Cover Oregon

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| **Cover Oregon** | |
| [Logo  Description automatically generated with low confidence](https://en.wikipedia.org/wiki/File:Cover_Oregon_logo.png) | |
| **Agency overview** | |
| **Formed** | October 1, 2012 |
| **Jurisdiction** | [Health insurance marketplace](https://en.wikipedia.org/wiki/Health_insurance_marketplace) for U.S. state of [Oregon](https://en.wikipedia.org/wiki/Oregon) |
| **Agency executive** | * Aaron Patnode, Executive Director |
| **Website** | [www.coveroregon.com](http://www.coveroregon.com/) |

**Cover Oregon** was the [health insurance marketplace](https://en.wikipedia.org/wiki/Health_insurance_marketplace) for the U.S. state of Oregon, established as Oregon's implementation of the [Patient Protection and Affordable Care Act](https://en.wikipedia.org/wiki/Patient_Protection_and_Affordable_Care_Act). Cover Oregon was intended to enable Oregonians and small businesses to purchase health insurance at federally subsidized rates.

While the intent was to allow registration and selection of coverage via a website, the site was plagued with problems, and it was possible to purchase insurance only by paper registration.[[1]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-katu-1)[[2]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-kgw-2) As of January 2014, almost $200 million of the $300 million allocated to develop and operate the Cover Oregon website had been spent.[[3]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-3)

As a result of the ongoing problems, in April 2014, the board of directors voted to close the state-run exchange and adopt the Federal [HealthCare.gov](https://en.wikipedia.org/wiki/HealthCare.gov) exchange beginning in 2015.[[4]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-jettison-4) The [FBI](https://en.wikipedia.org/wiki/Federal_Bureau_of_Investigation) began investigating the failed development of the website in March 2014.[[5]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-fbi-5)

In March 2015, the state officially abolished Cover Oregon, permanently folding its functions into an existing [state agency](https://en.wikipedia.org/wiki/Oregon_Department_of_Consumer_and_Business_Services) and the federal [HealthCare.gov](https://en.wikipedia.org/wiki/HealthCare.gov) website.[[6]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-6)



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Background[[edit](https://en.wikipedia.org/w/index.php?title=Cover_Oregon&action=edit&section=1)]

Health insurance exchanges were established as a part of the 2010 [Patient Protection and Affordable Care Act](https://en.wikipedia.org/wiki/Patient_Protection_and_Affordable_Care_Act) to enable individuals to purchase health insurance in state-run marketplaces.[[7]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-lewis-7) In this legislation, states could choose to establish their own health insurance exchanges; if they choose not to do so, the federal government would run one for the state.[[7]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-lewis-7)

In 2011, the [Oregon Legislative Assembly](https://en.wikipedia.org/wiki/Oregon_Legislative_Assembly) passed Senate Bill 99, establishing Oregon's own exchange.[[8]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-8) Rocky King was named executive director of the exchange in late 2011,[[9]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-9) and on October 1, 2012, the exchange was named *Cover Oregon*.[[10]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-10)

Website failure[[edit](https://en.wikipedia.org/w/index.php?title=Cover_Oregon&action=edit&section=2)]

Development of the website that would process online enrollments was done by [Oracle Corporation](https://en.wikipedia.org/wiki/Oracle_Corporation) and managed by the state of Oregon rather than an independent systems integrator.[[11]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-manning-11) The project was plagued by numerous management and technological issues, and though the website was supposed to begin processing enrollments on October 1, by mid-October, it was unable to process any enrollments.[[12]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-12) As of mid-December 2013, the deadline for enrollment for coverage beginning January 1, the state had spent nearly $160 million and the site still could not process online enrollments.[[11]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-manning-11) Governor [John Kitzhaber](https://en.wikipedia.org/wiki/John_Kitzhaber) informed Oregon residents that they should obtain a paper application and mail it in to obtain coverage. The state hired or reassigned nearly 500 people to process paper applications.[[13]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-13)

As of April 2014, the website was still not accepting online enrollments. 200,000 people had enrolled in Cover Oregon via paper applications, the majority through the [Oregon Health Plan](https://en.wikipedia.org/wiki/Oregon_Health_Plan) (Oregon's implementation of [Medicaid](https://en.wikipedia.org/wiki/Medicaid)).[[1]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-katu-1) Cover Oregon Executive Director Rocky King and [Oregon Health Authority](https://en.wikipedia.org/wiki/Oregon_Health_Authority) chief information officer Carolyn Lawson both resigned in the wake of the failure of the website.[[2]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-kgw-2) Interim executive director Bruce Goldberg stepped down in April 2014 and was replaced by Clyde Hamstreet, a consultant who specializes in corporate turnarounds.[[14]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-hamstreet-14)

