



# **Investigation of CMS Administrator Seema Verma's Use of Private Communications Consultants**

**Prepared by the Staffs of 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**

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## EXECUTIVE SUMMARY

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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 (the Committees) conducted a year-long investigation into Centers for Medicare & Medicaid Services (CMS) Administrator Seema Verma's use of taxpayer funds to retain communications consultants with strong Republican political ties.

**The Committees' investigation shows that Administrator Verma and her top aides abused the federal contracting process to stock CMS with handpicked Republican consultants who billed the government hourly rates of up to \$380. In less than two years, Administrator Verma's consultants charged CMS nearly \$6 million for work that included boosting her public profile and personal brand, serving as her preferred communications advisors, arranging private meetings for her with media personalities and other high-profile individuals, and routinely traveling with her to events across the country. By retaining these consultants, Administrator Verma misused funds appropriated by Congress, wasting taxpayer dollars intended to support federal health care programs.**

**The evidence obtained by the Committees expands on the findings of a recent audit conducted by the Department of Health and Human Services (HHS) Office of Inspector General (OIG) and demonstrates that Administrator Verma's expenditures potentially exceeded the scope of CMS's authority under the applicable appropriations. Congress appropriated taxpayer funds to CMS to ensure that Americans have access to and are aware of opportunities to enroll in federal health care programs, including Medicare, Medicaid, and the Affordable Care Act. Congress did not intend for Administrator Verma or other senior CMS officials to use taxpayer dollars to stockpile CMS with handpicked consultants or promote Administrator Verma's public profile and personal brand. Given the reckless disregard she has shown for the public's trust, Administrator Verma should reimburse the taxpayers for these inappropriate expenditures.**

During the course of the investigation, the Committees obtained tens of thousands of pages of documents from HHS and private parties, conducted interviews and briefings with employees and executives from two of the consulting firms used by CMS, and collected additional information from databases, court records, and press reports, among other sources. The Committees' investigation shows:

- **Administrator Verma and her top aides misused federal contracts CMS held with consulting firms to bring handpicked Republican communications consultants into CMS operations.**
  - Administrator Verma's top aides handpicked these consultants, directed CMS employees and consulting firms to retain the consultants, and moved the consultants among various CMS contracts to ensure their services continued uninterrupted. These consultants included Brett O'Donnell, Keith Nahigian, Ken Nahigian, Marcus Barlow, and Pam Stevens.

- **Administrator Verma and her top aides built a shadow operation that sidelined CMS's Office of Communications in favor of the handpicked consultants.**
  - At the direction of Administrator Verma and her top aides, the consultants performed work typically done by CMS communications staff, exercised decision-making authority, and acted as key strategic communications advisors to senior agency officials, including Administrator Verma.
  - Consultants, including one who was awaiting sentencing on a felony conviction for lying to Congress about misuse of taxpayer funds, led communications efforts on major policy initiatives and rollouts and received access to sensitive information on proposed rulemakings, internal plans for anticipated policy rollouts, and other potentially non-public, market-sensitive information.
  - Administrator Verma relied most heavily on consultant Marcus Barlow, who previously served as her spokesperson while she ran a consulting firm in Indiana. The White House reportedly blocked Administrator Verma from appointing Barlow to be CMS's Communications Director due to his public criticism of then-candidate Donald Trump. As a consultant, Barlow billed CMS for hours that approximated those of a full-time employee while charging a rate that would result in more than double the \$179,700 annual salary of CMS's top communications official.
  - Barlow exercised decision-making authority over CMS employees and assumed significant responsibilities for CMS operations. Barlow also received access to CMS facilities and Administrator Verma's social media account, and he was viewed by some CMS employees as official CMS staff.
  
- **Consultants—particularly Pam Stevens—worked to promote Administrator Verma's public profile and personal brand beyond her role as CMS Administrator, while also expanding the Administrator's network.**
  - Within two weeks of starting work for CMS, consultant Pam Stevens circulated a document entitled, "Draft Executive Visibility Proposal Seema Verma." The proposal targeted magazines for potential profile pieces on Administrator Verma, recommended placing the Administrator on high-profile lists of influential people, suggested nominating Administrator Verma for leadership awards, promoted off-the-record meetings between Administrator Verma and media personalities and other high-profile influencers, and identified speaking opportunities that would "[p]osition Seema as the thought-leader she is."
  - Between August 2018 and April 2019, consultants carried out the goals of the Executive Visibility Proposal and secured profile pieces for Administrator Verma in multiple outlets, including *AARP The Magazine*, *Boston Herald*, the *Christian Broadcast Network*, and *Politico's* "Women Rule" podcast. Consultants also secured private meetings between Administrator Verma and editors of *Woman's Day*, *Women's Health Magazine*, and several *Fox News* hosts and contributors while she was in New York City on official CMS travel.
  - While working as a taxpayer-paid consultant, Stevens coordinated directly with the Republican National Committee (RNC) to amplify positive media coverage of Administrator Verma through the RNC's "War Room" mailing list.

- Stevens also sought to arrange private meetings for Administrator Verma with high-profile individuals, including decisionmakers in the press and politically connected individuals. Stevens attempted to secure a meeting for Administrator Verma with former Secretary of State Condoleezza Rice, and she coordinated directly with the White House to schedule a meeting between the Administrator and then-White House Communications Director Bill Shine.
- **Administrator Verma's consultants charged CMS nearly \$6 million in less than two years.**
  - Consultants charged hourly rates ranging from approximately \$124 up to approximately \$380.
  - Pam Stevens billed tens of thousands of dollars for work seemingly unconnected to official CMS activities. Instead, it appears that much of Stevens's work was primarily intended to promote Administrator Verma's public profile and personal brand and to expand Administrator Verma's network.
  - Certain consultants also engaged in questionable billing practices, including submitting backdated time entries and vague descriptions that failed to justify the number of hours purportedly spent on CMS tasks.
  - Administrator Verma also used consultants for logistical tasks during official CMS travel, such as driving and event labor, for which they charged between \$124 and \$203 per hour. Consultants submitted reimbursements for significant expenses related to CMS travel and accommodations, including for hotel rooms that cost more than \$500 per night, hundreds of dollars above the government per diem.
- **After CMS issued a stop-work order in April 2019, consulting firm Porter Novelli continued working for CMS under other task orders to pitch profile pieces on Administrator Verma to media outlets, including lifestyle magazines targeted in Pam Stevens's Executive Visibility Proposal.**
- **OIG issued an audit on July 16, 2020 (OIG Audit) containing findings consistent with the Committees' investigation and concluding that CMS violated federal contracting requirements. The OIG Audit, which was requested by the Committees, found:**
  - Administrator Verma and senior CMS officials allowed consultant Marcus Barlow to perform inherently governmental functions, such as making managerial decisions and directing CMS employees, thereby violating the Federal Acquisition Regulation (FAR).
  - CMS improperly administered certain contracts it held with consulting firms as personal services contracts. In doing so, CMS officials exerted a level of control over the consultants' work that created an improper employer-employee relationship, exceeding what was permissible under the contracts.
  - CMS did not comply with the FAR and other federal requirements in managing contract deliverables, approving the use of a subcontractor, maintaining complete working files, and paying questionable costs.

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## I. BACKGROUND ON CMS AND THE COMMITTEES' INVESTIGATION

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The Centers for Medicare & Medicaid Services (CMS) is an operating division within the U.S. Department of Health and Human Services (HHS). CMS is charged with overseeing the country's two largest federal health care programs—Medicare and Medicaid—in addition to the Children's Health Insurance Program (CHIP) and the Affordable Care Act (ACA) health insurance exchanges.<sup>1</sup> More than 145 million Americans rely on health care programs administered by CMS.<sup>2</sup> The agency is led by the CMS Administrator—a presidential appointee requiring Senate confirmation who oversees a \$1 trillion budget and more than 4,000 federal employees.<sup>3</sup>

CMS is composed of various offices that manage and execute specific agency functions.<sup>4</sup> Overseeing all offices within CMS is the Office of the Administrator, which consists of senior staff who support the Administrator's policy agenda.<sup>5</sup> The Office of the Administrator, among other responsibilities, plans, coordinates, and implements the various federal programs that fall under CMS's jurisdiction and oversees the development of associated goals, objectives, policies, standards, and guidelines.<sup>6</sup> The Office of the Administrator is typically staffed by a mix of political appointees and career civil servants.<sup>7</sup>

CMS's Office of Communications is designed to serve as "CMS's focal point for internal and external strategic and tactical communications" and as "senior advisor to the Administrator in all activities related to the media."<sup>8</sup> During the Trump Administration, the Office of Communications has consistently employed more than 200 individuals, the vast majority of whom are career civil servants.<sup>9</sup> The Office of Communications is led by a politically appointed Director whose annual salary was \$179,700 in 2016.<sup>10</sup>

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<sup>1</sup> *Department of Health and Human Services, Centers for Medicare & Medicaid Services, Fiscal Year 2021 Justification of Estimates for Appropriations Committees*, U.S. Department of Health and Human Services at 1 (Feb. 3, 2010) (online at <https://www.cms.gov/About-CMS/Agency-Information/PerformanceBudget/FY2021-CJ-Final.pdf>) (hereinafter, CMS, FY 2021 Congressional Budget Justification).

<sup>2</sup> CMS, FY 2021 Congressional Budget Justification at 1.

<sup>3</sup> CMS, FY 2021 Congressional Budget Justification at 216; *HHS, FY 2021 Budget in Brief*, U.S. Department of Health and Human Services (Feb. 20, 2020) (online at <https://www.hhs.gov/sites/default/files/fy-2021-budget-in-brief.pdf>).

<sup>4</sup> CMS, FY 2021 Congressional Budget Justification at iii.

<sup>5</sup> CMS, FY 2021 Congressional Budget Justification at iii.

<sup>6</sup> *Office of the Administrator*, CMS.gov (Apr. 23, 2020) (online at [https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office\\_OA](https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office_OA)).

<sup>7</sup> *Policy and Supporting Positions, S. PRT. 114–26*, U.S. Senate Committee on Homeland Security and Government Affairs, at 66-67 (2016) (online at <https://www.govinfo.gov/content/pkg/GPO-PLUMBOOK-2016/pdf/GPO-PLUMBOOK-2016.pdf>) (hereinafter, *The Plum Book* (2016)).

<sup>8</sup> *Office of Communications*, CMS.gov (July 1, 2020) (online at [https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office\\_OC](https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office_OC)).

<sup>9</sup> *Department of Health and Human Services, Centers for Medicare & Medicaid Services, Fiscal Year 2018 Justification of Estimates for Appropriations Committees*, U.S. Department of Health and Human Services (May 1, 2017) (online at <https://www.cms.gov/About-CMS/Agency-Information/PerformanceBudget/Downloads/FY2018-CJ-Final.pdf>); CMS, FY 2021 Congressional Budget Justification at 215.

<sup>10</sup> *The Plum Book* (2016), at 67; *Mary Jane O. Norris*, ProPublica Trump Town, accessed Aug. 24, 2020 (Sept. 25, 2017) (online at <https://projects.propublica.org/trump-town/staffers/maryjane-o-norris>).

Seema Verma was confirmed as CMS Administrator on March 13, 2017.<sup>11</sup> Approximately two years later, press accounts reported that Administrator Verma and her top aides had been directing millions of taxpayer dollars to private Republican communications consultants to help shape CMS's public relations strategy, boost the Administrator's public profile, and burnish her personal brand.<sup>12</sup> Within several days of the press reports, CMS issued a stop-work order pending an HHS investigation and an audit conducted by the HHS Office of Inspector General (OIG), which was opened at the request of 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 (the Committees).<sup>13</sup>

Following the press reports, the Committees launched a separate investigation into these allegations.<sup>14</sup> During the course of the investigation, the Committees obtained almost 30,000 pages of documents, approximately 10,000 pages from HHS,<sup>15</sup> as well as nearly 20,000 pages from the following six companies and individuals who performed consulting work for CMS between June 2017 and April 2019: Weber Shandwick, Deloitte, Porter Novelli, Brett O'Donnell, Nahigian Strategies, and Pam Stevens. The Committees also conducted transcribed interviews with two employees of Porter Novelli and received a briefing from the Executive Vice President of Nahigian Strategies regarding the company's work for CMS during Administrator Verma's tenure.<sup>16</sup>

On July 16, 2020, OIG released an audit (OIG Audit), which examined three CMS contracts involving private communications consultants.<sup>17</sup> The OIG Audit found that CMS violated federal regulations, including by creating an improper employer-employee relationship between CMS officials and certain consultants, allowing a consultant to perform inherently governmental functions, and paying questionable costs associated with the use of these consultants.<sup>18</sup>

The Committees' investigation corroborated much of what was reported in the press and documented in the OIG Audit, and revealed additional details that demonstrate how Administrator

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<sup>11</sup> PN49 – Seema Verma – Department of Health and Human Services, CONGRESS.gov (Mar. 13, 2017) (online at <https://www.congress.gov/nomination/115th-congress/49?q=%7B%22search%22%3A%5B%22verma%22%5D%7D&s=2&r=1>).

<sup>12</sup> *Exclusive: Key Trump Health Official Spends Millions on GOP-Connected Consultants*, Politico (Mar. 29, 2019) (online at <https://www.politico.com/story/2019/03/29/seema-verma-contracts-1306652>) (hereinafter, *Key Trump Health Official Spends Millions on GOP-Connected Consultants*).

<sup>13</sup> *Health Department Suspends Contracts with GOP-Linked Consultants*, Politico (Apr. 3, 2019) (online at <https://www.politico.com/story/2019/04/03/health-department-suspends-contracts-with-gop-linked-consultants-1320648>); Letter from Chairman Frank Pallone Jr., House Committee on Energy and Commerce, Chairman Elijah Cummings, House Committee on Oversight and Reform, Ranking Member Ron Wyden, Senate Committee on Finance, Ranking Member Patty Murray, Senate Committee on Health, Education, Labor, and Pensions, to Administrator Seema Verma (Mar. 29, 2019) (online at [energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/CMS.2019.3.29.pdf](https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/CMS.2019.3.29.pdf)).

<sup>14</sup> *Key Trump Health Official Spends Millions on GOP-Connected Consultants*.

<sup>15</sup> In a December 17, 2019 letter, the Committees requested that HHS prioritize the production of Administrator Verma's emails. While the Committees received a production that contained some of Administrator Verma's emails, HHS informed the Committees in early 2020 that it had located another set of Administrator Verma's "official emails" that it had not yet produced to the Committees. HHS failed to produce these emails prior to the release of this report. Additionally, HHS included a significant number of duplicative documents within the approximately 10,000 pages of documents it produced to the Committees.

<sup>16</sup> The Committees conducted a transcribed interview of Porter Novelli employee Kendra Kojcsich on December 18, 2019, and of former Porter Novelli employee Laura Wotycha on January 28, 2020. The Committees received a briefing from Ken Nahigian of Nahigian Strategies on March 4, 2020.

<sup>17</sup> *CMS Did Not Administer and Manage Strategic Communications Services Contracts in Accordance with Federal Requirements*, Department of Health and Human Services, Office of Inspector General (July 2020) (online at <https://oig.hhs.gov/oas/reports/region12/121920003.pdf>) (hereinafter, OIG Audit).

<sup>18</sup> OIG Audit at 10.

Verma and her top aides abused the federal contracting process to Administrator Verma's benefit and wasted millions of taxpayer dollars.

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## II. ADMINISTRATOR VERMA AND HER TOP AIDES MISUSED FEDERAL CONTRACTS TO BRING HANDPICKED REPUBLICAN COMMUNICATIONS CONSULTANTS INTO CMS OPERATIONS

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Under Administrator Verma’s leadership, top officials in the Office of the Administrator used contracts CMS held with multiple consulting firms to retain handpicked communications consultants<sup>19</sup> with strong Republican political ties and structured the consultants’ involvement to ensure they would directly assist the Administrator’s office.

### A. CMS Entered into Agreements with Multiple Consulting Firms During Administrator Verma’s Tenure at CMS

Like other government agencies, CMS enters into contracts with private entities to support its programmatic work. For example, CMS has contracted with consulting firms to promote its policy goals, such as enrollment in government health care programs like Medicare and the ACA health insurance exchanges. CMS’s contracts with consulting firms generally do not specify exact projects to be performed. Rather, CMS often uses Indefinite Delivery, Indefinite Quantity contracts to enter into subsequent project-specific agreements, known as task orders, on an as-needed basis.

After Seema Verma became CMS Administrator in March 2017, CMS entered into the following agreements with consulting firms:

- A June 2017 task order with Deloitte to provide strategic communications support (Deloitte agreement).<sup>20</sup>
- Modified a task order with Porter Novelli<sup>21</sup> in September and December 2017 to conduct a listening tour and perform strategic communications services (2017 Porter Novelli agreement).<sup>22</sup>
- An August 2018 task order with Porter Novelli to provide further strategic communications services (2018 Porter Novelli agreement).<sup>23</sup>

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<sup>19</sup> For the purposes of this report, “consultants” collectively refers to individuals who performed communications services for CMS during Seema Verma’s tenure as Administrator as either independent contractors, subcontractors, or employees of a prime contractor working for CMS.

<sup>20</sup> Amendment of Solicitation/Modification of Contract issued by Department of Health and Human Services to Deloitte Consulting LLP (June 15, 2017) (DC000022 – DC0000030) (Exhibit 1).

<sup>21</sup> Order for Supplies or Services issued by Department of Health and Human Services to Porter Novelli Public Services, Inc. (Sept. 15, 2015) (CR05189 – CR05260) (Exhibit 2).

