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2 ALDERSON REPORTING

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6 COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

7 U.S. HOUSE OF REPRESENTATIVES

8 WASHINGTON, D.C.

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13 INTERVIEW OF: ALEX PETTIT

14

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16 WEDNESDAY, APRIL 13, 2016

17 WASHINGTON, D.C.

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20 The interview in the above matter was held in

21 Room 2247, Rayburn House Office Building, commencing at

22 10:02 a.m.

23 APPEARANCES:

24

25 For the Committee on Oversight and Government Reform:

26

27 [REDACTED]

28 [REDACTED]

29 [REDACTED]

30 [REDACTED]

31

32 For the Witness:

33

34 [REDACTED] ESQ.

35 [REDACTED]

36 [REDACTED]

37 [REDACTED]

38 [REDACTED]

39 [REDACTED]

## 40 E X H I B I T S

41	Exhibit No.	Description	Page
42	1	- December 6, 2013 E-mail from Suzanne	
43		Hoffman	23
44	2	- March 14, 2014 E-mail from Laura Hutchings	43
45	3	- Complainant	78
46	4	- May 28, 2014 E-mail from Alex Pettit	81
47	5	- March 18, 2014 E-mail from Joli Whitney	109
48	6	- March 20, 2014 E-mail from Laura Hutchings	112
49	7	- DAS Cover Oregon Final Report, May 8, 2014	132
50	8	- April 26, 2014 E-mail from Sarah Miller	139
51	9	- April 30, 2014 E-mail from Mike Bonetto	141
52	10	- Maximus Monthly Quality Status Report	152
53	11	- Policy Alternative Assessment Preliminary	
54		Report	158
55	12	- March 24, 2014 E-mail from Bruce Goldberg	193
56	13	- April 2, 2014 E-mail from Mike Bonetto to	
57		Tim Raphael	202
58	14	- April 2, 2014 E-mail from Mike Bonetto to	
59		Patricia McCaig	205
60	15	- April 3, 2014 E-mail from Tim Raphael	212
61	16	- April 7, 2014 E-mail from Patricia McCaig	218
62	17	- April 8, 2014 E-mail from Sean Kolmer	224
63	18	- April 25, 2014 Meeting Minutes	243
64	19	- April 25, 2014 Post Board Meeting Q&A	246

65	EXHIBIT NO.	DESCRIPTION	PAGE
66	20 - April 17,	2014 E-mail from Mike Bonetto	250
67	21 - May 15,	2014 E-mail from Gretchen Peterson	260
68	22 - May 22,	2014 E-mail from Alex Pettit	266

69 P R O C E E D I N G S

70 [REDACTED]: Good morning, this is the  
71 transcribed interview for the Committee's Cover Oregon  
72 Investigation.

73 Chairman Chaffetz has requested this interview  
74 and we'll just get things kicked off.

75 Will the witness please state your name for  
76 the record.

77 THE WITNESS: My name is Alex Pettit. I'm the  
78 chief information officer for the State of Oregon.

79 [REDACTED]: My name is [REDACTED]. I'm  
80 with the majority staff, and we'll go around the room,  
81 and we'll have your lawyer announce himself on the  
82 record too.

[REDACTED]: And I'm [REDACTED]. [REDACTED]

[REDACTED]  
85 [REDACTED]

86 [REDACTED] [REDACTED] with Chairman  
87 Chaffetz's staff.

88 [REDACTED] [REDACTED] for the  
89 minority.

90 [REDACTED] [REDACTED] for the  
91 minority.

92 [REDACTED] [REDACTED] counsel for the  
93 witness [REDACTED].

94           ██████████ On behalf of the chairman, I want  
95 to thank you for being here and participating in this  
96 voluntary interview.

97           With the court reporter, it is a formal  
98 process, and to the extent we can offer you any  
99 courtesies, such as breaks to get water, lunch, confer  
100 with your lawyer, please let us know. We do want to try  
101 to extend courtesies where possible.

102           Today, the Federal Rules of Civil Procedure  
103 aren't in effect, and so, you know, I'm going to go over  
104 some of the process for the interview now, and if you  
105 have any questions, please stop and we can sort that  
106 out.

107           Our questioning will proceed in rounds.  
108 The majority will ask questions for an hour and then the  
109 minority will have their hour. Sometimes witnesses  
110 would like to take a break during that. We actually  
111 swap around for the purposes of the court reporter. You  
112 don't have to go anywhere.

113           And because we are using a stenographer here  
114 today, we have to be careful and cautious with our  
115 words. We usually have to try to slow ourselves down  
116 and speak loudly enough and aim to not speak over you.

117           So there may be instances where ██████████ or  
118 ██████████ or the minority staff have to back up, ask the

119 question again for purposes of the record.

120           As I mentioned, we encourage witnesses to  
121 freely consult with counsel. So if you need a moment,  
122 please flag that and you can have that time.

123           We want you to answer our questions in the  
124 most complete and truthful manner possible. If you have  
125 any questions, if you don't understand our question,  
126 please let us know. To the extent you have a  
127 recollection, but not a complete recollection, it's okay  
128 to tell us what you do remember. If you have  
129 information that came from other people, you know,  
130 hearsay and the legalese, that's okay. Just tell us,  
131 you know, the basis of your information.

132           If you honestly don't know the answer to a  
133 question, it's definitely best to not guess. Just give  
134 us your best recollection and we'll go from there.

135           You should understand we walk all witnesses  
136 through this, that although this interview is not under  
137 oath, you are required to answer questions before  
138 Congress and congressional staff truthfully. Do you  
139 understand that?

140           THE WITNESS: Yes, sir, I do.

141           ██████████ Is there any reason you would  
142 unable to do that?

143           THE WITNESS: No, sir.

144 [REDACTED] And along those lines, witnesses  
145 that knowingly provide false testimony could be subject  
146 to criminal prosecution for perjury or making false  
147 statements. We tell all our witnesses that. So do you  
148 understand that as well?

149 THE WITNESS: I do understand that.

150 [REDACTED] And, finally, I would like to  
151 note that the content of what we're discussing here is  
152 confidential. So to the extent you come into contact  
153 with other similarly-situated witnesses that might be  
154 coming before the committee for an interview, we ask  
155 that you keep our Q&A confidential. That way, future  
156 witnesses don't have our roadmap questions, and that's  
157 sort of it. We thank you for your cooperation.

158 As I mentioned, I do have to step out of the  
159 room. [REDACTED] from our staff is going to lead the  
160 questions, along with [REDACTED] The time is about 10 --  
161 before I begin, does the minority have any opening  
162 remarks?

163 [REDACTED] No.

164 [REDACTED] Do you, sir, have a statement you  
165 would like to make?

166 THE WITNESS: No. Just glad to be here.

167 [REDACTED] Okay. Thank you.

168 So the time is just about 10:10 and we'll kick



169 of our hour. Thank you.

170 EXAMINATION BY THE MAJORITY STAFF

171

172 Q. Can you please describe your current  
173 occupation.

174 A. I'm the chief information officer for the  
175 State of Oregon. I lead the technology design and  
176 activities for the State. I have oversight  
177 responsibilities for all state agency's IT. I also have  
178 direct oversight responsibilities for the state data  
179 center and what we call the utility services for the  
180 state.

181 The data center provides compute,  
182 network, storage, and security services for all state  
183 agencies.

184 Q. When were you hired by the State of  
185 Oregon to be the chief information officer?

186 A. My first official day was January 6,  
187 2014.

188 Q. Before you were hired, who interviewed  
189 you?

190 A. I was interviewed by quite a few folks.  
191 Actually, there were -- as I recollect, there were three  
192 different -- no. I'm sorry. Excuse me -- four  
193 different committees or groups of folks that interviewed

194 me, folks from the IT group that I was going to oversee,  
195 people from the agency leadership, so directors and  
196 agency leaders from small agencies as well as from large  
197 agencies.

198           They were in different groups, and the chief  
199 operating officer, Michael Jordan, who was also the DAS  
200 director and members of the governor's staff that were  
201 -- that had sat in on one of the panels or another.  
202 There were quite a few of them. I don't remember them  
203 all anymore. It's been a while.

204           Q.       That's very helpful. Did anyone from  
205 Cover Oregon participate in those interviews?

206           A.       No, ma'am. They did not.

207           Q.       Did anyone from the Oregon Health  
208 Authority?

209           A.       Yes, ma'am. Carolyn Lawson had sat in on  
210 the interviews since she was one of the groups that I  
211 would be overseeing in my role as chief information  
212 officer. So she had sat in on one of them.

213           Q.       Thank you. Then who offered you the  
214 position officially?

215           A.       Michael Jordan, the chief operating  
216 officer and DAS director.

217           Q.       Who do you report to in your role?

218           A.       I'm appointed by the governor and I

219 report now directly to the governor.

220 Q. Have you always reported directly to the  
221 governor or has that changed?

222 A. That's changed in last year. House Bill  
223 3099 of 2016 changed my reporting authority to the  
224 governor.

225 2015. I'm sorry.

226 Q. Who did you use to report to back in  
227 2014?

228 A. I reported to Michael Jordan.

229 Q. What dates did you serve as the acting  
230 chief information officer of Cover Oregon?

231 A. I was the acting chief information  
232 officer from March 31, 2014 until its dissolution in  
233 June of 2015. I think that's correct.

234 Q. Have you had any other similar  
235 experiences where you served as an acting CIO of a state  
236 agency during your time in Oregon or was Cover Oregon  
237 the only time that you stepped into sort of a different  
238 role?

239 A. That was the only time in Oregon that I  
240 assumed responsibility for an agency's IT activity. So  
241 it's not a normal -- as I understand it, this is not  
242 normal, but I have been told that much of what I've  
243 experienced in Oregon isn't normal.

244 Q. What was your reaction when you were  
245 asked to serve as the acting chief information officer  
246 of Cover Oregon?

247 A. In my interview, I had specifically asked  
248 if the Cover Oregon responsibilities were under the  
249 purview or responsibility of the chief information  
250 officer for the state, and I was assured they were not.

251 Q. In your initial interviews?

252 A. Yes, ma'am. So I sought to have that  
253 clarified. Cover Oregon had been in the news and I knew  
254 Dugan Petty, who was the previous CIO for the State of  
255 Oregon, and I had wanted to make sure that that wasn't  
256 going to come my way.

257 So I had asked that if there was any possibility  
258 of that, and I was assured that there was not. So I was  
259 --

260 Q. Why did you want to make -- why were you  
261 interested in knowing whether or not that was going to  
262 fall under your jurisdiction in Oregon?

263 A. Candidly, because it was a mess already  
264 by then. So there was no secret about that. It had  
265 been be in the newspapers and whatever, and I wasn't  
266 seeking an opportunity to get into the middle of  
267 something like that.

268 So I had -- I did not wish to take that role on.

269 Q. Then who asked you to serve as acting  
270 chief information officer of Cover Oregon?

271 A. Bruce Goldberg asked me to take on the  
272 responsibility. It was the -- so directly, first, I was  
273 asked by Governor Kitzhaber to take on the  
274 responsibility.

275 Q. Kitzhaber himself or --

276 A. Kitzhaber himself. He called me on the  
277 cell phone and asked me to take the responsibility for  
278 Cover Oregon, and I said yes. I would only have said  
279 yes for his request, I'm relatively certain, but he'd  
280 asked me and I said that I would.

281 The committee, the Technology Options Workgroup,  
282 had come up with our plan with going forward with a dual  
283 trigger or dual path approach.

284 Q. We'll get into that later. Thank you.

285 A. And they had recommended to the governor  
286 that I be the one to assume responsibility for the --  
287 I'm not trying to be unresponsive, but it was a  
288 committee that recommended to the governor that I be  
289 asked, and so that's how that came about.

290 Q. So a Technology Advisory Committee?

291 A. Technology Options Workgroup. We called  
292 it the TOW Group.

293 Q. And did you -- anyone else from the

294 governor's office have any involvement in this process  
295 of transitioning to Cover Oregon as the acting chief  
296 information officer?

297 A. I don't know about involvement in it.  
298 There may have been Sean Kolmer was on the committee,  
299 the Technology Options Workgroup Committee, and that was  
300 the only other one on the committee from the governor's  
301 office.

302 Q. Did you typically consult with the  
303 governor's office on issues when you were serving as the  
304 acting chief information officer of Cover Oregon?

305 A. We had regular calls, at least weekly  
306 calls, with Mike Bonetto and Sean Kolmer, and I don't  
307 remember who all else was on the call; but, you know, we  
308 had weekly calls to say where we were, sometimes twice  
309 weekly calls.

310 It was particularly through open enrollment.  
311 The open enrollment had been extended to the end of  
312 April and I was on more frequent calls then.

313 Q. When the governor called and asked you to  
314 serve as the acting chief information officer of Cover  
315 Oregon, did he give you any other instructions or did  
316 you ask for any other instructions about what you would  
317 be doing while you were at Cover Oregon?

318 A. So I asked him directly what is the

319 commander's intent, and he asked me what did I mean by  
320 that.

321 I said, Well, what do you want as the outcome  
322 here; what is it that you desire; what's the end game  
323 for you? He told me directly that he wanted it be  
324 successful. He wanted to make the thing go live. He  
325 wanted to make it successful. If we couldn't make it  
326 successful, he wanted me to salvage everything I could  
327 from it.

328 Q. So during your time at Cover Oregon, did  
329 you view the governor as the commander, the person who  
330 you went to for the ultimate decision making?

331 A. I felt he had the ultimate  
332 decision-making authority, yes, ma'am.

333 Q. Did you have any role in former Governor  
334 Kitzhaber's reelection campaign?

335 A. No, ma'am, I did not.

336 Q. Where did you work before beginning as  
337 the chief information officer for the State of Oregon?

338 A. I was the first chief information officer  
339 for State of Oklahoma. I was appointed by Government  
340 Brad Henry and then reappointed by Governor Mary Fallin.  
341 Governor Brad Henry was a Democrat and Governor Mary  
342 Fallin is a Republican.

343 Q. Then did you have any role in working

344 with the healthcare marketplace in Oklahoma?

345           A.       It was -- when our cabinet was brought  
346 together and we were asked for our recommendation, it  
347 was my statement -- I made the statement in front of  
348 Ways and Means Committee hearings that Oklahoma did not  
349 have the capacity to do the -- to bring up the health  
350 insurance exchange, and even though we had the money --  
351 we had been given the grant for the Early Innovators  
352 Grant -- it was my recommendation, which was -- which  
353 the governor accepted, that we send the money back to  
354 the Federal Government and we chose, instead, to go with  
355 the healthcare.gov option.

356           Q.       Thank you. And what did you do to  
357 prepare for this transcribed interview today?

358           A.       Talked to the attorneys, reviewed a few  
359 documents that had been put together for me, and that  
360 was pretty much it.

361           Q.       Thank you. When was the last time that  
362 you spoke with CMS about Cover Oregon or the health  
363 insurance marketplace in Oregon?

364           A.       Probably back in -- let's see now. We  
365 came to Washington and went to HHS in, I think it was,  
366 May of 2014, and then we had a few phone conversations  
367 that I participated in June, but the last would have  
368 been June of 2014 at the absolute furthest extent that I



369 can recall.

370 Q. Thank you. When was the last time you  
371 spoke with Michael Bonetto about Cover Oregon or the  
372 health insurance marketplace in Oregon?

373 A. Probably in -- it was probably around  
374 November, October or November, of 2014. It was just  
375 around when we went live on healthcare.gov.

376 Q. Thank you. So when did you first become  
377 involved in the Cover Oregon project?

378 A. Oh, it was in February of 2014. I was  
379 asked to be -- by Bruce Goldberg to be a member of the  
380 Technology Options Workgroup or TOW Committee.

381 Q. What was your reaction to being asked to  
382 be part of the workgroup?

383 A. I was all right with that. You know, it  
384 was -- seemed benign at the time. You know, I was asked  
385 for an opinion, and I thought it would be a good way for  
386 me to meet folks and meet some people in the industry,  
387 you know, other CEOs in Moda and Providence Healthcare  
388 and Kaiser Permanente, so a bunch of folks that I like  
389 to try to network with and get to know.

390 So I thought it was an honor. I was glad to do  
391 it.

392 Q. I was curious if --

393 A. Yeah.

394 Q. -- you had a different opinion than when  
395 you were asked to be the acting chief information  
396 officer of Cover Oregon.

397 A. You know, it's like grand kids. They're  
398 fun to have around, but you can always send them home.  
399 That's how I viewed this. I could send them home at the  
400 end of it, you know, when I was done with them.

401 Q. Thank you.

402 A. Sorry.

403 [REDACTED] That's good.

404 BY [REDACTED]

405 Q. Then what is a system integrator for IT  
406 projects?

407 A. Well, there are a lot of definitions for  
408 that. The definition that, you know -- I've given a  
409 couple of depositions for Oracle in the court case, and  
410 I've used Edward Screven, who's the chief architect for  
411 Oracle, I've used his definition since he gave the first  
412 definition.

413 My definition is much more narrow. It's the  
414 individual or organization that weaves together parts,  
415 heterogenous parts, into a whole. So if I have  
416 different pieces, hardware, software, and particularly  
417 software pieces, that do not natively come together or  
418 are not part of the same package, then I will have to do

419 connectors to weave those things together into some kind  
420 of comprehensive whole.

421           That's literally what an integrator does. They  
422 integrate these disparate pieces into a whole, if that  
423 makes sense.

424           That would have been the definition I would have  
425 gone with. He went with a more expansive one, to  
426 include user interface, management, and all kinds of  
427 other things. So I'm -- being a Ph.D., perhaps I'm a  
428 bit of a purist when it comes to those things.

429           Q.       So then who was the systems integrator  
430 for the Cover Oregon project?

431           A.       Well, the one that took on the role of  
432 writing those connectors and creating those interfaces  
433 and making those pieces, disparate pieces, work together  
434 was Oracle Consulting Services.

435           Q.       And so was Oracle contracted as a systems  
436 integrator or did people in Oregon believe that they  
437 were serving as their own systems integrator?

438           A.       Well, I can't speak to anything that  
439 happened before then. I've read some things, but I  
440 don't know what they were thinking when they did it.

441           The systems integration work had to be done.  
442 That role, when I got to -- when I became the chief  
443 information officer on March 1st was being done by

444 Oracle Consulting Services. It's like a general  
445 contractor of a building site. Somebody has to schedule  
446 when people are going to come. Someone has to make  
447 decisions, and if there's not a general contractor  
448 assigned, then the role will have to -- the role still  
449 has to be fulfilled, and so the role was being fulfilled  
450 by Oracle Consulting Services and, in fact, I had paid  
451 invoices on activities that were for integration of  
452 these applications, writing the components that would do  
453 the connectors between the systems and such.

454 So I actually remitted money for that.

455 BY [REDACTED]

456 Q. Can I just clarify here? So you're  
457 saying that while you were there, Oracle was doing the  
458 integration of the system. Prior to you being there, in  
459 the lead-up to the launch of Cover Oregon, who was the  
460 systems integrator? Are you aware of who the systems  
461 integrator was at that point before you got there?

462 A. So the direct answer is I don't know who  
463 was doing that role. It was my assumption coming into  
464 it, at the time when I did come into it, it was clear  
465 that Oracle Consulting Services was doing that role, but  
466 I can't really speak to -- and the reason was because,  
467 very simply, the Cover Oregon group did not have the  
468 capacity to do it.

469           This was a larger project than they had ever  
470 taken on and they had not had that experience. It's a  
471 --

472           Q.       Do you -- one of the things that,  
473 obviously, this is before your time, but one of the  
474 problems that I'm sure you're aware of that we saw with  
475 many of the changes in healthcare.gov was that the State  
476 of Oregon or the Federal Government, they acted as the  
477 systems integrator and created what people believe are  
478 some of the problems here.

479           Do you think it's odd given the problems with  
480 Cover Oregon that after Oregon sort of delegates the  
481 systems integrator role, they would delegate it to  
482 Oracle, who they claim might have been the problem?

483           A.       So when -- the way I would answer the  
484 question, and help me understand better if y'all can --  
485 if this doesn't get to what y'all are getting at.

486           So whether someone is assigned the role or not,  
487 the role has to be fulfilled. Someone has to do the job  
488 of determining when does this person work, when does  
489 that person work, how does this get done and in what  
490 order, in the elaboration of the requirements, to  
491 identify or articulate everything that needs to be  
492 accomplished. Somebody has to take on that  
493 responsibility.

494           So in the -- as the -- and I'm going to say this  
495 wrong.

496           As the 39(c) witness or whatever it was that I  
497 was for the state for representing Cover Oregon and  
498 representing DCBS and OHA, I had access to the documents  
499 that elaborated the requirements. That elaboration  
500 would have been done by a systems integrator. Defining  
501 further what it was that these -- how these pieces  
502 worked together, how they were going -- the underlying  
503 logic and then scheduling these for the different  
504 subcontractors to work on their pieces, whether it was  
505 Speridian or Cognosante or whomever that did the further  
506 -- the instantiation, Oracle was managing that process.  
507 They managed who had access to the environment. They  
508 managed when they had access to the environment. They  
509 managed the elaboration of how these things were defined  
510 out.

511           So what I would submit to you is everything that  
512 I have seen was that -- and I don't know what was -- I  
513 can only tell you as far as the technical elaboration  
514 was concerned, Oracle Consulting Services was managing  
515 that process. It had to be done. Someone had to do it.  
516 They did that process.

517           ██████████ All right. Sorry.

518           THE WITNESS: I hope that was

519 helpful.

520 [REDACTED] It was.

521 [REDACTED]: I'm introducing Exhibit

522 1 into the record.

523 [Exhibit No. 1

524 was

525 marked for

526 identification.]

527 [REDACTED] I'll give you a few

528 seconds or a minute to look over the E-mails. I realize

529 you're not on the exchange. It was before you started

530 in Oregon.

531 [REDACTED] I'm sorry. Can you

532 repeat that?

533 [REDACTED] I realize he's not on

534 the E-mail. It was before he started in Oregon, but I

535 wanted to get his opinion.

536 [Witness peruses exhibit.]

537 THE WITNESS: Okay. Yes, ma'am.

538 BY [REDACTED]

539 Q. Do you know who Jose Perfecto is?

540 A. Yes, ma'am, I do.

541 Q. Who is Jose Perfecto?

542 A. He's the procurement officer fellow for  
543 the DHS, OHA, and now he works for -- he works for DAS,

544 Department of Administrative Services. He's on loan to  
545 them or on rotation to them, or I don't know exactly.

546 Q. And who is Suzanne Hoffman?

547 A. Suzanne Hoffman was the former -- I think  
548 she was -- at this time, she was the deputy director for  
549 OHA. She became the director of OHA of OHA -- for OHA  
550 for DHS? For OHA.

551 She became the director of OHA for a while and  
552 then retired.

553 Q. Thank you. So in this E-mail, on the  
554 second page with the Bates Stamp No.  
555 Oracle\_HOGR\_00002962, Jose is E-mailing Susan Hoffman on  
556 December 5, 2013, and he says: "I want to be careful  
557 how I say the following. So I would recommend we  
558 confirm with Mike Metroke or Carolyn, but an important  
559 aspect for this event is that OHA served as the system  
560 integrator.

561 Originally, the strategy was to solicit for a  
562 single contractor that would be responsible to deliver  
563 the HIX IT solution. We changed course and the decision  
564 was that OHA would serve that role. We would assemble  
565 the HIX IT solution with the help of the various  
566 contractor resources, including Oracle.

567 I've always envisioned this relationship similar  
568 to a chef preparing their master dish. We, OHA, had



569 taken the role as the master chef. So as with any  
570 master chef, you would have your supporting cast. The  
571 41 POs essentially make up our ingredient list and the  
572 services for the supporting cast to help us deliver the  
573 dish."

574 A. Yes, ma'am.

575 Q. So is it your understanding from when you  
576 started in Oregon that OHA believed that it had served  
577 as the systems integrator for the project?

578 A. So -- and I do not mean for this to -- I  
579 have to be very careful, because I don't mean for this  
580 be condescending in anyway and I don't want to, but  
581 there are sometimes that people take on things that they  
582 don't fully understand the responsibilities of. So I  
583 really felt that OHA was assuming responsibility for  
584 something that they did not understand what they were  
585 doing. They had never seen -- they had never done a  
586 project of this complexity before.

587 Oregon had never done -- they didn't -- they  
588 haven't implemented a comprehensive enterprise resource,  
589 an ERP solution. They haven't -- there are -- there's a  
590 complexity to this that I don't feel that they  
591 understood really what they were doing, and so as a  
592 consequence, they were not performing those functions,  
593 and so when I arrived, it was clear that the state was

594 not acting as the systems integrator.

595           So I don't know about the -- I don't know about  
596 the contractual components or how this -- Jose says that  
597 he was looking at this, that they were going to do the  
598 coordination. They didn't know how. It was just beyond  
599 their capacity to know how to do this.

600 BY ██████████:

601           Q.       It's seems like you're saying that it's  
602 not necessarily that they weren't the systems  
603 integrator; they were just doing a very poor job at  
604 doing what a systems integrator needs to do.

605           A.       Somebody else had to pick up the role of  
606 systems integration is what I'm trying to say, and that  
607 role -- because regardless, it was a -- there is a -- if  
608 someone doesn't do a job, it still has to get done, and  
609 Oracle Consulting Services was doing that job.

610           Now --

611           Q.       When you started, they started doing it?

612           A.       No, no. They were doing it before. That  
613 was why -- when I came in on March the 31st, one of the  
614 things -- there were a few things that came to my  
615 attention right away. We were -- we had no tools for  
616 project management. Literally, we had no project  
617 management tools.

618           I printed out an E-sized calendar, a paper

619 calendar, and with post-it notes started putting up when  
620 releases -- what was being worked, when releases were on  
621 going on, and the Q.A. vendor said that my tool was  
622 better than anything that they had up to that point that  
623 they were using.

624           So it was in a very primitive state, obviously.  
625 Things were not being done as a -- so regardless of  
626 casting blame, it simply wasn't being done. That then  
627 fell to -- someone was going to -- just to get as far as  
628 they got, someone had to be performing that work, and  
629 Oracle was performing that work.

630           Contractually, were they obligated to do that?  
631 I can't speak. Certainly, it had to be done and it was  
632 being done by them.

633           When I came on on March 31st, by the end of that  
634 week, that first week, by April the 4th, I had cancelled  
635 first rollout, the 1.1.0.5 rollout, because of the --  
636 there was no testing being done, comprehensive testing  
637 being done, before code moved into production. There  
638 was no documentation of features and functionality for  
639 releases. There was no --

640           So all of these things, that's what made me pull  
641 the plug on that very first release, because of the --  
642 and forcibly assume responsibility for being the systems  
643 integrator, project management. Before that, it just

644 wasn't being done or it was being done -- and so as a  
645 Oracle had to do it.

646 BY [REDACTED]:

647 Q. And then do you know during the project  
648 development if you talked to anyone when you were  
649 beginning your work in Oregon about who was responsible  
650 for determining the scope of the project?

651 A. No, ma'am, I did not. My focus was only  
652 on assuring that I did not have responsibility for that  
653 as the chief information officer, and that was the  
654 extent of my query.

655 Q. Thank you. Then do you know if OHA and  
656 Cover Oregon entered into time and materials contracts  
657 for the project?

658 A. I do know they did. There were -- as a  
659 39(c) witness, I was shown the contracts that Oracle and  
660 -- first OHA had entered into and then Cover Oregon, and  
661 one of the things that I found very disturbing was all  
662 of the zero dollar change orders that were done to take  
663 -- to change Oracle's responsibility to exclusively time  
664 and materials. That bothered me greatly when I did the  
665 review of those contracts.

666 Q. And what are time and materials  
667 contracts?

668 A. Well, they are, in sum, that there's no

669 obligation for delivery. It's exclusively around that  
670 you're just there to get paid for whatever they tell you  
671 to do.

672           Prior to that, that was not the case. After  
673 those zero dollar change orders, then that was the case.

674           Q.       Do you know why they were used so much  
675 during the Cover Oregon project?

676           A.       I'm sorry?

677           Q.       Do you know why --

678           A.       The time and material?

679           Q.       -- the time and materials contracts were  
680 used?

681           A.       I did not know why. It would not have  
682 been how I would have taken it.

683           Q.       And who typically assumes most of the  
684 risk in a material time and materials contract?

685           A.       The one issuing the contract, of course.

686           Q.       And do you see these type of contracts a  
687 lot in IT contracting work?

688           A.       We see them. So the state of -- I'm  
689 going to opine here for just a minute. The state of IT  
690 today in 2016 is still a custom-build type world. We  
691 still make to order applications and programs and what  
692 have you and weave things together, much like in  
693 manufacturing to 1784. They used to make firearms, you

694 know.

695           So it's all custom made. There's no -- there's  
696 very few interchangeable parts. There's very few -- so  
697 as a consequence, everything is a one-off, and a lot of  
698 times, there's a great deal of risk associated with  
699 that, and so yes.

700           You will see a time and materials contract taken  
701 on because of the great risk, and so the one issuing the  
702 contract will take on that risk. We'll say, Yes, we  
703 understand this is custom, this is new, this is  
704 whatever. So we're willing to assume that risk.

705           The things you generally do not see are where  
706 the architecture is defined by the one who's being  
707 brought in as the time and materials. Usually, the  
708 ownership of the design belongs to whoever is given the  
709 contract.

710           In other words, if I'm going to hire people to  
711 work on a design of mine that I've made up, then I own  
712 the design. That was not the case here. The design was  
713 not owned by Oregon either. They did not author the  
714 design. The architecture was not theirs.

715           So it was a -- it was very unusual to be in that  
716 situation, to see that kind of a construct where the  
717 vendor defined the architecture and then the vendor was  
718 doing a time and materials implementation of that

719 architecture. That's not anything I had ever seen  
720 before.

721 Q. I realize you were there at the time. So  
722 you may not know the answer to this question. Were  
723 individuals who worked at OHA, such as Carolyn Lawson,  
724 involved in the architecture design?

725 A. I don't know for sure. I would suspect  
726 that when you say involved in the design, I don't know  
727 that they have the experience for that. This  
728 architecture, enterprise architecture, is something I've  
729 been doing for 20 years now. It's not a -- it's a very  
730 complicated thing. So it's not something that -- it's a  
731 discipline in and of itself and I'm not familiar enough  
732 with Carolyn's background to know if she was capable in  
733 that.

734 Q. In your review of the Cover Oregon  
735 project, did you ever hear about the project changing  
736 direction when it was handed over from the Oregon Health  
737 Authority to the Cover Oregon Corporation?

738 A. I understood that -- so the architecture  
739 is -- if nothing else, it's reflected in the  
740 architecture. They had -- so applications mirrored the  
741 organizational structure of the group putting it  
742 together. So if you want to change the structure of the  
743 application, just change the structure of the

744 organization and then the application will follow.

745           The application is actually there to support the  
746 organization, not the other way around. When Cover  
747 Oregon divided from OHA, their architecture was -- the  
748 architectures were split into two distinct frameworks,  
749 and one began development in one direction to mirror the  
750 organizational structure of Cover Oregon.

751           The other one continued along the development  
752 path it had been on, mirroring the organizational  
753 structure of OHA and DHS.

754           Does that answer your question?

755           Q.       It does. Did the two entities have very  
756 different organizational structures?

757           A.       They did, yes, ma'am. They did.

758           Q.       Okay. The one that went on to Cover  
759 Oregon, then was it changed more because of the  
760 organizational structure that had started at OHA?

761           A.       It was narrowed and it had -- and it  
762 changed. The focus or the priority changed for it,  
763 which brought about a lot of problems or issues with  
764 change control and version management and feature and  
765 functionality definitions and scope and all sorts of  
766 things after that.

767           Q.       Thank you.

768           A.       Yes, ma'am.



769 Q. Then do you know if OHA and Cover Oregon  
770 entered into fixed-price contracts for the project?

771 A. They did not, to my knowledge, enter a  
772 fixed-price contract, no, ma'am.

773 Q. What are fixed-price contracts?

774 A. Usually, you will associate a deliverable  
775 with a fixed price. So when we had brought in the  
776 Kentucky system from -- well, from Kentucky to Oregon  
777 and replacement of the -- for the MAGI determination  
778 process, we hired Deloitte Consulting on a fixed-price  
779 agreement, and so the -- bringing in the feature and  
780 functionality of Kentucky and then specifically adapting  
781 it to our rules base for how we determine Medicaid  
782 applicability, that was a fixed-price contract.

783 Anything that would have been changed from that,  
784 if we would have gone and tried to go for no wrong door  
785 or something like that, some grander thing, then those  
786 would have been reflected in change orders. So we would  
787 have had a series of change orders to accommodate that.

788 So you define your scope and you define the  
789 price of that scope plus or minus ten percent, usually,  
790 because that's about as good as we can get, and then  
791 that's the implementation cost. That's your firm fixed  
792 price.

793 Q. Okay. Thank you.

794 A. Sure.

795 Q. Can you please describe how the IT team  
796 at Cover Oregon was staffed when you started as the  
797 acting chief information officer?

798 A. Well, we had -- I want to say there were  
799 a hundred Oracle Consulting Services folks that were in  
800 an area that was our large conference room where we'd  
801 have our board room meetings and such. They had tables  
802 set up where they did their development.

803 In Cover Oregon itself, there were, I want to  
804 say, something on the order of 30, 35 folks that were in  
805 the IT group. Of those 35, the primary function were  
806 business analysts. So they would -- they were supposed  
807 to be doing articulation of requirements. What they  
808 were doing, in fact, was second-level support to the  
809 application in a lot of cases.

810 So when something didn't work for someone, they  
811 were the ones that got called to help, Okay, well, this  
812 is how you can make it get through or this is what you  
813 need to do, or to help refine or revise the workbook  
814 that we had, how to enter somebody into the system,  
815 training manual or whatever. So they helped to -- they  
816 were really on call for second-level support.

817 In addition to that, they also -- there was a  
818 body of them that went through and gathered -- that were

819 part of elaborating or -- I say elaborating. I really  
820 mean just high-level defining requirements for things.  
821 So as an example, agent remits, that was one of those  
822 pieces that we didn't get done until very, very late,  
823 and we had done -- and that was actually done while I  
824 was there.

825           We wrote up a specification document, a very  
826 formal specification document. We submitted that to  
827 Oracle Consulting Services to develop. They came back,  
828 and I think you probably know they didn't match the way  
829 that we had described that. So they had deviated from  
830 the specification, and so we had to do it a second time,  
831 which was really -- which was poor controls, is what it  
832 amounted to.

833           But prior to that, elaboration or documentation  
834 of features and functionally was more of an organic  
835 process between the folks at Cover Oregon and Oracle  
836 Consulting Services. They were -- the process wasn't  
837 nearly as formalized as what I brought to it where we  
838 did a specification document and then we had a turnover  
839 to Oracle Consulting Services and said, Here, write  
840 this, and then they would go and write it and then come  
841 back with what they had written. Instead, it was more  
842 of a -- it was very chaotic.

843           Q.       And then I had a question on something

844 you just said. You said the 35 IT professionals at  
845 Cover Oregon were supposed to be working on articulating  
846 requirements. Can you elaborate on what you meant by  
847 that?

848           A.       Well, they should have been there. What  
849 they should have been doing is helping with going  
850 through and saying fully the articulation of  
851 requirements, so like what we did with the -- there's a  
852 specification document in this stuff about the payments  
853 to agent and how that had to work and how the -- so  
854 writing those up was a process. Creating that is a  
855 discipline in and of itself, and so for every feature  
856 and functionality, whether it was change of  
857 circumstances or to do a -- to add -- or I'm sorry, not  
858 to add. That would be a change of circumstance, but to  
859 print out the 1095 forms or whatever it was to represent  
860 people had insurance as part of the ACA, that they could  
861 -- or to print out the 1099 statements to the agents  
862 that we pay or whatever, there is a specification  
863 document that you put together. It will do this, this,  
864 this, at a high level. It's an algorithmic flowchart,  
865 if you like, or a algorithmic description of how this is  
866 supposed to -- in plain English of how this is supposed  
867 to work or what it's supposed to do.

