

DARRELL E. ISSA, CALIFORNIA
CHAIRMAN

ONE HUNDRED THIRTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

JOHN L. MICA, FLORIDA
MICHAEL R. TURNER, OHIO
JOHN J. DUNCAN, JR., TENNESSEE
PATRICK T. McHENRY, NORTH CAROLINA
JIM JORDAN, OHIO
JASON CHAFFETZ, UTAH
TIM WALBERG, MICHIGAN
JAMES LANKFORD, OKLAHOMA
JUSTIN AMASH, MICHIGAN
PAUL A. GOSAR, ARIZONA
PATRICK MEEHAN, PENNSYLVANIA
SCOTT DESJARLAIS, TENNESSEE
TREY GOWDY, SOUTH CAROLINA
BLAKE FARENTHOLD, TEXAS
DOC HASTINGS, WASHINGTON
CYNTHIA M. LUMMIS, WYOMING
ROB WOODALL, GEORGIA
THOMAS MASSIE, KENTUCKY
DOUG COLLINS, GEORGIA
MARK MEADOWS, NORTH CAROLINA
KERRY L. BENTIVOLIO, MICHIGAN
RON DeSANTIS, FLORIDA

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
FACSIMILE (202) 225-3974
MINORITY (202) 225-5051
<http://oversight.house.gov>

CAROLYN B. MALONEY, NEW YORK
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
JOHN F. TIERNEY, MASSACHUSETTS
WM. LACY CLAY, MISSOURI
STEPHEN F. LYNCH, MASSACHUSETTS
JIM COOPER, TENNESSEE
GERALD E. CONNOLLY, VIRGINIA
JACKIE SPEIER, CALIFORNIA
MATTHEW A. CARTWRIGHT, PENNSYLVANIA
MARK POCAN, WISCONSIN
L. TAMMY DUCKWORTH, ILLINOIS
ROBIN L. KELLY, ILLINOIS
DANNY K. DAVIS, ILLINOIS
PETER WELCH, VERMONT
TONY CARDENAS, CALIFORNIA
STEVEN A. HORSFORD, NEVADA
MICHELLE LUJAN GRISHAM, NEW MEXICO

LAWRENCE J. BRADY
STAFF DIRECTOR

November 8, 2013

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

Dear Mr. Chairman:

Yesterday, you went on national television and made extremely serious allegations against U.S. Chief Technology Officer Todd Park and White House Press Secretary Jay Carney, essentially accusing them of lying to the American people about the Healthcare.gov website. You then used these alleged falsehoods to justify your threat to subpoena Mr. Park to force him to appear before the Committee next week to answer your allegations. Based on information obtained by the Committee a full week ago, however, it appears that your attacks against Mr. Park and Mr. Carney are unfounded and that your statements yesterday either misunderstood or mischaracterized the information the Committee obtained. In either case, I believe it is important to correct the public record, and I request that you apologize to these officials for the unsubstantiated accusations against them.

Unfounded Accusations Against Mr. Park and Mr. Carney

Yesterday, you launched a public attack against Mr. Park and Mr. Carney, accusing them of intentionally making false statements about the number of users that were anticipated for the Healthcare.gov website.

You issued a press release with the highly inflammatory and misleading headline, "ACA Testing Bulletin: HealthCare.gov Could Only Handle 1,100 Users Day Before Launch."¹ As evidence for your claim, you released a single document prepared by Quality Software Services, Inc. that "lists the testing status and results for various parts of the Federally Facilitated Marketplace (FFM)." You quoted from this document the following statement about a "stress test" conducted on only one testing environment:

¹ Chairman Darrell E. Issa, House Committee on Oversight and Government Reform, *Press Release: ACA Testing Bulletin: HealthCare.gov Could Only Handle 1,100 Users Day Before Launch* (Nov. 7, 2013) (online at <http://oversight.house.gov/release/aca-testing-bulletin-healthcare-gov-handle-1100-users-day-launch/>).