<sup>22</sup> Amendment of Solicitation/Modification of Contract issued by Department of Health and Human Services to Porter Novelli Public Services, Inc. (Dec. 7, 2015) (CR05323 – CR05324) (Exhibit 3); Transcribed Interview of Kendra Kojcsich (Dec. 18, 2019), at 1062-1088 (hereinafter, Kojcsich Interview).

<sup>23</sup> Order for Supplies or Services issued by Department of Health and Human Services to Porter Novelli Public Services, Inc. (Aug. 31, 2018) (CumCMS-0000001 – CumCMS-0000065) (Exhibit 4); Amendment of

In addition to these agreements, during Administrator Verma's tenure CMS used an existing contract it held with consulting firm Weber Shandwick to retain a consultant (Weber Shandwick agreement).<sup>24</sup>

## **B. The Office of the Administrator Was Directly Involved in Retaining Handpicked Consultants with Strong Republican Political Ties**

Documents obtained by the Committees indicate that the Office of the Administrator handpicked specific consultants with strong Republican political ties, directed CMS employees and consulting firms to onboard these consultants under CMS agreements, and moved the consultants among various CMS contracts as necessary to ensure their services continued uninterrupted.

### **1. Brett O'Donnell**

Brett O'Donnell is a veteran political operative with a long history of advising Republican politicians and national campaigns, serving as Chief Strategist to Michelle Bachmann's presidential campaign and Director of Messaging for John McCain's 2008 presidential campaign.<sup>25</sup> O'Donnell continues to play a prominent role in Republican politics today.<sup>26</sup> In the 2018 campaign cycle, during which O'Donnell was consulting for CMS, Federal Election Commission (FEC) records show his firm, O'Donnell and Associates, received payments totaling more than \$236,000 from Republican congressional campaigns and affiliated political action committees.<sup>27</sup>

Court documents show that O'Donnell was awaiting sentencing for a felony conviction during the entirety of the time he consulted for CMS.<sup>28</sup> O'Donnell pleaded guilty in 2015 to a felony charge of making false statements to the Office of Congressional Ethics as part of an investigation into the misuse of taxpayer funds.<sup>29</sup> O'Donnell was sentenced by a federal judge in August 2018 to two years of probation and a \$10,000 fine.<sup>30</sup>

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Solicitation/Modification of Contract issued by Department of Health and Human Services to Porter Novelli Public Services, Inc. (Dec. 14, 2018) (CumCMS-000066 – CumCMS-0000107) (Exhibit 5).

<sup>24</sup> Email from Christopher Koepke to Brett O'Donnell and [Weber Shandwick] (June 16, 2017) (ODA005866 – ODA005867, at ODA005866) (Exhibit 6); Email from Karen Jackson to Brett O'Donnell (June 1, 2017) (ODA6144) (Exhibit 7); Public Voucher for Purchases and Services Other Than Personal, Centers for Medicare & Medicaid Services for CMGRP, Inc. D/B/A Weber Shandwick (July 25, 2017) (WS0110 – WS0129) (Exhibit 8).

<sup>25</sup> Memorandum from Brett O'Donnell to Kendra Kojcsich (Feb. 5, 2018) (PalCMS-0000228 – PalCMS-0000230) (Exhibit 9).

<sup>26</sup> See *GOP Memo Urges Anti-China Assault over Coronavirus*, Politico (Apr. 24, 2020) (online at <https://www.politico.com/news/2020/04/24/gop-memo-anti-china-coronavirus-207244>); *Pompeo Quietly Visits Conservative Donors and Political Figures on State Dept. Trips*, The New York Times (May 21, 2020) (online at <https://www.nytimes.com/2020/05/21/us/politics/mike-pompeo-inspector-general.html>).

<sup>27</sup> Federal Election Commission disbursement database (FEC), accessed Aug. 24, 2020 (online at <https://bit.ly/3jmgMXp>).

<sup>28</sup> See *United States v. O'Donnell*, No. 5:15-CR-00034-MTT-CHW (M.D. Ga. Sept. 17, 2018).

<sup>29</sup> *United States v. O'Donnell*, No. 5:15-CR-00034-MTT-CHW (M.D. Ga. Sept. 17, 2018); *Chief of Staff for Former Federal Congressman Convicted for Obstructing Congressional Investigation*, Press Release, U.S. Department of Justice (Mar. 23, 2018) (online at <https://www.justice.gov/opa/pr/chief-staff-former-federal-congressman-convicted-obstructing-congressional-investigation>); *Political Consultant Pleads Guilty in Middle District of Georgia in Ethics Investigation*, Macon Telegraph (Sept. 4, 2015) (online at <https://www.macon.com/news/politics-government/article34097001.html>).

<sup>30</sup> *United States v. O'Donnell*, No. 5:15-CR-00034-MTT-CHW (M.D. Ga. Sept. 17, 2018).

During his time consulting for CMS, O'Donnell worked under both the Weber Shandwick and Deloitte agreements.<sup>31</sup> Documents obtained by the Committees reveal that the Office of the Administrator specifically sought out O'Donnell's services and actively searched for a contract vehicle through which he could consult for CMS:

- On May 30, 2017, Brian Colas, Administrator Verma's then-Chief of Staff, connected O'Donnell via email to CMS's then-Chief Operating Officer Karen Jackson and informed her that "we would like to contract with [O'Donnell] for speechwriting & comms advising."<sup>32</sup>
- Days later, Jackson contacted O'Donnell to inform him that they were "working on identifying the contract vehicle through which we will be making arrangement."<sup>33</sup>
- O'Donnell was subsequently contacted by Weber Shandwick, after which he emailed Jackson on June 6, 2017, "to check in and make sure that was initiated by you and that [it] is the mechanism you would like to use for my work with you."<sup>34</sup> Jackson responded that it was.<sup>35</sup>
- On June 12, 2017, O'Donnell instructed Weber Shandwick to "speak to Brian Colas" to confirm that Weber Shandwick's offer letter to O'Donnell aligned with CMS's expectations for the term of his employment.<sup>36</sup>

Weber Shandwick hired O'Donnell as a temporary hourly employee in June 2017, allowing him to consult for CMS under its Weber Shandwick agreement.<sup>37</sup>

By September 2017, O'Donnell had stopped consulting for CMS as an employee of Weber Shandwick and began consulting under CMS's Deloitte agreement.<sup>38</sup> According to the OIG Audit, Administrator Verma's Deputy Chief of Staff, Brady Brookes, was actively involved in O'Donnell's transition to the Deloitte agreement, personally recommending O'Donnell to Deloitte and directing the number of hours O'Donnell should work under the Deloitte agreement.<sup>39</sup>

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<sup>31</sup> Email from Christopher Koepke to Brett O'Donnell and [Weber Shandwick] (June 16, 2017) (ODA005866 – ODA005867, at ODA005866) (Exhibit 6); Public Voucher for Purchases and Services Other Than Personal, Centers for Medicare & Medicaid Services for CMGRP, Inc. D/B/A Weber Shandwick (July 25, 2017) (WS0110 – WS0129) (Exhibit 8); Consulting Services Agreement between Deloitte Consulting LLP and O'Donnell and Associates (Oct. 25, 2017) (DC0000105 – DC0000138) (Exhibit 10).

<sup>32</sup> Email from Karen Jackson to Brett O'Donnell (June 6, 2017) (ODA006138 – ODA006139, at ODA006138) (Exhibit 11).

<sup>33</sup> Email from Karen Jackson to Brett O'Donnell (June 1, 2017) (ODA006144) (Exhibit 7).

<sup>34</sup> Email from Karen Jackson to Brett O'Donnell (June 6, 2017) (ODA006138 – ODA006139, at ODA006138) (Exhibit 11).

<sup>35</sup> Email from Karen Jackson to Brett O'Donnell (June 6, 2017) (ODA006138 – ODA006139, at ODA006138) (Exhibit 11).

<sup>36</sup> Email from [Weber Shandwick] to Brett O'Donnell (June 12, 2017) (ODA005962 – ODA005964, at ODA005962) (Exhibit 12).

<sup>37</sup> Email from Christopher Koepke to Brett O'Donnell and [Weber Shandwick] (June 16, 2017) (ODA005866 – ODA005867, at ODA005866) (Exhibit 6); Public Voucher for Purchases and Services Other Than Personal, Centers for Medicare & Medicaid Services for CMGRP, Inc. D/B/A Weber Shandwick (July 25, 2017) (WS0110 – WS0129) (Exhibit 8).

<sup>38</sup> Consulting Services Agreement between Deloitte Consulting LLP and O'Donnell and Associates (Oct. 25, 2017) (DC0000105 – DC0000138, at DC0000121) (Exhibit 10).

<sup>39</sup> OIG Audit at 27.

After CMS apparently reached the ceiling price in the Deloitte agreement, documents indicate Brookes actively searched for another contract vehicle that would allow O'Donnell to continue consulting for CMS. Internal CMS emails show that Brookes spoke with O'Donnell in November 2017 about moving his work to CMS's 2017 Porter Novelli agreement.<sup>40</sup> Although Brookes instructed CMS staff to follow up with Porter Novelli in December 2017 to begin the process of engaging O'Donnell, Porter Novelli did not bring him on as a consultant, and his work for CMS appears to have ended in February 2018.<sup>41</sup>

## 2. Nahigian Strategies and Marcus Barlow

Nahigian Strategies is a consulting firm run by two brothers, Keith and Ken Nahigian, who have significant experience working on Republican political causes. Keith Nahigian has consulted for several GOP presidential campaigns, and Ken Nahigian temporarily led Donald Trump's presidential transition team.<sup>42</sup> FEC records show that the Committee on Arrangements for the 2020 Republican National Convention paid Nahigian Strategies more than \$200,000 for the 2020 election cycle in connection with planning the party's convention.<sup>43</sup>

Nahigian Strategies, which had served as a contractor for CMS in prior administrations, began providing consulting services to CMS during Administrator Verma's tenure under CMS's Deloitte agreement and continued consulting for CMS under both the 2017 and 2018 Porter Novelli agreements.<sup>44</sup> Documents indicate that Brookes was particularly focused on ensuring

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<sup>40</sup> Email from Brady Brookes to Mary Wallace (Nov. 29, 2017) (PalCMS-0000238 – PalCMS-0000239, at PalCMS-0000239) (Exhibit 13).

<sup>41</sup> Email from Brady Brookes to Brett O'Donnell (Dec. 14, 2017) (ODA004702) (Exhibit 14); Email from Johnathan Monroe to Brady Brookes (Feb. 9, 2018) (PalCMS-0000212 – PalCMS-000222, at PalCMS-0000212) (Exhibit 15); Independent Consulting Agreement Modification between Deloitte Consulting LLP and O'Donnell and Associates (Feb. 13, 2018) (DC0000141) (Exhibit 16). Although Porter Novelli spoke with O'Donnell and considered bringing him on as an independent contractor, it declined to do so because of ethical concerns about him. Kojcsich Interview at 2357-2365.

<sup>42</sup> *Key Trump Health Official Spend Millions on GOP-Connected Consultants*; Nahigian Strategies CMS Listening Tour 2017 Proposal (Nahigian-0020 – Nahigian-0031) (Exhibit 17).

<sup>43</sup> FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/2QnngbX>).

<sup>44</sup> Email from Laura Wotycha to Ken Nahigian and Kendra Kojcsich attaching Subcontract Agreement between Porter Novelli Services, Inc. and Nahigian Strategies (Aug. 21, 2018) (Nahigian-00097 – Nahigian-00115) (Exhibit 18); Email from Laura Wotycha to Ken Nahigian attaching Subcontract Agreement between Porter Novelli Public Services, Inc. and Nahigian Strategies (Feb. 15, 2019) (Nahigian-00164 – Nahigian-00180) (Exhibit 19); Subcontract Agreement between Deloitte Consulting LLP and Nahigian Strategies (July 19, 2017) (DC0000064 – DC0000099) (Exhibit 20). The subcontract between Nahigian Strategies and Porter Novelli for the 2018 Porter Novelli agreement includes several Republican political operatives who were expected to provide “ongoing monthly support” or support for specific events one to two times a month. These consultants included Brad Rateike, who worked on the Trump campaign, Trump transition team, as a White House communications official, and for Indiana Governor Mitch Daniels (FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/3gl01K3>); *BAR Communications*, accessed Aug. 24, 2020 (online at <https://www.barcommunications.com/index.html#team>)); Charlie Szold, who worked on multiple congressional campaigns, for the Trump presidential campaign, and as a deputy director of the Iowa Republican Party (FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/3heq7Qi>); *Bios*, Blue Zone Partners, accessed Aug. 24, 2020 (online at <http://bluezonepartners.com/bios/>)); Kolby Dewitt, who worked for the Trump presidential campaign, congressional campaigns dating back to 2012, and was named a district representative for Rep. Steve King in 2018 (FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/2YjyBxU>); *King Announces Hiring of Sioux City Native, Kolby DeWitt*, Press Release, Office of Congressman Steve King (Feb. 7, 2018) (online at <https://steveking.house.gov/media-center/press-releases/king-announces-hiring-of-sioux-city-native-kolby-dewitt>)); Chris Godbey, who consulted for the Trump presidential campaign, has worked for other Republican causes—including congressional campaigns, presidential campaigns, and a political action committee—and currently works as a senior communications advisor at the Government Services Administration (FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/325cpJ2>); *Chris Godbey*, LinkedIn, accessed Aug. 24, 2020 (online at

that Keith and Ken Nahigian and Danielle Hagen—the firm’s then-Communications Director and a former spokesperson for the Trump presidential transition team<sup>45</sup>—would be able to provide “national media pitching for [the] Administrator” and “strategic communications consultation” services under the 2018 Porter Novelli agreement.<sup>46</sup> Nahigian Strategies continued consulting for CMS under its 2018 Porter Novelli agreement until April 2019.<sup>47</sup>

Officials in the Administrator’s office also showed particular interest in retaining the services of then-Nahigian Strategies employee Marcus Barlow,<sup>48</sup> whom Ken Nahigian first met in Washington, D.C. during preparation sessions for Administrator Verma’s Senate confirmation hearing.<sup>49</sup> Barlow is a Republican strategist from Indiana who served as Administrator Verma’s spokesperson while she ran a health care consulting firm in Indianapolis.<sup>50</sup> According to press reports, Administrator Verma sought to hire Barlow as CMS’s Communications Director, but the White House blocked Barlow because of an article he wrote criticizing then-candidate Donald Trump.<sup>51</sup> Nahigian Strategies hired Barlow in March 2017—the same month Administrator Verma was confirmed—and named him Vice President of Communications, allowing Barlow to consult for CMS through Nahigian Strategies’s subcontracts with Deloitte

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<https://www.linkedin.com/in/chrisgodbey/>); Joe Fadness, who has worked for presidential and Senate campaigns, the Wisconsin Republican Party, the Bush White House, and currently runs a Wisconsin political communications firm (FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/2E6Rbm0>)); *About the Team*, Franklin Strategy, accessed Aug. 24, 2020 (online at <https://www.franklinstrategy.com/>); Zachary Lamb, who worked for the Trump presidential campaign and has worked on Republican campaigns and for party organizations since 2010 (FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/312fJX>)); *Trump Allies Received Hundreds of Thousands of Dollars Under Federal Health Contract*, Politico (Nov. 11, 2019) (online at <https://www.politico.com/states/florida/story/2019/11/11/trump-allies-received-hundreds-of-thousands-of-dollars-under-federal-health-contract-1226771>)). The subcontract between Nahigian Strategies and Porter Novelli for the 2017 Porter Novelli agreement provides for 50 hours of speechwriting work at approximately \$160 an hour—more than \$8,000 over the course of the contract—by John McConnell and Matthew Scully, who were described as former senior speechwriters in the Bush White House. Email from Laura Wotycha to Ken Nahigian and Kendra Kojcsich attaching Subcontract Agreement between Porter Novelli Services, Inc. and Nahigian Strategies (Aug. 21, 2018) (Nahigian-00097 – Nahigian-00115) (Exhibit 18).

<sup>45</sup> Nahigian Strategies CMS Listening Tour 2017 Proposal (Nahigian-0020 – Nahigian-0031, at Nahigian-0025 – Nahigian-0026) (Exhibit 17); *see, e.g., Trump Readies War Room to Defend Cabinet Picks*, Politico (Dec. 26, 2016) (online at <https://www.politico.com/story/2016/12/trump-cabinet-picks-war-room-rapid-response-232940>); *Trump Meeting with Former Ford CEO Alan Mulally*, Detroit News (Dec. 8, 2016) (online at <https://www.detroitnews.com/story/business/autos/2016/12/08/mulally-trump/95157076/>).

<sup>46</sup> Email from Mary Wallace to Christopher Koepke and Laura Salerno (Sept. 6, 2018) (PalCMS-0000278 – PalCMS-0000279) (Exhibit 21).

<sup>47</sup> Email from Thomas Corry to Mary Wallace et al. (Apr. 5, 2019) (PalCMS-0007571) (Exhibit 22); Letter from Debra Hoffman to Laura Wotycha (Apr. 3, 2019) (CR00614) (Exhibit 23).

<sup>48</sup> Email from Brady Brookes to Mary Wallace (Nov. 28, 2017) (PalCMS-0000238 – PalCMS-0000239, at PalCMS-0000239) (Exhibit 13).

<sup>49</sup> Briefing with Nahigian Strategies (Mar. 4, 2020); OIG Audit at 26.

