in FY 2012.⁸

Avik Roy, a Senior Fellow at the Manhattan Institute, explains how the CO-OP program design makes the CO-OPs likely to fail:

[T]he plans are prohibited from using the loans for marketing purposes. So there isn't an easy way for the plans to make consumers aware of them. The plans are prohibited from working with insurers already in operation, hence limiting their ability to gain from the experience of existing market players. The plans will have to enroll members and contract with providers—but unless they are able to enroll a good mix of healthy and sick people, they'll pay out more in claims than they take in premiums: the classic problem of adverse selection. Since healthy people have plenty of options already, it's sick people who will be most likely to sign up for the CO-OP plans.⁹

The CO-OP program has received bipartisan criticism. For example, Senator John D. Rockefeller (D-WV) criticized the CO-OP design in a letter to the Chairman and Ranking Member of the Senate Finance Committee, writing "I believe it is irresponsible to invest over \$6 billion in a concept that has not proven to provide quality, affordable health care."¹⁰

⁵ U.S. Dept. of Health and Human Services, Center for Consumer Information & Insurance Oversight, *New Federal Loan Program Helps Nonprofits Create Customer-Driven Health Insurers*, June 6, 2012, http://cciio.cms.gov/resources/factsheets/coop_final_rule.html.

⁶ See note 2, *supra*.

⁷ *Id.*

⁸ *Id.*

⁹ Avik Roy, *Six Solyndras: Obamacare blows \$3 Billion on Faulty CO-OP Insurance Loans*, *Forbes*, May 30, 2012.

¹⁰ Letter from John D. Rockefeller, Chairman, S. Comm. on Commerce, Science, and Transportation, to S. Comm. on Finance Chairman Max Baucus and S. Comm. on Finance Ranking Member Charles Grassley, Sept. 16, 2009.

The expected major loss of taxpayer money through the CO-OP program is similar to the Obama Administration's failed Department of Energy (DOE) 1705 Loan Guarantee Program.¹¹ The recent bankruptcies of Solyndra, Beacon Power, and Abound Solar, which collectively received nearly one billion dollars in loan guarantees through the 1705 program, highlight the problems when the government picks winners and losers.¹² According to Dr. Roger Stark, a physician and health care policy analyst at the non-partisan Washington Policy Center, the administration's CO-OP program is "playing political favorites in handing out the loans, and may be totally illegal in doing so."¹³

Eighteen organizations have received loans through the CO-OP program to date.¹⁴ Your company, Hospitality Health, received a total of \$65.9 million in CO-OP funds on May 18, 2012.¹⁵ However, information the Committee has obtained about Hospitality Health's sponsor organization, Culinary Health Fund, and Culinary Health Fund's national parent, UNITE Here, raises questions about the appropriateness of Hospitality Health's receipt of a CO-OP loan.¹⁶

First, according to Section 1322(c)(2)(a) of PPACA, organizations may not receive direct loans through the CO-OP program if the organization *or a related entity* was a health insurance issuer prior to July 16, 2009.¹⁷ However, Culinary Health Fund, Hospitality Health's sponsor, is a Taft-Hartley plan that offers health insurance to 120,000 workers in the Las Vegas area covered by UNITE Here, a labor union representing workers in several industries.¹⁸ Although CMS attests that "[n]o unions have received CO-OP loans,"¹⁹ and "[a]ll CO-OPs are separate organizations from their sponsoring organizations,"²⁰ we have concerns that Hospitality Health is not substantially different from its sponsors given the overlap of employees and missions of Culinary Health Fund and Hospitality Health. For instance, you have served as both Vice President and President of Culinary Health Fund UNITE Here Health Las Vegas during the past five years.²¹ Since Hospitality Health's sponsor, Culinary Health Fund, was offering health insurance prior to July 16, 2009, Hospitality Health does not seem to meet the requirements for a loan through the CO-OP program.

¹¹ H. Comm. on Oversight & Gov't Reform Staff Report, *The Department of Energy's Disastrous Management of Loan Guarantee Programs*, 112th Cong. (March 20, 2012), <http://oversight.house.gov/wp-content/uploads/2012/03/FINAL-DOE-Loan-Guarantees-Report.pdf>.

¹² *Id.*; Matthew L. Wald, *A 2nd U.S.-Supported Maker of Solar Panels Will Close*, New York Times, June 28, 2012, http://www.nytimes.com/2012/06/29/business/energy-environment/abound-solar-says-it-will-file-for-bankruptcy.html?_r=0

¹³ Kenneth Artz, *Obama Administration May Have Used CO-OP Grants to Reward Political Allies*, Heartland Institute, June 29, 2012.

¹⁴ U.S. Dept. of Health & Human Services, *New Loan Program Helps Create Customer-Driven Non-Profit Health Insurers*, last updated Aug. 31, 2012, <http://www.healthcare.gov/news/factsheets/2012/02/coops02212012a.html>.

¹⁵ See note 1, *supra*: Patient Protection and Affordable Care Act, § 1322(c)(2)(a).

¹⁶ *CO-OP Program: Internal Questions and Answers*, May 18, 2012, <http://blogs-images.forbes.com/aroy/files/2012/05/CO-OP-Awards-Internal-QA-final-5-18-12.pdf>.

¹⁷ See note 1, *supra*: Patient Protection and Affordable Care Act, § 1322(c)(2)(a).

¹⁸ UNITE Here, *We are one Union, one UNITE HERE*, <http://www.unitehere.org/about/>.