Ran performance testing overnight in IMP1B environment. Working with CGI to tune the FFM environment to be able to handle maximum load. Currently we are able to reach 1100 users before response time gets too high. CGI is making changes to configuration.²

Based on this text, you jumped to the conclusion that the day before the website launch, the full system was able to handle only 1,100 users, and your allegation was repeated by multiple press outlets.³ You then argued that this document contradicts previous statements by Mr. Park and Mr. Carney. For example, you cited a statement made by Mr. Park on October 6, 2013, in which he explained that officials planned for HealthCare.gov to draw approximately 60,000 simultaneous users.

After issuing your press release, you went on national television and accused Mr. Park and Mr. Carney of misleading the American people. During an interview with Fox News, you made the following accusations:

Jay Carney is paid to say things that aren't so. But in this case, Todd Park and other people who knew the facts, who had to know the facts. And the facts were from documents we received from lead contractors that they slowed down to an unacceptable level at 1,100 users. Well, in fact, Todd Park was telling us that at 60,000 was the target, and at 250,000 they just couldn't handle it. The truth was their goal wasn't, according to documents, wasn't even 60,000. Their goal was 10,000. They reached 1,100.⁴

You then used these alleged falsehoods to demand that Mr. Park appear before the Committee at a hearing next Wednesday to answer your accusations. During the same Fox interview, you attempted to justify your demand by stating:

We're going to have Todd Park and a number of other political appointees who were part of this pattern of interference and false statements related to this site. And we are going to try to get to the bottom of why politics went ahead of best practices and good technology. Something the American people expect, that didn't happen in this case. And

² Quality Software Services, Inc., *ACA Daily Testing Bulletin* (undated) (online at <http://oversight.house.gov/wp-content/uploads/2013/11/QSSI-ACA-Redacted-Docs-Updated.pdf>).

³ See, e.g., *ObamaCare Website Could Only Handle 1,100 Users a Day Before Launch, Docs Show*, Fox News (Nov. 7, 2013) (online at www.foxnews.com/politics/2013/11/07/obamacare-website-could-only-handle-1100-users-day-before-launch-docs-show/); *Documents Reveal Obamacare Website Couldn't Handle More Than 1,100 Users Day Before Launch*, CBS News (Nov. 7, 2013) (online at <http://washington.cbslocal.com/2013/11/07/documents-reveal-obamacare-website-couldnt-handle-more-than-1100-users-day-before-launch/>).

⁴ *The Real Story*, Fox News (Nov. 7, 2013) (online at <http://video.foxnews.com/v/2816698439001/issa-obamacare-site-was-a-failure-that-they-knew-about/>).

it's the tip of iceberg, that we're worried about, is if they are willing to put politics into a website, what will they put into your health care?⁵

You also sent a letter to Mr. Park warning that you would issue a subpoena compelling his presence if he does not submit to your demand voluntarily.⁶ Your letter completely ignored a previous offer for Mr. Park to brief the Committee in the next several weeks and testify in early December so he would not be pulled away from his current work on improving the Healthcare.gov website during this critical time.⁷

Information Obtained by the Committee Contradicts Accusations

Based on information obtained by the Committee, it appears that you fundamentally misunderstood or mischaracterized the document you released to the press yesterday and that your accusations against Mr. Park and Mr. Carney are wholly unfounded. You appear to be conflating the results of a much smaller testing environment with final production testing of the system at full capacity. As the document you released states, the 1,100 user figure was conducted for the "IMP1B environment," a testing environment that was only a sample size rather than the full FFM production environment.

The estimates for the full FFM website environment were considerably higher. We know this from the transcribed interview of Henry Chao, the Deputy Chief Information Officer at the Centers for Medicare and Medicaid Services, which Committee staff conducted on November 1, 2013. During his interview, Mr. Chao explained—in response to detailed questioning from your staff—that officials estimated that up to 58,000 virtual users could get through the full FFM production website application, which is almost precisely the figure cited by Mr. Park.

