

December 22, 2005

MEMORANDUM TO: Luis A. Reyes  
Executive Director for Operations

Elliott Brenner  
Director, Office of Public Affairs

FROM: Stephen D. Dingbaum/RA/  
Assistant Inspector General for Audits

SUBJECT: MEMORANDUM REPORT: AUDIT OF NRC'S  
CONTROLS OVER VIDEO NEWS RELEASES  
(OIG-06-A-05)

As part of the Office of the Inspector General's (OIG) issue area monitoring program, auditors identified an issue that warrants your attention. Auditors determined that NRC does not have controls to achieve compliance with Federal requirements concerning video news releases. Video news releases are complete audiovisual presentations produced by non-news organizations that are intended to be indistinguishable from traditional television news reports.

NRC can prevent the inadvertent or deliberate production of video news releases that do not conform to Federal requirements and might appear to promote the nuclear industry by (1) developing a written policy on video news releases that designates a central authority to enforce this policy and (2) informing all offices involved with audiovisual productions about requirements.

## **BACKGROUND**

In February 2005, the Government Accountability Office (GAO) issued a memorandum titled, "Prepackaged News Stories,"<sup>1</sup> to Federal agency and department heads. This document stated that the Government may not use appropriated funds for publicity or propaganda purposes, and it cautioned that GAO had recently identified several prepackaged news stories produced and

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<sup>1</sup> GAO: B-304272, "Prepackaged News Stories," February 17, 2005.

distributed by certain Federal agencies that violated this prohibition. The violations occurred because each of the agencies failed to provide clear disclosure within the prepackaged news stories that the material was prepared by or in cooperation with their agency.

Prepackaged news stories, also referred to as video news releases, are complete, audiovisual presentations that are intended to be indistinguishable from traditional television news reports. These stories may include actors hired to portray reporters and may be accompanied by scripts suggested to introduce the story for broadcast. These productions are sponsored by such entities as corporations, Government agencies, and non-government organizations, and are sometimes aired, unedited, by television news programs without identification of the original producer or sponsor.

Subsequent to the GAO memorandum, the Office of Management and Budget (OMB) issued two followup memoranda to Federal agency and department heads.<sup>2</sup> The first conveyed OMB's position that GAO was incorrect in viewing the recent Government video news releases as inappropriate. However, the second memorandum reported that following OMB's earlier memo, Congress passed a law stating specifically that no Federal funds may be used by an executive branch agency to produce any prepackaged news story intended for broadcast or distribution in the United States unless the story includes a clear notification within the text or audio that the story was prepared or funded by that executive branch agency.

This topic is of particular importance to NRC because of its responsibility under the Energy Reorganization Act of 1974 to regulate, but not promote, the civilian use of nuclear materials.

## **PURPOSE**

The audit's objective was to determine whether NRC has implemented measures to comply with Federal law concerning the development of video news releases.

## **FINDING**

NRC does not have controls to achieve compliance with Federal law concerning video news releases. Specifically, NRC:

- Does not have a process to ensure that video news releases include the required agency identifier.
- Has not conducted a sufficient review to assess its compliance with this requirement.

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<sup>2</sup> M-05-10, "Use of Government Funds for Video News Releases," March 11, 2005, and M-05-20, "Statutory Provision on Video News Releases," July 21, 2005.

This situation exists because NRC (1) does not have a written policy addressing video news releases that describes the identification requirement and designates a central authority to impose this requirement and (2) did not contact all offices potentially involved with audiovisual productions to communicate the requirement. As a result, NRC risks diminished public confidence by producing an inappropriate video news release that, unmarked, could appear to promote nuclear power.

#### STATUTORY PROVISION ON VIDEO NEWS RELEASES

In May 2005, President Bush signed into law H.R. 1268, the Emergency Supplemental Appropriations for FY 2005, Public Law 109-13. Among other provisions, this law prohibits funds from being used by a Federal agency to produce any prepackaged news story, unless the story includes a clear notification that it was prepared or funded by that Federal agency.

To execute this law, OMB provided guidance concerning the Government's communications with the public. OMB Memorandum M-05-20, dated July 21, 2005, stipulates that Government communications with the public must adhere to the highest legal and ethical standards. The document also requires that Executive Branch agencies must fully comply with applicable laws and should conduct such review as is necessary to ensure that their practices are fully compliant.

#### NRC DOES NOT HAVE CONTROLS TO ACHIEVE COMPLIANCE

NRC does not have controls to achieve compliance with Federal regulations concerning the development of video news releases. Specifically, NRC (1) does not have a process to ensure that video news releases include the required agency identifier and (2) has not conducted a sufficient review to determine whether it is in compliance with this requirement.

NRC communications officials expressed high ethical standards regarding the need to include an agency identifier within video news releases. They stated that NRC has never issued a video news release and does not intend to do so in the future. According to an Office of Public Affairs official, if the agency were ever to produce such a video, the production would be properly identified as to its origin.