868           They weren't spending their time on that. They

869 were spending their time either doing support work,  
870 doing testing of new or the next release or whatever or  
871 whatever the next interim or what we surgical release or  
872 whatever or they were spending their time -- if they  
873 were developing requirements, it was in a non-formalized  
874 way so that there was -- it was not possible to go  
875 through afterwards and say this is what you wrote, this  
876 is what I asked for, they match or they do not match.

877           That was a fundamental flaw in the process that  
878 I inherited, was you've at least got to articulate what  
879 it is that you're trying to get accomplished. That way,  
880 you know whether you've achieved it or not. If you  
881 don't write down what you're trying to do, how do you  
882 know if you've achieved it or not? If you don't know  
883 what you want, why can't this be it?

884           Q.       Thank you. Then it sounds like -- I  
885 think you spoke about it briefly earlier, but are you  
886 familiar with the technology advisory group that was  
887 convened for Cover Oregon. It was called the  
888 Technology --

889           A.       Options Workgroup, yes, ma'am.

890           Q.       Are those the same?

891           A.       Yes, ma'am.

892           Q.       And then who established the Technology  
893 Options Workgroup?

894           A.       I think, technically, it was the Cover  
895 Oregon Board that established that, but it could have  
896 been Governor Kitzhaber.

897           Q.       And what types of experts participated in  
898 the Technology Options Workgroup?

899           A.       Well, we had voting members and  
900 non-voting members. So the voting members were  
901 primarily the CIOs from the different insurance agency,  
902 Moda, Kaiser, Providence, and I don't remember who all  
903 else.

904           Q.       And then who were the non-voting members?

905           A.       Oh, well, we had folks from Cover Oregon.  
906 Aaron Karjala was there. Bruce Goldberg was there. We  
907 had Sean Kolmer from the governor's office was there.  
908 We had Dr. Brown from the Cover Oregon board, Liz Baxter  
909 from the Cover Oregon board, but when we came to voting,  
910 it was the IT folks that voted.

911           So, you know, we went into a closed session  
912 and --

913           Q.       Okay.

914           A.       -- so --

915           Q.       Then who created that structure where  
916 there were voting and nonvoting members? Was that also  
917 --

918           A.       I inherited that. I didn't have anything

919 to do with that.

920 Q. Was Point B involved at all?

921 A. They were, yes, ma'am. Point B, they  
922 were the facilitators of the group. Thank you. That's  
923 true. They facilitated it, and they -- but Maximus, the  
924 QAQC vendor was part of it as well, but all of them were  
925 -- they weren't allowed to vote.

926 You know, we got their input. We got their  
927 opinions we saw what it was that they presented, but --

928 Q. Okay. And then were there certain  
929 individuals from Point B that were assigned to the  
930 Technology Options Workgroup or was it just --

931 A. There were two fellows. I can see his  
932 face and I can't remember his name. I'm sorry, ma'am.  
933 I have it in my report. I did a report, a final report,  
934 where I named all the folks that were in it.

935 Q. That's okay.

936 A. What their roles were and whatever, and  
937 so I'm sorry.

938 Q. That's okay. Thank you. Then was  
939 Deloitte at all involved in the Technology Options  
940 Workgroup?

941 A. Well, they made one presentation to the  
942 group, and so we asked them to give a presentation to us  
943 on what they assumed or what they thought the state of

944 the -- both the data and the application were, because  
945 they had had a lot of experience directly with working  
946 with Oracle Consulting Services on where the thing was,  
947 and so that was helpful to us, but it wasn't as  
948 informative as becoming CIO was.

949 Q. And then was that Deloitte presentation  
950 made to the entire Technology Options Workgroup or was  
951 it to a subset of the individuals?

952 A. It was the entirety.

953 Q. The entire group?

954 A. Yes, ma'am.

955 Q. Were there ever any requests that certain  
956 members of the Technology Options Workgroup not  
957 participate in the meetings?

958 A. Well, when we -- so the direct answer is  
959 yes. When we went through and wanted to have our  
960 technical discussions, we didn't want Aaron Karjala  
961 there. He was the CIO at that time or Cover Oregon. We  
962 didn't Bruce there. We didn't want -- I mean, we wanted  
963 to have a very candid geek-to-geek discussion about  
964 where we were at on this thing and what we thought the  
965 options were, and we didn't really want to have any --  
966 for us, we tried as hard as we could to reduce it down  
967 to just a pure play technology discussion without any --  
968 without worrying about what it meant for the folks that



969 worked for Cover Oregon, without having to worry about  
970 what it meant for the -- people become committed to  
971 something whether it should be continued or not very  
972 often, and so our desire was to as much as we could  
973 separate ourselves from that.

974           Even though the insurance carriers had a vested  
975 into it, they didn't have as directly a vested interest  
976 as Aaron or Bruce or even Dr. Brown or Liz or whomever  
977 would have.

978           So we got together just as the geeks and said,  
979 Okay, so as far as we can tell, this is where we're at  
980 and this is what we ought to pursue.

981           Q.       Thank you. And then so you were saying  
982 the voting members were the CIOs that were participating  
983 in the Technology Options Workgroup and non-voting  
984 members were individuals like Liz Baxter and Dr. Brown  
985 and Aaron Karjala?

986           A.       Yes.

987           Q.       Thank you. Who determined the agendas  
988 for the Technologies Options Workgroup meetings?

989           A.       Well, we had started from the Deloitte  
990 report. That was the primer for it, I guess, and there  
991 were 10 options that they had outlined. So that kind of  
992 helped us form the agendas, you know, as far as getting  
993 -- the first agenda was set for us by Bruce. The second

994 agenda, we came up organically ourselves with it. We  
995 said these are the topics we want to talk about at the  
996 next meeting, and then from there on, we set our agendas  
997 after that.

998 Q. And I realize it was a while ago, but do  
999 you recall if you attended all the meetings of the  
1000 Technology Options Workgroup?

1001 A. Well, actually, I did. I attended -- the  
1002 first two, however, I attended by phone. I wasn't able  
1003 to get up to Durham and participate. So I just dialled  
1004 into and did my participation that way and I was  
1005 actually okay with that.

1006 [REDACTED] Thank you.

1007 [Exhibit No. 2  
1008 was  
1009 marked for  
1010 identification.]

1011 BY [REDACTED]

1012 Q. I'm introducing Exhibit 2 into the  
1013 record.

1014 A. Well, yes, ma'am. I remember seeing  
1015 this. I remember this.

1016 Q. So these are meeting notes from the March  
1017 13, 2014 Technology Option Workgroup meeting.

1018 A. Yes, ma'am.

1019 Q. Thank you.

1020 A. Yes, ma'am.

1021 Q. So I'd like to direct your attention to  
1022 the page with the Bates Stamp No. GOV\_HR00080884 and the  
1023 fourth bullet point up from the bottom. This bullet  
1024 reads: "Opening up enrollment to individuals would only  
1025 require releasing some patches related to eligibility  
1026 determination and horizontal scale-out of the  
1027 infrastructure to handle the increase in transaction  
1028 volume. The functional is already in place in  
1029 production. Based on this, CO wouldn't expect  
1030 significant downtime associated with opening up to  
1031 individuals."

1032 A. Yes.

1033 Q. So can you explain what was meant in the  
1034 by statement the functionality is already in place in  
1035 production?

1036 A. Well, so this is where it gets a little  
1037 more technical, and I apologize. I will do my very best  
1038 to try to explain it in a way that's understandable, and  
1039 help me I don't get that across.

1040 So when we talk about requirements, we talk  
1041 about them in two general buckets. You have functional  
1042 requirements and nonfunctional requirement.

1043 Functional requirements are things like what is

1044 this supposed to do. So I'm supposed to be able to take  
1045 a person's name and their Social Security number and  
1046 their address and I'm supposed to go and look and see if  
1047 I have that as a match, and if I don't, I enter them in  
1048 and I take it to the next. So the one function is  
1049 getting a person's name to enroll.

1050           A nonfunctional requirement would be something  
1051 like where I go through and say, Oh, wait a minute, it  
1052 misspelled or I typed in or fat-fingered my last name.  
1053 I want to go back. I hit the back button, and it blows  
1054 up.

1055           So nonfunctional requirements are things that  
1056 don't have to do with the behavior of the application,  
1057 but have to do with how the application performs or  
1058 functions. So a coffee cup, a coffee cup is supposed to  
1059 be able to hold liquid. That's a functional  
1060 requirement. A nonfunctional requirement is it has to  
1061 hold it above 200 degrees Fahrenheit because that's how  
1062 McDonald's likes to serve their coffee, you know,  
1063 without shattering.

1064           So that's kind of -- so those are the  
1065 differences. There were numerous -- and that was what I  
1066 found when I got there. There were numerous  
1067 nonfunctional failures to the application when I got  
1068 there. That was the thing.

1069           What they're talking about here, and the only  
1070 way that I can -- and I did not -- I did not represent  
1071 this to this committee. This was represented by Aaron  
1072 Karjala and the folks, that the functional requirements  
1073 were -- and that's what he's talking about, are the  
1074 functional requirements.

1075           What was not being talked about were the  
1076 nonfunctional requirements, things like --

1077           Q.       Can you give some examples?

1078           A.       Well, so we do these things called  
1079 orphaning a record. So you would be typing in your  
1080 stuff and you would hit the save button, and because  
1081 your session -- you didn't know it, but your session had  
1082 timed out to the system, you orphaned it. You got  
1083 disconnected from the secure socket.

1084           So because you got disconnected from the socket,  
1085 you couldn't get back to your record. You could never  
1086 go back and edit your information. It was what we  
1087 called an orphan record, and it was a stuck thread in  
1088 the system. The processor was still out there waiting  
1089 for input that was never going to come because you had  
1090 separated or disconnected from the socket.

1091           So we would orphan these records. The only way  
1092 to clear was you had to reboot the system. So during  
1093 the time shortly after I got there, I went to where I

1094 rebooted -- I had a system reboot every night between  
1095 shifts in order to clear out all of the stuck threads  
1096 that we had. They call these IT errors. They call  
1097 these all kinds of things, and stuck threads or orphaned  
1098 records can be caused by a lot of different problems.

1099           Hitting a back button would orphan a record on  
1100 the browser. Typing in a period, and if I typed Alex  
1101 Pettit, Senior, period, it would orphan the record. If  
1102 I would hit the save and I had taken too long because I  
1103 didn't know my driver's license and so I pull out my  
1104 driver's license and I type it in and I've waited too  
1105 long and the session decided -- so what we have are  
1106 called time to live, or TTLs.

1107           So the time to live settings in SEBOL were  
1108 different than the time to live settings in the Web CT  
1109 or the, you know, application that entered the data, and  
1110 because those two TTLs were out of sync, one would  
1111 expire sooner than the other and that would orphan the  
1112 record. There were all kinds of things that would just  
1113 kill you. You know, it was so frustrating to have to  
1114 run these things to ground.

1115           So, fundamentally, these nonfunctional failures  
1116 were extraordinarily painful to us and extraordinarily  
1117 painful to the operation organization and would have  
1118 been intolerable to a public in-the-wild launch, if you

1119 will, you know, how to -- don't hit the back button and  
1120 have all your information ready before you type it in  
1121 and make sure you don't have ask your kids Social  
1122 Security number because you won't have time. It will  
1123 time you out.

1124 I mean, it was -- those are things that you just  
1125 can't -- you can't ahead of time train people to do. We  
1126 could train agents to do those things and we could tell  
1127 them, All right, before you start, make sure you've got  
1128 all this information, and if you don't, don't even over  
1129 start that application. Send it back. Tell them you've  
1130 got to get that information, and that's we did. We  
1131 would go and send the application back, because even if  
1132 started it and then we got so far and we didn't have a  
1133 piece of information, the agent would orphan the record  
1134 and then we'd have go directly into SEBOL and then make  
1135 the change to the record. You couldn't go through Web  
1136 CT anymore to pull the record back.

1137 Q. So were those referred to as bugs or  
1138 blockers or is that not the same?

1139 A. That was another problem we had, was that  
1140 they -- the, Oracle Consulting Services and Cover Oregon  
1141 had used different terminology for how to a classify  
1142 errors. So they would call things bugs. They would  
1143 call them blockers. Those are non-standard industry

1144 standard descriptions of things.

1145           When I came in, I started categorizing errors in  
1146 terms of Severity 1. If you had a Sev. 1 error, it shut  
1147 you down. A Sev. 2 error, that was really bad. It  
1148 would make it so I couldn't finish this application, but  
1149 it wouldn't shut down the application.

1150           There were some errors we had that literally  
1151 would crash the application. I mean everybody would  
1152 die. There were other errors that we had that, Okay, it  
1153 would just crash your session. So you were in trouble,  
1154 but you could keep working. Those were Sev. 2 errors.  
1155 They're bad. They're problematic, but they're not as --  
1156 they're not -- you know, they're not the blue screen of  
1157 death like you get in Microsoft, and then Sev. 3 and  
1158 then Sev. 4 errors.

1159           So I started to categorize these by ITIL,  
1160 Information Technology Infrastructure Library, standard  
1161 for how to categorize errors, either Sev. 1, Sev 2, Sev.  
1162 3, or Sev. 4. Prior to my arrival, that was not being  
1163 done. So the data that they have with blockers and with  
1164 bugs and with tech errors, it's very difficult to  
1165 distill exactly what means. So when they say they had  
1166 2,000 technology error in one day, you don't know what  
1167 that means. It's very hard to understand that.

1168           Q.       Okay. So can you describe the



1169 differences between a portal that was being used the  
1170 agents and community partners and a portal that would  
1171 have been used by individuals if it had been open to  
1172 individuals?

1173 A. Well, they were actually the same. There  
1174 wasn't going to be different portal for a community -- I  
1175 mean for a --

1176 Q. Individuals?

1177 A. Yes, ma'am. It was the same portal. It  
1178 was just that with the agents and the community  
1179 partners, I had a 75-page manual. I could say, Here,  
1180 this is what you need to know to navigate your way  
1181 through the application.

1182 So as an example, we had tried to -- on three  
1183 occasions, they, Cover Oregon staff, had tried to demo  
1184 me the application. So shortly after I got there, I  
1185 wanted to see a demo of the application. So they sat me  
1186 down and they said, All right, start typing in your  
1187 stuff. For fun, I put in that I was male and I was 35  
1188 years old and I was pregnant. Well, it allowed me to do  
1189 that.

1190 Then I kept going on. Well, finally, it blew up  
1191 on the thing when it found that to be incompatible and  
1192 threw me out and it crashed. You know, I stuck a  
1193 thread, and it wasn't because of me it had to be

1194 rebooted, but, you know, I was part of the problem.

1195           We couldn't -- I could train people how to -- I  
1196 could train the same people if you did a repetitive task  
1197 how to do something. I couldn't train users in the  
1198 wild.

1199           Q.        Could you have gone back and restarted  
1200 the process just as a new user?

1201           A.        No. I could not. Once I put in my  
1202 information, the system took my information and I  
1203 couldn't -- so it created an identity.

1204           So one of the problems that we had was how  
1205 identity management worked. So you would create an  
1206 identity in the system and then that identity was set  
1207 and you would -- that's what you would use, and so I  
1208 couldn't go back and recreate the identity for myself if  
1209 I had made a mistake or if I had been lost or  
1210 disconnected from it. That was a fundamental flaw.

1211           In fact, identity management was extraordinarily  
1212 fragile. We had a number of problems where identity  
1213 management was written specifically to an IP address of  
1214 a machine where it was this machine, even though it had  
1215 a duplicate machine or what we call a backup domain  
1216 controller that was supposed to be able to take over for  
1217 it, the primary domain controller was the only device  
1218 that was allowed to communicate to the identity and

1219 access management system.

1220           So it was -- so anything that -- a hard drive  
1221 crash, an update, anything that happened to that primary  
1222 domain controller shut us down, in fact, shut us down  
1223 for two and a half days before I figured what was going  
1224 on and we got the thing back on line. It was very  
1225 fragile.

1226           Q.       Okay. Thank you.

1227           Then I'd like to direct your attention to the  
1228 next page.

1229           A.       Yes, ma'am.

1230           Q.       And so on the third bullet point down,  
1231 the meeting notes reflect that what has to change is CO  
1232 being willing to aggressively manage scope, prioritize,  
1233 and say no, can't be all things to all people, need to  
1234 stay focused on the core mission and what is required  
1235 for success.

1236           A.       Yes, ma'am.

1237           Q.       So do you recall this discussion from the  
1238 meeting, what you were discussing about CO needing to  
1239 aggressively manage scope?

1240           A.       Yes, ma'am, I do. So one of the things  
1241 Cover Oregon had done that no other exchange had done is  
1242 that they became the agent of record. So brokers would  
1243 work for Cover Oregon. Cover Oregon would remit the

1244 broker's payments, would remit the commissions to the  
1245 brokers, and if I was a broker for Cover Oregon, I was a  
1246 broker for all 11 plans that were on the exchange.

1247           Usually, a broker is only certified for a plan.  
1248 So if I -- or a few plans. If I'm an Allstate agent, I  
1249 sell Allstate insurance. I can't sell State Farm. I  
1250 can't sell whatever.

1251           The model that Cover Oregon took on was that if  
1252 you became an agent for Cover Oregon, you could sell any  
1253 of the 11 plans. You could sell Providence. You could  
1254 sell Kaiser. You could sell Moda. You could sell  
1255 whatever it was that was out there.

1256           That was very different than what any other  
1257 exchange had done, and that added a level of complexity  
1258 to it. What we were saying there was that -- what we  
1259 were proposing was that to further narrow scope or  
1260 focus, Cover Oregon needed to look at those things that  
1261 were not ACA requirements and to focus exclusively on  
1262 what would be a minimally viable product and a minimally  
1263 viable solution for everyone to use, and then after  
1264 that, then you could go and add other features and  
1265 functionalities, but begin with your base and create the  
1266 base. Meet the requirement, and then go forward from  
1267 that. Don't start with everything that we wanted to go  
1268 with, and that was, we felt, part of their -- part of

1269 the problem that they were running into. Commissions at  
1270 this time in March weren't being paid. In fact, weren't  
1271 paid until June that we got that piece of it working.  
1272 It was just -- and those were components that weren't  
1273 required in ACA.

1274 So that was really what that discussion was  
1275 around.

1276 Q. Thank you.

1277 A. Yes, ma'am.

1278 Q. Then if you look at the next -- the  
1279 fourth bullet on the page, it says: "In general, level  
1280 of effort to build federal interfaces is not  
1281 significantly different from what is required to get  
1282 fully operational on Cover Oregon."

1283 A. Yes, ma'am. So the thing that was -- we  
1284 had a number of -- "level of effort to build federal  
1285 interfaces is not significantly different from what is  
1286 required to get fully operational on Cover Oregon."

1287 I am not sure what that context was about at  
1288 that time. I read that, and I'll be honest with you. I  
1289 have no idea what in the world that could have possibly  
1290 meant.

1291 We had several carrier interfaces that we were  
1292 creating and we were having a lot of -- we were having  
1293 difficulty with, and we never created all of them. We

1294 created some temporary ones to do things that -- so as  
1295 an example, we did not have fully integrated record  
1296 sharing with the federal hub. So the federal hub would  
1297 send us a flat file rather than sending us an  
1298 intelligent file, a formatted file.

1299 It is possible that that's what we're talking  
1300 about there. I'm sorry. I don't remember that one.

1301 Q. That's okay.

1302 Okay. Thank you. Then one other quick  
1303 questions and then we'll be done with our time.

1304 So I was wondering if you could elaborate --  
1305 this says host a CIO discussion. If you go to the  
1306 action items, it's the, I think, sixth bullet point  
1307 down. It says host a CIO discussion before meeting next  
1308 Tuesday. Is this CIO discussion the meeting of the  
1309 voting members?

1310 A. Yes, ma'am. The geek discussion.

1311 Q. Great. Thank you. I was just curious,  
1312 and then it says extend an invitation to Bruce  
1313 Wilkinson. Who is Bruce Wilkinson?

1314 A. He was a CIO for -- I forget which  
1315 carrier.

1316 Q. Do you recall who suggested that an  
1317 invitation be extended to him?

1318 A. I do not remember who asked that. I know

1319 being one of the carriers, we wanted to be sure that we  
1320 had all of the -- the carriers were essential to the  
1321 success of the exchange. So we wanted to be sure that  
1322 all the IT people from all the carriers were at least  
1323 given the opportunity to be part of the group.

1324 [REDACTED] Okay. Thank you. That's all our  
1325 time for now.

1326 [REDACTED] We will switch out.

1327 [Recessed at 11:07 a.m., reconvened at 11:14  
1328 a.m.]

1329 EXAMINATION BY THE MINORITY STAFF

1330 BY [REDACTED]:

1331 Q. So I want to go over the background and  
1332 your experience in the technology field.

1333 A. Sure.

1334 Q. How did you develop your expertise in the  
1335 technology field?

1336 A. Well, I've been -- I was a graduate of  
1337 the University of Wisconsin Parkside in IT, and I have a  
1338 master's in information system management, an MBA in MIS  
1339 from Loyola of Chicago, and then I have a doctorate in  
1340 information sciences from the University of North Texas.

1341 My study area of research is in requirements  
1342 analysis, so how people come about defining and  
1343 articulating what it is they want a system to do or a

1344 program that they want to do. That was my -- my thesis  
1345 was that requirements come in two forms. There's the  
1346 very narrow definition around what we call systems  
1347 analysis and design, which is specification of a  
1348 specific application, and then on the other side is the  
1349 enterprise architecture or the design of how, overall,  
1350 the system is supposed to support the objectives of the  
1351 business.

1352                   That why I made the comment if you want  
1353 to change an application, just change the organization  
1354 and the application will follow.

1355           Q.       So you've had several senior-level  
1356 positions in the technology field. Right?

1357           A.       Yes, sir, I have.

1358           Q.       Could you describe some of those  
1359 positions in the government or private.

1360           A.       So I've worked for -- for a while, I  
1361 worked for a contractor, for Roy F. Weston. We were the  
1362 emergency response team to the United States  
1363 Environmental Protection Agency, and I was computer  
1364 officer for Region 5, which was Minnesota through Ohio.  
1365 So we did all of the IT. I did all of the IT stuff for  
1366 that group and did all the sampling, all the management  
1367 of their inventory systems, all the calibration of the  
1368 devices that they had for going to CIRCLA sites and



1369 Super Fund sites and all that kind of stuff.

1370 I've worked Ernst & Young, both as an internal  
1371 support person as well as leading their technology  
1372 support services team as well as client consulting. I  
1373 worked for Marsh & McLellan, also as a consultant, and  
1374 then worked for Brown University as a project manager,  
1375 and was with the City of Denton, Texas for 10 years as  
1376 their chief technology officer, their highest position  
1377 for IT.

1378 I also spent time with the State of Oklahoma and  
1379 now the State of Oregon.

1380 Q. And you were the State of Oklahoma's  
1381 first chief --

1382 A. Yes, sir, I was. I was appointed by  
1383 Governor Brad Henry and kept by Governor Mary Fallin  
1384 until her cabinet shakeup in June of 2013.

1385 Q. So for the record, could you explain what  
1386 is a chief information officer?

1387 A. Sure. Well, generally speaking, a CIO is  
1388 the one that manages the technology direction, policies,  
1389 designs, architecture for the IT of an organization, and  
1390 so they'll manage IT for not just the -- and in some  
1391 cases, they'll also be responsible for the actual  
1392 technology, what we call a -- what would be often the  
1393 role of the chief technology officer.

1394           So there's an architectural build to the  
1395 business and then there's a technology architecture that  
1396 actually -- the mechanics of the thing, if you like. So  
1397 in my role as chief information officer, I've served as  
1398 both for some time.

1399           When I came to Oregon, I was told that the job  
1400 was only to be policy. So I had 1500 direct reports in  
1401 Oklahoma and I had traded that for just having 18 direct  
1402 reports in Oregon. So I thought I had made a good  
1403 trade, and it didn't work out that way, but I was told  
1404 it was only going to be IT policy.

1405           Q.       So how long did you serve as Oklahoma's  
1406 chief information officer?

1407           A.       For four years.

1408           Q.       Four years?

1409           A.       Um-hum.

1410           Q.       And you mentioned that you were the chief  
1411 technology officer for the City of Denton, Texas?

1412           A.       Yes, sir.

1413           Q.       Could you explain for the record what's a  
1414 chief technology office?

1415           A.       So they're primarily responsible for the  
1416 mechanics of how something works. So as the chief  
1417 technology officer, I managed the actual technology  
1418 services delivery to the 34 agencies or departments of

1419 the city. We were an electric utility and a water  
1420 utility and building inspections and an airport and  
1421 animal control and all kinds of stuff.

1422           So we had -- so my job was to make sure that  
1423 everything from what we call the mobile data computers,  
1424 MDCs, and the Crown Vics, all the way up to the billing  
1425 system for utilities, for the electric utilities, for  
1426 the solid waste, waste water and electric, the building  
1427 inspection system, the phone system that was used for  
1428 people to remit their bills, the kiosks that we put out  
1429 for people to pay their payments.

1430           All of that stuff was my responsibility.

1431           Q.       So, typically, what kind of expertise do  
1432 you need to be appointed a CIO or a CTO?

1433           A.       Well, I guess for a CIO, it should have  
1434 familiarity with how technology can enable policy. So,  
1435 recently, the National Governors Association -- I don't  
1436 think it's been announced yet, but it will be announced  
1437 this week, has selected Oregon as their -- for a grant  
1438 to develop IT policy to help address the cyber security  
1439 crisis that's in this country. We made a proposal to  
1440 try to change the paradigm of how cyber security is  
1441 being addressed. Instead of dealing with it as the name  
1442 and shame, we're proposing that it be done as a public  
1443 health approach, so a radically different approach to

1444 how we deal with it.

1445           So a CIO will be more focused or should be more  
1446 focused on policies and policy directions and really  
1447 helping to answer how technology can address what good  
1448 for which people at who's cost.

1449           The other side of it, a chief technology  
1450 officer, they should know the mechanics, the inner  
1451 workings, the technology components. So if I'm going to  
1452 -- if I have this solution and this solution and this  
1453 solution, I want to weave them together into a  
1454 homogenous system; what are my challenges for doing that  
1455 and how do I go about doing that, so a different kind of  
1456 focus, if that makes sense.

1457           Q.       So it sounds like one is more policy  
1458 relate and one is more technically based?

1459           A.       Yes. Yes, sir, it is.

1460           Q.       And you mentioned that you have BS MIS.  
1461 Right?

1462           A.       Yes, sir.

1463           Q.       What's an MIS?

1464           A.       Management information systems.

1465           Q.       And what kind of skills did you have to  
1466 learn while you were studying for your MIS?

1467           A.       Well, programming, a lot of programming.  
1468 We did a fair amount of programing when I was going

1469 through that program at the University of Wisconsin.  
1470 That's what got addicted to -- started my addiction to  
1471 Mountain Dew.

1472 Can I put that on the record?

1473 [REDACTED]: You just did.

1474 BY [REDACTED]

1475 Q. How did these skills apply to your CIO  
1476 and CTO position?

1477 A. Well, application development is -- the  
1478 process is the same regardless of the tools that are  
1479 being used. So application development follows, as a  
1480 specific example here, 80 percent of your problems occur  
1481 in 20 percent of your code. We call that the Pareto  
1482 Principle, and what that does is that it means that if  
1483 focus on just a small batch of your area, it will inform  
1484 you. You will give you the -- it tells you what you  
1485 need to do in order to -- or where you ought to be  
1486 applying your efforts to get the maximum amount of help  
1487 to it.

1488 So there are other things that -- and that's  
1489 regardless of the language. That's regardless of the  
1490 tools that are being used. There are some what you  
1491 would call principles or laws or whatever that just  
1492 guide application development, and you learn those when  
1493 you're doing application development work.

1494 Q. So you also mentioned that you have an  
1495 MBA MIS. What kind of skills did you have to learn to  
1496 attain that degree?

1497 A. Well, the primary focus was on management  
1498 of people. So the way that I was -- so there are two  
1499 things I was taught. One was -- only two that I  
1500 remember, perhaps more.

1501 One of them was management is the art of getting  
1502 work done through other folks, through teams, and that  
1503 if you can get work done through teams, you can  
1504 contribute a lot more than you can doing it as a single  
1505 contributor.

1506 So that was the appeal for that, and so how to  
1507 go about doing that and how to motivate teams. The  
1508 other thing that we learned was there are five Ms,  
1509 traditionally five Ms to any product or business that  
1510 you're in, materials, money, manpower, machinery, and  
1511 method, and that information can substitute for any or  
1512 all of those Ms.

1513 So with good information, you need less money.  
1514 With good, you need less materials. With good  
1515 information, you need less manpower.

1516 So one of the things that I've tried to do is  
1517 how to substitute information, good information, for  
1518 these things and any or all of those things to improve

1519 the capacity or increase the capacity of an  
1520 organization.

1521 Q. So are these skills that you've kind of  
1522 used in your capacity as a CTO or a CIO?

1523 A. Yes, sir, they are.

1524 Q. And you've said that -- you testified  
1525 that you conducted in- depth research and analysis on  
1526 requirements analysis in the practice of software  
1527 development?

1528 A. Yes, sir.

1529 Q. And how did that relate to your work at  
1530 Cover Oregon?

1531 A. Well, so when I got into Cover Oregon --  
1532 we've discussed in some of the exhibits -- I think it  
1533 was Exhibit 2 where we were talking what was needed to  
1534 create a minimally viable product and what it was that  
1535 the requirements were around that, and we had initially  
1536 or I had initially gone into this thinking our focus was  
1537 around the scope being too broad or too ambiguous for  
1538 creating a minimally viable product.

1539 That was misinformed. We were focusing -- so I  
1540 thought it was an enterprise architecture discussion  
1541 and, really, it was a technology architecture  
1542 discussion. It was fundamentally how the technology  
1543 worked together or wove together or failed to weave

1544 together. That was our highest crisis.

1545 Q. You are also a published author.

1546 Correct?

1547 A. Yes, sir, I am.

1548 Q. Could you just kind walk us through some  
1549 of the publications?

1550 A. Well, "Journal of Enterprise  
1551 Architecture" is one. There is another one where I talk  
1552 about the techonomic divide about how we had -- I don't  
1553 remember what journal that appeared in, where we had  
1554 talked about how there's a group -- so when we put our  
1555 kiosk out for folks to use in the City of Denton, we  
1556 found that there's a large population of people that are  
1557 a cash-based society who were at least at that time  
1558 unable to avail themselves of any online solutions  
1559 because of their dependancy, because of their use of  
1560 cash, and so the kiosk -- and I had talked about the  
1561 different -- the population that used the kiosk was  
1562 significantly different in demographics than the  
1563 population that uses the online services that we had.

1564 So it was -- and so we found people that use --  
1565 and we found there are three ways you could get at  
1566 services, through the telephone, on line, or at the  
1567 kiosk, and each of the demographics of those three  
1568 groups were significantly different. So that was one of



1569 the interesting things we found.

1570 Q. You've also won many awards relating to  
1571 your work in technology. Could you kind of walk us  
1572 through some of those awards that you've been honored  
1573 with?

1574 A. Well, golly. I guess there was an  
1575 Executive of Year from the Society Information  
1576 Management, Best of Texas Awards on a couple of  
1577 occasions. We had -- I had a Somatic Security Award,  
1578 and I've got a -- for our policy stuff we had done in  
1579 Oklahoma, and there was a Public Technology Institute  
1580 Award for IT leadership.

1581 Those are the only ones off the top of my head.

1582 Q. How many overall years of experience do  
1583 you have in the technology field?

1584 A. So I started programming as a kid. I  
1585 guess I was 14 at the time and then -- so, well, 35  
1586 years.

1587 Q. Okay. I want to transition back to how  
1588 you were hired as the State of Oregon's CIO.

1589 A. Okay.

1590 Q. You mentioned that the COO Michael  
1591 Jordan, essentially hired you. Correct?

1592 A. Yes, sir.

1593 Q. Is that right? And you were eventually

1594 asked to act as the interim CIO for Cover Oregon.

1595 Correct?

1596 A. Yes, sir, I was.

1597 Q. And when was that decision made?

1598 A. Well, I guess -- so the Technology

1599 Options Workgroup had told me that there was no faith

1600 that Aaron Karjala could executive the dual path

1601 approach that we were asking him to take and really be

1602 the -- the objective in his reasoning, we felt as far as

1603 how the -- whether or not to keep technology to go

1604 forward or not should be -- or whether the

1605 healthcare.gov should be assumed.

1606 So that was communicated to me by the Technology

1607 Options Workgroup. I was not -- I didn't support that,

1608 but I understood them. They, in turn, spoke to Governor

1609 Kitzhaber, who called me directly, and it wasn't until

1610 his call and our conversation that -- so when was it

1611 decided? It was after the last technology -- or it was

1612 before the last meeting in March, but it was between the

1613 second to the last meeting and the last meeting that we

1614 had there.

1615 So somewhere between, I'd say, the 18th and 24th

1616 of March, somewhere in that range.

1617 Q. So is it fair to say that the decision to

1618 bring you on as interim CIO for Cover Oregon was made

1619 because you had extensive knowledge and experience in  
1620 the technology field?

1621 A. I would assume so, yes. I was -- I was  
1622 the only one at that time that could have taken on that  
1623 responsibility in the state.

1624 Q. Were you aware that the State of Oregon  
1625 set out to create a state-based exchange to enroll  
1626 Oregonians in healthcare plans?

1627 A. Yes, I was.

1628 Q. And were also aware that the State of  
1629 Oregon hired Oracle to build this healthcare exchange?

1630 A. Yes, I was.

1631 Q. Prior to being brought on as CIO, were  
1632 you following the development of the exchange?

1633 A. Yes, I was, very closely.

1634 Q. So you were generally aware of what was  
1635 happening with the development when you were brought on  
1636 as Cover Oregon's interim CIO?

1637 A. Well, I knew that it had failed to  
1638 launch. That was the extent of my knowledge. As far as  
1639 any internal technology things, as far as the mechanics  
1640 of where they were, no, I wasn't aware of that; but I  
1641 was aware that it had failed to go into production.

1642 Q. Were you aware that Oracle had an  
1643 original go-live date of October 1, 2013?

1644 A. I did know that, yes.

1645 Q. How did you become aware of that?

1646 A. Well, according to the Affordable Care  
1647 Act, they all had to go live that date. Most of our  
1648 eyes were on the healthcare.gov website during that time  
1649 and the difficulties it was having getting off the  
1650 ground.

1651 So we were all -- especially being in Oklahoma,  
1652 we were committed to healthcare.gov. So we were  
1653 watching how that went, but we also keeping an eye on  
1654 California's.

1655 So the State of Oklahoma had sent the money  
1656 back. We had originally been issued the Early  
1657 Innovators Grant. Oregon's proposal was not funded, as  
1658 we understood it, and ours, ours being Oklahoma, was  
1659 funded. Well, then after looking at that, it was  
1660 recommended that we not do this. I recommended that to  
1661 Governor Fallin, and we sent the money back to CMS.

1662 So we didn't -- we rejected the grant. That  
1663 grant money then went to Oregon and funded their Early  
1664 Adopter Grant. So this has followed me for some time.  
1665 I haven't been able to get rid of it.

1666 Q. So you testified that you know the  
1667 exchange didn't go live October 1, 2013. Do you know  
1668 what happened after October 1st?

1669           A.       I know that there were a lot of -- there  
1670 was a lot of activities around trying to get the  
1671 exchange to go live. I know that there were -- I know  
1672 that from being a witness for the state that there were  
1673 specifically points at which it looked to go live in  
1674 February and then -- January and then February of 2014,  
1675 and both of those, it was deemed unacceptable to go  
1676 live.

1677           Q.       Do you know what caused Oracle not to go  
1678 live with the exchange on October 1st?

1679           A.       I know that the build was not complete  
1680 and I know that the -- I know the system was not stable.

1681 BY           ██████████:

1682           Q.       Wait. How do you know that?

1683           A.       It wasn't complete and it wasn't stable  
1684 when I got there. So it couldn't have completed in  
1685 October if it wasn't completed in March.

1686           Q.       What do you mean by stable and complete?

1687           A.       I guess so there's basic functionality  
1688 that the system needed to be able to perform, and we  
1689 were still building that functionally when I got there.  
1690 There were still releases that were planned to address  
1691 key components.

