

Congress of the United States
Washington, DC 20515

July 17, 2020

The Honorable Alex M. Azar II
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dr. Robert R. Redfield
Director
Centers for Disease Control and Prevention
395 E Street, S.W., Suite 9100
Washington, D.C. 20201

Dear Secretary Azar and Director Redfield:

We are writing regarding the Trump Administration's decision to direct hospitals to stop reporting coronavirus data to the Centers for Disease Control and Prevention (CDC), which has collected this information since the beginning of the pandemic, and instead to send information to a portal run by a private company awarded a no-bid contract by the Department of Health and Human Services (HHS).¹ Following this decision, CDC abruptly removed previously collected hospitalization data—which has been relied upon by public health experts, reporters, and the public to determine which states may be running out of hospital capacity—from the agency's website, restoring it after a public outcry but not providing certainty that it would continue to be updated.² We urge you to reverse this decision, restore this data collection role to the CDC, and take all necessary steps to ensure that this essential data is collected and publicly reported free from political interference. We also request that you produce documents and information so that we can determine how this troubling decision was made.

For more than a decade, hospitals have used the National Healthcare Safety Network (NHSN) to report data on infectious disease hospitalizations to the CDC.³ On July 10, 2020, HHS sent a notice to hospitals directing them to stop reporting coronavirus hospitalization data to the NHSN site effective July 15.⁴ Instead, hospitals were directed to begin reporting data

¹ *Trump Administration Strips C.D.C. of Control of Coronavirus Data*, New York Times (July 14, 2020) (online at www.nytimes.com/2020/07/14/us/politics/trump-cdc-coronavirus.html).

² *Out of View: After Public Outcry, CDC Adds Hospital Data Back to Its Website—for Now*, Pro Publica (July 16, 2020) (online at www.propublica.org/article/out-of-view-after-public-outcry-cdc-adds-hospital-data-back-to-its-website-for-now).

³ *White House Strips CDC of Data Collection Role for COVID-19 Hospitalizations*, National Public Radio (July 15, 2020) (online at www.npr.org/sections/health-shots/2020/07/15/891351706/white-house-strips-cdc-of-data-collection-role-for-covid-19-hospitalizations); Centers for Disease Control and Prevention, National Center for Emerging and Zoonotic Infectious Diseases, Division of Healthcare Quality Promotion, *First State-Specific Healthcare-Associated Infections Summary Data Report: CDC's National Healthcare Safety Network (NHSN): January – June, 2009* (online at www.cdc.gov/hai/pdfs/stateplans/SIR_05_25_2010.pdf).

⁴ Department of Health and Human Services, *COVID-19 Guidance for Hospital Reporting and FAQs for Hospitals, Hospital Laboratory, and Acute Care Facility Data Reporting* (July 10, 2020) (online at

through TeleTracking Technologies, a private company that entered into a sole-source \$10 million contract with the Assistant Secretary for Preparedness and Response in April 2020.⁵ We are concerned that this decision may represent yet another example of the Administration’s continuing politicization of public health during the coronavirus pandemic.

The Administration has taken a fully operational, critically important public health reporting system offline and abruptly replaced it with a new system in the midst of an ongoing public health emergency. Experts have raised concerns that researchers, reporters, and the public may lose access to crucial data on hospitalizations as a result of this change in reporting, and the fact that the data was removed from CDC’s website heightens this concern. Although HHS has said the Department “directed CDC to re-establish the coronavirus dashboards it withdrew from the public,” the Administration gave no explanation for why it was initially removed.⁶ The sudden switch to a new portal and removal of information from CDC’s website is particularly alarming at a time when infection rates and hospitalizations are rising across most of the country, and many hospitals are reportedly at or near capacity.⁷

Delays or problems in transitioning to the new system could have serious consequences on infection control and patient care at hospitals. The Administration has announced that federal distributions of personal protective equipment, testing supplies, and therapeutics—including Remdesivir, the only approved treatment for coronavirus patients—will be based on the data collected from the TeleTracking system. Implementation delays or inaccurate or incomplete data submissions—which are common when implementing a new data collection system on a wide-scale—may result in hospitals and patients being left without vital supplies.⁸

Questions have also been raised about the integrity of the TeleTracking database that HHS intends to use going forward. This database does not appear to be more technologically advanced than CDC’s current platform. Like NHSN, the new database relies on manual data entry with inherent reporting delays, as opposed to the automatic reporting technology that

www.hhs.gov/sites/default/files/covid-19-faqs-hospitals-hospital-laboratory-acute-care-facility-data-reporting.pdf).

⁵ *‘Sole Source’ Contract for Covid-19 Database Draws Scrutiny from Democrats*, New York Times (July 15, 2020) (online at www.nytimes.com/2020/07/15/us/politics/coronavirus-database.html); USASpending.gov, Definitive Contract 75A50120C00042 (online at www.usaspending.gov/#/award/CONT_AWD_75A50120C00042_7505_-NONE_-NONE-).

⁶ *Out of View: After Public Outcry, CDC Adds Hospital Data Back to Its Website—for Now*, Pro Publica (July 16, 2020) (online at www.propublica.org/article/out-of-view-after-public-outcry-cdc-adds-hospital-data-back-to-its-website-for-now); *Coronavirus Data Has Already Disappeared After the Trump Administration Shifted Control from CDC*, CNBC (July 16, 2020) (online at www.cnbc.com/2020/07/16/us-coronavirus-data-has-already-disappeared-after-trump-administration-shifted-control-from-cdc-to-hhs.html).

