

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074

MINORITY (202) 225-5051

<http://oversight.house.gov>

May 25, 2016

The Honorable Loretta Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Madam Attorney General:

I understand that the Chairman of our Committee, Rep. Jason Chaffetz, sent you a copy of his unofficial Republican staff report on Cover Oregon today and referred the matter to your office “for criminal investigation and prosecution.”¹

I am writing today to provide a copy of our Democratic staff report and to provide some additional context. Based on the evidence obtained by the Committee, our report makes the following findings:

- (1) Oregon’s contractor, the Oracle Corporation, was primarily and directly responsible for the failure of the state’s health insurance exchange website.
- (2) Oracle failed to deliver a fully functioning website by the October 1, 2013, deadline, or any time thereafter.
- (3) Oracle misled state officials by repeatedly assuring them its work was on track and on schedule when in fact it was riddled with errors.
- (4) Oracle’s own officials conceded internally that their work was embarrassingly deficient.
- (5) Independent experts concluded that Oracle’s work was so deficient that the State should consider withholding payment.
- (6) The decision to finally abandon Oracle’s website was based on the fact that it was less expensive and less risky to switch to the federal technology than to repair Oracle’s defective technology.

¹ Letter from Chairman Jason Chaffetz, House Committee on Oversight and Government Reform, to the Honorable Loretta Lynch, Attorney General, Department of Justice (May 25, 2016).

The Republican staff report attempts to shift blame for Oracle's massive failures onto the state and federal governments. However, their report ignores basic facts, disregards Oracle's numerous failures, and downplays or entirely omits key evidence that contradicts their narrative.

For example, the Republican staff report inexplicably disregards repeated admissions from Oracle's own officials conceding that their work failed the "laugh test" and was "so screwed up" that they were "at a loss as to how they could design such a system." It also disregards internal documents in which Oracle officials stated that they were "rapoing [sic] the state [o]f Oregon on something that will never work well," that they should be "publicly flogged for delivering the project to such a tragic status," and that their "blood is boiling thinking of all the irresponsible fools who brought this project to this messy state."

Instead, the Republican staff report attempts to argue that the State's decision to finally abandon Oracle's website was orchestrated by Governor John Kitzhaber's advisers for political reasons rather than to save tens of millions of dollars from being spent in an attempt to address the systemic and profound deficiencies throughout Oracle's website. However, the Republican staff report disregards yet another key fact: every single witness interviewed by the Committee rejected this specious theory.

During the course of the Committee's investigation, Republicans focused primarily on investigating the actions of Oregon officials rather than those of Oracle employees. The Committee obtained approximately 115,000 pages of documents from the state of Oregon, more than 53,000 pages from the former Governor's Chief of Staff, and almost 3,000 pages from the former Governor himself.

In contrast, Oracle produced only 3,200 pages of documents to the Committee.

Similarly, the Committee conducted five depositions and transcribed interviews of officials from the state of Oregon:

- (1) Chief of Staff Michael Bonetto;
- (2) Healthcare Policy Advisor Sean Kolmer;
- (3) Cover Oregon Interim Executive Director Dr. Bruce Goldberg;
- (4) Cover Oregon Interim Chief Information Officer Alex Pettit; and
- (5) Communications Strategist Patricia McCaig.

Remarkably, the Committee never conducted a single deposition or transcribed interview with any Oracle employee or official.

Unfortunately, Committee Chairman Jason Chaffetz chose to issue his report as an unofficial staff report rather than as an official report of the Committee. This decision has significant ramifications. Official Committee reports are governed by House and Committee rules designed to promote accuracy and completeness, while unofficial staff reports are not. For example, unofficial staff reports are not required to be considered, debated, voted on, or approved by the Committee. They are not subject to amendment, and they are not required to include minority or additional views.

For these reasons, I wrote to the Chairman on May 20, 2016, requesting that he consider issuing an official report of the Committee instead. I warned of "several key omissions and inaccuracies in the draft staff report," and I explained that the process of vetting and adopting an official Committee report would "ensure that the public has a more complete and accurate understanding of the issues the Committee has been investigating."² I am enclosing a copy of that letter for your review.

Unfortunately, the Chairman declined to accept this proposal. Instead, he decided to release his unofficial and flawed Republican staff report without review by other Members of the Committee or the official imprimatur of the Committee.

Thank you for your attention to this important matter. Please contact Committee staff at (202) 225-5051 with any questions about this letter, or any of the Committee's findings with respect to Cover Oregon.

Sincerely,



Elijah E. Cummings
Ranking Member

Enclosure

cc: The Honorable Jason Chaffetz, Chairman
Committee on Oversight and Government Reform

Elliot S. Berke, Berke Farah LLP

² Letter from Ranking Member Elijah E. Cummings to Chairman Jason Chaffetz, House Committee on Oversight and Government Reform (May 20, 2016).