

Congress of the United States
Washington, DC 20515

October 27, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Andrew M. Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
200 Independence Ave, S.W.
Washington, D.C. 20201

Dear Mr. Slavitt,

As members of the United States Senate Committee on Finance and House Committees on Energy and Commerce and Ways and Means (Committees), we are charged with overseeing the various health information technology (IT) investments made by federal agencies. For the Centers for Medicare & Medicaid Services (CMS), IT investments are critical in reducing significant fraudulent and improper expenditures of taxpayer funds. The Government Accountability Office (GAO) has estimated that improper payments associated with Medicare and Medicaid have increased significantly in recent years, totaling roughly \$77.4 billion in FY 2014.

Given the magnitude of these improper payments, in addition to the fraud and abuse identified in both programs, our Committees have followed the progress of the Fraud Prevention System (FPS) investment at CMS with great interest. FPS was created under the Small Business Jobs Act of 2010, which requires CMS to use predictive analytics and other technology to combat waste, fraud, and abuse in the Medicare program. While FPS has successfully used this technology to identify fraud and improper payments, much more needs to be done.

It is our understanding that CMS is in the process of updating the system. On April 22, 2015, CMS issued a presolicitation to update FPS and “acquire a second generation” of the system.¹ Any update must improve program integrity efforts within Medicare. In order to ensure that FPS 2.0 succeeds and makes the best use of taxpayer funds, please answer the following questions in writing no later than November 20, 2015:

1. Why is CMS acquiring new technology for FPS, and how will FPS 2.0 differ from the original system?

¹ Federal Business Opportunities, Fraud Prevention System (FPS) 2, CMS-150097, April 22, 2015.

2. What lessons learned from FPS 1.0 are being applied to the proposed strategy for FPS 2.0?
3. CMS intends to use a Cost-Plus Award Fee contract for this work. The FPS 2.0 solicitation documents indicate that competition will be limited to offerors that have extensive experience with specific CMS data sources. The Statement of Work (SOW) states that “all products, including software, system tool(s) and all utilities developed to support the activities and deliverables of this contract, shall be the property of CMS.” Is CMS concerned that such requirements will necessarily prohibit the participation of innovative competitors with existing commercial solutions?
4. The FPS 2.0 RFP asks offerors to submit a video outlining their solution. Why did CMS make that decision, and does CMS believe this is the best way to accurately assess the ability of an offeror to deliver on their proposal? Did CMS consider using a down-select process requiring offerors to demonstrate their technologies in a live, operational setting, similar to the process used by the HHS Buyers Club? If not, why not?
5. What is the timeframe for awarding a contract, and when does CMS anticipate FPS 2.0 to be fully operational?
6. While the SOW states that FPS 2.0 may include multiple commercial-off-the-shelf (COTS) products, it must also feature a single, common product interface. This will likely require CMS to fuse disparate COTS applications onto a singular custom architecture baseline. Has CMS surveyed other government IT investments that attempted to use this same approach? If so, what lessons learned informed CMS’s proposed strategy? If not, why not?
7. In 2012, the GAO reported that “officials from the ZPICs [Zone Program Integrity Contractors] reported that FPS has not fundamentally changed the way in which they investigate fraud. The system has not, according to ZPIC officials, significantly sped up investigations or enabled quicker administrative actions in most instances.” Does CMS anticipate that FPS 2.0 will improve the fraud investigation process?
8. Has CMS considered the option of procuring a tool to manage and integrate data from all existing fraud detection tools used by different investigative groups? If not, why not?
9. As several fraud investigation units will require the fraud leads from FPS 2.0, how will CMS ensure that the new system will be able to produce leads that can be seamlessly ingested and processed by the many different software platforms used by various fraud investigative units?

10. The fraud investigation infrastructure is slated to change with the introduction of the Unified Program Integrity Contractor entities. Is CMS confident that the new capabilities under FPS 2.0 will allow for full interoperability and a smooth to transition to these new, consolidated entities?
11. How many predictive or analytical models are currently being run in real-time or near real-time and utilized in the FPS?

We appreciate your assistance in gathering this information. The Committees look forward to working closely with CMS to ensure that FPS 2.0 and other investments are leveraged for maximum value and impact.

Thank you for your cooperation in this important matter.

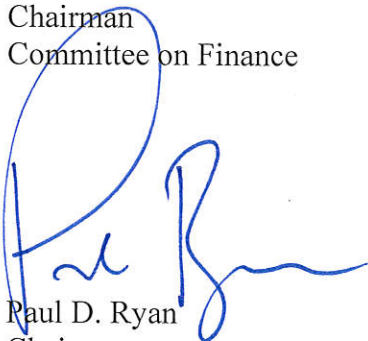
Sincerely,



Orrin G. Hatch
Chairman
Committee on Finance



Charles E. Grassley
Chairman
Committee on the Judiciary



Paul D. Ryan
Chairman
Committee on Ways & Means




Fred Upton
Chairman
Committee on Energy & Commerce



Peter J. Roskam
Chairman
Subcommittee on Oversight
Committee on Ways & Means



Tim Murphy
Chairman
Subcommittee on Oversight
Committee on Energy & Commerce

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Kevin Brady
Chairman
Subcommittee on Health
Committee on Ways & Means

A handwritten signature in blue ink, appearing to read 'Joseph R. Pitts', with a large loop at the beginning of the signature.

Joseph R. Pitts
Chairman
Subcommittee on Health
Committee on Energy & Commerce