Faced with millions to make Cover Oregon functional, the board of directors voted in April 2014 to scrap the website in favor of adopting the Federal [HealthCare.gov](https://en.wikipedia.org/wiki/HealthCare.gov) website for 2015 enrollments.[[4]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-jettison-4) Existing subscribers will have to re-enroll with the Federal exchange.[[4]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-jettison-4)

**Legal disputes**[[edit](https://en.wikipedia.org/w/index.php?title=Cover_Oregon&action=edit&section=3)]

In August 2014, Oracle Corporation sued Cover Oregon for breach of contract,[[15]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-15) for allegedly using their software without paying[[16]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-IPclaim2014-16) and then later that month the state of Oregon sued Oracle Corporation, in a civil complaint for breach of contract and "racketeering".[[17]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-17) By September 8, 2014, Oracle America had filed an amended complaint in federal court accusing Oregon of copyright infringement as Oregon was alleged to be using and distributing unpaid-for works derived from Oracle America's software.[[16]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-IPclaim2014-16)

In March 2015, Oregon Governor Kate Brown signed legislation dissolving Cover Oregon.

The parties came to a settlement in September 2016, in which Oregon accepted a package that included $35 million in cash payments from Oracle, and technical support and software licensing agreements with an estimated value of $60 million. Although only a portion of the $240 million spent by the state to develop the system was recouped, a significant part of that expenditure was provided by the federal government, which would likely have claimed additional cash settlement would likely have been claimed.[[18]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-register-18)

"We are pleased to have this contentious litigation behind us and to provide Oregon with the flexibility to obtain the software and technical support it desires to address the state's needs over the next several years," said Dorian Daley, Oracle's executive vice president and general counsel.[[18]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-register-18)

The *Portland Tribune* criticized the settlement: "But when the details are examined, it's clear Oracle came out the clear winner in these negotiations, while Oregon receives very little beyond its legal costs."[[19]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-19)

**Federal investigation**[[edit](https://en.wikipedia.org/w/index.php?title=Cover_Oregon&action=edit&section=4)]

In March 2014, the FBI announced it was launching an investigation into possible criminal wrongdoing related to the failed development of the site.[[5]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-fbi-5) Subpoenas were issued in May 2014 by a grand jury.[[20]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-20) As of May 2016 the FBI investigation into Cover Oregon was on-going.[[21]](https://en.wikipedia.org/wiki/Cover_Oregon#cite_note-21)

<https://en.wikipedia.org/wiki/Cover_Oregon>

From an outsider’s perspective, it is all over but the shouting.  The foundation the State of Oregon is attempting to build in its suit against Oracle is crumbling.  Oracle is going to deliver a beating to Oregon that makes the Ducks loss to the Buckeyes appear like a close game.  Oregon’s new Governor, Kate Brown, has signed the bill dissolving Cover Oregon, a private company launched by the state to manage Oregon’s version of the federally mandated healthcare exchange.  The recent revelations of former Oregon Governor’s campaign staff to take the lead in the decision making regarding the future of Cover Oregon virtually seals the deal for Oracle to win its own suit against the state.

#### Background

Cover Oregon is the State of Oregon’s version of the Federal Government’s Healthcare.gov.  In 2010, Oregon chose to build its own healthcare exchange program rather than adopt the Federal exchange.  The state leveraged federally granted money of over $300 million dollars to build Cover Oregon’s website.  This was paired with another program to replace the IT systems supporting the state’s Health and Human Services departments.

Oracle software was selected to support the implementation of both of Oregon’s programs.  Oracle also provided the overwhelming majority of the consulting and programming services required to configure the exchange and build the integrations to the federal systems, local health care providers, insurance brokers, and the remaining state systems.

Fast forward to October of 2013.  Cover Oregon, the State’s artfully crafted private company, “went live” with the exchange on schedule.  Well, “went live” is a strong term, I would more appropriately say attempted to go-live.   The exchange was a complete and utter failure.  Not a single healthcare insurance application was taken through the site before it was shut down in February of 2014.  Since that time, the mud has been hurled between Oregon and Oracle, lawsuits have been filed, and jobs have been lost.

Most prominently, Oracle has sued Cover Oregon for $24 million dollars in payments it believed it is owed for services rendered.  Oregon has sued Oracle on the basis or racketeering charges that could potentially amount to over $5 billion dollars in damages.  Recent revelations regarding the apparent delegation of Cover Oregon’s fate to the Governor’s campaign staff has all but sealed the deal for Oracle to win its suit against the state and ultimately contributed to the Governor’s resignation in February.

The irony is that Oregon has had to work through the courts to keep Oracle working on the portions of the systems that do work.   Oracle’s contract expired at the end of February 2015.  The company had expressed no interest keeping the internals of Oregon’s healthcare system operational.  Oregon has petitioned through the courts to force Oracle to stay on the job until the exchange can be transitioned.  These petitions were granted at the end of February.