1692           For instance, one of the components that didn't  
1693 get done until Release 1.1.0.7, which my team pushed

1694 into production in June of 2014, was the ability to  
1695 change -- to support a change of circumstance.

1696           So if you had been married or changed jobs or  
1697 something else had happened to you, you would come back.  
1698 That would be a change of circumstance, and we would  
1699 then have to support you on, Okay, what it was that you  
1700 were going to do.

1701           Well, the way that the system was designed, if  
1702 you changed from -- let's say that you had originally  
1703 selected Providence healthcare plan for your provider,  
1704 and then after your change of circumstance, you decided  
1705 to go with Moda, who was the low-cost plan provider in  
1706 Oregon. Well, it overwrote the record. The similar was  
1707 not designed at that time to keep what we called  
1708 versions, record versioning.

1709           So you changed that -- we changed that for you  
1710 to Moda, and you had always been on Moda. Since the  
1711 beginning of the year, you had been on Moda. It didn't  
1712 have -- we didn't say it changed on Moda on June 1,  
1713 2014.

1714           So, fundamentally, that's requirement. You've  
1715 got to be able to do versions of records. If you get  
1716 divorced -- if you had been divorced in the process, you  
1717 had always been divorced. If you had had a child, you  
1718 had always had a child. If you had --

1719           So there was no way for the system to track  
1720 changes until Version 1.1.0.7, and as a design  
1721 component, that was a flaw in the design that had to be  
1722 addressed through a technical work-through, a technical  
1723 -- I had to copy the record. So I had to actually have  
1724 duplicate records in there of the thing in order to make  
1725 it work and I had to trick the system so it wouldn't  
1726 think that they were duplicates to -- you know, so it  
1727 would crash.

1728           So it was a very tortuous design, but I had no  
1729 choice. I had to go with what I had to go with.

1730 BY           ████████████████████

1731           Q.       So I know you weren't with the State of  
1732 Oregon on the original go-live date, but were you aware  
1733 of the defects that prevented it from going live on that  
1734 date, on October 1st?

1735           A.       Well, I assume at a minimum, they were  
1736 the same ones that kept me from bringing it live. So it  
1737 was at least that and probably more.

1738           Q.       And how did those defects that you are  
1739 aware of affect the functionality of the exchange?

1740           A.       So there's -- when we talk about  
1741 functionality, there were defects as far as what we call  
1742 functional defects. It didn't do the things that it was  
1743 supposed to do and then nonfunctional defects. The

1744 nonfunctional defects were cataclysmic, things that  
1745 simply -- we could only support one kind of browser.  
1746 You couldn't use Fire Fox. You couldn't use Chrome.  
1747 You couldn't use Mozilla, and the vast majority of people  
1748 use Safari or Mozilla or Fire Fox, whatever. They use  
1749 other kinds of browsers besides Internet Explorer.

1750           The only browser it worked with was Internet  
1751 Explorer. We had where -- we had things where you would  
1752 go through and fill your information and say "save" and  
1753 it wouldn't commit the record. It wouldn't do what's  
1754 called a commit. So you wouldn't actually save the  
1755 information you had.

1756           There were -- that was just -- it was not in --  
1757 just the nonfunctional component prevented it from going  
1758 live. I can't emphasize how detrimental it would have  
1759 been to the community as well as to Cover Oregon to  
1760 bring that live as it was.

1761           Q.       And we discussed that you were bought on  
1762 as the State of Oregon's CIO in January of 2014. Was  
1763 the exchange that was created by Oracle ready to go live  
1764 at that time, January of 2014?

1765           A.       No.

1766           Q.       Why not?

1767           A.       Well, I would imagine for the same  
1768 reasons that it wasn't ready in March. We always had



1769 wanted -- one of the things that's very important to  
1770 note, it was always our hope through April that we might  
1771 be able to get the exchange to a place where it could go  
1772 live, because we had extended open -- I said we had  
1773 extended. Open enrollment had been extended through the  
1774 end of April of 2014, and so we had hoped even if it was  
1775 just for the last couple of weeks, we could bring it  
1776 live. We could at least -- it never got to that point.  
1777 We never got it to the point where we could bring it  
1778 live.

1779 Q. So by the end of January, by the end of  
1780 February 2014, it was never live?

1781 A. April, not to the point -- when we say it  
1782 wasn't live, it was in protection to agents and to  
1783 partners and to the call center staff, but it was not  
1784 live to the public. We did open it up to the public.  
1785 Even -- I haven't even mentioned all the security  
1786 concerns that we had with it. We weren't -- we never  
1787 had even got to worrying about security concerns around  
1788 the system and what have you. It never even -- we never  
1789 got that far down the path.

1790 Q. And that was because of the various  
1791 defects in the system. Right?

1792 A. Yes, sir. It was the nonfunctional  
1793 failures of the system.

1794 Q. Oracle claims that the website was fully  
1795 functioning and ready to go live to the public at the  
1796 end of February 2014, but the governor in Oregon decided  
1797 not to go live with the public because of political  
1798 reasons. Are you aware of this allegation?

1799 A. Well, I'm aware of the statement. I  
1800 wouldn't call it an allegation, but I was aware of the  
1801 statement.

1802 Q. What's your response to this statement?

1803 A. Well, it wasn't true. We were -- we had  
1804 200 call center people using it simultaneous to input  
1805 information into the system and, literally, I had to go  
1806 to a daily reboot of the system. There would be -- and  
1807 these are people who are train to use it, who know how  
1808 to use it, and I had to institute a daily reboot of the  
1809 system. There were times where we -- and this is with  
1810 just 200 users. If we had opened it up to where we  
1811 could have 10,000 concurrent users -- there's four  
1812 million Oregonians or 4.5 million Oregonians. If we had  
1813 had that many folks trying to get to the exchange or  
1814 trying to find out about it or whatever, anything near  
1815 10,000 concurrent users, it would have -- we would have  
1816 been down a good deal of time. There was just no way  
1817 that we could have supported that kind of volume.

1818 Q. So you alluded to earlier that this was a

1819 big project for Oregon?

1820 A. Yes, sir.

1821 Q. Is it fair to say that Oracle was hired  
1822 and accepted the role knowing the magnitude of the  
1823 project?

1824 A. I believe so, yes, sir. They were -- it  
1825 was -- this was an outgrowth -- as I understand it, this  
1826 was an outgrowth of the modernization project that was  
1827 already underway at the Department of Human Services and  
1828 the Oregon Health Authority to modernize the benefits  
1829 enrollment process.

1830 So the Health Insurance Exchange came after, and  
1831 it was an expansion, as I understood it, to that scope,  
1832 to be an all-encompassing, no wrong door approach.

1833 Q. And Oracle is a billion dollar  
1834 corporation known for its IT work. So it's fair to say  
1835 that they knew what this project entailed, basically?

1836 A. Right. I would have to assume that, yes,  
1837 sir.

1838 Q. And based on your expertise with large IT  
1839 projects, Oracle was a systems integrator regardless of  
1840 what it said in the contract. Correct?

1841 A. Oracle was acting as a systems  
1842 integrator, yes, sir.

1843 ██████████ Okay. So I'm going to now hand you

1844 an exhibit. It's going to be marked as three.

1845 [Exhibit No. 3

1846 was

1847 marked for

1848 identification.]

1849 THE WITNESS: I hope I don't have to

1850 read this.

1851 BY [REDACTED]

1852 Q. Not all of it.

1853 A. All right. Yes, sir. I'm familiar with

1854 this.

1855 Q. So are you familiar with this document?

1856 A. Yes, sir, I am.

1857 Q. Please direct your attention to page 5 of

1858 the complaint. Sorry. Let me go back first.

1859 The exhibit marked as two is the complaint --

1860 three -- excuse me -- is the complaint the State of

1861 Oregon filed against Oracle, Ellen Rosenblum v. Oracle

1862 America, Inc., Case No. 14-C-20043, alleging, among

1863 other things, fraud and breach of contract dated August

1864 22, 2014.

1865 Dr. Pettit, if you could direct your attention

1866 to Page No. 5. Under Section 10, it reads, and I quote:

1867 "In the spring of 2014, Oracle's president claimed that

1868 the exchange had been read to launch in February 2014.

1869 In April, Cover Oregon staff identify 1,198 errors that  
1870 required repair before the system could be considered  
1871 for a public launch. That same month, an independent  
1872 assessment concluded that it will cost tens of millions  
1873 of dollars and would take more than a year to fix  
1874 Oracle's abysmal and incomplete work."

1875 Is this an accurate characterization of the  
1876 issues that you identified when you came on as CIO for  
1877 Cover Oregon?

1878 A. It is -- so the direct response to that  
1879 is that it is not as precise as I would have done it.  
1880 There were some seven to eight hundred Severity 1 errors  
1881 in the spring of 2014 or April 2014. I remember there  
1882 was a report that I had written where I decompose it  
1883 Sev. 1, Sev. 2, Sev. 3, Sev. 4 errors.

1884 I don't remember the number of Sev. 2, but Sev.  
1885 1 errors are the things that when you run into them, the  
1886 whole system would shut down. It would just blow up on  
1887 you. They were so severe that it would stop you from  
1888 being able to process and they would the system to hang  
1889 and we had to reboot the system. There were over --  
1890 there were between seven and eight hundred of those  
1891 problems, Severity 1 errors.

1892 Q. And this is in --

1893 A. This was in April or May, between April

1894 -- like April of 2014, the spring of 2014.

1895 Q. Is it normal to have seven to eight  
1896 hundred Severity 1 errors --

1897 A. No, sir.

1898 Q. -- at that time?

1899 A. No, sir, not on something that goes --  
1900 that you would release to the public, no, sir.

1901 Q. Okay. So does this mean that Oracle did  
1902 not provide, as it claimed, a fully-functioning website  
1903 in February of 2014?

1904 A. I would say that the website that was  
1905 provided was not fully functioning, yes, sir.

1906 [REDACTED] Okay. I am now going to hand you  
1907 an exhibit marked as Exhibit No. 4.

1908 [Exhibit No. 4

1909 was

1910 marked for

1911 identification.]

1912 BY [REDACTED]

1913 Q. It appears to be an E-mail from you to  
1914 Amy Farver dated May 28, 2014.

1915 A. Yes, sir.

1916 Q. Are you familiar with this document?

1917 A. Yes, sir, I am. That's -- I wrote the  
1918 response.

1919 Q. Who is Amy Farver?

1920 A. She was the -- she was acting as the  
1921 project manager, but she was more the project  
1922 coordinator for Cover Oregon. So she was -- when I got  
1923 there, she was the one that was doing the release  
1924 coordination and managing the process that had been in  
1925 place for doing release testing and release production,  
1926 pushes into the production environment.

1927 She was -- after I got there, I refined her role  
1928 to be focused on scheduling the releases and  
1929 coordinating with the -- and doing more formal  
1930 management of that process using tools. Up until then,  
1931 she was the project manager, you would say, for Cover  
1932 Oregon, but acting as really the project coordinator.

1933 Project coordinators schedule or time things.  
1934 Project managers make sure that the tasks that need to  
1935 be done are being done by the participants that need do  
1936 them. Amy was more the coordinator than she was the  
1937 manager.

1938 Q. Why are you E-mailing her here?

1939 A. Well, it's in response to -- Tina Edland  
1940 had done a presentation here, and she -- and I had  
1941 circulated that among the group just to get -- just to  
1942 let them know what was coming, first of all, as well as  
1943 to solicit any kind of feedback from them, just so what

1944 was known.

1945           So she had said here -- I'm quoting the  
1946 document: "I also recommend not talking about the,  
1947 quote, remaining known errors, enhancement, quote, on  
1948 Slide 7. This will shine a bright shiny object for the  
1949 press, especially Nick."

1950           She's talk about Nick Budnick, who is a reporter  
1951 for "The Oregonian", a newspaper in Portland.

1952           Q.       So you write at the top of the page:  
1953 "Oracle purporting that the act can go live. The  
1954 numbers refute her assertion."

1955           Is the her that you're referring to Tina Edland?

1956           A.       Yes.

1957           Q.       And what numbers are you referring to?

1958           A.       They are the instant -- so the numbers  
1959 I'm referring to are the number of -- and if I -- I  
1960 don't have the presentation here specifically, but I  
1961 think I remember that this was the first time that I had  
1962 brought forward the Sev. 1, Sev. 2, Sev. 3, Sev. 4  
1963 classification and presented that to the Ways and Means  
1964 Committee for the State of Oregon.

1965           Q.       So at the time that you wrote this  
1966 E-mail, you didn't believe that the website was  
1967 functional and ready to go live to the public?

1968           A.       No. I did not believe that the website



1969 was functional.

1970 Q. So you go on to say that: "Although one  
1971 can argue that everything would not need to be corrected  
1972 before go-live, there are clearly far too many Sev. 1  
1973 and 2 errors to go live."

1974 And you testified earlier that there were around  
1975 seven to eight hundred Sev. 1 errors in April. How many  
1976 at the time of this E-mail?

1977 A. I don't recollect, I'm afraid. I'd have  
1978 to see the document that was presented, that Tina  
1979 presented, to the Ways and Means Committee.

1980 Q. You also say that: "And this is not the  
1981 final bug. Thus, we expect to find more bugs."

1982 What do you mean by bugs?

1983 A. So we had -- so there's 295 cases -- CMS  
1984 recommended 295 cases be run as the test deck for any  
1985 Affordable Care Act Health Information Exchange. We had  
1986 -- it had been reduced. Between Cover Oregon and  
1987 Oracle, it had been reduced to 22 of those test cases.  
1988 So it was a significantly smaller testing surface area.

1989 So we had teased out -- the bugs that were  
1990 teased out were based upon a subset of the total surface  
1991 area for testing. In my experience, you expand the  
1992 surface area. You find more errors. So it was expected  
1993 that we were going to come up with more errors as we

1994 extended it.

1995 Q. And how did bugs affect the functionality  
1996 of the exchange that Oracle was attempting to do?

1997 A. And those are -- when you have errors --  
1998 if I'm a consumer -- so most of the consumers of  
1999 insurance -- we have consumers of insurance come from  
2000 all walks of life. Some of them are tradesmen. Some of  
2001 them are independent laborers. Some of them are folks  
2002 that are consultants, so a wide gamut of educational  
2003 experience and demographics.

2004 It has been my experience from putting out a  
2005 kiosk for general public use that errors in the system  
2006 will quickly frustrate and people will abandon using  
2007 that system if it's not -- if it doesn't do what they  
2008 expect it to do, and they won't trust it, particularly  
2009 when it comes to giving cash. So the system that I had,  
2010 actually, they would pay their bills, push cash in the  
2011 machine. They had to trust that the machine was going  
2012 to accurately identify and remit their -- what they put  
2013 in there as being cash.

2014 Side note here: One of the biggest problems I  
2015 had with my machine is that y'all kept changing the  
2016 currency during these periods of time and I kept having  
2017 to change the bill to the currency. So when that  
2018 happened, people reject the bill. They reject the

2019 technology. They don't support the thing and they don't  
2020 have faith in it.

2021 Errors tend to erode or destroy trust, and trust  
2022 is the most important thing that we can give people when  
2023 they interact with technology with the government.

2024 BY [REDACTED]

2025 Q. And would you say you had trust in the  
2026 technology that Oracle developed?

2027 A. No. That was why we -- it was clear to  
2028 me that if this had gone to the public, it would have  
2029 severely damaged the trust that our population has in  
2030 not only our -- in not only the solution, but even in  
2031 our ability to provide working solutions.

2032 BY [REDACTED]

2033 Q. So you testified that you expected to  
2034 find more bugs because you increased the surface area of  
2035 the server?

2036 A. Yes, sir.

2037 Q. Would you say that finding more bugs  
2038 would be normal under that circumstance?

2039 A. Yes, sir.

2040 Q. And if so, are there some bugs more  
2041 material to functionality than others?

2042 A. So with the functional requirements,  
2043 those -- the bugs -- the issues, the problems that we

2044 had are more material for that. So if you're a single  
2045 parent and have multiple marriages and have multiple  
2046 children from multiple marriages, and some of these  
2047 children are in foreign countries and what have you,  
2048 then the complexity of that application increases  
2049 dramatically.

2050           So if you're going through that process of  
2051 entering the information, there is more likelihood that  
2052 something would be wrong in a nuanced kind of a thing  
2053 than if I'm an single male, unmarried, no children, and  
2054 I'm just applying for myself. So yes. It was expected  
2055 that there would be more bugs as we get into it and more  
2056 -- as we got into more nuanced application, that more  
2057 things would surface, yes, sir.

2058           Q.       So more material bugs?

2059           A.       More material bugs would surface, yes,  
2060 sir.

2061           Q.       So just to be clear, this E-mail was sent  
2062 month after the original go-live date of October 1,  
2063 2013. Correct?

2064           A.       Yes, sir.

2065           Q.       And at the time of this E-mail, the  
2066 exchange was still not functioning. Correct?

2067           A.       Yes, sir. Well, the public exchange was  
2068 not functioning, and at this point, it was too late.

2069 Open enrollment had concluded the month prior, and so we  
2070 were done at that point.

2071 Q. You also wrote that: "I think a more  
2072 comprehensive view is more informative and supports the  
2073 contention that the decision to move to the FFM is the  
2074 right decision."

2075 What is FFM?

2076 A. That's the Federally-Facilitated  
2077 Marketplace or healthcare.gov.

2078 I had been or it had been stated in a  
2079 conversation with Oracle folks that I had -- I was doing  
2080 the same thing in Oregon as I was doing in Oklahoma, as  
2081 I had done in Oklahoma and recommending that we go to  
2082 healthcare.gov, and the fact of the matter was this was  
2083 not an application that could go live. It simply was  
2084 not something that we could bring to the public.

2085 Q. And as your time as interim CIO for Cover  
2086 Oregon, Oracle never produced an exchange that can go  
2087 live to the public?

2088 A. We never got it to a point where it could  
2089 go live, no, sir.

2090 Q. So I want to go back to Exhibit No. 2  
2091 that the majority introduced.

2092 A. Okay.

2093 Q. It's meeting notes from March 13, 2014.

2094           If you could direct your attention to Bullet  
2095 Point No. 1. The meeting notes note that the exchange  
2096 is still a high-risk project.

2097           Did you agree with that assessment?

2098           A.       I did. It was a high-risk project, yes,  
2099 sir.

2100           Q.       And what does high-risk project mean?  
2101 How would you define that?

2102           A.       Well, let's see here.

2103           Where do you see that on this?

2104           Q.       It's under the first bullet point, the  
2105 last sentence?

2106           A.       The first bullet I have is "any  
2107 recommended" --

2108           Q.       I'm sorry. The first bullet point under  
2109 key points.

2110           A.       I'm sorry. Yes.

2111           "QA results had some positive momentum over  
2112 recent months and the solution that is in production is  
2113 fully functional, but the overall picture is still  
2114 showing significant issues and time is passing, still a  
2115 high-risk project."

2116           So what we're saying there in that case was they  
2117 were still working through developing functional  
2118 requirements, and as this bullet was speaking to, was

2119 that the solution in production is fully functional, in  
2120 quotation marks, but it had no completed the development  
2121 of the functional requirements. So that was still --  
2122 those were still in process or in development, code  
2123 development, and had not yet brought to the production  
2124 environment.

2125           So when we say it's still high-risk project, we  
2126 still have had a lot of -- we still had functionality.  
2127 We still had to pay -- we could not do changes to  
2128 records. We couldn't do changes to circumstance. We  
2129 could not change the -- we could not -- we had no way of  
2130 remitting or paying agents yet. We had no way of -- we  
2131 hadn't addressed how to print out the tax information  
2132 for people, how to print out either the agent's tax  
2133 information or the tax information for the subscribers  
2134 to plans.

2135           So there were still functionality that we needed  
2136 to define and get into production, and we were working  
2137 under a deadline.

2138           Q.       Okay. Under the sixth bullet point under  
2139 that same section, key points, slash, assumptions --

2140           A.       Yes, sir.

2141           Q.       -- it states: "Still have not achieved  
2142 full post-release stability due to a combination of  
2143 issues with vendor release processes and the complexity

2144 of some of the functionality being released. The system  
2145 is stable when there are not releases making changes to  
2146 the system. The root cause of the instability is the  
2147 inherent weaknesses in the vendor's release processes."

2148 What does that mean?

2149 A. Well, in simple terms, what they're  
2150 talking about there are fixes that fail. So when you  
2151 have an error or a bug and then you've isolated it, you  
2152 identified what it is and what needs to be done to  
2153 correct it or address it, you write your fix. It then  
2154 goes through testing, goes into production.

2155 What was happening during this time, I didn't  
2156 realize it at the time, but fixes to problems were being  
2157 put directly into production without sufficient testing  
2158 being done prior to that. Those would then produce or  
2159 become what we call fixes that fail.

2160 They're fixes that were to address one problem  
2161 that would then create other problems in the -- as it  
2162 was promoted to production, some of which -- some were  
2163 directly related to what that fix was trying to address.  
2164 Some of them were not related to the fix that it was  
2165 trying to address.

2166 As a consequence, what they are saying here is  
2167 those fixes as they applied to production would  
2168 sometimes have unintended consequences, would break



2169 things we didn't anticipate.

2170 Q. Did you agree with that assessment?

2171 A. I actual felt it was worse than that. We  
2172 had a number of -- so there's a statistic that we use  
2173 that's called the defect removal rate. So all software  
2174 vendors have a certain percentage of defects. You're  
2175 supposed to be able -- once a defect or a bug or  
2176 whatever you want to call is identified, nine times out  
2177 of ten or more, you should be able in the first pass to  
2178 be able to fix that.

2179 We were nowhere that defect removal rate.

2180 Q. So in the second to the last bullet,  
2181 under key point assumptions, it says: "Base on  
2182 experience, there will always be a hybrid processing  
2183 model, joint automated and manual with the current  
2184 solution. This should be the assumption going forward  
2185 if the current solution is selected."

2186 What does that mean?

2187 A. Well, we were never -- again, we --  
2188 they're addressing the nonfunctional things now.  
2189 They're saying that there was no way to address all of  
2190 the nonfunctional requirements in the time for people to  
2191 be able to do an enrollment even if -- at the time, open  
2192 enrollment had not been extended through the end of  
2193 April.

2194           So the discussion was what if this were to go  
2195 live. They're saying that there will always be a hybrid  
2196 process model required. So it didn't matter. They  
2197 didn't feel that the technology was going to get to a  
2198 stable enough place where we would have -- the users out  
2199 there would be able to use the solution and be able to  
2200 effectively work their applications through it without  
2201 having to give us the information and let an agent do it  
2202 for them and trade information back and forth through  
2203 the mail as were doing.

2204           Q.       So you also testified that Oracle did a  
2205 demonstration for you of what they had when you first  
2206 started. Did they ever do any other demonstrations?

2207           A.       So it wasn't Oracle. It was actually  
2208 Cover Oregon staff that tried to walk me through the  
2209 application, and it was on three different occasions  
2210 that we tried to do a walk-through.

2211           The first two failed. The third one, we got  
2212 through it, but only by skipping a lot of different  
2213 parts. There was not a -- we never did a comprehensive  
2214 -- we were never able to get through a comprehensive  
2215 enrollment through the process in a way that it  
2216 functioned.

2217 BY                   ████████████████████

2218           Q.       Is that what you mean by you had to skip

2219 through the parts? You didn't continually go through  
2220 and enroll through the system?

2221 A. They couldn't get it so that I could  
2222 continuously enroll front to back through the system  
2223 from where we were.

2224 Q. So that would be what the public would  
2225 have experienced at that time?

2226 A. It would have been -- so the public would  
2227 have experienced worse than that at the time.

2228 BY [REDACTED]

2229 Q. Have you ever heard anyone say besides  
2230 Oracle that management issues were the reason for the  
2231 website having bugs, bad releases, and a demo that  
2232 didn't work?

2233 A. I'm sorry. Would you repeat that? I  
2234 didn't follow you.

2235 Q. Have you ever heard anyone say besides  
2236 Oracle that management issues on the path of Cover  
2237 Oregon were the reason for the website having bugs, bad  
2238 releases, and a demo that didn't work?

2239 A. Yes, sir, I have. I've heard that from  
2240 Representative Richardson, other members of leadership,  
2241 committee members, and such. There were many people  
2242 that -- people in -- folks in the comments section for  
2243 "The Oregonian".

2244           So a lot of the different folks made that  
2245 statement.

2246           Q.       Who is Representative Richardson?

2247           A.       He is one of the committee members of the  
2248 Ways and Means -- was a representative or member of the  
2249 Ways and Means Committee. He ran for governor against  
2250 Governor Kitzhaber in the 2014 election, but at the  
2251 time, he was a member of the Ways and Mean Committee  
2252 that had oversight to the project.

2253           Q.       So he was the sitting governor's opponent  
2254 and a Republican?

2255           A.       Yes, sir.

2256           Q.       And did you agree with these various  
2257 folks saying that Cover Oregon management issues were  
2258 the reason for the demo not working, bad releases, and  
2259 bugs in the system?

2260           A.       So, in my opinion, Oregon was in the same  
2261 situation Oklahoma was in, that they did not have the  
2262 capacity to run a project of this magnitude. Oregon  
2263 chose to go to try to buy that capacity for from Oracle,  
2264 and that was the decision that was made. They chose to  
2265 buy that capacity and to do it that way.

2266           That would not have been my decision or my  
2267 choice. As I came into the responsibility of running  
2268 the stabilizing the exchange in 2014, I asserted the

2269 state's control, my control over the project management  
2270 and the project development.

2271 Now, having said that, even if Oracle wants to  
2272 say they were just the mason in the project, they were  
2273 not the general contractor, just the mason, a mason  
2274 still has to build the plumb wall, and the walls that  
2275 were built were not plumb. There were too many -- the  
2276 error levels, the fixes that failed, the defect removal  
2277 rate, all of those things were abysmal.

2278 Q. So you testified that Cover Oregon should  
2279 focus on a minimally viable project. Did Oracle ever  
2280 produce even a basic functioning website to the state?

2281 A. Well, with the -- the system was in  
2282 production, and if you did the right things and did  
2283 things in a certain way and whatever, you could get a  
2284 very basic application through the web portal. The vast  
2285 majority of our applications, though, needed to be done  
2286 directly into SEBOL. So that was a different interface.

2287 There was actually three interfaces into the  
2288 system. There was one interface that was the Web CT  
2289 system, the website, the GUI, whatever you would like to  
2290 call it. There was one interface that was direct to  
2291 SEBOL where you typed the data straight into SEBOL, and  
2292 then there was a process that we had for OCR, Optical  
2293 Character Reading, the applications, and it would

2294 populate it into SEBOL.

2295           So we had three ways that you could enter data  
2296 into the system. The public could not be allowed to  
2297 enter data directly into SEBOL for a variety of reasons.  
2298 That's the core system, and they would not have been --  
2299 that wouldn't have been opened to them.

2300           Did an application ever come through Web CT such  
2301 that it -- which I believe is your question. The direct  
2302 answer is yes. A very basic application could get  
2303 through if all 70-some pages of the manual were followed  
2304 and you didn't variate and you had everything there and  
2305 you could do it fast so that it didn't -- you know, the  
2306 time to live didn't expire. Then yes. You could get  
2307 through an application.

2308           If you had a more complex application, multiple  
2309 family members, multiple children from different -- no.  
2310 It would never work.

2311           Q.       Okay. To your knowledge, did Oracle ever  
2312 deliver a fully-functional operational website to the  
2313 state that can go live to the public?

2314           A.       So the direct answer to that would be no.  
2315 We never got it to where it could be consumed by the  
2316 public.

2317           Q.       Okay. So I only have five minutes left.  
2318 So I kind of want to switch gears a little bit back to

2319 your time as Cover Oregon's interim CIO.

2320 A. Yes, sir.

2321 Q. You testified that the governor called  
2322 and asked you to serve in that capacity. Right?

2323 A. Yes, sir. He did.

2324 Q. And you also testified that the TOW  
2325 recommended that you serve in that capacity?

2326 A. Yes, sir.

2327 Q. Or recommended to the governor that you  
2328 serve in that capacity. Right?

2329 A. Yes, sir.

2330 Q. Do you believe that the governor knew and  
2331 trusted your expertise as a technology professional?

2332 A. Well, I would hope he did. I think more  
2333 than anything, the feedback he was getting from members  
2334 of the TOW Committee, from other folks that he talked to  
2335 on his executive staff, and other people was that he  
2336 should trust me. I think more than anything -- and I  
2337 mean this in no false modesty at all -- he had very  
2338 little choice.

2339 Q. Okay. And in your role as Cover Oregon's  
2340 interim CIO, did you feel that there was undue influence  
2341 over your decisions on behalf of the governor or his  
2342 staff or the governor's personal advisors?

2343 A. No. I never felt that.

2344 Q. And you testified that you had weekly  
2345 calls with Cover Oregon staff, Sean Kolmer and Mike  
2346 Bonetto?

2347 A. Yes, sir.

2348 Q. Do you feel like they exercised undue  
2349 influence over your decisions?

2350 A. Never on the decisions or the substance  
2351 of anything that I was doing. They -- no. I never felt  
2352 that.

2353 Q. Do you feel like they were trying to  
2354 influence policy decisions?

2355 A. No. They were -- the thing that I found,  
2356 and it's reflected in the E-mails, I'm sure, was some of  
2357 my frustration was around trying to affect the way  
2358 things were -- communications is not my strong suit, as  
2359 you've probably figured out here.

2360 So I had gone through a number of revisions on  
2361 some of these presentations where they didn't change the  
2362 substance as much as it was either this should be here,  
2363 change the order, or reword things, or what have you,  
2364 and that wasn't really -- that's not my forte and it's  
2365 not something I enjoy.

2366 Q. Is that what these communications between  
2367 you, Sean Kolmer, and Michael Bonetto usually entailed?

2368 A. Some of that was the communication. A



2369 lot of it, though, was operational in that case. They  
2370 wanted to know -- when I arrived, the information that's  
2371 reflected to the TOW, the Technology Options Workgroup,  
2372 and what I actually found when I assumed control of  
2373 Cover Oregon were very, very different. The situation  
2374 on the ground was not what had been reflected as  
2375 committee members, and that was -- and since I knew of  
2376 that gap or since that gap was apparent to me, it was  
2377 apparent that others were probably suffering the same --  
2378 including Mike and Sean and other folks, were suffering  
2379 that same disconnection.

2380 Q. So, to your knowledge, did the governor  
2381 or his staff make substantive decisions regarding the  
2382 Cover Oregon website project?

2383 A. Not to my knowledge, no, sir.

2384 Q. Did any personal advisors make  
2385 substantive decisions regarding the website project?

2386 A. No, sir, they did not.

2387 Q. Do you feel as if you were able to  
2388 exercise your duties as you saw fit without interference  
2389 from the governor or his personal staff or his personal  
2390 advisors?

2391 A. Yes, sir, I do.

2392 [REDACTED] That's all my  
2393 questions.

2394 THE WITNESS: Thank you.

2395 [REDACTED] Thank you.

2396 [REDACTED] Off the record.

2397 [Recessed at 12:13 p.m., reconvened

2398 at 12:28 p.m.]

2399 EXAMINATION BY THE MAJORITY STAFF

2400 BY [REDACTED]

2401 Q. I just would like to review a couple of  
2402 things that were asked in the previous round.

2403 A. Yeah, sur.

2404 Q. The E-mail that you were given, it's the  
2405 -- it's Exhibit 4. I'm curious about if you could  
2406 elaborate on how it's not the final bug list, it was  
2407 produced from using the smaller number of test cases,  
2408 the CMS recommended testing service, 295 instances.

2409 What was the CMS recommended testing service?

2410 A. So those were 295 cases CMS had said that  
2411 your exchange should be able to handle, so all kinds of  
2412 stuff we were supposed to be able to have it do. You  
2413 had to have children who were living in a foreign  
2414 country, were from a previous marriage, but you still  
2415 have to provide insurance to because of a court order or  
2416 whatever it was.

2417 So all kinds of variations of things that --  
2418 primarily around extended families, around unusual

2419 living arrangements, around members who might be  
2420 incarcerated, but, you know, were coming out on a  
2421 release date and would need to have coverage on a  
2422 release date, things like that, things that made --  
2423 there's a lot of complexity with health care.

2424           So the 295 cases were the best attempt that they  
2425 had at saying this is the known universe of everything  
2426 that you could possibly get thrown at you.

2427           Q.       The likely universe of people who may  
2428 enroll?

2429           A.       Right.

2430           Q.       Okay.

2431           A.       So that's really what that was. We had  
2432 taken a subset -- I say "we". A subset of that had been  
2433 selected for doing the testing because it would never  
2434 get through all 295. So there was a E-mails around how  
2435 that subset represented -- so there's an 80-20 rule.

2436 Eighty percent of the work is represented by 20 percent  
2437 of the population, and so 80 percent or 90 percent of  
2438 the applications could be represented by a subset of  
2439 that 295, and so -- and that was what was used to just  
2440 say, Okay, Well, we can do 80 and 90 percent of the --

2441           Q.       Okay. And I'd like to revisit the very  
2442 large document, Exhibit 3. You can go to the same page,  
2443 page 5.

2444 A. All right. I can actually read this  
2445 without my glasses.

2446 Q. You'll notice it just says a January  
2447 review conducted on behalf of the Federal Government  
2448 reported that -- do you know what review conducted by  
2449 the Federal Government that was?

2450 A. Yeah. CMS had come and done a review of  
2451 the state of the exchange development, and I haven't --  
2452 I've read the report. I'm familiar with the report, but  
2453 it was done prior to my --

2454 Q. So CMS wrote this sentence that were  
2455 still significant performance issues with the system  
2456 such that while the core functionality exists, the end  
2457 user experience will be significantly diminished?

2458 A. Yes.

2459 Q. Is that CMS?

2460 A. That's from the CMS report.

2461 Q. Okay. And then the last sentence of Item  
2462 10 here, it says that same month, an independent  
2463 assessment concluded that it would cost -- do you know  
2464 who did that independent assessment?

2465 A. That was in January. No, I don't know  
2466 who did that assessment.

2467 Q. I think this one would be in April,  
2468 because it says in April, Cover Oregon staff --

2469 A. Oh. All right.

2470 Q. -- and then that same month, an  
2471 independent assessment --

2472 A. Okay. So what they're talking about  
2473 there is when I had sat down -- so we had had Deloitte  
2474 Consulting do what we call shadowing the Oracle  
2475 Consulting Services people. We were looking to switch  
2476 the vendors.

2477 So Deloitte was shadowing. So the way that you  
2478 can assure a -- or one of the ways to assure seamless  
2479 transition is you have their geeks follow the primary  
2480 geeks for a while and then they switch roles for a while  
2481 and the primary geek, who was the primary geek, shadows  
2482 the new geek to make sure they're doing it the right  
2483 way.

2484 So we were in that process. During that  
2485 process, one of the things Deloitte had come up with was  
2486 an hours estimate as to what it would take to do the  
2487 fixes and the time estimate and the scope estimate, what  
2488 it would take to remediate that.

2489 That's that \$75 million that I actually came up  
2490 with based upon a \$200 blended rate of the hours that  
2491 was proposed to fix the solution by Deloitte.

2492 Q. So here, you would agree that your best  
2493 -- you believe an independent assessment, that's

2494 Deloitte?

2495 A. Yes. That's what that is.

2496 BY [REDACTED]

2497 Q. Do you know when Deloitte made that  
2498 independent assessment?

2499 A. That was in April. Yes, ma'am.

2500 Q. Was it a written report or how was the  
2501 assessment conducted and delivered to you?

2502 A. It given to me in a -- I'm almost certain  
2503 it was an E-mail that was provided to me as to the  
2504 number of hours it was going to take to do that, but I  
2505 don't have that on me here.

2506 Q. Okay.

2507 BY [REDACTED]

2508 Q. Before I turn it over to [REDACTED] one  
2509 more thing. You were asked about whether anybody else  
2510 besides Oracle had claims that the state was at fault  
2511 here. Are you familiar with the Clyde Hamstreet report?

2512 A. Yes, I am.

2513 Q. Would you agree that -- I don't have it  
2514 with me. We can get it, but would you agree that that  
2515 report did indicate that there were management problems  
2516 by the state?

