

**U.S. House of Representatives
Committee on Oversight and Government Reform
Darrell Issa, Ranking Member**



**Analysis of the First Year of the Obama Administration:
Public Relations and Propaganda Initiatives**

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I. EXECUTIVE SUMMARY

Since the beginning of the Obama Administration on January 20, 2009, ordinary Americans have financed and been exposed to an unprecedented number of public relations and propaganda efforts. Federal spending for public relations contracts rose to historically-high levels during the Bush Administration. Under one-party rule in 2009, the White House used the machinery of the Obama campaign to tout the President's agenda through inappropriate and sometimes unlawful public relations and propaganda initiatives. Congress buoyed the Administration's propaganda efforts by increasing federal spending on public relations for the first time since 2005.

The Obama Administration frequently used federal resources to promote the President's agenda. In many cases, the Administration relied on the reach and resources of federal agencies and their personnel to promote certain of the President's favorite programs. The White House also leveraged ties to the arts and entertainment community to embed propaganda in the content of television programming and artwork. These propaganda efforts violated appropriations riders and federal law prohibiting the use of appropriated funds for publicity or propaganda purposes.

The White House also used its inherent visibility advantages to multiply the effectiveness of websites containing misleading and controversial information. The White House used its resources to push visitors to websites that urge grassroots activism based on false and misleading information. The President's right to sell his policy recommendations to Congress and the public is not disputed; however, using the resources of the federal government to activate a sophisticated propaganda and lobbying campaign is an abuse of office and a betrayal of the President's pledge to create "an unprecedented level of openness in Government."¹

Instead of facilitating openness, the public relations and propaganda activities of the White House have had precisely the opposite effect. The Government Accountability Office (GAO) has historically deemed activities involving "covert propaganda" to be unlawful. In those cases, the source of the public relations or propaganda materials did not disclose his or her identity as a federal employee or contractor. Many of the Obama Administration's propaganda activities are unlawful because they are covert. Furthermore, several programs closely resemble those decried by Democrats and ruled unlawful by GAO during the Bush Administration.

This report examines several of the most visible public relations and propaganda efforts during the first year of the Obama Administration. Viewed collectively, these activities reveal an Administration better suited to campaign-style self-promotion than to providing transparent and honest leadership.

¹ President Obama, Memorandum for the Heads of Departments and Agencies, "Transparency and Open Government," Jan. 21, 2009.

II. LEGAL BACKGROUND

Laws prohibiting certain propaganda activities are found in provisions of various appropriations acts, the United States Code, and the United States Constitution. The laws are intended to protect federal dollars from being used for lobbying or propaganda campaigns designed to generate support for, or opposition to, pending legislation or the President's agenda.

The Department of Justice is responsible for prosecutions under criminal statutes. Otherwise, investigation and enforcement of rules regarding government advertising falls to agencies' inspectors general, GAO, and Congress.

The GAO has held that the "publicity or propaganda" prohibition in appropriations laws forbids any public relations activity that:

- Involves "self-aggrandizement" or "puffery" of the agency, its personnel, or activities;²
- Is "purely partisan in nature," that is, is "designed to aid a political party or candidate";³ or,
- Is "covert propaganda," that is, the communication does not reveal that government appropriations were expended to produce it.⁴

A. Appropriations Act Prohibitions

Prohibitions on the expenditure of appropriated funds for "publicity and propaganda," unless expressly authorized by Congress, have appeared in annual federal appropriations legislation for over 50 years.⁵ Language that now appears in annual appropriations is clear and unequivocal. For example:

- "No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet,

² Kevin Kosar, "The Law: The Executive Branch and Propaganda: The Limits of Legal Restrictions," *Presidential Studies Quarterly* 35, no. 4, Dec. 2005, citing U.S. General Accounting Office, *Decision of the Comptroller General*, B-223098, October 10, 1986, pp. 8-9; and U.S. Government Accountability Office, *Application of Anti-Lobbying Laws to the Office of National Drug Control Policy's Open Letter to State Level Prosecutors*, B-301022, March 10, 2004.

³ *Id.*

⁴ *Id.*

⁵ Prohibitions on publicity and propaganda spending unless specifically authorized by Congress derive from the Constitution itself. Article I, Section 7, clause 7 of the U.S. Constitution requires that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."

publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.”⁶

- “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.”⁷

B. Federal Law Prohibitions

The principal statutory prohibition on lobbying activities is 18 U.S.C. 1913, a criminal statute applicable to all executive branch agencies. It prohibits the use of appropriated funds for activities that directly or indirectly are “intended or designed to influence in any manner a Member of Congress, to favor or oppose ... any legislation or appropriation by Congress....” Title 18 prohibits federal employees from using appropriations to pay for any “personal services, advertisement, telegram, telephone, letter, printed or written matter”⁸

Federal agencies are further restricted from using appropriated funds for publicity activities by 5 U.S.C. 3107, which makes it illegal to use such funds “to pay a publicity expert unless specifically appropriated for that purpose.”⁹

Additionally, 5 U.S.C. 7321 – 7326 (the “Hatch Act”) limits certain political activities of federal employees both on and off duty.¹⁰ The term “political activity” means doing something in active support of or opposition to a political party, a candidate for partisan political office, or a partisan political group.¹¹

C. Constitutional Prohibitions

Article I, Section 7, clause 7 of the U.S. Constitution requires that “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.”

III. HISTORICAL USE OF GOVERNMENT PROPAGANDA

Throughout the early part of the 20th century, the U.S. government used propaganda primarily in times of war. The first large-scale use of propaganda by the U.S. government came during World War I. To keep the prices of war supplies down, the U.S. government produced posters that encouraged people to reduce waste and grow their own vegetables in “victory gardens.” To support that effort, the Department of

⁶ Pub. L. No. 107-67, 115 Stat. 514, 551 (2001).

⁷ Pub. L. No. 107-67, 115 Stat. 514, 552 (2001).

⁸ 18 U.S.C. § 1913.

⁹ 5 U.S.C. § 3107.

¹⁰ The Hatch Act, 5 U.S.C. § 7321 – 7326.

¹¹ *Id.* § 7322.

Agriculture issued a 20-minute film titled “Victory Garden” to train Americans how to plant and raise their own vegetables.¹²



Franklin Roosevelt relied heavily on propaganda to promote the New Deal. His “fireside chats” were scripted by policy advisers and stylized by the playwright Robert Sherwood.¹³ The Works Progress Administration produced murals that promoted the ideals of the New Deal and displayed them on the walls of post offices and other public buildings.¹⁴ The Resettlement Administration (later the Farm Security Administration) commissioned tens of thousands of photographs of poor farmers and workers.¹⁵

The government used propaganda on an even larger scale during World War II. The federal government collaborated with the media, Hollywood, and Madison Avenue to promulgate the official wartime opinions of the White House and Defense Department. Government agencies, businesses, and private organizations issued an array of poster images encouraging Americans to support the war effort by linking their activities at home to the military fronts in Europe and the Pacific. The posters were created by New York-based advertising agencies.¹⁶ Hollywood director Frank Capra produced “Why We Fight,” a series of propaganda films made to justify U.S.

¹² “Victory Garden,” from the Prelinger Collection, available at http://www.archive.org/details/victory_garden (last visited April 19, 2010).

¹³ Stephen Duncombe, *FDR’s Democratic Propaganda*, THE NATION, Mar. 20, 2008.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

involvement in World War II. All movie scripts were pre-approved by the Defense Department.¹⁷

IV. MODERN PROPAGANDA

During recent administrations, government propaganda has been used less frequently to support war efforts and more often to support specific programs favored by the White House. Modern propaganda efforts have run afoul of federal law in cases where the source of the material was not disclosed. Most frequently, the modern Executive Branch relies on tactics that covertly ingrain material produced by the government into print and television journalism. The GAO has ruled that these tactics constitute covert propaganda and as such are impermissible.

A. Reagan Administration Propaganda

In 1986, the GAO evaluated the Reagan Administration's use of "government-prepared editorials" supporting "President Reagan's proposal to transfer the Small Business Administration to the Department of Commerce."¹⁸ The editorials, which ran in newspapers across the country, were deemed "covert propaganda" by GAO because they did not "disclos[e] to the readers of those editorials that SBA was the source of the information."¹⁹

In 1987, the GAO determined that a program in which the State Department's Office of Public Diplomacy for Latin America paid consultants "to write op-ed pieces in support of the Administration's policy on Central America for distribution to newspapers" was "covert propaganda" because "[t]hese materials were 'propaganda' within the 'common understanding' of the term . . . designed to influence the media and public to support the Administration's Latin American policies."²⁰

In the SBA matter, the newspapers, but not the readers, were made aware of SBA's involvement; in the State Department matter, neither the newspapers nor the readers were made aware of the State Department's involvement.

B. Clinton Administration Propaganda

In the 1990s, the Executive Branch turned to "video news releases" (VNRs) to promote aspects of the President's agenda. VNRs are prepackaged, ready-to-serve news reports produced to resemble traditional news reports. Prior to being used by the Clinton Administration, VNRs were primarily distributed by "private

¹⁷ Frank W. Fox, *Madison Avenue Goes to War: The Strange Military Career of American Advertising*, Brigham Young University Press, 1975

¹⁸ Steven G. Bradbury, Memorandum Opinion for the General Counsel of HHS, July 30, 2004 [hereinafter Bradbury].

¹⁹ GAO VNR Decision at 11, discussing Comp. Gen. Op. B-223098 (Oct. 10, 1986) ("GAO SBA Decision").