⁷ *Hospitals Are Running Out of Staff, Supplies, and Beds for Covid-19 Patients—and This Time Could Be Worse*, Vox (July 16, 2020) (online at www.vox.com/2020/7/15/21317776/covid-19-coronavirus-florida-arizona-texas-california-hospitals).

⁸ *Trump Administration Recommends the National Guard as an Option to Help Hospitals Report Coronavirus Data*, Washington Post (July 14, 2020) (online at www.washingtonpost.com/health/2020/07/13/trump-administration-recommend-national-guard-an-option-help-hospitals-report-covid-19-data/).

experts have called for. Experts have also raised concerns that HHS does not have the same expertise as CDC in analyzing and reporting this type of critical data.⁹

In recent weeks, Administration officials have publicly admonished the CDC for publishing evidence-based guidance that conflicts with the Administration's political agenda. The President tweeted that CDC's guidelines for reopening schools was "very tough & expensive."¹⁰ Vice President Pence stated that he does not want "the guidance from the CDC to be a reason why schools don't open" and that the CDC would be revising their guidelines.¹¹ Four former directors of the CDC, who served under both Republican and Democratic presidents, have raised alarm at the politicization of the CDC, stating, "We cannot recall over our collective tenure a single time when political pressure led to a change in the interpretation of scientific evidence."¹²

For all these reasons, we request the following documents and information by July 31, 2020. These requests are consistent with House Resolution 935, which established the Select Subcommittee on the Coronavirus Crisis "to conduct a full and complete investigation" of "issues related to the coronavirus crisis," including the "preparedness for and response to the coronavirus crisis" and "executive branch policies, deliberations, decisions, activities, and internal and external communications related to the coronavirus crisis."

1. All documents and communications regarding the decision to transfer hospital coronavirus data authority from CDC to HHS and the decision to remove the data from public view on CDC's website.
2. All documents and communications related to the decision to use the TeleTracking data collection platform to report hospitalization and other data related to the coronavirus, instead of the NHSN platform.
3. All documents and communications related to the contract award to TeleTracking, including but not limited to the complete contract file and documents sufficient to identify the terms of TeleTracking's contract with the Assistant Secretary for Public Health, and why this contract was granted without competitive bidding.

⁹ *'Sole Source' Contract for Covid-19 Database Draws Scrutiny from Democrats*, New York Times (July 15, 2020) (online at www.nytimes.com/2020/07/15/us/politics/coronavirus-database.html); *Trump Administration Strips C.D.C. of Control of Coronavirus Data*, New York Times (July 14, 2020) (online at www.nytimes.com/2020/07/14/us/politics/trump-cdc-coronavirus.html).

¹⁰ Donald J. Trump, Twitter (July 8, 2020) (online at twitter.com/realDonaldTrump/status/1280857657365200902).

¹¹ *Pence Says CDC Will Change School-Reopening Guidelines After Trump Complaint*, New York Intelligencer (July 8, 2020) (online at nymag.com/intelligencer/2020/07/pence-cdc-change-school-guidelines-after-trump-complaint.html).

¹² *We Ran the CDC. No President Ever Politicized Its Science the Way Trump Has*, Washington Post (July 14, 2020) (online at www.washingtonpost.com/outlook/2020/07/14/cdc-directors-trump-politics/).

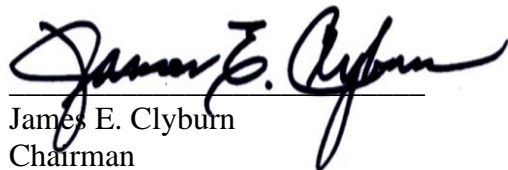
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4. A detailed explanation of the reason for the transfer and how CDC and HHS plan to ensure that no information is lost in the transition process and that political considerations do not interfere with the accurate reporting of data.
5. A detailed explanation of how hospitalization data provided to HHS will be reported, including the categories of data that will be reported, when and where data will be available to the public, and any differences in data reported by HHS compared to that previously reported through the NHSN.

In addition, the Select Subcommittee respectfully requests a staff briefing by July 24, 2020, to address these issues.

An attachment to this letter provides additional instructions for responding to the Select Subcommittee's request. If you have any questions regarding this request, please contact Select Subcommittee staff at (202) 225-4400.

Sincerely,



James E. Clyburn
Chairman
Select Subcommittee on the Coronavirus
Crisis



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform



Raja Krishnamoorthi
Chairman
Subcommittee on Economic and Consumer
Policy

Enclosure

cc: The Honorable James R. Comer, Ranking Member
Committee on Oversight and Reform

The Honorable Michael Cloud, Ranking Member
Subcommittee on Economic and Consumer Policy

The Honorable Steve Scalise, Ranking Member
Select Subcommittee on the Coronavirus Crisis

Responding to Oversight Committee Document Requests

1. In complying with this request, 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. Produce all 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.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. 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, and no modifications should be made to the original metadata:

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.

7. 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, zip file, box, or folder is produced, each should contain an index describing its contents.
8. 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.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. 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.
15. 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) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. 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, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. 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.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production 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 2105 of the Rayburn House Office Building.
21. Upon completion of the production, 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 that 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, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office 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, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, 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 that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” 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.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.