Congress of the United States
House of Representatives
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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December 20, 2013

The Honorable John P. Holdren
Assistant to the President for Science and Technology
Director, Office of Science and Technology Policy
The White House
Washington, DC 20502

Dear Dr. Holdren:

At a hearing held on November 19, the Committee on Science, Space, and Technology received troubling testimony[1] from online security experts regarding the flaws and vulnerabilities in the Obamacare website that put the personal data of Americans at risk. The expert witnesses at our hearing outlined the significant risk of identity theft to Americans if hackers gained access to their personal information. One of the witnesses, Mr. David Kennedy, is a 'white hat hacker' who gave a demonstration of real vulnerabilities with Healthcare.gov, showing how hackers are attempting to access personal information on the website. According to his testimony, not only is the website vulnerable, it is under active attack. Even more troubling, Mr. Kennedy testified that there are "clear indicators that even basic security was not built into the Healthcare.gov website."[2]

The Administration's recent efforts to address the flaws with the website's capacity do not appear to address the larger security and privacy issues raised in our hearing. According to Mr. Jeffrey Zients, who is in charge of fixing the website, the Obamacare website is "night and day from where it was on October 1,"[3] and it is now "stable and operating at intended capacity with greatly improved performance."[4] Unfortunately, the improved performance does not include much-needed security enhancements, meaning that more Americans could now be vulnerable to online criminals and identity theft. According to a blog post by Mr. Kennedy, "Out

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[1] House Committee on Science, Space and Technology hearing, "*Is My Data on Healthcare.gov Secure?*" November 19, 2013, available at: http://science.house.gov/hearing/full-committee-hearing-my-data-healthcaregov-secure.
[2] Testimony of Mr. David Kennedy, CEO, TrustedSec, at House Committee on Science, Space and Technology hearing, "*Is My Data on Healthcare.gov Secure?*" November 19, 2013available at: http://science.house.gov/hearing/full-committee-hearing-my-data-healthcaregov-secure.
[3] CBSNEWS.Com Staff, "HealthCare.gov improvements 'night and day' from October Launch," CBSNEWS.COM, December 1, 2013, available at: http://www.cbsnews.com/news/healthcaregov-improvements-night-and-day-from-october-launch.
[4] Ibid.

of all of the reports, there were no mention to security concerns or addressing the vulnerabilities identified in the healthcare.gov website...a number of undisclosed exposures have still not been addressed and exist today."[5]

Through its jurisdiction over the White House Office of Science and Technology Policy (OSTP), the Committee sought to hear from Mr. Todd Park, OSTP's Chief Technology Officer (CTO), given his familiarity with the website while he was CTO at the US Department of Health and Human Services (HHS). As you yourself stated upon his hire to OSTP, while at HHS, Mr. Park "led the successful execution of an array of breakthrough initiatives, including the creation of HealthCare.gov."[6]

Additionally, according to the OSTP website, the Administration and OSTP are committed to advancing policies that will "safeguard the privacy of every American by strengthening digital security systems and holding governments and businesses accountable for violations of personal privacy.[7]

Notwithstanding Mr. Park's background and leadership position within OSTP, the Administration has now rejected three invitations to Mr. Park to testify before the Committee. You stated in a recent phone conversation with Chairman Smith that Mr. Park's testimony would raise claims of Executive Privilege – despite the fact that Mr. Park already testified before a congressional committee on November 13.[8] Your staff has similarly suggested that Mr. Park's activities are protected by Executive Privilege, begging the question: does the Administration intend to invoke such a claim?

You also stated in your November 26 letter to Chairman Smith that Mr. Park has not been involved in the security issues of the Healthcare.gov website. That assertion appears to be contradicted by the fact that Mr. Park was one of three White House co-chairs of the Affordable Care Act (ACA) Information Technology Exchanges Steering Committee (see Attachment 1).

The stated mission of this Healthcare.gov Steering Committee is to support the timely and efficient resolution of barriers to assure the implementation of "consumer-centric" health insurance exchanges. The Steering Committee's Charter explicitly directs the participants "to promote resolution of key IT strategy and policy issues that impede progress on Affordable Care Act activities across the federal government and with the state exchanges," and to "direct the formulation of work groups to identify barriers, develop and identify promising practices to support efficiencies, and develop option papers for the Committee's consideration." (Attachment

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[5] David Kennedy, "Healthcare.gov Operational – Security concerns not addressed," TrustedSec, December 2, 2013, available at: https://www.trustedsec.com/december-2013/healthcare-gov-operational-security-concerns-not-addressed.