2517 A. So the way that I remembered it was  
2518 Clyde's report was that there were structural issues

2519 with how technology in general reported or was managed  
2520 by the state. So his recommendation was that, much like  
2521 what had been done in Oklahoma, that all IT should be  
2522 centralized to a single authority, a single agency.

2523 I'm not going to swear to that, because I don't  
2524 have it, but that's my recollection of the report, was  
2525 that his recommendation was more -- was about just IT in  
2526 general, that IT in general should be unified and should  
2527 be accountable to a single IT leader.

2528 BY [REDACTED]

2529 Q. So I just had one quick question  
2530 following up from my colleagues on the minority's  
2531 questions. Who would make the decision for the website  
2532 to go live? You said it wasn't live, it wasn't launched  
2533 to individual. Who was responsible for making that --  
2534 who would have made a decision to launch it to  
2535 individuals?

2536 A. It would have been whoever the executive  
2537 director was or acting executive director. So it would  
2538 have been Bruce -- I'm sorry -- Rocky King in November  
2539 or October of 2013. It would have been Bruce in  
2540 February of 2014.

2541 I'm not sure exactly when Bruce and Rocky handed  
2542 off. It was sometime in January of 2014. It would have  
2543 been Clyde in April of 2014, and then it was moot after

2544 the end of April.

2545 Q. And then, earlier, you had talked about  
2546 that there were about 700 Severity 1 level errors.

2547 A. Yes, ma'am.

2548 Q. So I just wonder if you could maybe  
2549 elaborate on the differences between the portal that the  
2550 agency and the community partners were using and if  
2551 those errors were also in that portal or how that  
2552 worked.

2553 A. They were also in that portal. They were  
2554 the same portal. When we talk about the portal, we're  
2555 talking about -- so, technically, we call it the Web CT  
2556 Interface the Web Connect Interface.

2557 The Web CT is product by Oracle. It was  
2558 developed to be a friendly front end or a more adaptive  
2559 front end, a user friendly front end to the SEBOL system  
2560 that was the engine to the solution. So SEBOL was the  
2561 engine, and there were three ways that you enter data  
2562 into the engine. One of them was the web portal or Web  
2563 CT.

2564 The Web CT was the system that was developed for  
2565 entering data. It had embedded within it something  
2566 called the Oracle Policy -- OPA, Oracle Policy Engine,  
2567 Oracle Policy Administrator. That would put the rules  
2568 around or enforce the rules.



2569           As you typed in the data, the rules would adapt  
2570 what your experience was. So it was very clever how it  
2571 was designed from a process flow. You would put  
2572 something in like I'm a male, and it would then not even  
2573 ask me something or shouldn't ask me if it were that I  
2574 was pregnant.

2575           I would put something in about my age. I'd put  
2576 something in about my demographics, and it would adapt.  
2577 The website as I went through would adapt the questions  
2578 or was supposed to adapt the questions, the information  
2579 that was filled out as part of that process.

2580           So it was a very interactive kind of an  
2581 approach, and it was a very sophisticated design, but  
2582 that was the system that was designed to do the input.  
2583 That was the web design and that was also going to be  
2584 the design we used for the public to use. So community  
2585 partners and the agents were using that same Web CT.

2586           The issue was it never got to a point of  
2587 maturity where we didn't have to have a big rule book as  
2588 what you could and couldn't -- we weren't going to be  
2589 able to train the end users in the state these are the  
2590 things you don't do to keep it from throwing a Sev. 1  
2591 error.

2592           Q.       Thank you.

2593           A.       Sure.

2594 [REDACTED] I'm now introducing Exhibit 5 into  
2595 the record.

2596 [Exhibit No. 5

2597 was

2598 Marked for

2599 identification.]

2600 [Witness peruses exhibit.]

2601 THE WITNESS: Okay.

2602 BY [REDACTED]

2603 Q. This is a slide presentation, it looks  
2604 like, from the Technology Options Workgroup Meeting No.  
2605 3 on March 18, 2014.

2606 A. Yes, ma'am.

2607 Q. So if you could please turn to page 5, I  
2608 believe, of the slide presentation.

2609 [REDACTED] This is Exhibit 5.

2610 Correct?

2611 [REDACTED] Yes, Exhibit 5. It's  
2612 the page with the Bates Stamp No. GOV\_HR 00080787.

2613 THE WITNESS: Okay. Yes, ma'am.

2614 BY [REDACTED]

2615 Q. And the first bullet on the slide says:  
2616 "How would accuracy rate improve as more complex use  
2617 cases are removed from required functionality?"

2618 And the second bullet under that heading says:

2619 "About 80 of complex cases failures are user input  
2620 errors."

2621 Is that what you were talking about? Could you  
2622 explain what that they mean with that statement?

2623 A. I think what they're saying here with  
2624 that statement, that -- and if I could take it into the  
2625 context of the previous one, that these were a subset of  
2626 the overall. So that's why they had reduced or the  
2627 justification of reducing the surface area for testing,  
2628 was because large cases were the ones that would blow  
2629 up, and then of those, they only represented, they said,  
2630 between four and eight percent of all enrollees, were  
2631 large folks, were large families.

2632 Now, having said that, of those 80 percent of  
2633 those failures, of that four to eight percent, 80  
2634 percent of those failures are user input errors, are  
2635 things that the user did that we knew would throw an  
2636 error, so things like they would write something and it  
2637 was -- they would do something that -- they would try to  
2638 enroll them in a tribal thing, affiliation, and tribal  
2639 affiliation didn't work.

2640 So we would put them into a tribal affiliation.  
2641 The person -- so the call centers were staffed with  
2642 temporaries and we had people who we'd bring in from  
2643 temporary services and we'd give them this manual and

2644 we'd say this is the rule book for how to input this  
2645 information, but the information that they got wouldn't  
2646 be prescreened. So it was just -- it came in a raw form  
2647 from the person that had filled it out, and on the form,  
2648 there was information about, as an example, tribal  
2649 affiliations.

2650 In the how-to book, it would say don't put  
2651 anything in on tribal affiliations. Well, if they  
2652 hadn't seen that or they weren't familiar with that part  
2653 of the manual or whatever, then as they were going  
2654 through, they would put in a tribal affiliation and it  
2655 would blow up and then it wouldn't work.

2656 So that's what that meant. That was 80 percent  
2657 of our failures. Of the four to eight percent --

2658 Q. Okay.

2659 A. -- 80 percent were caused by -- four out  
2660 of five were caused by somebody not reading the manual.

2661 Q. Thank you.

2662 A. Or not understanding. I shouldn't say  
2663 not reading it. I'm sorry. That was an error.

2664 [REDACTED] I'm introducing Exhibit  
2665 6 into the record.

2666 [Exhibit No. 6

2667 was

2668 marked for

2669 identification.]

2670 [Witness peruses exhibit.]

2671 THE WITNESS: Yes, ma'am.

2672 BY [REDACTED]

2673 Q. So are these materials from a March 20,  
2674 2014 Technology Advisory Group meeting?

2675 A. Yes, ma'am.

2676 Q. Then do you know who made the cost  
2677 estimates for the Scenario No. 1, current technology new  
2678 vendor cost model, Scenario No. 2, immediate move to FFM  
2679 cost model, and Scenario 3, current technology FFM  
2680 contingency cost model?

2681 A. These would have been done -- so Point B  
2682 had put this slide deck together. I believe they got  
2683 the information, the atomic-level information, from  
2684 Deloitte, but I do not know that. I would have to defer  
2685 to Point B folks.

2686 Q. So the slides were assembled by Point B,  
2687 you said?

2688 A. Yes, ma'am. They were the ones that did  
2689 the facilitation.

2690 Q. And then can you please turn to the page  
2691 with the Bates Stamp No. GOV\_HR 00049672.

2692 A. Yes, ma'am.

2693 Q. And I believe it was shaded in gray, but

2694 underneath the Scenario No. 1, keep the technology new  
2695 vendor, the low and high was for 2014. The low and high  
2696 next to that was for 2015, the low and high for 2016,  
2697 and the last two columns were three-year totals. Does  
2698 that sound familiar to you?

2699 A. Yes, ma'am, certainly.

2700 Q. Then did you use this cost information?  
2701 Was this part of the \$78 million estimate you referred  
2702 from Deloitte?

2703 A. No, ma'am. This was not. This was the  
2704 -- we had used this -- when the committee was talking  
2705 about pursuing a dual path or was looking at paths, I  
2706 think at this point, we were actually looking at three  
2707 options. We were looking at bringing in another -- so  
2708 Maryland had right around this time committed to  
2709 bringing in, I believe it was, Connecticut's exchange.

2710 So the State of Maryland was going to bring in  
2711 Connecticut's exchange. So we were looking at the  
2712 potential of bringing in another exchange. So that was  
2713 one of the things we had discussed.

2714 The second -- I think at this meeting, the other  
2715 two options were continuing development of the  
2716 technology with the same vendor to get it done and then  
2717 going to the FFM.

2718 We were looking at, Okay, was it feasible, do we

2719 have enough money left that we could go through the  
2720 current technology with a new vendor, could we complete  
2721 the project with the resources, the Level 1 grant  
2722 funding that we had from CMS, and what this informed us,  
2723 that 31 million, yes. We had the --

2724 Q. Business operations?

2725 A. Resources to complete, yes, ma'am.

2726 Now, as far as looking at the long range, as far  
2727 as going forward, what it would cost us to sustain it,  
2728 those numbers were much fuzzier to us and, honestly,  
2729 they were out of the scope for this group. Our group  
2730 was really primarily focused on what it was going to  
2731 take to the Level -- with the Level 1 funding, could we  
2732 get the exchange to a point where we'd achieve the Level  
2733 1 funding goals.

2734 We understood there was opportunity for a Level  
2735 2 funding grant. We didn't know how much it was. We  
2736 assumed it would be less and that that would be used to  
2737 address these higher, further down the road, costs.

2738 Q. And did you discuss the further down the  
2739 road, higher business operations total costs with Clyde  
2740 Hamstreet ever?

2741 A. No. We never got the -- well, that's not  
2742 true. I did talk to him about what it would take --  
2743 Clyde was interested in knowing what it would take to

2744 bring -- we had wanted to -- and even after this was  
2745 over, we had wanted to -- after the decision had been  
2746 made to go to the federally-facilitated marketplace, we  
2747 had wanted to see if in 20 -- the 2015 enrollment year,  
2748 if it were possible for us to have resurrected or  
2749 completed the system so that we could launch it, and we  
2750 explored that.

2751           One of the -- that was what initiated several of  
2752 the conversations that I had had with Oracle folks about  
2753 architecture simplification. So I had some E-mails  
2754 about could I take this out, could I take that out, are  
2755 there things that we could do, propose things that I  
2756 would like to do to try to salvage what was there and  
2757 make it so that I could launch.

2758           So it was clear to us we weren't going to launch  
2759 in November 2014, but I was hopeful that we could, you  
2760 know, give it a year and change worth of work and  
2761 simplification, that we could take the thing and launch  
2762 it in 2015.

2763           So yes. I had conversations with Clyde about  
2764 that, and it was always -- he's a -- his forte was as a  
2765 turnaround specialist. So his goal was to turn it  
2766 around and to make it work.

2767           So as the IT person, well, that was my desire as  
2768 well.



2769 Q. Did Clyde believe that it could be  
2770 financially sustainable when you had those conversations  
2771 with him?

2772 A. No. I think at the end of it, we -- I  
2773 believe -- I don't know. You'll have to ask him  
2774 directly. I believe he concluded that it was not going  
2775 to be sustainable. I think there had just been -- I  
2776 think that the -- that had the state been willing to  
2777 assume more risk -- anything can be accomplished. I  
2778 think that he understood that the perception that the  
2779 risk was -- just the tolerance for risk wasn't there any  
2780 longer.

2781 Now I'm really speaking for somebody else here.  
2782 So I'm -- if he disagrees with that, there's nothing --  
2783 I'm just telling you how I feel.

2784 Q. Okay. Then do you recall or were you  
2785 part of conversations after Oregon switched to  
2786 healthcare.gov, they were allowed to retain their  
2787 premium assessment fee or was that something --

2788 A. I was part of that discussion.

2789 Q. Do you know when Oregon first discussed  
2790 the possibility that they would be allowed to keep their  
2791 premium assessment fee?

2792 A. Yeah. When we came to talk to CMS about  
2793 going to the FFM in April of 2014, we brought it up.

2794 Q. Do you know if anyone had raised it to  
2795 CMS before your meeting in D.C.?

2796 A. I don't know it was or not. I know it  
2797 was talked about by us internally before we went over  
2798 there. One of the things that we had -- that was a  
2799 component for consideration, was, well, if they're not  
2800 going to let us -- if we're not going to be able to keep  
2801 the assessment fee, then there would have been no chance  
2802 for the state to go back to being a self-sufficient  
2803 marketplace.

2804 BY [REDACTED]

2805 Q. Just quickly, when was that meeting in  
2806 April with CMS?

2807 A. Oh, shucks. It had to have been the  
2808 third week of April or so, maybe the fourth week of  
2809 April, somewhere in that range. It was -- no. That's  
2810 not true, because the Technology Options Workgroup was  
2811 the 24th, I believe the 24th of April, and then the  
2812 board meeting was like the 25th or 26th.

2813 So it had to be immediately after that. So it  
2814 must have been the first week of May of 2014. So my  
2815 apologies for that. I didn't bring -- if I had notes,  
2816 my calendar, I could tell you.

2817 BY [REDACTED]

2818 Q. Okay. Do you know how much Oregon has

2819 collected from the premium assessment fee since it  
2820 switched to healthcare.gov.

2821 A. No, ma'am. I do not know. I know that  
2822 the -- I do know enrollments are up, and so I know that  
2823 the fee collection is up, but I cannot tell you by how  
2824 much or what the total volume is, but I do know that  
2825 we've continuously had more enrollees every year.

2826 Q. And do you know how the funds have been  
2827 used in Oregon?

2828 A. I do not know that. I know that -- so  
2829 that's not entirely true.

2830 I do know that some of it was used to get -- so  
2831 Oracle had notified us in March of 2015 that they were  
2832 going to immediately cut off our access to the system,  
2833 and so I had to appear in court and ask for a -- what do  
2834 you call it? That the court would intervene to prevent  
2835 that from happening.

2836 So they did, and so I had to testify that  
2837 without it, we couldn't process enrollments and we  
2838 couldn't -- it shut down our Medicaid enrollment  
2839 process. So we got one year to stand up a new system,  
2840 but in addition to standing up the new system, I had to  
2841 take the health records, the people that had applied and  
2842 all that information, I had to migrate that to a  
2843 archival system so that I could -- for taxes, I think

2844 it's even years. We have to keep the W-2 forms and all  
2845 of that kind of stuff for the -- we were the system of  
2846 record for what we paid the agents. We were the system  
2847 of record for what the folks -- who had applied and been  
2848 given insurance and made their payments through the  
2849 years.

2850           So we had to keep those records, and since  
2851 Oracle on the 31st of May of this year cut us off of  
2852 access, I had to -- ahead of time, we had to migrate  
2853 those records out of that system into what we call a  
2854 static system, a system where we could just look up the  
2855 records and find them and be able to reprint somebody's  
2856 form for -- you know, 1099 form or whatever it was. So  
2857 we did that.

2858           So some of the money went to standing up a  
2859 system and then migrating the data from the system that  
2860 Oracle had cut us off from.

2861           Q.       Thank you. Have you heard that CMS is  
2862 going to require that Oregon begin sharing the premium  
2863 assessment fee with CMS?

2864           A.       I've heard of that. I don't know if  
2865 that's true or false. I've heard it.

2866           Q.       Okay. Thank you.

2867           So did the Technology Options Workgroup make a  
2868 recommendation for the technology of Cover Oregon at the

2869 end of March 2014? So not April of 2014, but did they  
2870 make a recommendation --

2871 A. Yes, ma'am.

2872 Q. So can you explain what the dual path --

2873 A. Sure.

2874 Q. -- was?

2875 A. So we wanted to -- so we didn't want to  
2876 give up on what we put into it. You know, one of the  
2877 things, I think, here on Exhibit 6, we say investment to  
2878 date is 91 million. So we thought, Well, we've got to  
2879 get something out of that.

2880 So we wanted to do the best we could with it,  
2881 and so our desire was not to give up on it, especially  
2882 with how things were being represented to the committee  
2883 at that time, the Technology Options Workgroup. We  
2884 understood it was at a more mature place, that it was at  
2885 a higher level than it was, and so with the information  
2886 that we had, the recommendation was to pursue it in  
2887 tandem, and so that was why like one of the things  
2888 that's on this is we talk about -- was it this one?

2889 There was one here -- maybe it was another  
2890 exhibit -- where we talk about how we wanted to look at  
2891 -- we wanted to look at Idaho because they were a late  
2892 adopter of the FFM, and so we wanted to know -- so the  
2893 reason we were doing that was -- I can't find it now.

2894           We wanted to know when was the absolute last  
2895 point at which I could tell me CMS, Okay, we're coming,  
2896 because I wanted as much runway as I could possibly get  
2897 to get this thing off the ground and know for sure -- we  
2898 had a go, no-go decision to make, and we were hoping  
2899 that we could postpone the decision to healthcare.gov  
2900 until the end of May, and then if the decision were  
2901 no-go on our technology, then starting June 1st, we'd  
2902 throw everything we had into going to healthcare.gov.  
2903 That way, we'd have June, July, August, and September to  
2904 get our act together, and October even if we needed to  
2905 get everything converted over, get all the carriers on  
2906 FFM and then bring the thing up.

2907           As it turned out, we came to the conclusion much  
2908 sooner, that was an issue. CMS was very uncomfortable.  
2909 So I started asking if I could have as late as July 1,  
2910 thinking I'd back down to June 1st, so they were very  
2911 discouraging of that. They said even though Idaho had  
2912 done that, that was a special case and they weren't  
2913 willing to do that with me.

2914           So that was fine.

2915 BY [REDACTED]

2916           Q.       As someone who saw this from both within  
2917 the Oregon system and also in moving to healthcare.gov,  
2918 why was healthcare.gov able to salvage their system;

2919 whereas, you could not in Oregon?

2920 A. Well, the biggest reason was they print  
2921 money here. So Oregon, we don't print money.

2922 So we were dependant upon the grants and we were  
2923 coming to the end -- at the time, so at the time that I  
2924 took over as the CIO for Cover Oregon, we were burning  
2925 \$10 million a month, and that was going to mean that we  
2926 would cash out of our grant by the 1st of July. So we  
2927 were going to be dead on July 1.

2928 There was simply no way that I could -- that I  
2929 was going to be able to get done, and the estimate from  
2930 Deloitte that came in on the hours, even at a very  
2931 competitive rate of \$200 an hour, it was going to \$70  
2932 million. We didn't have that kind of money.

2933 So -- and it always assumed, people told me  
2934 there, Aaron Karjala, others told me, the assumption was  
2935 always we were going to apply for and receive a Level 2  
2936 grant. That was fine, but a Level 2 grant was not  
2937 supposed to be used for funding bringing up the  
2938 elemental exchange, and that was what we were still  
2939 doing.

2940 So we were going to need basically a 1-A grant  
2941 or something like that, some kind of interim thing to  
2942 get the thing completed, and that was just --

2943 BY [REDACTED]

2944 Q. Do you know if you ever talked to CMS  
2945 about that need for additional federal funding?

2946 A. I know I never did. I wouldn't have had  
2947 -- I couldn't have brought that up, no, ma'am.

2948 Q. Do you know if anyone did?

2949 A. I don't know that anyone did, no, ma'am.  
2950 I can't say that they ever did. I have no knowledge of  
2951 that.

2952 Q. Were you part of any conversations where  
2953 people discussed why it would have been a bad idea to  
2954 ask for that extra federal funding?

2955 A. No, ma'am, I was not. I had always --  
2956 the constraints that I had been given was it had to be  
2957 within the current budget that we had, within the  
2958 timeframe we needed to make it, and with the  
2959 functionality that was required by the ACM.

2960 So those were the three, if you like, the iron  
2961 triangle that I was presented. I had this much money.  
2962 I had this much time, and I had this much scope that I  
2963 had to be able to provide, and none of those were  
2964 negotiable.

2965 So that made it very clear very quickly where we  
2966 had to end up.

2967 Q. And then so it sounds like you started  
2968 pretty much focusing on Cover Oregon when you were



2969 invited to be part of -- a member of the Technology  
2970 Options Workgroup in February of 2014. So did you  
2971 notice that in February, March, and April, around that  
2972 time period, were there a lot of IT professionals that  
2973 were working continuously on fixing the website and  
2974 stabilizing it and testing it?

2975 A. Oh, yes, ma'am. We had all sorts of folk  
2976 downstairs from -- one of things that -- one of the  
2977 reasons we were burning so much cash is because we had  
2978 so many consultants. We had Cognosante, Speridian,  
2979 Deloitte, Oracle Consulting Services, Eagle Point. I  
2980 don't even remember them all.

2981 I know the very first thing after that -- it was  
2982 during the second week of April and I spoke to Bruce  
2983 Goldberg, and I told him we needed to start -- because  
2984 of the contracts we had with the consultants, we had to  
2985 start giving them their walking papers. We had to start  
2986 releasing them.

2987 Q. What do you mean by because of the  
2988 contracts that you had them?

2989 A. So the deal that we had with these  
2990 contractors, particularly the independent contractors,  
2991 we had to give them 30-day notice before cut them loose.  
2992 So we wanted to, I wanted to, give them that 30-day  
2993 notice so that I could cut them off in May.

2994           So I said, All right, I don't need you anymore,  
2995 here's your 30-day notice, finish up what you're doing,  
2996 and then I won't pay after you thus and such date.

2997           So I wanted to get that process going right away  
2998 after I realized how much money we were going through  
2999 and how bad of a -- we had to go back to the  
3000 fundamentals on project management and on application  
3001 development management. So I didn't need a lot of folks  
3002 sitting around giving advice or opinions on things that  
3003 I'm paying a lot of money to. I needed to narrow that  
3004 -- I needed to reduce the burn rate.

3005           So that was one of the first things that I tried  
3006 to get through. I ended up having Clyde Hamstreet on  
3007 his very first day -- I handed him a stack of release  
3008 notices. I had just met the man and I met him at the  
3009 board meeting when he got appointed, and I said, All  
3010 right, as soon as you get back, find me; I have a lot of  
3011 things for you to sign. I explained to him what I was  
3012 doing. He signed them all.

3013           So the next morning, I handed them out and that  
3014 was how we started going through the --

3015           Q.       So is that when it was clear to you that  
3016 it was going to be necessary to move to healthcare.gov;  
3017 is that why you released them?

3018           A.       No. It was apparent to me -- so even in

3019 the current process, it was clear to me that we had a  
3020 lot of folks that were working at competing priorities  
3021 or competing things that were just out of -- they  
3022 weren't needed to create a necessary viable product. So  
3023 I didn't need them to meet the minimums of the ACA. So  
3024 I was going to let those folks loose and cut my cost and  
3025 cut my burn rate and try to preserve the cash I had for  
3026 when I had to focus on -- so the direct answer to your  
3027 question is no, ma'am.

3028 Q. Then was Deloitte one of those  
3029 contractors that was let go at that --

3030 A. Yes, ma'am, they were.

3031 Q. Were you the one who recommended that  
3032 Deloitte be let go at that time?

3033 A. Yes, ma'am, I was.

3034 Q. Do you know if the Technology Advisory  
3035 Group received any updates between their March 31 -- so  
3036 the end of March when they made that recommendation for  
3037 the dual path meeting and then their April 24, 2014  
3038 meeting?

3039 A. So I had phone conversations with them,  
3040 and I don't remember the date precisely, but I did call  
3041 them and give them an update.

3042 One of the things that was difficult -- well,  
3043 for technologists, it was easy for them to understand

3044 and it made more sense to them than it would have to  
3045 their leadership, but it was still difficult for me to  
3046 have with them. It was really the state -- so that we  
3047 had -- that there were no tools for testing, that there  
3048 were no tools for project management, that there were no  
3049 tools being employed for organizing the work, that these  
3050 were things that are fundamental requirements in any IT  
3051 project, and that we weren't employing anything was an  
3052 indication of how difficult things or how bad things  
3053 were.

3054           By communicating to this them over the phone, it  
3055 was -- I could -- so my initial week that I was at Cover  
3056 Oregon could be summed up, the first week that I was the  
3057 interim CIO could be summed up, in the word "disbelief".  
3058 That's just all there is to it. It was fundamental  
3059 disbelief.

3060           It wasn't until Friday, that first Friday, when  
3061 I realized how bad things were that I told everyone to  
3062 stop work. I suspended all work. I told everybody to  
3063 take the weekend off, go home, this is a mess. It was  
3064 not -- to be able to explain that to the CIO of Kaiser  
3065 Permanente wasn't something that I could put in an  
3066 E-mail that they would be able to understand. To be able  
3067 to do that over the phone was essential.

3068           Q.       Okay.

3069 A. Long answer. Sorry.

3070 Q. That's helpful. Thank you.

3071 Can you describe how you presented the decision  
3072 to switch to healthcare.gov to the Technology Options  
3073 Workgroup on April 24, 2014?

3074 A. So when we -- when Deloitte provided that  
3075 estimate, I believe was in the very first week of April  
3076 when I pushed very hard for Deloitte -- they had been on  
3077 the ground to that point for two weeks. They had been  
3078 shadowing Oracle Consulting Services personnel, and I  
3079 had pressed them for their estimate.

3080 I knew that they should know well enough what it  
3081 was going to take to get the thing done in terms of a  
3082 plus or minus 10 percent, this is what I'm willing to  
3083 commit to kind of plan.

3084 Q. This is through an E-mail they gave you  
3085 the estimate?

3086 A. I believe it was an E-mail. It could  
3087 have just been -- the first estimate, I know that I got  
3088 over the phone. It just -- I remember that. I was  
3089 sitting in a conference. I had them on speakerphone,  
3090 and I had a-- and they gave me the estimate.

3091 Q. Did they give you a time or a dollar  
3092 estimate?

3093 A. They gave me a time estimate.

3094 Q. Do you remember the time estimate?

3095 A. No, I don't. I can back into it if I  
3096 divide 75 million by \$200, because \$200 was my -- but 75  
3097 million was the number I came up with. So it's 75  
3098 million divided by 200, whatever that number is.

3099 Q. Okay.

3100 A. It was 360,000 hours or something like  
3101 that.

3102 Q. Okay.

3103 A. It was -- when I came -- when that number  
3104 came in, it was clear to me that we were not -- and that  
3105 was the first piece to it, was the estimate. The other  
3106 two pieces, the length of time -- it was an E-mail,  
3107 because it was a project plan they gave me, so an  
3108 estimated project plan. They would not complete the  
3109 scope until February of 2015.

3110 So I wouldn't even be able to launch in November  
3111 of 2014. They were going to have to wait until 2015  
3112 until the scope was finished.

3113 Q. Is the scope change, was that the change  
3114 of circumstances they said they wouldn't finish?

3115 A. Change of circumstance and there was SHOP  
3116 and small help options.

3117 Q. Did you say earlier that the change of  
3118 circumstance, that your team had got up by June by 2014?

3119           A.       It was hillbilly rigged. So we had to  
3120 make it work by really a way that was not a good process  
3121 or methodology for doing it. You would not have -- this  
3122 was not good practice, how we made it work, and it was  
3123 not sustainable.

3124           We had to -- much like we would with a -- we  
3125 just tied the thing together with what we had, and it  
3126 wasn't a very good solution. It wasn't an elegant  
3127 solution and it wasn't something that we could sustain  
3128 in the next iteration. Every time that we had a change  
3129 of circumstance, we weren't going to be able to make a  
3130 second and a third and a fourth and a fifth duplicate  
3131 record with those changes. We were going have to have  
3132 another process for maintaining changes.

3133           So it worked. Yes, ma'am. We got it to work in  
3134 1.1.0.7, but it was not a sustainable fix.

3135           Q.       So then how did you present the decision  
3136 to the April 24th Technology Options Workgroup meeting?

3137           A.       Well --

3138           Q.       Did you tell them that a trigger wasn't  
3139 met?

3140           A.       Three triggers weren't met. Yes, ma'am.  
3141 I said three triggers weren't met. I couldn't make it  
3142 on cost. I couldn't make it on time and I couldn't make  
3143 it on scope.





3169 Q. I was just wondering if you did.

3170 A. Well, no.

3171 Q. So if you'll turn to page 3, please, you

3172 have a listing of the Technology Options Workgroup

3173 meetings, and if you'll see the list of different

3174 Technology Options Workgroup meetings included there --

3175 If you look at Exhibit 6, it was a Technology --

3176 actually, Exhibit 6 has a Technology Options Workgroup

3177 meeting from March 20, 2014. I was wondering if there

3178 was a reason that it wasn't included or if that was just

3179 an oversight or if there were other meetings that

3180 weren't included on the list?

3181 A. Was that the call that we talked about?

3182 Q. It was Exhibit 6, the Power Point slide,

3183 the different cost estimates compiled by Point B.

3184 A. No. I pulled these from my calendar.

3185 Q. Okay.

3186 A. So the way that I came up with these

3187 numbers or these dates was I just -- I came right --

3188 they were all in my calendar. So these just match up

3189 with the calendar. I'd go with these before I'd go with

3190 the --

3191 Q. The dates on the Power Point?

3192 A. With the Power Point. I trust this one.

3193 Q. Thank you. I just wanted to make sure.

3194 A. Sure.

3195 Q. So you don't know of any other meetings,  
3196 then, that were held that weren't included on this list?

3197 A. We had a -- and I don't know if it's on  
3198 here or not. There was a call we did. Just the CIOs,  
3199 we had a call somewhere in this. I don't know if that's  
3200 reflected in one of these or not, but we had a -- where  
3201 the group didn't meet. It was just the geeks that we.  
3202 We only did that once. It was just to -- it was to very  
3203 candidly talk about IT leadership in Cover Oregon, about  
3204 Oracle Consulting Services, about the need to retain  
3205 Oracle Consulting Services in any scenario that -- so it  
3206 was clear to us as IT professionals that OCS was going  
3207 to have to continue to participate with whoever was the  
3208 lead vendor, and we knew that.

3209 So even though we'd say we were sticking with  
3210 the technology, but we were changing vendors, we knew  
3211 that Oracle Consulting Services would still need to be a  
3212 subcontractor to the -- whoever was the primary vendor.  
3213 So we had a very candid conversation around that  
3214 internally, that even though there was hurt feelings and  
3215 some folks unhappy with the performance of Oracle  
3216 Consulting Services, we made it clear we understood and  
3217 we would stand behind, you know, that will be their  
3218 business, whoever it is that's the lead contractor on

3219 it, but we understood they were going to need to keep --  
3220 there was no replacing Oracle Consulting Services on  
3221 this project.

3222 Q. Then do you know about when that  
3223 conversation occurred?

3224 A. I don't know. It was in one of the other  
3225 exhibits we talked about.

3226 Q. Okay. Thank you.

3227 So I would like to direct your attention to page  
3228 4.

3229 A. Okay.

3230 Q. Actually, it's page 9. Sorry about that?

3231 A. Oh. Sure.

3232 Q. So under utilize the federal technology,  
3233 in the first full paragraph under that section, it says:  
3234 "All functionality will be available -- skipping the  
3235 first sentence and going to the second sentence, it  
3236 says: "All functionality will be available before  
3237 November 2014 and the preliminary cost estimate from  
3238 Deloitte of four to six million is within available  
3239 Cover Oregon resources."

3240 A. Yes, ma'am.

3241 Q. So do you recall when this four to six  
3242 million estimate was given to Cover Oregon?

3243 A. It had to have been around the second

3244 week -- first or second week of April, right around that  
3245 same timeframe, because right after the estimate from  
3246 Deloitte and the project plan came on the completion of  
3247 the code that we had, then I said, All right, then give  
3248 me your estimate on what it's going to take to do the  
3249 conversion to the federally-facilitated marketplace.

3250           So I needed that plus or minus plan, ten percent  
3251 done around the same point.

3252           Q.       Then are you familiar with the February  
3253 10, 2014 report that Deloitte had issued to Cover Oregon  
3254 on the technology options?

3255           A.       At the time when we were meeting with the  
3256 group, yes. We had been given that report. So yes. I  
3257 was familiar with it. I have become more familiar with  
3258 it since then.

3259           Q.       Do you know if they had -- if the cost  
3260 estimate -- I think the four to six million dollars was  
3261 similar to the cost to move to the federal technology.  
3262 Was it the same cost estimate or had they revised that?

3263           A.       I had asked for a revision to that,  
3264 because we were going to go with a firm fixed price. So  
3265 it's funny how pencils sharpen when you ask for that.

3266           Q.       Then do you know if this was supposed to  
3267 the reflect the entire cost of moving to healthcare.gov  
3268 or were there going to additional costs outside of the

3269 four to six million?

3270 A. They were going to be additional costs to  
3271 Oregon Health Authority. That's for certain, and this  
3272 did not include that.

3273 So the Oregon Health Authority's transition to  
3274 establishing a separate and -- to do the MAGI  
3275 determinations, eligibility determinations, was going to  
3276 be their responsibility.

3277 What this was was to get us out of the  
3278 eligibility -- I say us -- to get Cover Oregon out of  
3279 the eligibility determination, out of that enrollment  
3280 process for Medicaid, and on to the -- on to just  
3281 managing the health insurance policies, QHP, Qualified  
3282 Health Plans.

3283 Q. And then is there a reason that you  
3284 didn't include the cost to the Oregon Health Authority  
3285 -- when you discussed move to healthcare.gov, why you  
3286 didn't consider it to be part of the decision making?

3287 A. Well, in all candidness, because the --  
3288 so we have what's called a system boundary. So my  
3289 system boundary at this time was really Cover Oregon and  
3290 what it was going to take for Cover Oregon to get viable  
3291 with the resources that they had and with the  
3292 constraints that they were under.

3293 So the system boundary I was looking at was only

3294 for what was in the interest of Cover Oregon. I had  
3295 left anything that's -- that was extraneous to that,  
3296 anything that was outside that, I had left to Oregon  
3297 Health Authority or the Department of Human Services or  
3298 those folks. That was out of my purview.

3299 At that time, even as the CIO, my role of the  
3300 State of Oregon was only on oversight. I was not the  
3301 policy or even the -- I wasn't the -- and I'm still not  
3302 responsible for OHA and DHS's IT SHOP and what they do.

3303 So at this time, I was responsible for Cover  
3304 Oregon. That was the scope and stuff that I knew. That  
3305 was -- I had been there for, what, a month, two months  
3306 at this point, a month and a half, whatever it is. This  
3307 is May the 8th. So it was a month and a couple of  
3308 weeks.

3309 I had -- it was just out of my -- it was beyond  
3310 my scope.

3311 [REDACTED] Okay. Thank you.

3312 I'm introducing Exhibit 8 into the record.

3313 [Exhibit No. 8

3314 was

3315 marked for

3316 identification.]

3317 BY [REDACTED]

3318 Q. I realize it's a rather long document,

3319 but I'm going to be asking a question about the --

3320 A. Yes, ma'am.

3321 Q. -- the page with the Bates Stamp No.

3322 GOV\_HR 00073006.

3323 A. Yes, ma'am.

3324 Q. I realize you just finished saying it was  
3325 somewhat out of your scope of authority, but I wondering  
3326 if you had seen this joint QH/OHP budget spreadsheet in  
3327 the past.

3328 A. I hadn't seen this that I recollect, no,  
3329 ma'am.

3330 [REDACTED] Just for the record, I  
3331 don't believe that the witness is on this E-mail.

3332 [REDACTED] No. He's not.

3333 BY [REDACTED]

3334 Q. Alex, you're not on this E-mail. Maybe  
3335 you were a part of the conversation about the cost, but  
3336 then it doesn't sound like --

3337 A. Not really directly. I was part of the  
3338 -- I was tangential to that discussion. My focus was  
3339 really on salvaging the -- or getting completed --  
3340 getting stabilized the Cover Oregon piece to it.

3341 Q. Then you wouldn't know if -- if you look  
3342 at line 35, it says FFM project costs, and then line 40,  
3343 total project costs. If you go over to the total, it

3344 says \$43,000,744. Does that sound familiar with what  
3345 you heard? Did you participate in conversations with  
3346 anyone from OHA about the total cost for the project to  
3347 move to the FFM?

