

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
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October 31, 2017

The Honorable John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Koskinen:

The Committee on Homeland Security and Governmental Affairs is examining the Internal Revenue Service's (IRS) contracts for third party data services. On September 7, 2017, Equifax announced that it suffered a major data breach potentially exposing personal information of 145.5 million U.S. consumers.¹ At the time, the IRS had a contract with Equifax for taxpayer identification and verification services, and on September 29, 2017, the IRS awarded a new \$7.25 million, no-bid contract to Equifax to continue providing these services.²

On September 7, Equifax publically disclosed that its data systems experienced a cyberattack affecting millions of people in the U.S.³ According to Equifax, "information accessed primarily includes names, Social Security numbers, birth dates, addresses and, in some instances, driver's license [and credit card numbers]."⁴ On March 8, the United States Computer Emergency Readiness Team (US-CERT) issued a broad alert about a vulnerability in certain versions of software used by many businesses, including Equifax.⁵ However, it appears Equifax personnel did not fix the problem.⁶ On October 3, 2017, Equifax's former CEO testified that the

¹ Press Release, Equifax, Equifax Announces Cybersecurity Firm Has Concluded Forensic Investigation of Cybersecurity Incident (Oct. 2, 2017), <https://investor.equifax.com/news-and-events/news/2017/10-02-2017-213238821>.

² The contract award dollar amount is \$7,251,968.00; *Transaction Support for Identity Management*, FEDERAL BUSINESS OPPORTUNITIES (Sept. 30, 2017) https://www.fbo.gov/index?s=opportunity&mode=form&id=ea6f7d2c319f384e03e24ba0bdfad389&tab=core&_cview=0.

³ Press Release, Equifax, Equifax Announces Cybersecurity Incident Involving Consumer Information (Sept. 7, 2017), <https://investor.equifax.com/news-and-events/news/2017/09-07-2017-213000628>.

⁴ *Id.*

⁵ Press Release, Equifax, Equifax Releases Details on Cybersecurity Incident, Announces Personnel Changes (Sept. 15, 2017) <https://investor.equifax.com/news-and-events/news/2017/09-15-2017-224018832>; *Briefing by Equifax for Committee Staff Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2017); House of Representatives Committee on Energy and Commerce, Subcommittee on Digital Commerce and Consumer Protection, *Hearing on Oversight of the Equifax Data Breach: Answers for Consumers*, 115th Cong. (Oct. 3, 2017).

⁶ *Oversight of the Equifax Data Breach: Answers for Consumers Before the Subcomm. on Digital Commerce and Consumer Protection of the H. Comm. on Energy and Commerce*, 115th Cong. 3 (2017) (statement of Richard S. Smith, former CEO of Equifax, Inc.).

company now knows “that it was this unpatched vulnerability that allowed hackers to access personal identifying information.”⁷

The IRS informed the Committee that it was not notified of the breach prior to Equifax’s public announcement on September 7.⁸ Following the announcement, the IRS conducted an on-site assessment and determined that its data was not compromised.⁹ However, the IRS did identify additional high-risk vulnerabilities related to Equifax’s data security.¹⁰ In light of these vulnerabilities, on October 12, 2017, the IRS announced its decision to temporarily suspend its contract with Equifax while continuing its review of Equifax systems and security.¹¹ As a result, people who use the Equifax-provided online services—approximately 400,000 taxpayers each month—will be unable to set up new accounts to obtain important tax information.¹² The IRS estimates that it could be up to three months to implement its new contract with Experian, which will fulfill similar services that Equifax offered.¹³

Given the extent of the data breach and potential vulnerabilities within Equifax’s systems, we have concerns about the security of taxpayer information that may have been shared with Equifax as part of this contract. To assist the Committee in conducting oversight of this issue, we request that you produce the following materials:

- a. The February 2017 notice regarding the IRS’s intent to award contract(s) related to third party data services;
- b. The June 2017 solicitation issued by the IRS for third party data services (Solicitation Number TIRNO-17-Q-00047);
- c. The contract between the IRS and Equifax that expired on September 29, 2017 (“original Equifax contract”);
- d. The contract awarded to Equifax on September 29, 2017 (Contract Award Number TIRNO-17-K-00497), including any responsibility determination, plans for performance monitoring, Equifax’s final proposal – both technical and cost – which led to the award, and any memoranda documenting justification of award, any trade-offs, and negotiations with Equifax;
- e. The IRS’s periodic security reviews of Equifax’s systems including when those reviews occurred and the results of the reviews;

⁷ *Id.*

⁸ IRS briefing with Committee staff (Oct. 17, 2017).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Email from IRS Legislative Affairs to Homeland Security and Governmental Affairs Committee Staff (Oct. 12, 2017).

¹² IRS briefing with Committee staff (Oct. 17, 2017); Steven Overly, *GAO denies Equifax dispute of IRS contract*, POLITICO (Oct. 16, 2017) <http://www.politico.com/story/2017/10/16/gao-equifax-irs-contract-243824>.

¹³ *Id.*

- f. The results of the IRS's on-sight assessments of Equifax's data systems following the September 7 announcement of the security breach; and
- g. The contract issued to Experian following the October 16, 2017 Government Accountability Office decision denying Equifax's bid protest.¹⁴

Please provide these materials as soon as possible but no later than 5:00 p.m. on November 21, 2017.

Upon receipt of these materials, we ask that you arrange for a staff-level briefing on the IRS's contract with Equifax. In the briefing, IRS officials should be prepared to discuss the following:

1. The provisions of the Equifax and Experian contracts that require either company to notify the IRS in the event of a data breach;
2. The type of IRS data that was apparently stored at Equifax in violation of the contract;¹⁵
3. The current status of the IRS's Secure Access program under the contract with Experian, including whether a security review has been completed and whether any significant vulnerabilities were identified; and
4. Steps the IRS is taking to ensure that taxpayers who cannot use the online service because of the suspension of the Equifax bridge contract will receive timely service including surging staff at certain facilities to accommodate increased demand.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and effectiveness of all agencies and departments of the Government."¹⁶ Additionally, S. Res. 62 (115th Congress) authorizes the Committee to examine "the efficiency and economy of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices"¹⁷

When delivering production sets, please produce to Majority staff in room 340 of the Dirksen Senate Office Building and to Minority staff in room 442 of the Hart Senate Office Building. If you have any questions regarding this letter, please ask your staff to contact Scott

¹⁴ *Id.*

¹⁵ IRS briefing with Committee staff (Oct. 17, 2017); The IRS indicated that during its on-site security review, it discovered that Equifax had been storing IRS data in violation of the terms of the original contract.

¹⁶ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

¹⁷ S. Res. 62, § 12, 115th Cong. (2017).

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Wittmann of the Committee's Majority staff at (202) 224-4751 or Julie Klein with the Committee's Minority staff at (202) 224-2627. Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Chairman



Claire McCaskill
Ranking Member