[6] John Holdren, "Todd Park Named New U.S. Chief Technology Officer," The White House Blog, March 9, 2012, available at: http://www.whitehouse.gov/blog/2012/03/09/todd-park-named-new-us-chief-technology-officer.

[7] OSTP website, "Technology and Innovation," available at: http://www.whitehouse.gov/administration/eop/ostp/divisions/technology

[8] House Committee on Oversight and Government Reform, "*ObamaCare Implementation: The Rollout of HealthCare.gov*," November 13, 2013, available at: http://oversight.house.gov/hearing/obamacare-implementation-rollout-healthcare-gov/.

1). The ACA Exchanges Steering Committee directly oversees both security and privacy interagency working groups (Attachment 1).

From documents provided to Congress, it also appears that this White House-led Steering Committee canceled several meetings scheduled over the course of the past year following an April briefing on a White House-requested report by McKinsey & Company that warned of "various problems with the exchange, including limited testing time and resources before the launch."[9] After repeatedly cancelling Steering Committee meetings for five consecutive months, the White House Steering Committee met again only weeks prior to the launch of the Healthcare.gov website on October 1. But as we now know, those actions were too little and too late.

It is logical to assume that security and privacy responsibility resides at the highest level of government. The data passing through the Healthcare.gov website is one of the largest collections of personal information ever assembled, linking social security numbers, birth dates, tax and other financial information from seven different federal agencies, along with state agencies and government contractors.   We are troubled by the fact that the President either did not know, or did not care, that the personal and financial data collected as part of Obamacare is not secure.

The Committee will continue its efforts to examine the safety, security and privacy of Americans' personal data through the Obamacare website. Part of those efforts includes oversight of OSTP's role in the Healthcare.gov website. To that end, please provide the following documents from your agency by January 3, 2014:

(1) All schedules and scheduling information (as defined in Attachment 2) for Mr. Todd Park since arriving at OSTP through the present on topics involving the Healthcare.gov website and related issues.
(2) All records and emails (as defined in Attachment 2) to or from any and all OSTP employees, including Mr. Todd Park, regarding the ACA, Healthcare.gov, or the ACA Information Technology Exchanges Steering Committee.
(3) All records and information regarding any and all briefings (as defined in Attachment 2) with the President and/or White House staff on Healthcare.gov and related issues.
(4) Copies of all records provided in the past, as well as those expected to be provided in the future, by OSTP to other congressional committees in response to any ACA or Healthcare.gov document requests.

In responding to the Committee's request, please provide a Vaughn Index for any redactions or documents withheld from us. Specifically, for each redaction and document withheld on the basis of an established and accepted privilege, please provide a log containing the following information:

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[9] Jim Acosta and Dana Davidsen, "Private consulting firm warned of glitches before healthcare.gov launch," CNN Politics, November 19, 2013, available at: http://politicalticker.blogs.cnn.com/2013/11/19/private-consulting-firm-warned-of-glitches-before-healthcare-gov-launch.

(1) the privilege asserted;
(2) the type of document;
(3) the general subject matter;
(4) the date, author, and addressee, and
(5) the relationship of the author and the addressee to each other.

In addition to these documents, please also provide responses to the following questions by January 3, 2014:

1) As previously mentioned, in your phone conversation with Chairman Smith, you stated that Mr. Park's testimony would raise claims of Executive Privilege. Please confirm this assertion, and if you intend to invoke such a claim, please clarify whether you are basing it on Mr. Park's position as CTO at OSTP, or as Assistant to the President?

2) Please explain Mr. Park's relationship relative to the Presidential Innovation Fellows program. Please also provide details about which Fellows have been tapped to work on the Healthcare.gov website as part of the 'tech surge' to fix its problems. Your response to this question should include the names of the Fellows, who selected them to work on the website, when they started work on the website, whether they are still working on it and how much longer they are expected to work on it.

3) Finally, please direct Mr. Park to make himself available to Committee staff for a briefing on his involvement with the website prior to and subsequent to the October 1st launch date. Please ensure that this meeting takes place before January 10, 2014.