3348 A. So one of things that I had remembered  
3349 that we were going to do in an attempt to reduce the  
3350 cost was we were -- that Oregon was going to surrender,  
3351 if that's right word, its ability to be a determination  
3352 state. So Oregon had gone from being a determination  
3353 state to being -- to having CMS determine eligibility  
3354 for Medicaid.

3355 I know that was done specifically to simplify  
3356 and reduce the cost of the conversion for the Oregon  
3357 health plan, for Medicaid, but did that number -- was  
3358 this number assuming that we were going to continue to  
3359 be a determination state or not, I can't -- I don't  
3360 know. I do know that the number for us to continue to  
3361 be a determination state was too high. I know that  
3362 conversation was had. I don't know if it was 45 million  
3363 or not.

3364 So I know that Tina Edland, who was acting  
3365 director for the Oregon Health Authority had -- again, I  
3366 don't know the right way to describe it -- surrendered  
3367 the determination capacity of the state to where the CMS  
3368 was now -- we were no longer going to be determination



3369 state.

3370 BY [REDACTED]

3371 Q. Did you eventually surrender that?

3372 A. We did, yes. I know this was part of  
3373 that decision, was because of the cost to continue to be  
3374 a determination state. I know we surrendered that.

3375 Now, exactly when or what were the numbers or  
3376 whatever, I'm sorry. I can't tell you help you on that.

3377 [REDACTED] Thank you.

3378 I'm introducing Exhibit 9 into the  
3379 record.

3380 [Exhibit No. 9

3381 was

3382 marked for

3383 identification.]

3384 THE WITNESS: It looks like the same  
3385 thing.

3386 BY [REDACTED]

3387 Q. It's similar. It looks like an earlier  
3388 draft of the Cover Oregon final report?

3389 A. Okay. I'd have to look at it.

3390 Q. So did you send a copy of the report to  
3391 Michael Bonetto?

3392 A. Yes, as chief of staff. He was the chief  
3393 of staff.

3394 Q. Were you aware that he sent it on to  
3395 Patricia McCaig and Tim Raphael?

3396 A. No, I was not.

3397 Q. Then if you'll please look at page 9 of  
3398 the report.

3399 A. Yes, ma'am.

3400 Oh, there is it. 360,000 hours. I knew I had  
3401 -- I can do math.

3402 Q. I was wondering if you went back to  
3403 Exhibit 7 and looked at page 8 -- so this is where  
3404 there's an edit that I was interested in hearing your  
3405 explanation why it was made.

3406 So on the final report, the final version,  
3407 Exhibit 7, starting at the bottom of the page, it reads:  
3408 "Deloitte's estimate for the total level of effort to  
3409 achieve stabilization, completion of the current  
3410 enrollment solutions, and development of new  
3411 functionality to support renewal and change of  
3412 circumstance is 390,000."

3413 A. 360,000 hours.

3414 Q. I was looking at Exhibit 7.

3415 A. I'm sorry. I'm getting --

3416 Q. Exhibit 7, starting at the bottom of page  
3417 8?

3418 A. I see. At Exhibit 7 -- let me be sure I

3419 get them right.

3420 I'm on nine there. You're looking at seven  
3421 here. So this is at which page?

3422 Q. Starting at the bottom of page 8.

3423 A. Okay. There. Now I'm caught up.

3424 Q. So it's the sentence starting with:  
3425 "Deloitte estimate for the total level of effort to  
3426 achieve stabilization, completion of the current  
3427 enrollment solution, and development of new  
3428 functionality to support renewal and change of  
3429 circumstance is 390,000."

3430 A. Yes, ma'am.

3431 Q. So if you'll go to page 9 of Exhibit --

3432 A. Exhibit No. 9?

3433 Q. Exhibit 9.

3434 A. Yes, ma'am.

3435 Q. You wrote: "Deloitte's initial estimate  
3436 for the total level of effort to achieve stabilization  
3437 and completion of the current enrollment solution and  
3438 development of new functionality to support renewal and  
3439 change of circumstance is 360,000 hour.

3440 A. Yes, ma'am.

3441 Q. I'm just wondering if you remember why  
3442 you would have deleted the language saying "Deloitte's  
3443 initial estimate" and not qualifying it as Deloitte's

3444 initial estimate in the final version.

3445           A.       Oh, well, because in Deloitte's initial  
3446 estimate, they had decomposed it into two pieces. They  
3447 had estimated 30,000 hours were going to be needed by  
3448 Oracle Consulting Services and 360,000 hours for  
3449 Deloitte Consulting. So rather than have that as a --  
3450 and I don't know if Deloitte had gone to Oracle  
3451 Consulting Services and got that 30,000 hour estimate or  
3452 if it was just a guess on their part or however it was.

3453           So I just put -- when I combined the two of them  
3454 to 390,000 hours, I just said it was just an estimate of  
3455 390,000.

3456           Q.       They're talking about the same estimate?

3457           A.       They are.

3458           Q.       There wasn't an initial estimate from  
3459 Deloitte and then a followup estimate. They're --

3460           A.       No, there was not.

3461           Q.       -- the same was estimate?

3462           A.       It was the same estimate. It just had  
3463 Oracle numbers in there, what they estimated Oracles  
3464 numbers were going to be.

3465           So one of the things that I had said previously  
3466 was that we always knew Oracle was going to have to  
3467 participate in this. In the initial 360,000-hour  
3468 document that I submitted to Mike, one of the things

3469 that I also had in there was that project plan from  
3470 Deloitte, the written. It wasn't a formal written  
3471 estimate, but it was a written estimate.

3472           It was a document that had when they were going  
3473 to get it done and all that kind of thing, and on that,  
3474 it said, in the print of it, it said Deloitte's estimate  
3475 was 360,000 hours, but said Oracle -- this assumes  
3476 Oracle Consulting Services' estimate of 30,000 hours.

3477           Now, I never asked Deloitte if they got that  
3478 from Oracle, if they just made that number up. I don't  
3479 know how they came to the number 30,000.

3480           So when I did that and I threw it into here, I  
3481 didn't want to say that was Deloitte's estimate, was  
3482 390,000 hours. So when I was asked to combine them so I  
3483 could show a truer total amount, I said, Okay, I can do  
3484 that, but then I don't want to say it was Deloitte's  
3485 estimate because it was a combination of them and Oracle  
3486 and I didn't feel that was fair for the --

3487           Q.       Okay.

3488           A.       I didn't want to represent something as  
3489 being Deloitte's estimate when it may or may not have  
3490 been. You know, the 30,000 hours was just they threw in  
3491 as what they thought they were going to do for that, and  
3492 I was likely to have to continue with a time and  
3493 materials contract with Oracle separately.

3494 [REDACTED] Thank you. That's very helpful.

3495 THE WITNESS: Sure.

3496 [Recessed at 1:26, convened at 1:34.]

3497 EXAMINATION BY THE MINORITY STAFF

3498 BY [REDACTED]

3499 Q. Hi, Dr. Pettit. I'm [REDACTED] with the  
3500 minority and I'll be asking questions of you this round.

3501 So we've talked a lot about the contractors that  
3502 Cover Oregon brought on with the IT project. So I  
3503 wanted to discuss a few of those.

3504 Do you know if the state actually hired Maximus  
3505 as a contractor?

3506 A. Yes, ma'am. I do.

3507 Q. And who is Maximus? What were they hired  
3508 to do for the state?

3509 A. They were hire to be the quality  
3510 assurance, quality control vendor initially. That was  
3511 their role, was to assist in the oversight of the  
3512 project.

3513 As it continued, they also assume testing  
3514 activities, became a contractor for testing for the  
3515 exchange. So they participated in testing of the  
3516 application as it was being -- as it was moving from the  
3517 development environment to the -- what we call the FTS  
3518 or Functional Testing System and then into production.

3519 Q. So they were a third party that the state  
3520 hired to do a neutral assessment of the IT project or  
3521 provide these neutral assessments of the IT project?

3522 A. So prior to my arrival, the state law was  
3523 that any project over a million dollars needed to be  
3524 supervised by the Office of the State CIO, and when I  
3525 arrived, there were only 18 projects that fit that  
3526 category, which seemed really odd to me, and so I  
3527 contacted all the agencies. As it turned out, we  
3528 actually had 81 projects that fit that criteria that  
3529 were not going reported.

3530 Of those 18, Maximus was brought in as the QA,  
3531 quality assurance, vendor, but it was brought in as --  
3532 when it was an OHA/DHS project. When the two separated,  
3533 technically, the Office of the State CIO had no  
3534 oversight responsibility, but leadership had asked that  
3535 the office continue to oversee the project, and so the  
3536 vendors stayed on board, and Ying Quan, who works with  
3537 me at the state, continued in the IT analyst role for  
3538 the Office of State CIO to the Cover Oregon folks.

3539 Q. Okay. And so Maximus, in their role to  
3540 the state at the beginning of the IT project, they were  
3541 giving assessment or providing the status of the state  
3542 exchange; is that correct?

3543 A. Yes, ma'am, they were.

3544 Q. Are you aware of any reports by Maximus?

3545 A. Yes, ma'am, I am.

3546 Q. As the interim CIO, were you given these  
3547 reports directly or did you receive these reports from  
3548 Maximus?

3549 A. We were given the reports as a member of  
3550 the Technology Options Workgroup. I think they gave us  
3551 at least one of those reports, possibly two, and then  
3552 after that, after -- so after I was asked to assume  
3553 responsibility for Cover Oregon as the interim CIO, Ying  
3554 brought me all the reports to tell me what a bad idea it  
3555 was that -- taking on that responsibility was.

3556 Q. So what did these reports entail? What  
3557 did they detail in the reports?

3558 A. Well, there's a variety of things in  
3559 them. They talk about how -- some of things are how  
3560 Oracle had not shown any code to anyone and didn't let  
3561 anyone have access to the code.

3562 So there's no -- there was no way for Maximus to  
3563 have what we would describe as empirical evidence of  
3564 where the progress was of the application development.  
3565 In other words, there was no way that Maximus could look  
3566 at it and see the code and see what had been defined and  
3567 in what state it was, that they were completely  
3568 dependant upon the information provided to them by



3569 Oracle as to where things were and how complete things  
3570 were, and the way that -- the methodology that Oracle  
3571 used to manage or to report progress was what we call  
3572 through use cases.

3573           A use case is to perform a specific general  
3574 function. To enroll an individual would be a use case  
3575 as opposed to a function point. A function point would  
3576 be something -- a function point is -- in Microsoft  
3577 Word, a function point would be bold or italic or  
3578 underline. It's a smaller subdivision of something does  
3579 something, and then that way, you have more modularity,  
3580 because you know if bold works this way in Word, then  
3581 bold should work that way and it should be the same code  
3582 in Power Point. It should be the same code in Excel.  
3583 It should be the same code in all the Microsoft Office  
3584 products.

3585           So you have what's called re-usable code. By  
3586 going to use cases, it was impossible to tell if Oracle  
3587 was using reusable code or if they were writing  
3588 everything as a unique bespoke solution just to do  
3589 enrollment.

3590           So it was never clear until very late to me that  
3591 Oracle had written one enrollment process for individual  
3592 enrollment and a completely different enrollment process  
3593 for SHOP. So to do the small business enrollment, that

3594 was -- even though it was still an individual enrolling,  
3595 it was an entirely different bundle of code. Nothing  
3596 was reused from one to the next. It was completely  
3597 unique.

3598 BY [REDACTED]

3599 Q. Is it normal for the vendor to withhold  
3600 code from the quality assurance folks in a project such  
3601 as this?

3602 A. It is not my experience to withhold the  
3603 code from the quality assurance vendor. Moreover, it's  
3604 certainly not the way -- code is not withheld from  
3605 whomever the system integrator is.

3606 So that was the piece that was surprising to me,  
3607 was as the -- if Cover Oregon ws acting as systems  
3608 integrator, they didn't have the tools to do it. They  
3609 couldn't get at the stuff to be able to be the  
3610 integrator.

3611 It would have been seen that these were each --  
3612 if I told you I was writing bold for Excel and I'm  
3613 writing a completely different -- and a completely code  
3614 team is writing bold for Power Point, you would be like  
3615 why are you doing these two things -- why do you have  
3616 two different people writing the same function for two  
3617 different programs?

3618 So that was essentially what was happening.

3619 They were doing one enrollment for individuals and they  
3620 were doing a completely separate enrollment for SHOP, as  
3621 an example.

3622 Q. Why do you believe Oracle withheld the  
3623 code?

3624 A. I don't know. I cannot answer that. I  
3625 asked for the code on several occasions. I've asked for  
3626 backup tapes to be provided. I have asked both in  
3627 written and oral requests. I've never had any of those  
3628 provided to me.

3629 I wanted to have the code analyzed. A friend of  
3630 mine is the father of the concept of function points.  
3631 He lives in Rhode Island. I met him when I was at  
3632 Brown. He has an automated code analyzer that would  
3633 have told me how many function points I was dealing, how  
3634 many of them are duplicative and things like this.

3635 The code was never provided to me for me to ask  
3636 him to do that.

3637 [REDACTED]: I'm going to hand you  
3638 one of the reports from Maximus. It's a report from  
3639 February 2014, the Cover Oregon Monthly Quality Status  
3640 Report. It was issued on March 15, 2014. That's  
3641 Exhibit 10 that I'm entering into the record.

3642 [Exhibit No. 10  
3643 was

3644 marked for  
3645 identification.]

3646 THE WITNESS: Yes, ma'am.

3647 BY [REDACTED]:

3648 Q. This report is providing an assessment of  
3649 Oracle's performance with the state health insurance  
3650 exchange website. If I can get you to turn to the page  
3651 with Bates Stamp GOV\_HR 00071555, also noted as Page No.  
3652 4.

3653 A. Yes, ma'am.

3654 Q. Follow along with me as I read the second  
3655 bullet in the second column of the row "Schedule".  
3656 Maximus writes, quote: Oracle's inability to properly  
3657 estimate the work and delivery with high quality for any  
3658 release continues to effect system delivery."

3659 Did I read that correctly?

3660 A. Yes, ma'am, you did.

3661 Q. Is this consistent with your  
3662 understanding of the work product that Oracle was  
3663 providing in February 2014?

3664 A. I know that was consistent with the  
3665 product that was provided in April of 2014. As far as  
3666 releases and things, this is consistent with what I  
3667 experienced directly.

3668 So I would assume that that was true then, but

3669 it was definitely happening in April. We would get  
3670 components from Oracle. We run them through testing,  
3671 and they would fail.

3672 In fact, the very first week, I had prevented  
3673 code going into production without it being completely  
3674 tested and, in fact, the next week, when we ran through  
3675 testing, we found it broke the connection to the federal  
3676 hub. Had that code gone into production Friday the 4th  
3677 of April, it would have shut us down until we could get  
3678 the next code fix into the production environment, which  
3679 would have been at least four or five days.

3680 We would have been down hard for four or five  
3681 days without contact to the federal hub. So I know that  
3682 was the case there.

3683 Q. Okay. And what is a release, for the  
3684 record?

3685 A. A release is -- so the way applications  
3686 are managed are by release numbers. So we talk about  
3687 Version 1 or Version 2 or Version 3, and then within  
3688 that, we have subversions, so 1.1, 1.2, 1.3, and then  
3689 within that are subversions.

3690 So the release I was talking about was 1.1.0.5.  
3691 That was the release that I prevented from going into  
3692 production. We actually got to a 1.1.0.7 before we  
3693 stopped development entirely.

3694 Q. And Maximus also reports that Oracle' not  
3695 delivering a, quote, high quality of any release, that  
3696 it's affecting system delivery. Do you agree with  
3697 Maximus' independent assessment? Is that what you  
3698 experienced during your time?

3699 A. Yes, ma'am. That's what I experienced  
3700 during my time. I'm more comfortable talking about what  
3701 I experienced than --

3702 Q. Absolutely.

3703 A. -- interpreting what they mean, but it's  
3704 certainly consistent.

3705 Q. If you turn to the page with Bates Stamp  
3706 GOV\_HR 00071564, it's also noted as page 13.

3707 A. Yes, ma'am.

3708 Q. Maximus writes under the subheading  
3709 "Risk", the third bullet, quote: Launching the Oracle  
3710 system with known defects may result in a bad user  
3711 experience which could affect the CO brand long term,  
3712 end quote.

3713 Do you agree with Maximus' independent  
3714 assessment that launching Oracle system with known  
3715 defects in it would have negative repercussions?

3716 A. So I would used a more precise  
3717 description. So there are always applications that are  
3718 launched that are made available for commercial or

3719 public use that have known defects, but not to the  
3720 severity that these were.

3721           So, really, what they should have said or what  
3722 have been more precise would have been to say launching  
3723 the system with known Severity 1 defects will result in  
3724 a bad user experience. They were -- and I don't know --  
3725 so Maximus had had a bad experience with reporting and  
3726 had a lot of pushback from leadership prior to my  
3727 arrival with critical reporting, and it changed some of  
3728 their language. They softened some of their language in  
3729 subsequent reports.

3730           So I would have used more direct, more precise  
3731 language in this case.

3732           Q.       And can you describe some of the -- I  
3733 know you mentioned this earlier, but again, what were  
3734 some of these severe defects or errors that were in the  
3735 system?

3736           A.       Well, there were -- the nonfunctional  
3737 defects included things like the inability of an error  
3738 -- of a user to go back and make a correction or to add  
3739 punctuation. If there was a -- as an example, I live on  
3740 Islander Avenue, Northwest. If I were to put my address  
3741 in as Islander Ave, Northwest or Islander Avenue and  
3742 spelled out "northwest", if it did not perfectly match  
3743 the USPS database for my address, then it would come

3744 back as -- it would orphan the record. I would be cut  
3745 off from the record. I couldn't go back and fix it.

3746           If I misspelled Multnomah County -- so it asked  
3747 what county you lived in, and some plans were available  
3748 in some counties and some were not. So if I lived in  
3749 Multnomah and I misspelled Multnomah, I didn't get  
3750 another chance at it. It would just cut me off and you  
3751 would have to go in through SEBOL to put the correct  
3752 county name in there.

3753           Initially, not all counties were -- all 36  
3754 counties were not identified in the system. By this  
3755 time, they were. By February, I believe all the  
3756 counties were in the system, but I know prior to that,  
3757 they were not.

3758           There were things that were wrong with it that  
3759 simply could not be communicated to an end user that  
3760 they could have known that they needed to look up how to  
3761 spell Multnomah before they type it in.

3762           If they typed it in with all caps, it would  
3763 reject them. If they -- there were just a lot -- so  
3764 those are the edit features and the functionality, those  
3765 things that are, again, nonfunctional requirements, but  
3766 things that are essential to any application's success.

3767           On the functional requirements, there were  
3768 errors that we had with the system as well that, as I



3769 said, we couldn't change. You couldn't change your  
3770 information. Once it was in, it was locked.

3771 With a database system, you're supposed to be  
3772 able to, according to a guy by the name Codd, you're  
3773 supposed to be able to add, edit, delete, modify, and  
3774 keep track of your modifications and create a record,  
3775 create a blank record. So those five things, any  
3776 database is supposed to do.

3777 This system could only add records. It couldn't  
3778 do any of the other four things. It could only add  
3779 records.

3780 Q. And this has nothing to do with user  
3781 error. Correct?

3782 A. No, ma'am. This was functional, what it  
3783 failed to do.

3784 Q. Okay. You mentioned -- well, we spoke  
3785 about in the last -- my colleagues spoke about in the  
3786 last hour, the Deloitte report, the preliminary report  
3787 from February 10, 2014. Are you familiar with the  
3788 report?

3789 A. I have seen it, yes, ma'am.

3790 [REDACTED]: I'm handing you that Deloitte  
3791 preliminary report that was issued on February 10, 2014  
3792 into the record as Exhibit 11.

3793 [Exhibit No. 11 was

3794 marked for  
3795 identification.]

3796 BY [REDACTED]

3797 Q. Now, who is Deloitte or what is Deloitte?

3798 A. Deloitte is a consultancy. They used to  
3799 be -- when I was with Ernst & Young, they were part of  
3800 the -- we called us the big six, and then I guess it's  
3801 now the final four or whatever it is for those groups.  
3802 They do accounting and consulting services.

3803 Q. What would they be considered experts in  
3804 their field?

3805 A. I'd certainly say so, yes, ma'am.

3806 Q. And Deloitte was hired by the state to  
3807 provide an independent neutral assessment of the various  
3808 technology alternatives for the state's health insurance  
3809 exchange. Correct?

3810 A. They were brought in to identify paths  
3811 forward, and then their assessment was provided to the  
3812 Technology Options Workgroup, but they were actually  
3813 asked to it before the formation of the group. So I'm  
3814 not familiar how that was -- I don't know how they were  
3815 asked or what the agreement was around that.

3816 Bruce Goldberg would have been the one to have  
3817 done that, I'm afraid.

3818 Q. Can you tell me again how many IT options

3819 Deloitte evaluated or assessed for Cover Oregon?

3820 A. Well, they provided us with 10 different  
3821 alternatives to talk about or to look at, everything  
3822 from looking at a third-party provider, Exeter or one of  
3823 the other software service providers, bringing in  
3824 another state's exchange, which is what Deloitte was  
3825 doing or proposing to do in Maryland.

3826 Remediating the technology that we already had,  
3827 that was the third kind of large category of options.  
3828 Going to the federal exchange was another category of  
3829 options.

3830 That's four categories. I think that was it. I  
3831 don't remember. I'd have to look.

3832 Q. That's fine. Do you know how Deloitte  
3833 came to these different alternatives?

3834 A. No, ma'am, I do not.

3835 Q. Do you know what method or criteria  
3836 Deloitte used assess to these technology alternatives?

3837 A. No, ma'am, I do not.

3838 Q. Does it sound -- can you turn to page 9.

3839 A. Yes, ma'am.

3840 Q. And under the heading "1.1, Stay the  
3841 Course, Keep the Technology, Summary of Analysis, what  
3842 did this mean? Does this mean keeping the Oracle  
3843 technology, but using a new vendor?

3844           A.       Let's see.  Yes.  That's what it says,  
3845 yes, ma'am.

3846           Q.       And Deloitte estimated that the risk of  
3847 keeping the technology as having a medium risk.  What  
3848 does that mean?

3849           A.       Well, so one of the things that I think I  
3850 said this morning, the first time around, we found that  
3851 80 percent of our errors are nontechnical errors or our  
3852 nonfunctional errors were occurring between the Web CT  
3853 component and the SEBOL component.  So one of the things  
3854 that I concluded, that others concluded that would be  
3855 helpful was that if we could eliminate the Web CT  
3856 component and, instead, do something lighter weight with  
3857 either JAVA or some other development language that more  
3858 natively attach itself to the SEBOL engine.

3859                   So we were going -- and there were other  
3860 components as well that we would remove from the  
3861 technology stack to simplify the development, but that's  
3862 really what they're talking about.  So they mention here  
3863 the -- I'm quoting from the document:  "The current  
3864 technology solution is highly complex, considering of  
3865 several packaged application technologies that have been  
3866 extensively customized."

3867                   What we had found, what I had found and I didn't  
3868 know this at the time this report was developed or when

3869 we reviewed it in the Technology Options Workgroup, but  
3870 there had been modifications to SEBOL. There had been  
3871 nonstandard modifications to OPA, to Web CT, but it was  
3872 really the -- when they're talking about the  
3873 customization, I believe what they meant in this were  
3874 the connectors, the SOA connectors between the different  
3875 pieces, and those were the things that we were finding  
3876 was causing us a lot of the nonfunctional errors, the  
3877 time to live errors, the failure to commit record  
3878 errors, the inability to retrieve data and reconnect you  
3879 to an orphaned session or an orphaned record.

3880           Those were all things that we found that were a  
3881 consequence of a very sophisticated, a very complicated  
3882 technology architecture. So one of the things that was  
3883 identified early on was there would be a need to  
3884 simplify that architecture, and that would reduce the  
3885 risk of trying to make it work with the configuration  
3886 that we had.

3887           Q.       And what was timeline that Deloitte  
3888 provided in this preliminary report for this  
3889 alternative?

3890           A.       Well, initially, I believe, unless it's  
3891 going to the contradict me here, the assumption that we  
3892 were working on was that this could be done by November  
3893 open enrollment of 2014. So that was their -- they had

3894 estimated it was going to take them \$22 million and they  
3895 would be ready by November of -- oh, it says that here.

3896 "Analysis indicated that this solution will have  
3897 medium technical risk and will take until November 2015  
3898 to implement at a cost of 22 million."

3899 Q. So November 2015 is when this would be --

3900 A. Oh, yes.

3901 Q. -- complete?

3902 A. Oh, I see that. I see that, yes, ma'am.

3903 All right.

3904 Q. And is this -- so this is Deloitte's  
3905 initial assessment of the current technology?

3906 A. It is. I'm surprised by that 2015  
3907 number, because we were always -- we always approached  
3908 this solution as saying it would be 22 million and it  
3909 would be -- we could launch with what we had in November  
3910 of 2014.

3911 So I'm not saying it's a typo, but I believe  
3912 that that's not -- I'm almost certain that our goal was  
3913 -- or the way we understood it at the time was this path  
3914 was to bring us live November of 2014. I don't know why  
3915 it says 2015.

3916 Q. And if we actually read from the report,  
3917 the heading that says, quote: "Analysis indicates that  
3918 this solution will have medium technical risk and would

3919 take until November 2015 to implement at a cost 22  
3920 million in 2014 plus 150,000 hours in 2015."

3921 A. Yes, ma'am.

3922 Q. So is that accurate?

3923 A. Well, again, I'm surprised by -- and the  
3924 only way that I can -- again, I'm trying to conjure this  
3925 up into what it is they must have meant.

3926 The one component that was clearly an unknown  
3927 was the SHOP functionality. No one had looked at SHOP.  
3928 It had been de-scoped or the scope had been reduced to  
3929 not include SHOP when we failed to launch in -- it was  
3930 actually de-scoped in August, and it still -- we still  
3931 failed to launch in October, but the idea was we would  
3932 take it out of the scope in August of 2013 to allow the  
3933 resources that were working on that component to be  
3934 focused on individual enrollment.

3935 So as I understand this, that additional 150,000  
3936 hours in 2015 was to do SHOP, but I'm not a hundred  
3937 percent certain of that, because as I say, our  
3938 understanding was going this course was going to make  
3939 the exchange available in November 2014 for individual  
3940 enrollment.

3941 Q. Okay. If we turn to page 10, the next  
3942 page of the report --

3943 A. Yes, ma'am.

3944 Q. Under Stay the Course, Keep the Vendor,  
3945 is this keeping Oracle as the vendor and also keeping  
3946 the Oracle developed technology?

3947 A. Yes, ma'am.

3948 Q. And Deloitte estimates the risk for this  
3949 option as medium risk, and what did that mean?

3950 A. Well, as I read off these, they have many  
3951 of the same observations. The current solution is  
3952 highly complex. Several enhancements are pending. It  
3953 appears that additional project management and testing  
3954 rigor will be required to stabilize the solution.

3955 The backlog contains 1500 open functional  
3956 performance defects. Additional remediation appears  
3957 necessary to address architecture design, code quality  
3958 design, deployment and training issues, and compliance  
3959 with CMS regulations HIPAA and personal identification  
3960 information is difficult to confirm due to data quality  
3961 issues.

3962 So when Deloitte had presented to us and  
3963 discussed the options, they had reduced it to four  
3964 threads, one being data quality, the second one being  
3965 application quality, the third being the unknowns of the  
3966 systems that were not -- that had not gone to  
3967 production, that no one had seen the code, like the SHOP  
3968 and the -- primarily, the SHOP, but other components of



3969 the code as well that had been started, but no one had  
3970 seen. They had never been revealed to us. We had never  
3971 seen the system.

3972           Then, finally, what were the changes that were  
3973 going to come in the marketplace that were going to  
3974 require adaptations to what we had done existing. So  
3975 CMS continued to change their interfaces and their  
3976 requirements and things like that, and those would cause  
3977 or create changes that we had to adapt.

3978           Q.       And to your understanding, was this a  
3979 feasible option for the state?

3980           A.       Well, at the time, it was. It certainly  
3981 seemed like it. It's a higher number there, 45 million,  
3982 but at that time, it was estimated that we had that  
3983 amount, roughly, that we could commit to a technology  
3984 build to finish it.

3985           So yes.

3986           Q.       So let's turn to page 18. This heading  
3987 says 4.1, Full Federally-Facilitated Marketplace  
3988 Solutions, Summary of Analysis.

3989           Deloitte estimates the risk of the FFM as having  
3990 low risk. What does that mean?

3991           A.       Well, I would assume it meant -- and,  
3992 certainly, from my seat, there were -- at this time,  
3993 there were 34 states that were working off of the

3994 federally-facilitated marketplace, and so it was up. It  
3995 was operational. We knew that the Federal Government  
3996 was going to see to it that it was going to launch  
3997 effectively even though we understood that there was --  
3998 at this time, we understood that there was a possibility  
3999 that the Federal Government would rewrite the entire  
4000 application rather than do an iteration with what had  
4001 been produced, that, instead, that there was some talk  
4002 then that they were going to redo the whole exchange  
4003 from the ground up.

4004           Even at that, we felt there was less risk to the  
4005 State of Oregon to go with the federally-facilitated  
4006 marketplace than there was for us to continue to try to  
4007 develop this on our own. It was more likely that our  
4008 citizens would be able to successfully enjoy completed  
4009 application enrollment processes in the  
4010 federally-facilitated marketplace than the chances of  
4011 them doing so in a State of Oregon solution.

4012           Q.       So we're done with the report. I wanted  
4013 to transition to your time with the Technology Options  
4014 Workgroup.

4015           A.       Okay.

4016           Q.       So you were member of the workgroup.  
4017 Correct?

4018           A.       Yes, ma'am, I was.

4019 Q. And did you have a particular role on the  
4020 workgroup?

4021 A. No, ma'am, I did not.

4022 Q. Who were the other members of the  
4023 workgroup? I know you mentioned it earlier. You said  
4024 there were voting and nonvoting members?

4025 A. There were. Let me pull the -- if you  
4026 don't mind, it was actually Exhibit --

4027 Q. Seven.

4028 A. Seven. All right. Thank you, ma'am.

4029 Q. Seven, which is the Cover Oregon final  
4030 report, the May 8th report.

4031 A. Thank you. Here is it.

4032 So on page 2, Table 1, we have Liz Baxter, Dr.  
4033 George Brown, Terry Andrews, Greg Van Pelt, Chris  
4034 Blatton, Eric Dulan, Sue Hanson, John Kanegee, Aaron  
4035 Patnode, Bruce Wilkinson, John Simmeral, myself, Tina  
4036 Edland, Sean Kolmer, Bruce Goldberg, Aaron Karjala, and  
4037 Truez Delarosa as members.

4038 Now, the group that really were the voting  
4039 members were the CIOs, Eric Dulan, Sue Hanson, John  
4040 Kanegee, Arron Patnode, Bruce Wilkins, John Simmeral --  
4041 John was actually the chair of the committee -- and  
4042 myself.

4043 Q. Okay. So we were the core. So the core

4044 members, as you refer to them, would you consider them  
4045 to be qualified, a group that would be qualified to make  
4046 a recommendation to the state regarding their technology  
4047 option?

4048 A. Yes, ma'am, I do.

4049 Q. And when did this group start to meet?

4050 A. Well, the first time that we got together  
4051 was on March the 11th. That was the first time that --  
4052 and I had only met them -- as I said, March 11th and  
4053 13th, I was not able to attend in person. I just met  
4054 them over the phone. It wasn't until a meeting on the  
4055 18th that I actually got to mean them all.

4056 Q. What was role of the workgroup?

4057 A. We were charged with reviewing the  
4058 options that had been listed before and providing a  
4059 recommendation to the board with which option that Cover  
4060 Oregon ought to take, and so we would make a  
4061 recommendation to the board. The board would ultimately  
4062 vote which option to take, but we were asked to give an  
4063 analysis and provide some kind of guidance.

4064 Q. So the workgroup was tasked with making a  
4065 recommendation to the board on the upcoming technology  
4066 alternative. Correct?

4067 A. Yes, ma'am.

4068 Q. And it was the board's ultimate decision

4069 on what the state would use for their technology  
4070 alternative. Correct?

4071 A. Yes, ma'am.

4072 Q. Let's go back to the report. If you --  
4073 first, are you confident in the information that's  
4074 included in this report?

4075 A. Yes, ma'am.

4076 Q. And, to your knowledge, it's accurate?

4077 A. Yes, ma'am.

4078 Q. Let's go to page 2 under the heading "TOW  
4079 Meetings".

4080 A. Yes, ma'am.

4081 Q. The second sentence reads, quote: The  
4082 meetings provided workgroup members information to  
4083 understand the current state of the Cover Oregon  
4084 development effort to date and description of the  
4085 current technology status, the technology alternatives  
4086 to consider, articulations of the benefits and  
4087 limitations of each solution, development of a  
4088 preliminary go-forward plan, and finalization of the  
4089 specific path forward for Cover Oregon, end quote.

4090 Did I read that correctly?

4091 A. Yes, ma'am, you did.

4092 Q. Is this an accurate description of what  
4093 the Technology Options Workgroup meetings consisted of?

4094           A.       I would say so, yes, ma'am.  Again, the  
4095 Technology Options Workgroup was a nonofficial body  
4096 giving a recommendation to the board.

4097           Q.       And if you can turn to page 3 of the  
4098 report.

4099           A.       Yes, ma'am.

4100           Q.       And follow along with me as I read,  
4101 quote:  "Information from various sources was presented  
4102 to provide workgroup members an appreciation of the  
4103 technical aspects of the proposed alternatives.  These  
4104 inputs include information prepared by third parties,  
4105 calls with other state exchanges, private sector  
4106 organizations, and information provided by Cover Oregon  
4107 staff in response to specific requests from the  
4108 workgroup.  "

4109           Did I read that correctly?

4110           A.       Yes, ma'am, you did.

4111           Q.       So the workgroup consulted third parties  
4112 to gather information in order to analyze the different  
4113 alternatives before the workgroup?

4114           A.       Yes, ma'am, we did.

4115           Q.       Can you list some of the organizations  
4116 that were consulted by the workgroup members?

4117           A.       Well, we had one call with the State of  
4118 Idaho.  I know that I personally talked to Exeter, the

4119 folks from Exeter. They were the ones who were doing  
4120 the Hawaii exchange at that time, and I believe they did  
4121 one other exchange, and I don't remember whom at that  
4122 time.

4123 We also spoke with folks from Point B. Maximus  
4124 presented some of their findings and their reports, or  
4125 at least the one report they went through in great  
4126 detail as well as just general overview of the project  
4127 and where they felt it was.

4128 We spoke with -- who else did we have  
4129 presentations from? We had -- I'm trying to remember  
4130 now.

4131 Q. It's okay if you don't remember.

4132 A. I'm sorry. I don't remember.

4133 Q. It's okay. And how many technology  
4134 alternatives did the workgroup analyze for the state?

4135 A. There were 10 of them.

4136 Q. And how did the workgroup come to these  
4137 alternatives?

4138 A. Well, as we had -- so the first meeting,  
4139 we just kind of outlined what they were and said what  
4140 they did.

4141 At the second meeting, we really started to get  
4142 more serious about where we were and what we could do  
4143 and what have you. So it was pretty clear at the end of

4144 the second meeting that keeping the technology and  
4145 keeping the vendor was not viable. So that was not  
4146 something that -- we couldn't -- the people that got us  
4147 into this situation couldn't get us out.

4148 Q. But that was -- keeping Oracle as the  
4149 vendor and keeping the technology, they were  
4150 alternatives that were considered --

4151 A. They were considered.

4152 Q. -- by the workgroup?

4153 A. And that one was dismissed. I believe it  
4154 was that very second meeting.

4155 Keeping the technology, but selecting a new  
4156 vendor, that was considered a viable alternative and  
4157 actually ended up as one of the final recommendations.

4158 Transferring another state-based marketplace, I  
4159 had made calls to Maryland and to -- who else was  
4160 considering that? There was someone else that was  
4161 considering that at the time. I think it Nevada, and we  
4162 talked to them about the possibility or what they were  
4163 undertaking, and so I reported back to the group on some  
4164 of those things because I knew the CIOs from the states.