<sup>50</sup> *Top Trump Health Official Spent \$3 Million on Contractors Who Helped Boost Her Visibility*, Washington Post (Nov. 20, 2019) (online at [https://www.washingtonpost.com/health/top-trump-health-official-spent-3-million-on-consultants-who-helped-boost-her-visibility/2019/11/20/67c342c2-0ae8-11ea-97ac-a7ccc8dd1ebc\\_story.html](https://www.washingtonpost.com/health/top-trump-health-official-spent-3-million-on-consultants-who-helped-boost-her-visibility/2019/11/20/67c342c2-0ae8-11ea-97ac-a7ccc8dd1ebc_story.html)) (hereinafter, *Top Trump Health Official Spent \$3 Million on Contractors*); *see also* Porter Novelli Public Services Responses LRF #181263 (Aug. 15, 2018) (PalCMS-0009600 – PalCMS-0009639, at PalCMS-00009615 – PalCMS-00009617) (Exhibit 24).

<sup>51</sup> *Top Trump Health Official Spent \$3 Million on Contractors*.

and Porter Novelli.<sup>52</sup> Documents reflect that Brookes personally spoke with Barlow about transitioning him among CMS contracts.<sup>53</sup>

Barlow left Nahigian Strategies in September 2018 but continued consulting for CMS through his own firm, Integritas Strategies, under CMS's 2018 Porter Novelli agreement until April 2019.<sup>54</sup>

### 3. Pam Stevens

Pam Stevens is a media advisor who is recognized for specializing in setting up profiles of Republican women.<sup>55</sup> Stevens has extensive experience working in Republican politics, including with both the 2012 and 2016 Republican National Conventions, the House Republican Conference, the George W. Bush Administration, and the Donald Trump Administration.<sup>56</sup> More recently, FEC records show that her firm, Pam Stevens Media, has been paid more than \$128,000 to help plan the 2020 Republican National Convention.<sup>57</sup>

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<sup>52</sup> *Key Trump Health Officials Spend Millions on GOP-Connected Consultants*; Porter Novelli Public Services Responses LRF #181263 (Aug. 15, 2018) (PalCMS-0009600 – PalCMS-0009639, at PalCMS-00009615 – PalCMS-00009617) (Exhibit 24); *see also* Email from Laura Wotyca to Ken Nahigian and Kendra Kojcsich attaching Subcontract Agreement between Porter Novelli Services, Inc. and Nahigian Strategies (Aug. 21, 2018) (Nahigian-0097 – Nahigian-0115, at Nahigian-0115) (Exhibit 18); Invoice from Nahigian Strategies to Deloitte for October 2017 (Nov. 6, 2017) (DC0000142 – DC0000143) (Exhibit 25); Invoice from Nahigian Strategies to Deloitte for November 2017 (Dec. 6, 2017) (DC0000144 – DC0000145) (Exhibit 26); Invoice from Nahigian Strategies to Deloitte for June 2017 (July 28, 2017) (DC0000146 – DC0000147) (Exhibit 27); Invoice from Nahigian Strategies to Deloitte for July 2017 (Aug. 2, 2017) (DC0000148 – DC0000149) (Exhibit 28); Invoice from Nahigian Strategies to Deloitte for August 2017 (Sept. 11, 2017) (DC0000150 – DC0000151) (Exhibit 29); Invoice from Nahigian Strategies to Deloitte for September 2017 (Oct. 5, 2017) (DC0000152 – DC0000153) (Exhibit 30).

<sup>53</sup> Email from Brady Brookes to Mary Wallace (Nov. 28, 2017) (PalCMS-0000238 – PalCMS-0000239, at PalCMS-0000239) (Exhibit 13).

<sup>54</sup> Briefing with Nahigian Strategies (Mar. 4, 2020); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Oct. 16, 2018) (PalCMS-0000108 – PalCMS-0000114, at PalCMS-0000112) (Exhibit 31); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 28, 2018) (PalCMS-0000115 – PalCMS-0000127, at PalCMS-0000119) (Exhibit 32); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Dec. 12, 2018) (PalCMS-0000128 – PalCMS-0000134, at PalCMS-0000132) (Exhibit 33); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000161, at PalCMS-0000139) (Exhibit 34); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 28, 2019) (PalCMS-0000188 – PalCMS-0000200, at PalCMS-0000192) (Exhibit 35); Email from Thomas Corry to Mary Wallace et al. (Apr. 5, 2019) (PalCMS-0007571) (Exhibit 22); Letter from Debra Hoffman to Laura Wotyca (Apr. 3, 2019) (CR00614) (Exhibit 23); Email from Marcus Barlow to Kendra Kojcsich (Sept. 24, 2018) (CR01878 – CR01880) (Exhibit 36); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 27, 2020) (CR06994 – CR07003, at CR06998) (Exhibit 37).

<sup>55</sup> *Key Trump Health Official Spends Millions on GOP-Connected Consultants*.

<sup>56</sup> Porter Novelli Public Services Responses LRF #181263 (PalCMS-0009600 – PalCMS-0009639, at PalCMS-0009618 – PalCMS-0009620) (Exhibit 24); *Trump Allies Received Hundreds of Thousands of Dollars under Federal Health Contract*, Politico (Nov. 11, 2019) (online at <https://www.politico.com/states/florida/story/2019/11/11/trump-allies-received-hundreds-of-thousands-of-dollars-under-federal-health-contract-1226771>).

<sup>57</sup> FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/3hrEEZ3>).

The OIG Audit identified that Administrator Verma had a previous personal relationship with Stevens and recommended Stevens’s involvement with CMS.<sup>58</sup> Further, emails obtained by the Committees show that top officials in the Administrator’s office specifically sought out Stevens’s services and initiated her engagement with Porter Novelli. Deputy Chief of Staff Brady Brookes contacted an official in CMS’s Office of Communications on July 23, 2018, to discuss a “new contract action” involving Stevens, providing the official with Stevens’s phone number and requesting information on next steps.<sup>59</sup>

Soon after, officials in the Office of Communications coordinated with Porter Novelli to place Stevens under CMS’s 2018 Porter Novelli agreement.<sup>60</sup> Documents indicate that Brookes maintained close involvement throughout Stevens’s hiring and onboarding:

- One day after raising the prospect of Stevens’s “new contract action” with the Office of Communications, Brookes reached out again to “touch base on this today to discuss timing[.]”<sup>61</sup>
- A few days later, on July 31, 2018, an official in the Office of Communications reported that she “owe[d] Brady an update” on the progress with Stevens.<sup>62</sup>
- That same day, a senior official in the Office of Communications informed Porter Novelli that “Brady will be happy as long as she [Stevens] is ready to go on Monday when Seema returns.”<sup>63</sup>

On August 6, 2018—less than three weeks after Brookes first contacted the Office of Communications about bringing Stevens on board—Porter Novelli entered into an agreement with Stevens that allowed her to consult for the Administrator under CMS’s 2018 Porter Novelli agreement.<sup>64</sup> Stevens consulted for CMS under this agreement until April 2019.<sup>65</sup>

#### 4. Additional Consultants

In addition to Nahigian Strategies, Barlow, and Stevens, Porter Novelli engaged at least five other consultants to support its work under the various task orders with CMS. These consultants primarily worked under the 2018 Porter Novelli agreement, although some may

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<sup>58</sup> OIG Audit at 27.

<sup>59</sup> Email from Mary Wallace to Brady Brookes (July 24, 2018) (PalCMS-0003035) (Exhibit 38).

<sup>60</sup> Email from Kendra Kojcsich to Christopher Koepke (July 31, 2018) (PalCMS-0009421) (Exhibit 39); Email from Christopher Koepke to Erin Pressley (July 31, 2018) (PalCMS-0009467) (Exhibit 40).

<sup>61</sup> Email Mary Wallace to Brady Brookes (July 24, 2018) (PalCMS-0003035) (Exhibit 38).

<sup>62</sup> Email from Kendra Kojcsich to Christopher Koepke (July 31, 2018) (PalCMS-0009421) (Exhibit 39); *see also* Email from Christopher Koepke to Erin Pressley (July 31, 2018) (PalCMS-0009467) (Exhibit 40).

<sup>63</sup> Email from Kendra Kojcsich to Christopher Koepke (July 31, 2018) (PalCMS-0009421) (Exhibit 39).

<sup>64</sup> Consulting Agreement between Porter Novelli, Inc. and Pam Stevens (Aug. 8, 2018) (Stevens-009032 – Stevens-009038) (Exhibit 41).

<sup>65</sup> Email from Thomas Corry to Mary Wallace et al. (Apr. 5, 2019) (PalCMS-0007571) (Exhibit 22); Letter from Debra Hoffman to Laura Wotycha (Apr. 3, 2019) (CR00614) (Exhibit 23). Although the performance period in the consulting agreement between Stevens and Porter Novelli ended on December 31, 2018, Stevens continued consulting for CMS under this arrangement until April 2019 without a formal extension. Letter from Debra Hoffman to Laura Wotycha (Apr. 3, 2019) (CR00614) (Exhibit 23); Email from Kendra Kojcsich to Pam Stevens (Aug. 8, 2018) (CR03014 – CR03021) (Exhibit 42); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 27, 2020) (CR06994 – CR07003, at CR06998) (Exhibit 37).

have performed certain work before that agreement became effective.<sup>66</sup> These additional consultants included Kristen Ricciardelli, who previously worked on political campaigns for Republican candidates,<sup>67</sup> Eric Bearse, who served as Director of Communications for Rick Perry when he was Governor of Texas,<sup>68</sup> and at least two additional speechwriters and one other project manager.<sup>69</sup>

### C. Consultants Were Engaged to Benefit the Office of the Administrator

Information obtained by the Committees reveals that the consultants were retained to support the Office of the Administrator specifically.<sup>70</sup> According to Kendra Kojcsich, a Vice President at Porter Novelli who managed CMS accounts, the 2018 Porter Novelli agreement—under which Keith Nahigian, Ken Nahigian, Danielle Hagen, Marcus Barlow, and Pam Stevens all consulted for CMS—was different from prior Porter Novelli agreements with CMS in that it directly aimed to support the Office of the Administrator.<sup>71</sup> Indeed, days before Stevens began consulting for CMS, a Porter Novelli employee told Stevens that Deputy Chief of Staff “Brady [Brookes] and team from the office of the administrator will likely be in touch this week to start work!”<sup>72</sup>

CMS officials also recognized that the consultants were retained specifically to assist the Office of the Administrator. For example, in June 2017, Administrator Verma’s then-Chief of Staff Brian Colas described Brett O’Donnell as a contractor advising the Office of the

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<sup>66</sup> See Appendix A.

<sup>67</sup> Kojcsich Interview at 2600-2625; Public Voucher for Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Dec. 12, 2018) (PalCMS-0000128 – PalCMS-0000134, at PalCMS-0000132) (Exhibit 33); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000139) (Exhibit 34).

<sup>68</sup> Kojcsich Interview at 2514-2534; Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 28, 2018) (PalCMS-0000115 – PalCMS-0000127, at PalCMS-0000119) (Exhibit 32); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Dec. 12, 2018) (PalCMS-0000128 – PalCMS-0000134, at PalCMS-0000132) (Exhibit 33); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000139) (Exhibit 34); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 28, 2019) (PalCMS-0000188 – PalCMS-0000200, at PalCMS-0000192) (Exhibit 35); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 27, 2020) (CR06994 – CR07003, at CR06998) (Exhibit 37); Porter Novelli Public Services Responses LRF #181263 (Aug. 15, 2018) (PalCMS-0009600 – PalCMS-0009639, at PalCMS-00009621 – PalCMS-00009622) (Exhibit 24).

<sup>69</sup> Kojcsich Interview at 2514-2534; Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Dec. 12, 2018) (PalCMS-0000128 – PalCMS-0000134, at PalCMS-0000132) (Exhibit 33); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000139) (Exhibit 34); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 28, 2019) (PalCMS-0000188 – PalCMS-0000200, at PalCMS-0000192) (Exhibit 35); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 27, 2020) (CR06994 – CR07003, at CR06998) (Exhibit 37); *see also* Appendix A.

<sup>70</sup> Email from Matthew Aiken to William Mark (Aug. 15, 2018) (PalCMS-0009599) (Exhibit 43); Kojcsich Interview at 602-606.

<sup>71</sup> Kojcsich Interview at 561-568; *see also* Porter Novelli Public Services Business Proposal (Aug. 9, 2018) (PalCMS-0009688 – PalCMS-0009697) (Exhibit 44).

<sup>72</sup> Email from Pam Stevens to Kendra Kojcsich (Aug. 6, 2018) (CR02735 – CR02739, at CR02735 – CR02736) (Exhibit 45).

Administrator,<sup>73</sup> and another senior CMS official similarly confirmed in an email that CMS leadership wanted O'Donnell to work on "major initiatives out of the Office of the Administrator."<sup>74</sup>

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<sup>73</sup> Email from Christopher Koepke to Brian Colas and Paul-Jon Benson (June 15, 2017) (ODA005876 – ODA005877, at ODA005877) (Exhibit 46).

<sup>74</sup> Email from Christopher Koepke to [Weber Shandwick] and Brett O'Donnell (June 13, 2017) (WS00003) (Exhibit 47).

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### III. BUILDING A SHADOW OPERATION: THE OFFICE OF THE ADMINISTRATOR SIDELINED CMS'S OFFICE OF COMMUNICATIONS IN FAVOR OF HANDPICKED CONSULTANTS

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The Office of the Administrator sidelined CMS's communications office in favor of the handpicked consultants, resulting in the formation of a shadow operation within the agency. As discussed in further detail below, the Administrator's office excluded the Office of Communications from strategic communications plans and discussions, installed consultants in roles in which they performed integral communications functions typically handled by CMS's communications office, and relied on consultants to make key strategic communications decisions for CMS and Administrator Verma.

The information obtained by the Committees is consistent with and expands on the findings detailed in the OIG Audit, which concluded that CMS "created improper employer-employee relationships between CMS and the contractors" who were consulting for CMS.<sup>75</sup> OIG cautioned that this practice "circumvent[ed] civil service laws that require hiring Federal employees under competitive appointment or other allowable procedures," risked incurring additional costs both through "cost considerations" and "unknown liabilities," and further risked "loss of Government control over and accountability for mission-related policy and program decisions, which may increase vulnerability to waste, fraud, or abuse."<sup>76</sup> Information obtained by the Committees underscores the seriousness and validity of OIG's concerns.

#### A. The Office of the Administrator Excluded CMS's Office of Communications from Strategic Communications Plans and Discussions, in Favor of Handpicked Consultants

Documents show that officials in the Administrator's office often excluded the Office of Communications—which serves as "CMS's focal point for internal and external strategic and tactical communications"<sup>77</sup>—from strategic communications discussions and plans, and instead relied on their handpicked consultants:

- As early as July 2017, Deputy Chief of Staff Brady Brookes was coordinating a "comms strategy" call with two consultants, Marcus Barlow and Brett O'Donnell, and only two other officials in the Administrator's office.<sup>78</sup>
- In December 2017, the Office of the Administrator scheduled a "Comms Strategy" meeting to discuss CMS's 2018 strategic communications plan and sent a meeting invitation only to Administrator Verma, Brookes, and four consultants—Barlow,

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<sup>75</sup> OIG Audit at 13.

<sup>76</sup> OIG Audit at 25-26.

<sup>77</sup> *Office of Communications*, CMS.gov (July 1, 2020) (online at [https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office\\_OC](https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office_OC)).

<sup>78</sup> Email from Brady Brookes to Brett O'Donnell (July 25, 2017) (ODA005341) (Exhibit 48).

O'Donnell, Keith Nahigian, and Ken Nahigian—omitting anyone in the Office of Communications.<sup>79</sup>

- As of January 2018, O'Donnell, Barlow, Brookes, and another official in the Office of the Administrator were holding a “Daily comms call,” apparently without the participation of any official from the Office of Communications.<sup>80</sup>
- A February 2018 document reveals that Barlow, O'Donnell, and Keith and Ken Nahigian were included in a “Weekly Comms Strategy Meeting” with Administrator Verma and select high-level officials in the Administrator’s office, apparently still without participation from any official in the Office of Communications.<sup>81</sup>

Documents also indicate that the Administrator’s office did not include the Office of Communications in the development of certain strategic communications plans. For example, according to one CMS official, the Administrator’s office developed a plan for “get[ting] the Administrator ‘more media’” and developed this plan outside of the Office of Communications’s in-house media relations team.<sup>82</sup> According to the official, consultant Pam Stevens was brought on to execute this plan, which called for “little involvement” from CMS’s communications office.<sup>83</sup> As part of this strategy, it appears the Office of the Administrator even authorized Stevens to book the Administrator’s calendar directly without first consulting the Office of Communications.<sup>84</sup> As a result, officials in the communications office often had “no understanding of the strategy of why the [A]dministrator [was] talking to a certain person Pam [Stevens] ha[d] booked.”<sup>85</sup> Similarly, it appears the Office of the Administrator tasked Nahigian Strategies with developing a public relations plan for CMS—a request that was not known to a senior official in the communications office at the time.<sup>86</sup>

## **B. Consultants Took Over Integral Communications Functions Typically Performed by the Office of Communications, Led on Major Policy Rollouts and Initiatives, and Received Direct Access to Market-Sensitive Information and Administrator Verma**

Beyond serving as key strategic communications advisors to the Administrator’s office, consultants also performed regular communications and media relations functions for CMS and led CMS’s communications efforts on major policy rollouts and initiatives. By performing

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<sup>79</sup> Invitation from CMS Administrator Account to Administrator Seema Verma et al. (Dec. 20, 2017) (ODA004452) (Exhibit 49); Email from Diana Perez-Rivera to Brett O’Donnell (Dec. 14, 2017) (ODA004719 – ODA004720) (Exhibit 50).

