

United States Senate

WASHINGTON, DC 20510-0908

January 28, 2021

Ms. Christi Grimm
Principal Deputy Inspector General
U.S. Department of Health and Human Services
330 Independence Avenue SW
Washington, D.C. 20201

Dear Principal Deputy Inspector General Grimm:

We write with regard to the U.S. Department of Health and Human Services (HHS) Office of the Inspector General's (OIG) ongoing audit of the Centers for Medicare and Medicaid Services' (CMS) Assessment of National Security Risks to Genomic Testing Data.¹ To improve protections for Americans' genomic data, we request that HHS OIG expand the scope of investigation to include a review of HHS national security procedures throughout the coronavirus pandemic.

On June 10, 2019, we wrote to HHS OIG regarding the national security threat posed by foreign entities with ties to the Chinese government in a position to access Americans' genomic data.² Our letter expressed concerns about potential payments CMS might have made to entities with ties to the Beijing Genomics Institute (BGI), an entity with ties to the Chinese government. We requested a review of these practices, an evaluation of CMS's approach to national security considerations, and recommendations to address these risks. Since our original request and the onset of the coronavirus pandemic, troubling reports have surfaced that note BGI's efforts to exploit the pandemic to expand their reach within the United States. This has been coupled with inaction and at times, support from HHS. For example, the *Wall Street Journal* reported that HHS came into possession of BGI COVID-19 test kits and then offered them to states.³ That same report notes that HHS received the kits from a friendly country and was unaware of the Chinese origin. In light of the documented concerns from the intelligence community and the ongoing investigation into HHS's national security protocols, it is unacceptable that safeguards were not in place to prevent HHS's promotion of BGI products.

¹ Department of Health and Human Services Office of the Inspector General, "Audit of CMS's Assessment of National Security Risks to Genomic Testing Data" Report Num. A-18-20-06200 (announced February 2021), referenced at <https://oig.hhs.gov/reports-and-publications/workplan/summary/wp-summary-0000431.asp>

² United States Senators Chuck Grassley and Marco Rubio "Letter to U.S. Department of Health and Human Services Office of the Inspector General" (June 10, 2019), available at [https://www.finance.senate.gov/imo/media/doc/2019-06-10%20CEG%20MR%20to%20HHS%20OIG%20\(Threats%20to%20Genomic%20Data\).pdf](https://www.finance.senate.gov/imo/media/doc/2019-06-10%20CEG%20MR%20to%20HHS%20OIG%20(Threats%20to%20Genomic%20Data).pdf)

³ *Chinese Covid-19 Tests Were Pushed by Federal Agencies Despite Security Warnings*, Wall Street Journal (January 13, 2021) available at <https://www.wsj.com/articles/chinese-covid-19-tests-were-pushed-by-federal-agencies-despite-security-warnings-11610533802>

In our previous letter, we noted BGI has partnered with Huawei, a Chinese state-directed telecommunications company, and that a multitude of U.S. intelligence officials have identified serious concerns with their data practices. In addition to their troubling associations, BGI has also demonstrated a disregard for human rights. On July 20, 2020, the Department of Commerce's Bureau of Industry and Security added two BGI subsidiaries to the Entity List due to their egregious human rights abuses against Uyghurs and other minorities in Xinjiang. Such companies with ties to the Chinese government and Communist Party should never be in a position to pose a threat towards Americans' genomic data. It has been almost two years since HHS OIG released its February 2019 report, which included a warning from the Federal Bureau of Investigation identifying HHS's lax genomic data sharing practices and China as a risk to the security of genomic data. HHS must fully address these concerns.

To protect Americans' genomic data, we request that HHS OIG expand the scope of its audit to include a review of HHS's actions regarding BGI during the coronavirus pandemic, an update on the status of the ongoing investigation, and recommendations on ways to strengthen HHS's national security practices.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mr. R", with a stylized flourish at the end.

Marco Rubio
Acting Chairman
Select Committee on Intelligence

A handwritten signature in blue ink, appearing to read "Chuck Grassley", with a stylized flourish at the end.

Charles Grassley
Chairman
Committee on Finance