4165 Q. We'll get more in depth with those  
4166 options in a second.

4167 A. I'm sorry.

4168 Q. No. It's okay.



4169           If you can turn to page 5. Under the discussion  
4170 summary, the second sentence says: "Each alternative  
4171 was assessed against the three criteria."

4172           A.       Yes, ma'am.

4173           Q.       "Risk, schedule, and cost."

4174           Can you explain each of those criteria, risk,  
4175 schedule, and cost, for us?

4176           A.       So we had a budget that we understood  
4177 that the Cover Oregon budget for the -- the Level 1  
4178 funding that was available to us was approximately \$50  
4179 million, give or take. So that was the budget, and  
4180 anything that we looked at was going to have to come in  
4181 around or below \$50 million to accomplish the Level 1.

4182           We were also told that there was Level 2  
4183 funding, but we knew that that hadn't been applied for  
4184 and we didn't really fully understand that. We just  
4185 went ahead and went with our Level 1 funding as our  
4186 baseline for what we had to deliver.

4187           The second -- the timeline, we understood our  
4188 goal was to have it up by November of 2014 for open  
4189 enrollment. That was the -- so any alternative we  
4190 selected was going to have to be able to be delivered  
4191 and functional by November 2014.

4192           We also understood that it was possible or could  
4193 be possible for us to go with one alternative that we

4194 would become a -- that what ended up becoming a  
4195 supported state-based exchange, or SSBM, and that we  
4196 could move, perhaps move, back to being an independent  
4197 or self-sufficient state-based exchange, but that would  
4198 have to be for the November 2015 -- did I say that  
4199 right? The 2015 year.

4200           So November 2014, our primary focus was what was  
4201 going to be. The schedule we had was November 2014.

4202           Then, finally, the scope, we knew that the scope  
4203 that had to be met were the minimum requirements for the  
4204 Affordable Care Act. So we knew we had to be able to  
4205 meet all the expectations for the ACA in order to -- so  
4206 those were three components to the iron triangle.

4207           Q.       Did you mention risk?

4208           A.       Well, no. I didn't mention risk. We did  
4209 look at risk.

4210           Risk was more difficult for us to articulate  
4211 late or handicap because we didn't have -- they were  
4212 speculative as to whether or not we were going to be  
4213 able to do them.

4214           So as an example, if a vendor would not commit  
4215 to having something ready by November of 2014, we knew  
4216 it was high risk. That was how we kind of backed into  
4217 our risk. It was more of a -- the risk assessment was  
4218 of a subjective assessment more than an analytical one

4219 like the other two were.

4220 Q. Okay. We can continue on page 5, that  
4221 second paragraph that says, quote: "A key consideration  
4222 in evaluating the possibility of continuing with the  
4223 current technology solution was the ability of Cover  
4224 Oregon to effectively develop a software solution using  
4225 the Oracle framework, a sophisticated and complex family  
4226 of products which in vary in integration from tightly to  
4227 loosely-coupled solutions.

4228 A. Yes, ma'am.

4229 Q. "To address this consideration,  
4230 information was collected about existing and planned  
4231 management processes at Cover Oregon.

4232 The areas examined included project management,  
4233 IT solution governance, solution answer solution  
4234 development, lifecycle management, and solution  
4235 deployment practices."

4236 Is that an accurate statement?

4237 A. Yes, ma'am.

4238 Q. So the current technology was included as  
4239 an alternative, as you stated before?

4240 A. Yes, ma'am.

4241 Q. And it was assessed using the three  
4242 criteria that we went over earlier, risk, schedule, and  
4243 cost?

4244 A. Yes, ma'am.

4245 Q. At some point, the workgroup narrowed the  
4246 alternatives down to three. Correct?

4247 A. Yes, ma'am.

4248 Q. And what were those three alternatives?

4249 A. So we looked at transferring another  
4250 system in, keeping the existing code base and completing  
4251 it in time for November enrollment, and then  
4252 transferring to the federally-facilitated marketplace.

4253 Q. And one of the alternative was quickly  
4254 eliminated.

4255 A. Yes, ma'am.

4256 Q. Which alternative was that?

4257 A. The transfer of the -- of another state's  
4258 base marketplace option.

4259 Q. Why was that eliminated?

4260 A. Well, for the state to do an assessment  
4261 -- so there is a statement once that I heard that when  
4262 you've seen Medicaid -- that when you've state's  
4263 Medicaid eligibility system, you've seen one state's  
4264 Medicaid eligibility system, that they are all unique.  
4265 So to bring in another state's sight unseen application  
4266 for doing assessments and for running a marketplace  
4267 would mean that there was going to -- it was unknown to  
4268 us how much adaptation we were going to need.

4269           So Connecticut's was one of the systems that was  
4270 being transferred at the time to Maryland. Maryland and  
4271 Connecticut felt that -- or Maryland, at least, felt  
4272 that their approach and their philosophy and their scope  
4273 and description of a health information exchange very  
4274 closely mapped to that of Connecticut's. So they felt  
4275 that moving it would not be a big change, a big policy  
4276 change, to the State of Maryland.

4277           We had not done that assessment. We had  
4278 anecdotally been told that Rhode Island was very similar  
4279 to the State of Oregon. We were told that there were  
4280 other exchanges that we could look at for doing this,  
4281 but without doing the assessment, it was very hard to  
4282 know who was like us and who wasn't.

4283           We did know there were some things specifically  
4284 that only Oregon was doing, such as being the --  
4285 remitting -- having the universal agent, and so because  
4286 the universal agent, as an example, was something that  
4287 we believed in and we thought was the right thing and we  
4288 knew nobody else was doing that, that would require a  
4289 change.

4290           Q.       So you also note in the report the  
4291 preliminary recommendation, and you described this  
4292 earlier as a dual path. Why was this a preliminary  
4293 recommendation by the workgroup?

4294           A.       Well, it was preliminary because our  
4295 expectation was that as we worked both paths  
4296 simultaneously, it would become clear at some point  
4297 which way we should go: Yes, we're going to get this  
4298 done in the time and money and with the scope that we  
4299 need or we need to abandon this and go to the  
4300 federally-facilitated marketplace.

4301           So there was going to be, if you will, a final  
4302 -- and we laid it out somewhere, I think, in some of the  
4303 work papers, but there was going to be a final go, no-go  
4304 decision on developing the code. If the other 10 --  
4305 after 100 days, if none of the 10 triggers -- if we had  
4306 passed all the triggers without throwing them, then a  
4307 final go, no-go decision would be made, a recommendation  
4308 by the committee would be to the board to finish the  
4309 application development.

4310           Q.       And were all the triggers met in this  
4311 case?

4312           A.       No, ma'am, they were not.

4313           Q.       What triggers didn't -- were not met?

4314           A.       The cost trigger was one. The time  
4315 trigger was the other, and then, finally, we had to  
4316 reduce -- we were not going to be able to complete  
4317 the -- it was viewed that it would be high risk for us  
4318 to try to do it with the configuration.

4319           The configuration needed to simplified for us to  
4320 be able to make it work. We had too many parts.

4321           Q.       And what alternatives are you referring  
4322 to here?

4323           A.       Oh, I'm sorry, ma'am. I was referring to  
4324 the stay the course, change the vendor alternative,  
4325 Option 2.

4326           Q.       So keeping the Oracle-developed  
4327 technology?

4328           A.       Yes, ma'am.

4329           Q.       So at this point, the Oracle -- the  
4330 workgroup determined that Oracle, keeping the Oracle  
4331 technology, would not be feasible for the state?

4332           A.       Yes, ma'am. I presented to them  
4333 anecdotally some of the challenges that we were facing  
4334 in the process, the development process and project  
4335 management that was going on, and then, formally, I  
4336 presented to them the estimate from Deloitte, what it  
4337 was going to take for us to accomplish this, and --

4338           Q.       We're actually about to go there. So  
4339 page 8, if you can turn to page 8 of the report where  
4340 you note the findings, under the "Findings" heading.

4341           A.       Yes, ma'am.

4342           Q.       It reads, quote: Number one, only the  
4343 stabilization of the current software, completion of the

4344 online enrollment and development of renewal  
4345 capabilities could be completed by November 15, 2014,  
4346 leaving change of circumstance incomplete until November  
4347 of 2015.

4348 A. Yes, ma'am.

4349 Q. "Number two, coding bugs when decomposed  
4350 to the IT IL standards of severity definitions came to  
4351 over 700 Severity 1 and Severity 2 errors, indicating  
4352 more work than anticipated to achieve stability.

4353 Number three, a decision was made to run only 67  
4354 of the 77 CMS recommended blueprint tests against the  
4355 Cover Oregon code to support an accelerated development  
4356 process. This implies that more errors exist in the  
4357 code, but have yet to be discovered.

4358 Number four, no standard processes for change  
4359 control application release management, testing  
4360 improvement configuration management, root-cause  
4361 analysis, environmental management or management of  
4362 enhancement service request has been instituted. The  
4363 skills necessarily for Cover Oregon to finalize the  
4364 development of the existing applications are not  
4365 currently within the Cover Oregon staff and would need  
4366 to be acquired."

4367 Did I read that correctly?

4368 A. Yes, ma'am.



4369 Q. Is that an accurate statement of what you  
4370 remember the findings to be at this time?

4371 A. Yes, ma'am.

4372 Q. Can you briefly explain what these  
4373 findings mean?

4374 A. Well, we were not -- we could not  
4375 complete the project in the necessary time to have it  
4376 available with what we had. We would require much more  
4377 of an infusion of resources than Cover Oregon at that  
4378 time could afford, and it would not have been -- it  
4379 would have been very difficult, I believe, to have made  
4380 a good case in conscience to ask for Level 2 funding  
4381 when we were unable to achieve the objectives of Level 1  
4382 funding requirements.

4383 Q. Okay. And if we go further on in the  
4384 report, it says Deloitte's estimate for the total level  
4385 of effort to achieve stabilization, completion of the  
4386 current enrollment solution, and development of new  
4387 functionality to support renewals and change of  
4388 circumstances, 390,000 at a \$200 an hour blended rate.  
4389 The cost to Oregon was estimated to approach 78 million,  
4390 which doesn't include the core cost of hardware,  
4391 software, licensing, staff that Cover Oregon currently  
4392 supports.

4393 Is that an accurate statement?

4394 A. Yes, ma'am, it is.

4395 Q. And in your opinion and based on what  
4396 you've seen, would this current technology be  
4397 considered, as you stated, possibly too high of a risk  
4398 or, if too high of a risk, would not have been  
4399 functional by the November 2014 open enrollment date and  
4400 would have been too expensive for the state to move  
4401 forward with?

4402 A. We would not, no, ma'am. There was -- so  
4403 through my E-mails and other discussions and things that  
4404 as we go through the record, you'll see, I had tried to  
4405 salvage this. I continued to try to salvage up through  
4406 May, the end of May of 2014, and then it was after that  
4407 point that we gave up.

4408 Q. Okay. And if you move to page 9 of the  
4409 report under "Utilize the Federal Technology", it reads,  
4410 quote: The key findings of utilizing the federal  
4411 technology: Number one, provide individual enrollment,  
4412 renewal, and change of circumstance by the November 2014  
4413 deadline;

4414 Number two, 11 of 16 Oregon insurance carriers  
4415 already have interfaces with the FFM;

4416 Number three, Medicaid eligibility can be moved  
4417 to the Oregon Health Authority, OHA, requiring no  
4418 further development from Cover Oregon;

4419           Number four, lose the full integration of  
4420 Medicaid and QHP to support seamless transfers from QHP  
4421 to Medicaid and back without having to re-enter  
4422 application information;

4423           And number five, agents would need to be  
4424 certified by the FFM."

4425           Did I read that correctly?

4426           A.       Yes, ma'am.

4427           Q.       And is this an accurate statement of the  
4428 findings of the workgroup?

4429           A.       Yes, ma'am, it is.

4430           Q.       Did these finding weigh in favor of  
4431 switching to or recommending the switch to the federal  
4432 technology?

4433           A.       Yes, ma'am, it did.

4434           Q.       And can you explain why?

4435           A.       Well, the facilitated marketplace was one  
4436 that would provide a better customer experience for  
4437 someone enrolling for a qualified health plan than what  
4438 we had afforded them, certainly, and so between the  
4439 hybrid process and the risks associated with people's  
4440 information, you know, going through -- personally  
4441 identifiable information going through the U.S. Mail or  
4442 any of those things, it was just there was no doubt that  
4443 the federal -- Oregon would have been better off to be

4444 on the federally-facilitated marketplace in 2013, and it  
4445 was clear to us after the assessment that that would be  
4446 true for 2014 as well.

4447 Q. And going to the beginning of that next  
4448 paragraph on page 9, it reads: "Enrollment, renewal,  
4449 and change of circumstance functionality are currently  
4450 available through the FFM, providing the lowest-risk  
4451 option to Oregon. All functionality will be available  
4452 before November 2014, and the preliminary cost estimate  
4453 Deloitte of four to six million dollars is within  
4454 available Cover Oregon resources."

4455 So how do these findings relate to those three  
4456 criteria that we mentioned before, risk, cost, and  
4457 schedule?

4458 A. Well, there was a -- for cost, four to  
4459 six million was clearly within our ability to manage,  
4460 and schedule, it was going to launch in November 2014.  
4461 So we knew that they were going to make that.

4462 So insofar as risk, there's really only four  
4463 things you can do with risk. You can try to mitigate  
4464 it. You can transfer it to somebody else. You can  
4465 avoid it, or you can accept it. That's really all that  
4466 you can do.

4467 So this was a case of transferring risk. So in  
4468 this case, all of the risk was transferred to the

4469 federally-facilitated marketplace, and if it failed to  
4470 launch, well, 35 states now would fail to launch.

4471           So that was a way that Oregon would no longer be  
4472 on the hook for standing up a health insurance exchange  
4473 because we had transferred that -- we transferred the  
4474 risk of it to CMS.

4475           Q.       So is it fair to say that the workgroup  
4476 concluded that switching to the FFM or the federal  
4477 technology was the lowest risk, it would be available  
4478 for the upcoming open enrollment period, and it would be  
4479 the lowest cost?

4480           A.       From Oregon's point of view, from  
4481 Oregon's paradigm, yes, ma'am. That's how it was  
4482 assessed. That's important to note, because we only  
4483 looked at it from the framework from what was in the best  
4484 interest for the State of Oregon.

4485           Q.       And when did the workgroup make their  
4486 final recommendation to the board?

4487           A.       It was April the -- I believe it was the  
4488 24th or 25th. It was either the 24th or 25th. I don't  
4489 remember the precise date.

4490           Q.       And was this a unanimous decision?

4491           A.       Yes, ma'am, it was.

4492           Q.       And did you ever instruct the workgroup  
4493 to disregard the other technology alternatives that were

4494 before the workgroup?

4495 A. No, ma'am, I did not.

4496 Q. To your knowledge, did any of the  
4497 governor's advisors instruct the workgroup to disregard  
4498 the other technology alternatives?

4499 A. No, ma'am. They did not to my knowledge.

4500 Q. To your knowledge, did the governor or  
4501 his staff instruct the workgroup to disregard the other  
4502 technology alternatives?

4503 A. No, ma'am.

4504 Q. To your knowledge, did any of the  
4505 governor's advisors ever instruct the technology  
4506 workgroup to make their recommendations to switch from  
4507 the state exchange to the federal technology?

4508 A. No, ma'am.

4509 Q. And, to your knowledge, did the governor  
4510 or his staff ever instruct the workgroup to make the  
4511 recommendation to switch from the state exchange to the  
4512 federal technology?

4513 A. No, ma'am.

4514 Q. You testified earlier that Oracle  
4515 suggested that you were doing the same thing that you  
4516 had done in Oklahoma in going to the federal technology.  
4517 You also said today that the website Oracle created was  
4518 simply not something that we could bring to the public.

4519           What would you say -- would you say that you had  
4520 a preference to switch to the federal technology?

4521           A.     I, myself, no. I wouldn't say that I had  
4522 a preference to switch to -- so Oregon's goal was  
4523 laudable, that they wanted to create a way that  
4524 regardless of how you came into the system, that all  
4525 potential benefits that you're entitled to would be  
4526 evaluated and provided.

4527           So if you had come in through the DHS door or if  
4528 you had -- you know, through TANIFF or Temporary  
4529 Assistance to Families or Supplemental Nutrition or  
4530 Women, Infants, and Children or whatever the program  
4531 was, it didn't matter how you came in; you would be  
4532 evaluated for eligibility to all the programs and then  
4533 asked if you wanted to enroll in any or all of those  
4534 programs.

4535           So the goal was a laudable goal and it was --  
4536 from a policy standpoint, from a -- from service to  
4537 citizenry standpoint, the integration of these programs  
4538 into a unified front end would have been made for a  
4539 terrific solution for the citizens of Oregon. So that  
4540 is not possible when you source your qualified health  
4541 plan enrollment to the federally-facilitated market.

4542           They will not evaluate if you're eligible for  
4543 other programs. They will not evaluate if you're -- it

4544 will not help you enroll in those other things, and so  
4545 the direct answer to that question is no.

4546 Q. And keeping Oracle as a vendor and  
4547 keeping that Oracle-developed technology, they were  
4548 included as options --

4549 A. Yes, ma'am.

4550 Q. -- that the workgroup analyzed. Correct?

4551 A. Yes, ma'am.

4552 Q. And just to state clearly again, did the  
4553 Oracle-developed technology ever go live to the public?

4554 A. No, ma'am. It never went live to the  
4555 public.

4556 Q. And why -- in your opinion, why not?

4557 A. We could never make it stable enough so  
4558 that -- and intuitive enough that the average user, that  
4559 -- average -- that someone without extensive training on  
4560 the specific vagaries of the system could get through an  
4561 enrollment without failure and without bringing the  
4562 system down for everybody.

4563 Q. And in your opinion, the workgroup -- did  
4564 the workgroup thoroughly assess all of the options  
4565 before it?

4566 A. I believe so, yes, ma'am.

4567 [REDACTED]: Okay. Thank you.

4568 THE WITNESS: Thank you very much.



4569 [Recessed at 2:34 p.m., reconvened  
4570 at 2:40 p.m.]

4571 EXAMINATION BY THE MAJORITY STAFF

4572 BY [REDACTED]:

4573 Q. So I had a quick clarifying question from  
4574 your comments earlier. When you talked about the  
4575 preliminary recommendation from the Technology Options  
4576 Workgroup and you said their recommendation was to  
4577 simultaneously build out the existing technology with  
4578 the healthcare.gov as a contingency backup option, was  
4579 that always going to be the -- was the original  
4580 preliminary recommendation by the Technologies Options  
4581 Workgroup or was the decision to do it simultaneously  
4582 added on after they talked about building off the  
4583 current technology?

4584 A. No, ma'am. It was always our  
4585 recommendation to pursue both. In fact, that was one of  
4586 the things that CMS didn't like, was the idea that we  
4587 were going pursue both simultaneously. They wanted us  
4588 to make the decision to either commit to the  
4589 federally-facilitated marketplace or to go with our own  
4590 technology sooner, and we weren't going to be pushed to  
4591 make a decision until we had given it the run for making  
4592 sure we could not do it ourselves.

4593 Q. Do you know who from CMS wanted you to

4594 make the decision sooner?

4595           A.       I'm trying to remember her name. The  
4596 direct answer is no.

4597           Q.       Okay. Then are you familiar with the  
4598 team that was created the Governor's Office to examine  
4599 Cover Oregon issues?

4600           A.       No, ma'am, I'm not.

4601           Q.       Okay.

4602           A.       I knew of the report that was done, but  
4603 that was done -- if you're talking about the first data  
4604 report -- I'm sorry. Okay.

4605           Q.       No. I was asking if you were familiar  
4606 with the team that was created. That's perfectly all  
4607 right. Thank you.

4608           Do you know why Bruce Goldberg resigned from his  
4609 position at Cover Oregon?

4610           A.       I know he was having health problems.

4611           Q.       Do you know if anyone asked him to  
4612 resign?

4613           A.       I do not know of anyone who asked him to  
4614 resign, no, ma'am.

4615           Q.       Do you know if anyone asked him to resign  
4616 from his position at the Oregon Health Authority?

4617           A.       No, ma'am. I do not know of anyone who  
4618 asked him to resign from that.

4619 Q. Thank you. And in 2014, did the  
4620 Governor's Office ever discuss with you that they did  
4621 not want a IT platform that would be highly scrutinized  
4622 for the next several years?

4623 A. I hope not. No. I'm out of work if they  
4624 did.

4625 Q. In 2014, did the Governor's Office ever  
4626 discuss not wanting to hedge their bets with the federal  
4627 exchanges to back up with you?

4628 A. No, ma'am.

4629 [REDACTED]: I'm introducing Exhibit No. 12 into  
4630 the record.

4631 [Exhibit No. 12  
4632 was  
4633 marked for  
4634 identification.]

4635 [REDACTED]: I realize you're not on  
4636 this E-mail. So I'll give you a few minutes to look it  
4637 over. I want to ask if you recall anything about you in  
4638 the E-mail.

4639 [Witness peruses exhibit.]

4640 [REDACTED]: We're on 12. Correct?

4641 [REDACTED]: Yes.

4642 THE WITNESS: Okay. I haven't seen  
4643 this before, no, ma'am.

4644 BY [REDACTED]

4645 Q. Okay. I was going to ask you about the  
4646 paragraph that's on the page with the Bates Stamp No.  
4647 MBG 2028023.

4648 A. Yes, ma'am.

4649 Q. In this E-mail, Michael Bonetto is say:  
4650 "He also talked with Alex Pettit yesterday about  
4651 potentially filling the CIO role on an interim basis.  
4652 It sounds like Alex didn't say no, but pushed back quite  
4653 a bit, because he said he can't step into that role  
4654 until he knows what we want; thus the need to clearly  
4655 articulate our core objectives.

4656 A. Yes, ma'am.

4657 Q. And when he says he also talked with Alex  
4658 Pettit yesterday, is the "he" that talked to you the  
4659 governor?

4660 A. Yes.

4661 Q. So the governor talked to you about  
4662 stepping into the role --

4663 A. Yes.

4664 Q. -- as CIO on an interim basis?

4665 A. Yes, ma'am.

4666 Q. Did you say -- did you push back quite a  
4667 bit because you said you couldn't step into that role  
4668 until you knew what they wanted?

4669           A.       I was where I -- I asked the governor  
4670 what his objectives were.

4671           Q.       And what did the governor say that his  
4672 objectives were?

4673           A.       He said he wanted to salvage it and he  
4674 wanted to -- and if we couldn't -- he said he wanted it  
4675 to work and if it couldn't be made to work, he wanted to  
4676 salvage what he could from it, and I had expressed that  
4677 from the seat that I had held to that point, there was  
4678 -- it was going to be necessary to make some -- in order  
4679 for that to be accomplished, we were going to have to  
4680 make some changes to how the organization functions.

4681           I didn't even have the -- I didn't even have --  
4682 this was a week before I actually got on the ground. I  
4683 didn't even realize how much had to be done at this  
4684 point, but I was aware that there was a lot that was  
4685 going to be necessary to be done and I needed to make  
4686 sure that I enjoyed the support of the leadership to do  
4687 that.

4688 BY           ██████████:

4689           Q.       And a quick clarifying point there,  
4690 actually: You said it was a week before you got on the  
4691 ground. So what day do you arrive in Oregon to start  
4692 working?

4693           A.       Well, I arrived in Oregon on January the

4694 6th as the CIO, but it wasn't until March the 31st that  
4695 I become CIO -- interim CIO for Cover Oregon. So, you  
4696 note, it was -- and until that point, I had kept myself  
4697 deliberately as -- you know, I was there to support and  
4698 help them make, you know, decisions and judgments and  
4699 things, but I wasn't -- I didn't in any way want this  
4700 role.

4701 BY [REDACTED]:

4702 Q. And when you started at Cover Oregon as  
4703 the interim CIO, did you ask Sarah Miller to join you at  
4704 Cover Oregon?

4705 A. I insisted on it, actually. It was my  
4706 desire to have her. It was not just my desire. It was  
4707 my insistence.

4708 I knew enough about it at that time that I think  
4709 what I told Mike Bonetto, although I understood the  
4710 concept of one riot, one range, I wasn't willing to go  
4711 into this that way. That wasn't something I was going  
4712 to buy into.

4713 Q. So who did you discuss bringing Sarah  
4714 Miller along with to Cover Oregon?

4715 A. Well, I discussed it with Mike Bonetto,  
4716 with Michael Jordan, with Sarah herself, and with Bruce  
4717 Goldberg.

4718 Q. And who approved your bringing Sarah

4719 Miller to Cover Oregon?

4720 A. Well, ultimately, the deal that -- I  
4721 couldn't get Bruce to agree to it. So in the end, it  
4722 was agreed that I would come on the 31st and that Sarah  
4723 could come in under my authority on April the 1st.

4724 Q. And do you know why you couldn't get  
4725 Bruce to agree to it?

4726 A. I did not know. I didn't know if there  
4727 was past history, if there had been other -- you know,  
4728 they both had been with State Government much longer  
4729 that I had in Oregon, and although I appreciate context  
4730 and relationships, in this circumstance, it was about  
4731 getting the thing right-sided. I didn't -- I wasn't as  
4732 sensitive to that as, perhaps, I could have been.

4733 Q. Where was Sarah Miller coming from, what  
4734 agency?

4735 A. The Department of Administrative  
4736 Services, the same one I was with.

4737 Q. What was her role in the Department of  
4738 Administrative Services?

4739 A. She was the deputy director for DAS. She  
4740 was -- primarily managed any and all of the projects  
4741 that DAS undertook, any of the large initiatives, and  
4742 thing that clearly I felt I needed was a strong project  
4743 manager.

4744 Q. Did the Governor's Office introduce you  
4745 to an individual named Steve Brown during your work with  
4746 Cover Oregon?

4747 A. I don't remember the name. It's possible  
4748 that they did. It was -- there was a fellow that came  
4749 up that talked to me or that wrote to me about wanting  
4750 to help with some folks, another advisory committee-type  
4751 thing, that he knew folks from a bunch of different  
4752 Silicon Valley organizations, and our struggles -- and  
4753 that was one of the things I was trying to articulate to  
4754 him.

4755 If I remember correctly, our struggles were very  
4756 rudimentary, very fundamental. It was -- we were having  
4757 difficulty in just the discipline of how to build an  
4758 application, much less the complexity of the application  
4759 we were trying to build.

4760 Q. So did you meet with Steve Brown  
4761 personally or did you just communicate via E-mail?

4762 A. I believe we just communicated via  
4763 E-mail. I don't remember for sure.

4764 Things were such a rush during that period of  
4765 time, and it was -- we were doing -- I say we were  
4766 doing. I was doing, Sarah and I were doing, 15, 17 hour  
4767 days six days a week during that time, and then we'd  
4768 catch up Sunday afternoon.



4769           So it was a really difficult period for us. So  
4770 I can't remember if he came or not.

4771           Q.       So you talked about having phone calls  
4772 with the Governor's Office about Cover Oregon during  
4773 your time working on Cover Oregon, but would you  
4774 consider yourself working closely with the Governor's  
4775 Office while working at Cover Oregon?

4776           A.       Oh, with Mike Bonetto and Steve Kolmer,  
4777 absolutely.

4778           Sean Kolmer. I'm sorry.

4779           Q.       And what did you discuss with Mike  
4780 Bonetto and Sean Kolmer?

4781           A.       Well, one of the quips I made on one of  
4782 the phone calls, they asked me how the day went. I  
4783 said, Every day that gets me closer to April 30th is a  
4784 good day that I can successfully get through without the  
4785 system crashing.

4786           So I would tell them when we were down. I would  
4787 tell them when -- if we were out for an extended period  
4788 of time, my estimated time it would take to turn the  
4789 thing around, what were the -- what specifically were  
4790 the challenges that I was trying to get done and what  
4791 things I was trying to do to get the last functionality  
4792 or features written and moved into production, things I  
4793 had held back, things that I had felt needed to be

4794 pushed forward, and then our discussion around whether  
4795 or not -- you know, I expressed to him my need to have  
4796 Oracle Consulting Services assist me for as long as I  
4797 possibly could have them.

4798           Even with the difficulties that we faced, it was  
4799 very important that -- there was no way for me to change  
4800 at that late a date that team out. There was no way to  
4801 bring up another hundred-person team to do what they  
4802 were doing.

4803           Q.       And how did he react to your comment  
4804 about needing to keep them on as long as you could?

4805           A.       So he did not believe that Oracle would  
4806 continue on the project. He had felt that they would  
4807 leave me sooner and, in fact, as a point of fact, he  
4808 lost a bet to me on that. So I got a bottle of whiskey  
4809 out of it.

4810           Q.       Did you work with Patricia McCaig at all  
4811 on Cover Oregon issues?

4812           A.       Yes. As I understand her, she was an  
4813 advisor to the governor. Yes, ma'am.

4814           Q.       What did you with Patricia McCaig on with  
4815 Cover Oregon?

4816           A.       She had -- so I would submit my Power  
4817 Point slides that I was proposing to present to either  
4818 the joint Ways & Means Committee or to -- that was

4819 primarily the one that we did, and she would make -- I  
4820 say she.

4821           She and -- I'm trying to think of the other one.  
4822 Amy Farver and Patti West would give me edits to my  
4823 slide deck. So this would move here and that would move  
4824 there or, you know, say something a different way or  
4825 what have you, say the same thing, just say it in a  
4826 different way.

4827           So certainly, in all fairness, the presentations  
4828 after they got done with them were more polished.  
4829 There's no two ways around it.

4830           They were not any different than what I had  
4831 originally proposed, and if you were to go through --  
4832 kind of like, you know, the differences between these  
4833 things here, you know, there were changes, but there  
4834 logical reasons for it and they weren't anything -- they  
4835 never put anything in my mouth.

4836           Q.       Did you ever work with Tim Raphael on  
4837 Cover Oregon issues?

4838           A.       Not that I'm aware. That name is not  
4839 familiar to me, no.

4840           Q.       Did you work with Kevin Luper on Cover  
4841 Oregon issues?

4842           A.       That name is not familiar to me either,  
4843 ma'am.

4844 Q. Did you work with Mark Wiener on Cover  
4845 Oregon issues?

4846 A. That name is not familiar to me.

4847 [REDACTED]: I'm introducing Exhibit 13 into the  
4848 record.

4849 [Exhibit No. 13

4850 was

4851 marked for

4852 identification.]

4853 THE WITNESS: Small font.

4854 [REDACTED]: That's how it was

4855 produced to the committee.

4856 [Witness peruses exhibit.]

4857 THE WITNESS: This is from April the

4858 2nd?

4859 BY [REDACTED]:

4860 Q. This is from April the 2nd.

4861 A. All right.

4862 Q. So on the first page of the document, the

4863 with the Bates Stamp No. McCaig 6, Mike Bonetto in his

4864 E-mail to Tim Raphael, Kevin, Luper, Mark Wiener,

4865 Patricia McCaig says: "Still working on confirming

4866 Alex's participation at 5:30."

4867 And he attaches two documents, and it looks like

4868 they're documents from the Technology Options Workgroup.

4869 A. Yes.

4870 Q. Would you agree?

4871 A. Yeah. I would agree with that, although  
4872 we call it TOW. I don't know why it's TAG here.

4873 Q. Did you send this information to Michael  
4874 Bonetto?

4875 A. No. I didn't send this to Michael. I  
4876 don't remember seeing this.

4877 Q. So you haven't seen these documents  
4878 before?

4879 A. No, ma'am.

4880 Q. So the --

4881 A. They look like -- in substance, a lot of  
4882 it's the same. This one here with the dual plan thing,  
4883 you know, we were -- these were -- we were trying to  
4884 identify, this looks like, my trigger list.

4885 Q. So McCaig 8 -- that's what I was going to  
4886 ask you actually. If you look back at Exhibit No. 7 on  
4887 page 8, I believe.

4888 A. Yes, ma'am.

4889 Q. There is another trigger list.

4890 A. Oh, yes. Yes. How about that.

4891 Q. It's somewhat difference. I wasn't sure  
4892 if you were familiar with the different drafts and when  
4893 the trigger list was finalized.

4894           A.       No, ma'am. This is -- I am -- this one  
4895 looks like a work in process trigger list. This was the  
4896 final trigger list that we had come up with here, was  
4897 the one that I put in my report, but we had gone through  
4898 and defined what the triggers should be for when they  
4899 got done, and that's how -- so this looks like it's  
4900 that, but I'm not with where that came from.

4901           Q.       Are you familiar with when the trigger  
4902 list was finalized though?

4903           A.       Yeah. It was at our last Technology  
4904 Options Workgroup meeting, which was --

4905           Q.       Okay. So the trigger list was finalized  
4906 on April 24th?

4907           A.       Oh, yeah. It was finalized by then. It  
4908 was finalized by March -- it was finalized by March  
4909 31st.

4910                    Actually, March 27th. So March 27th, we would  
4911 have had the finalized trigger list involved, and that's  
4912 what -- that was what we came up with there.

4913           Q.       I was wondering if you were familiar with  
4914 the exhibit marked No. 13. So you're not familiar,  
4915 then, with the trigger list that's attached to that  
4916 E-mail?

4917           A.       No, ma'am. It looks like an earlier --  
4918 and I could probably dig through this stuff. This looks

4919 like an earlier list, and earlier extract of what we  
4920 were trying to put together.

4921 [REDACTED]: Okay. Thank you.

4922 I'm introducing Exhibit 14 into the record.

4923 [Exhibit No. 14

4924 was

4925 marked for

4926 identification.]

4927 THE WITNESS: I'm glad I brought my  
4928 glasses.

4929 [Witness peruses exhibit.]

4930 THE WITNESS: Okay. Same date.

4931 Okay.

4932 BY [REDACTED]:

4933 Q. So on this E-mail chain with the Bates  
4934 stamp that's McCaig 77, I realize you're not on the  
4935 E-mail. It's an E-mail from Mike Bonetto, but in the  
4936 E-mail, the body of the E-mail, Mike Bonetto says:  
4937 "Alex will be joining at 5:30 for a call."

4938 Is that Alex, is that you? Did you join the  
4939 call with this group of individuals?

4940 A. Yes, ma'am, more than likely.

4941 Q. So do you remember in the beginning of  
4942 April, I believe -- it looks like the call is being held  
4943 on April 2, 2014.

4944 A. Yes, ma'am.

4945 Q. Do you know why Alex -- I mean Michael  
4946 Bonetto is asking you to join this SWAT team discussion?

4947 A. Well, I had already assumed -- well, it  
4948 was my -- that was the end of my third day. So it was a  
4949 Wednesday, because I started on a Monday.

4950 So that was my third day of being the CIO for  
4951 Cover Oregon. So I would assume that was -- so I had  
4952 actual on-the-ground knowledge of what was going on at  
4953 this point. It was no longer speculative or dependant  
4954 upon somebody else telling me what was going on.

4955 I had direct knowledge of how things were  
4956 happening on the ground there at Cover Oregon at that  
4957 point.

4958 Q. So on these calls, do you remember these  
4959 individuals being on the phone calls, Patricia McCaig,  
4960 Kevin Luper, Mark Wiener, Tim Raphael?

4961 A. I remember Patricia being on the call or  
4962 on -- because she was on multiple calls. She wasn't  
4963 just on this call. She was on multiple calls.

4964 Ms. Gay, I'm sure there were times when she was  
4965 on calls, but I don't remember this one in particular.  
4966 She wasn't a regular person on the call, and then  
4967 everybody else, the direct answer is no. Those names,  
4968 you know, either they didn't speak or I didn't have any



4969 interaction with them or they weren't usual people that  
4970 appeared on any of the calls. So I didn't really -- I  
4971 had only been with the state for a couple of months and  
4972 my focus now was really on the Cover Oregon stuff.

4973 Q. Okay. So in the middle of E-mail, it  
4974 says: "On Wednesday, April 2nd at 4:25, Patricia McCaig  
4975 wrote."

4976 You jump down a few lines. She says: "I'd like  
4977 to run tonight's meeting, and I think it should be  
4978 limited to Cover Oregon issues, specifically: One, the  
4979 IT recommendation content process and timing."

