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United States Government Accountability Office
Washington, DC 20548

B-304829

June 6, 2005

The Honorable Louise M. Slaughter
Ranking Member
Rules Committee
U.S. House of Representatives

The Honorable John Conyers, Jr.
Ranking Member
Judiciary Committee
U.S. House of Representatives

Subject: *James D. Guckert—Reprinting Government Press Releases as His Own Work*

This responds to your joint letter, dated February 23, 2005, asking us to consider certain activities by Mr. James D. Guckert (also known as Jeff Gannon). Your letter notes that some recent press reports have claimed that Mr. Guckert repeatedly incorporated substantial excerpts from White House press releases into articles he published on the internet without disclosing that this material was produced and distributed by the government.[1] Letter from Representative Slaughter and Representative Conyers to David M. Walker, Comptroller General, Feb. 23, 2005.

You believe that Mr. Guckert's verbatim reprinting of White House press releases as his own work may have violated the prohibition on the use of appropriated funds for publicity or propaganda purposes, as discussed in our recent Circular Letter, B-304272, Feb. 17, 2005, and other opinions which address the publicity or propaganda prohibition and the use of appropriated funds for prepackaged news

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[1] *See, e.g.,* Dante Chinni, The Christian Science Monitor, *Time for Bush to define "independent press,"* at http://www.csmonitor.com/ 2005/0222/p11s01-codc.html (Feb. 22, 2005) ("many of [Guckert's] stories contained verbatim repeats of White House press releases"); Ron Brynaert, Why Are We Back In Iraq? *Jeff Gannon Likes To Plagiarize The Associated Press,* at http://whyareweback.blogspot.com/2005/03/ jeff-gannon-likes-to-plagiarize.html (Mar. 29, 2005); Media Matters for America, *Talon News "reporter"' lifts from GOP documents verbatim for "news reports,"* at http:// mediamatters.org/items/ 200501280001 (Jan. 27, 2005).

stories.[2] You asked us to opine on whether Mr. Guckert's activities amounted to a violation of that prohibition.

On this record, and for the reasons given below, we have decided to take no action on this matter. Even if we assume that the allegations in the press are true—that Mr. Guckert incorporated parts of press releases without indicating their source—these allegations do not suggest a violation of the publicity or propaganda prohibition. The publicity or propaganda prohibition bars, among other things, the government's use of appropriated funds to produce and distribute communications that conceal or fail to disclose to the intended audience that they were produced and distributed by the government. *E.g.,* B-304272, Feb. 17, 2005; B-303495, Jan. 4, 2005; B-302710, May 19, 2004. The press reports specifically describe the government documents that Mr. Guckert used as "White House press releases." We understand the term, "White House press releases," to refer to White House communications which clearly disclose on their face that they were produced and distributed by a government office. They are provided to journalists covering the White House and are available to the public at large at the White House website.[3] The White House distributes its press releases to all who request them and identifies the White House as the source of the communication.

The publicity or propaganda prohibition is a restriction on the government's use of appropriated funds in disseminating information and does not prescribe legal limitations upon subsequent use of that information. 56 Comp. Gen. 889, 891 (1977) ("An essential prerequisite to a violation . . . is the use of appropriated funds in connection with the activities in question.") The activity in question here is not the issuing of press releases by the White House, which is a government activity, but their subsequent use by a private citizen who used them verbatim. This activity is beyond the scope of the prohibition.

In your letter, you liken this activity to activities found in earlier GAO cases regarding agencies authoring newspaper articles and op-ed pieces. However, the fact situations giving rise to the earlier opinions differ significantly from the issue of Mr. Guckert reprinting press releases. There the agencies did not issue press releases, but instead used appropriated funds to write the editorials and news stories

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[2] The current publicity or propaganda prohibition states: "No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress." Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, div. H, title VI, § 624, 118 Stat. 2809, 3278 (Dec. 8, 2004).

[3] White House, *Presidential News and Speeches*, at http://www.whitehouse.gov/news/ (last visited May 20, 2005).

as the ostensible work or opinion of someone not connected with the government. B-223098, Oct. 10, 1986; B-229069, Sept. 30, 1987. Mr. Guckert's actions in reprinting press releases are not the actions of the government.

If you have any questions regarding this matter, please contact Susan A. Poling, Managing Associate General Counsel, at 202-512-2667, or Thomas H. Armstrong, Assistant General Counsel, at 202-512-8257.



Anthony H. Gamboa
General Counsel

DIGEST

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Allegations that a private citizen, acting alone, reproduced in his own work, without attribution, verbatim excerpts from "White House press releases," even if true, do not suggest a violation of the prohibition in the Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, div. H, title VI, § 624, 118 Stat. 2809, 3278 (Dec. 8, 2004), regarding the use of appropriated funds for publicity or propaganda.