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ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

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MAJORITY (202) 225-5051  
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April 15, 2010

The Honorable Kathleen Sebelius  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Secretary Sebelius:

The Committee on Oversight and Government Reform is conducting an ongoing investigation into the implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act). Through the Recovery Act, the U.S. Department of Health and Human Services (HHS) is investing \$167 billion in 40 programs to, amongst a variety of other goals, improve and preserve health care, promote the use of health information technology, and support children and community services.<sup>1</sup> While HHS appears to have swiftly applied Recovery Act dollars to these important goals, it has been brought to my attention that HHS may be spending such funds through contracting vehicles that are not accessible to minority and women-owned small businesses.

A principle purpose of the Recovery Act is "to preserve and create jobs and promote economic recovery."<sup>2</sup> Supporting small, minority, and women-owned businesses is a vital component of the broad effort to stimulate the American economy. Given the Recovery Act's overarching purpose, the Office of Management and Budget (OMB) has directed federal agencies to obtain "the maximum practicable competition" when awarding contracts under the Act.<sup>3</sup> Furthermore, OMB guidance directs that agencies "maximize opportunities for small

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<sup>1</sup> "The Recovery Accountability and Transparency Board, "Recovery Plans: Department of Health and Human Services," May 15, 2009 *available at* [http://www.recovery.gov/Transparency/agency/reporting/agency\\_reporting5.aspx?agency\\_code=75&dt=03/26/2010](http://www.recovery.gov/Transparency/agency/reporting/agency_reporting5.aspx?agency_code=75&dt=03/26/2010) (last accessed April 7, 2010); Department of Health and Human Services, "Recovery Money," *available at* <http://www.hhs.gov/recovery/> (last accessed April 7, 2010).

<sup>2</sup> P.L. 111-5 (Signed by the President on February 17, 2009).

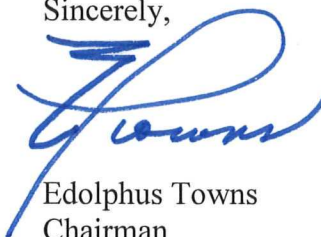
<sup>3</sup> Peter R. Orzag, Director of the Office of Management and Budget, "Memorandum for the Heads of Departments and Agencies: Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009" M-09-10, February 18, 2009 *available at*

businesses to compete for agency contracts and participate as subcontractors.”<sup>4</sup> I am concerned that HHS may not be appropriately executing these clear directives.

As you are aware, the Committee on Oversight and Government Reform is the principal oversight committee in the U.S. House of Representatives, with investigative jurisdiction over “any matter.” I respectfully request that you ensure that small, minority, and women-owned businesses are afforded access to Recovery Act contracting opportunities through HHS. To assist in the Committee’s investigation, please provide a detailed account of all past, present, and prospective efforts of HHS, and its agencies, to engage the participation of small, minority and women-owned businesses in Recovery Act programs and projects. Included in that account, please provide a list of all Recovery Act contracts awarded to small minority and women owned businesses broken down by the type of business (i.e., minority or women-owned), and the dollar amounts of each contract. Please also provide a list of all HHS Recovery Act awards made non-competitively or through a task order, including those under any contract predating the passage of the Recovery Act, for which a small, minority, or women-owned business may not have known to compete. For each of those contracts, please provide a detailed explanation of why the bidding process was not open and competitive.

Please deliver the requested information to the Committee on Oversight and Government Reform, room 2157 Rayburn House Office Building, no later than April 22, 2010, at 5:00 p.m. Should you have any questions regarding this request, please contact Jason Powell or James Latoff of the Committee staff at 202-225-5051.

Sincerely,



Edolphus Towns  
Chairman

cc: The Honorable Darrell Issa  
Ranking Minority Member  
Committee on Oversight and Government Reform