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ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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September 15, 2014

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On June 30, 2014, I wrote to request that the Committee conduct a transcribed interview of Sterling Phillips, the Chief Executive Officer of USIS. To date, you have not responded to my request. Based on troubling new revelations about USIS over the past several months, I now request that you issue a subpoena compelling Mr. Phillips to appear for a deposition. I am making this request for three reasons:

- (1) Mr. Phillips has been refusing for more than six months to respond to written questions from this Committee—sent under your signature—regarding alleged fraud committed by top USIS officials, and he has refused to provide the identities of executives at two USIS parent companies to allow the Committee to determine whether those officials knew about or directed fraudulent activities against U.S. taxpayers.
- (2) Cyber security experts have now briefed Committee staff on details of a malicious cyber attack against USIS this summer, raising serious new concerns about whether USIS has been complying with the requirements of its government contracts to secure the personally identifiable information of individuals applying for security clearances.
- (3) USIS apparently has been able to continue obtaining new federal contracts by exploiting a weakness in the current contracting award process.

The rest of this letter sets forth additional details about these issues and the need for Mr. Phillips to answer these questions at a deposition.

Refusal to Answer Committee Questions

Mr. Phillips testified at a hearing on February 11, 2014, regarding a \$1 billion civil suit brought in January by the Department of Justice alleging massive fraud by top USIS officials in

their background check contracts with federal agencies. In its filing, the Department stated that “USIS management devised and executed a scheme to deliberately circumvent contractually required quality reviews of completed background investigations in order to increase the company’s revenues and profits.”¹ The Department also stated that the previous CEO and other high-level USIS officials personally directed this “dumping” scheme:

USIS Senior Management was fully aware of and, in fact, directed the dumping practices. Beginning in at least March 2008, USIS’s President/CEO established the internal revenue goals for USIS. USIS’s Chief Financial Officer determined how many cases needed to be reviewed or dumped to meet those goals.²

As part of our investigation, we have been attempting to determine whether this alleged fraud scheme goes even higher. After USIS was acquired by Providence Equity Partners in 2007, the company adopted an aggressive new compensation plan to speed up its background investigations work. During the time period of the company’s alleged fraud from 2008 to 2012, Bill Mixon, who was the CEO at that time, received more than \$1 million in bonuses, and the company’s Chief Financial Officer received about \$470,000.

At the hearing in February, Mr. Phillips agreed that “bonuses awarded to the top officials at USIS during the alleged fraud were made according to a formula devised by the parent company, Altegrity.”³ In fact, USIS bonus policies were printed on Altegrity letterhead.⁴ In addition, Mr. Phillips stated that Altegrity’s Board of Directors “is comprised of principals with Providence Equity, the owners of the company.”⁵

However, Mr. Phillips did not provide the Committee with the identities of Altegrity’s Board of Directors or officials from Providence Equity Partners, stating instead: “I would have to look at the timing.”⁶

¹ United States’ Complaint, ¶ 42 (Jan. 22, 2014), United States of America ex rel. Blake Percival v. U.S. Investigations Services, Inc., M.D. Ala. (No. 11-CV-527-WKW).

² *Id.* at ¶ 51.

³ House Committee on Oversight and Government Reform, *Hearing on DC Navy Yard Shooting: Fixing the Security Clearance Process* (Feb. 11, 2014) (online at <http://oversight.house.gov/hearing/dc-navy-yard-shooting-fixing-security-clearance-process/>).

⁴ Minority Staff, House Committee on Oversight and Government Reform, *Contracting Out Security Clearance Investigations: The Role of USIS and Allegations of Systemic Fraud* (Feb. 11, 2014) (online at www.democrats.oversight.house.gov/uploads/USIS%20Security%20Clearance%20Report%2002-11-2014.pdf).

⁵ House Committee on Oversight and Government Reform, *Hearing on DC Navy Yard Shooting: Fixing the Security Clearance Process* (Feb. 11, 2014) (online at <http://oversight.house.gov/hearing/dc-navy-yard-shooting-fixing-security-clearance-process/>).

⁶ *Id.*

On March 18, 2014, you sent a follow-up letter to Mr. Phillips requesting that he provide answers to written questions I submitted after the hearing, including the identities of Altegrity's Board of Directors and Providence Equity Partners. You explained that the hearing record would remain open pursuant to "the direction of the Chairman."⁷

On April 10, 2014, in response to an inquiry from my staff, an attorney for Mr. Phillips sent an email stating: "The company does not anticipate making a further response."⁸ The refusal of Mr. Phillips to provide the identifies of officials at two USIS parent companies prevents the Committee from fully investigating allegations of fraud against U.S. taxpayers.

Major Data Security Breach at USIS

On September 3, 2014, our staffs received a briefing from security experts at the Department of Homeland Security (DHS), the Office of Personnel Management (OPM), and the Office of the Director of National Intelligence who have been analyzing a major cyber attack that occurred against USIS computer systems this summer. Although much of the briefing was sensitive, there are several key points that may be discussed publicly.