From our research, the single most important critical success factor of any transformation program is the ability to make quality decisions.  Now, nobody is in the business of making bad decisions and it is easy to Monday morning quarterback, so let’s explore the eight most pivotal decisions that set the course for this epic failure.

#### 1. Expand the scope of the exchange project to include replacing all of the Department of Human Services systems

Clearly driven by Oregon’s desire to keep taxpayer costs low, it is fundamentally a bad decision to expand scope when you are dealing with a project that has a deadline mandated by federal law.  While other states building their own exchanges were shedding scope to keep the project manageable, Oregon took its first step toward failure by expanding.

#### 2. Creation of the Oregon Health Authority

The Oregon legislature split the Department of Human Services (DHS) into two independently operating bodies by creating Oregon Health Authority (OHA).Responsibility for the health exchange was assigned to OHA while the support for the remaining systems was left with DHS.  The split was intended to create focus for the OHA project team to deliver the exchange.

However, when combined with Decision 1, this decision created a complex program governance structure which had a destabilizing effect on the team.  Later, a third governing body was created in the form of Cover Oregon.  Cover Oregon was the private company that was formed to operate the exchange after it was put in place.

#### 3. Wall-to-wall Oracle Software

The decision to select Oracle’s recommended application software suite to build the exchange and the replacement of the systems for DHS appears to be a last man standing scenario.  All other vendors dropped out of the bidding when faced with the broad scope of requirements and the tight deadlines for delivery.  The state’s software project team also selected almost every other Oracle product in support of the exchange databases and operating infrastructure.

The idea of selecting all software from one vendor conceptually supports reducing risk.  However, in this case, the vast expanse of software implemented increased the risk given that the Oregon IT teams had no prior experience with the Oracle product lines.  Further, it was later revealed that the combination of Oracle products selected had never been put in place in a production environment.

#### 4. Not to engage a system integrator other than Oracle

In an attempt to save money, the appointed CIO determined that the state did not require the services of a systems integrator independent from Oracle.  Instead, they decided to train their own team on Oracle products to drive a self-sufficient organization.  The logic behind this decision is clear, if you train your own people, you can create independence from your service provider and ultimately create the potential to deliver greater value to the organization.

However, the State of Oregon did not have the staff available to train and were losing as many people as they hired.  A staff of Oracle programmers coupled with a program lead that lacks experience is typically a recipe for disaster.

#### 5. The sole use of time and materials contracts

There were over 40 separate time and material purchase orders cut for Oracle services.  The background investigations have shown that these contracts lacked specific deliverables and did not hold Oracle accountable to specific delivery targets or objectives.  I suspect that the lack of a clear project scope, the tight time table as well as the uncertainty regarding the overall capabilities of the Oregon team was logic behind this decision.  Clearly defined contracts with the proper incentives put project teams in the best position to succeed.

#### 6. Choosing not to heed the advice of independent risk assessors

The program clearly had sufficient structural oversight.  In fact, there were at least six different departments, firms, or governing bodies that conducted reviews of the program.  Nearly all of them reported the exchange program was in trouble and major and dramatic actions were required to put it back on track.  Why were these reports not heeded?  Evidence suggests in many cases the reports were scrubbed and toned down or even suppressed before reaching the highest levels of governance.

In one documented situation, the independent review firm’s payment was withheld due primarily to the findings of the risk associated with the report.  Another possibility is that everybody understood the program was high risk; the reports were simply an acknowledgment of this.  My take is that the decision not to heed the advice of the independent risk advisors ties back to the complexity of the governance structure.  The program lacked a single point of accountability from which to make specific decisions regarding the risk mitigation actions to take.

#### 7. Choosing not to put a contingency plan in place

Given all of the problems that were in plain sight, it is unclear why Cover Oregon had no contingency plan in place in the event of failure.  Documentation shows that even as short as 3 weeks before the expected go-live, it was apparent that the team was not ready.  Following the failed go-live, Cover Oregon was faced with hiring data entry and customer services teams to take hard-copy applications and load them into the state’s systems.  One can only speculate it was pure hubris and summit fever that pushed the team to go-live without a net.

<https://upperedge.com/erp-program-management/7-decisions-that-doomed-cover-oregon/>

It appears as though the saga of Oregon’s failed health insurance exchange has at last come to a close.

The state reached a $100 million settlement with software company Oracle, which was in charge of the “Cover Oregon” exchange website, *OPB.org*[reports](http://www.opb.org/news/article/oregon-oracle-cover-oregon-healthcare-exchange/).

Cover Oregon [shut down](http://www.fiercehealthcare.com/payer/oregon-makes-switch-to-healthcare-gov) in April 2014 after it was plagued by persistent technical problems that prevented consumers from enrolling in health plans. In doing so, Oregon become the first state to completely switch from its own exchange to the Healthcare.gov platform.