²⁰ *Id.*, discussing 66 Comp. Gen. 707 (Sept. 30, 1987) ("GAO State Department Decision").

corporations, nonprofit organizations and government entities” to infuse positive reports about products into news broadcasts.²¹

The use of VNRs by federal agencies subject to the “publicity or propaganda” appropriations riders was pioneered during the presidency of George H.W. Bush and proliferated during the Clinton Administration.²² This propaganda technique was used at agencies from the Department of Agriculture to the Census Bureau to the Environmental Protection Agency.

The Clinton Administration relied most heavily on VNRs to promote Medicare reform. In 1999, the Department of Health and Human Services (HHS) produced VNRs to promote the White House’s proposal. The packaged stories set forth the Clinton Administration’s position on prescription drug benefits and preventive health.²³ The Clinton Administration hired companies like Medialink of New York at taxpayer expense to transmit these VNRs by satellite to stations around the country.²⁴

C. George W. Bush Administration Propaganda

During the George W. Bush Administration, the White House used covert propaganda to promote several of the President’s legislative goals.

In 2003, Home Front Communications, a public relations firm, produced VNRs for HHS’s Centers for Medicare & Medicaid Services.²⁵ The VNRs contained newscast-like interviews and reports. GAO found them to be in violation of the publicity or propaganda prohibition of the Consolidated Appropriations Resolution of 2003 (P.L. 108-199) and the Anti-Deficiency Act (31 U.S.C. 1341).²⁶ GAO based its opinion on the fact that “in neither the story packages nor the lead-in anchor scripts did HHS ... identify itself to the television viewing audience as the source of the news reports. Further, in each news report, the content was attributed to an individual purporting to be a reporter but actually hired by an HHS subcontractor.”²⁷

In 2004, *USA Today* reported that the Bush Administration paid Armstrong Williams \$240,000 to promote the No Child Left Behind Act (NCLBA) on his nationally syndicated television show and to urge other black journalists to do the same.²⁸ In response to a request for an opinion from Congress, GAO found that the Department of Education contracted for Williams to comment regularly on NCLBA “without

²¹ *Id.* at 2.

²² Bradbury.

²³ GAO VNR Decision at 8.

²⁴ Cliff Kinkaid, *Senator Clinton and the Fake News Scandal*, Accuracy in Media, Apr. 14, 2005.

²⁵ HHS contracted with Ketchum, Inc., which hired Home Front Communications; the VNRs were then distributed by HHS. CRS Report RS21811, *Medicare Advertising: Current Controversies*, by Kevin R. Kosar.

²⁶ U.S. Government Accountability Office, *Department of Health and Human Services, Centers for Medicare & Medicaid Services - Video News Releases*, B-302710, May 19, 2004.

²⁷ *Id.*

²⁸ Greg Toppo, *Education dept. paid commentator to promote law*, USA TODAY, Jan. 7, 2005.

assuring that the Department's role was disclosed to the targeted audiences. This violated the publicity or propaganda prohibition for fiscal year 2004 because it amounted to covert propaganda."²⁹

In 2004, the Office of National Drug Control Policy produced video news releases (VNRs) to discourage the use of illegal drugs. The VNRs were intended to look like evening news segments and were distributed to local news stations which, mistakenly, aired them as actual news. GAO reviewed the videos and judged that they violated appropriations laws because the "news stories in these VNRs constitute covert propaganda and violated the publicity or propaganda prohibition because ONDCP did not identify itself to the viewing audience as the producer and distributor of these prepackaged news stories."³⁰

In 2007, the Federal Emergency Management Agency (FEMA) came under fire for hosting a "sham" press conference, where public affairs staff posed as reporters, asking questions of then-FEMA Deputy Administrator Harvey Johnson.³¹ Johnson stood before "reporters" to answer questions about the federal agency's emergency response to the Southern California wildfires. Senior FEMA Public Affairs staff eventually resigned in the wake of the controversy.

V. PUBLIC RELATIONS AND PROPAGANDA ACTIVITIES BY THE OBAMA ADMINISTRATION

Since January 20, 2009, the White House has orchestrated an unprecedented number of propaganda and lobbying activities to promote the President's agenda. The Obama Administration's tactics are innovative ways of accomplishing familiar propaganda objectives. Like the VNRs and sham press conferences favored by recent administrations, the Obama Administration's propaganda is covert and expensive to taxpayers. The White House has relied on two basic types of propaganda to disseminate the President's agenda:

- **Misusing** the resources of federal agencies to publicize the President's agenda; and,
- **Multiplying** traffic to websites containing propaganda by capitalizing on the visibility of the President and pre-existing campaign relationships.

The following is a case-by-case review of the Obama Administration's most egregious abuses of federal resources for public relations and propaganda purposes.

²⁹ U.S. Government Accountability Office, *Department of Education - Contract to Obtain Services of Armstrong Williams*, B-305368, Sept. 30, 2005.

³⁰ U.S. Government Accountability Office, *Office of National Drug Control Policy - Video News Release*, B-303495, Jan. 4, 2005.

³¹ Pierre Thomas, *FEMA Apologizes After Sham News Conference*, ABC NEWS, Oct. 26, 2007.

A. *Misusing the resources of federal agencies to publicize the President's agenda.*

In several cases, federal employees have used agency resources to disseminate propaganda touting certain aspects of the President's agenda. In many of these cases, there has been an apparent violation of appropriations riders expressly prohibiting the use of appropriated funds to pay for publicity activities. In every case, the White House and the agency whose resources it is co-opting attempt to create the impression that grassroots support for a particular policy exists when in fact it has been fabricated using taxpayer dollars.

1. National Endowment for the Arts

On August 6, 2009, on behalf of the White House Office of Public Engagement, National Endowment for the Arts (NEA)³² Communications Director Yosi Sergant invited a group of "artists, producers, promoters, organizers, influencers, marketers, tastemakers, leaders, or just plain cool people" to participate in a conference call.³³ The specific purpose of the call was to allow the White House Office of Public Engagement to encourage the art community's involvement in the President's *United We Serve* program. *United We Serve* is designed to support four key components of the President's recovery agenda through national service - health care, energy independence, education and community and economic renewal.³⁴

The call took place on August 10, 2009. Participants were informed that the call was part of an effort to engage the art and entertainment community in a "brand new conversation ... to really bring this community together to speak with the government."³⁵

In addition to Sergant, call participants heard from Nell Abernathy, Director of Outreach for United We Serve, and Buffy Wicks, Deputy Director of the White House Office of Public Engagement.³⁶ In their official capacities as representatives of agencies of the United States government and of the White House itself, Abernathy and Wicks urged approximately 75 members of the art and entertainment community to promote the President's agenda by creating art consistent with the goals of *United We Serve*.³⁷

³² NEA website, "Fact Sheet," available at <http://www.nea.gov/about/Facts/AtAGlance.html> (last visited April 19, 2010). In 1965, NEA was established by Congress as "a public agency dedicated to supporting excellence in the arts, both new and established; bringing arts to all Americans; and providing leadership in arts education."

³³ Conference call invitation from Yosi Sergant, Aug. 6, 2009.

³⁴ United We Serve Fact Sheet, available at www.Serve.gov (last visited Sept. 15, 2009).

³⁵ Transcript of NEA Conference Call, Aug. 10, 2009 [hereinafter Transcript].

³⁶ Call participants also heard from Thomas Bates, Vice President of Civic Engagement for Rock the Vote; and filmmaker Michael Skolnik, representing hip-hop mogul Russell Simmons.

³⁷ Patrick Courrielche, "The National Endowment for the Art of Persuasion," Big Hollywood, Aug. 25, 2009.

Wicks told participants that the White House appreciated their work during then-candidate Obama’s campaign and urged them to continue creating art to support the President’s agenda. She explained that participants should use their campaign activities as the model for their involvement in *United We Serve*.³⁸ Wicks told participants that the White House “need[s] your guys’ help to promote this.”³⁹ Participants were asked to support the President’s agenda “with the same enthusiasm and with the same energy that we all saw in each other during the campaign.”⁴⁰

Abernathy provided an even more specific explanation of the White House’s expectations for the art and entertainment community. She cited specific examples of art and music created to support then-candidate Obama’s presidential campaign, including the “Hope” poster, created by call participant Shepard Fairey, and the “Yes We Can” song and music video, created by will.i.am.⁴¹ Fairey’s iconic image was originally created at the behest of Sergeant in 2007, who was then an Obama campaign publicist.



Sergeant notified call participants that the White House’s request for support is:

... [A]n amazing opportunity for each of us not only to do what we do daily but to do it within an infrastructure and framing of a national program.

