

Congress of the United States
Washington, DC 20515

September 10, 2020

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Comptroller General Dodaro:

We request that the Government Accountability Office (GAO) conduct a review of payments made by the Centers for Medicare and Medicaid Services (CMS) to private communications consultants for activities that appear to violate federal law prohibiting the use of taxpayer funds for publicity or propaganda purposes.

Federal appropriations law prohibits the use of appropriated funds “for publicity or propaganda purposes” unless explicitly authorized by Congress.¹ Although CMS is authorized to spend appropriated funds on education and outreach activities relevant to the public health programs it administers, it is not permitted to engage in “self-aggrandizement” or to use appropriated funds to pay “publicity experts” unless explicitly authorized.² Federal appropriations laws also prohibit government employees from using appropriated funds for their personal benefit.³ Violation of these prohibitions also may run afoul of the Antideficiency Act.⁴

On September 10, 2020, after a year-long investigation, the House Committee on Energy and Commerce, House Committee on Oversight and Reform, Senate Committee on Finance Minority, and Senate Committee on Health, Education, Labor, and Pensions Minority issued a staff report on payments made by CMS to private communications consultants in part to boost Administrator Seema Verma’s public profile and burnish her personal brand. The investigation

¹ See, e.g., Consolidated Appropriations Act, 2016, Pub. L. 114-113, Division E, Sec. 718 (“No part of any appropriation contained in this or any other Act shall be used directly or indirectly, including by private contractor, for publicity or propaganda purposes within the United States not heretofore authorized by Congress.”).

² Government Accountability Office, *Principles of Federal Appropriations Law* (Mar. 2016) (online at www.gao.gov/legal/appropriations-law-decisions/red-book) (citing 31 Comp. Gen 311 (1952) at 313); 5 U.S.C. § 3107.

³ Government Accountability Office, *Principles of Federal Appropriations Law* (Mar. 2016) at 3-9, 3-33 (online at www.gao.gov/legal/appropriations-law-decisions/red-book); 31 U.S.C. § 1301(a); Government Accountability Office, Decision No. B-108060, 31 Comp. Gen. 452 (Mar. 5, 1952) (online at www.gao.gov/products/480011#mt=e-report).

⁴ Government Accountability Office, *Principles of Federal Appropriations Law* (Mar. 2016) at 6-79, 6-82-83 (online at www.gao.gov/legal/appropriations-law-decisions/red-book) (“the use of appropriated funds for unauthorized or prohibited purposes violates the Antideficiency Act (absent an alternative funding source) since zero funds are available for that purpose.”); 31 U.S.C. § 1341.

found that CMS paid nearly \$6 million to consultants between June 2017 and April 2019 for work that included arranging profile pieces on Administrator Verma and coordinating private meetings with high-profile individuals and media personalities to expand her network. The staff report is enclosed with this letter.

As documented in the staff report, CMS paid a number of private communications consultants to engage in activities that appear to violate the prohibition against the use of appropriated funds for publicity purposes, as well as the prohibition against the use of publicity experts. Many of the activities performed by these consultants also appear to have personally benefitted Administrator Verma.

For example, one consultant was paid to engage in activities such as booking private meetings for Administrator Verma with media executives or other high-profile individuals—activities that are unconnected to CMS’s public health programs. Many of these activities were laid out by consultants in an “Executive Visibility Proposal,” which described a plan to “highlight and promote Seema Verma leadership and accomplishment” through “a series of targeted media and externally facing opportunities.” At least some of the activities performed by the private communications consultants closely resemble the type of publicity-related activities GAO has previously found to be prohibited.⁵

For these reasons, we request that GAO examine CMS’ and Administrator Verma’s use of private communications consultants between June 2017 and April 2019, including but not limited to the following issues:

1. Whether CMS unlawfully used appropriated funds for publicity or propaganda purposes in violation of federal appropriations law;
2. Whether CMS paid for Administrator Verma’s personal expenses with appropriated funds;
3. Whether the private communications consultants served as unauthorized “publicity experts” and thus are prohibited from being paid with the relevant appropriated funds; and
4. Whether CMS violated the Antideficiency Act.

⁵ See, e.g., Government Accountability Office, Decision No. B-108060, 31 Comp. Gen. 452 (Mar. 5, 1952) (online at www.gao.gov/products/480011#mt=e-report); Government Accountability Office, *Forest Service—Sierra Nevada Forest Plan Amendment Brochure and Video Materials* (Sept. 10, 2004) (online at www.gao.gov/decisions/appro/302992.htm); Government Accountability Office, *Medicare Prescription Drug, Improvement, and Modernization Act of 2003—Use of Appropriated Funds for Flyer and Print and Television Advertisements* (Mar. 10, 2004) (online at www.gao.gov/products/405756#mt=e-repor); Government Accountability Office, *Department of Health and Human Services—Use of Appropriated Funds for Technical Assistance and Television Advertisements* (Oct. 19, 2010); Government Accountability Office, *Department of Health and Human Services—Use of Appropriated Funds for Medicare Brochure* (Sept. 9, 2010); Government Accountability Office, *Department of Health and Human Services—Use of Appropriated Funds for “HealthReform.gov” Web Site and “State Your Support” Web Page* (Apr. 23, 2010); see also Government Accountability Office, *Principles of Federal Appropriations Law* (Mar. 2016) at 3-284 (online at www.gao.gov/legal/appropriations-law-decisions/red-book).

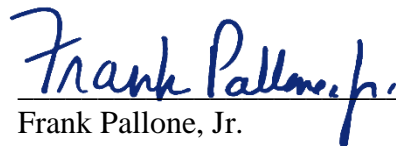
If you have any questions regarding this request, please contact House Committee on Oversight and Reform staff at (202) 225-5051, House Committee on Energy and Commerce staff at (202) 225-2927, Senate Health, Education, Labor, and Pensions Committee Minority staff at (202) 224-2621, and Senate Finance Committee Minority staff at (202) 224-4515.

Thank you for your attention to this matter.

Sincerely,



Carolyn B. Maloney
Carolyn B. Maloney
Chairwoman
House Committee on Oversight and Reform



Frank Pallone, Jr.
Frank Pallone, Jr.
Chairman
House Committee on Energy and
Commerce



Ron Wyden
Ron Wyden
Ranking Member
Senate Committee on Finance



Patty Murray
Patty Murray
Ranking Member
Senate Committee on Health,
Education, Labor, and Pensions

cc: The Honorable James R. Comer, Ranking Member
House Committee on Oversight and Reform

The Honorable Greg Walden, Ranking Member
House Committee on Energy and Commerce

The Honorable Chuck Grassley, Chairman
Senate Committee on Finance

The Honorable Lamar Alexander, Chairman
Senate Committee on Health Education, Labor, and Pensions