The demise of Cover Oregon--which cost the state $240 million to build--set off a flurry of litigation, with Oregon originally seeking $6 billion in damages after accusing Oracle executives of fraud, according to the article. At one point there were six lawsuits between the parties, reporter Kristian Foden-Vencil said in an interview. The FBI even [opened a preliminary investigation](http://www.fiercehealthcare.com/payer/fbi-investigates-oregon-exchange) into the exchange’s failure.

As part of the settlement, Oracle will pay $25 million for the cost of litigating the case and dish out $10 million to Oregon schools, Foden-Vencil added. Oregon will also get a six-year license agreement for Oracle’s products and services--allowing the company to continue running and modernizing the state’s software systems--and Oracle will provide $60 million worth of customer support services to the state.

The settlement “closes a damaging chapter of public finger-pointing and failure,” Oregon Gov. Kate Brown said, according to the article.

Oregon’s was not the only state exchange to run into trouble during the early years of the Affordable Care Act. Several states struggled with [high costs and lower-than-expected enrollment](http://www.fiercehealthcare.com/payer/state-exchanges-may-turn-to-feds-other-states-to-run-their-marketplaces), leading state-based exchanges like the one in [Hawaii](http://www.fiercehealthcare.com/payer/hawaii-state-insurance-exchange-to-shut-down) to close up shop.

Some lawmakers have [questioned whether it was appropriate](http://www.fiercehealthcare.com/payer/cms-andy-slavitt-defends-oversight-state-exchanges) for states to switch to the federal Healthcare.gov platform after spending federal funds to set up their own exchanges. The Centers for Medicare & Medicaid Services, though, says it is making every effort to ensure taxpayer money is spent properly.

<https://www.fiercehealthcare.com/payer/oregon-oracle-settlement-ends-fight-over-failed-state-exchange>

By far the worst example is Oregon, where the website for the state exchange was declared completely dysfunctional, but only after more than $300 million – according to best estimates – was spent trying to figure out how to make it work.

The politicians back in Oregon, at least one of whom has lost his job in part over the "Cover Oregon" scandal, have tried all along to blame the companies and contractors they hired to build the website. The official term of art for that is "buck passing." The House Committee on Oversight and Government Reform has been investigating what went wrong and, in [a report](https://oversight.house.gov/release/20941/) just issued, has concluded – no surprise – it was the politicians playing politics who are to blame.

Here, in brief, is what the committee found:

* State law clearly established Cover Oregon as an independent entity. The governor and his political advisers' involvement in Cover Oregon was inconsistent with Oregon law.
* Campaign funds were used to assist the governor in his official capacity while handling Cover Oregon.
* Cover Oregon became closely tied with all campaign activities, from polling to meetings.
* The governor's political operatives – none had technological experience – micromanaged many of the decisions that needed to be made regarding Cover Oregon.
* Junking Cover Oregon and moving to HealthCare.gov was viewed as a way to "let the steam out of so much of the attacks."
* The Cover Oregon board was told the cost of moving to HealthCare.gov was $4-6 million. A slide showing moving the Medicaid system would cost $36 million was deleted.
* After the governor complained about the "free independent expenditure campaign" his political opponent was receiving because of Cover Oregon, his political advisers drafted letters asking the attorney general to sue. The letter was sent days later.
* In sum, the committee says, "Cover Oregon failed for two main reasons: The state acted as their own system integrator (like HeathCare.gov), and the state tried to revamp its entire health care system, not just build an exchange."

All in all it's a pretty damning indictment. As a result, in what may be the first allegations of criminal misconduct related to Obamacare, the committee wants United States Attorney General Loretta Lynch to launch a criminal probe and for Oregon's attorney general to appoint a special prosecutor with a mandate to uncover what happened with Cover Oregon.

**[A Bad Bailout for Puerto Rico](https://www.usnews.com/opinion/articles/2016-05-26/house-bill-promesa-that-grants-bailout-to-puerto-rico-rips-off-bondholders)**

[No matter how politicians try to spin it, the House bill to bailout Puerto Rico will rip off bondholders and poison financial markets.](https://www.usnews.com/opinion/articles/2016-05-26/house-bill-promesa-that-grants-bailout-to-puerto-rico-rips-off-bondholders)

**[Peter RoffMay 26, 2016](https://www.usnews.com/opinion/articles/2016-05-26/house-bill-promesa-that-grants-bailout-to-puerto-rico-rips-off-bondholders)**

Even after looking deeply into the matter, it's still not quite clear how Oregon managed to spend $305 million on the construction of a website, something a high school student can do in an afternoon. Granted, a health care exchange is a little more complicated than a blog about music or fashion, but the principles can't be that different. Multiply this out over 10 or 15 states and you're not only talking about serious money you're talking about the kind of potential misconduct which has liberals screaming for heads on the chopping block and serious jail time, when it involves projects they don't like anyway.