* * *

³⁸ Transcript.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

This is a chance for us to partner with the White House and the Corporation for National and Community Service in immediately affecting some change in our communities.⁴²

On behalf of the NEA, Sergeant delivered the call's formal "ask" of the art and entertainment community.⁴³ He instructed participants to:

Pick something, whether it's health care, education, the environment ... then apply your artistic, creative community's utilities.... Take photos. Take videos. Post it on your blogs. Get the word out. Like I said, this is a community that knows how to make a stink.... Call on other producers, marketers, publicists ... artists, people from within our community and get them engaged.⁴⁴

NEA is the largest annual national funder of the arts.⁴⁵ Funding for artists from NEA is often worth more than the value of the grant - each grant dollar typically generates up to seven times more in matching funds.⁴⁶ NEA's entire budget (\$155 million for FY 2009) is derived from federal funds.⁴⁷ When Sergeant told participants "we want to encourage you to take advantage of this opportunity," he was signaling that failure to participate could affect their status as NEA grantees.⁴⁸ Not surprisingly, just three days after the August 10 conference call, 21 arts groups signed a press release endorsing the President's health care plan.⁴⁹ Of those, 16 either directly received grants from NEA or are affiliated with groups that received NEA grants within the previous four months.⁵⁰

The White House and NEA recognized the possible legal implications of their alliance. During the call, Abernathy responded to a question about how participants might coordinate their activities with *Organizing for America* ("OFA"), the successor to the President's campaign operation now under the operation of the Democratic National Committee.⁵¹ Abernathy acknowledged *United We Serve* and OFA use the same techniques and strategies to support partisan goals and offered to put participants in touch with "the right person" at OFA.⁵² Abernathy was unable to offer more help "because in my role at a federal agency, I am precluded from going too far...."⁵³

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ NEA website, available at <http://www.nea.gov/about/Facts/AtAGlance.html> (last visited Sept. 15, 2009).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Americans for the Arts, News, available at http://www.artsusa.org/news/afta_news/default.asp (last visited Sept. 15, 2009).

⁵⁰ "NEA Scandal Timeline," WASH. TIMES, Sept. 14, 2009.

⁵¹ *Transcript.*

⁵² *Id.*

⁵³ *Id.*

As an employee of a federal agency, Abernathy is forbidden from providing material support for the partisan political activities of OFA in her official capacity.⁵⁴

Sergant wrapped up the August 10 call by notifying participants of concerns about “what [this] looks like legally.”⁵⁵ Sergant further notified callers of NEA’s and the White House’s intention to continue a dialogue with the art community, asking them to “bear with us as we learn the language so that we can speak to each other safely.”⁵⁶

On September 22, 2009, Ranking Member Issa wrote to Senior Advisor to the President Valerie Jarrett requesting information about how and why the conference call was arranged.⁵⁷ The White House did not respond.

Analysis: *The use of taxpayer dollars and federal employees to create an alliance whereby the NEA becomes the de facto strategic communications firm of the White House is unlawful. Using a government email account and government personnel and resources to host a call urging artists and arts groups to support the President’s agenda is a clear violation of federal law and the Hatch Act. Furthermore, it is inappropriate for representatives of the White House, NEA and CNCS to formally ask artists and entertainers to use their talents to support the President’s agenda because many of these people rely on NEA grants to subsidize their livelihoods.*

2. Department of Justice

In October 2008, the Justice Department’s Office of Public Affairs (OPA) added Tracy Russo to direct the Department’s “new media efforts.” Russo, the Chief Blogger and Deputy Director of Online Communications for the John Edwards for President Campaign,⁵⁸ was given the title “New Media Specialist.”⁵⁹ Since October, Russo has served as the author of the Justice Department’s official blog.⁶⁰

Shortly after Russo was hired, reports surfaced that indicated she was covertly attempting to shape public opinion by searching online for articles, blogs or other

⁵⁴ 18 U.S.C. § 1913 (1919).

⁵⁵ Transcript.

⁵⁶ *Id.*

⁵⁷ Letter from Ranking Member Issa to Valerie Jarrett, Sep. 22, 2009.

⁵⁸ Tracy Russo biography, available at <http://www.huffingtonpost.com/tracy-russo> (last visited April 22, 2010).

⁵⁹ DOJ Office of Public Affairs Staff Contacts, available at http://www.justice.gov/opa/opa_contacts.html (last visited April 22, 2010).

⁶⁰ “The Justice Blog,” available at <http://blogs.usdoj.gov/blog/archives/author/trusso/> (last visited April 22, 2010).

entries critical of the Administration and then anonymously, or through the use of a pseudonym, posting comments to those sites attacking the author or contents.⁶¹

The blogging and campaign communities refer to this propaganda tactic as “astroturfing.”⁶² Astroturfing is the action of using fake and anonymous postings on message boards and blogs to push a point of view or to create the appearance of grassroots support for a particular agenda.⁶³

The use of Department resources to anonymously shape online debate is clearly problematic. In cases where GAO has ruled that the means by which an agency publicized information was illegal, the source of the information was not disclosed. Covert participation by government employees in the public dialogue about a policy has clearly and consistently been found illegal.

On October 8, 2009, Ranking Member Issa and Judiciary Committee Ranking Member Lamar Smith wrote to Attorney General Eric Holder to request information about the activities of the employees in the Department’s Office of Public Affairs.⁶⁴ A Justice Department reply did not respond to critical questions or provide essential information requested by Reps. Issa and Smith.⁶⁵

Analysis: *The deployment of Justice Department resources to generate clandestine comments on message boards and blogs is a highly improper use of the Department’s resources. The GAO has frequently ruled that covert propaganda violates federal law and appropriations riders. Title 5 U.S.C. § 3107, prohibits the use of publicity experts unless specifically appropriated for that purpose. Additionally, the Justice Department is held to an even higher standard of conduct than other agencies as it is tasked with enforcing the nation’s laws in an objective, nonpartisan, and nonpolitical manner. The allegations that Department employees have engaged in a practice of clandestine commenting raise serious doubts about this Justice Department’s ability to accomplish that task.*

3. Department of Education

On the morning of April 24, 2009, U.S. Department of Education (DoEd) Deputy Assistant Secretary for External Affairs and Outreach Massie Ritsch distributed an e-mail to colleagues notifying them of President Obama’s intention to promote his Direct Loan student financial aid program during a meeting later that day. Ritsch

⁶¹ Letter from Ranking Member Darrell Issa and Ranking Member Lamar Smith to Attorney General Eric Holder, Oct. 8, 2009 [hereinafter Holder Letter].

⁶² “Astroturfing,” available at <http://en.wikipedia.org/wiki/Astroturfing> (last visited April 22, 2010).

⁶³ *Id.*

⁶⁴ Holder Letter.

⁶⁵ Letter from U.S. Asst. Atty. Gen. Ronald Weich to Rep. Darrell Issa and Rep. Lamar Smith, Dec. 22, 2009.

explained the rationale for the President’s timing by noting that Congress was beginning to work to resolve differences between House and Senate versions of the Fiscal Year 2010 Concurrent Budget Resolution.

The stated purpose of the e-mail was to help recipients “communicate the merits of the President’s proposal with your members and other audiences....” To help recipients do so, Ritsch attached a two-page white paper to the body of the e-mail message. The document included promotional information highlighting DoEd’s reasons for supporting the President’s plan.

From: Ritsch, Massie
Sent: Friday, April 24, 2009 10:47 AM
To: Ritsch, Massie
Subject: President Obama to promote Direct Loans today at White House

Dear Colleagues,

This afternoon (Friday, April 24) President Obama will highlight his proposals to eliminate waste in college lending and help make college more affordable – from providing a \$2,500 annual tax credit to working families to expanding the Perkins Loan Program to increasing and securing Pell Grants. In particular, the President plans to reiterate his commitment to restructuring the current federal student loan program – to eliminate billions of dollars in wasteful subsidies to banks and reinvest the savings in making college more affordable.

While meeting at 1:30 PM ET today with a family struggling to afford the cost of college, the President will discuss how his Direct Loan plan fits into his proposed 2010 budget. The President is bringing attention to this topic as members of Congress begin their work to resolve differences between House and Senate versions of the Fiscal Year 2010 Concurrent Budget Resolution. Later this afternoon, Secretary Duncan will speak to reporters on the same topic, by phone.

To help you communicate the merits of the President’s proposal with your members and other audiences, the Department of Education offers the following information. I hope you find it helpful.

Finally, as the “new guy” in the Department’s External Affairs & Outreach office, I look forward to working with you and your organizations. The Department welcomes your feedback and ideas for achieving the President’s vision of a more reliable, simpler, less costly loan program for America’s college students.

Thanks,

Massie Ritsch
Deputy Assistant Secretary for External Affairs & Outreach
U.S. Department of Education

Ritsch’s “colleagues,” to whom the message was sent, are not identified. The information provided to them by Ritsch includes eight bullet points, each touting the President’s direct federal student loan plan. Ritsch tells recipients to tell their “members and other audiences” that the President is “trying to eliminate a wasteful program that only benefits the banking industry” and that the President’s plan “will help the middle class, stimulate our economy over the long term and provide an appropriately trained workforce for essential public-service industries.”⁶⁶

Analysis: *The intent of the e-mail is clearly to create grassroots support for the President’s education agenda by inappropriately leveraging Ritsch’s position as a DoEd employee. Because it was drafted and disseminated using Department of Education resources, and*

⁶⁶ U.S. DoEd Information Sheet, “Direct Federal Student Loans: A Reliable, Simpler, Less Costly Program.”

because it was designed or intended to influence Members of Congress while they consider the President's federal student loan program plan, it is unlawful.

4. Federal Workforce

In March 2010, media reports surfaced that revealed White House Office for Health Reform Director Nancy-Ann DeParle sent overtly partisan, unsolicited health reform e-mails to career civil servants in Executive Branch agencies. The DeParle e-mails were not transmitted by the ordinary official White House staff e-mail handle “who.eop.gov” but through the mass mailing handle “messages.whitehouse.gov.”

