

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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June 18, 2015

Ms. Megan Smith
Chief Technology Officer
Office of Science and Technology Policy
Executive Office of the President
Eisenhower Executive Office Building
1650 Pennsylvania Avenue NW
Washington, D.C. 20504

Dear Ms. Smith,

The Committee on Science, Space, and Technology is continuing its oversight of HealthCare.gov by looking into the system used to permanently store information of users who visit the site. According to a recent news report, a data warehouse that supports HealthCare.gov is permanently storing personal information of all Americans looking for healthcare insurance through the HealthCare.gov website.¹ It appears that information is stored for all individuals who open an account on the website – regardless of whether they sign up for coverage. Furthermore, according to the news report, “consumers have no way of knowing” that their personal information is being permanently stored by the Administration.² Therefore, to assist the Committee’s oversight of these matters, I am writing to request related documents and information on this matter.

According to a 2014 GAO Government Accountability Office (GAO) report, the Centers for Medicare & Medicaid Services’ (CMS) Multidimensional Insurance Data Analytics System (MIDAS) “is a data warehouse system that is intended to provide reporting and performance metrics related to the [Federally Facilitated Marketplace] (FFM) and other Healthcare.gov-related systems... [and,] according to CMS officials, the MIDAS system has been operational since before the beginning of the first enrollment period in October 2013.”³ To perform its duties, MIDAS “acts as the perpetual central repository for capturing, aggregating, and analyzing

¹ Ricardo Alonso-Zaldivar, “Vast Data Warehouse Raises HealthCare.gov Privacy Concerns,” AP News, June 15, 2015, available at: http://hosted.ap.org/dynamic/stories/U/US_HEALTH_OVERHAUL_PERSONAL_PRIVACY?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT&CTIME=2015-06-15-13-52-46

² Ibid.

³ U.S. Government Accountability Office, “Healthcare.gov: Actions Needed to Address Weaknesses in Information Security and Privacy Controls,” GAO-14-730 (September 2014)

information on health insurance coverage.”⁴ However, according to a document from the Department of Health and Human Services (HHS) (the department under whose jurisdiction CMS is placed), “[d]ata in MIDAS is maintained indefinitely”⁵ What is even more concerning is the type of information that is being kept secretly. According to HHS, personally identifiable information (PII) is being collected or maintained by this system and includes the following: social security numbers, dates of birth, names, mailing addresses, phone numbers, financial accounts information, military status, employment status, passport numbers, and taxpayer IDs.⁶ In addition, GAO also found that MIDAS did not even complete an analysis of privacy risks, and “. . . without an approved PIA [Privacy Impact Assessment] that includes a thorough analysis of privacy risks, it will be difficult for CMS to demonstrate that it has . . . taken steps to ensure that the privacy of [PII] is protected.”⁷

More troubling, is the fact that the Administration has never appeared to be forthright about the use and storage of PII on HealthCare.gov, and has yet to explain the reason for indefinitely storing user information, particularly when some of the users did not even enroll on the website. Prior to HealthCare.gov’s launch on October 1, 2013, Administration officials seemingly misled Americans by drawing attention to data transferring through the Federal Data Services Hub (data hub) rather than addressing the fact that data would be stored in MIDAS permanently. Administration officials assured the American people that their information would not be stored on the data hub and that their information would be secure. In fact, CMS’ former Administrator Marilyn Tavenner testified at a Congressional hearing that “the Marketplace IT systems will never access or store personal health information beyond what is normally asked for in Medicaid eligibility applications. . . . the Hub is a tool, not a database, and will therefore not store any information.”⁸

Given this information, in conjunction with the alarming influx of federal websites being hacked for personal data, the Committee remains concerned about the privacy and security of HealthCare.gov and its ability to adequately protect the personal information of the American people. Indeed, it was recently realized that the hack of the Office of Personnel Management (OPM) “may have compromised personal information belonging to 9 million to 14 million people, far more than was initially believed. . . . [making it] the largest data breach ever at the federal government”⁹ Considering that there were “11.7 million people who selected Obamacare

⁴ IT Dashboard FY2016 Edition, Investment Summary: Agency: Department of Health and Human Services, Bureau Name: Centers for Medicare and Medicaid Services, UII: 009-000267387, Investment Title: CMS Multidimensional Insurance Data Analytics System (MIDAS), available at: <https://itdashboard.gov/it-portfolio-summary/2016/009-000267387>

⁵ The Department of Health and Human Services, “Status: Final,” Form Date: January 15, 2015, available at: <http://www.hhs.gov/sites/default/files/pia/cms-midas.pdf>

⁶ Ibid.