Just where did all that money go? We'll probably never know, but hopefully the government will be more careful next time with their spending and the people will be more careful with their votes. A lot of us bought the patent medicine Barack Obama was selling – now we're paying the real price for it. The problems with the exchanges are just the tip of a very large iceberg. Congress needs to keep looking, not just to apportion the blame, but to institute safeguards to make sure a boondoggle like this never, ever is allowed to happen again.

<https://www.usnews.com/opinion/articles/2016-06-08/cover-oregon-health-care-disaster-showcases-havoc-wrought-by-obamacare>

On September 15, 2016, and with little hubbub beyond the state’s borders, Oregon and Oracle, the prime vendor for the state’s Obamacare’s online marketplace exchange “Cover Oregon,” [announced](http://www.oregonlive.com/politics/index.ssf/2016/09/post_183.html) they had reached a settlement in a lawsuit.  The dispute revolved around who was at fault for the website’s colossal failure.  While the state had been asking more than $6 billion in damages, it will receive $100 million in goods, services, and cash.

A September 15,2016, *Oregon Live* article [reported](http://www.oregonlive.com/politics/index.ssf/2016/09/post_183.html), the settlement “includes cash payments to Oregon as well as a six-year license agreement for products and services that [Governor Kate] Brown said can be used to ‘significantly modernize state government's IT systems.’”  In addition, the article noted that $25 million will come in the form of cash, which will be used to pay for the state's legal fees and other costs.  Oracle also agreed to contribute $10 million to a state technology education program.

The settlement raises more questions than answers.  Presuming the state should receive and keep the money, is it being used appropriately considering the state was supposed to create a functioning marketplace exchange with a $305 million federal grant?  Since this was federal money, shouldn’t everything be turned over to the federal government?

By way of background, Citizens Against Government Waste’s (CAGW) [August 2015](http://www.cagw.org/media/wastewatcher/billion-here-%E2%80%93-billion-there) *Waste Watcher,*“A Billion Here – A Billion There,” discussed how more than $4.6 billion was handed out in the form of federal grants to plan and establish state-based marketplace exchanges under the Affordable Care Act (ACA), more often referred to as Obamacare.  Hundreds of millions of dollars have been squandered due to government incompetence and hubris.  To date, [four](https://energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/documents/114/analysis/20160913Review_of_CMS_Management_of_the_State_Based_Exchanges.pdf) of the 17 original state-based exchanges, including Washington, have failed: Hawaii, Nevada, New Mexico, and Oregon.  The state of Kentucky is expected to close its exchange by the end of 2017.

The Oregon exchange was often cited as the worst online marketplace in the nation.  The state received [conditional approval](https://www.cms.gov/CCIIO/Resources/Files/Downloads/or-blueprint-letter-12-07-2012.pdf) from the Department of Health and Human Services (DHHS) in December 2012, and received $305 million to build its marketplace.  Yet, when Cover Oregon was scheduled to begin operating in October 2013, it was unusable.  Instead, applications had to be processed manually by the state’s call center staff.

The website’s problems continued into 2014, causing re-election year woes for then-Governor John Kitzhaber.  The governor and his administration blamed Oracle, which had received $240 million to build Cover Oregon, for the website’s collapse, and Oracle was fired in March 2014. On April 25, 2014, the state officially shut down the exchange and moved to adopt the federal HealthCare.gov platform for health insurance enrollment.

Lawsuits and counter lawsuits soon followed between the state and Oracle.  Oracle [sought](http://www.oregonlive.com/politics/index.ssf/2014/09/oracle_america_says_oregon_vio.html) unpaid fees, while also claiming defamation and copyright infringement.  The state accused the contractor of substandard performance, fraud, and racketeering under the state’s RICO statute, an unusual claim in a contract dispute.

Perhaps the state was motivated to settle the case with Oracle because Gov. Brown did not want to dredge up in court what happened with her predecessor behind the scenes in regard to Cover Oregon’s demise.  Governor Kitzhaber and his fiancée, Cylvia Hayes, became the center of attention in October 2014 when Hayes [was accused](http://www.golocalpdx.com/news/cylvia-hayes-14-people-who-made-a-difference-in-2014) of using her position with the governor to promote and develop her private energy consulting business.  The state Republican Party called for the Oregon Ethics Commission to investigate her activities, both as a consultant and her role as the “First Lady.”

After Governor Kitzhaber won re-election in November 2014, CAGW [noted](http://thehill.com/blogs/pundits-blog/healthcare/239191-investigations-into-obamacare-state-exchanges-are-needed) in an April 17, 2015 blog in *The Hill*that evidence soon emerged that politics may have played a major role in Cover Oregon’s failure.  According to Oregon-based [news reports](http://www.wweek.com/portland/blog-32827-gov_john_kitzhabers_office_sought_to_destroy_thousands_of_his_emails.html) in February, 2015, as investigations were under way into influence-peddling involving Hayes, the governor tried to have his personal emails removed from the state's servers, but state officials refused to do so.  It was [later discovered](http://www.wweek.com/portland/article-24134-kitzhabers_secret_weapon.html) that the emails showed the governor had surreptitiously hired his chief campaign consultant, Patricia McCaig, the self-described “Princess of Darkness,” to oversee Cover Oregon operations a year earlier.  The emails show that McCaig and other campaign consultants were deeply involved in [shaping state policy](http://www.wweek.com/portland/article-23511-blurred-lines.html) around Cover Oregon and discussed about whether to settle a dispute with Oracle or sue the company.  The influencing-peddling scandal led to Kitzhaber’s [resignation](http://www.oregonlive.com/politics/index.ssf/2015/02/governor_john_kitzhaber_will_s.html) on February 18, 2015.