At least three emails were objectionable: 1) an e-mail dated March 11, 2010 that begins with the line: “625 – that’s the number who lost health insurance every hour in 2009;” 2) an e-mail dated March 12, 2010 railing against the perils of “do[ing] nothing to reform our broken health care system;” and 3) a March 16, 2010, e-mail subject line: “There but for the grace of God go any one of us.”⁶⁷

These e-mails implored recipients to “help raise awareness by sharing this e-mail with your friends, family and online networks.”⁶⁸ According to one report posted online by *CBS News.com*, several career federal employees at the U.S. Department of State received these e-mails and believed they required them to take some sort of action to further the President’s agenda.⁶⁹ DeParle’s e-mails featured raw partisan rhetoric in an apparent attempt to stoke the fears of recipients. For example, DeParle’s March 12, 2010 e-mail reads:

No ifs, ands, or buts about it – **if we do nothing to reform our broken health care system, costs will continue to skyrocket and break the budgets of American families,** small businesses and the Federal Government⁷⁰

Because DeParle’s e-mails were sent from an official White House handle, it is not surprising that some recipients believed they were being officially instructed to take action. Using a White House e-mail account to drum up grassroots action on behalf of the President’s agenda is clearly problematic because it is likely to trigger the use of federal agency personnel and resources to further disseminate the White House’s message.

⁶⁷ Richard Grenell, *Media Matters Jumps to Defend Unsolicited Emails to Federal Employees*, available at <http://richardgrenell.com/> (last visited Mar. 22, 2010).

⁶⁸ *Id.*

⁶⁹ Richard Grenell, *Is the White House Sending Healthcare Propaganda to Federal Employees*, available at <http://www.cbsnews.com/stories/2010/03/19/opinion/main6313300.shtml> (last visited Mar. 22, 2010).

⁷⁰ *Id.* (emphasis added).

On March 24, 2010, Ranking Member Issa wrote White House Counsel Robert Bauer to request information and assurances regarding the DeParle e-mails.⁷¹ The White House did not respond.

Analysis: *Criminal statutes prohibit Executive Branch officials from using appropriated funds to influence the legislative process. Title 18 of the United States Code, section 1913 prohibits federal employees from engaging in the very activities DeParle urges. Specifically, it bars the use of appropriated funds for activities that directly or indirectly are “intended or designed to influence in any manner a Member of Congress, to favor or oppose ... any legislation or appropriation by Congress....” Title 18 prohibits federal employees from using appropriations to pay for any “personal services, advertisement, telegram, telephone, letter, printed or written matter”⁷² Read strictly, a federal employee who unwittingly forwards DeParle’s email could run afoul of this Code section.*

5. Department of Health and Human Resources - Employees

In March 2009, the Department of Health and Human Services (HHS) contracted with Jonathan Gruber for “technical assistance.”⁷³ Gruber, an MIT health care economist, was contracted to estimate changes in insurance costs and coverage under the President’s health plan.⁷⁴ For that, HHS paid Gruber \$297,600.⁷⁵ He was also paid \$95,000 for another job by HHS.⁷⁶

While under contract with HHS, Gruber authored several editorials advocating on behalf of the President’s health care plan. Gruber was frequently used as a source for journalists writing about health care. Gruber’s status as a paid consultant to HHS was not disclosed in interviews with *Time*, the *Washington Post*, the *New York Times*, the *New Republic*, and elsewhere.⁷⁷

The Obama Administration relied on Gruber’s commentary to promote the President’s health care agenda. Gruber’s study, for which he was paid \$297,600 by HHS, figured prominently in a piece by Ron Brownstein that appeared in the *Atlantic Monthly*.⁷⁸ Gruber did not disclose his status as a paid consultant to Brownstein while being interviewed for that piece. According to Brownstein:

⁷¹ Letter from Ranking Member Darrell Issa to Robert Bauer, Mar. 24, 2010.

⁷² 18 U.S.C. § 1913.

⁷³ Op-ed, *Health Experts and Double Standards*, WALL ST. J., Jan. 14, 2010 [hereinafter WSJ Op-ed].

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Kate Pickert, *Jonathan Gruber on the Government Payroll*, TIME, Jan. 8, 2010.

⁷⁸ Ron Brownstein, *The Health Care Divide*, NAT’L JOURNAL, May 17, 2008.

I looked through my notes this morning of the two conversations I had with him last fall on health care, and in the notes there is no indication that his work for the administration came up.⁷⁹

Despite presumably being aware that Gruber was a paid consultant, neither the White House nor HHS objected when the Brownstein article was used by the Administration to respond to skepticism about a lack of cost controls in the President's health care proposal.⁸⁰ White House Budget Director Peter Orszag similarly relied on a letter from Gruber and other economists endorsing the Senate health care bill.⁸¹

Additionally, Gruber did not disclose his status as a paid consultant when he testified before two Senate committees responsible for health care legislation.⁸² Gruber's financial relationship with HHS did not become widely known until he wrote a commentary for the *New England Journal of Medicine*, which has a more stringent disclosure policy than the aforementioned media outlets.⁸³

Gruber's activities on behalf of the President's health care plan were reminiscent of those that Armstrong Williams conducted on behalf of the Bush Administration's "No Child Left Behind" legislation. In 2004, the Bush Administration paid Armstrong Williams \$240,000 to promote the No Child Left Behind Act (NCLBA) on his nationally syndicated television show and to urge other black journalists to do the same.⁸⁴ In response to a request for an opinion from Congress, GAO found that the Department of Education contracted for Williams to comment regularly on NCLBA "without assuring that the Department's role was disclosed to the targeted audiences. This violated the publicity or propaganda prohibition for fiscal year 2004 because it amounted to covert propaganda."⁸⁵

The GAO has not evaluated the activities of Jonathan Gruber.

On January 28, 2010, Ranking Member Issa wrote Gruber to request information about his contractual relationship with HHS. In a response dated February 19, 2010, Gruber explained that he "never intentionally withheld [his] two HHS contracts from Congress or the media."⁸⁶

⁷⁹ Megan McArdle, *Brownstein on Gruber*, THE ATLANTIC, Online Ed., available at <http://www.theatlantic.com/business/archive/2010/01/brownstein-on-gruber/33195/> (last visited April 22, 2010).

⁸⁰ WSJ Op-ed.

⁸¹ *Id.*

⁸² Letter from Senator Charles Grassley to HHS Secretary Kathleen Sebelius, Jan. 12, 2010.

⁸³ *Id.*

⁸⁴ Greg Toppo, *Education dept. paid commentator to promote law*, USA TODAY, Jan. 7, 2005.

⁸⁵ U.S. Government Accountability Office, *Department of Education - Contract to Obtain Services of Armstrong Williams*, B-305368, Sept. 30, 2005.

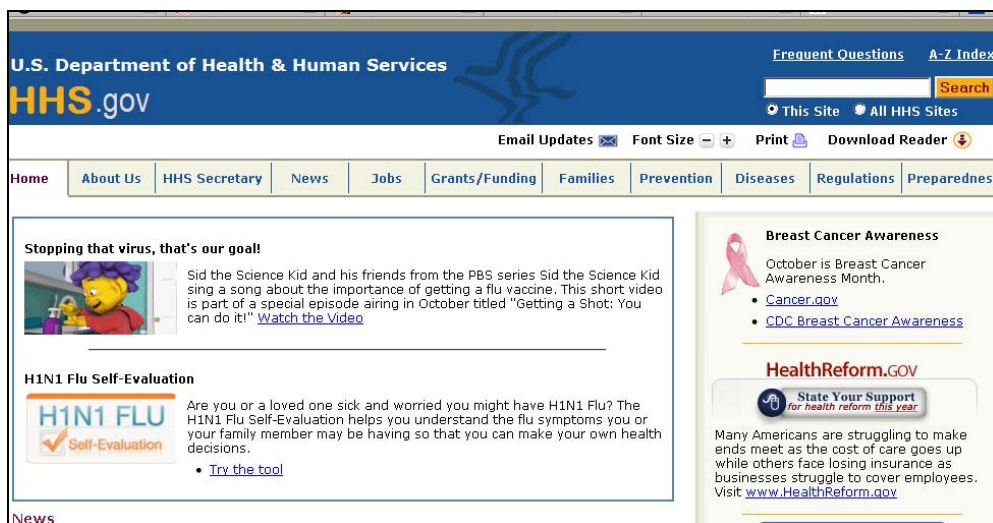
⁸⁶ Letter from Jonathan Gruber to Ranking Member Darrell Issa, Feb. 19, 2010.

Analysis: *Using HHS appropriations to contract a highly-visible health care expert to advocate on behalf of Administration policies under the guise of providing “technical assistance” is inappropriate. HHS’ annual appropriations bills clearly provide that no appropriated funds may be used to pay the “salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation pending before the Congress....” The Administration’s failure to disclose Gruber’s status while touting his work product additionally violates GAO’s policy prohibiting covert propaganda.*

6. Department of Health and Human Services - Website

On the homepage of the Department of Health and Human Services (HHS) website, there is a link labeled “State Your Support for health care reform *this year*.”⁸⁷ (Emphasis in original) The link takes visitors from the HHS website to www.HealthReform.gov, which is maintained by HHS to provide information for Americans about the President’s effort to work with Congress to pass a comprehensive health care reform package. The link from the HHS homepage takes visitors directly to a form letter addressed to President Obama.⁸⁸ After stating strong support for the President’s effort to reform health care, the letter concludes:

By signing this statement we affirm our commitment to **work with you and our Congressional leaders** to enact legislation this year which provides affordable, high quality coverage for all Americans.⁸⁹ (Emphasis added)



⁸⁷ HHS website, available at <http://www.hhs.gov/> (last visited Oct. 21, 2009).

