

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop C2-21-15  
Baltimore, Maryland 21244-1850



December 4, 2013

Mr. Sol Glasner, Esq.  
Vice President, General Counsel and Corp. Secretary  
The MITRE Corporation  
7515 Colshire Drive  
McLean, Virginia 22102-7539

Dear Mr. Glasner:

Re: Third Party Requests Concerning Security Testing and Evaluation  
Information

I am writing in response to your inquiry about appropriately handling sensitive security testing and evaluation information in response to a request from a Congressional Committee. As we have conveyed directly to Members of Congress, the Department of Health and Human Services understands Congress' oversight interests in the development of the Healthcare.gov website, and is working to accommodate Congressional requests regarding the website. In other words, we share your goal of working with Congress to respond to requests for information.

At the same time, a top priority for the Department is the privacy and security of consumers' personal information, and the protection of vital IT assets. As you know, the Centers for Medicare & Medicaid Services (CMS) treats this sensitive information as highly confidential because of the serious security risks to the agency's information systems and to the privacy of consumers. Some of the information that you have been inquired about providing to Congress, if further disclosed, could imperil the security of personal and private consumer information on the Healthcare.gov website and/or undermine the security posture of the Data Services Hub, the routing tool that validates applicant information from various trusted databases through secure networks for purposes of determining eligibility for certain benefits. If handled improperly, this information could provide a roadmap to actors with malicious intent.

Additionally, as you are aware, under your contract, namely Provision 4(E) on page 16 in your Statement of Work for Security Testing and Evaluation of Applications and Infrastructure under Contract # TIRNO-99-D-0005, Task Order # HHSM-500-2009-00021U, you are required to maintain the confidentiality of security testing and evaluation information covered by this provision. This provision reads:

### E. NON-DISCLOSURE

Information collected during the CMS Security Test & Evaluation (ST&E) shall be treated as confidential and shall only be disclosed to designated CMS officials and CMS-authorized personnel.

Pursuant to the above provision, you are not authorized to disclose information collected, or information produced using the information collected, during the CMS ST&E, except to designated CMS officials and CMS-authorized personnel. The information covered by this requirement includes, but is not limited to, the following ST&E information: the test plan, draft and final Security Control Assessment (SCA) documentation, emails containing information discussing specific vulnerabilities and their mitigation status, artifacts produced by CMS which provide status of vulnerability mitigation efforts, documentation which provides a list of the vulnerabilities found, in draft or final form, in summary, or in detail.

Given our shared interests in protecting the security and privacy of consumers and of important government IT assets and given that the documents the Committee has requested were created pursuant to your contract with us, to protect security we are instituting specific measures consistent with the non-disclosure provision in your contract. As it relates to MITRE, you are required to inform me, as Director of the Office of Acquisition and Grants Management, of any requests for ST&E information that you receive from any party, and you may not release documents without authorization from CMS. Regarding the particular request for which you have sought our advice, CMS will respond directly to the Committee and will work with the Committee to address its oversight interests in this information.

Sincerely,



Daniel Kane  
Director of the Office of Acquisition and Grants  
Management  
Centers for Medicare and Medicaid Services