For example, your staff had this exchange with Mr. Chao:

Q: On July 19th, 2 days after the committee's hearing in which you testified, you provided a briefing for the committee. Do you recall this?

A: Yes.

Q: At the briefing, you told committee staff that the system was designed to handle 50,000 concurrent users. Is it accurate that the system was designed to handle 50,000 concurrent users?

A: For the FFM, it is. I'm not trying to—

⁵ *Id.*

⁶ Letter from Chairman Darrell E. Issa, Chairman, House Committee on Oversight and Government Reform, to Todd Park, U.S. Chief Technology Officer (Nov. 7, 2013).

⁷ Letter from Donna M. Pignatelli, Assistant Director for Legislative Affairs, Office of Science and Technology Policy, to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (Nov. 6, 2013).

Q: When you say “FFM,” you mean?

A: The marketplace, the online application.⁸

Mr. Chao also addressed how the results of “stress tests” were used to extrapolate to the full FFM production system:

Q: Prior to October 1st, did CMS conduct any stress tests for HealthCare.gov?

A: Yes. “Stress test” is actually sometimes used synonymously with “performance testing.” Because in performance testing, you introduce number of virtual users, right? Two hundred, 500, 1,000. You know, you’re trying to introduce as many as you can handle in the performance testing environment to see where the breakpoint is. And then, once you achieve that breakpoint, then you extrapolate, you know, from that how many concurrent users, how many concurrent sessions. Because you don’t have a performance testing environment that equals 100 percent the production environment.⁹

Finally, your staff asked repeatedly how many users were expected to get through the full FFM production environment based on the testing conducted:

Q: So how many concurrent users—what’s the maximum number of concurrent users that the system could handle in a test prior to the October 1st launch?

A: The extrapolated figure that we came up with—because in the last remaining weeks, we threw some additional resources of capacity. The test was somewhere around—it was somewhere between 48,000 and 58,000, what we call, virtual users. They’re not real live people in there. They’re accounts that are set up, you know, doing different things in the system. ...

Q: And you said that 48,000 to 58,000 virtual users could get through the allocation—

A: Inside the FFM application, the online application for enrollment.¹⁰

⁸ House Committee on Oversight and Government Reform, Transcribed Interview of Henry Chao, Deputy Chief Information Officer, Centers for Medicare and Medicaid Services (Nov. 1, 2013).

⁹ *Id.*

¹⁰ *Id.*

Conclusion

This is not the first time you have accused a White House official of being a “paid liar,” a practice that several of your Republican colleagues have condemned.¹¹ Given that your staff participated in Mr. Chao’s transcribed interview last week—before you issued your press release and conducted your television interview—it is unclear why you did not disclose the information Mr. Chao provided, but instead chose to accuse Mr. Park and Mr. Carney of misleading the American people.

It is evident that the testing conducted for Healthcare.gov was inadequate, particularly considering the very high demand experienced in the first days after the website became operational, and I believe Congress can play a key role in conducting responsible oversight to ensure that millions of Americans obtain the health insurance coverage they deserve. But it is reckless and highly irresponsible to make unsubstantiated public allegations by taking information out of context, especially when the Committee has information in its possession that directly contradicts these unfounded allegations.

Rather than rush to issue a subpoena to Mr. Park based on these unsubstantiated allegations, which could impair efforts to improve the website, I propose that we accept the offer to receive a briefing from Mr. Park this month and that we schedule an additional hearing in December to obtain his full testimony. I sincerely hope that we can proceed in a thoughtful and bipartisan manner as we continue to review this issue.

Sincerely,



Elijah E. Cummings
Ranking Member

¹¹ See, e.g., *GOP Members Ding Issa for Carney “Liar” Comment*, USA Today (June 4, 2013) (online at www.usatoday.com/story/theoval/2013/06/04/obama-issa-carney-mccain-graham/2387465/).