In its haste to launch the Healthcare.gov website, it appears the Obama Administration cut corners that leave the site open to hackers and other online criminals. As a result, Americans who have already entered personal information into Healthcare.gov are vulnerable to identity theft. We already know of numerous attempts to hack into the system and can only assume many more have gone unreported. Unless the Obama Administration takes swift action to address security, it is likely the worst is yet to come.

If you have any questions, please have your staff contact Raj Bharwani, Subcommittee on Oversight Staff Director, at (202) 225-6371.

Sincerely,

Lamar Smith
Chairman
Committee on Science, Space,
and Technology

Paul Broun, M.D.
Chairman
Subcommittee on
Oversight

Larry Bucshon, M.D.
Chairman
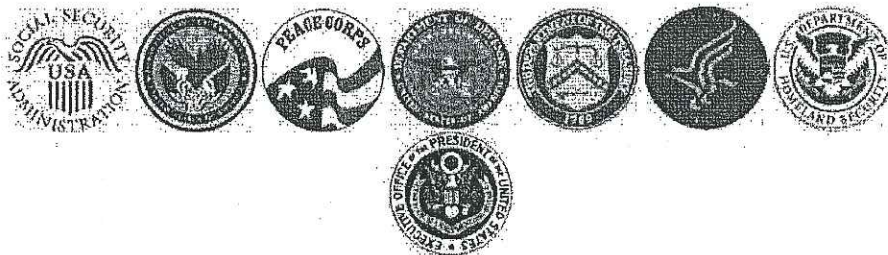Subcommittee on
Research & Technology

cc: Rep. Eddie Bernice Johnson
        Ranking Member
        Committee on Science, Space,
         and Technology

        Rep. Dan Maffei
        Ranking Member
        Subcommittee on Oversight

        Rep. Dan Lipinski
        Ranking Member
        Subcommittee on Research & Technology

Attachments

Affordable Care Act IT Exchanges
Steering Committee
Charter

May 21, 2012

Project: Interagency Coordination for ACA IT Exchanges

TABLE OF CONTENTS

I. Purpose

This charter establishes the Affordable Care Act (ACA) IT Exchanges Steering Committee (Steering Committee) as a collaborative body and as a venue for seeking resolution of persistent interagency challenges and dependencies related to the implementation of IT exchanges in support of the Affordable Care Act.

This document outlines the mission, scope and responsibilities of the Steering Committee, identifies membership and support structures, and defines key processes and procedures. A Health Exchange Executive Secretariat (Executive Secretariat) has been established as an agent of the Committee to work with Agencies to ensure projects fully align under the Affordable Care Act in providing a streamlined and seamless interface with the America public and affected industries that will be impacted by the implementation of the health insurance exchanged under the Affordable Care Act.

II. Mission

The primary mission of the Steering Committee is to support the timely and efficient resolution of barriers while ensuring the realization of fully operational health insurance exchanges mandated under the Affordable Care Act. The Steering Committee will (a) address key Exchange information sharing policies and barriers, (b) work with Departments, Agencies, and other stakeholders as necessary on the implementation and execution of Health Insurance Exchanges.

III. Scope and Responsibilities

Steering Committee

The Steering Committee shall provide a forum for seeking resolution of interagency challenges and to further promote interagency alignments to assure the implementation of a consumer-centric health insurance exchanges under the Affordable Care Act. The Steering Committee can designate the Executive Secretariat to act on its behalf to meet these functions. The Steering Committee shall:

- Facilitate interagency discussions to promote resolution to key IT strategy and policy issues that impede progress on Affordable Care Act activities across the federal government and with the state exchanges
- Direct the formulation of work groups to identify barriers, develop or identify promising practices to support efficiencies, and develop option papers for the Committee's consideration.

- The Steering Committee will meet monthly or more frequently as deemed necessary by the Executive Secretariat, beginning in May 2012 through March 2014. The meeting frequency may be altered by the agreement of the Steering Committee Co-Chairs. Beginning in April 2014, the Steering Committee will meet on an *ad hoc* basis as advised by the Executive Secretariat or as requested by the Co-Chairs until it is the consensus of the Steering Committee members that the Exchange post-implementation issues have been sufficiently surfaced and addressed.

Executive Secretariat

The Executive Secretariat reports to the co-chairs and will support, coordinate, and act as a liaison between the Steering Committee and Departments.