4980 Is something you recall, remember speaking about  
4981 during the phone call with the group?

4982 A. Well, possibly. The thing that I was  
4983 working at that point that was very difficult for me was  
4984 how -- I had thought that I would be able to focus on  
4985 recommending the -- on what path to go forward with the  
4986 Cover Oregon technology solution; and, instead, I was  
4987 being -- I was completely consumed at that point with  
4988 the operational deficiencies of the Cover Oregon  
4989 development effort.

4990 So on that meeting, I was more direct about we  
4991 had a -- I had an immediate crisis that needed to be  
4992 addressed before I really -- I understood the need to  
4993 talk about the viability of going forward and what have

4994 you, but my focus was just on getting the thing so that  
4995 it was functional, so that the team was functional.

4996 [REDACTED]:

4997 Q. Do you remember anything else that was  
4998 discussed on the call that night?

4999 If your focus was on functional, what were these  
5000 other people talking about on the call?

5001 A. Well, let me think, see what else is on  
5002 our list here.

5003 [Witness peruses document.]

5004 THE WITNESS: Greg Van Pelt's appearance  
5005 tomorrow, goal for committee, Oregon, detailed schedule  
5006 response, spokespeople. I don't remember that.

5007 Then Hamstreet, contract, reporting authority,  
5008 messaging, spokespeople.

5009 Neither of those two -- so neither of those two  
5010 topics were spoken of when I was on the phone. One of  
5011 the things that I used to do -- and this happened often  
5012 and I don't remember if it happened in this case or not,  
5013 but after I said what was going on with the IT and where  
5014 I was and what I was doing, I had other stuff I had to  
5015 do. So I had to drop the call.

5016 I would bow out of the call, because my job was  
5017 operational at that point. We had some very severe  
5018 operational issues.

5019           So one of the reasons -- and I don't remember  
5020 this as vividly as it's going to sound, but I do  
5021 remember that on some of these calls, Mike would ask me  
5022 to join and I would say I don't know if I can join  
5023 tonight, Mike; I've got a system down situation; I've  
5024 got other things operationally I'm addressing.

5025           And so I would -- until the very end, I would  
5026 not let Mike know I was going to -- whether or not I was  
5027 going to make the call or not. This was one of those  
5028 instances where I told Mike I don't know if I'm going to  
5029 make the call or not here, until the very end.

5030           Often, I would make a presentation or I would  
5031 give my update or what was happening and then I'd say,  
5032 All right, are you done with me now? Then they'd say  
5033 yes and I'd say, Great, I have go to back to work. So  
5034 I'd just get off the phone and go back to work.

5035           I don't remember anything about Greg Van Pelt.  
5036 I'm not -- to be honest with you, I'm not sure who that  
5037 is, and the Hamstreet, I know Clyde and I remember when  
5038 he came in, but to be honest with you, it wasn't until  
5039 the morning of the board meeting that Bruce told me that  
5040 Clyde was coming on board and would be assuming  
5041 responsibility for the organization, and that was the  
5042 first I had heard of Clyde.

5043 BY                           ██████████:

5044 Q. The morning of the --

5045 A. The morning of the board transferring  
5046 authority of appointing him as interim director, of  
5047 accepting Bruce's reservation, and appointing him as  
5048 interim director.

5049 Q. That was the April 10th board meeting?

5050 A. Yes, ma'am. So I hadn't had anything to  
5051 do with this. That was -- and that was why when I found  
5052 that out, that's why I collected together all of my  
5053 severance letters I needed signed and brought them to  
5054 Clyde.

5055 BY [REDACTED]:

5056 Q. Do you recall if during this phone call  
5057 on April 2nd that federal exchange was discussed at all?

5058 A. Not -- certainly not by me. It wasn't  
5059 discuss on my part of the thing. Mine was exclusively  
5060 around --

5061 Q. No, but I mean do you recall other people  
5062 on the phone discussing that?

5063 A. Not while was on the call, no, sir.

5064 Q. Do you remember how long you were on this  
5065 call for?

5066 A. To be honest with you, it was as brief as  
5067 possible. We were dealing with -- we had a -- so that  
5068 week, we had a code module -- so this was Wednesday. We

5069 had a code module that was incorporated into the build  
5070 that we were going to push that weekend.

5071           On Wednesday, it was taken out of the build. It  
5072 was called Thing 2, of all the -- I have no idea how  
5073 they came up with these names, but they called it Thing  
5074 2.

5075           So they pulled Thing 2 out of the 1.1.0.5 build.  
5076 So I insisted that testing started over again Wednesday  
5077 night. So I started -- they had been testing Monday and  
5078 Tuesday. They pulled Thing 2 out Wednesday morning. So  
5079 I insisted that testing be reinitiated and completed by  
5080 Friday night so that Saturday, we could do the code  
5081 push.

5082           So it was at that point that Thing 2 was out I  
5083 was pushing to organize resources to get the code tested  
5084 to start the testing Wednesday night. So I was telling  
5085 everybody cancel whatever plans you had, whatever  
5086 reservations, you're going to stay and test the code  
5087 here.

5088           So Wednesday and Thursday, we tested the code,  
5089 and then Friday, they decided they were going to put  
5090 Thing 2 back into the code without testing it. That was  
5091 when I shut the thing down.

5092           So during that period of time, I really was  
5093 consumed with operational things.

5094 [REDACTED]: I'm introducing Exhibit  
5095 15 into the record.

5096 [Exhibit No. 15  
5097 was  
5098 marked for  
5099 identification.]

5100 [Witness peruses exhibit.]

5101 BY [REDACTED]:

5102 Q. This is an E-mail from Tim Raphael to  
5103 Mark Wiener and Kevin Luper, and in the body of the  
5104 E-mail, Tim Raphael says: "Mark and Kevin, I'd  
5105 appreciate comments on the attached draft memo to the  
5106 governor. It may be too direct. It's no pride of  
5107 authorship. Tim."

5108 Then if you turn to the page with the Bates  
5109 Stamp No. COGR\_SHCBAR\_KL\_0883, in the memorandum, the  
5110 first paragraph reads: "The focus of our meeting Friday  
5111 morning is to discuss the timing and substance of the  
5112 technology's teams preliminary recommendation to the  
5113 Cover Oregon Board.

5114 After a briefing from Alex Pettit, we have  
5115 significant concerns about the recommendation of a  
5116 100-day plan to continue the build-out of Cover Oregon's  
5117 existing technology platform. We're also preparing for  
5118 the possibility of moving to the federal exchange.

5119           We are convinced it would be a mistake for the  
5120 board to send any signal at its meeting next week about  
5121 next steps on technology."

5122           So can you just briefly explain again what the  
5123 100-plan was?

5124           A.       Well, in the report, that was where we  
5125 would follow the dual track. We would pursue both the  
5126 completion of the technology and, simultaneously,  
5127 ascertain what it would take to do the conversion to the  
5128 federally-facilitated marketplace.

5129           Q.       And then do you recall what briefing they  
5130 are referring to in this memo that you provided to a  
5131 group of individuals? Where it says after a briefing  
5132 from Alex Pettit, do you remember who you briefed?

5133           A.       I would assume that was the one from the  
5134 2nd.

5135           Q.       The call on April 2nd?

5136           A.       Yes, ma'am. That's the only one it could  
5137 have been.

5138           Q.       Thank you. Then at the bottom of that  
5139 last sentence in that paragraph, he writes: "We are  
5140 convinced it would be a mistake for the board to send  
5141 any signal at its meeting next week about next steps on  
5142 technology."

5143           Were you ever advised by anyone not to send a

5144 signal to the board at the April 10th meeting?

5145 A. No, ma'am, I was not.

5146 Q. Then at the bottom, the last sentence of  
5147 the memorandum, it says: "Alex's charge should be to  
5148 identify the least risky option to ensure end-to-end  
5149 online signups to the public during the Fall 2014 open  
5150 enrollment period. "

5151 Did you receive this direction from anyone?

5152 A. No, ma'am, I did not.

5153 Q. No one told you to identify the least  
5154 risky option?

5155 A. No, ma'am. I was not instructed to do  
5156 that.

5157 Q. And you said you've never seen this memo?

5158 A. No, ma'am. I haven't.

5159 Q. You did sit down with the governor in any  
5160 period in the beginning of April to brief him on the  
5161 technology group's recommended 100-day plan?

5162 A. Not the governor, no. I had sat down --  
5163 I had had several discussions with Mike Bonetto, Sean  
5164 Kolmer, and that was really my -- and Michael Jordan.  
5165 So I had --

5166 Q. Did you discuss the 100-day plan with  
5167 together or were they separate conversations you were  
5168 having?



5169           A.       I would say they were separate and  
5170 multiple conversations.

5171           Michael Jordan, being the chief operating  
5172 officer, Michael Jordan had an appreciation of  
5173 operations and what it took to operate. So in meetings  
5174 where I was not present for any variety of reasons and  
5175 he was, he was my advocate to let the operations people  
5176 manage the operations, which was my primary charge, was  
5177 to manage operations.

5178           So I had not -- I hadn't seen that. I would  
5179 have -- obviously, I would have objected to it. You  
5180 know, I disagree with it. I disagreed -- would have  
5181 disagreed with it then and I feel that the events bear  
5182 out that they were wrong.

5183           Q.       What do you mean the -- okay. Thank you.

5184 BY           ██████████:

5185           Q.       Can I just clarify here that in this  
5186 memo, did Governor Kitzhaber's team tell him that --  
5187 they're talking about the 100-day plan which has the  
5188 possibility of moving to the federal exchange into a --  
5189 then the federal exchange is again referenced when it  
5190 says "In speaking with Alex, it is clear that the  
5191 technology team's recommendation was significantly  
5192 influenced by CMS's late determination that if we're  
5193 going to move to the federal --

5194           The federal exchange is discussed a lot, and you  
5195 mentioned that the only time you could have briefed them  
5196 was on the previous call that we talked about, April  
5197 2nd. Would you say that it's fair to say that the  
5198 federal exchange came up at some point during that call?

5199           A.       Perhaps. It certainly didn't come up for  
5200 me. What I would say is it was -- the federal exchange  
5201 had been discussed through March, through the Technology  
5202 Options Workgroup, and I wasn't going to be -- I'm  
5203 certain I was not the source of any of that information  
5204 to them as far as, you know, other things that they cite  
5205 about CMS giving them --

5206           Let's see. What does it say here?

5207           "Force the state to essentially start over with  
5208 all enrollment and walk way from it's investment to  
5209 date, because the TAG team had already ruled out  
5210 adopting another state's technology. CMC's  
5211 determination essentially left the team with no other  
5212 option -- "no option other than the default option of  
5213 continuing investment in the current technology."

5214           So insofar as the default for requiring no other  
5215 technology or that we had no other plan for it, in my  
5216 opinion, what this group is articulating -- so Oracle is  
5217 more than a software vendor. They also sell hardware.  
5218 They bought some micro systems, and the state put about

5219 \$40 million into hardware in addition to the amount --  
5220 this isn't entirely a software package.

5221 No other state exchange is running Oracle  
5222 hardware. So if we were to have brought Connecticut's  
5223 system, we brought Kentucky's system in, if we'd have  
5224 brought Rhode Island's system in, any other system we  
5225 would have brought in would have required other hardware  
5226 besides what we were running. So even the hardware  
5227 itself that we had put money into was not useable to us  
5228 in a new environment and in a new system.

5229 So what -- I think what they're saying is that  
5230 they're confused. This is my opinion now. What they're  
5231 expressing is that, Well, I'm saying I'm going to walk  
5232 away from the entire investment because I'm not looking  
5233 to bring another solution. What they don't understand  
5234 is the solutions that the other states use run on very  
5235 different hardware, and I couldn't -- I can't take --  
5236 it's not completely modular.

5237 I can't take Rhode Island's system and run it on  
5238 Oracle hardware. It wasn't going to work.

5239 So that's how I would interpret that.

5240 [REDACTED]: Okay.

5241 THE WITNESS: If anything, I would  
5242 say it evidences that they didn't talk to me, because I  
5243 would told them that. That's the best I've got right

5244 now.

5245 [REDACTED]: I'm introducing Exhibit  
5246 16 into the record.

5247 [Exhibit No. 16

5248 was

5249 marked for

5250 identification.]

5251 BY [REDACTED]:

5252 Q. So in his April 6, 2014 E-mail, Michael  
5253 Bonetto wrote to Patricia McCaig: "Had a call last  
5254 night with Bruce, Patti, Sean, and Alex to discuss IT  
5255 decision. It wasn't that productive as Alex and Bruce  
5256 seemed to have varying opinions around the state of the  
5257 CO budget. Alex seems to feel that CO will be in a  
5258 budget hole no matter what the decision is, which is  
5259 obviously extremely concerning.

5260 Bruce doesn't feel this is the case. So they  
5261 meeting early tomorrow A.M. to make sure they're on the  
5262 same page."

5263 A. Yes, ma'am.

5264 Q. Do you -- did you and Bruce meet to  
5265 discuss your varying opinions on the state of the Cover  
5266 Oregon budget?

5267 A. We did, yes, ma'am.

5268 Q. And what was your opinion on the state of

5269 the Cover Oregon budget?

5270 A. That I was right. We were burning  
5271 through 10 million bucks a month and we couldn't sustain  
5272 it. It wasn't just my opinion either.

5273 Mike Smith, who is the chief financial officer  
5274 for Cover Oregon, had brought me the material the first  
5275 day that I was there, March the 31st, and said that I  
5276 needed to pay attention to this, but because of the  
5277 operational concerns, I couldn't give it any attention  
5278 until towards the end of the weeks, and then by point, I  
5279 realized where we were.

5280 So I started to make -- I started to push Bruce  
5281 to let me start letting go of some of these contractors  
5282 who we were carrying as overhead in the expectation that  
5283 we were going to get to the point where they were going  
5284 participate. I said release them; we're just spending  
5285 too much money on this.

5286 Q. And did you -- after your meeting, did  
5287 you and Bruce agree on the state of CO's budget or did  
5288 you still disagree?

5289 A. We disagreed all the way through until  
5290 Clyde Hamstreet came on board, and Clyde took my point  
5291 of view.

5292 All that I knew, I knew that Cover Oregon and  
5293 OHA had an agreement as to how eligibility was to be run

5294 and how much OHA and DHS were to pay Cover Oregon for  
5295 that service. All I had was the actual budget number.  
5296 So I said this is how much in grant money we got, this  
5297 is my monthly burn rate, and this where the ship hits  
5298 the bottom.

5299 BY [REDACTED]:

5300 Q. Why did you -- from what you're saying,  
5301 why -- I don't want to put words in your mouth. So  
5302 correct this, but why do you think that Dr. Goldberg was  
5303 incorrect on his budget assumptions?

5304 A. It could be because -- so I was looking  
5305 only from the static revenue and the running cost, the  
5306 burn rate. He could have been looking at or may have  
5307 been aware of other revenue sources that were available.

5308 So, potentially, things that were not in those  
5309 financials were things like, as you've mentioned before,  
5310 the percentage that is remitted for the two and a half  
5311 percent for the Cover Oregon amount. That was always --  
5312 that was never shared with me and I didn't see that  
5313 revenue projection, also, as I had mentioned, revenue  
5314 from OHA and DHS's agreement with Cover Oregon for  
5315 handling eligibility.

5316 So it is possible that he was aware of other  
5317 revenue sources that I was not aware of. What I was  
5318 aware of was, simply, this was the amount of money that

5319 the grant had done, this is how much was left, and this  
5320 is my burn rate. That was an overly simplistic -- I  
5321 understand an overly simplistic way of doing my budget  
5322 reckoning, but it was the best I had.

5323 BY [REDACTED]

5324 Q. Okay. Thank you.

5325 Then in the E-mail, Michael Bonetto said that:  
5326 "Alex has done some preliminary work with Deloitte on  
5327 Connecticut's model and trying to understand total  
5328 cost."

5329 Do you remember if you worked with one specific  
5330 individual at Deloitte regularly or was it a group of  
5331 individuals?

5332 A. It was group. Yeah. Yes, ma'am.

5333 Q. Then in the orange, it says: "Patti is  
5334 very concerned that Alex is trying to find a way to  
5335 salvage this and make it work for the state."

5336 Were you trying to see if the state could  
5337 salvage the option to adopt another state's technology  
5338 at this time?

5339 A. Yes, I was. I wanted to see if I could  
5340 parse to where, Okay, maybe I could take some components  
5341 from other states, but not take the whole thing.  
5342 Perhaps there was a way that I could weave together a  
5343 known working piece, a SHOP let's say, from another

5344 organization, that I could bring that in or I could  
5345 bring in another component that was working and not have  
5346 to walk away from my eligibility determination process.

5347           So my hope was that there were modules or parts  
5348 of this that were known working pieces from other states  
5349 that would work with my technology that I could use and  
5350 stand those up. So the direct answer to the question is  
5351 yes.

5352           Q.       And so was this something that you had  
5353 discussed on the call with Michael Bonetto, Bruce,  
5354 Patti, Sean -- and Sean about wanting to try and  
5355 salvage?

5356           A.       I know that I talked about salvaging this  
5357 multiple times all the way through and, in fact, I  
5358 talked about salvaging parts of this until I received --  
5359 or, actually, I didn't even receive the letter. They  
5360 didn't address it to me, but Oracle sent a letter that  
5361 they weren't even going to let me have my hardware back  
5362 and it wasn't their responsibility to come with a way  
5363 that I could get my hardware back. It was my  
5364 responsibility to come up with a proposal that they  
5365 would accept to get my hardware back, which I think is  
5366 ludicrous.

5367           Q.       And why were you having this discussion  
5368 with this group of individuals rather than the



5369 Technology Options Workgroup?

5370 A. Well, because I felt that it was always  
5371 my responsibility to salvage what I could. The  
5372 Technology Options Workgroup was an informal body. They  
5373 were not a formal group. They had no authority. They  
5374 were not in any positions of authority.

5375 Really, I was speaking primarily to Bruce, Sean,  
5376 and Mike Bonetto. Patti was there, and that was fine.  
5377 I didn't have any problem with that, but my focus was on  
5378 communicating with them my efforts to salvage -- we'd  
5379 had at this point over \$200 million put into thing, and  
5380 I felt it was responsibility to get what I could out of  
5381 it and make the best of it.

5382 Q. And then a quick clarifying question:  
5383 When you say Patti, do you recall what Patti was on the  
5384 phone?

5385 A. Wentz. She was the communications person  
5386 for Bruce and she had come with him from Oregon Health  
5387 Authority, and so her expertise was in communications.

5388 [REDACTED]: Thank you. I'm introducing Exhibit  
5389 17 into the record.

5390 [Exhibit No. 17

5391 was

5392 marked for

5393 identification.]

5394 [Witness peruses exhibit.]

5395 THE WITNESS: Yes, ma'am. I haven't  
5396 seen this before.

5397 BY [REDACTED]:

5398 Q. So this is an E-mail from Patricia McCaig  
5399 dated April 8, 2014 to Mike Bonetto and copying Tim  
5400 Raphael, Mark Wiener, and Kevin Luper. It indicates  
5401 that you had a call with them on April 8th, and she  
5402 says: "Here's what I think we're expecting information  
5403 on tonight from Alex and Bruce. Are we all on the same  
5404 page?"

5405 Do you recall having a telephone  
5406 conversation with these individuals on April 8, 2014?

5407 A. I don't remember Mark or Kevin  
5408 participating, or Tim for that matter. I do remember  
5409 Mike Bonetto and Patricia, and I would drop in or I  
5410 would call in and, like I say, it was my -- it was  
5411 customary for me to go through my stuff and then they  
5412 would continue on.

5413 Q. So it looks from Patricia McCaig's  
5414 E-mail, they're expecting information about a financial  
5415 estimate for moving to the federal exchange, a 30  
5416 million scope of work for staying with the current  
5417 and/or going to Connecticut, the pros and cons,  
5418 parentheses, financial of staying with hybrid process

5419 through November, but ready with something in 2015 and a  
5420 deadline for the IT decision and the logic for the  
5421 deadline.

5422           Was this information that you were going to be  
5423 providing to them on the call?

5424           A.       Yes, ma'am. I would have been the only  
5425 source for it.

5426           Q.       And was this information you were  
5427 gathering for this group or why was this information  
5428 being gathered?

5429           A.       Well, I don't know necessarily for this  
5430 group, but it was being gathered as part of the  
5431 go-forward plan for working the two alternatives for us.  
5432 So we had to get a project plan together in order to  
5433 give a financial estimate for moving to the federal  
5434 exchange so we could get a very tight estimate of what  
5435 that was going to cost.

5436           Thirty million was about the budget that we were  
5437 going to project to have left after the end of April.  
5438 So after the \$10 million that we burned through for  
5439 March, that's how much was going to be left. So that  
5440 was what I was being told to scope, any kind of  
5441 alternative solutions with them.

5442           The pros and cons of staying with the hybrid  
5443 solution. I really didn't have anything on that. That

5444 was more Bruce's. So I don't remember that  
5445 conversation, and I don't remember that discussion.

5446 A deadline for the IT decision, there was -- I  
5447 was getting -- when they say a deadline for the IT  
5448 decision, we were working through our triggers. So, you  
5449 know, that was still my -- at this point, I was working  
5450 my hundred-day plan as far as knew.

5451 Q. Okay. Then the last sentence E-mail,  
5452 Patricia McCaig says: "We will do further cost, time,  
5453 reliability -- "of staying with the current technology  
5454 and the Connecticut option after we review the  
5455 information above."

5456 Hadn't the Technology Options Workgroup already  
5457 eliminated adopting another other state's technology  
5458 option at that point?

5459 A. We had, and we were -- there was a lot of  
5460 interest in -- there was a lot of folks that an interest  
5461 in that since had done that or was going down that  
5462 path -- Maryland had announced that they were -- for \$45  
5463 million, that they had signed a contract with Deloitte  
5464 that they were going to bring in Connecticut's solution,  
5465 and so there was a lot interest in, Well, why can't  
5466 Oregon do that?

5467 So that was -- I was asked to run that trap  
5468 again. I came up with the same conclusion, which was

5469 that, you know, it was a fool's errand.

5470 Q. Who asked you to run the trap again?

5471 A. Mike Bonetto.

5472 BY [REDACTED]:

5473 Q. Also, to be clear, on this phone call,  
5474 you are saying that you did discuss this -- Patricia  
5475 McCaig's E-mail of financial estimate for move to the  
5476 federal exchange, the 30 million scope, the pros and  
5477 cons, the deadline of the IT decision, that was  
5478 discussed on this call?

5479 A. The pros and cons piece, I don't  
5480 remember, because what they're talking about there, if  
5481 I'm understanding it correctly, what they're talking  
5482 was, Okay, let's say that we fail and we can't get this  
5483 thing up again; what's good about if we run our own  
5484 hybrid model versus what's bad about what if we run our  
5485 own hybrid model this November.

5486 Q. And I don't mean to interrupt you, but  
5487 just I want to make sure the record is correct on this.  
5488 So was a financial estimate for moving to the federal  
5489 exchange discussed on this call?

5490 A. If I had better numbers at that time -- I  
5491 don't have my notes to that right now. So as I gathered  
5492 that information from CMS, from -- I can't remember the  
5493 name of the vendor that Idaho had. They used a vendor

5494 other than Deloitte for setting them up with that. I  
5495 can't remember the name of it.

5496 Then as I got information from Deloitte on it,  
5497 then I would share that information with them, what it  
5498 cost, but I can't remember. It began with -- I won't  
5499 even speculate now. It wasn't a vendor I was familiar  
5500 with. It was one that CMS had used to assist with the  
5501 federally-facilitated marketplace adaptation.

5502 BY [REDACTED]:

5503 Q. Do you remember if any decisions were  
5504 made on this call?

5505 A. There were no decisions made to my  
5506 recollection. The 8th was a --

5507 Q. It was a Tuesday.

5508 A. Tuesday? No. I don't remember any  
5509 decisions being made on the 8th.

5510 Q. Do you remember any decisions being made  
5511 in early April about --

5512 A. Yes, ma'am. When Deloitte did -- again,  
5513 I don't remember. I remember it came in on a Saturday,  
5514 but I think it was the second Saturday in April that I  
5515 got the call, because I was sitting with Sarah Miller in  
5516 a conference room, and we got the estimate, the verbal  
5517 estimate, from Deloitte on the number of hours it was  
5518 going to take, that 300,000, whatever it was. I just --

5519 I remember I sat back in my chair and just -- I couldn't  
5520 believe it.

5521 I pressed them on that a couple of times. I  
5522 said, Really that's what it's going to take to do this?  
5523 What do you base that on? What are you looking at?  
5524 What are your assumptions? What is it that's underneath  
5525 this? Well, what if we eliminated this? What if we  
5526 rewrote the front end? What if we eliminated these  
5527 components from it and tried to simplify it kind of as a  
5528 -- I was trying to get them to modulate a bit and say,  
5529 Well, if we only did this or we only limited it to that,  
5530 what was going to be the hours estimate?

5531 Q. This was a phone call, you said?

5532 A. Yes, ma'am.

5533 Q. That's when they provided you that  
5534 estimate, was a phone call?

5535 A. The verbal estimate was over a phone  
5536 call, and when I got it, that was all. I was  
5537 extraordinarily disappointed.

5538 Q. And when you talk about -- earlier, you  
5539 were talking about the schedule and when things could be  
5540 completed. Was part of the concern that Deloitte didn't  
5541 feel they had the adequate number of staff to complete  
5542 some of those functionalities by 2014? Is that why they  
5543 said some things could take until 2015?

5544           A.       No.  It wasn't the lack of staff.  It was  
5545 that there were some things that needed -- so versioning  
5546 of records, the way that I was going to go about making  
5547 it to work for change of circumstance for the current  
5548 year, for 2014, was not viable for going forward with an  
5549 exchange.  So that whole thing was going to have to be  
5550 rewritten.

5551           We were going to have to change completely how  
5552 we did enrollments so that we could allow for things  
5553 like name changes and change of circumstance and what  
5554 have you.  We didn't have any of that in there and it  
5555 was just going to be reengineered.

5556           So nothing that we -- nothing that -- so the  
5557 work that had been required to do versioning, revisions  
5558 of records, to be able to do an audit track of when was  
5559 something was changed, who changed it and what have you  
5560 and be able to reconstruct a record as it existed at the  
5561 specific time period, so what was your enrollment in  
5562 March versus what was it in April versus what was it in  
5563 May, that was going to require a lot of systems  
5564 engineering and work that was not going to done until  
5565 the next year, until 2015, and that was what they were  
5566 saying, that fundamentally the way that we had  
5567 constructed -- I say "we".

5568           The way that the system, SEBOL, had been



5569 constructed to enter records would not allow for edits  
5570 and deletions and, you know, duplicate -- you know,  
5571 changes to fundamental index information. So we not --  
5572 we were unable to go forward with the design that we  
5573 had. We were at a dead end.

5574 Q. Then can you describe your understanding  
5575 of Patricia McCaig's role as it relates to Cover Oregon?

5576 A. So I had understood that she was an  
5577 adviser to the governor. That was my extent that I  
5578 understood, and the only thing that I had personally  
5579 interacted with her on, although she would discuss with  
5580 me things and challenge me on things, just  
5581 discussion-type things or whatever. The only  
5582 substantive changes that I feel she ever made was in my  
5583 slide decks and communicating to the committee.

5584 Q. What do you mean she would challenge you  
5585 on things?

5586 A. Well, when we would -- so she was the one  
5587 that was -- she was one of the folks that was pushing  
5588 hard for to look or take another look at -- I believe  
5589 she was one of the ones pushing that, because -- this is  
5590 all speculation on my part now. Because Maryland had  
5591 decided to go the route of transferring Connecticut's  
5592 exchange, I believe she was really the one getting Mike  
5593 Bonetto to ask me, Well, why can't me do an exchange,

5594 why is it that we shouldn't an transfer exchange.

5595           The Technology Options Workgroup had already  
5596 come to the conclusion we're not doing that. You know,  
5597 it was a risky thing. We would have to start all over,  
5598 new hardware, new whatever, we're not doing it. Here it  
5599 is in April and, Well, why aren't we doing it? Maryland  
5600 decided to do it. Well, because it's a bad idea to do  
5601 it.

5602           So we were trying to -- so that was -- again, we  
5603 came to the same conclusion anyway, that transferring  
5604 somebody else's system was too costly and too risky and  
5605 too crazy.

5606 BY ██████████:

5607           Q.       We only have a few more minutes left. So  
5608 sorry for just jumping around, but you just mentioned  
5609 that you sort of -- you know, your mind was made up on  
5610 the second Saturday in April. Do you know when others  
5611 -- or the decision was made to move to healthcare.gov?

5612           A.       Do I know when the others were decided?  
5613 No, I don't know when the others were decided.

5614           I would say -- when we say others, as far as  
5615 others, as far as the Technology Options Workgroup, I  
5616 can say that their decisions weren't made until after I  
5617 had the opportunity to talk to them leading up to the  
5618 meeting on 24th. So they did not have -- so the TOW

5619 Group didn't have the information and I didn't share it  
5620 with them directly until whenever my phone call to each  
5621 of them, which was like the 22nd or 21st or something.

5622 I don't remember exactly when, but until that  
5623 point, there was simply not a -- and part of it -- there  
5624 were a variety of reasons for that. You know, there was  
5625 it's important that I get through -- that I put it  
5626 together in a way that makes sense. I have to have a  
5627 cohesive story. I didn't want to just be throwing out  
5628 -- during this time, we were on an emotional roller  
5629 coaster. At one time, we think we're going to be able  
5630 to say this, and then the next time, we think it's never  
5631 going to work. Then we go back and we think we found a  
5632 way forward, and then we find out, no, there's something  
5633 else we didn't know about the code.

5634 So it almost a manic-depressive-type cycle that  
5635 we went through during that first couple of weeks, three  
5636 weeks in April -- well, two weeks -- when we thought we  
5637 could get it done and then we found there was -- again,  
5638 not knowing that records could be versioned, that wasn't  
5639 something I discovered until the second week of April,  
5640 that I couldn't keep -- that when I wrote something to a  
5641 record, it overwrote it forever. That was just -- that  
5642 was unbelievable to me. It was truly unbelievable that  
5643 it would ever be designed that way.



5669 at 3:45 p.m.]

5670 EXAMINATION BY THE MINORITY STAFF

5671 BY [REDACTED]:

5672 Q. Dr. Pettit, in the last round, you were  
5673 asked a series of questions about your communications  
5674 with the governor, his staff, and his personal advisors.

5675 A. Yes, ma'am.

5676 Q. When talking to Sean Kolmer and Mike  
5677 Bonetto, you said you discussed how your day was going,  
5678 functionality, some issues with the website. At any  
5679 time during these conversations, did Sean Kolmer or Mike  
5680 Bonetto provide or direct substantive policy decisions  
5681 for you?

5682 A. No, ma'am.

5683 Q. Were they forcing or coercing you to make  
5684 any certain policy decisions?

5685 A. No, ma'am.

5686 Q. And you said you also interacted with  
5687 Patricia McCaig and Patti Wentz, but it was to discuss  
5688 communication strategy as to edits on your Power Point  
5689 slides; is that correct?

5690 A. Yes, ma'am.

5691 Q. You also said that they just made the  
5692 same thing -- they just put the same thing in a  
5693 different format. Correct?

5694 A. Yes, ma'am.

5695 Q. So at any during these conversations with  
5696 Patricia McCaig or Patti Wentz, did you ever feel  
5697 coerced or forced into make any policy decisions?

5698 A. No, ma'am, I did not.

5699 Q. Were they directing any policy or  
5700 providing any substantive policy recommendations to you?

5701 A. To me, no, ma'am.

5702 Q. Okay. And you were also shown a couple  
5703 of E-mails that you were not included on, to or from,  
5704 and they were conversations between personal advisors  
5705 and governor staff where they mentioned certain steps or  
5706 actions that you should take; but even though they  
5707 mentioned these actions, did any of these governor staff  
5708 or personal advisors ever tell you or direct you to take  
5709 these steps?

5710 A. No, ma'am.

5711 Q. And you also mentioned -- you also  
5712 discussed in the last hour that Patricia McCaig was  
5713 asking why Cover Oregon couldn't use the SBM transfer  
5714 option.

5715 A. Yes, ma'am.

5716 Q. And you testified that the Technology  
5717 Options Workgroup had already determined that that  
5718 wasn't a viable option for Oregon. Correct?

5719 A. Yes, ma'am.

5720 Q. And, to your knowledge, Patricia McCaig  
5721 is not a technology or IT expert. Correct?

5722 A. Not to my knowledge, no, ma'am.

5723 Q. And was she a member of the Technology  
5724 Options Workgroup?

5725 A. She was not, ma'am.

5726 Q. And she wasn't even one of the voting  
5727 members of the Technology Options Workgroup which  
5728 consisted of IT experts. Correct?

5729 A. Yes, ma'am. She was not.

5730 Q. Did you view any of your communications  
5731 with the governor's staff or his personal advisors as  
5732 improper?

5733 A. Any of my communications?

5734 Q. Yes.

5735 A. Well. So there was -- to the governor's  
5736 staff? Repeat the question. I'm sorry, ma'am.

5737 Q. Did you view of your communications with  
5738 the governor, the governor's staff, or his personal  
5739 advisors as improper?

5740 A. No, ma'am. There were no communications  
5741 I had with any of them that I feel were improper.

5742 Q. You also testified in the last round that  
5743 you tried to salvage the current technology. Correct?

5744 A. Yes, ma'am, I did.

5745 Q. You even testified that you tried  
5746 negotiating with Deloitte over getting a more favorable  
5747 estimate to keep the current technology; isn't that  
5748 correct?

5749 A. Yes, ma'am, I did.

5750 Q. But in the end, keeping the current  
5751 technology was not a viable option for Oregon; is that  
5752 right?

5753 A. That is correct.

5754 Q. So you weren't just, simply, jumping to  
5755 the recommendation to switch to the federal technology?

5756 A. No, ma'am. It was always my hope to keep  
5757 the technology. I've always believed that litigation is  
5758 absolutely the last and -- no offense, but worst step  
5759 that you can take.

5760 Q. Okay. So let's briefly discuss the role  
5761 and authority of the Cover Oregon Board of Directors,  
5762 because they come into play with the decision.

5763 Are you familiar with the board of directors?

5764 A. I am.

5765 Q. And their role?

5766 A. Um-hum.

5767 Q. Are you familiar with the types of  
5768 decisions that the Cover Oregon Board typically makes?



5769 A. Yes, I am.

5770 Q. Okay. Can you tell us one decision that  
5771 -- one or two decisions that the Cover Oregon Board  
5772 would take?

5773 A. So Cover Oregon's board was at the --  
5774 prior to, I would say prior my arrival, the Cover Oregon  
5775 Board's purview of authority was around -- they had  
5776 embraced something called the -- model. So they  
5777 believed in setting the high-level policy direction for  
5778 the executive director and that it was then the  
5779 authority of the executive director to decide how to go  
5780 about actually meeting those requirements or those  
5781 outcomes that the board had articulated to the degree  
5782 that they wanted to articulate.

5783 So the board had spent time articulating things  
5784 that they had wanted at a very high level and to that  
5785 they wanted to describe them, and then it was Bruce  
5786 Goldberg's or Rocky King's responsibility to enable  
5787 them, to enact them.

5788 Q. Okay.

5789 A. After Clyde Hamstreet was brought on, and  
5790 I would actually say -- I would back up. I would say  
5791 when I was brought into -- when the Technology Options  
5792 Workgroup was brought in, it was clear that the board  
5793 wanted a more direct involvement in decisions, large

5794 decisions, by the Cover Oregon organization, and so when  
5795 it was determined that the Technology Options Workgroup  
5796 had formulated their plan, our plan, and we presented it  
5797 to the board, that was approved.

5798           By the end of April, we had decided that or it  
5799 had become clear that we were not able to make the first  
5800 option work and we needed to go the  
5801 federally-facilitated marketplace, and that was brought  
5802 forward to the Cover Oregon Board and they, too,  
5803 approved that decision.

5804           I also know that they approved Clyde Hamstreet's  
5805 hiring, and I don't know any others off the top of my  
5806 head. I'm sorry.

