



CONGRESSIONAL HISPANIC CAUCUS

Joaquin Castro | Chairman

116TH CONGRESS

June 25, 2020

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Dear Secretary Azar,

The Congressional Hispanic Caucus (CHC) respectfully writes regarding recent contracts between the U.S. Department of Health and Human Services (HHS), Palantir Technologies (Palantir), and other technology firms employed for the development of the ‘HHS Protect’ platform, which reportedly aggregates data from various sources, including the federal government, state and local governments, hospitals, and the private sector.¹

The CHC is very supportive of a data-driven approach, especially given the fragmented data now available on how the coronavirus disease 2019 (COVID-19) pandemic is disproportionately impacting Latinos and communities of color. However, we are very concerned about the use of this health data for purposes beyond the preservation of public health. Under this Administration, HHS has permitted Immigration and Customs Enforcement (ICE) to access confidential data collected by the HHS Office of Refugee Resettlement (ORR), which in turn facilitated ICE to arrest hundreds of immigrants amid family reunification efforts.²

We understand that at least six different technology companies, including Palantir, Amazon and Oracle have contracts with HHS for the development and application of HHS Protect. HHS should immediately make the contracts between Palantir, Amazon, Oracle and that of all other technology companies pertaining to the HHS Protect platform publicly available. In addition, HHS should outline the specific data elements collected under the system and the form in which these elements are provided to the HHS Protect platform, how long that data is to be collected and how long collected data will be retained, how this data will be used and if there are any use limitations, with whom this data will be shared and if there are any disclosure limitations, who will control and have

¹ Michael Kleinman and Charanya Krishnaswami, *Why are we trusting a company with ties to ICE and intelligence agencies to collect our health information?* May 21, 2020

<https://www.washingtonpost.com/opinions/2020/05/21/why-are-we-trusting-company-with-ties-ice-intelligence-agencies-collect-our-health-information/> (last accessed June 1, 2020).

² Id.

access to the data, and how the data is protected and stored to ensure it is not misused, especially against immigrants and communities of color.

Palantir technology has played a key role in extreme anti-immigration efforts led by the Trump Administration, including the systemic tracking and arrest of unaccompanied children's parents and relatives³ and the massive collection of personal data to arrest and prosecute undocumented immigrants.⁴ In fact, Palantir has a multi-million dollar contract with ICE to help with the collection and analysis of data to refine the agency's efforts to target and prosecute undocumented immigrants.⁵ Recently, ICE has relied on Palantir technology to arrest more than 400 parents and caregivers of unaccompanied migrant children and power the largest immigration raid in a decade in Mississippi, which resulted in the arrest of nearly 700 undocumented workers.⁶ Now, the White House has asked Palantir—whose founder Peter Thiel is a major financial supporter of President Donald Trump—to build out a massive data collection platform.⁷ Naturally, we have valid concerns on whether the existing surveillance framework Palantir has created to track and arrest immigrants will be supplemented by the troves of potentially personal health information contained within the HHS Protect platform. The public does not know what safeguards HHS has put in place to protect their data and HHS has failed to share, among other items, what data goes into the system, how it can be used, or with whom it can be shared.

HHS awarded two contracts totaling \$24.9 million to Palantir in April without competition citing the “unusual and compelling urgency” of COVID-19 recovery, which helped stand up HHS Protect.⁸ On March 29, Vice President Mike Pence, who chairs the White House Coronavirus Task Force, asked nearly 5,000 hospitals to report COVID-19 testing information to the Federal Emergency Management Agency, a subset of the Department of Homeland Security (DHS), which would reportedly feed the data into HHS Protect.⁹ According to press reports, HHS Protect currently comprises more than 200 datasets, including reporting from nearly three-quarters of the approximately 8,000 hospitals, according to HHS.¹⁰ However, due to limited government transparency, it is unclear how accurate or helpful HHS Protect has been to COVID-19 recovery

³ Id.

⁴ *Palantir Played Key Role in Arresting Families for Deportation, Document Shows* May 2, 2019 <https://mijente.net/2019/05/palantir-arresting-families/> (last accessed June 1, 2020).

⁵ Id.

⁶ Michael Kleinman and Charanya Krishnaswami, *Why are we trusting a company with ties to ICE and intelligence agencies to collect our health information?* May 21, 2020 <https://www.washingtonpost.com/opinions/2020/05/21/why-are-we-trusting-company-with-ties-ice-intelligence-agencies-collect-our-health-information/> (last accessed June 1, 2020).

⁷ Frank Bajak and the Associated Press, *Faxes and email: Old technology slows COVID-19 response* May 17, 2020 <https://fortune.com/2020/05/17/old-technology-slows-covid-19-response/> (last accessed June 1, 2020).