<sup>80</sup> Email from Brady Brookes to Jonathan Wilcox et al. (Jan. 2, 2018) (ODA004062) (Exhibit 51); *see also* Invitation from Brady Brookes to Brett O’Donnell et al. (Feb. 5, 2018) (ODA000508) (Exhibit 52).

<sup>81</sup> Invitation from CMS Administrator Account to Administrator Seema Verma et al. (Feb. 9, 2018) (ODA000034) (Exhibit 53).

<sup>82</sup> Email from Johnathan Monroe to Ninio Fetalvo (Jan. 23, 2019) (PalCMS-0002776 – PalCMS-0002777, at PalCMS-0002776) (Exhibit 54). CMS’s in-house media relations team, known as the Media Relations Group, is situated in the Office of Communications. *Office of Communications*, CMS.gov (July 1, 2020) (online at [https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office\\_OC](https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office_OC)).

<sup>83</sup> Email from Johnathan Monroe to Ninio Fetalvo (Jan. 23, 2019) (PalCMS-0002776 – PalCMS-0002777, at PalCMS-0002776) (Exhibit 54).

<sup>84</sup> Email from Johnathan Monroe to Ninio Fetalvo (Jan. 23, 2019) (PalCMS-0002776 – PalCMS-0002777, at PalCMS-0002776) (Exhibit 54).

<sup>85</sup> Email from Johnathan Monroe to Ninio Fetalvo (Jan. 23, 2019) (PalCMS-0002776 – PalCMS-0002777, at PalCMS-0002776) (Exhibit 54).

<sup>86</sup> Email from Christopher Koepke to Karen Aldana et al. (Feb. 5, 2019) (PalCMS-0009442 – PalCMS-0009443, at PalCMS-0009442) (Exhibit 55).

these tasks, consultants often replaced the traditional roles of Office of Communications employees, while charging CMS hourly rates of between approximately \$124 and \$380.<sup>87</sup> To execute these functions, consultants received direct access to market-sensitive information and to Administrator Verma.

## 1. Consultants Performed Integral Communications Functions, Replacing the Roles of Office of Communications Staff

CMS's communications staff traditionally engages in a wide range of communication tasks, such as pitching op-eds, arranging media appearances, preparing officials for media interactions, and drafting communication materials.<sup>88</sup> Documents show that, early in Administrator Verma's tenure, the Office of Communications was successfully executing many of these functions, securing media appearances for Administrator Verma on major news networks and placing an op-ed in *The Washington Post*.<sup>89</sup> Nonetheless, as early as June 2017, the Administrator's office retained highly paid consultants to perform many of these same tasks, at times to the exclusion of employees in the Office of Communications.

**Consultants performed traditional day-to-day communications tasks.** Documents reveal that, among other duties traditionally performed by CMS officials, consultants frequently staffed Administrator Verma during interviews<sup>90</sup> and official travel, at times without any CMS

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<sup>87</sup> *Infra* Section V.

<sup>88</sup> *See, e.g.*, Email from Administrator Seema Verma to Brett O'Donnell (June 23, 2017) (ODA005630 – ODA005634, at ODA005630) (Exhibit 56); Email from Jane Norris to Brady Brookes and Brett O'Donnell (June 26, 2017) (ODA005585) (Exhibit 57); Email from Jane Norris to Brady Brookes and Brett O'Donnell (June 25, 2017) (ODA005623 – ODA005627) (Exhibit 58); *Public Affairs Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services*, USAJOBS.gov, accessed Aug. 24, 2020 (online at <https://www.usajobs.gov/GetJob/ViewDetails/482490700>).

<sup>89</sup> Email from Administrator Seema Verma to Brett O'Donnell (June 23, 2017) (ODA005630 – ODA005634, at ODA005630) (Exhibit 56); Email from Jane Norris to Brady Brookes and Brett O'Donnell (June 26, 2017) (ODA005585) (Exhibit 57); Email from Jane Norris to Brady Brookes and Brett O'Donnell (June 25, 2017) (ODA005623 – ODA005627, at ODA005626) (Exhibit 58).

<sup>90</sup> This included interviews on drug pricing, open enrollment, and interviews on national and regional radio shows. *See, e.g.*, Email from Christopher Koepke to Kendra Kojcsich (Oct. 26, 2018) (PalCMS-0009444 – PalCMS-0009445, at PalCMS-000944) (Exhibit 59); Email from Christopher Koepke to Kendra Kojcsich (Oct. 12, 2018) (PalCMS-0009446 – PalCMS-0009449, at PalCMS-0009446) (Exhibit 60); Email from Marcus Barlow to Christopher Koepke (Oct. 15, 2018) (CR01760) (Exhibit 61); Email from Christopher Koepke to [Porter Novelli] (Oct. 30, 2018) (CR01966 – CR01969, at CR01969) (Exhibit 62); Email from Marcus Barlow to Christopher Koepke (Nov. 30, 2018) (CR02064) (Exhibit 63); Email from Pam Stevens to Kendra Kojcsich (Dec. 12, 2018) (CR02139 – CR02140, at CR02139) (Exhibit 64).

staff present.<sup>91</sup> They also participated in regularly scheduled meetings and calls,<sup>92</sup> prepared the Administrator for media appearances and other events,<sup>93</sup> oversaw aspects of the Administrator’s social media,<sup>94</sup> and drafted key communications materials.<sup>95</sup>

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<sup>91</sup> While traveling, consultants often rode in the same vehicle as Administrator Verma, traveled on the same flight, or served as drivers and site advance staff. *See, e.g.*, Itinerary for Administrator’s Visit to Little Rock, AR (Mar. 2, 2018) (Nahigian-0265 – Nahigian-0269) (Exhibit 65); Itinerary for Administrator’s Visit to San Francisco, St. Helena, and Palo Alto, CA (July 25, 2018) (Nahigian-0292 – Nahigian-0304) (Exhibit 66); Itinerary for Administrator’s Visit to New York, NY (Sept. 11, 2018) (Nahigian-0312 – Nahigian-0320) (Exhibit 67); Itinerary for Administrator’s Visit to York, PA (Oct. 18, 2018) (Nahigian-0325 – Nahigian-0328) (Exhibit 68). Consultants listed on these itineraries include Tom Szold, who worked on Republican presidential and congressional campaigns dating back to 2012 and worked on the Trump Administration’s Department of Homeland Security’s “beachhead team” (FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/2Q8ulwN>); *Bios*, Blue Zone Partners, (online at <http://bluezonepartners.com/bios/>); Casandra (“Cassie”) Scher (née Williams), who previously worked for a conservative immigration non-profit, the Republican National Committee, and the College Republican National Committee (*Cassie Scher*, LinkedIn, accessed Aug. 24, 2020 (online at <https://www.linkedin.com/in/cassie-scher-0a27a62a/>)); Nina Bishop Witkofsky, who worked in the Bush White House, consulted for the Trump presidential campaign, was appointed to a state board by Georgia Governor Brian Kemp, and recently became Acting Chief of Staff for the Trump Administration’s Centers for Disease Control and Prevention (Master’s in Sports Industry Management, Georgetown University School of Continuing Studies (online at <https://scs.georgetown.edu/programs/361/master-of-professional-studies-in-sports-industry-management/faculty-bio/2574119/nina-bishop>); FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/31ifK8s>); *Gov. Kemp Names 17 Appointments*, Press Release, Office of the Governor (Sept. 11, 2019) (online at <https://gov.georgia.gov/press-releases/2019-09-11/gov-kemp-names-17-appointments>); *Office of Chief of Staff*, Centers for Disease Control and Prevention (online at <https://www.cdc.gov/about/leadership/leaders/cos.html>)); Justin Caporale, who has worked on the 2016 and 2020 Trump presidential campaigns and in the Trump White House (FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/31cUd0I>)); Maggie Mulvaney, the niece of former acting White House Chief of Staff Mick Mulvaney, who worked for the Trump presidential campaign (FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/311q8sT>)); and Taylor Mason, who has worked for Republican state parties, as well as presidential and Senate campaigns since 2011 (FEC, accessed Aug. 24, 2020 (online at <https://bit.ly/319muW4>)); *see also* in regards to Caporale, Mulvaney and Mason, *Trump Allies Received Hundreds of Thousands of Dollars under Federal Health Contract*, Politico (Nov. 11, 2019) (online at <https://www.politico.com/states/florida/story/2019/11/11/trump-allies-received-hundreds-of-thousands-of-dollars-under-federal-health-contract-1226771>).

<sup>92</sup> *See, e.g.*, Invitation from CMS Administrator Account to Administrator Seema Verma et al. (Jan. 25, 2019) (PalCMS-0004530 – PalCMS-0004533) (Exhibit 69); Email from Brady Brookes to Diana Perez-Rivera and Meredith Good-Cohn (Apr. 5, 2019) (PalCMS-0008754 – PalCMS-0008755) (Exhibit 70); Email from Karen Aldana to Danielle Hagen (Mar. 8, 2019) (PalCMS-0009037 – PalCMS-0009040) (Exhibit 71); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (July 31, 2018) (CR06434 – CR06451, at CR06444 – CR06451) (Exhibit 72); Email from Johnathan Monroe to Marcus Barlow and Brady Brookes (Jan. 9, 2018) (ODA003134 – ODA003135) (Exhibit 73); Invitation from Crystal Gant to Marcus Barlow et al. (Jan. 9, 2018) (ODA003187) (Exhibit 74); Invitation from Brady Brookes to Jonathan Wilcox et al. (Jan. 9, 2018) (ODA003303) (Exhibit 75).

<sup>93</sup> *See, e.g.*, Email from Marcus Barlow to Pam Stevens (Jan. 2, 2019) (CR02274 – CR02279, at CR02274) (Exhibit 76); Email from Pam Stevens to Karen Aldana and Meredith Good-Cohn (Feb. 7, 2019) (CR02770) (Exhibit 77); Email from Pam Stevens to Meredith Good-Cohn (Feb. 21, 2019) (CR03049 – CR03050) (Exhibit 78); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (July 31, 2018) (CR06434 – CR06451, at CR06444 – CR06451) (Exhibit 72); Invitation from CMS Administrator Account (Feb. 8, 2019) (Stevens-007047) (Exhibit 79); Email from Karen Aldana to Marcus Barlow et al. (Mar. 6, 2019) (Stevens-008492 – Stevens-008496) (Exhibit 80); Invitation from CMS Administrator Account to Administrator Seema Verma et al. (Jan. 15, 2018) (ODA002069) (Exhibit 81); Email from Claire Burghoff to Marcus Barlow (Jan. 11, 2018) (ODA002361 – ODA002363) (Exhibit 82); Invitation from CMS Administrator Account to Administrator Seema Verma et al. (Jan. 9, 2018) (ODA003313) (Exhibit 83); Invitation from CMS Administrator Account to Administrator Seema Verma et al. (Dec. 27, 2017) (ODA004240) (Exhibit 84); Invitation from Diana Perez-Rivera to Brady Brookes et al. (June 26, 2017) (ODA005581) (Exhibit 85); Email from Brian Colas to Jane Norris (June 14, 2017) (ODA005937 – ODA005939, at ODA005937) (Exhibit 86).

Documents also show that consultants regularly conducted media outreach for CMS.<sup>96</sup> In one instance, CMS tasked consultant Brett O'Donnell, rather than an official in the communications office, with conveying Administrator Verma's frustration to the trade publication *Modern Healthcare* after one of its reporters published a story on the resignation of a CMS official.<sup>97</sup> In an email sent on January 23, 2018—the same day the story was published—Administrator Verma encouraged O'Donnell and others in her office to “take the strongest action possible with [the reporter's] editors.”<sup>98</sup> Thereafter, O'Donnell threatened to bar the *Modern Healthcare* reporter from future CMS press calls.<sup>99</sup> In response to press inquiries about this incident, O'Donnell stated that he—rather than a CMS official—contacted the publication “[b]ecause I was asked to by CMS[.]”<sup>100</sup>

**Consultants led on major policy initiatives and rollouts.** In addition to handling many of the day-to-day communications tasks for CMS, documents indicate that the Office of the Administrator also used consultants, rather than CMS's own communications office, to lead its communications efforts on major policy initiatives and rollouts that would undermine millions of Americans' access to affordable health care. For instance:

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<sup>94</sup> See, e.g., Email from Brady Brookes to Administrator Seema Verma (Oct. 25, 2018) (PalCMS-0003870 – PalCMS-0003873, at PalCMS-0003870) (Exhibit 87).

<sup>95</sup> Email from Jonathan Wilcox to Brady Brookes et al. (Jan. 8, 2018) (ODA003548 – ODA003554, at ODA003549) (Exhibit 88); Email from Marcus Barlow to Jonathan Wilcox (Dec. 28, 2017) (ODA004143) (Exhibit 89); Email from Ken Nahigian to Brett O'Donnell (Dec. 28, 2017) (ODA004145) (Exhibit 90); Email from Marcus Barlow to Johnathan Monroe (Dec. 28, 2017) (ODA004146 – ODA004150) (Exhibit 91); Email from Justin Sink to Brett O'Donnell (Jan. 10, 2018) (ODA002642 – ODA002645, at ODA002642) (Exhibit 92); Email from Keith Nahigian to Brian Colas (July 8, 2017) (ODA005392 – ODA005393) (Exhibit 93); Email from Marcus Barlow to Brian Colas et al. attaching Memorandum from Nahigian Strategies to CMS/HHS Communications re: AHCA Campaign (July 7, 2017) (ODA005396 – ODA005398) (Exhibit 94); Email from Brian Colas to Brett O'Donnell (June 22, 2017) (ODA005667 – ODA005669, at ODA005667) (Exhibit 95); Email from Matt Lloyd to Brett O'Donnell and Brian Colas (July 8, 2017) (ODA005368 – ODA0005374, at ODA005368) (Exhibit 96); Email from Marcus Barlow to Brady Brookes and Brett O'Donnell (Dec. 14, 2017) (ODA004752) (Exhibit 97); see also Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (July 31, 2018) (CR06434 – CR06451, at CR06446 – CR06451) (Exhibit 72); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Sept. 27, 2018) (CR06498 – CR06507, at CR06507) (Exhibit 98).

<sup>96</sup> See, e.g., Email from Brady Brookes to Brett O'Donnell (Jan. 19, 2018) (ODA001699 – ODA001715, at ODA001699) (Exhibit 99); Email from Brady Brookes to Johnathan Monroe (Jan. 10, 2018) (ODA002574 – ODA002576, at ODA002575) (Exhibit 100); Email from Justin Sink to Brett O'Donnell (Jan. 10, 2018) (ODA002642 – ODA002645, at ODA002642) (Exhibit 92); Email from Marcus Barlow to Brady Brookes (Jan. 10, 2018) (ODA002833 – ODA002837, at ODA002833) (Exhibit 101).

<sup>97</sup> *Pence Ally Brian Neale Exiting CMS Medicaid Post*, *Modern Healthcare* (Jan. 23, 2018) (online at <https://www.modernhealthcare.com/article/20180123/NEWS/180129962/pence-ally-brian-neale-exiting-cms-medicaid-post>); Email from Aurora Aguilar to Brett O'Donnell (Feb. 3, 2018) (ODA000569 – ODA000570, at ODA000569) (Exhibit 102); Email from Johnathan Monroe to Brett O'Donnell (Feb. 1, 2018) (ODA000709 – ODA000716, at ODA000714 – ODA000716) (Exhibit 103).

<sup>98</sup> Email from Brian Neale to Brett O'Donnell and Brady Brookes (Jan. 25, 2018) (ODA001399 – ODA001401, at ODA001400) (Exhibit 104).

<sup>99</sup> Email from Johnathan Monroe to Brett O'Donnell (Feb. 1, 2018) (ODA000709 – ODA000716, at ODA000714 – ODA000716) (Exhibit 103); see also Email from Brady Brookes to Brett O'Donnell (Feb. 3, 2018) (ODA000577 – ODA000581) (Exhibit 105); *Reporter Says He was Threatened with Ban from Press Calls After Declining to Alter Story: Report*, *The Hill* (Feb. 5, 2018) (online at <https://thehill.com/homenews/media/372296-reporter-threatened-with-ban-from-press-calls-after-declining-to-alter-story>).

<sup>100</sup> Email from Aurora Aguilar to Brett O'Donnell (Feb. 3, 2018) (ODA000569 – ODA000570, at ODA000569) (Exhibit 102). Documents show that Deputy Chief of Staff Brady Brookes ordered the Office of Communications to remove *Modern Healthcare* from a press call. Email from Johnathan Monroe to Brady Brookes et al. (Feb. 1, 2018) (ODA000811) (Exhibit 106).