¹⁹ See note 16, *supra*

²⁰ *Id.*

²¹ This information is available on your LinkedIn profile at <http://www.linkedin.com/pub/tom-zumtobel/1b/658/72>.

In addition to our concerns about whether Hospitality Health meets the specific requirements of the program, we also have concerns about the leadership of Hospitality Health's sponsors. First, Ms. Kathy Silver, the President of Culinary Health Fund, a Taft-Hartley labor management trust fund that provides health benefits for unionized employees, failed in her most recent leadership position. Before working at Culinary Health, Ms. Silver served as CEO of Las Vegas University Medical Center of Southern Nevada (UMC) since 2007.²² UMC struggled financially during Ms. Silver's tenure as CEO, losing \$70 million in the year before her resignation.²³ Second, the Committee also has concerns regarding Unite HERE's President John Wilhelm, the President of Unite HERE. Mr. Wilhelm was part of a scandal relating to past actions of the union. In 2005, Unite HERE, embroiled in a labor disagreement with Angelica Textile Services, sent a postcard to women of child bearing age alleging that certain hospitals used contaminated linens provided by Angelica.²⁴ The claims were false, and Mr. Wilhelm was forced to settle with the hospitals after acknowledging that the post card was "offensive and in poor taste."²⁵

Since there are serious questions about both Hospitality Health's eligibility and suitability for a CO-OP loan, it is unclear whether Unite HERE's substantial past financial and political support to the Obama administration played a role in its receipt of a CO-OP loan. In 2008, Unite HERE gave \$430,000 in "independent expenditures" to the President's election efforts.²⁶ Mr. Wilhelm himself was also a generous contributor to President Obama's 2008 presidential campaign, giving him \$4,000 in donations.²⁷ Additionally, then-Senator Obama gladly accepted the endorsement of former Unite HERE Executive Vice President Maria Elena Durazo, calling her "one of the leading labor figures in the country,"²⁸ and thanking her for taking a sabbatical from her post as head of Los Angeles County Federal of Labor to campaign with him in 2008.²⁹

The combination of Hospitality Health CO-OP's apparent failure to meet CO-OP program eligibility, the troubled leadership of Hospitality Health's key supporting entities, and Unite HERE's large financial support of President Obama's campaigns raises questions about how and why Hospitality Health received a loan through the CO-OP program. To assist the Committee in its oversight of the CO-OP program, please provide the following information to the Committee by Tuesday, October 16, 2012:

²² *Id.*

²³ Wyland, Scott University, *Medical Center CEO Kathy Silver resigning*, LAS V. REV J., May 11, 2011, <http://www.lvrj.com/news/university-medical-center-ceo-kathy-silver-resigning-121672078.html>.

²⁴ Sutter Health, *National Labor Union Apologizes for False and Defamatory Mass Mailing*, July 5, 2011, <http://www.sutterhealth.org/about/news/National-Labor-Union-Apologizes-for-False-Defamatory-Mass-Mailing.html>.

²⁵ *Id.*

²⁶ *UNITE HERE Recipients, 2008, outside Spending: Independent Expenditures, Electioneering Communication & Communication Costs by Targeted Candidate as of July 13, 2009*, <http://www.opensecrets.org/outsidespending/recips.php?cmte=C00004861&cycle=2008>.

²⁷ According to www.opensecrets.org, Mr. Wilhelm donated this amount from February- October of 2008.

²⁸ See *Barack Obama on being endorsed by Maria Elena Duraz*, Jan. 18, 2008,

<http://www.youtube.com/watch?v=n0D6pEfyWoE>.

²⁹ Robin Abcarian, *Obama gets major labor endorsement*, L.A. TIMES, Jan. 16, 2008.

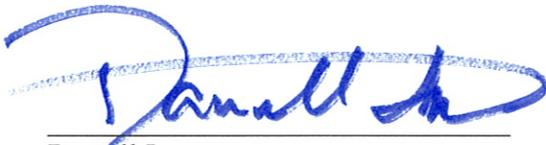
1. A copy of Hospitality Health's application for a CO-OP loan;
2. A copy of the 2010 and 2011 *Return of Organization Exempt from Income Tax Forms* (Form 990) for Hospitality Health and all of its related entities, including, but not limited to, Culinary Health Fund and Unite HERE;
3. A list of all grants, contracts, and loans ever received from the federal government by Hospitality Health or any of its related entities, including, but not limited to, Culinary Health Fund and Unite HERE;
4. An itemized financial breakdown of how Hospitality Health has spent and plans to spend money received through the CO-OP program from February 21, 2012, to the present; and
5. All documents and communications between any employees, agents, or contractors of Hospitality Health, Culinary Health Fund, or Unite HERE and employees, agents, or contractors of the White House, Executive Office of the President, or any other federal agency or department referring or relating to Hospitality Health's CO-OP loan or loan application, between March 23, 2010, and the present.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers to receive documents in electronic format.

If you have any questions about this request, please contact Brian Blase or Katelyn Christ of the Committee staff at (202) 225-5074. Thank you for your attention to this matter.

Sincerely,



Darrell Issa
Chairman



Trey Gowdy
Chairman
Subcommittee on Health Care, District of
Columbia, Census, and the National Archives

Enclosure

Mr. Thomas Zumtobel

October 2, 2012

Page 6

cc: The Honorable Elijah Cummings, Ranking Minority Member

The Honorable Danny Davis, Ranking Minority Member, Subcommittee on Health care,
District of Columbia, Census and the National Archives