⁸ David Nyczepir, *HHS cites coronavirus 'urgency' in speedy Palantir contract award* May 8, 2020 <https://www.fedscoop.com/hha-covid-funds-palantir/> (last accessed Jun 2, 2020).

⁹ Frank Bajak, *How faxes and email are slowing the U.S. COVID-19 response* May 13, 2020 <https://apnews.com/2176771ec102c4352c5b85dbbaf3dd> (last accessed June 2, 2020).

¹⁰ Frank Bajak and the Associated Press, *Faxes and email: Old technology slows COVID-19 response* May 17, 2020 <https://fortune.com/2020/05/17/old-technology-slows-covid-19-response/> (last accessed June 1, 2020).

efforts.¹¹ The CHC echoes advocates' position that neither the government nor private companies should receive unlimited authorization for unlawful or disproportionate surveillance and that data gathered should be strictly limited to that necessary to respond to the pandemic.¹² Collection of health data should be justified by identified and legitimate health needs and limited to information necessary to adequately respond to the public health crisis.¹³ Furthermore, HHS Protect should be completely transparent, and the system should last only as long as needed to advance response efforts to the pandemic.

The Congressional Hispanic Caucus urgently requests that HHS provide to Congress and make public the contracts with Palantir, Amazon, Oracle, and that of all other technology companies pertaining to the development of HHS Protect. We also respectfully request the answers to the following questions:

1. What categories of information will be integrated into HHS Protect and in what form (e.g. identifiable, anonymized, deidentified, or aggregated) will this data be provided? Which of these categories include personal health information that is linked or linkable to individuals?
2. Please provide a list of the data sources that submit data to HHS Protect. For each data source, please indicate the type of data provided by that source.
3. Is HHS paying for any of the data being collected? Is any data coming from private data brokers? If so, please provide copies of those contracts.
4. Is HHS gathering information from medical electronic health records (EHR) vendors? If so, is this information anonymized, or does it include personal health information that is linked or linkable to individuals?
5. How long is data collection pursuant to HHS Protect scheduled to continue? How long will data collected under this initiative be retained? Is there a plan for deletion of the data after some time period or when it is no longer being used?
6. Who has control over the data in the HHS Protect platform?
7. Please indicate which federal agencies and sub-agencies will have access to the data held in the HHS Protect platform, as well as any private companies or other entities that will have access to this data. Please also indicate the form in which this information will be made available to entities
8. Please disclose which companies are involved with HHS Protect and the role its technology plays in the platform.
9. What role does Palantir and its technology play in the HHS Protect platform? For example, is Palantir's technology primarily used to collect and store information or does its technology also analyze data collected by the HHS Protect platform?
10. How is the data protected and stored? What safeguards has HHS implemented or required other entities to implement to protect this data?

¹¹ Id.

¹² Michael Kleinman and Charanya Krishnaswami, *Why are we trusting a company with ties to ICE and intelligence agencies to collect our health information?* May 21, 2020 <https://www.washingtonpost.com/opinions/2020/05/21/why-are-we-trusting-company-with-ties-ice-intelligence-agencies-collect-our-health-information/> (last accessed June 1, 2020).

¹³ Id.

11. Will individuals have the opportunity to opt out of having their data integrated into the HHS Protect platform?
12. Who will the information be shared with, and are there any disclosure limitations in place?
13. How will data collected in the HHS Protect platform be used? If different, please indicate how each of the various entities with access to the data are using or plan to use the data collected in HHS Protect.
14. What are the limitations on how this data can be used, including for government and private sector use? Can this data be used outside of COVID-19 response efforts, and if so, how?
15. Will data collected by the HHS Protect platform be available to ICE? Will the data in the HHS Protect platform be used to supplement data collected by other Palantir platforms that are used or will be used by the U.S. federal government? Will the data in the HHS Protect platform be used to supplement data collected by other technology platforms that are used or will be used by the U.S. federal government? Please provide copies of any information-sharing agreements pertaining to HHS data collected by the HHS Protect platform with other agencies or sub-agencies.
 - a. If the answer is no, can HHS provide an overview of the measures in place to guarantee that this data is not available to ICE or other federal law enforcement agencies?
16. In 2018, the Office of Refugee and Resettlement signed a Memorandum of Agreement with ICE and Customs and Border Protection with respect to information sharing between the agencies. Are there any similar and/or more recent Memorandum of Agreements between HHS and DHS with respect to sharing COVID-19 related data? If so, please provide copies of those Memorandum of Agreements.

If you have any questions, please reach out to Congressional Hispanic Caucus Executive Director, Alma Acosta at alma.acosta@mail.house.gov.

Sincerely,

Joaquin Castro CHC Chair	Ruben Gallego CHC First Vice Chair	Nanette Diaz Barragán CHC Second Vice Chair
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