- Consultants drafted an op-ed touting the rollout of CMS’s Medicaid work requirements policy that was ultimately published in *The Washington Post* under Administrator Verma’s name, using a title crafted by Ken Nahigian.<sup>101</sup> Consultants also edited an official CMS press release announcing the rollout of this policy.<sup>102</sup>
- In an email to a reporter, Deputy Chief of Staff Brady Brookes named O’Donnell—rather than an official in the Office of Communications—as CMS’s “point person for media” in connection with the rollout of CMS’s Medicaid work requirements policy.<sup>103</sup>
- At the same time that congressional Republicans were trying to repeal the ACA—one of the laws that Administrator Verma is responsible for implementing—the Office of the Administrator solicited advice from Keith Nahigian on how CMS should frame arguments promoting the privatization of Medicaid<sup>104</sup> and tasked O’Donnell with editing talking points for Administrator Verma that included, among other things, why she believed “Obamacare has failed.”<sup>105</sup>
- Two consultants, Marcus Barlow and O’Donnell, were asked to review draft talking points on the Better Care Reconciliation Act of 2017, a Republican bill to repeal much of the ACA, and to “come up with a name for this concept,” per Administrator Verma’s request.<sup>106</sup>
- When congressional Republicans were working to zero out the ACA’s individual mandate penalty, Barlow provided a statement to CMS criticizing the individual mandate.<sup>107</sup>

## 2. Consultants Had Direct Access to Market-Sensitive Information and Administrator Verma

To help them carry out these tasks, CMS leadership provided the consultants with direct access to market-sensitive information and Administrator Verma herself.

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<sup>101</sup> Email from Jonathan Wilcox to Brady Brookes et al. (Jan. 8, 2018) (ODA003548 – ODA003554, at ODA003549 – ODA003550) (Exhibit 88); *Making Medicaid a Pathway Out of Poverty*, Washington Post (Feb. 4, 2018) (online at [https://www.washingtonpost.com/opinions/making-medicaid-a-pathway-out-of-poverty/2018/02/04/4570736a-0857-11e8-94e8-e8b8600ade23\\_story.html](https://www.washingtonpost.com/opinions/making-medicaid-a-pathway-out-of-poverty/2018/02/04/4570736a-0857-11e8-94e8-e8b8600ade23_story.html)).

<sup>102</sup> Email from Marcus Barlow to Jonathan Wilcox (Dec. 28, 2017) (ODA004143) (Exhibit 89); Email from Ken Nahigian to Brett O’Donnell (Dec. 28, 2017) (ODA004145) (Exhibit 90); Email from Marcus Barlow to Johnathan Monroe (Dec. 28, 2017) (ODA004146 – ODA004150) (Exhibit 91); *CMS Announces New Policy Guidance for States to Test Community Engagement for Able-Bodied Adults*, Press Release, CMS.gov (Jan. 11, 2018) (online at <https://www.cms.gov/newsroom/press-releases/cms-announces-new-policy-guidance-states-test-community-engagement-able-bodied-adults>).

<sup>103</sup> Email from Justin Sink to Brett O’Donnell (Jan. 10, 2018) (ODA002642 – ODA002645, at ODA002643) (Exhibit 92).

<sup>104</sup> Email from Keith Nahigian to Brian Colas (July 8, 2017) (ODA005392 – ODA005393, at ODA005392) (Exhibit 93); Email from Marcus Barlow to Brian Colas et al. attaching Memorandum from Nahigian Strategies to CMS/HHS Communications re: AHCA Campaign (July 7, 2017) (ODA005396 – ODA005398, at ODA005397 – ODA005398) (Exhibit 94).

<sup>105</sup> Email from Brian Colas to Brett O’Donnell (June 22, 2017) (ODA005667 – ODA005669, at ODA005668) (Exhibit 95).

<sup>106</sup> Email from Matt Lloyd to Brett O’Donnell and Brian Colas (July 8, 2017) (ODA005368 – ODA0005374, at ODA005368) (Exhibit 96).

<sup>107</sup> Email from Marcus Barlow to Brady Brookes and Brett O’Donnell (Dec. 14, 2017) (ODA004752) (Exhibit 97).

**Access to market-sensitive information.** Documents indicate that CMS leadership provided consultants with access to sensitive information on proposed rulemakings, internal plans for anticipated policy rollouts, and other potentially market-sensitive items:

- In December 2017, Deputy Chief of Staff Brady Brookes emailed a small group—which included Administrator Verma and consultants Marcus Barlow and Brett O’Donnell—a draft rollout plan announcing policy guidance to help states design proposals for Medicaid work requirements.<sup>108</sup> On January 4, 2018, Brookes prioritized inviting these consultants to a meeting on the rollout, while allowing only one staffer from the Office of Legislation to attend because she wanted to keep the meeting “small.”<sup>109</sup> CMS formally announced its work requirements policy a week later on January 11, 2018.<sup>110</sup>
- On February 5, 2018, a CMS official included Barlow and O’Donnell on a “very close hold” email detailing the “rollout plan” for CMS’s proposed rule on short-term limited duration insurance (STLDI) plans—or so-called “junk” plans.<sup>111</sup> CMS issued its proposed rule on STLDI plans on February 20, 2018—more than two weeks after sharing this information with the two consultants.<sup>112</sup>
- To assist consultant Pam Stevens with a pitch to CNN’s Dr. Sanjay Gupta in November 2018, a CMS senior advisor provided Stevens, Danielle Hagen, and other consultants a document described as an “incredibly close hold” that concerned CMS’s forthcoming proposed rule on interoperability.<sup>113</sup> Another CMS official cautioned that the information provided was “most likely market sensitive.”<sup>114</sup> CMS released its proposed interoperability rule approximately three months after CMS provided these consultants direct access to this information.<sup>115</sup>

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<sup>108</sup> Email from Brady Brookes to Administrator Seema Verma (Dec. 27, 2017) (ODA004206 – ODA004215) (Exhibit 107).

<sup>109</sup> Email from Bernice Harper to Johnathan Monroe and Brady Brookes (Jan. 4, 2018) (ODA003793 – ODA003794, at ODA003793) (Exhibit 108).

<sup>110</sup> *CMS Announces New Policy Guidance for States to Test Community Engagement for Able-Bodied Adults*, Press Release, CMS (Jan. 11, 2018) (online at <https://www.cms.gov/newsroom/press-releases/cms-announces-new-policy-guidance-states-test-community-engagement-able-bodied-adults>).

<sup>111</sup> Email from Nicole Black to Brady Brookes et al. (Feb. 5, 2018) (ODA000504 – ODA000505, at ODA000504) (Exhibit 109).

<sup>112</sup> *Fact Sheet: Short-Term, Limited-Duration Insurance Proposed Rule*, Press Release, CMS (Feb. 20, 2018) (online at <https://www.cms.gov/newsroom/fact-sheets/fact-sheet-short-term-limited-duration-insurance-proposed-rule>).

<sup>113</sup> Email from Johnathan Monroe to Kendra Kojcsich (Nov. 16, 2018) (Stevens-003690 – Stevens-003694, at Stevens-003692) (Exhibit 110).

<sup>114</sup> Email from Johnathan Monroe to Kendra Kojcsich (Nov. 16, 2018) (Stevens-003690 – Stevens-003694, at Stevens-003690) (Exhibit 110); *see also* Email from Brady Brookes to Marcus Barlow (Nov. 30, 2018) (PalCMS-0004411 – PalCMS-0004414) (Exhibit 111).

<sup>115</sup> *HHS Proposes New Rules to Improve the Interoperability of Electronic Health Information*, Press Release, HHS (Feb. 11, 2019) (online at <https://www.hhs.gov/about/news/2019/02/11/hhs-proposes-new-rules-improve-interoperability-electronic-health-information.html>). It is unclear what information, if any, CMS ultimately provided to CNN. *See* Email from Brady Brookes to Marcus Barlow (Nov. 30, 2018) (PalCMS-0004411 – PalCMS-0004414) (Exhibit 111). A CMS “Weekly Comms Meeting Agenda” suggests that CMS provided a copy of the communications plan and messaging to Dr. Gupta’s team as an “FYI” in connection with an “interview on the Interoperability rule.” Weekly Comms Meeting Agenda (Stevens-009915 – Stevens-009919, at Stevens-009918) (Exhibit 112). Additionally, a February 2019 email from consultant Danielle Hagen noted that Administrator Verma met with Dr. Gupta in the fall. Email from Pam Stevens to Danielle Hagen (Feb. 13, 2019) (CR02938 – CR02939) (Exhibit 113).

- In January 2019, multiple consultants, including Barlow, Stevens, and Hagen, received a meeting agenda that CMS deemed “market sensitive.”<sup>116</sup> The agenda identified, among other things, ten pending rollouts, such as value-based purchasing, the interoperability rule, and direct contracting.<sup>117</sup>

Access to Administrator Verma. Certain consultants also had direct access to Administrator Verma, who at times specifically requested their close involvement in official CMS business.

Documents indicate that consultant Brett O’Donnell had a direct line to Administrator Verma<sup>118</sup> and that Administrator Verma sought O’Donnell’s involvement on multiple occasions.<sup>119</sup> For example, documents indicate that she specifically requested O’Donnell’s input on a press release related to ACA open enrollment,<sup>120</sup> sought O’Donnell’s help in drafting a statement regarding the reauthorization of CHIP,<sup>121</sup> and conferred with O’Donnell directly about how to comment for an article that explored why her husband’s medical practice did not accept Medicaid.<sup>122</sup> On multiple occasions, Administrator Verma sent emails solely to O’Donnell,<sup>123</sup> including regarding an email from the then-HHS Chief of Staff about the identity of an anonymous Trump Administration official who was quoted in a *New York Times* article explaining how the Administration was undermining the ACA.<sup>124</sup>

Documents indicate that Administrator Verma also frequently communicated directly with consultant Marcus Barlow, providing her opinion on draft talking points,<sup>125</sup> her thoughts on messaging for policy issues like Medicare funding or the ACA,<sup>126</sup> and her preferences on

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<sup>116</sup> Invitation from CMS Administrator Account to Administrator Seema Verma et al. (Jan. 25, 2019) (PalCMS-0004530 – PalCMS-0004533, at PalCMS-0004532) (Exhibit 69).

<sup>117</sup> Invitation from CMS Administrator Account to Administrator Seema Verma et al. (Jan. 25, 2019) (PalCMS-0004530 – PalCMS-0004533, at PalCMS-0004532) (Exhibit 69).

<sup>118</sup> See, e.g., Email from Diana Perez-Rivera to Brett O’Donnell (June 22, 2017) (ODA005671 – ODA005679) (Exhibit 114); Email from Brian Colas to Brett O’Donnell et al. (June 22, 2017) (ODA005664) (Exhibit 115); Email from Jane Norris to Brett O’Donnell (June 15, 2017) (ODA005889) (Exhibit 116); Invitation from Brian Colas to Administrator Seema Verma et al. (June 14, 2017) (ODA005936) (Exhibit 117).

<sup>119</sup> See, e.g., Email from Nicole Black to Brady Brookes and Brett O’Donnell (Dec. 20, 2017) (ODA004466 – ODA004467, at ODA004466) (Exhibit 118); Email from Brian Colas to Jane Norris et al. (June 22, 2017) (ODA005744 – ODA005745, at ODA005744) (Exhibit 119).

<sup>120</sup> Email from Nicole Black to Brett O’Donnell and Marcus Barlow (Dec. 19, 2017) (ODA004514 – ODA004516) (Exhibit 120).

<sup>121</sup> Email from Emily Felder to Brett O’Donnell (Dec. 20, 2017) (ODA004438 – ODA004439, at ODA004439) (Exhibit 121).

<sup>122</sup> Email from Brady Brookes to Brett O’Donnell (June 29, 2017) (ODA005505) (Exhibit 122).

<sup>123</sup> See, e.g., Email from Administrator Seema Verma to Brett O’Donnell (July 23, 2017) (ODA005346) (Exhibit 123); Email from Administrator Seema Verma to Brett O’Donnell (June 23, 2017) (ODA005630 – ODA005634, at ODA005630) (Exhibit 56).

<sup>124</sup> Email from Administrator Seema Verma to Brett O’Donnell (Aug. 31, 2017) (ODA005323) (Exhibit 124).

<sup>125</sup> Email from Marcus Barlow to Kendra Kojcsich and Christopher Koepke (Dec. 11, 2018) (PalCMS-0002630 – PalCMS-0002633, at PalCMS-002631) (Exhibit 125).

<sup>126</sup> Email from Marcus Barlow to Benjamin Kenney and Kendra Kojcsich (Oct. 22, 2018) (CR01859) (Exhibit 126); Email from Administrator Seema Verma to Marcus Barlow (Dec. 15, 2017) (ODA004646 – ODA004647) (Exhibit 127).

interview opportunities.<sup>127</sup> Barlow often conveyed Administrator Verma’s thoughts to CMS officials and advised them on how to proceed.<sup>128</sup>

Additionally, on multiple occasions, Administrator Verma requested specific consultants’ involvement in CMS operations. For instance, documents reflect that Administrator Verma:

- Requested a meeting with consultant Pam Stevens to go over a proposal that included a list of “possible interviews/meetings.”<sup>129</sup>
- Requested meetings with O’Donnell, including a weekly one-hour meeting to which the only CMS staff invited were Administrator Verma, her then-Chief of Staff Brian Colas, and her Deputy Chief of Staff Brady Brookes.<sup>130</sup>
- Requested that O’Donnell join her during press interviews at the White House.<sup>131</sup>
- Requested that three consultants be added to the weekly CMS communications meeting.<sup>132</sup>
- Advised a CMS official to coordinate specifically with Nahigian Strategies for ACA and Medicare open enrollment events and with Stevens to book media.<sup>133</sup>
- Instructed Barlow to add himself and Stevens to the list of those staffing her on a trip to New York City.<sup>134</sup>

### C. CMS Staff Deferred to Consultants on Key Communications Decisions

Although the Office of Communications is designed to serve as “senior advisor to the Administrator in all activities related to the media,”<sup>135</sup> documents show CMS staff instead

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<sup>127</sup> Email from Marcus Barlow to Kendra Kojcsich (Oct 19, 2018) (CR01888 – CR01889, at CR01889) (Exhibit 128); Email from Brittney Manchester to Marcus Barlow et al. (Jan. 11, 2018) (ODA002482 – ODA002484, at ODA002482) (Exhibit 129).

<sup>128</sup> Email from Marcus Barlow to Kendra Kojcsich and Christopher Koepke (Dec. 11, 2018) (PalCMS-0002630 – PalCMS-0002633, at PalCMS-0002631) (Exhibit 125); Email from Marcus Barlow to Benjamin Kenney and Kendra Kojcsich (Oct. 22, 2018) (CR01859) (Exhibit 126); Email from Marcus Barlow to Kendra Kojcsich (Oct 19, 2018) (CR01888 – CR01889) (Exhibit 128); Email from Brittney Manchester to Marcus Barlow et al. (Jan. 11, 2018) (ODA002482 – ODA002484, at ODA002482) (Exhibit 129).

<sup>129</sup> Email from [Porter Novelli] to Pam Stevens (Sept. 5, 2018) (Stevens-000856 – Stevens-000859) (Exhibit 130).

<sup>130</sup> Email from Diana Perez-Rivera to Brett O’Donnell (Jan. 24, 2018) (ODA001487 – ODA001488) (Exhibit 131); Invitation from Diana Perez-Rivera to Brett O’Donnell (June 24, 2017) (ODA005628 – ODA-005629) (Exhibit 132); Email from Diana Perez-Rivera to Brett O’Donnell (June 19, 2017) (ODA005846 – ODA005847, at ODA005847) (Exhibit 133).

<sup>131</sup> Email from Diana Perez-Rivera to Brett O’Donnell (June 22, 2017) (ODA005665) (Exhibit 134).

<sup>132</sup> Email from Marcus Barlow to Diana Perez-Rivera (Nov. 16, 2018) (Stevens-003657) (Exhibit 135).

<sup>133</sup> Email from Johnathan Monroe to Administrator Seema Verma et al. (Oct. 12, 2018) (PalCMS-0002180 – PalCMS-0002181) (Exhibit 136).

<sup>134</sup> Email from Marcus Barlow to Benjamin Kenney (Aug. 23, 2018) (PalCMS-0009268 – PalCMS-0009273, at PalCMS-0009268) (Exhibit 137).

<sup>135</sup> *Office of Communications*, CMS.gov (July 1, 2020) (online at [https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office\\_OC](https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office_OC)).

deferred at times to the consultants' determinations on how to proceed with media requests and other strategic communications decisions.<sup>136</sup>

For instance, in response to a request from *S&P Global Market Intelligence* to interview Administrator Verma for its list of "most influential" people in the insurance space in 2017, consultant Brett O'Donnell told the Office of Communications he was against Administrator Verma doing the interview—after which CMS staff declined the request.<sup>137</sup> Staff in the communications office also asked O'Donnell whether they should pursue an interview opportunity with *Bloomberg BNA* and appear to have moved forward with the interview after O'Donnell approved the engagement.<sup>138</sup> Similarly, documents indicate that, after CMS received an interview request for Administrator Verma to appear on *The Lars Larson Show*, consultant Marcus Barlow unilaterally declined the request on Administrator Verma's behalf.<sup>139</sup>

CMS staff also deferred to the consultants on a number of other strategic communications decisions.<sup>140</sup> In one instance, CMS officials deferred to O'Donnell on his recommendation to remove a *Wall Street Journal* reporter—who O'Donnell believed previously "drove" a "bad article"—from a CMS press invitation list.<sup>141</sup> On another occasion, Administrator Verma's Deputy Chief of Staff Brady Brookes asked officials in the communications office whether "Brett or Nahigian's [sic] signed off on" a quote for Administrator Verma that the Office of Communications had provided for an upcoming *Politico* article on the implementation of the Medicare Access and CHIP Reauthorization Act.<sup>142</sup>

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<sup>136</sup> See, e.g., Email from Benjamin Kenney to Pam Stevens (Aug. 30, 2018) (Stevens-000596 – Stevens-000598) (Exhibit 138); Email from Brittney Manchester to Marcus Barlow et al. (Jan. 11, 2018) (ODA002482 – ODA002484) (Exhibit 129); Email from Jane Norris to Brady Brookes and Brian Colas (June 22, 2017) (ODA005766 – ODA005767) (Exhibit 139); see also Email from Marcus Barlow to Brady Brookes (Jan. 11, 2018) (ODA002476 – ODA002477) (Exhibit 140); Email from Johnathan Monroe to Brady Brookes and Brett O'Donnell (Jan. 11, 2018) (ODA002495 – ODA002497) (Exhibit 141); Email from Marcus Barlow to Johnathan Monroe (Jan. 11, 2018) (ODA002503 – ODA002504) (Exhibit 142); see also Email from Danielle Hagen to Kendra Kojcsich (Oct. 11, 2017) (CR03483 – CR03484, at CR03484) (Exhibit 143).