The Executive Secretariat will remain operational through January 2015 or until it is the consensus of the Steering Committee members that the Exchange post-implementation issues have been sufficiently surfaced and addressed.

- Lead: HHS Program Management Office, Office of the Chief Information Officer
- Members: CMS, IRS, SSA

The Executive Secretariat's core functions will be as follows:

- Work with the designated workgroups to identify interagency IT policy issues for the Steering Committee's consideration
- Responsible for tracking and reporting progress of individual workgroups and elevating workgroup concerns to the Steering Committee.
- Share recommendation from the Steering Committee with workgroups and Agencies; distribute and support the implementation of these recommendations.
- Work closely with Agencies and stakeholders to develop and iterate the plans for resolution of challenges as appropriate.

Agencies will continue to coordinate ACA IT exchange project governance and oversight functions within their respective organizations and work directly with their IT project teams to ensure performance and alignment with the Steering Committee recommendations as appropriate.

Working Groups

Data Sharing and Privacy
- **Objectives:** Streamlining data use agreements and creating a uniform process for developing and maintaining computer matching agreements, data use agreements, ICAs, consent forms, etc..
- **Lead:** Janet Miner, IRS
- **Members:** HHS, SSA, DHS, VA, OPM, DoD, Peace Corps

Security Harmonization
- **Objectives:** Coordinate uniform process to harmonize security and streamline negotiations/documentation of new agreements within and across each agency
- **Co-Leads:** Tim May, SSA & Tom Schankweiler, CMS
- **Members:** HHS, IRS, VA, DHS, Peace Corps, OPM

Operational Oversight
- **Objective:** Provide a clearinghouse for issues needing to be analyzed and resolved among agencies for those issues not covered by other more specific workgroups, issue tracking and execution of common priorities in a timely/effective manner, and to assure the maximal alignment with the vision for a consumer-centric insurance exchange
- **Co-Leads:** Jim Kerr, CMS, Wanda Brown (IRS)
- **Members:** HHS, IRS, SSA, VA, DHS, Peace Corps, DoD, OPM

IV. Membership and Reporting Structure

The Federal Chief Information Officer (CIO), the Health Program Associate Director, and the U.S. Chief Technology Officer (CTO), in the Executive Office of the President will serve as co-Chairpersons for the Affordable Care Act IT Steering Committee. Membership will be comprised of senior executives from each of the participating Departments and Agencies who understand the ACA and health insurance exchange-related IT and business/mission needs of their Departments and Agencies and who can make key policy and management judgments on behalf of the respective Departments.

The following Departments and Agencies are represented on the Committee and will designate a senior executive as described above as members of the Steering Committee:

- Department of Health & Human Services, Centers for Medicare and Medicaid Services
- Department of Treasury, Internal Revenue Service
- Department of Homeland Security
- Department of Defense
- Department of Veterans Affairs

- Social Security Administration
- Peace Corps

Additional members may be added if additional interagency dependencies are identified.

Representatives from other Departments and offices, including subject matter experts (SMEs) and other advisors, may be invited to attend Steering Committee meetings with the concurrence of the Steering Committee co-Chairs.

V. Administration

A. Meetings

The Steering Committee shall meet as needed and as advised by the Executive Secretariat. Meetings may be in person, by conference call, or other "virtual" meeting tools. Materials shall be distributed to the members prior to the meeting in order for the members to have adequate time to review and consider the material. The members will be requested to review and provide comment/feedback on materials as appropriate.

B. Records Management

The Executive Secretariat will be responsible for appointing a designee to distribute materials prior to and post meetings (i.e., agenda, meeting minutes).

VI. Agreement

_____   _____
Steven VanRoekel, Executive Office of the President   Date

_____   _____
Keith Fontenot, Executive Office of the President   Date

_____   _____
Todd Park, Executive Office of the President   Date

_____   _____
Donna Roy, Department of Homeland Security   Date

_____   _____
Robert Carey, Department of Defense   Date

_____   _____
Frank Baitman, Department of Health & Human Services   Date

_____   _____
Marilyn Tavenner, HHS / Centers for Medicare & Medicaid   Date
Services

_____   _____
Dorine Andrews, Peace Corps   Date

Bea Disman, Social Security Administration   Date

_____   _____

Terry Milholland, Department of Treasury/IRS   Date

_____   _____

Alan Constantian, Department of Veterans Affairs   Date

ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to , the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.

2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.