

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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<http://oversight.house.gov>

June 14, 2015

The Honorable Penny Pritzker
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, D.C. 20230

Dear Madam Secretary:

On October 22, 2015, Congress enacted the *Quarterly Financial Report Reauthorization Act* (the Act).¹ Section 3 of the Act requires that you review and submit a report to the Committee on data security procedures at the Census Bureau within 90 days after enactment of the Act—in other words, by January 20, 2016. The Committee has yet to receive that report.

Cybersecurity at the Census Bureau is extremely important. Many federal agencies store Americans' personally identifiable information (PII), but few if any agencies store more such data than the Census Bureau. Our adversaries have already shown the ability to steal this data, which makes the Census Bureau a prime target. Just last year, the Office of Personnel Management discovered a data breach on their networks in which an advanced persistent threat stole highly sensitive PII on at least 22.1 million federal employees, contractors, and applicants, as well as many of their spouses and co-habitants.²

The Department's treatment of a federal law requiring you to submit a report to Congress on data security at the Census Bureau is important. At a recent hearing on the 2020 Census before the Committee, the Department's Chief Information Officer, Steven Cooper, testified in response to questions about the report:³

¹ Quarterly Financial Report Reauthorization Act, Pub. L. 114-72, 129 Stat. 566 (2015).

² Letter from Beth F. Cobert, Acting Director, Office of Personnel Management, to Shaun Donovan, Director, Office of Management and Budget (Jan. 13, 2016). The total number of Americans whose names and information were stolen is likely far higher, as the 22.1 million number is based on the number of unique social security numbers implicated. Background investigation data and interview records often include personal information on millions of other individuals without including social security numbers, including those who have never held or sought employment with the federal government or one of its contractors.

³ *Census 2020: Examining the Readiness of Key Aspects of the Census Bureau's 2020 Census Preparation: Hearing Before the H. Comm. on Gov't Reform*, 114th Cong. (2016) (testimony of Steven I. Cooper, Chief Information Officer, U.S. Dep't of Commerce).

Chairman Chaffetz. Mr. Cooper, on October 22nd of 2015, Congress enacted what's called the *Quarterly Financial Report Reauthorization Act* which requires the Secretary of Commerce to submit a report to Congress on data security procedures at the Census Bureau by January 20th of 2016. The Bureau has yet to provide Congress this report. What is the status and why is it so late?

Mr. Cooper. I have to admit that I can't speak to exactly why it's late other than I will take responsibility for that.

Chairman Chaffetz. Is it done?

Mr. Cooper. It is being completed as we speak. It came to my attention more recently that we had missed the deadline. My staff is now working to complete that report. I've seen a draft. It should be moving forward probably no later than the end of this month.

Chairman Chaffetz. It's federal law that you're supposed to report — you're supposed to give this to us on January 20th, so when did you become aware that it was late?

* * *

Mr. Cooper. I became aware last month.

Chairman Chaffetz. So it's due in January and you didn't know until May that it was late?

Mr. Cooper. That is correct.

Chairman Chaffetz. And you think we're going to have this by the end of June?

Mr. Cooper. Yes, sir.

Chairman Chaffetz. [. . .] [I]t's federal law. I don't know how you miss things like that. It gives me no confidence when you come and testify and say 'oh but we're going to get this census done on time, on budget.'

Mr. Cooper. I understand Congressman. I apologize. I missed this one. I take full responsibility.

Chairman Chaffetz. But you missed the other two reports as well to Congress. The other promises that you made that you came and testified before Congress, you missed those as well.

Mr. Cooper. I did. [pause] I can absolutely understand how it doesn't instill confidence. I'm working to correct that as best I can.

The Department's delay past the statutory deadline is problematic. Reporting requirements such as this one are rooted in Congress's oversight responsibilities and are intended to ensure compliance with federal law and good stewardship of taxpayer dollars. Such reports help agencies and serve an important role in informing Congress's decisions whether to enact or change laws, and to appropriate funds responsibly.

Therefore, to evaluate the effectiveness of the Department's procedures for tracking and complying with federal law and congressional oversight requests, please provide the following documents and communications from January 1, 2015, to the present:

1. All communications referring or relating to Public Law 114-72 (including the review required under section 3(a) and the report required under section 3(b)); H.R. 3116 (114th Cong.); and/or S. 1868 (114th Cong.), between and among any Department employee and:
 - a. you, Bruce Andrews, Jim Hock, and/or Steven Cooper; and
 - b. any employee of the Executive Office of the Secretary, the Office of the Executive Secretariat, the Office of the Deputy Secretary, the Office of the Chief of Staff, or the Office of Legislative and Intergovernmental Affairs.
2. All communications referring or relating to H.R. 3116 (114th Cong.); S. 1868 (114th Cong.); the status of the review or report required under Public Law 114-72; and/or the drafting or enactment of Public Law 114-72, between and among any Department employee and:
 - a. John Thompson and/or Harry Lee;
 - b. any employee of the Office of the Director of the Census Bureau;
 - c. any employee of the IT Directorate of the Census Bureau; and/or
 - d. any employee of the Department's Office of Chief Information Officer.

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Please produce the documents requested as soon as possible, but no later than 5:00 p.m. on June 28, 2016. In addition, we request you take all necessary steps to uphold Mr. Cooper's commitment to provide Congress the overdue report on data security procedures at the Census Bureau by June 30, 2016.

When producing documents to the Committee, please deliver production sets to the Majority staff in room 2157 of the Rayburn House Office Building and the Minority staff in room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

The Committee on Oversight and Government Reform is the principal investigative committee in the U.S. House of Representatives. Pursuant to House Rule X, the Committee has authority to investigate "any matter" at "any time."

If you have questions about this request, please contact Liam McKenna of the Majority staff at (202) 225-5074 and Jesse Reisman of the Minority staff at (202) 225-5051. Thank you for your prompt attention to this matter.



Jason Chaffetz
Chairman

Sincerely,



Elijah E. Cummings
Ranking Member

Enclosure

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.