⁸⁸ HealthReform.gov, available at <http://www.healthreform.gov/support.html> (last visited Oct. 21, 2009).

⁸⁹ Healthreform.gov form letter, “State Your Support,” available at <http://www.healthreform.gov/support.html> (last visited Nov. 23, 2009).

There is no option to amend or edit the form letter. Visitors who sign the statement are required to submit their name, zip code, and e-mail address along with the form letter to the President. Presumably, this demographic and contact information is collected to allow the White House and HHS to create a database of health care reform supporters for future targeted propaganda efforts.

Analysis: *HHS annual appropriations bills clearly provide that no appropriated funds may be used to pay the “salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation pending before the Congress....” Because the form letter is clearly designed to influence Members of Congress when considering health care reform, it would be impermissible for HHS to spend money from its annual appropriations to support its distribution. The website is impermissible by GAO standards because it amounts to “self-aggrandizement” and “puffery” of the agency.*

7. Department of Health and Human Services - Medicare Commercial

In mid-July 2010, HHS launched a cable television ad featuring 84-year-old Andy Griffith promoting both Medicare and the Democrats’ new health care reform law.⁹⁰ According to the *Associated Press*, the ad is set to run on channels seniors tend watch, such as the Weather Channel, CNN, Hallmark and Lifetime.⁹¹ In the ad, Mr. Griffith tells viewers:

This year, as always, we'll have our guaranteed [Medicare] benefits. And with the new healthcare law, more good things are coming. Free check-ups, lower prescription costs and better ways to protect us and Medicare from fraud. ... I think you're gonna like it.⁹²

The ad was paid for with appropriated funds by HHS, which administers Medicare and Medicaid. The ad buy cost HHS \$700,000.⁹³ In addition to buying time on cable networks popular among seniors, the ad is also featured prominently on the HHS and White House websites. On the White House website, Assistant to the President Stephanie Cutter explained that the ad is intended to ensure “seniors have the information they need” in the wake of “a major misinformation campaign that was designed to scare and confuse older Americans about the real impact of reform.”⁹⁴

⁹⁰ Mike Lillis, *GOP senators want HHS to yank Andy Griffith ad*, THE HILL, Aug. 3, 2010.

⁹¹ *Andy Griffith's new role: pitching health care law*, Assoc. Press, July 30, 2010.

⁹² Mike Lillis, *GOP senators want HHS to yank Andy Griffith ad*, THE HILL, Aug. 3, 2010.

⁹³ *Andy Griffith's new role: pitching health care law*, Assoc. Press, July 30, 2010.


⁹⁴ White House blog, available at <http://www.whitehouse.gov/blog> (last visited Aug. 4, 2010).

Ms. Cutter’s official explanation for the ad makes clear that the Administration produced and distributed the ad to sell older Americans on the Democrats’ health care reform and Medicare legislation. Releasing the ad in July of an election year reinforces the appearance that the ad was designed to affect general elections by convincing seniors to support one of the Democrats’ major legislative initiatives.

Medicare and Mayberry
Posted by [Stephanie Cutter](#) on July 30, 2010 at 10:00 AM EDT

The Affordable Care Act will strengthen the health care system for all Americans, but senior citizens in particular stand to benefit from the new law. And the Centers for Medicare & Medicaid Services (CMS) is getting a little help delivering the good news from a well known TV star, Andy Griffith.

Today, CMS released a new ad featuring Griffith discussing the Affordable Care Act. The ad will begin running immediately on national cable channels, and you can watch the ad now:



[READ THE REST](#) ▶

Learn more about [Health Care](#)

Analysis:

The GAO has held that the “publicity or propaganda” prohibition in appropriations laws forbids any public relations activity that is purely partisan in nature or does not disclose that federal funds paid for the activity. Federal agencies are further restricted from using appropriated funds for publicity activities by 5 U.S.C. 3107, which makes it illegal to use such funds “to pay a publicity expert unless specifically appropriated for that purpose.”⁹⁵ Because HHS used appropriated funds to finance an ad targeted at seniors and designed to win votes for Democrats in November, the ad is unlawful.

B. Multiplying traffic to websites containing propaganda by capitalizing on the visibility of the President and pre-existing campaign relationships.

⁹⁵ 5 U.S.C. § 3107.

In several cases, President Obama and Vice President Biden have leveraged the inherent visibility advantages of the White House to promote websites designed to disseminate propaganda. In these cases, taxpayer resources were used to design and maintain these websites. The websites themselves further multiply the promulgation of Obama Administration propaganda by urging grassroots action in support of certain aspects of the President's agenda.

1. Recovery.gov

In the original House version of the American Recovery and Reinvestment Act, a provision called for establishing “a website on the Internet to be named Recovery.gov, to foster greater accountability and transparency in the use of funds made available in this Act.”⁹⁶ Although that section of the bill was eventually struck, the White House designed and launched the site shortly after President Obama signed the Recovery Act into law on Feb. 17, 2009.⁹⁷ The site is maintained and controlled by the Executive Branch.⁹⁸

The website's mandate is “to allow taxpayers to see precisely what entities receive Recovery money in addition to how and where the money is spent.”⁹⁹ President Obama tasked Vice President Biden with implementing the website, and Vice President Biden convened a team to orchestrate the effort.¹⁰⁰ Vice President Biden also began a publicity tour to promote the website, appearing first on CBS's Early Show on February 25, 2009, where he announced that the website would serve as a resource for those who wanted to track money disbursed by the stimulus.¹⁰¹

The website initially allowed visitors to track “Jobs Created/Saved” by the Recovery Act. On the main page of the website, a ticker displayed the current total number of jobs created or saved as defined by the Administration and reported by recipients.

Visitors to Recovery.gov can click through the main page to track recovery dollars by state and congressional district. An interactive map allows users to identify specific award recipients, and to see the total number of jobs saved or created by each award. According to White House economic adviser Jared Bernstein, “It's a great example of the unprecedented transparency, where the American taxpayer can point and click and see their taxes creating jobs.”¹⁰²

⁹⁶ H.R. 1, The American Recovery and Reinvestment Act, § 1226 (a).

⁹⁷ “About Recovery.gov,” available at <http://www.recovery.gov/About/Pages/About.aspx> (last visited Jan. 14, 2010).

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ Stephen W. Smith, *Biden Vows to “Follow the Money”*, CBS NEWS, Feb. 25, 2009.

¹⁰¹ *Id.*

¹⁰² Scott Bauer, *Government says stimulus saved or created 650,000 jobs*, ASSOC. PRESS, Oct. 30, 2009.



Vice President Biden’s promotion of Recovery.gov throughout 2009 set the stage for an announcement that brought the website under closer scrutiny. On October 30, 2009, Biden appeared in Washington to tout a report that claimed the economic stimulus package had created or saved approximately 650,000 jobs to date. During that press conference, Vice President Biden frequently referred to Recovery.gov, where the raw data would be made accessible.¹⁰³ Vice President Biden spent much of the 45-minute press conference touting Recovery.gov, explaining that the site is “quite simply something that has never happened before in the federal government.”¹⁰⁴

However, closer inspection of the claims made about jobs saved and created revealed that the figures on Recovery.gov are fictitious and misleading. According to the *Washington Examiner*, more than ten percent of the jobs the Administration has claimed were created or saved by the stimulus package are “doubtful or imaginary.”¹⁰⁵ The *Examiner* compiled reports from eleven major newspapers and the *Associated Press* to weed out patently false claims on Recovery.gov.¹⁰⁶

A review by the *Associated Press* found some counts were more than 10 times as high as the actual number of jobs; some jobs credited to the stimulus program were

¹⁰³ Biden press conference transcript, Oct. 30, 2009, available at <http://www.whitehouse.gov/photos-and-video/video/vice-president-biden-reports-over-a-million-jobs-created> (last visited Jan. 14, 2009).

¹⁰⁴ *Id.*

¹⁰⁵ David Freddoso and Mark Hemingway, *92,500 jobs not really created or saved by the stimulus (and counting)*, WASH. EXAMINER, Nov. 12, 2009.

¹⁰⁶ *Id.*

counted two and sometimes more than four times; and other jobs were credited to stimulus spending when none was produced.¹⁰⁷ Among the numerous findings of deceptive “Jobs Created/Saved” figures:

- In Columbus, Ohio, the local school district reported that 65 percent of its 212.5 stimulus jobs were “saved,” including 36 principals and assistant principals. However, according to a school district official quoted in the media, these principals were in fact in no danger of losing their jobs.¹⁰⁸
- The California State University system (“CSU”) claims that 26,156 jobs were saved by stimulus funds, which represents more than half its statewide workforce.¹⁰⁹ However, the idea that the university system would have fired half its workforce without the stimulus seems highly unlikely. In fact, according to a CSU spokeswoman, “This is not really a real number of people. It’s like a budget number.”¹¹⁰
- About two-thirds of the 14,506 jobs claimed to be saved by the Department of Health and Human Services’ Administration for Children and Families weren’t saved at all. Instead, 9,300 existing employees received pay raises and benefits and were counted as saved. A Health and Human Services spokesman defended the counting, stating that “If I give you a raise, it is going to save a portion of your job.”¹¹¹

After negative attention from the Associated Press and elsewhere, the White House revised the jobs statistic featured on the Recovery.gov homepage. The ticker now tallies “Recovery Funded Jobs Reported by Recipients.” According to the website, job calculations are based on the number of hours worked in a quarter and funded under the Recovery Act. Although there is no evidence that the reported figures are any more accurate than those listed as “Jobs Created/Saved,” the new definition is designed to relieve the White House from the burden of weeding out false or misleading jobs claims.