⁷ U.S. Government Accountability Office, “Healthcare.gov: Actions Needed to Address Weaknesses in Information Security and Privacy Controls,” GAO-14-730 (September 2014)

⁸ U.S. Department of Health and Human Services, “Statement by Marilyn Tavenner, Administrator, Centers for Medicare & Medicaid Services before the Committee on Oversight and Government Reform, Subcommittee on Energy Policy, Health Care, and Entitlements, U.S. House of Representatives,” July 17, 2013, available at: <http://www.hhs.gov/asl/testify/2013/07/t20130717.html>

⁹ Cory Bennett and Julian Hattem, “Up to 14 million exposed in federal hack,” The Hill, June 11, 2015, available at: <http://thehill.com/policy/cybersecurity/244737-up-to-14-million-exposed-in-fed-hack>

plans for 2015,”¹⁰ and many others who opened up an account on the HealthCare.gov website without registering for coverage, the Committee is troubled by this disturbing revelation that there is an excessive amount of personal information being covertly stored by the federal government through HealthCare.gov.

Accordingly, I would appreciate responses to the following questions by July 2, 2015:

1. The White House has stated, “[a]s U.S. CTO, [you] will guide the Administration’s information-technology policy and initiatives, continuing the work of [your] predecessors to accelerate attainment of the benefits of advanced information and communications technologies across every sector of the economy and aspect of human well-being.”¹¹ Given that, have you guided any policy and initiatives regarding retaining information that is input on HealthCare.gov? In addition, have you guided any policy and initiatives regarding the security of PII of American citizens on government websites?
2. Have you worked on MIDAS during your time working at OSTP? If not, please name others at OSTP (past and present) who have worked on MIDAS.
3. Were you aware that MIDAS permanently collects Americans’ personal information? If so, who suggested that MIDAS should permanently collect Americans’ personal information regardless of whether or not they enroll on the HealthCare.gov website? Further, what is the purpose of permanently collecting all of the personal data input on HealthCare.gov?
4. In your role as Chief Technology Officer of the United States (USCTO), have you ensured that the information collected in MIDAS would be secured? If not, why not?
5. How is the information stored on MIDAS secured?
6. What actions will you take to respond to the allegation that personal information is being permanently stored from HealthCare.gov?
7. Please describe the work of the United States Digital Services. Do employees of the United States Digital Services report to you as USCTO? Further, what work has the United States Digital Services completed in regard to HealthCare.gov as well as MIDAS?

¹⁰ Dan Mangan, “10.2M paid for Obamacare plans this year: Govt,” CNBC, June 2, 2015, available at: <http://www.cnbc.com/id/102726801>

¹¹ Dr. John P. Holdren, “President Obama Names Megan Smith U.S. CTO, Alexander Macgillivray Deputy U.S. CTO,” The White House Blog, September 4, 2014, available at: <https://www.whitehouse.gov/blog/2014/09/04/president-obama-names-megan-smith-us-cto-alexander-macgillivray-deputy-us-cto>

In addition, the Committee requests the following documents as soon as possible, but not later than July 2, 2015:

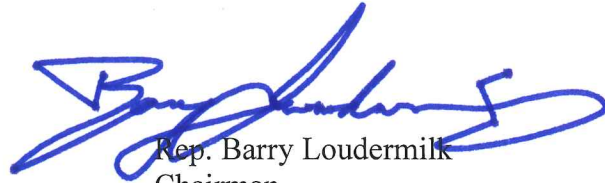
1. All documents and communications, referring or relating to the involvement of the Executive Office of the President with the Multidimensional Insurance Data Analytics System (MIDAS).
 - a. This should include: any information about MIDAS permanently collecting Americans' personal information and how information stored on MIDAS is secured.
2. All documents and communications, referring or relating to the security of the information stored in MIDAS, including the encryption of data.
3. All documents and communications, referring or relating to the number of individuals who have information stored in MIDAS, including how many individuals have information stored in MIDAS but did not sign up for coverage.
4. All documents and communications, referring or relating to individuals, including employer and title, who have ever accessed or currently have access to data stored in MIDAS and the frequency at which it is accessed.
5. All documents and communications, referring or relating to any discussions to conceal or expose the existence of MIDAS.
6. All documents and communications, referring or relating to the decision making process on determining the time period in which data is stored in MIDAS.
7. All documents and communications, referring or relating to the purpose for which data is stored in MIDAS.
8. All documents and communications, referring or relating to the way data stored in MIDAS is used for any purpose or in any way.
9. An approved privacy impact assessment (PIA) for MIDAS that includes a thorough analysis of privacy risks. Please include all documents and communications that discuss what date the PIA was approved and if there were any actions taken in response to identified privacy risks.
10. All documents and communications, referring or relating to work the United States Digital Services has completed on MIDAS.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2321 of the Rayburn House Office Building and the Minority Staff in Room 394 of the Ford House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

Ms. Smith
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If you have any questions about this request, please contact Sarah Grady of the Committee Staff at 202-225-6371. Thank you for your attention to this matter.

Sincerely,



Rep. Barry Loudermilk
Chairman
Subcommittee on Oversight

cc: The Honorable Don Beyer, Ranking Member, Subcommittee on Oversight