

THE WHITE HOUSE

WASHINGTON

December 15, 2013

The Honorable John Boehner
Speaker
U.S. House of Representatives
Washington D.C. 20515

Dear Speaker Boehner:

I write to raise concerns about the handling of sensitive security testing documents that the House Oversight and Government Reform Committee (HOCR) has subpoenaed from the MITRE Corporation (MITRE). It is the view of cybersecurity experts from across the Administration that these documents, if further disclosed, would provide information to potential hackers that increases the risk they could penetrate healthcare.gov, the Federal Data Services Hub, and other Federal IT systems. In light of our shared interest in cybersecurity across the Federal government, I am seeking your cooperation in ensuring that appropriate procedures are put in place to protect these documents.

Over the past several weeks, both MITRE, the primary security contractor responsible for conducting testing on the healthcare.gov website, and the Department of Health & Human Services (HHS), have explained to HOCR that the security information contained in the documents at issue is highly sensitive. The documents consist of draft and final Security Control Assessments (SCAs) which provide detailed descriptions of the security risks discovered during the regular, legally required assessment of the various components of the Federally Facilitated Marketplace (FFM). As HHS and MITRE security experts have explained to the Committee, the information contained in the assessments provides a roadmap of how to potentially gain unauthorized access to the healthcare.gov website and to manipulate its contents. Even though many of the originally discovered vulnerabilities have been successfully mitigated, details in the unredacted SCAs could be misused to develop a targeted intrusion strategy. In addition, the security assessments provide insight into the FFM system's architecture, including its network and security controls, as well the hardware and software applications it employs. Since many Federal IT systems are built using similar components and techniques, the release of the SCAs for the FFM would increase the ability of sophisticated actors to infiltrate not only the FFM, but potentially other, similarly constructed Federal IT system controls. Finally, given that all Federal IT systems must undergo similar security assessments to certify compliance with the Federal Information Security Management Act (FISMA), public disclosure of these particular SCAs would reduce the utility of all future SCAs, since agencies would face a risk that any identified vulnerabilities would become public.

I understand that both MITRE and HHS have made substantial efforts to arrive at an appropriate accommodation that would satisfy the Committee's oversight interests in light of the above concerns. As part of that process, the Committee was provided several opportunities to further its understanding of the security of the healthcare.gov website and the risks identified in the security assessments consistent with the Executive Branch's interest in protecting the materials from further disclosure:

- On November 6, 2013, the Committee was provided redacted copies of the security documents, which it was able to use in subsequent interviews with agency officials.
- On December 3, 2013, the leader of the MITRE team that conducted the most recent SCA participated in a phone briefing with HOCR staff.
- On December 6, 2013, HHS allowed Committee staff to examine and take notes of unredacted copies of the documents *in camera* at the agency on the condition that any notes would be maintained in a secure location.

In addition, on December 12, HHS sent a letter to HOCR offering a number of additional accommodations, including:

- Providing the unredacted documents in a secure reading room at the Committee's offices;
- Allowing the Committee to invite an independent security expert to inspect the unredacted documents *in camera*;
- Making the unredacted documents available for the Committee to use during interviews with agency officials;
- Offering a briefing on the security documents with HHS cyber-security experts.

To be clear, at no point did HHS suggest that it was unwilling to share this sensitive security information with the Committee, or to discuss potential security risks associated with the healthcare.gov website. However, the Committee Chairman did not respond to any of HHS's proposals, nor did he make any reciprocal effort to find an alternative accommodation. Rather, the Committee Chairman insisted on physical production of the documents without agreeing to put in place any safeguards to ensure their confidentiality.

Following MITRE's production of the unredacted SCAs on December 13, 2013, Secretary Sebelius requested a meeting with Chairman Issa and Ranking Member Cummings to reiterate the grave security concerns associated with further disclosure of these documents and to discuss a protocol for protecting them. I understand that the Secretary's invitation was refused, and it was suggested that the meeting was unnecessary because the Committee knew how to handle sensitive security material. This continued refusal to engage with the Administration is of great concern, particularly in light of the Committee's demonstrated record of disclosing sensitive documents in connection with a number of its investigations and the Chairman's public

assertions that the Committee is not obligated to protect confidential Executive Branch documents such as those at issue here.

I trust that you are as committed as I am to protecting the security of our Federal IT systems and, therefore, I ask that you convene a meeting with Chairman Issa and appropriate representatives of the Administration to discuss the proper protocols that should be put in place by the Chairman to safeguard the sensitive security information in these documents.

Sincerely,



Kathryn H. Ruemmler
Counsel to the President

cc: The Honorable Nancy Pelosi
Democratic Leader
U.S. House of Representatives

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform

The Honorable Elijah Cummings
Ranking Minority Member
Committee on Oversight and Government Reform