

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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February 11, 2022

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Commissioner Rettig:

I am writing in response to the recent announcement by the Internal Revenue Service (IRS) that it will halt the use of facial recognition technology to authenticate users seeking access to certain IRS services. The IRS's decision follows a briefing provided to Committee staff by senior IRS officials on February 4, 2022, and widespread criticism of the agency's facial recognition system deployed by a private contractor called ID.me, including concerns over privacy, security, and equitable access to government services.¹

I welcome your decision to reconsider the use of facial recognition technology, but I remain concerned about the ongoing impact on the millions of Americans who have already turned over their biometric data to a private company as well as the potential costs to American taxpayers given the agency's about-face on this multimillion-dollar contract.

On June 7, 2021, the IRS entered an \$86 million contract with Veterans Tech, LLC, to provide the agency with ID.me facial recognition technology.² Shortly after the contract award, additional reports emerged that ID.me, which also maintains contracts with several other federal agencies and states, had difficulty authenticating users via its technology and that "many should-be beneficiaries have had to wait days or weeks to reach an ID.me 'trusted referee' who could confirm what the technology couldn't."³

¹ See, e.g., *IRS Abandons Facial Recognition Plan after Firestorm of Criticism*, Washington Post (Feb. 7, 2022) (online at www.washingtonpost.com/technology/2022/02/07/irs-idme-face-scans/).

² USASpending.gov, Internal Revenue Service Contract Award to Veterans Tech, LLC (June 7, 2021) (Award ID 2032H521F00420) (online at www.usaspending.gov/award/CONT_AWD_2032H521F00420_2050_2032H520A00009_2050) (contract for "ID.me software and software maintenance COVID-19").

³ *Facial Recognition Failures Are Locking People Out of Unemployment Systems*, Vice (June 18, 2021) (online at www.vice.com/en/article/5dbywn/facial-recognition-failures-are-locking-people-out-of-unemployment-systems).

On November 17, 2021, the IRS announced the launch of ID.me for certain services on the IRS website such as obtaining a tax transcript or accessing the child tax credit portal. The announcement stated: “To verify their identity with ID.me, taxpayers need to provide a photo of an identity document such as a driver’s license, state ID or passport. They’ll also need to take a selfie with a smartphone or a computer with a webcam.” The announcement indicated that users could use existing credentials to sign-in “until summer 2022, but are prompted to create an ID.me account as soon as possible.” The IRS added: “Additional IRS applications will transition to the new method over the next year.”⁴

Following reports that the IRS would soon begin requiring users to log in using ID.me, the Committee requested a briefing from the IRS, and on February 4, 2022, senior officials provided a bipartisan briefing to staff. During that briefing, IRS officials defended their selection of ID.me, highlighting the IRS’s vetting process and need to address identity theft threats. Officials also explained that the IRS would roll out “alternatives” to ID.me in the coming weeks for individuals to access services without submitting a photo of themselves. Officials did not preview what those alternatives would be or explain why the alternatives had not been previously included as part of the ID.me roll-out.

The briefing also raised new concerns. First, IRS officials confirmed that seven million Americans had already been directed by the IRS to sign up with ID.me. Under IRS’s records retention requirements, ID.me will continue to possess biometric information on these individuals for seven years before the IRS can request for the information to be deleted.⁵ As a result, although the IRS may have sought to terminate the contract, those Americans’ highly personal information may continue to be held by a third party outside of the IRS’s direct control—increasing the potential for exposure due to bad actors and other cybersecurity incidents. Although the IRS indicated that it had conducted a site visit prior to the roll-out of ID.me to ensure that ID.me was complying with contractual requirements to safeguard data, IRS officials explained that no additional site visits had been conducted since millions of Americans turned over their data. ID.me announced on February 8, 2022, that “all ID.me users will be able to delete their selfie or photo at account.ID.me beginning on March 1,” but it remains unclear how the IRS plans to oversee this process or how it will be impacted by the agency’s record retention requirements.⁶

Second, the briefing confirmed widespread issues related to use of the nascent facial recognition technology. IRS officials stated that 13% of users since June 2021 had difficulty authenticating through the ID.me service, which caused them to be referred to a customer service representative who would attempt to manually verify identity over video chat. As the use of

⁴ Internal Revenue Service, *IRS Unveils New Online Identity Verification Process for Accessing Self-Help Tools* (Nov. 17, 2021) (online at www.irs.gov/newsroom/irs-unveils-new-online-identity-verification-process-for-accessing-self-help-tools).

