

Guidance is not a rule relating to agency management or personnel. In that regard, our 2012 opinion regarding HHS's Information Memorandum is instructive. See B-323772, at 4. There, we found that the Information Memorandum did not relate to agency management or personnel since it applied to the states.

With respect to the final exception—rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties—the Guidance issued by HHS and Treasury provides requirements that a state must meet for a waiver proposal to be approved. For that reason, these requirements affect the obligations of states, which are non-agency parties. Our 2012 opinion is again instructive. There, we determined that because the Information Memorandum set out the criteria by which states may apply for waivers from certain obligations of the states, the Information Memorandum affected the rights and obligations of third parties and therefore did not fall under CRA's third exception. We similarly find here that the 2018 Guidance does not fall under CRA's third exception.

We requested the views of the General Counsels of HHS and Treasury on whether the 2018 Guidance is a rule for purposes of CRA. Treasury deferred to HHS's response. HHS responded by letter dated March 22, 2019, stating that the 2018 Guidance is not a rule under CRA because it is not binding and if it were rescinded, it would not alter or affect the rights and obligations of any state or other stakeholder under PPACA. HHS also noted that it informally notified member offices, the Senate Health, Education, Labor, and Pensions and Senate Finance Committees, and the House Ways and Means and Education and Labor Committees of the 2018 Guidance. See HHS Letter at 1.

HHS provided a similar response when we requested its views on its Information Memorandum concerning the TANF program. See B-323772, at 5. As we noted in our 2012 opinion, the definition of rule is expansive and specifically includes documents that implement or interpret law or policy, whether or not the agency characterizes the document as non-binding. *Id.* (citing B-281575, January 20, 1999). Finally, as we have stated previously, informal notification does not meet the reporting requirements of CRA. 5 U.S.C. §801(a)(1); B-323772, at 5.

#### CONCLUSION

The 2018 Guidance sets forth what a state needs to provide to demonstrate that its proposal meets the four criteria for a waiver under section 1332 of PPACA and how the proposals will be evaluated. The 2018 Guidance meets the APA definition of a rule and does not fall under an exception as provided in CRA. Accordingly, given our conclusions above, and in accordance with the provisions of 5 U.S.C. §801(a)(1), the 2018 Guidance is subject to the requirement that it be submitted to both Houses of Congress and the Comptroller General before it can take effect.

If you have any questions about this opinion, please contact Shirley A. Jones, Managing Associate General Counsel, or Janet Temko-Blinder, Assistant General Counsel.

Sincerely yours,

THOMAS H. ARMSTRONG,  
General Counsel.

#### HELPING ENTREPRENEURS AFFECT REGULATORY DECISIONS ACT

Ms. COLLINS. Mr. President, I rise to introduce legislation with my friend

and colleague from New Hampshire, Senator SHAHEEN. The Helping Entrepreneurs Affect Regulatory Decisions Act or the HEARD Act is a straightforward bill that would make our government agencies more accessible to our Nation's small business owners and improve participation in the regulatory process.

When Federal agencies, including the Environmental Protection Agency, the Occupational Safety and Health Administration, or Consumer Financial Protection Bureau, propose a new regulation with a potential large economic impact, these agencies must convene Small Business Advocacy Review panels. These panels allow for the views of small business owners to be heard. The small businesses provide input on how a particular regulation may affect their business and have a chance to work with the regulators to address challenges and concerns.

As it stands, these panels are open to invitees, but participating is often a challenge, especially when small businesses are often asked to go to these panels at their own expense. Small businesses owners in Maine and other parts of our country can little afford to shut down for the day or use their own money to travel to these panels. Business will not stop because of a meeting held hundreds of miles away. To address these barriers, the HEARD Act would allow a small business to participate remotely. Small businesses, which are the backbone of the American economy, deserve to be heard, especially when we ask for their input, and this bill would help facilitate that.

Small businesses and their advocates support this effort. In my State, the Maine Chamber of Commerce has endorsed this bill because it would allow Mainers to give their input on new regulations more easily. Nationally, the NFIB, which advocates for America's small businesses, supports this bill because it would ensure that Main Street has a voice in the regulatory process.

Our bipartisan legislation would allow small businesses to be a part of the process by providing input and recommendations on regulations that would affect them. I encourage my colleagues to support the HEARD Act to ensure that the Federal Government hears from our small businesses, the backbone of our economy.

#### SENATOR LEAHY'S 16,000TH VOTE

Mr. SANDERS. Mr. President, I congratulate my friend and the senior Senator from Vermont, PATRICK LEAHY, for casting his 16,000th vote in the U.S. Senate. Since he was first elected in 1974, Senator LEAHY has worked tirelessly for the people of Vermont, bringing to Washington, DC, Vermont values: a belief in justice, civic engagement, and the importance of community. Senator LEAHY has long been a champion of human rights, a steward of the environment, and his efforts have brought important Federal re-

sources to our State. I join with his wife Marcelle, his children and grandchildren, and Vermonters throughout our State in congratulating him on this milestone vote and thanking him for his 44 years of dedicated service. I look forward to continuing to work together to represent the people of Vermont.

#### WELCOMING PRESIDENT TSAI INGWEN TO COLORADO

Mr. GARDNER. Mr. President, today I wish to welcome President Tsai Ingwen of Taiwan to my home State of Colorado.

On Friday, July 19, President Tsai will land in Denver as she transits through the United States on to her way home from official visits with diplomatic allies in the Western Hemisphere.

President Tsai will be the first sitting Taiwan head of state to visit the beautiful State of Colorado. It will indeed be a historic occasion.

This visit to Colorado will highlight the special relationship that our State shares with Taiwan. Colorado exports \$222.7 million in goods to Taiwan, making it the 10th largest export market for the Centennial State, the sixth largest in Asia. It is estimated that over 2,400 jobs in Colorado support the export of services to Taiwan.

Our relationship extends well beyond trade ties. Denver recently became the new home for the Taipei Economic and Cultural Office in 2015. Colorado Springs and Kaohsiung City have been sister cities since 1983.

The shared values of freedom, democracy, and prosperity provide for the strong basis of the longstanding friendship between our two nations. Taiwan is a shining example to its neighbors. In 2019, Taiwan was ranked the second freest country in Asia by Freedom House. It was also ranked the 10th freest economy in the world by the Heritage Foundation.

The strength and vitality of Taiwan's democratic and economic system has made it a beacon of democracy in the Indo-Pacific and throughout the world. The relationship between our two countries is critical for the United States, as we continue to advance the goal of a free and open Indo-Pacific and to promote our shared values in that region.

This is why, during my time in the Senate, I have championed the ties between the United States and Taiwan. On December 31, 2018, President Trump signed into law the Asia Reassurance Initiative Act, which declares that it is the "policy of the United States to support the close economic, political, and security relationship between Taiwan and the United States" and requires regular U.S. arms sales and endorses high-level reciprocal visits between our nations.

President Tsai has graciously welcomed me to Taiwan on four occasions, including a memorable visit several