<sup>137</sup> Email from Brittney Manchester to Brett O'Donnell (Dec. 26, 2017) (ODA004288 – ODA004289, at ODA004288) (Exhibit 144).

<sup>138</sup> Email from Kelly Ceballos to Brett O'Donnell (Dec. 7, 2017) (ODA004968 – ODA004969, at ODA004968) (Exhibit 145).

<sup>139</sup> Email from Marcus Barlow to Pam Stevens (Dec. 13, 2018) (PalCMS-0003385 – PalCMS-0003387, at PalCMS-0003385) (Exhibit 146).

<sup>140</sup> See, e.g., Email from Kelly Dinicolo to Keith Nahigian (Oct. 31, 2018) (CR02285) (Exhibit 147); Email from Johnathan Monroe to Brett O'Donnell (Feb. 1, 2018) (ODA000709 – ODA000716) (Exhibit 103); Email from Brady Brookes to Marcus Barlow and Brett O'Donnell (Feb. 1, 2018) (ODA000732 – ODA000735) (Exhibit 148); Email from Brady Brookes to Johnathan Monroe (Jan. 10, 2018) (ODA002632) (Exhibit 149); Email from Nicole Black to Brady Brookes (Dec. 20, 2017) (ODA004448 – ODA004449, at ODA004449) (Exhibit 150); Email from Jane Norris to Marcus Barlow and Brett O'Donnell (July 7, 2017) (ODA005399) (Exhibit 151); Email from Jane Norris to Marcus Barlow and Brett O'Donnell (July 7, 2017) (ODA005424 – ODA005425) (Exhibit 152); Email from Brady Brookes to Brett O'Donnell (June 29, 2017) (ODA005505) (Exhibit 122); Email from Jane Norris to Brett O'Donnell (June 26, 2017) (ODA005589 – ODA005590) (Exhibit 153); Email from Jane Norris to Brett O'Donnell (June 26, 2017) (ODA005605 – ODA005609) (Exhibit 154); Email from Brian Colas to Brett O'Donnell (June 22, 2017) (ODA005728) (Exhibit 155); Email from Jane Norris to Brett O'Donnell and Kelly Ceballos (June 16, 2017) (ODA005854 – ODA005855) (Exhibit 156).

<sup>141</sup> Email from Johnathan Monroe to Brady Brookes (Jan. 9, 2018) (ODA002964 – ODA002973) (Exhibit 157).

<sup>142</sup> Email from Brian Colas to Claire Burghoff and Brady Brookes (June 21, 2017) (ODA005778 – ODA005780, at ODA005779) (Exhibit 158).

## D. Marcus Barlow Was Administrator Verma’s Right-Hand Man

Of all the Republican communications consultants involved in CMS’s shadow operation, the Administrator’s office—and Administrator Verma herself—relied most heavily on Marcus Barlow. Barlow previously served as Administrator Verma’s spokesperson while she ran a consulting firm in Indiana, but the White House reportedly blocked him from becoming CMS’s Communications Director under Administrator Verma because he wrote an article criticizing then-candidate Donald Trump.<sup>143</sup>

In its Audit, OIG found that CMS allowed Barlow to perform inherently governmental functions in violation of Federal Acquisition Rule (FAR) § 7.503(a), which prohibits contracts for the performance of inherently governmental functions.<sup>144</sup> OIG concluded that Barlow performed inherently governmental functions for CMS by “making CMS managerial decisions and instructing CMS employees on specific contract tasks.”<sup>145</sup> OIG further concluded that this arrangement resulted from a combination of Barlow’s previous professional relationship with Administrator Verma, as well as the lack of appropriate management by CMS.<sup>146</sup> The information obtained by the Committees reveals additional details demonstrating the extent to which Barlow performed managerial functions and was integrated into everyday CMS operations.

Documents obtained by the Committees show that Barlow worked a significant number of hours for CMS, matching—and in some months exceeding—the hours of a regular full-time employee, while charging a much higher pay rate than a salaried federal career civil servant. For example, CMS’s 2018 Porter Novelli agreement estimated Barlow would work more than 1,800 hours between September 15, 2018, and August 31, 2019, and would bill CMS over \$425,000 for this work.<sup>147</sup> Invoices obtained by the Committees reveal that Porter Novelli billed CMS for 240 hours of Barlow’s work in October 2018—the equivalent of nearly eight hours per day for every day of the month, including weekends—and 200 hours in December 2018, at a rate of more than \$209 per hour.<sup>148</sup>

Barlow received more access than other consultants to CMS facilities and Administrator Verma’s social media account, as well as to the Administrator. Specifically, documents and Committee interviews with a Porter Novelli employee reveal that Barlow:

- Was the only consultant with an HHS badge.<sup>149</sup>

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<sup>143</sup> *Top Trump Health Official Spent \$3 Million on Contractors.*

<sup>144</sup> OIG Audit at 10-11.

<sup>145</sup> OIG Audit at 11-12. OIG’s Audit, which refers to Barlow as “Brian Smith,” attached an appendix listing examples of instances in which he performed inherently governmental functions. See OIG Audit at 49-50.

<sup>146</sup> OIG report at 12-13. In its Audit, OIG noted that it inquired with the HHS Ethics Division about whether any impartiality concerns were raised regarding Barlow’s former relationship with Administrator Verma. According to OIG, because the HHS Ethics Division did not have all the facts to make a determination during OIG’s Audit, OIG plans to conduct a follow-up at a later date. OIG Audit at 26 n.52.

<sup>147</sup> Order for Supplies or Services issued by Department of Health and Human Services to Porter Novelli Public Services, Inc. (Aug. 31, 2018) (CumCMS-0000001 – CumCMS-0000065) (Exhibit 4).

<sup>148</sup> Public Voucher for Purchases and Services Other than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 26, 2018) (PalCMS-0000115 – PalCMS-0000127, at PalCMS-0000119) (Exhibit 32); Public Voucher for Purchases and Services Other than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000139) (Exhibit 34).

<sup>149</sup> Email from Ninio Fetalvo to Brady Brookes et al. (Apr. 4, 2019) (PalCMS-0008128 – PalCMS-0008130, at PalCMS-0008129) (Exhibit 159).

- Often worked out of CMS’s Washington, D.C. office, where the Office of the Administrator is based.<sup>150</sup>
- Had direct access to the Administrator’s Twitter account and was one of two people who “exclusively” handled the Administrator’s social media.<sup>151</sup>
- Was the only consultant invited to a recurring meeting on rollouts.<sup>152</sup>
- Frequently staffed Administrator Verma <sup>153</sup> and helped “manage” her interview process.<sup>154</sup>
- Communicated directly with Administrator Verma and at times conveyed her instructions to CMS staff.<sup>155</sup>

Additionally, documents indicate that some CMS officials viewed Barlow as part of the official CMS staff, and specifically as part of the Office of the Administrator. For example:

- Barlow was listed as CMS staff in a memo to the Administrator and as a member of the Office of the Administrator in a CMS contact list.<sup>156</sup>
- CMS officials had Barlow review a tool kit created by CMS for the Administrator’s “PR/Media Consultants,” even though Barlow himself was a communications consultant.<sup>157</sup>

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<sup>150</sup> Kojcsich Interview at 2837-2850.

<sup>151</sup> Email from Brady Brookes to Administrator Seema Verma (Oct. 25, 2018) (PalCMS-0003870 – PalCMS-0003873, at PalCMS-0003870) (Exhibit 87); Email from Ninio Fetalvo to Brady Brookes et al. (Apr. 4, 2019) (PalCMS-0008128 – PalCMS-0008130, at PalCMS-0008129) (Exhibit 159).

<sup>152</sup> Email from Brady Brookes to Diana Perez-Rivera and Meredith Good-Cohn (Apr. 5, 2019) (PalCMS-0008754 – PalCMS-0008755) (Exhibit 70).

<sup>153</sup> *See, e.g.*, Email from Christopher Koepke to Kendra Kojcsich (Oct. 26, 2018) (PalCMS-0009444 – PalCMS-0009445, at PalCMS-0009444) (Exhibit 59); Email from Christopher Koepke to Kendra Kojcsich (Oct. 12, 2018) (PalCMS-0009446 – PalCMS-0009449, at PalCMS-0009446) (Exhibit 60); Email from Pam Stevens to Marcus Barlow (Oct. 26, 2018) (CR00881 – CR00882, at CR00881) (Exhibit 160); Email from Marcus Barlow to Christopher Koepke (Oct. 15, 2018) (CR01760) (Exhibit 61); Email from Christopher Koepke to [Porter Novelli] (Oct. 30, 2018) (CR01966 – CR01969, at CR01969) (Exhibit 62); Email from Marcus Barlow to Christopher Koepke (Nov. 30, 2018) (CR02064) (Exhibit 63); Email from Pam Stevens to Kendra Kojcsich (Dec. 12, 2018) (CR02139 – CR02140) (Exhibit 64).

<sup>154</sup> Email from Mimi Toomey to Stephanie Zajac et al. (Oct. 15, 2018) (PalCMS-0003460 – PalCMS-0003464, at PalCMS-0003460) (Exhibit 161).

<sup>155</sup> Email from Marcus Barlow to Kendra Kojcsich and Christopher Koepke (Dec. 11, 2018) (PalCMS-0002630 – PalCMS-0002633, at PalCMS-0002631) (Exhibit 125); Email from Mimi Toomey to Stephanie Zajac et al. (Oct. 15, 2018) (PalCMS-0003460 – PalCMS-0003464, at PalCMS-0003461) (Exhibit 161); Email from Amanda Isserman to Paul Mango et al. (Jan. 29, 2019) (PalCMS-0008250 – PalCMS-0008251, at PalCMS-0008251) (Exhibit 162); Email from Danielle Hagen to Kendra Kojcsich (Oct. 11, 2017) (CR03483 – CR03484, at CR03484) (Exhibit 143).

<sup>156</sup> Media Prep Memo from Porter Novelli to Administrator Seema Verma (Dec. 11, 2018) (PalCMS-0002744 – PalCMS-0002750, at PalCMS-0002744) (Exhibit 163); Email from Marcus Barlow to Brady Brookes et al. (Sept. 24, 2018) (PalCMS-0002928 – PalCMS-0002943, at PalCMS-0002943) (Exhibit 164); Email from Danielle Hagen to April Strathy et al. attaching Comms Strategic Calendar Project Spreadsheet (Aug. 1, 2018) (CR03606 – CR03616, at CR03616) (Exhibit 165).

<sup>157</sup> Email from Laura Salerno to Christopher Koepke (Jan. 30, 2019) (PalCMS-0009021 – PalCMS-0009022, at PalCMS-0009021) (Exhibit 166).

- According to CMS Interview Guidelines, all interviews and open-press events with the Administrator required the attendance of either Barlow or one of two CMS officials.<sup>158</sup>
- Barlow was part of a small team, which consisted of himself and two high-level personnel in the Office of the Administrator, responsible for conducting a “walk through” with the Administrator on issues that the Office of the Administrator considered “close-hold.”<sup>159</sup>
- Similarly, for an introductory meeting with Pam Stevens, officials in the Administrator’s office included Barlow in a small group of proposed attendees that otherwise included only high-level CMS officials.<sup>160</sup>

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<sup>158</sup> CMS Communications Contractor and Team Roles & Process (Stevens-009832 – Stevens-009833, at Stevens-009833) (Exhibit 167).

<sup>159</sup> Email from Amanda Isserman to Paul Mango et al. (Jan. 29, 2019) (PalCMS-0008250 – PalCMS-0008251, at PalCMS-0008251) (Exhibit 162).

<sup>160</sup> Email from Tamika Williams to Erin Pressley (Aug. 9, 2018) (PalCMS-0009239 – PalCMS-0009242, at PalCMS-0009241) (Exhibit 168).

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## IV. CONSULTANTS WORKED TO PROMOTE ADMINISTRATOR VERMA'S PUBLIC PROFILE AND PERSONAL BRAND AND EXPAND HER NETWORK

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While functioning as a shadow operation within CMS, consultants performed work that appears to have been aimed at promoting Administrator Verma's public profile and personal brand beyond her role as CMS Administrator, while also expanding her network. Consultants spent a significant amount of time generating media attention for Administrator Verma, including securing profile pieces, arranging speaking engagements, and coordinating off-the-record interviews and private meetings with high-profile individuals.

This type of activity was a particular focus of the work performed by consultant Pam Stevens.<sup>161</sup> Documents indicate that Stevens promoted one of her key strengths as the "Development and Enhancement of Public Profiles"<sup>162</sup> and offered to "tap[] into her vast network of leaders in policy, politics, and news to focus media attention on clients to develop their profiles and reputations."<sup>163</sup> Stevens's agreement with Porter Novelli stipulated that she was "to serve as a liaison between the CMS [A]dministrator and top tier media outlets and secure media hits."<sup>164</sup> Deputy Chief of Staff Brady Brookes similarly stated that the "goal" for Stevens's contract was "to find media opportunities and book media for the Administrator" and "connect[] the Administrator to reporters for introductions and background discussions."<sup>165</sup>

### A. Pam Stevens's Executive Visibility Proposal

On August 16, 2018, Pam Stevens sent Porter Novelli executive Kendra Kojcsich a two-page document titled, "Draft Executive Visibility Proposal Seema Verma."<sup>166</sup> The proposal's stated objective was to "highlight and promote Seema Verma leadership and accomplishment" through "a series of targeted media and externally facing opportunities."<sup>167</sup>

The proposal identified potential media targets, events, awards, and speaking opportunities for Administrator Verma. For example, under a section titled "Media Outreach," the document proposed to "[i]dentify key women's, leadership and general-interest magazines for potential interviews/profiles" of Administrator Verma, including, among other targets, *Good Housekeeping*, *Garden and Gun*, *Glamour*, "Mommy Blogs," *Oprah Magazine*, *WSJ Weekend*

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<sup>161</sup> Consulting Agreement between Porter Novelli, Inc. and Pam Stevens (Aug. 8, 2018) (Stevens-009032 – Stevens-009038) (Exhibit 41).

<sup>162</sup> Resume of Pamela Stevens (Stevens-009247 – Stevens-009249, at Stevens-009247) (Exhibit 169).

<sup>163</sup> Email from Pam Stevens to Kendra Kojcsich attaching Pam Stevens Bio (Aug. 16, 2018) (CR02507 – CR02508, at CR02508) (Exhibit 170).

<sup>164</sup> Consulting Agreement between Porter Novelli, Inc. and Pam Stevens (Aug. 8, 2018) (Stevens-009032 – Stevens-009038, at Stevens-009032) (Exhibit 41).

<sup>165</sup> Email from Mary Wallace to Brady Brookes (July 24, 2018) (PalCMS-0003035) (Exhibit 38).

<sup>166</sup> Email from Pam Stevens to Kendra Kojcsich attaching Draft Executive Visibility Proposal Seema Verma (Aug. 16, 2018) (CR03480 – CR03482) (Exhibit 171).

<sup>167</sup> Email from Pam Stevens to Kendra Kojcsich attaching Draft Executive Visibility Proposal Seema Verma (Aug. 16, 2018) (CR03480 – CR03482, at CR03481) (Exhibit 171).

*Lifestyle*, and *Woman's Day*.<sup>168</sup> Other outcomes and deliverables specified in the proposal included the following:

- “Pitch nationally recognized columnists and reporters...to write profile pieces and editorials....”
- “Get Seema on lists, such as the *Washingtonian's* ‘Most Powerful Women in Washington’ list, *Capitol File's* Top ‘Power Player’ list, *Politico's* ‘50 Most Powerful People in DC’ list, *NY Moves Magazine* ‘Power Women List,’ *Maryland Daily Record* ‘Most Admired CEOs’ list, *Washington Business Journal's* Women Who Mean Business, etc.”
- “Get Seema nominated for leadership awards across the country and spectrum of business and politics.”
- “Set-up [sic] off-the-record meetings in DC and NYC to get media, network personalities, and other key influencers knowledgeable about Seema and CMS.”
- “Position Seema as the thought-leader she is by securing speaking engagements at conferences and panelist opportunities at events such as” the “Fortune Most Powerful Women’s [sic] Summit,” “BlogHer/SheKnows Conference,” and “Politico’s Women Rule Summit.”<sup>169</sup>

On August 31, 2018, Kojcsich provided comments on Stevens’s draft of the proposal and instructed her to send it to others, including consultant Marcus Barlow, to review.<sup>170</sup> Danielle Hagen of Nahigian Strategies also provided feedback on the draft on September 6, 2018.<sup>171</sup> Stevens noted that a final draft of the document would be sent to Administrator Verma and that Administrator Verma had requested a meeting with consultants to go through the proposal.<sup>172</sup>

Consultants described the Executive Visibility Proposal as a “working list,” a “living draft,” and a “fluid document,”<sup>173</sup> and they continued to revise and expand it over time.<sup>174</sup> For instance,

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<sup>168</sup> Email from Pam Stevens to Kendra Kojcsich attaching Draft Executive Visibility Proposal Seema Verma (Aug. 16, 2018) (CR03480 – CR03482, at CR03481) (Exhibit 171); *see also* Draft Executive Visibility Proposal Seema Verma by Pam Stevens Media, Inc. (Aug. 2018) (Stevens-009281 – Stevens-009283) (Exhibit 172); Draft Executive Visibility Proposal by Pam Stevens Media, Inc. (Aug. 2018) (Stevens-009312 – Stevens-009314) (Exhibit 173); Draft Executive Visibility Proposal (Stevens-009321 – Stevens-009328) (Exhibit 174).

