Congress of the United States
Washington, DC 20510

July 31, 2014

The Honorable Marilyn Tavenner
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Tavenner:

It is no secret that the rollout of the state and federal exchanges established under the Patient Protection and Affordable Care Act (PPACA) did not go smoothly. The Government Accountability Office (GAO) has now issued a report highlighting a number of findings regarding potential violations of the Federal Acquisition Regulations (FAR) System specifications by the Centers for Medicare & Medicaid Services (CMS) during the HealthCare.gov contracting process.

GAO's report details significant problems in CMS's oversight of the contracting process for HealthCare.gov, and its IT contracting process in general. GAO highlighted the fact that CMS did not conduct proper oversight of the project or follow best practices for contract management. For example, CMS did not follow its quality assurance surveillance plan (QASP) for the project, and it is unclear if CMS prepares QASPs for its IT projects at all. Also, HealthCare.gov experienced massive cost overruns. GAO found that in at least 40 instances, additional costs were approved by CMS officials who were not authorized to make those decisions. This was done without the knowledge or consent of the CMS contracting officer.

Americans deserve a government that is held accountable, and that accountability should extend to the companies that work for the federal government. We hope that CMS will take steps to increase its oversight of contractors in the future, as well as address the problems that caused HealthCare.gov to crash on launch, and improve the procurement process to ensure that contracts are issued and maintained in accordance with government wide standards as articulated in the FAR.

With that in mind, we request that you provide the following information:

1) According to GAO, 62 different contracts and task orders were used to support the development of HealthCare.gov. What specifically was purchased under each of the 62 task orders, and why was each one necessary?

2) Did CMS pay contractors to develop the requirements for the federally-facilitated marketplace and data hub? If so, what is the amount of funding paid to develop these requirements?

3) According to GAO, CMS had a stated priority of meeting deadlines with respect to HealthCare.gov and its deliverables. To accomplish that end, contracts were granted without complete statements of work or technical specifications. How did CMS select contractors to do work when the end requirements were not known?

4) GAO also found that CMS paid contractors for work that was incomplete or for work not yet started when they received payment. What is CMS' justification for paying contractors for incomplete or nonexistent work?

5) What was CMS' overall acquisition strategy for HealthCare.gov? If there was not an overall strategy, why did CMS not have one?

6) Was a QASP system developed to aid in CMS' HealthCare.gov contracting oversight efforts? If so, was it employed?

7) Were reviews of contractor activities required by contract task orders? If so, how often did those reviews occur and did they occur as scheduled?

8) Did CMS ever withhold or not perform any scheduled contract reviews?

9) Who at CMS was responsible for ordering contract review changes and who kept track of those changes and the impact the changes had on overall contractor costs?

10) Were contract review changes required to be approved by a technical review board or some other third party entity to ensure they were necessary?

11) According to GAO, the Chief Operating Officer of CMS sent, and then recalled, a letter to CGI Federal to document performance failures and lay the groundwork to recover funds from the contractor. Why was the letter drafted? Who decided to recall the letter, and why? Please provide copies of all records related to the recall of the letter.

12) According to GAO, the costs associated with the sole source follow-on contract awarded to Accenture have risen from $91 million to $175 million as of June 2014. What explains this cost growth? What is CMS' current estimate of the costs to complete work under contract with Accenture?

Thank you for your attention to this matter. We would appreciate a response by August 22, 2014. If you have any questions, please do not hesitate to contact Kim Brandt with Senator Hatch's Finance Committee staff at (202) 224-4515, Tegan Millspaw with Senator Grassley's Judiciary Committee staff at (202) 224-5225, Kathryn Edelman with Senator Coburn's

Homeland Security and Government Affairs staff at (202) 224-4751, Sean Hayes with Chairman Upton's Energy and Commerce staff at (202) 225-2927 or Adam Pradko with Chairman Camp's Ways and Means staff at (202) 225-3625.

Sincerely,

Orrin Hatch
Ranking Member
Senate Finance Committee

Fred Upton
Chairman
Energy and Commerce Committee

Dave Camp
Chairman
Ways and Means Committee

Charles Grassley
Ranking Member
Senate Judiciary Committee

Tom Coburn, MD
Ranking Member
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