⁵ Internal Revenue Service, *Privacy Impact Assessment ID.me* (online at www.irs.gov/pub/irs-pia/id-me-pia.pdf) (accessed Feb. 8, 2022).

⁶ ID.me, *Press Release: ID.me Announces Options for Selfie Deletion and Identity Verification Without Automated Facial Recognition* (Feb. 8, 2022) (online at <https://insights.id.me/press-releases/id-me-announces-options-for-selfie-deletion-and-identity-verification-without-automated-facial-recognition/>).

facial recognition by government and private entities has grown, the Committee has made oversight of its use a priority.⁷ The Committee has long expressed concern over the technology's potential to discriminate against certain groups, such as people of color and women. At a May 22, 2019, Oversight Committee hearing, Joy Buolamwini, the founder of the Algorithmic Justice League, testified:

When government agencies attempt to integrate facial recognition into verification processes phenotypic and demographic bias can lead to a denial of services that the government has an obligation to make accessible to all constituents. ... [A]ny US government agency considering using facial recognition technology for access to services needs to make sure other means of verification exist.⁸

This technology remains virtually unregulated, and increasing transparency and accountability is crucial. For these reasons, the Committee requests that you provide the following documents no later than February 25, 2022:

1. IRS's contract file with Veterans Tech, LLC for ID.me;

In addition, please answer the following questions no later than February 25, 2022:

1. Is IRS planning to instruct ID.me to destroy the biometric data that has been collected from Americans who have created ID.me accounts?
2. Is IRS planning a follow-up compliance site visit with ID.me to ensure that any biometric data not destroyed will continue to be properly safeguarded?
 - a. If so, when?
 - b. If not, why not?
3. What ongoing contractual requirements is ID.me required to meet in order to protect and safeguard the biometric information it has already collected?

⁷ See Committee on Oversight and Reform, *Hearing on Facial Recognition Technology (Part I): It's Impact on Our Civil Rights and Liberties* (May 22, 2019) (online at <https://oversight.house.gov/legislation/hearings/facial-recognition-technology-part-1-its-impact-on-our-civil-rights-and>); Committee on Oversight and Reform, *Hearing Facial Recognition Technology (Part II): Ensuring Transparency in Government Use* (June 4, 2019) (online at <https://oversight.house.gov/legislation/hearings/facial-recognition-technology-part-ii-ensuring-transparency-in-government-use>); Committee on Oversight and Reform, *Hearing on Facial Recognition Technology (Part III): Ensuring Commercial Transparency and Accuracy* (Jan. 15, 2020) (online at <https://oversight.house.gov/legislation/hearings/facial-recognition-technology-part-iii-ensuring-commercial-transparency>).

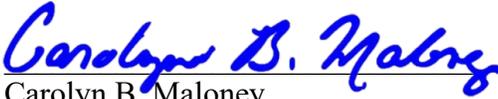
⁸ Committee on Oversight and Reform, Testimony of Joy Buolamwini, *Hearing on Facial Recognition Technology (Part I): Its Impact on our Civil Rights and Liberties* (May 22, 2019) (online at <https://docs.house.gov/meetings/GO/GO00/20190522/109521/HHRG-116-GO00-Wstate-BuolamwiniJ-20190522.pdf>).

4. How does ID.me's announcement that users can delete their data affect records retention requirements?
5. Will IRS be notifying its users about the process to delete their data with ID.me?
6. How will IRS ensure, on an ongoing basis, that ID.me does not use data it has collected for unapproved or unauthorized purposes?
7. How much money has already been expended on IRS's contract for ID.me and how much additional outlays are expected based on performance to date?
8. How much will it cost to withdraw from or terminate the contract?
9. What IRS alternatives are being developed to ensure that identity theft is addressed while respecting privacy, security, and equitable access to government services, and when will these alternatives be available?

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

An attachment to this letter provides additional instructions for responding to this request. If you have any questions, please contact Committee staff at (202) 225-5051.

Sincerely,


Carolyn B. Maloney
Chairwoman

Enclosure

cc: The Honorable James Comer, Ranking Member

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.