<sup>169</sup> Email from Pam Stevens to Kendra Kojcsich attaching Draft Executive Visibility Proposal Seema Verma (Aug. 16, 2018) (CR03480 – CR03482, at CR03482) (Exhibit 171).

<sup>170</sup> Email from Pam Stevens to Kendra Kojcsich (Aug. 31, 2018) (Stevens-000612 – Stevens-000618, at Stevens-000613) (Exhibit 175).

<sup>171</sup> Email from Danielle Hagen to Pam Stevens (Sept. 6, 2018) (Stevens-001112 – Stevens-001114, at Stevens-001112) (Exhibit 176).

<sup>172</sup> Email from [Porter Novelli] to Pam Stevens (Sept. 5, 2018) (Stevens-000856 – Stevens-000859) (Exhibit 130).

<sup>173</sup> Email from Pam Stevens to Karen Aldana (Feb. 25, 2019) (CR03088 – CR03090, at CR03090) (Exhibit 177); Email from Danielle Hagen to Pam Stevens (Sept. 6, 2018) (Stevens-001112 – Stevens-001114, at Stevens-001114) (Exhibit 176); Email from Pam Stevens to Kendra Kojcsich (Aug. 31, 2018) (Stevens-000612 – Stevens-000618, at Stevens-000612) (Exhibit 175).

<sup>174</sup> *See, e.g.*, Draft Executive Visibility Proposal (CR03233 – CR03239) (Exhibit 178); Email from Kendra Kojcsich to Pam Stevens (Feb. 27, 2019) (Stevens-007891 – Stevens-007894) (Exhibit 179); Draft Executive Visibility Proposal Seema Verma by Pam Stevens Media, Inc. (Aug. 2018) (Stevens-009281 – Stevens-009283) (Exhibit 172); Draft Executive Visibility Proposal by Pam Stevens Media, Inc. (Aug. 2018) (Stevens-009312 – Stevens-009314) (Exhibit 173); Draft Executive Visibility Proposal Seema Verma by Pam Stevens Media

other iterations of the proposal included additional media outreach targets, such as *Badass Women of DC*, as well as additional speaking opportunities, such as *Glamour's* “Women of the Year Awards,” which Stevens indicated Administrator Verma would “attend this year and pursue an award for next year.”<sup>175</sup> As late as March 12, 2019, Stevens shared a draft of the proposal with Thomas Corry, who had recently started working as CMS’s Communications Director.<sup>176</sup>

## **B. Consultants Sought Profiles, Awards, and Speaking Engagements to Promote Administrator Verma**

According to documents obtained by the Committees, consultants Pam Stevens and Danielle Hagen pursued many of the ideas listed in the Executive Visibility Proposal between September 2018 and April 2019, for which CMS was charged hourly rates of approximately \$280 and \$330, respectively.<sup>177</sup> Documents indicate that Stevens and Hagen focused heavily on pitching Administrator Verma to high-profile media outlets—a practice that, according to an official in CMS’s communications office, was new for CMS, which historically pitched stories to media outlets only during major policy rollouts and campaigns.<sup>178</sup>

Among other media outlets, Stevens and Hagen secured profile pieces and other positive exposure for Administrator Verma in the following:

- In February 2019, Stevens secured an appearance for Administrator Verma on *Politico's* “Women Rule” podcast, which was recorded the following month.<sup>179</sup> It appears Stevens billed at least \$3,400 to arrange this podcast.<sup>180</sup>

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(Stevens-009315 – Stevens-009316) (Exhibit 180); Draft Executive Visibility Proposal (Stevens-009321 – Stevens-009328) (Exhibit 174).

<sup>175</sup> Draft Executive Visibility Proposal (CR03233 – CR03239, at CR03234) (Exhibit 178); Draft Executive Visibility Proposal Seema Verma by Pam Stevens Media, Inc. (Aug. 2018) (Stevens-009281 – Stevens-009283, at Stevens-009283) (Exhibit 172).

<sup>176</sup> Email from Pam Stevens to Thomas Corry (Mar. 12, 2019) (Stevens-008728 – Stevens-008742) (Exhibit 181).

<sup>177</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 27, 2020) (CR06994 – CR07003, at CR06998) (Exhibit 37); Email from Laura Wotyca to Ken Nahigian attaching Subcontract Agreement between Porter Novelli Public Services, Inc. and Nahigian Strategies (Feb. 15, 2019) (Nahigian-0164 – Nahigian-0180, at Nahigian-0179) (Exhibit 19); *see, e.g.*, Email from Benjamin Kenney to Pam Stevens et al. (Oct. 26, 2018) (CR01894 – CR01899) (Exhibit 182); Email from Brady Brookes to Pam Stevens and Kendra Kojcsich (Nov. 15, 2018) (CR01918 – CR01920) (Exhibit 183); Email from Pam Stevens to Kendra Kojcsich and Meredith Good-Cohn (Feb. 4, 2019) (CR02167 – CR02170) (Exhibit 184).

<sup>178</sup> Email from Christopher Koepke to Karen Aldana et al. (Feb. 5, 2019) (PalCMS-0009442 – PalCMS-0009443, at PalCMS-0009442) (Exhibit 55).

<sup>179</sup> Email from Pam Stevens to Karen Aldana (Feb. 25, 2019) (CR02708 – CR02711) (Exhibit 185); Email from Kendra Kojcsich to Kristen Ricciardelli (Feb. 12, 2019) (Stevens-007367 – Stevens-007372) (Exhibit 186); *see Seema Verma: ‘This wouldn’t even be a discussion if you were a man’*, Politico Women Rule (Mar. 12, 2019) (online at <https://podcasts.apple.com/us/podcast/seema-verma-this-wouldnt-even-be-discussion-if-you/id1210928141?i=1000431668474>).

<sup>180</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04159) (Exhibit 187).

- In November 2018, Stevens arranged an exclusive interview for Administrator Verma with a *Boston Herald* reporter,<sup>181</sup> whom Stevens described as a “conservative,”<sup>182</sup> that resulted in an article praising Administrator Verma as a “massively talented” person.<sup>183</sup>
- Also in November 2018, Hagen arranged a profile piece on Administrator Verma with the *Christian Broadcast Network*.<sup>184</sup> The profile ran in February 2019 and covered, among other things, aspects of Administrator Verma’s personal story and why she found working in the Trump Administration “exciting.”<sup>185</sup>
- On September 25, 2018, Stevens announced that she was coordinating with AARP for a profile on Administrator Verma in *AARP The Magazine*, which was published in Spring 2019.<sup>186</sup> It appears Stevens billed at least \$1,117 to secure this interview.<sup>187</sup>

Documents indicate that these and other interviews were intended, at least in part, to promote Administrator Verma personally beyond her role as CMS Administrator and to raise her public profile.<sup>188</sup> For example:

- Porter Novelli’s Kendra Kojcsich, in consultation with Marcus Barlow, advised Deputy Chief of Staff Brady Brookes to use Stevens only for booking radio interviews for Administrator Verma that were “profile pieces and softballs.”<sup>189</sup> Kojcsich also described Stevens’s pitch targets as of a “more political nature” and “‘friendlies’ in terms of being more conservative talk radio.”<sup>190</sup>

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<sup>181</sup> Email from Pam Stevens to Matt Mlynarczyk (Nov. 26, 2018) (Stevens-004325 – Stevens-004329) (Exhibit 188).

<sup>182</sup> Email from Pam Stevens to Marcus Barlow (Nov. 26, 2018) (Stevens-004382 – Stevens-004383) (Exhibit 189).

<sup>183</sup> Email from Jaclyn Cashman to Pam Stevens (Nov. 29, 2018) (Stevens-004521 – Stevens-004527) (Exhibit 190); see *Health Czar Seema Administrator Verma Says Trump is Focused on Better Care, Cheaper Drugs*, *Boston Herald* (Nov. 29, 2018) (online at <https://www.bostonherald.com/2018/11/29/health-czar-seema-verma-says-trump-is-focused-on-better-care-cheaper-drugs/>).

<sup>184</sup> Email from Danielle Hagen to Emma Boone (Nov. 8, 2018) (CR01624 – CR01625) (Exhibit 191); Email from Danielle Hagen to CMS Administrator Account et al. (Dec. 7, 2018) (CR01661 – CR01663) (Exhibit 192); Email from Ninio Fetalvo to Kelly Dinicola et al. (Dec. 12, 2018) (CR02134 – CR02136) (Exhibit 193).

<sup>185</sup> *‘Disrupting the Status Quo on Behalf of the American People’: Bold Changes to Medicare and Medicaid*, *CBN News* (Feb. 6, 2019) (online at <https://www1.cbn.com/cbnnews/us/2019/february/its-okay-to-be-disruptive-cms-head-talks-bold-changes-to-medicare-and-medicaid>).

<sup>186</sup> Email from Benjamin Kenney to Pam Stevens et al. (Sept. 25, 2018) (CR00774) (Exhibit 194); see *The Future of Medicare: A Discussion with CMS Chief Seema Administrator Verma*, AARP (Mar. 1, 2019) (online at <https://www.aarp.org/health/medicare-insurance/info-2019/cms-seema-verma-interview.html>).

<sup>187</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04156) (Exhibit 187).

<sup>188</sup> See, e.g., Email from Danielle Hagen to Marcus Barlow (Oct. 30, 2018) (PalCMS-0002338 – PalCMS-0002341, at PalCMS-0002338) (Exhibit 195); see also Email from Pam Stevens to Marcus Barlow (Nov. 26, 2018) (Stevens-004360 – Stevens-004362) (Exhibit 196).

<sup>189</sup> Email from Kendra Kojcsich to Brady Brookes and Marcus Barlow (Dec. 13, 2018) (PalCMS-0001957 – PalCMS-0001958, at PalCMS-0001957) (Exhibit 197).

<sup>190</sup> Email from Kendra Kojcsich to Brady Brookes and Marcus Barlow (Dec. 13, 2018) (PalCMS-0001957 – PalCMS-0001958, at PalCMS-0001957) (Exhibit 197).

- For the *Politico* “Women Rule” podcast, Stevens noted that the podcast’s producer “reminded [her] that these podcasts for the most part are for high level, high achieving women to talk about how they got to their positions and what their priorities are.”<sup>191</sup>
- For an off-the-record interview with *Woman’s Day*, the preparation material indicated that the interviewer was “interested in stories rather than policy,” adding that the focus of the interview, in part, “should be on securing a profile piece for 2019.”<sup>192</sup>
- For an off-the-record interview with producers for *Fox News Sunday*, Stevens wrote that she wanted the show to select Administrator Verma for its weekly “Person of the Week” segment.<sup>193</sup>
- A booking memo prepared by Nahigian Strategies for the interview with the *Christian Broadcast Network* described the interview as a “profile piece on Administrator Verma” that would cover, among other topics, Administrator Verma’s “[p]ersonal story.”<sup>194</sup>
- Stevens noted that a meeting she was coordinating between Administrator Verma and the Editorial Board of the *Washington Examiner* could lead to a profile in the *Washington Examiner* magazine.<sup>195</sup>

Stevens also attempted to place Administrator Verma in public speaking roles and secure invitations to high-profile conferences and award ceremonies, billing thousands of dollars to do so.<sup>196</sup> For instance, Stevens requested a video reel with clips of Administrator Verma to send to event planners, saying that she would target “[e]veryone from Fortune Most Powerful Women Summit to Milken to Aspen etc.”<sup>197</sup> In August 2018, when Stevens proposed that Administrator Verma attend *Glamour’s* “Women of the Year Awards” later that year and meet privately with the magazine’s Editor-in-Chief, Kojcsich noted that it was too late for Administrator Verma to get an award that year.<sup>198</sup> Throughout her tenure with CMS, Stevens regularly circulated lists of ideas for conferences, speaking events, and other potential profile-enhancing appearances for Administrator Verma, including the House and Senate GOP retreats, the Aspen Ideas Festival, and TED events.<sup>199</sup>

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<sup>191</sup> Email from Karen Aldana to Marcus Barlow et al. (Mar. 6, 2018) (Stevens-008492 – Stevens-008496, at Stevens-008493) (Exhibit 80); *see also* Email from Pam Stevens to Danielle Hagen (Mar. 6, 2019) (Stevens-008519 – Stevens-008521, at Stevens-008520) (Exhibit 198).

<sup>192</sup> Susan Spencer – Woman’s Day Off the Record Meeting (PalCMS-0001800 – PalCMS-0001801, at PalCMS-0001800) (Exhibit 199).

<sup>193</sup> Email from Pam Stevens to Kendra Kojcsich (Feb. 11, 2019) (Stevens-007207 – Stevens-007208, at Stevens-007207) (Exhibit 200); *see also* Email from Kristen Ricciardelli to Karen Aldana (Feb. 12, 2019) (CR01676 – CR01680, at CR01677) (Exhibit 201).

<sup>194</sup> Email from Danielle Hagen to CMS Administrator Account et al. (Dec. 7, 2018) (CR01661 – CR01663, at CR01662) (Exhibit 192).

<sup>195</sup> Email from Marcus Barlow to Pam Stevens (Nov. 19, 2018) (Stevens-003762 – Stevens-003764, at Stevens-003764) (Exhibit 202).

<sup>196</sup> *See, e.g.*, Porter Novelli Consultant Time Entries (CR04156 – CR04160) (Exhibit 187); Email from Pam Stevens to Thomas Corry (Mar. 12, 2019) (Stevens-008728 – Stevens-008742) (Exhibit 181).

<sup>197</sup> Email from Pam Stevens to Kendra Kojcsich (Sept. 25, 2018) (Stevens-001793 – Stevens-001795) (Exhibit 203).

<sup>198</sup> Email from Pam Stevens to Kendra Kojcsich (Aug. 27, 2018) (Stevens-000532 – Stevens-000537, at Stevens-000533) (Exhibit 204).

<sup>199</sup> *See, e.g.*, Email from Pam Stevens to Thomas Corry (Mar. 12, 2019) (Stevens-008728 – Stevens-008742) (Exhibit 181).

### C. Consultants Coordinated with a Political Campaign Entity to Promote Administrator Verma

In her efforts to raise the Administrator's profile, documents show that Pam Stevens coordinated directly with the Republican National Committee (RNC) to amplify positive coverage of Administrator Verma. In November 2018, after securing an exclusive profile on Administrator Verma in the *Boston Herald*, Stevens asked the RNC to send the piece to its entire "War Room" mailing list.<sup>200</sup> On the same day, Stevens also had the RNC circulate a link to a podcast Administrator Verma appeared on for the Jim Polito Show.<sup>201</sup> After Stevens informed Porter Novelli's Kendra Kojcsich that the RNC had circulated this podcast to its mailing list, Kojcsich replied, "Cool!" and suggested Stevens share that information with Administrator Verma during a meeting later that day.<sup>202</sup> Deputy Chief of Staff Brady Brookes later admonished Stevens for the apparent misuse of federal resources to coordinate with a political campaign entity.<sup>203</sup>

Similarly, in October 2018, Stevens informed Kojcsich and a CMS official that the RNC had circulated an op-ed Administrator Verma published on foxnews.com to its "War Room" mailing list.<sup>204</sup>

### D. Consultants Sought Private Meetings Between High-Profile Individuals and Administrator Verma

In addition to securing media appearances, interviews, and speeches for Administrator Verma, consultant Pam Stevens pitched and arranged private meetings and off-the-record interviews between Administrator Verma and various high-profile individuals, billing thousands of dollars to carry out these activities.<sup>205</sup> Emails documenting the planning of these meetings suggest that they were not tied to specific CMS initiatives, but rather, linked to the general goal of helping Administrator Verma expand her network by building relationships with decisionmakers in the press, politically connected individuals, and other high-profile figures. For example:

- In August 2018, Stevens recommended that Administrator Verma meet with editors of *Woman's Day*, *Women's Health Magazine*, *Glamour*, and several *Fox News* hosts and contributors as part of a series of "getting to know you" meetings with members of the

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<sup>200</sup> Email from Pam Stevens to Kendra Kojcsich et al. (Nov. 30, 2018) (Stevens-004631 – Stevens-004635, at Stevens-004631) (Exhibit 205). It appears Stevens also consulted the offices of various high-profile Republican political figures, such as House Minority Leader Kevin McCarthy and House Minority Whip Steve Scalise, to obtain media recommendations. Email from Pam Stevens to Marcus Barlow (Oct. 26, 2018) (CR00881 – CR00882, at CR00881) (Exhibit 160); Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04157) (Exhibit 187).

<sup>201</sup> Email from Pam Stevens to Kendra Kojcsich (Nov. 30, 2018) (Stevens-004714 – Stevens-004717, at Stevens-004715) (Exhibit 206).

<sup>202</sup> Email from Pam Stevens to Kendra Kojcsich (Nov. 30, 2018) (Stevens-004714 – Stevens-004717, at Stevens-004715) (Exhibit 206).