In addition to months of promotion by Vice President Biden, Recovery.gov was advertised on highway signs appearing next to stimulus-funded road projects across the country (see section C above). Rather than serve as a tool for what President Obama termed “strong oversight and strong transparency to make sure this money isn’t being wasted,”¹¹² Recovery.gov became a taxpayer-funded tool to promote false and misleading propaganda to support the Democrat-backed stimulus. The manifest

¹⁰⁷ Brett Blackledge and Matt Apuzzo, *Stimulus Jobs Overstated by Thousands*, ASSOC. PRESS, Oct. 29, 2009.

¹⁰⁸ Bill Bush, *Not all jobs ‘saved’ by stimulus were in danger*, *The Columbus Dispatch*, Nov. 3, 2009.

¹⁰⁹ Phillip Reese, *Many California jobs ‘saved’ by stimulus funds weren’t in jeopardy*, THE SACRAMENTO BEE, Nov. 6, 2009.

¹¹⁰ *Id.*

¹¹¹ Brett J. Blackledge and Matt Apuzzo, *STIMULUS WATCH: Salary raise counted as saved job*, ASSOC. PRESS, Nov. 4, 2009.

¹¹² Daphne Eviatar, *A New Day for Accountability in Stimulus Plan*, WASH. INDEPENDENT, Feb. 15, 2009.

inaccuracies in the data the White House used to justify its economic policies constitutes the dissemination of false propaganda by the federal government.

On November 13, 2009, Ranking Member Issa wrote Recovery Act Transparency and Accountability Board Chairman Earl Devaney to request that the misleading jobs saved/created numbers be clarified on Recovery.gov.¹¹³ On January 8, 2010, Ranking Member Issa again wrote Chairman Devaney to request information regarding the Administration's revised guidance for measuring the stimulus' effect on jobs.¹¹⁴ In his response to Ranking Member Issa's inquiries, Devaney wrote:

Recovery.gov will be changed to indicate that the jobs reported by recipients during this most recent reporting period reflect jobs that were funded by the Recovery Act between October 1 and December 31, 2009. We will also include information on Recovery.gov that will explain how job estimates were calculated in the first reporting period and how they were calculated in the most recent reporting period.¹¹⁵

Recovery.gov now displays jobs funded by the stimulus rather than the misleading "jobs created or saved" figure. Still, there is no indication that the current figures are any more reliable than the ones touted by Vice President Biden and subsequently proven to be misleading and deceptive.

Analysis: *The White House relies on taxpayer dollars to finance the travel and events that attract public attention; wasting those dollars by promoting false or misleading information is an abuse of the resources at the disposal of the White House and a betrayal of public trust. Because Recovery.gov touts the effectiveness of the Democrats' stimulus plan, it also appears to violate the GAO's prohibition on public relations activities "designed to aid a political party."*

2. Highway Signs

In 2009, the Federal Highway Administration (FHA) encouraged states to post signs announcing that new highway projects were being funded by stimulus dollars. The signs notified drivers and pedestrians that nearby roadwork was a "Project Funded by the American Recovery and Reinvestment Act." Many of the signs also included the red, white, blue and green logo of the stimulus. The stimulus logo featured the address for Recovery.gov, "the U.S. government's official website providing easy

¹¹³ Letter from Ranking Member Issa to Earl Devaney, Nov. 13, 2009.

¹¹⁴ Letter from Ranking Member Issa to Earl Devaney, Jan. 8, 2010.

¹¹⁵ Letter from Earl Devaney to Ranking Member Darrell Issa, Jan. 20, 2010.

access to data related to Recovery Act spending.”¹¹⁶ [Recovery.gov](http://www.recovery.gov) is operated by the Recovery Accountability and Transparency Board.¹¹⁷



Taking direction from the White House and Democratic congressional leaders, Department of Transportation (DOT) officials have defended the signs as a tool of transparency. “We look at it as a way to promote transparency,” said DOT press secretary Sasha Johnson.¹¹⁸ DOT claimed the use of federal stimulus road signs was not mandatory.¹¹⁹ However, according to the *New York Times*, the use of the signs was “strongly encouraged” by the Federal Highway Administration (FHA).¹²⁰

FHA relied on threats of withheld stimulus dollars to encourage state use of the signs. According to Senator Judd Gregg, one community in New Hampshire was told by federal officials that stimulus money for a project would be withheld if an accompanying sign was not purchased and posted.¹²¹ Despite that “encouragement” from the FHA, the signs have been rejected by Georgia, New York, Virginia, Florida, Texas, and New Hampshire.¹²²

Those states that have rejected the signs cited the excessive cost. In New York, the state estimated that the largest signs could cost between \$6,000 and \$8,300 each to make and install.¹²³ In October 2009, Georgia announced it would stop posting signs along highway construction projects because the signs were too expensive. In Georgia, the signs cost \$1,200 apiece. With two signs at each of the 119 projects

¹¹⁶ Recovery.gov, “About,” available at <http://www.recovery.gov/About/Pages/About.aspx>.

¹¹⁷ *Id.*

¹¹⁸ Tim Martin, *Federal stimulus road signs rile up some taxpayers*, CHI. TRIB., July 5, 2009 [hereinafter Martin].

¹¹⁹ *Id.*

¹²⁰ Michael Cooper, *Some States Forgo Signs on Stimulus*, NY TIMES, Oct. 13, 2009 [hereinafter Cooper].

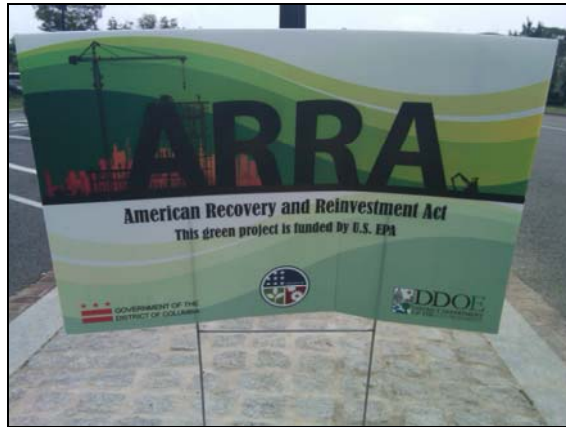
¹²¹ Stephen Dinan, *Millions go to signs flagging stimulus projects*, WASH. TIMES, Sep. 17, 2009 [hereinafter Dinan].

¹²² *Id.*

¹²³ Michelle Breidenbach, *Highway signs identifying federal stimulus projects cost thousands of dollars each*, SYRACUSE POST-STANDARD, July 5, 2009.

contracted as of September 2009, the signs became a “lightning rod for critics of the stimulus” leading to “many [complaints] to the department about their cost.”¹²⁴

In July 2010, U.S. Department of Transportation spokeswoman Nancy Singer revealed that state officials across the country have spent a total of \$5 million on the signs.¹²⁵ Despite widespread criticism of the use of stimulus funds on road signs, some jurisdictions expanded their use to include yard signs at smaller projects. In July 2010, this sign was posted on Capitol Hill to tout a re-paving project funded by the Environmental Protection Agency:



The highway signs and yard signs are uniquely wasteful because, unlike most traffic construction signs that can be reused for several years, the Recovery Act signs will be outdated when the program expires in 2011. Furthermore, the signs provide no relevant traveler information – they are purely intended for propaganda purposes. For those reasons, and because the signs promote a website that contains additional misleading propaganda (see “Promotion of Recovery.gov” below), the signs amount to tax-subsidized billboards touting the success of the stimulus program.

Analysis: *Using FHA and DOT officials to exert pressure on state and local governments to purchase and post signs touting the success of the stimulus under threat of withholding stimulus dollars is clearly inappropriate. Additionally, directing visitors to Recovery.gov multiplies the Administration’s investment in promoting the impact of the stimulus by effectively funneling federal dollars through state and local governments to finance propaganda material.*

¹²⁴ Dinan.

¹²⁵ Hillary Chabot, Katie Carlin and Joe Dwinell, *Critics blast \$500G in stimulus sign language*, Boston Herald, July 20, 2010.

3. Health Care Action Center

At several speeches touting health care reform, President Obama has appeared in front of a backdrop promoting “HEALTHCARE.BARACKOBAMA.COM.” That web address immediately redirects visitors to the “Health Care Action Center.” The Health Care Action Center is hosted at www.barackobama.com, the homepage for Organizing for America (OFA), a “special project” of the Democratic National Committee (DNC).¹²⁶



The website’s apparent primary purpose is to provide visitors a means of voicing support for the President’s health care reform agenda. Links on the site allow visitors to easily call and “tweet” Members of Congress, and to submit a form letter addressed to their representatives. In addition to supplying talking points so visitors can more easily write a letter to the editor of the local newspaper, the site also solicits contributions to the DNC.



¹²⁶ Chris Cillizza, *Obama Announces Grass-Roots Lobby*, WASH. POST, Jan. 18, 2009 [hereinafter Cillizza].