5807           Q.       So the board -- I just want to ask you a  
5808 couple of questions to understand how the board came to  
5809 their decision to switch to the federal technology. Did  
5810 the board hear multiple presentations from the workgroup  
5811 about the different technology options?

5812           A.       They had at least the presentation -- so  
5813 the direct action answer is yes.

5814           Q.       Was the board able to ask additional  
5815 questions or any for any briefings if they had any  
5816 questions?

5817           A.       Yes, ma'am, they were.

5818           Q.       The board heard the final recommendation

5819 from the Technology Options Workgroup. Correct?

5820 A. Yes, ma'am, they did. They heard it from  
5821 me as the representative of the Technology Options  
5822 Workgroup. I'm sorry.

5823 Q. That's what I was going to ask you, and  
5824 when did you give that recommendation to the board?

5825 A. The first one was at the board meeting on  
5826 April -- I'm sorry -- on March 27th, 26th. I don't  
5827 remember precisely the date, but we made that -- we  
5828 brought that recommendation to the board that we they  
5829 should pursue the dual path, and I don't remember  
5830 precisely the date.

5831 Q. And when did you give the final  
5832 recommendation to the board?

5833 A. It was April 24, 25, somewhere around  
5834 there.

5835 Q. And was it -- to your understanding, was  
5836 the Cover Oregon Board required to come to the same  
5837 decision that the workgroup had come to?

5838 A. No, ma'am, they were not.

5839 [REDACTED] So I'm going to hand you a  
5840 document, Exhibit 18.

5841 [Exhibit No. 18 was  
5842 marked for  
5843 identification.]

5844 BY [REDACTED]:

5845 Q. It is -- it appears to be the meeting  
5846 minutes from the Cover Oregon Board meeting on April 25,  
5847 2014.

5848 A. Yes, ma'am.

5849 Q. If you could take a few minutes to look  
5850 over that just to become familiar. Are you familiar  
5851 with this document?

5852 A. Yes, I am, although this one is marked  
5853 "draft". So I may not be familiar with it.

5854 I did -- I am familiar with the minutes of the  
5855 board. I had been -- I received copies of those in  
5856 their final, but I hadn't -- so I'm not as certain about  
5857 the draft ones.

5858 Q. We'll go through this then.

5859 A. All right.

5860 Q. On the first page of the minutes,  
5861 directing your attention to the last section, IT  
5862 Workgroup Recommendation --

5863 A. Yes, ma'am.

5864 Q. -- which reads a timestamp of two minutes  
5865 and 40 seconds, suggesting that the discussion of the  
5866 workgroup's recommendation began just under three  
5867 minutes into the meeting. Does that appear correct to  
5868 you?

5869 A. Yes, ma'am, it does.

5870 Q. Now if you'll turn to page 3.

5871 A. Yes, ma'am.

5872 Q. The last section, the header says "Public  
5873 Comment", and it reads 53 minutes, 50 seconds. So it  
5874 appears that the discussion amongst you and board  
5875 members and Cover Oregon staff lasted for just over 50  
5876 minutes. Does that sound correct?

5877 A. Yes, ma'am.

5878 Q. So in your opinion, does 50 minutes  
5879 suggest that the board was taking adequate time making a  
5880 well-thought-out decision rather than just adopting some  
5881 preplanned decision?

5882 A. I hope so. It was -- the board -- coming  
5883 into this meeting -- these are the minutes from April  
5884 25th. So by that point, certainly, Liz and Dr. Brown --

5885 Q. And who is Liz?

5886 A. Liz Baxter. She was one of the members  
5887 of the TOW Committee. She was also the chair of the  
5888 Cover Oregon Board. They were both intimately familiar  
5889 with the problems that we had wrestled with and the  
5890 issues and the discussions.

5891 So she was a -- they both had participated  
5892 greatly in the technology options workgroup as well as  
5893 heard multiple presentations to it to that point.

5894           The other board members, I believe were  
5895 familiar, perhaps not as familiar as those two were, but  
5896 they certainly were familiar with our work to that  
5897 point.

5898           Q.       And to be clear, the members of the Cover  
5899 Oregon Board who part of the Options Workgroup, they  
5900 were not voting members of the IT Workgroup?

5901           A.       True. They were not voting members of  
5902 the workgroup, but they did support the recommendation  
5903 of the workgroup.

5904           Q.       Okay. So are you aware of the board's  
5905 decision then?

5906           A.       Yes, ma'am.

5907           Q.       And what was that decision?

5908           A.       They chose to support the -- this is on  
5909 April the 24th -- 25th here. They supported the  
5910 decision to go to the federally-facilitated marketplace.

5911           Q.       And do you know what that vote was?

5912           A.       I believe it was unanimous, ma'am.

5913           Q.       And do you have any reason to believe  
5914 that the board was coerced or forced into voting to  
5915 switch from the state exchange to the federal  
5916 technology?

5917           A.       No, ma'am, I do not.

5918           Q.       And to your knowledge, who had the

5919 decision-making authority to switch from the state  
5920 exchange to the federal technology?

5921 A. The board.

5922 [REDACTED]: Okay. We're good. Thank  
5923 you.

5924 THE WITNESS: Thank you very much.

5925 [Recessed at 3:57 p.m.; reconvened at 4:00 p.m.]

5926 EXAMINATION BY THE MAJORITY STAFF

5927 [REDACTED]: So I'm introducing  
5928 Exhibit 19 into the record.

5929 [Exhibit No. 19  
5930 was  
5931 marked for  
5932 identification.]

5933 [Witness peruses exhibit.]

5934 BY [REDACTED]:

5935 Q. So this looks like it's the post-board  
5936 meeting questions and answers from the April 25, 2014  
5937 board meeting. Is that what it looks like to you?

5938 A. Yes, ma'am.

5939 Q. And then if you go to the page with the  
5940 Bates Stamp No. TR000819.

5941 A. Okay.

5942 Q. And on this, it says "Q", question: Was  
5943 one of the reason you sent Deloitte home April 10th

5944 because the price was probably going to kill the -- and  
5945 it drops off.

5946 A. I see that. Yes, ma'am.

5947 Q. "Alex". It says: "Answer: To be honest  
5948 with you, it wasn't my decision to send them home. My  
5949 recommendation was to pause it because we knew there was  
5950 going to be a decision that the board would need to  
5951 make, and from that point, we had what we needed from  
5952 Deloitte to understand that option and we turned around  
5953 started to fill in more information, what it would be  
5954 using the federal technology as our core, and you can  
5955 tell there is still more work we need to do to flush  
5956 what that all means."

5957 A. Yes, ma'am.

5958 Q. Is this Alex, is this your answer to this  
5959 question?

5960 A. I don't know if this is an exact  
5961 transcript, but yes.

5962 Q. It has Alex. Alex Pettit?

5963 A. Yes, ma'am.

5964 Q. And so what did you mean, "to be honest  
5965 with, it wasn't my decision to send them home"?

5966 A. Well, I didn't want the team to disband,  
5967 necessarily. So Deloitte had disbanded the team that  
5968 they had, and so I was still -- so I didn't tell them to



5969 disband. I just said, Look, I can't pay you anymore;  
5970 you all need to just pause for a little bit and you can  
5971 keep them doing something else or keep them whatever;  
5972 you don't have to send them to the four corners of the  
5973 globe.

5974 But Deloitte is one of these shops that if  
5975 you're not working, then they're not going to pay to  
5976 have them sit on the beach. So they just went through  
5977 and dispersed the team or whatever.

5978 So I had told them would you give us time to  
5979 pause here to look at this before you all go ahead and  
5980 do that. They said no, and I said, Well, I'm not going  
5981 to continue to pay you to keep a team together. That's  
5982 not how -- I don't think that's responsible use of  
5983 taxpayer, to just keep a team together under -- you  
5984 know, that they're going to disperse them if I don't  
5985 continue to pay them.

5986 Q. Okay. So was this decision -- had you  
5987 already received that phone you referenced earlier in  
5988 the day about learning the cost estimate? Did you  
5989 receive before sending them home or after sending them  
5990 home?

5991 A. Let's look at the date of this. April  
5992 25th. It would have been before this date.

5993 Q. No. When you sent Deloitte home. So it

5994 says the 10th.

5995 A. Yeah, the 10th. So no. I hadn't -- i'd  
5996 have to look at my -- all right. Let me think for a  
5997 minute. I either can look at calendar or I can think.

5998 So the 1st was on a Tuesday. The 8th was on --

5999 Q. I think the 8th was Tuesday, we decided  
6000 earlier. The 10th was a Thursday.

6001 A. I believe we got the decision that --  
6002 again, it was either the Saturday before or the Saturday  
6003 after. It was one of the two of them.

6004 I thought it was the second Saturday in April,  
6005 but I won't swear to that, ma'am.

6006 Q. So you don't recall whether you got cost  
6007 estimate before or after you sent them home?

6008 A. I don't recollect getting the cost  
6009 estimate before. I know I wanted them to pause. I know  
6010 that for certain, and I had asked them to pause  
6011 regardless of that.

6012 So I would have asked them to pause prior to  
6013 that. That would made sense, because what they were  
6014 doing had nothing to do the cost estimate that I needed  
6015 to find out whether this was viable or not. I didn't  
6016 feel the need to continue to pay them.

6017 Q. Okay. Thank you.

6018 A. Yes, ma'am.

6019 [REDACTED] I'm introducing Exhibit 20 into the  
6020 record.

6021 [Exhibit No. 20  
6022 was  
6023 marked for  
6024 identification.]

6025 [Witness peruses exhibit.]

6026 THE WITNESS: Yes, ma'am. I  
6027 remember this E-mail, at least mine. You know, the one  
6028 that Aaron had sent to me, I do remember that.

6029 So yes. I remember that.

6030 BY [REDACTED]:

6031 Q. So you do remember receiving this E-mail  
6032 from Aaron Patnode on April 16, 2014?

6033 A. Yes, ma'am.

6034 Q. And it's to you, and then is he copying  
6035 other members of the Technology Options Workgroup on the  
6036 E-mail?

6037 A. And some who -- so yes. Let me make sure  
6038 that's the only group that's on there, but it looks that  
6039 way.

6040 Tina wasn't on the workgroup. So he includes  
6041 here.

6042 Q. Okay. She wasn't on the workgroup.

6043 A. And Bruce, I think Bruce on the

6044 workgroup, actually, technically.

6045 I don't think -- everything else, I think is as  
6046 well. So yes, ma'am.

6047 Q. So in his E-mail, Aaron Patnode write:  
6048 "I write to you today as my level of concern regarding  
6049 Cover Oregon continues to increase. We last met as a  
6050 group on March 31st, at which point, we advised Cover  
6051 Oregon on what we felt were viable options for the  
6052 organization.

6053 While I understand that there was a vast amount  
6054 of work of evaluation that needed to be completed prior  
6055 to putting either of the, quote, plan, end quotes, in  
6056 motion, I have been surprised at the lack of  
6057 communication with this group given our expressed  
6058 interest to be involved as that evaluation continued."

6059 A. Yes, ma'am.

6060 Q. So do you know why Aaron Patnode was  
6061 E-mailing you about this concern?

6062 A. Sure. He was E-mailing me because he was  
6063 a member of the committee and I hadn't had a -- so the  
6064 -- so in all candidness, I was consumed by the  
6065 operational deficiencies of the organization, and that  
6066 was the highest priority I had to address, and so to --  
6067 first of all, if my job had exclusively been able to  
6068 focus on ascertaining the correct go-forward path on the

6069 technology and how much it would take to remediate it  
6070 and such, then I understand how 16 -- you know, a little  
6071 over two weeks would be of a concern to him that he  
6072 hadn't heard from me.

6073           On the other hand, the thing that I had  
6074 inherited was not at the point that we understood it was  
6075 going to be. The situation in Cover Oregon itself was  
6076 very different than what we were -- what I was led to  
6077 believe it was, and so the very first thing I had to do  
6078 was deal with project -- setting up project management,  
6079 setting up delivery process, testing processes, very  
6080 fundamental things that are operational in nature that  
6081 should have been part of the -- we didn't even have an  
6082 outage log going at that time.

6083           Prior my arrival on March 31st, we would have  
6084 outages and they would never be written down by the user  
6085 support group. So beginning March 31st, I made them  
6086 establish a log of tracking outages and what the  
6087 resolutions to those outages were.

6088           We had no methodology for tracking requests for  
6089 things when. We had requested some from Oracle Managed  
6090 Cloud Services or from Oracle Consulting Services, we  
6091 would make asks for things and we would forget we had  
6092 asked for them, and the, Oh, yeah, I had asked them for  
6093 that. Then it would be, Well, do you remember when you

6094 asked them, do you remember who you asked, do you  
6095 remember how you asked.

6096           Things were being run in a way very haphazard  
6097 manner, and so the very first thing that I had to deal  
6098 with was establishing some rigor around how operations  
6099 were managed, and I know that this team here was  
6100 surprised to learn that. They weren't surprised, but  
6101 they were surprised, because, again, none of us -- I  
6102 don't think any of them expected and I certainly didn't  
6103 expect that the state of things were what they were when  
6104 I arrived there.

6105           Having said that to Sue and Chris and the  
6106 others, they understood, then, Okay, this explains the  
6107 problems we're having with getting interfaces written;  
6108 this explains why we've -- then they could -- do you  
6109 know what I mean? It fit together pieces for them.

6110           Q.       Were they scheduled to have any meetings  
6111 in between this period, so in between March 31st and  
6112 April 16, 2014 that were cancelled?

6113           A.       I think there was one meeting scheduled  
6114 for the end of the second week. I believe that's  
6115 correct. It would have been for the 11th, and I ended  
6116 up cancelling it on the 11th because of the transition  
6117 of Clyde or to Clyde and all of the operational things  
6118 we were addressing and still trying to finalize the

6119 information around what the status of things were for  
6120 our ability to remediate the code or to salvage things  
6121 from it or even to salvage some of the hardware.

6122 Q. So during this period from the E-mails we  
6123 saw earlier, you weren't updating the Technology Options  
6124 Workgroup, but you were having regular calls with the  
6125 Governor's Office to discuss your progress on the  
6126 technology?

6127 A. Yes, ma'am, I was. I had -- and, again,  
6128 I don't remember that they were daily calls with the  
6129 Governor's Office. They could have been daily calls.  
6130 It's just time was moving very slowly for me then. It  
6131 just seemed like days went on and on a long time.

6132 So I don't remember how often I communicated  
6133 with the Governor's Office on these things, but it was  
6134 several times during the week and, again, there was an  
6135 almost sign wave of highs and lows that we would go  
6136 through.

6137 Q. And then were you the one who sent this  
6138 E-mail to Michael Bonetto or do you not remember?

6139 A. So I don't remember. I don't know that I  
6140 sent it to him. It could have be from --

6141 Q. That's okay if you don't remember.

6142 A. No. I don't remember.

6143 Q. Then so in the E-mail to Michael Bonetto,

6144 I realize you weren't on the exchange, but Patricia  
6145 McCaig says: "I have asked directly if Alex was  
6146 communicating with them. This is avoidable. Are you  
6147 worried about Alex's response?"

6148 Had Patricia McCaig asked you if you had been  
6149 communicated with the Technology Options Workgroup?

6150 A. Not to me, no, ma'am.

6151 Q. And do you recall if Michael Bonetto or  
6152 Patricia McCaig had a conversation with you about this  
6153 E-mail and how you responded to it?

6154 A. I know that there was an E-mail that I  
6155 sent. So from Aaron's E-mail, I had put a top on it.  
6156 What do you call it? When I forwarded, I had some  
6157 comments or whatever it was, and I wrote that I needed  
6158 to land the date of the next technology meeting. I know  
6159 I said that.

6160 Q. Who did you forward that to?

6161 A. Oh, golly. I think it was Mike Bonetto,  
6162 and I don't remember. I never wrote directly to  
6163 Patricia that I'm aware of.

6164 Q. Why would you be sending Mike Bonetto an  
6165 E-mail about needing to land a date for the next  
6166 technology meeting?

6167 A. Well, we were in flux during that time  
6168 with the new leadership of the executive director. They



6169 had needed to make these public meetings. So we needed  
6170 to have a public -- there's some notification that we  
6171 have. In Oklahoma, it was 24 hours before a public  
6172 meeting, but because of the scrutiny of this, they  
6173 wanted time to advertise it far and a wide that we were  
6174 going to have the -- and the next meeting of the  
6175 Technology Committee was going to be a public meeting.  
6176 It was supposed to be a public meeting, and so we wanted  
6177 to be sure that we gave notification as well as, very  
6178 candidly, IT people tend not to want to be on camera,  
6179 especially with things like this.

6180           So I was worried -- part of the concern that I  
6181 had expressed with having an open meeting, public  
6182 meeting for the Technology Committee was that I wouldn't  
6183 even get a quorum, because many of those folks would  
6184 just not want to come.

6185           So I needed lead time to tell them it's going to  
6186 be all right, you know, this is what -- you know, get  
6187 them familiar with the situation and get them familiar  
6188 with where we are and what we're doing so that -- and  
6189 then get them to commit to me to come in person so that  
6190 they were going to be -- so that I would have my quorum  
6191 that we could make our decision, because this was a  
6192 voluntary group. They weren't in any positions of  
6193 authority.

6194 Q. So you called the members of the  
6195 workgroup in advance of that last April 24th meeting  
6196 that was public and talked to them about the meeting?

6197 A. Yes, ma'am, I did, and to led them know  
6198 what they could expect, where the meeting with going to  
6199 be held there in the building, where the -- you know,  
6200 that the press would be there, you know, certainly that  
6201 I wasn't going to tell them not to talk to the press.

6202 On the other hand, they were certainly under no  
6203 obligation to talk to the press, because they were not  
6204 public officials. They held no -- they were volunteers.

6205 Q. And you said that this meeting needed to  
6206 be public, yet it seems like you believed a lot of  
6207 technology experts on the committee would be kind of  
6208 concerned about having that public forum. So why did it  
6209 need to be public?

6210 A. Well, I didn't believe it needed to be  
6211 public.

6212 Q. Who did?

6213 A. It was the desire, as I got it from the  
6214 Cover Oregon Board, that the next meeting be a public  
6215 meeting for the Technology Options Workgroup. So I  
6216 thought it was a bad idea. I never -- I didn't think  
6217 that was at all a good idea, but, you know, I said, All  
6218 right, give me the time so I can work with the folks so

6219 that they can be comfortable with a public venue and so  
6220 this will work out for us; but no. I didn't think it  
6221 needed to be and I didn't think it fair to ask them to  
6222 do that.

6223 Q. Thank you.

6224 A. Sure.

6225 Q. So did anyone ever instruct you not to  
6226 talk to the media either after the April 25th Cover  
6227 Oregon Board Meeting or the April 24th Technology  
6228 Advisory -- the Technology Options Workgroup meeting?

6229 A. No one ever has advised me not to talk to  
6230 the media. Now I choose not to, because I too am an IT  
6231 guy.

6232 You can tell an extraverted IT guy from an  
6233 introverted IT one, because the extravert stares at your  
6234 shoes when they talk. So I'm definitely the extraverted  
6235 IT guy.

6236 Q. Are you aware of anyone being instructed  
6237 not to talk the media after either meeting?

6238 A. No, ma'am.

6239 Q. Do you know how Clyde Hamstreet was  
6240 selected to serve as interim executive director of Cover  
6241 Oregon?

6242 A. I do not, no.

6243 BY [REDACTED]:

6244 Q. I just want to go -- we've shown you a  
6245 lot of your E-mails today. Did you only use your state  
6246 E-mail account to communicate about Cover Oregon?

6247 A. If I ever communicated with anyone, I  
6248 always used my state account. The only time that I used  
6249 my personal account for anything -- Cover Oregon had a  
6250 virtual private network set up, and they were an Apple  
6251 shop, and I'm not an Apple kind of guy. So I would take  
6252 documents that I needed if I was going to work on  
6253 something, and I would E-mail them to myself so that I  
6254 could get them from own machine and work on them, and  
6255 then I'd E-mail them back to myself.

6256 So all of my E-mails are from me to me.

6257 Q. And I just would ask -- in a lot of these  
6258 communications, you see that you have people using  
6259 personal E-mail accounts, and you said you talked to  
6260 Mike Bonetto a lot. Did you E-mail his personal  
6261 account?

6262 A. I didn't know - I still don't know what  
6263 it is.

6264 Q. All right.

6265 A. I've never done that and never would  
6266 have.

6267 [REDACTED]: All right.

6268 [REDACTED]: I'm introducing Exhibit 21 into the

6269 record.

6270 [Exhibit No. 21

6271 was

6272 marked for

6273 identification.]

6274 [Witness peruses exhibit.]

6275 THE WITNESS: I hadn't seen this

6276 before.

6277 BY [REDACTED]:

6278 Q. I'm going to ask you about the E-mail on  
6279 the front page.

6280 A. Go ahead.

6281 Q. So I realize you're not on this E-mail  
6282 and you said you haven't seen it before. It's an E-mail  
6283 from Gretchen Peterson to Liz Baxter, but I wanted to  
6284 ask you about a statement made in the E-mail since it  
6285 does sound like you attended a number of Cover Oregon  
6286 board meetings.

6287 A. Yes, ma'am.

6288 Q. So in the E-mail, Gretchen Peterson  
6289 writes to Liz Baxter, starting on the fourth paragraph  
6290 of the E-mail: "There is a real disconnect between the  
6291 public's perception and expectations of the board's  
6292 authority and oversight capability and the reality. The  
6293 Deloitte contract execution without board review and the

6294 seemingly lack of thought to having board discussion and  
6295 input into the business plan before submission to the  
6296 legislature are just clear signals of an ongoing lack of  
6297 clarity of the board's purpose.

6298           I can't fathom a business, parentheses, for  
6299 profit or nonprofit, closed parentheses, operating with  
6300 their board in this manner. My perception is this has  
6301 always been an issue; however, it's certainly become  
6302 more and more since January. At this point, at best,  
6303 it's become just an advisory board. Worst case, the  
6304 board simply is acting as a public pass-through of  
6305 decisions already made at the state agency level or by  
6306 the governor's advisors."

6307           Did you ever hear any concerns from other Cover  
6308 Oregon board members that they felt the board wasn't  
6309 being properly utilized?

6310           A.       No. I personally didn't hear any of  
6311 those. I was aware prior to -- so prior to the launch  
6312 or the October date for launch of the original --  
6313 October 2013 date for the launch of the website, the  
6314 board prior to that had very little involvement,  
6315 information, or appraisal of where things were going and  
6316 what was happening.

6317           After that point, the board, because of the  
6318 negative publicity, there was an expectation that the

6319 board would become more involved in the decisions and in  
6320 the operations and things that were going to happen.  
6321 Insofar as the Deloitte contract that Gretchen is  
6322 referring to, I believe what she's referring to, and I'd  
6323 have to go through and make sure I know what I'm talking  
6324 about here, but I'm relatively certain that's the  
6325 contract to execute moving to the federally-facilitate  
6326 marketplace.

6327           So that was done. So the way Cover Oregon  
6328 worked is because they were -- we would have called them  
6329 an authority in Oklahoma. They were a public  
6330 corporation in Oregon, and as such, they didn't have to  
6331 conform to the same rules of procurement as did -- as I  
6332 do as the state CIO.

6333           So they were able to go through and have -- they  
6334 had their own process for doing it, and the executive,  
6335 the agency director or executive director in this case  
6336 for Cover Oregon, has that authority to enter into and  
6337 bind the organization to contracts and commitments.  
6338 That was not something that we had in the public sector  
6339 side.

6340           So the way I read this from Gretchen, what the  
6341 -- at least as far as the Deloitte component, the board  
6342 never had the authority to bind Cover Oregon to a  
6343 contract. It was always the executive director's

6344 responsibility to bind the organization to a contract  
6345 with the exception of binding to a -- the hiring  
6346 decision of the executive director or, in Clyde's case,  
6347 the hiring decision of an outside agent to be a  
6348 turnaround -- he called himself the chief turnaround  
6349 officer, I think, at the time.

6350           So those were the things the board had control  
6351 over. They had the ability to control the individual  
6352 who had that power, that authority, but they did not  
6353 themselves have any authority. The board couldn't  
6354 decide to enter into a contract to bring the Connecticut  
6355 system to Oregon, as an example. Only the executive  
6356 director had that authority.

6357           Q.       Then you had mentioned it yours response.  
6358 So Deloitte was the contractor that was awarded the  
6359 contract to switch to healthcare.gov?

6360           A.       Yes, ma'am.

6361 BY                ██████████:

6362           Q.       Do you know how much that contract ended  
6363 up costing them?

6364           A.       So if I -- so the direct answer is no. I  
6365 remember it fit in the budget. So it had to have been  
6366 under six million bucks. So, you know, I remember that  
6367 part, but I don't remember exactly how much.

6368           In fact, not only did it fit in -- this



6369 shouldn't get out, I hope. We came in under budget. So  
6370 we had money left over from the thing. So we were able  
6371 to pay our agents and other folks that had claims on  
6372 Cover Oregon. We were able to forward pay everything  
6373 that we owed and completely close the thing up that way,  
6374 because we had actually -- so when I became involved in  
6375 it at the end of March, we were going to crash, and by  
6376 the time the thing wrapped up, we ended up with enough  
6377 money that we could fulfill the obligations we had and  
6378 even forward the -- so we had bought -- I say we had  
6379 bought.

6380 We paid for from Oracle another year's worth of  
6381 services so that it would be sustained through March of  
6382 2015, and that wasn't originally in the budget. That  
6383 would have been picked up by DCBS, but because we had  
6384 managed the resources as well as we did, we had the  
6385 money to pay for it to continue on CS hosting the  
6386 service until they decided to throw us off.

6387 BY [REDACTED]:

6388 Q. Was it considered a system of record  
6389 until that point, March 2015?

6390 A. It was the system of record until that  
6391 point, yes, ma'am.

6392 Q. And it was being process to make change  
6393 of life requests and was it still be used at this point?

6394           A.       I think all the -- I believe all the  
6395 change of circumstance were processed by March of 2015,  
6396 but it was still the system of record for audits to  
6397 produce information for IRS audits, either for the  
6398 agents' payments or whatever. It was still our system  
6399 of record for whether people were enrolled in health  
6400 plans or not for claims, outstanding back claims, and  
6401 that was true right up until March 31st of this year.

6402           Q.       Thank you.

6403           A.       Yes, ma'am.

6404                   ██████████: I'm introducing Exhibit  
6405 22 into the record.

6406   [Exhibit No. 22  
6407 was marked   for  
6408 identification.]

6409   [Witness peruses exhibit.]

6410   THE WITNESS: I remember this  
6411 E-mail.

6412 BY           ██████████:

6413           Q.       So is this an E-mail that you sent on May  
6414 22, 2014 to Tina Edland, copying Michael Bonetto and  
6415 Clyde Hamstreet?

6416           A.       Yes, ma'am.

6417           Q.       So in the last paragraph of your E-mail,  
6418 you say: "I added Slides 8 and 9 to give something of a

6419 final wrap-up of where development of code is and what  
6420 have been identified to date, what can be reused  
6421 regardless of direction taken with CO. I cannot give a  
6422 final tally as we are awaiting the Deloitte gap  
6423 analysis, but I tried to point out that everything other  
6424 than SHOP is being used.

6425 I then turn the presentation over to Tina."

6426 Can you elaborate of what you mean by "I tried  
6427 to point out that everything other than SHOP is being  
6428 used"?

6429 A. So one of the things that I was sensitive  
6430 to was that we had paid for code to be developed and  
6431 then it wasn't being -- it was never brought into a  
6432 production environment. It was never executed, and so  
6433 that was true for the body that comprised the SHOP  
6434 system. We never -- SHOP never got -- the small  
6435 business health operations, whatever it was -- I forget  
6436 what the acronym stands for, but it was for small  
6437 businesses to offer their employees healthcare  
6438 insurance.

6439 That body of work never got brought to  
6440 production. It was stubbed out. It just -- we brought  
6441 it to a certain point, and then development ceased on it  
6442 and it never came up in any form or fashion. We never  
6443 brought it live. We never tested it.

6444           We had no idea what the state of that code. It  
6445 was left in a lower-level environment and never  
6446 promoted. So we just -- we had no idea where that was  
6447 or what was done.

6448           One of the criticism was that there were -- at  
6449 the time, there were things that had been developed that  
6450 we, we Cover Oregon, were just not using, and thought  
6451 that was technically true, what I was trying to  
6452 illustrate with that was whatever we got, I put into  
6453 some sort of -- I tried to get some kind of use out of  
6454 it. There was nothing that was created that we bought  
6455 -- we call that shelfware. So we had no shelfware that  
6456 -- we had some shelfware, but it was minor. I say  
6457 minor.

6458           There was shelfware, but the vast majority of  
6459 the code that was being used in some form or fashion.  
6460 We were trying to get value out of what we had in some  
6461 form or fashion for almost we had possession of.

6462           Q.       Okay. Thank you.

6463           A.       That's all I was trying to say with that.

6464           Q.       Okay. That's helpful.

6465           A.       Okay.

6466           ██████████: I think that's all. Thank you.

6467           ██████████: I'll give you guys the  
6468 option if you have anything else.

6469 [REDACTED]: Yeah. We're going to  
6470 have a few things.

6471 [REDACTED]: Okay.

6472 [Recessed at 4:31 p.m.; reconvened  
6473 at 4:35 p.m.]

6474 EXAMINATION BY THE MINORITY STAFF

6475 BY [REDACTED]:

6476 Q. Dr. Pettit, I want to direct your  
6477 attention back to Exhibit 20, which is the E-mail from  
6478 Aaron Patnode to you expressing his frustration in the  
6479 TOW's role in the recommendation process.

6480 Did you question the value of the contribution  
6481 that the TOW had made up to that point?

6482 A. No, I did not. The thing that was  
6483 problematic was that -- for me was the difference  
6484 between what the Technology Options Workgroup understood  
6485 the situation to be and what the reality of the  
6486 situation was on the ground, and to have -- in any form,  
6487 communicating that was a difficult thing for me to do.

6488 To walk into that environment and not have any  
6489 project plans at all, to not have any tracking process,  
6490 to not have even the most rudimentary type of tools to  
6491 know where we were was extraordinarily shocking and  
6492 disappointing to me. So to bring the Technology Options  
6493 Workgroup up to speed would have been -- was something

6494 that was an unpleasant thing for me to do and a  
6495 difficult thing for me to do, but it was something that  
6496 I had to do, and at the point I hadn't done it here,  
6497 which was April the 16th, I hadn't done it yet.

6498 Q. Right. So he expresses frustration, you  
6499 know, about the frequency in which the group meets, but  
6500 you met six times in March; is that correct?

6501 A. Yes, sir, we did.

6502 Q. And at the time that this E-mail was  
6503 sent, it was only two weeks since you had last met; is  
6504 that correct?

6505 A. Yes.

6506 Q. And this E-mail was sent on April 16th  
6507 and your final meeting was April 24th, which is a little  
6508 over a week from which this E-mail was submitted; is  
6509 that correct?

6510 A. Yes, sir, it is.

6511 [REDACTED]: I just wanted to make that clear  
6512 for the record, and that's all I have.

6513 THE WITNESS: Okay. Thank you.

6514 BY [REDACTED]:

6515 Q. And did you feel like during this time  
6516 with the workgroup that you all enough time to  
6517 thoroughly assess all of the alternatives before the  
6518 group?

6519           A.       By the time that he had written this  
6520 letter, on the 16th, in all candidness, I knew where we  
6521 were going. I just hadn't been able to pull it together  
6522 in a way that I could present the story cohesively to  
6523 somebody else.

6524           I know the court reporter will disagree with  
6525 this, but I think slower than I talk. I talk pretty  
6526 slow, I'm told sometimes.

6527           So it took me a while to formulate how to  
6528 communicate to them, because there was such a disconnect  
6529 for the Technology Options Workgroup between what  
6530 reality was and what we understood reality to be even as  
6531 late as March 31st, and to try to find a way to  
6532 communicate to them this information without -- so  
6533 several people's careers were ended by Cover Oregon.  
6534 Several people have struggled to find work again since  
6535 then, technology people as well as managerial folks, and  
6536 to be able to communicate to them, to this group in a  
6537 way that they understood the challenges we were facing  
6538 without doing any more harm to anyone was -- it took me  
6539 some time to think through.

6540           Q.       And you believed that the decision or the  
6541 recommendation, the final recommendation, by the board  
6542 was a well-thought-out decision and fact-based decision?

6543           A.       I did. I felt that it was well thought

6544 out. I also -- I believed then as I believe now that  
6545 there was simply no other alternative for us.

6546 Q. Okay. And, last, I want to turn you back  
6547 to Exhibit 21. If you can also pull out Exhibit 18.  
6548 Exhibit 21 is the E-mail from Gretchen Peterson that you  
6549 were shown in the last round.

6550 A. Yes, ma'am.

6551 Q. Exhibit 18 are the Cover Oregon meeting  
6552 minutes from April 25, 2014.

6553 A. Yes, ma'am.

6554 Q. So you said in the last round that there  
6555 was an expectation that the board would be more involved  
6556 in decisions after the broken launch of the website; is  
6557 that correct?

6558 A. Yes, ma'am.

6559 Q. To your knowledge, the board was involved  
6560 in the decision to switch to the federal technology.  
6561 Correct?

6562 A. They approved it. Yes, ma'am.

6563 Q. Okay. In fact, the board, they had the  
6564 decision-making authority, as you said, to approve the  
6565 switch to the federal technology. Correct?

6566 A. Yes, ma'am.

6567 Q. So if you turn back to Exhibit 18, the  
6568 meeting minutes, you'll notice that Ms. Peterson, who



6569 wrote this E-mail was actually involved in the over  
6570 50-minute discussion of the tech group's recommendation.  
6571 Does that appear correct to you?

6572 A. Yes, ma'am.

6573 Q. And, in fact, if you turn to page 4 of  
6574 these meeting minutes, under IT workgroup recommendation  
6575 vote, it is Ms. Peterson who actually seconded that  
6576 recommendation to move to the federal technology; is  
6577 that correct?

6578 A. I see that, yes, ma'am.

6579 Q. And this motion passed unanimously; is  
6580 that correct?

6581 A. Yes, ma'am.

6582 Q. And so based on the length of the  
6583 discussion of the IT workgroup recommendation, which was  
6584 over 50 minutes, is it fair to say that this decision by  
6585 the board was well thought out and not a stamp of  
6586 approval on a pre-planned decision?

6587 A. I believe so. Yes, ma'am.

6588 [REDACTED]: Okay. That's all we  
6589 have for you. Thank you.

6590 [REDACTED]: Thank you, sir.

6591 THE WITNESS: Well, thank you very  
6592 much.

6593 [REDACTED]: I was just going to say,

6594 as I always do, that I just want to thank counsel for  
6595 their time today and remind the committee that  
6596 Dr. Pettit was here voluntarily, he attended here  
6597 voluntarily, and that while his testimony today was  
6598 truthful to the best of his recollection, he still  
6599 reserves a right to supplement it with any information  
6600 that should come to his attention subsequent to.

6601 Thanks.

6602 [REDACTED]: We're off.

6603 [Whereupon, at 4:42 p.m., the interview concluded.]

6604 CERTIFICATE OF INTERVIEWEE

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6606

6607 I have read the foregoing 275 pages,  
6608 which contain the correct transcript of the answers made  
6609 by me to the questions therein recorded.

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Alex Pettit

6618 CERTIFICATE OF NOTARY PUBLIC

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6620 I, CATHERINE B. CRUMP, the  
6621 officer before whom the foregoing deposition was taken,  
6622 do hereby testify that the witness whose testimony  
6623 appears in the foregoing deposition was duly sworn by  
6624 me; that the testimony of said witness was taken by me  
6625 stenographically and thereafter reduced to typewriting  
6626 under my direction; that said deposition is a true  
6627 record of the testimony given by said witness; that I am  
6628 neither counsel for, related to, nor employed by any of  
6629 the parties to the action in which this deposition was  
6630 taken; and further, that I am not a relative or employee  
6631 of any attorney or counsel employed by the parties  
6632 hereto nor financially or otherwise interested in the  
6633 outcome of the action.

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6637 CATHERINE B. CRUMP  
6638 Notary Public in and for the  
6639 District of Columbia

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6641 My Commission Expires: October 31, 2017