By February, 2015, the House Committee on Oversight and Government Reform (OGR) was investigating the problems with Cover Oregon.  Chairman Jason Chaffetz (R-Utah); Health Care, Benefits and Administrative Rules Subcommittee Chairman Jim Jordan (R-Ohio); Government Operations Subcommittee Chairman Mark Meadows (R-N.C.), and Information Technology Subcommittee Chairman Will Hurd (R-Texas) sent a [letter](https://oversight.house.gov/wp-content/uploads/2015/05/2015-02-13-JEC-JJ-MM-WH-to-Kitzhaber-GovOR-PPACA-due-Feb.-27.pdf) on February 13, 2015 to Governor Kitzhaber demanding that he turn over all records regarding the decision to shut down Cover Oregon in 2014 because it “may have been based on politics, not policy.”  They asked for “all communications to or from any current or former employee of the Governor’s Office referring or relating to Cover Oregon, HealthCare.gov, or the Patient Protection and Affordable Care Act. [ACA].”

On May 26, 2016, the OGR Committee [released its report, “Cover Oregon: How Mismanagement and Political Interference Squandered $305 Million Federal Taxpayer Dollars.”](https://oversight.house.gov/wp-content/uploads/2016/05/OGR-Cover-Oregon-Report-UPDATE.pdf)  The year-long investigation included reviewing more than 170,000 pages of documents from the state of Oregon; the Centers for Medicare and Medicaid Services (CMS), the agency that oversees Obamacare; Oracle; and other sources.  The committee also undertook four depositions and one transcribed interview.

The committee found that there was widespread political interference by former Governor John Kitzhaber’s campaign staffers in official government business and that CMS had failed in its oversight of the project.  For example:

* Although Cover Oregon was scheduled to launch on October 1, 2013 and in spite of warnings about the project’s shaky development, the governor’s office released numerous “unrealistic public assurances about the viability of the project and the ability of individuals to enroll through the Cover Oregon website.”
* Although warned it was a high-risk strategy, Oregon attempted to build a highly complex system that would have integrated the state’s entire healthcare technology system and would have provided “one-stop-shopping” for Obamacare-compliant plans, and other state-based programs, such as Medicaid.The system was far more complicated than federal law required to build a state-based exchange and worse, the state acted as its own systems integrator, even though according to current Oregon Chief Information Officer Alex Pettit, the state did not have the capacity to serve in this role.
* The law’s aggressive timelines, and CMS delays in issuing regulations, also contributed to Cover Oregon’s failure.CMS was also lax in its oversight of Cover Oregon, both in its project development and handling of federal funds.For example, Cover Oregon sought funding from various federal sources such as Medicaid and the Children’s Health Insurance Program.Documents from Cover Oregon show that the “Executive Director of Cover Oregon did not believe the Oregon Health Authority was properly tracking the use of federal funds,” raising questions about how these funds were being allocated.
* The state also contracted with primary vendor Oracle on a “time and materials” basis, rather than using contracts that linked payment to specific deliverables.
* In spite of its initial failure, documents show that Cover Oregon was close to being fully operational by April, 2014 due to an Oracle tech surge to repair the system.In fact, the website was being used by community partners and insurance brokers to successfully enroll individuals through the agent portal.The Oregon Technology Options Workgroup had completed its initial assessment on March 27, 2014 and “recommended that Cover Oregon should continue development and deployment of the current technology solution with a new vendor” while maintaining the ability to migrate to HealthCare.gov if certain milestones were not reached within a limited time period.
* In spite of fact that Cover Oregon was on its way to becoming fully functional, documents and testimony showed that the decision by Cover Oregon’s board of directors to switch from the state-based information technology platform to the federal HealthCare.gov system was “driven largely by political considerations and steered by Governor Kitzhaber’s staff and campaign advisors.”Furthermore, the involvement of Kitzhaber’s staff and campaign advisors “was inconsistent with the intent of Oregon law and the Cover Oregon governance model.”
* Documents also show “Kitzhaber’s staff and campaign advisors looked for ways to control the media and minimize the negative publicity for Kitzhaber as Cover Oregon floundered,” and looked for ways to shift press coverage away from the governor’s role in the project over to Oracle, such as having the state attorney general initiate legal action against the company.