Formerly an Obama campaign organization, OFA has since been folded into the DNC to foster activism in support of the President’s agenda. The Administration repurposed the machinery of the 2008 campaign, including a 13-million person e-mail, telephone and contact list, to create OFA and place it under the control of the DNC days before taking office in 2009.¹²⁷ According to the *Washington Post*, “By keeping Organizing for America within the DNC, and running it with a small handful of campaign operatives, Obama is ensuring that the political machine, and political brand, he built during the campaign are preserved and protected over the coming years.”¹²⁸



Analysis: *Laws regulating executive branch propaganda allow the President to “go public” to promote his agenda. However, by virtue of his office, the President is more visible than any member of Congress or head of an agency. Leveraging the natural communication advantage of the office to direct citizens to a website owned and operated by the DNC is inappropriate. Informing the public is the President’s responsibility; using taxpayer resources to mount a sophisticated propaganda and lobbying campaign is an abuse of the President’s high office.*¹²⁹

4. “iParticipate”

The Entertainment Industry Foundation (EIF) was created in 1942 to leverage the wealth and access of Hollywood to support worthy charities.¹³⁰ Throughout its history, EIF has focused on a variety of philanthropic efforts.¹³¹ Today, EIF supports charitable initiatives addressing health and social issues, as well as funding for advanced medical research.¹³²

¹²⁷ Marc Ambinder, *Obama For America Becomes Organizing For America*, THE ATLANTIC, Jan. 17, 2009.

¹²⁸ Cillizza.

¹²⁹ Letter from former Ranking Member Henry Waxman to GAO Comptroller General David Walker, Apr. 6, 2005.

¹³⁰ EIF website, available at <http://www.eifoundation.org/home/> (last visited Jan. 20, 2010).

¹³¹ *Id.*

¹³² *Id.*

On June 24, 2009, First Lady Michelle Obama announced EIF's "iParticipate Initiative."¹³³ On September 10, 2009, EIF announced that as part of the iParticipate Initiative "more than 60 network TV shows [will] spotlight the power and personal benefits of service," and that this "unprecedented block of TV programming is the first wave of a multi-year 'I Participate' campaign."¹³⁴

An internal memorandum pre-dating the September 10, 2009 press release stated that the iParticipate campaign is EIF's response to President Obama's call for Americans to make volunteerism and community service part of their daily lives. On January 16, 2009, Obama told Americans:

We can rebuild our schools, but we need people to be mentors and tutors in those schools. We can modernize our health care system, but we need volunteers in our hospitals and communities to help care for the sick and help people lead healthier lives. We can invest in clean energy, but we need people to use energy-efficient products in their homes and train for the green jobs of the future.¹³⁵

The internal memorandum revealed the iParticipate campaign was intended to "organically" incorporate stories about service and volunteerism into programming on all four major networks and many cable outlets.¹³⁶ According to the memo, storylines inserted as part of the campaign were to:

[T]ouch on one or more of the key issues that have [been] outlined as the country's priorities for service: Education and children, Health and well being, Environmental conservation and reduced energy consumption, Economic development and financial security, [and] Support for military families.¹³⁷

The iParticipate campaign ran during the week of October 19-25, 2009. Audiences were exposed to celebrity public service announcements (PSAs), end-of-episode messages from the casts of many of the nation's most popular programs, and volunteerism segments on reality shows, talk and news programs.¹³⁸ Most frequently,

¹³³ iParticipate Press Release, *First Lady Michelle Obama Announces EIF's iParticipate Initiative*, June 2009, available at <http://www.iparticipate.org/article/first-lady-michelle-obama-announces-eifs-iparticipate-initiative> (last visited Aug. 5, 2010).

¹³⁴ EIF Press Release, Sep. 10, 2009, available at http://www.eifoundation.org/press/release.asp?press_release_id=244 (last visited Jan. 14, 2010) [hereinafter EIF Press Release].

¹³⁵ Remarks of President Barack Obama, *United We Serve Video*, Jan. 16, 2009.

¹³⁶ EIF Internal Memorandum, "Play Your Part America," available at <http://bighollywood.breitbart.com/jjmolte/2009/10/15/leaked-memo-reveals-the-white-house-has-control-of-your-television-set/> (last visited Aug. 5, 2010).

¹³⁷ *Id.*

¹³⁸ Gary Strauss, *TV: It's prime time for volunteerism*, USA TODAY, Nov. 1, 2009.

iParticipate messages were directly incorporated into the plotlines of scripted sitcoms and dramas.¹³⁹

“Embedding something into entertainment plants a seed that has value in ways a [PSA] doesn’t. You’re not beating someone over the head with it,” says *CSI: NY*’s Hill Harper.¹⁴⁰ As part of the campaign, Harper’s character volunteered as a first-responder physician.¹⁴¹

During the iParticipate campaign, viewers were asked to visit the EIF website. There, visitors are exposed to several public service advertisements. Among the featured ads is a one-minute commercial directing viewers to visit the website of “Divided We Fail,” an organization dedicated to “ensur[ing] affordable, quality health care” for all Americans.¹⁴² Divided We Fail, supported by iParticipate-partner AARP, is a coalition of interests that support the President’s universal health care agenda.¹⁴³



The iParticipate campaign also promoted several websites that allowed visitors to identify local service opportunities. In addition to promoting its own website, www.iparticipate.org, as well as the AARP’s www.createthegood.org, the campaign prominently featured the website www.serve.gov, a federally-financed resource for finding volunteer opportunities administered by the Corporation for National and Community Service (CNCS). At each website, visitors can use keywords to customize a search for volunteer opportunities in a particular service area.

Visitors to AARP’s www.createthegood.org interested in service related to health care are directed to a video called “How to Spread the Truth about Health Care Reform.” The video urges volunteerism through support of the President’s health care plan.

¹³⁹ *Id.*

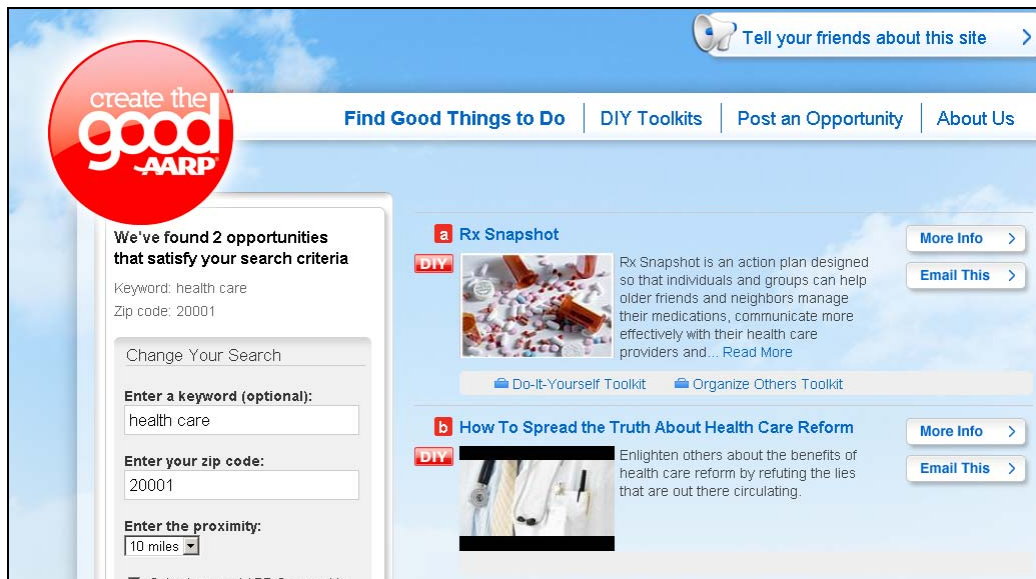
¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² Divided We Fail website, “About Us,” available at http://www.aarp.org/issues/dividedwefail/about_us/ (last visited Aug. 5, 2010).

¹⁴³ *Id.*

Specifically, the video directs viewers to call in to radio shows, leave comments on blogs, and contact elected representatives to support health care reform.



More than 40 of network television's highest-rated programs participated in the promotion of the President's volunteerism agenda.¹⁴⁴ In the fall of 2009, 30-second ad buys during highly-rated programs typically cost approximately \$200,000, and often more.¹⁴⁵ By endorsing an initiative committed to embedding storylines that highlight the President's agenda, the White House effectively converted network programs into 30-minute infomercials. If each of the 40 highest-rated participating programs were considered a 30-minute commercial, the iParticipate program provided \$240 million of free advertising that publicized websites which direct visitors to partisan and controversial service opportunities. That figure does not account for the participation of cable television and syndicated programming.¹⁴⁶

Analysis: *The iParticipate initiative conservatively amounts to \$240 million of free advertising for the President's service and health care agendas. More worrisome is the fact that the initiative was*

¹⁴⁴ EIF Press Release. Participating network programs included Desperate Housewives, Extreme Makeover: Home Edition, So You Think You Can Dance, Heroes, CSI: Miami, CSI: NY, The Biggest Loser, The Office, All My Children, America's Funniest Home Videos, Brothers and Sisters, Castle, Cougar Town, Dancing With The Stars, Flash Forward, General Hospital, Good Morning America, Grey's Anatomy, Hank, Jimmy Kimmel Live, Modern Family, One Life To Live, Private Practice, The Forgotten, The Middle, The View, Ugly Betty, Cold Case, Criminal Minds, Gary Unmarried, Ghost Whisperer, Numb3rs, America's Most Wanted, Bones, Brothers, COPS, Til Death, 30 Rock, Access Hollywood, Community, Days of Our Lives, Parks and Recreation, and The Today Show.

¹⁴⁵ 2009 Primetime 30-Second Ad Costs provided by *Advertising Age*, available at http://www.frankwbaker.com/prime_time_programs_30_sec_ad_costs.htm (last visited Jan. 15, 2010).