However, NRC has no process to ensure that, should an office opt to develop a video news release, the product would include the necessary identifier. NRC communications officials also acknowledged they are not aware of every audiovisual production that NRC offices produce.

Furthermore, NRC conducted an insufficient review to determine whether it is in compliance with the identification requirement. Action taken was limited to communications between the Office of the General Counsel (OGC) and two other agency offices. These communications consisted of OGC's (1) provision of OMB guidance that preceded Public Law 109-13 and the GAO memorandum to the Director, Office of Public Affairs, and (2) discussion between an OGC attorney and the Director of Communications and between the General Counsel and the Director, Office of Public Affairs. During these discussions, OGC was informed that NRC does not produce video news releases.

#### INSUFFICIENT POLICY AND COMMUNICATION

Weaknesses exist in NRC's controls over the production of video news releases because NRC:

- Does not have a written policy specifically addressing video news releases that designates a central authority to enforce this policy.
- Did not contact all offices involved with audiovisual productions to communicate Federal requirements.

#### NO POLICY ON VIDEO NEWS RELEASES

The agency does not have written policies specifically addressing video news releases. OIG identified two management directives that contain relevant information but lack specifics that would ensure that Federal requirements concerning identification are imposed. Furthermore, there is no clear delineation of which office would be responsible for reviewing video news releases to ensure compliance.

Management Directive (MD) 5.5, "Public Affairs Program," issued in 1999, provides NRC's policy and process for preparing and issuing news releases, however, this guidance focuses only on *written* news releases. According to this policy, the Office of Public Affairs is responsible for issuing all NRC news releases and posting them to NRC's external Web site. The document contains no information concerning video news releases.

One objective of MD 3.15, "Audiovisual and Photographic Services," is to preclude the use of such services to promote the agency and to ensure that NRC does not develop audiovisual products used to influence pending legislation, promote product sales, or promote status of various industries. However, this guidance does not address video news releases specifically or offer instruction on the need to include an agency identifier in audiovisual productions.

Furthermore, although MD 3.15 states that the Director, Division of Freedom of Information and Publications Services, Office of Administration, is responsible for approving plans, before obligation of funds, for all audiovisual productions, this review does not occur. The guidance in MD 3.15, published in 1991, is outdated and this position and entity no longer exist. According to an Office of Administration employee, NRC staff do not follow the review requirement, in some cases because they are unaware and in other cases because they do not want to cause project delays.

Another shortcoming with MDs 5.5 and 3.15 is that neither document clearly delineates which office would be responsible for reviewing these productions for compliance with Federal requirements. While the Office of Public Affairs is responsible for providing oversight for print news releases, the Office of Administration is assigned responsibility for reviewing all audiovisual production plans.

#### COMPLIANCE REVIEW WAS INSUFFICIENT

The agency's review for compliance was insufficient because OGC did not contact all offices that could be involved with audiovisual productions to make sure they were aware of Public Law 109-13 requirements. Although OGC's actions provided OGC staff with reassurance that some agency communications officials intend to abide by Federal requirements, this effort does not assure that all offices are aware of the latest requirements. It also does not provide assurance of compliance in the future.

#### UNMARKED VIDEO NEWS RELEASES COULD APPEAR PROMOTIONAL

Due to its lack of controls to achieve compliance with Federal requirements concerning video news releases, NRC risks diminished public confidence should NRC produce an inappropriate video news release that, because it does not include the requisite notification within the text or audio, could appear to promote nuclear power. As part of its regulatory role, NRC is to refrain from promoting any aspect of the nuclear industry.

#### **RECOMMENDATIONS**

OIG recommends that the Director, Office of Public Affairs:

1. Establish a written NRC policy concerning video news releases that defines identification requirements and designates a central authority to verify application of the requirements.
2. Communicate the Federal video news release policy to all NRC offices.

## **SCOPE AND METHODOLOGY**

To accomplish the audit's objective, OIG reviewed MD 5.5 and MD 3.15, NRC public affairs guidance which appears on the NRC Intranet, and Federal guidance pertaining to the development of video news releases. Auditors interviewed the Director of Communications; the Director, Office of Public Affairs; the General Counsel; and Office of Administration staff. This work was conducted from August 2005 through October 2005, in accordance with generally accepted Government auditing standards and included a review of internal controls related to the objective of this audit. The work was conducted by Beth Serepca, Team Leader; Judy Gordon, Audit Manager; Vicki Foster, Sr. Management Analyst; and Christopher Lange, Summer Intern.

Please provide information on the actions taken in response to the recommendations directed to your office by January 31, 2006. Actions taken or planned are subject to OIG followup. See attached for instructions for responding to OIG report recommendations.

If you have any questions or concerns regarding this report, please contact me at 415-5915 or Beth Serepca at 415-5911.

cc: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons

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