First, although press accounts have reported that the attack may have compromised the personal information of up to 27,000 federal employees, government cyber security experts now believe this number is a floor—not a ceiling. The actual number of individuals affected by the USIS data security breach is not yet known, but these experts believe that the personal information of many more federal employees may have been compromised. USIS and other Altegrity subsidiaries received more than \$2 billion in federal contract work in recent years.⁹

Second, USIS data security measures appear to be inferior to those of the government. In March 2014, hackers also broke into the network of the Federal Investigative Service, a division of OPM that also conducts background investigations.¹⁰ Unlike USIS, the agency's data protection systems insulated personally identifiable information from the hackers, and cyber security experts believe no personally identifiable information was compromised.

⁷ Letter from Chairman Darrell E. Issa, House Committee on Oversight and Government Reform, to Sterling Phillips, Chief Executive Officer, USIS, LLC (Mar. 18, 2014) (online at <http://democrats.oversight.house.gov/uploads/QFR%27s%20Phillips-USIS%20-%20Security%20Clearances%202-11.pdf>).

⁸ Email from Attorney for Mr. Phillips, McDermott, Will & Emery, to Minority Staff, House Committee on Oversight and Government Reform (Apr. 10, 2014) (online at <http://democrats.oversight.house.gov/uploads/Redacted%202014-04-10%20Email%20from%20USIS%20Attnys%20re%20QFR%20Response.pdf>).

⁹ Data based on search conducted on System for Award Management website (www.sam.gov/portal/SAM/#1) for Altegrity contracts with the federal government.

¹⁰ *Chinese Hackers Go After U.S. Workers' Personal Data*, Washington Post (July 10, 2014) (online at www.washingtonpost.com/world/national-security/chinese-hackers-go-after-us-workers-personal-data/2014/07/10/92db92e8-0846-11e4-8a6a-19355c7e870a_story.html).

New Contract Award to USIS

On July 17, 2014, I sent a bipartisan letter with Senator Tom Coburn to DHS requesting information about the process used to award a new contract to USIS, despite the fact that the Justice Department filed its fraud suit in January—six months earlier.¹¹

Federal acquisition regulations require agencies to review the past performance of potential contractors to ensure that they have a “satisfactory performance record” and a “satisfactory record of integrity and business ethics.”¹² On July 1, 2014, however, the U.S. Citizenship and Immigration Services within DHS awarded a new contract to USIS worth up to \$190 million to provide field office support services related to the operation of the Department’s immigration system.

According to DHS officials, USIS was able to obtain this contract because the company used a different “DUNS Number” for the subsidiary bidding for the DHS contract than it did for the subsidiary defending against the Justice Department fraud suit. As you know, DUNS is the Data Universal Numbering System maintained by Dun & Bradstreet to assign unique nine-digit identification numbers to businesses worldwide.¹³

As a result, it appears that USIS is able to continue obtaining federal contracts under the current procurement system if it has different DUNS numbers for different subsidiaries, despite the fact that the Justice Department has implicated the company’s entire upper management in a massive fraud scheme, and despite the fact that virtually nothing is known about the role of USIS parent companies in this scheme.

Request for Deposition

There are serious questions about the actions of top officials at USIS and its parent companies with respect to alleged fraud against U.S. taxpayers. A company that was supposed to be helping to secure our nation stands accused of dumping incomplete background check investigations to increase corporate profits, and now the personal information of tens of thousands of government workers seeking security clearances appears to have been compromised. Yet, USIS continues to obtain new contracts, and the CEO appears to believe he can ignore the Committee with impunity.

¹¹ Letter from Rep. Elijah E. Cummings, Ranking Member, House Committee on Oversight and Government Reform, and Senator Tom A. Coburn, M.D., Ranking Member, Senate Committee on Homeland Security and Governmental Affairs, to the Honorable Jeh Johnson, Secretary, Department of Homeland Security (July 17, 2014) (online at <http://democrats.oversight.house.gov/press-releases/cummings-and-coburn-send-bipartisan-inquiry-on-new-contract-to-usis-after-billiondollar-fraud-suit/>).

¹² 48 C.F.R. § 9.104-1.

¹³ *About the DUNS Number*, Dun & Bradstreet (accessed Sept. 14, 2014) (online at <http://fedgov.dnb.com/webform/pages/dunsnumber.jsp>).

The Honorable Darrell E. Issa
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For all of these reasons, I respectfully request that you issue a subpoena to require Mr. Phillips to submit to a deposition with Committee staff. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in blue ink that reads "Elijah E. Cummings". The signature is stylized with a large, bold "E" and a long, sweeping underline that extends to the right.

Elijah E. Cummings
Ranking Member