¹⁴⁶ According to the "I Participate" website, at least 25 cable and syndicated programs participated in the campaign. A full list of participating programs is available at <http://www.iparticipate.org/blog/iparticipate/check-out-all-participating-shows-find-out-how-your-favorites-are-taking-part> (last visited Jan. 19, 2009).

promoted by the White House even though it encourages Americans to contact Congress to support health care reform. By choosing First Lady Michelle Obama to promote the iParticipate initiative, the Administration protected itself from liability under anti-lobbying laws and the Hatch Act.

VI. SPENDING ON PUBLIC RELATIONS AND PROPAGANDA PROGRAMS

A review of spending on public relations during the current Administration indicates that the federal government is ramping up spending to promote the President's legislative agenda. Historical data available on the Federal Procurement Data System (FPDS) indicates that federal spending on public relations contracts increased for the first time since 2005 during the first year of the Obama Administration. A conservative estimate of federal public relations spending in 2009 is \$66 million, a \$5 million increase over 2008 public relations spending.

A. Methodology

The FPDS contains a record of each contract entered into by the federal government. Each contract is described by a North American Industry Classification System (NAICS) code. NAICS is the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data.¹⁴⁷ The FPDS was used to identify all contracts coded to respond to a search for "public relations" spending.¹⁴⁸ FPDS provided all contracts since 1978 that met the search criteria, and the value of each was summed to determine annual totals (Figure 1).

To calculate public relations spending during the first year of the Obama Administration, the FPDS was searched for all contracts with (1) the top 21 agencies listed in *The Hill* in May 2003 as the "best of the best" local public relations firms,¹⁴⁹ and (2) the top 100 agencies listed by *O'Dwyer's* 2008 independent public relations firm rankings.¹⁵⁰ Of that group, 16 firms contracted with the federal government for public relations work in 2009. They were APCO Worldwide, Dittus Communications, Daniel J. Edelman Inc., Fleishman-Hillard, GMMB, Inc., Hill and Knowlton, Ketchum Inc., The Ogilvy Group, Widmeyer Communications, Ruder

¹⁴⁷ U.S. Census Bureau website, "NAICS," available at <http://www.census.gov/eos/www/naics/> (last visited Jan. 19, 2009).

¹⁴⁸ A search for "public relations" in the FPDS search engine identifies entries with NAICS code "public relations agencies," "radio stations," "radio networks," "marketing consulting services," "motion picture and video production," "marketing research," "graphic design services," "media buying agencies," and miscellaneous other public relations contract types.

¹⁴⁹ *The Hill*, "Public Relations: Best of the Best," May 2003, available at <http://www.docstoc.com/docs/2527155/Public-relations-Best-of-the-best> (last visited Jan. 19, 2009).

¹⁵⁰ *O'Dwyer's*, "2008 PR Firm Rankings," updated March 2009, available at <http://www.docstoc.com/docs/2527155/Public-relations-Best-of-the-best> (last visited Jan. 19, 2009).

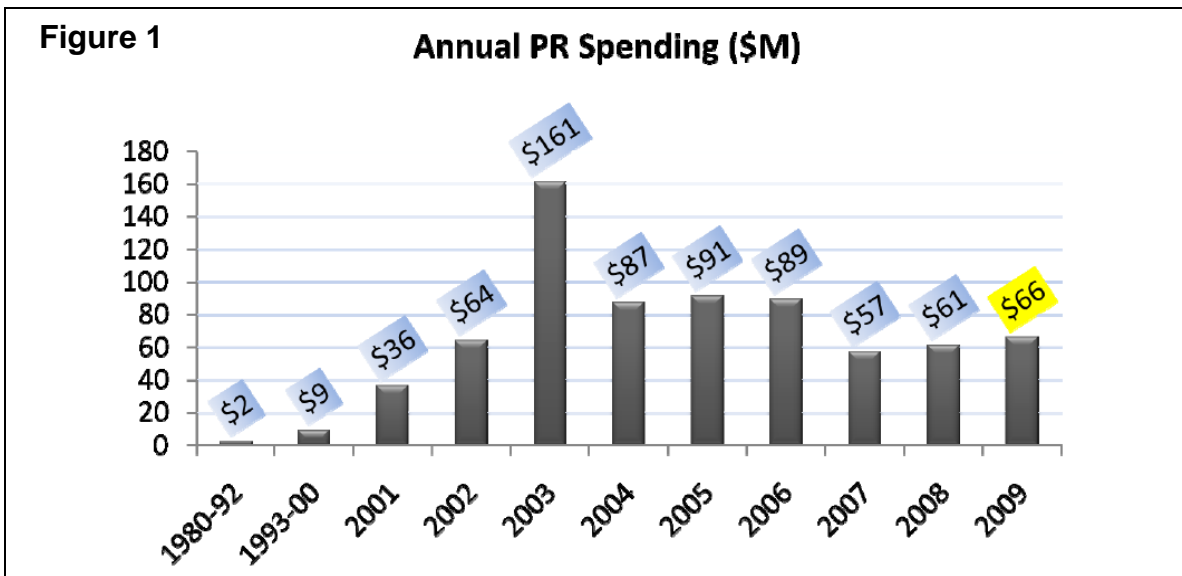
Finn, Crosby Marketing Communications, McNeely Pigott & Fox, Hager Sharp, Inc., Jasculca/Terman & Associates, Consensus Planning Group, and Xenophon Strategies.

The findings in this report are likely to underestimate the extent of public relations contracting during the first year of the Obama Administration because FPDS data on 2009 contracts is incomplete. The analysis of 2009 spending commitments does not include contracts with firms not listed above. Therefore, while this report provides a clear indication that overall spending on public relations increased in 2009, it necessarily underestimates the extent to which that is the case.

B. Findings

The analysis of FPDS data clearly illustrates that the current Administration is continuing a recent trend of spending for public relations campaigns at historically-high levels (Figure 1). During the administrations of Ronald Reagan and George H.W. Bush, public relations spending averaged approximately \$2 million annually. During the Clinton Administration, annual spending escalated moderately to an average of \$9 million. Under George W. Bush, public relations contract spending increased exponentially, reaching an all-time high of \$161 million in 2003. In the final two years of the George W. Bush Administration, spending stabilized to an average of \$59 million.

During the first year of the Obama Administration, federal spending on public relations contracts with the 16 firms identified previously was \$66 million, the fifth-highest total on record. That figure represents an increase from previous-year spending on public relations services for the first time since 2005.



C. Prohibited Public Relations Activities

GAO has not issued any opinions in response to requests from Congress for review of the work performed in accordance with the 2009 public relations contracts. GAO reviews the products derived from these contracts on a case-by-case basis, most often after receiving a request for an opinion from Congress. Since 2001, very few public relations initiatives have been considered by GAO to violate relevant appropriations laws. Recent violations all involve “covert propaganda” in which the source of public relations material did not disclose his or her identity as a federal employee or contractor.

Because several of the Obama Administration initiatives described in this report involved federal employees or contractors failing to disclose their employment status while participating in public relations activities, a review by GAO is appropriate. The activities of the Justice Department’s Office of Public Affairs (Section V.A.2) and Jonathan Gruber (Section V.A.5) are clear violations of GAO’s historical ban on covert public relations and propaganda.

VII. CONCLUSION

In 2005, Speaker Nancy Pelosi decried certain public relations initiatives of the Bush Administration. Responding to the Department of Education’s contract with Armstrong Williams, Speaker Pelosi said the use of official funds for such activities was “underhanded” and that publicly-financed covert propaganda initiatives “are not worthy of our great democracy.”¹⁵¹

Speaker Pelosi decried the appearance of a “government propaganda machine.”¹⁵² The public relations and propaganda initiatives of this Administration should alarm the Speaker in the same way. Since January 20, 2009, the Obama Administration has initiated several public relations programs that violate various prohibitions on federally-financed propaganda and create inappropriate pressure on federal workers and those who rely on federal dollars. During the first year of this Administration, there was the appearance that the White House is using federal resources to run a four-year campaign for the presidency in 2012.

The machinery of the Obama presidential campaign, much of which is now working within the Administration, forged relationships with various constituencies that supported certain aspects of the President’s agenda. The White House has failed to transition from campaign-mode to leadership-mode and is now inappropriately leveraging those campaign-trail relationships to unlawfully generate support for the President’s agenda.

¹⁵¹ Rep. Pelosi Press Release, Jan. 21, 2005.

¹⁵² *Id.*

When he took office, President Obama made a pledge of openness and transparency to all Americans:

My Administration is committed to creating an unprecedented level of openness in government. We will work together to ensure the public trust and establish a system of transparency, public participation, and collaboration. Openness will strengthen our democracy and promote efficiency and effectiveness in Government.¹⁵³

Because federal spending on public relations contracts increased for the first time since 2005, and because the White House spearheaded illegal or inappropriate propaganda initiatives in a variety of ways, taxpayers are justifiably concerned that the President is failing to fulfill the promises he made in the earliest days of this Administration.

¹⁵³ Memorandum, "Transparency and Open Government," Jan. 20, 2009.

About the Committee

The Committee on Oversight and Government Reform is the main investigative committee in the U.S. House of Representatives. It has authority to investigate the subjects within the Committee's legislative jurisdiction as well as "any matter" within the jurisdiction of the other standing House Committees. The Committee's mandate is to investigate and expose waste, fraud and abuse.

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