While the full details of the $100 million settlement remain confidential, the published information notes the funds will be used for purposes entirely unrelated to what the original grant was provided for, such as software, IT services, and educational funding.

But there are the hidden costs on top of the settlement agreement.  According to a September 20, 2016 article in the *Portland Tribune*, the settlement includes “hundreds of millions in likely spending for new IT projects.”  The article points out that the goods of software and tech support can only be utilized if the state spends additional money.  According to KPMG, the state would need to “spend between $490-551 million to implement a fraction of the software contained in the Oracle deal.”

Oregon officials failed miserably in designing and implementing an online marketplace exchange and demonstrated their incompetence and arrogance by not hiring an experienced system integrator to oversee the entire process, while wasting precious federal tax dollars in the process.  Their actions beg the question:  should not most, if not all, of the 305 million dollars in grant money be returned to federal taxpayers?

Unfortunately, the Obama administration seems to be in no hurry to take such action.  A March 27, 2015 article in *The Hill* [discussed](http://thehill.com/policy/healthcare/237219-maryland-refuses-to-repay-28-million-of-misallocated-obamacare-grants) an investigative [report](https://oig.hhs.gov/oas/reports/region1/11402503.asp) released the day before by the DHHS Office of the Inspector General (HHS-OIG), which asserted that the state of Maryland misspent $28.4 million on its exchange due to two major accounting problems.  The IG recommend that the state return the money to CMS.  Unfortunately, neither Maryland or CMS agreed with the IG’s findings.  Disturbingly, CMS has taken [no action](https://energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/documents/114/analysis/20160913Review_of_CMS_Management_of_the_State_Based_Exchanges.pdf) to recoup the misspent money.  According to a September 13, 2016 House Energy and Commerce Committee [report](https://energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/documents/114/analysis/20160913Review_of_CMS_Management_of_the_State_Based_Exchanges.pdf), “Implementing Obamacare: A Review of CMS’s Management of the State-Base Exchanges,” CMS has failed to recover any misspent state exchange dollars identified by the HHS-IG.

On June 7, 2016, House Oversight and Government Reform Committee Chairman Jason Chaffetz (R-Utah) wrote a [letter](https://oversight.house.gov/wp-content/uploads/2016/06/2016-06-07-JEC-to-Levinson-HHS-IG-Cover-Oregon.pdf) to HHS Inspector General Daniel Levinson asking his office to investigate CMS’s failed oversight of the development of Oregon’s state-based marketplace health insurance exchange and how Oregon used federal grant funds for the overly ambitious project.

The  IG should follow through on the chairman’s request and undertake a detailed investigation, as it is important to have any malfeasance on the record.  Taxpayers should also demand that CMS require all misused and wasted state exchange grant funds be returned to the federal taxpayers.

*The WasteWatcher is the staff blog of Citizens Against Government Waste (CAGW) and the Council for Citizens Against Government Waste (CCAGW). For questions, contact*[*blog@cagw.org*](mailto:blog@cagw.org)*.*

<https://www.cagw.org/thewastewatcher/cover-oregon-debacle>

A congressional panel recently released [a report](https://oversight.house.gov/wp-content/uploads/2016/05/OGR-Cover-Oregon-Report-UPDATE.pdf) on Oregon’s failed $305 million health insurance exchange, Cover Oregon. The Washington Post [reported](https://www.washingtonpost.com/national/congressional-panel-releases-critical-cover-oregon-report/2016/05/25/6fbf2d06-227a-11e6-b944-52f7b1793dae_story.html?postshare=5081464345210282&tid=ss_tw), “Republicans on the [U.S. House] committee said they are asking the Justice Department and state attorney general to conduct criminal investigations into the actions involving Cover Oregon.”

The Washington Post also noted, “Democrats on the panel blamed the state’s contractor, California-based Oracle Corp., for the website’s problems.” Blaming Oracle [was also the strategy](http://www.wweek.com/news/2015/02/24/kitzhabers-secret-weapon/) of a “secretive campaign consultant” for former Democratic Gov. John Kitzhaber, who “by her own admission” “knew virtually nothing about health care reform or the reasons Cover Oregon had crashed.”

But who’s really to blame here?

Regardless of [Oracle’s issues in delivering the Cover Oregon website](http://portlandtribune.com/pt/9-news/294405-171739-documents-oracle-doesnt-want-you-to-read-), the problem for Democrats in blaming Oracle is that it’s just an attempt to shift blame from Kitzhaber’s administration.

Who selected Oracle? Who created and signed the contract with Oracle? Who managed and audited Oracle during the development of Cover Oregon?

As I noted back in June 2014, Kitzhaber was “the head of the executive branch that was charged with implementing Cover Oregon. The people in charge of the agencies who were building Cover Oregon were appointed by the governor, including [Rocky] [King](https://www.thelundreport.org/content/rocky-king-named-permanent-director-oregons-health-insurnace-exchange) and [Bruce] [Goldberg](http://www.ohsu.edu/xd/health/services/dermatology/for-healthcare-professionals/annual-lectures/storrs-lectureship/storrs-lecture-2013-goldberg.cfm). The chairwoman of the Cover Oregon Board [is still Liz Baxter](https://www.coveroregon.com/discover/board). Kitzhaber [nominated](file:///\\localhost\about\o%2509https\:www.wecandobetter.org:2011:08:liz-baxter-appointed-to-oregon-health-insurance-exchange-board:) Baxter to the Cover Oregon Board back in August 2011. Baxter [came up through the organization](http://www.wecandobetter.org/2011/08/liz-baxter-appointed-to-oregon-health-insurance-exchange-board/) Kitzhaber founded in 2006, [the Archimedes Movement/We Can Do Better](https://www.wecandobetter.org/who-we-are/history/) — a progressive organization advocating for health care reform.”

On the question of “who selected Oracle,” the answer is the Kitzhaber administration. And they did so knowing there was at least one less expensive vendor, Exeter, who [had already developed](http://media.katu.com/documents/Sheehan+Health+Exchange+Emails.pdf) a system they were able to demonstrate using Oregon data.

Instead, the Oregon Health Authority’s chief information officer, Carolyn Lawson, chose to go with Oracle and have them build a system from scratch. Lawson reported to Kitzhaber appointee Bruce Goldberg.

In June 2011, the Oregon Legislature [approved](http://www.oregonlive.com/health/index.ssf/2011/06/massachusetts_health_insurance.html) the “creation of an Oregon Health Insurance Exchange, a marketplace where residents can buy government-subsidized health insurance.” Lawson [started as OHA CIO](http://www.govtech.com/health/Oregon-Health-Authority-Names-Carolyn-Lawson-CIO.html) on July 1, 2011, having been hired as someone who was “able to deliver IT projects on time and on budget.” Cover Oregon was supposed to launch on Oct. 1, 2013.

According to [a December 2012 legislative hearing](https://www.youtube.com/watch?v=3CU2Xub1Z7Q), Lawson was in contact with Exeter sometime late in 2011, but favored Oracle. After many months of frustration, then-state Rep. Patrick Sheehan, R-Clackamas, [wrote to](http://media.katu.com/documents/Sheehan+Health+Exchange+Emails.pdf) Democratic Gov. John Kitzhaber in December 2012 on the lack of progress on Cover Oregon.

Sheehan wrote, “For the past nine months in my Legislative Audits committee I have been frustrated with the lack of progress from the Health Insurance Exchange — asking repeatedly why they insist on trying to build a system from the ground-up rather than leverage existing software that other states are adopting.”

He also noted, “It is my understanding that we are spending $6 million a month on consulting services with Oracle to build the system from the ground-up,” and that in September 2012 he “was contacted by Exeter — a software vendor who designed the [health insurance exchange] in Massachusetts.” Sheehan further noted Exeter had “demonstrated a live health insurance exchange — using Oregon data — that was almost fully functional (the only element not functional was the communication with a Federal system that is not yet available).”

Sheehan called on Kitzhaber to “take swift and dramatic action to change the course of [the Cover Oregon] project” and to fire Lawson for supposedly “lying to a Legislative Committee and wasting millions of taxpayer dollars.”

Sheehan told Kitzhaber he thought Lawson was choosing Oracle over other vendors like Exeter because she was ultimately “in pursuit of a consulting job with Oracle.”

Sheehan’s warning to Kitzhaber was 10 months before Cover Oregon was supposed to launch. Kitzhaber did nothing. When KATU later asked Kitzhaber about Sheehan’s warning, Kitzhaber walked out of the interview – which [made national news](http://www.huffingtonpost.com/2014/01/10/governor-kitzhaber-obamacare_n_4576788.html).

On the question of “who managed Oracle during development of Cover Oregon,” the Portland Business Journal [reported in December 2013](http://www.bizjournals.com/portland/blog/health-care-inc/2013/12/oregon-health-authority-information.html) “[Carolyn] Lawson nixed plans to hire a technology-savvy contractor to oversee the work of Oracle,” and “Lawson argued that the state could handle oversight of Oracle on its own. Critics have since noted that Lawson may have been overly close to Oracle, having served as a featured speaker at the company’s annual trade show in 2012 and 2013.”

The blame for the Cover Oregon failure rests squarely on the shoulders of [Gov. John Kitzhaber and his administration](https://www.statesmanjournal.com/story/news/politics/2016/05/25/congressional-panel-releases-critical-cover-oregon-report/84901000/). For Democrats to try to blame Oracle is both disingenuous and inaccurate.

https://www.statesmanjournal.com/story/opinion/columnists/dan-lucas/2016/05/31/blame-cover-oregon-failure/85174300/