<sup>203</sup> Email from Pam Stevens to Brady Brookes (Jan. 4, 2019) (Stevens-005820 – Stevens-005822, at Stevens-005821) (Exhibit 207).

<sup>204</sup> Email from Pam Stevens to [Office of Pam Stevens] et al. (Oct. 15, 2018) (Stevens-002149 – Stevens-002153, at Stevens-002149) (Exhibit 208).

<sup>205</sup> See, e.g., Porter Novelli Consultant Time Entries (CR04156 – CR04160) (Exhibit 187); Invoice from Pam Stevens to Porter Novelli for September-November 2018 (Nov. 9, 2018) (Stevens-010019 – Stevens-010020) (Exhibit 209).

national media while Administrator Verma was in New York City on official CMS travel.<sup>206</sup> During that same trip, Stevens secured a meeting with Dr. Marc Siegel, a *Fox News* contributor.<sup>207</sup> It appears Stevens billed at least \$837 to arrange this meeting.<sup>208</sup>

- In November 2018, Stevens proposed that Administrator Verma attend meetings with *Girlboss* and the head of the Maker's Conference during an upcoming official trip to California,<sup>209</sup> charging almost \$490 to "obtain[] and provide[] CMS with Girl Boss insight."<sup>210</sup> Stevens also attempted to secure a private dinner between Administrator Verma and former Secretary of State Condoleezza Rice during that trip.<sup>211</sup>
- Later that month, Stevens circulated a list of proposals that included dinners with high-profile broadcast journalists and a meeting with a *Washington Post* reporter who Stevens emphasized "writes a lot on Women."<sup>212</sup>
- As part of a return trip to New York City in February 2019, Stevens recommended arranging meetings between Administrator Verma and representatives of *People*, *Glamour*, and *Fortune* magazines, among others.<sup>213</sup>
- In February 2019, Stevens reported that she was attempting to secure a meeting between Administrator Verma and Mark Strand, President of the Congressional Institute, an organization that runs an annual retreat for Republican Members of Congress.<sup>214</sup> In an email to an official in the Administrator's office, Stevens emphasized that Strand was "important for her [Administrator Verma] to get to know -- for him to get to know her -- he puts on all of those panels, conferences, summits with members of Congress and Senators all the time. She should be a part of those! He's a doll, btw."<sup>215</sup>

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<sup>206</sup> Email from Pam Stevens to Marcus Barlow (Aug. 22, 2018) (Stevens-000158 – Stevens-000159) (Exhibit 210).

<sup>207</sup> Email from Pam Stevens to Benjamin Kenney (Aug. 23, 2018) (Stevens-000439 – Stevens-000442) (Exhibit 211); Itinerary for Administrator's Visit to New York, NY (Sept. 11, 2018) (Nahigian-0312 – Nahigian-0320, at Nahigian-0318) (Exhibit 67).

<sup>208</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04156) (Exhibit 187).

<sup>209</sup> Email from Pam Stevens to Brady Brookes and Marcus Barlow (Nov. 2, 2018) (Stevens-003438 – Stevens-003440, at Stevens-003438) (Exhibit 212).

<sup>210</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04158) (Exhibit 187).

<sup>211</sup> Email from Brady Brookes to Pam Stevens and Kendra Kojcsich (Nov. 15, 2018) (CR01918 – CR01920, at CR01920) (Exhibit 183); Email from Pam Stevens to Emma Boone and Kendra Kojcsich (Dec. 19, 2018) (Stevens-005293 – Stevens-005297) (Exhibit 213); *see also* Email from Marcus Barlow to Pam Stevens (Jan. 11, 2019) (CR02328 – CR02333) (Exhibit 214). The meeting with Secretary Rice was never confirmed, and Administrator Verma's January 2019 California trip was ultimately canceled due to a government shutdown. Kojcsich Interview at 3347-3356.

<sup>212</sup> Email from Brady Brookes to Pam Stevens and Kendra Kojcsich (Nov. 15, 2018) (CR01918 – CR01920, at CR01919) (Exhibit 183).

<sup>213</sup> Email from Pam Stevens to Kendra Kojcsich and Meredith Good-Cohn (Feb. 4, 2019) (CR02167 – CR02170) (Exhibit 184).

<sup>214</sup> *Events*, Congressional Institute (online at <https://www.congressionalinstitute.org/events/>).

<sup>215</sup> Email from Pam Stevens to Meredith Good-Cohn (Feb. 20, 2019) (Stevens-007601 – Stevens-007602, at Stevens-007601) (Exhibit 215).

- Stevens also coordinated directly with the White House to schedule a meeting in March 2019 between Administrator Verma and then-White House Communications Director Bill Shine.<sup>216</sup>

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<sup>216</sup> Email from Pam Stevens to Diana Perez-Rivera (Feb. 11, 2019) (CR02852 – CR02854, at CR02853 – CR02854) (Exhibit 216); Email from Pam Stevens to Giovanna Coia (Feb. 28, 2019) (Stevens-008086 – Stevens-008090) (Exhibit 217); Email from Pam Stevens to Diana Perez-Rivera (Feb. 28, 2019) (Stevens-008121 – Stevens-008123, at Stevens-008122) (Exhibit 218).

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## V. ADMINISTRATOR VERMA'S CONSULTANTS CHARGED CMS NEARLY \$6 MILLION IN LESS THAN TWO YEARS

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Between June 2017 and April 2019, CMS was issued invoices totaling at least \$5,790,442 to retain the firms through which the consultants were engaged. Specifically, according to documents obtained by the Committees, the consulting firms charged CMS the following amounts:

- \$5,067,823 by Porter Novelli.<sup>217</sup>
- \$688,755 by Deloitte.<sup>218</sup>
- \$33,865 by Weber Shandwick for Brett O'Donnell's work.<sup>219</sup>

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<sup>217</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Dec. 3, 2019) (CR06553 – CR06555, at CR06554) (Exhibit 219); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 27, 2020) (CR06994 – CR07003, at CR06995) (Exhibit 37); *see also* Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Oct. 16, 2018) (PalCMS-0000108 – PalCMS-0000114, at PalCMS-0000109) (Exhibit 31); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 26, 2018) (PalCMS-0000115 – PalCMS-0000127, at PalCMS-0000116) (Exhibit 32); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Dec. 12, 2018) (PalCMS-0000128 – PalCMS-0000134, at PalCMS-0000129) (Exhibit 33); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000136) (Exhibit 34); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 28, 2019) (PalCMS-0000188 – PalCMS-0000200, at PalCMS-0000189) (Exhibit 35); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 21, 2017) (CR06139 – CR06147, at CR06141) (Exhibit 220); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 22, 2017) (CR06171 – CR06179, at CR06172) (Exhibit 221); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (July 31, 2018) (CR06434 – CR06451, at CR06435) (Exhibit 72); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Aug. 28, 2018) (CR06472 – CR06478, at CR06473) (Exhibit 222); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Sept. 27, 2018) (CR06498 – CR06507, at CR06499) (Exhibit 98).

<sup>218</sup> Invoice from Deloitte to Office of the Secretary, HHS (Sept. 12, 2017) (DC0000160 – DC0000168, at DC0000160) (Exhibit 223); Invoice from Deloitte to Office of the Secretary, HHS (Sept. 28, 2017) (DC0000169 – DC0000177, at DC0000169) (Exhibit 224); Invoice from Deloitte to Office of the Secretary, HHS (Oct. 18, 2017) (DC0000178 – DC0000186, at DC0000178) (Exhibit 225); Invoice from Deloitte to Office of the Secretary, HHS (Dec. 1, 2017) (DC0000187 – DC0000197, at DC0000187) (Exhibit 226); Invoice from Deloitte to Office of the Secretary, HHS (Jan. 23, 2018) (DC0000198 – DC0000206, at DC0000198) (Exhibit 227); Invoice from Deloitte to Office of the Secretary, HHS (Feb. 5, 2018) (DC0000207 – DC0000215, at DC0000207) (Exhibit 228); Invoice from Deloitte to Office of the Secretary, HHS (Mar. 15, 2018) (DC0000216 – DC0000224, at DC0000216) (Exhibit 229).

<sup>219</sup> Public Voucher for Purchases and Services Other Than Personal, Centers for Medicare & Medicaid Services for CMGRP, Inc. D/B/A Weber Shandwick (July 25, 2017) (WS0110 – WS0129, at WS0111) (Exhibit 8); Public Voucher for Purchases and Services Other Than Personal, Centers for Medicare & Medicaid Services for CMGRP, Inc. D/B/A Weber Shandwick (Aug. 24, 2017) (WS0135 – WS0151, at WS0136) (Exhibit 230); Public

Within these contracts, CMS was charged the following amounts for the consultants who worked closely with the Administrator's office:

- Nearly \$3 million for Nahigian Strategies's work (including the work of Keith Nahigian, Ken Nahigian, Marcus Barlow, and Danielle Hagen) in less than two years under three separate subcontracts.<sup>220</sup>
- More than \$232,000 for Marcus Barlow's work through Integritas Strategies over the course of approximately eight months.<sup>221</sup>
- More than \$115,000 for Pam Stevens's work over the course of approximately nine months.<sup>222</sup>

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Voucher for Purchases and Services Other Than Personal, Centers for Medicare & Medicaid Services for CMGRP, Inc. D/B/A Weber Shandwick (Sept. 18, 2017) (WS0152 – WS0179, at WS0153) (Exhibit 231).

<sup>220</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000162 – PalCMS-0000165) (Exhibit 34); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 28, 2019) (PalCMS-0000188 – PalCMS-0000200, at PalCMS-0000199) (Exhibit 35); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 21, 2017) (CR06139 – CR06147, at CR06145) (Exhibit 220); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (July 31, 2018) (CR06434 – CR06451, at CR06441) (Exhibit 72); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Aug. 28, 2018) (CR06472 – CR06478, at CR06476) (Exhibit 222); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Sept. 27, 2018) (CR06498 – CR6507, at CR06505) (Exhibit 98); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 27, 2020) (CR06994 – CR07003, at CR06999) (Exhibit 37); Invoice from Nahigian Strategies to Deloitte for October 2017 (Nov. 6, 2017) (DC0000142 – DC0000143) (Exhibit 25); Invoice from Nahigian Strategies to Deloitte for November 2017 (Dec. 6, 2017) (DC0000144 – DC0000145) (Exhibit 26); Invoice from Nahigian Strategies to Deloitte for June 2017 (July 28, 2017) (DC0000146 – DC0000147) (Exhibit 27); Invoice from Nahigian Strategies to Deloitte for July 2017 (Aug. 2, 2017) (DC0000148 – DC0000149) (Exhibit 28); Invoice from Nahigian Strategies to Deloitte for August 2017 (Sept. 11, 2017) (DC0000150 – DC0000151) (Exhibit 29); Invoice from Nahigian Strategies to Deloitte for September 2017 (Oct. 5, 2017) (DC0000152 – DC0000153) (Exhibit 30).

<sup>221</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Oct. 16, 2018) (PalCMS-0000108 – PalCMS-0000114, at PalCMS-0000112) (Exhibit 31); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 26, 2018) (PalCMS-0000115 – PalCMS-0000127, at PalCMS-0000119) (Exhibit 32); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Dec. 12, 2018) (PalCMS-0000128 – PalCMS-0000134, at PalCMS-0000132) (Exhibit 33); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000139) (Exhibit 34); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 28, 2019) (PalCMS-0000188 – PalCMS-0000200, at PalCMS-0000192) (Exhibit 35); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 27, 2020) (CR06994 – CR07003, at CR06998) (Exhibit 37).

<sup>222</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Oct. 16, 2018) (PalCMS-0000108 – PalCMS-0000114, at PalCMS-0000112) (Exhibit 31); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 26, 2018) (PalCMS-0000115 – PalCMS-0000127, at PalCMS-0000119) (Exhibit 32); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Dec. 12, 2018) (PalCMS-

- More than \$77,000 for Brett O'Donnell's work through two separate arrangements spanning approximately nine months.<sup>223</sup>
- More than \$191,000 for five additional speechwriters and project managers engaged to perform work for CMS for a period of approximately six months.<sup>224</sup>

These amounts reflect a number of factors, including high hourly rates, large bills for vague services and work seemingly unconnected to official CMS activities, significant reimbursements, and Administrator Verma's apparent preference to be heavily staffed by consultants while on official travel.

## **A. Consultants Charged High Hourly Rates and Billed a Significant Number of Hours**

Consultants working closely with the Office of the Administrator charged hourly rates that typically exceeded salaries for career CMS civil servants. Documents obtained by the Committees show that CMS was charged the following hourly rates:

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0000128 – PalCMS-0000134, at PalCMS-0000132) (Exhibit 33); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000139) (Exhibit 34); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 28, 2019) (PalCMS-0000188 – PalCMS-0000200, at PalCMS-0000192) (Exhibit 35). Per Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Jan. 29, 2019) (CR06546 – CR06552) (Exhibit 232), Porter Novelli appears to have charged \$3,880 of this amount under its 2017 agreement with CMS as the 2018 contract did not begin until September 15, 2018.

<sup>223</sup> Invoice from O'Donnell and Associates, Ltd. to Deloitte Consulting LLP (Dec. 8, 2017) (DC0000154) (Exhibit 233); Invoice from O'Donnell and Associates, Ltd. to Deloitte Consulting LLP (Feb. 2, 2018) (DC0000155) (Exhibit 234); Invoice from O'Donnell and Associates, Ltd. to Deloitte Consulting LLP (Jan. 18, 2018) (DC0000156) (Exhibit 235); Invoice from O'Donnell and Associates, Ltd. to Deloitte Consulting LLP (Nov. 8, 2017) (DC0000157) (Exhibit 236); Invoice from O'Donnell and Associates, Ltd. to Deloitte Consulting LLP (Nov. 29, 2017) (DC0000158) (Exhibit 237); Invoice from O'Donnell and Associates, Ltd. to Deloitte Consulting LLP (Nov. 2, 2017) (DC0000159) (Exhibit 238).

<sup>224</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Oct. 16, 2018) (PalCMS-0000108 – PalCMS-0000114, at PalCMS-0000112) (Exhibit 31); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 26, 2018) (PalCMS-0000115 – PalCMS-0000127, at PalCMS-0000119) (Exhibit 32); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Dec. 12, 2018) (PalCMS-0000128 – PalCMS-0000134, at PalCMS-0000132) (Exhibit 33); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000139) (Exhibit 34); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 28, 2019) (PalCMS-0000188 – PalCMS-0000200, at PalCMS-0000192) (Exhibit 35); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 27, 2020) (CR06994 – CR07003, at CR06998) (Exhibit 37); New Vendor Authorization Form, Porter Novelli (Dec. 19, 2018) (CR06945 – CR06975) (Exhibit 239); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Sept. 27, 2018) (CR06498 – CR06507, at CR06504) (Exhibit 98).

- **Keith and Ken Nahigian:** more than \$379 per hour under both the 2018 Porter Novelli agreement and the 2017 Porter Novelli agreement, and more than \$356 per hour under the Deloitte agreement.<sup>225</sup>
- **Danielle Hagen:** approximately \$330 per hour under both the 2018 Porter Novelli agreement and the 2017 Porter Novelli agreement, and approximately \$225 per hour under the Deloitte agreement.<sup>226</sup>
- **Pam Stevens:** approximately \$280 per hour under the 2018 Porter Novelli agreement.<sup>227</sup>
- **Marcus Barlow:** more than \$209 per hour under the 2018 Porter Novelli agreement, more than \$230 per hour under the 2017 Porter Novelli agreement, and approximately \$225 per hour under the Deloitte agreement.<sup>228</sup>
- **Brett O'Donnell:** more than \$206 per hour under the Deloitte agreement and approximately \$310 per hour under the Weber Shandwick agreement.<sup>229</sup>

These high rates resulted in significant charges to CMS, even when consultants billed a relatively low number of hours. For example, Weber Shandwick charged CMS almost \$34,000 for only 122 hours of O'Donnell's work—the equivalent of about three 40-hour work weeks—performed over the course of three months.<sup>230</sup> Similarly, Porter Novelli billed CMS over

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<sup>225</sup> Email from Laura Wotycha to Ken Nahigian and Kendra Kojcsich attaching Subcontract Agreement between Porter Novelli Services, Inc. and Nahigian Strategies (Aug. 21, 2018) (Nahigian-0097 – Nahigian-0115, at Nahigian-0115) (Exhibit 18); Email from Laura Wotycha to Ken Nahigian attaching Subcontract Agreement between Porter Novelli Public Services, Inc. and Nahigian Strategies (Feb. 15, 2019) (Nahigian-0164 – Nahigian-0180, at Nahigian-0179) (Exhibit 19); *see, e.g.*, Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000162 – PalCMS-0000164) (Exhibit 34); Invoice from Deloitte to Office of the Secretary, HHS (Mar. 15, 2018) (DC0000216 – DC0000224, at DC0000221) (Exhibit 229).

<sup>226</sup> Email from Laura Wotycha to Ken Nahigian and Kendra Kojcsich attaching Subcontract Agreement between Porter Novelli Services, Inc. and Nahigian Strategies (Aug. 21, 2018) (Nahigian-0097 – Nahigian-0115, at Nahigian-0115) (Exhibit 18); Email from Laura Wotycha to Ken Nahigian attaching Subcontract Agreement between Porter Novelli Public Services, Inc. and Nahigian Strategies (Feb. 15, 2019) (Nahigian-0164 – Nahigian-0180, at Nahigian-0179) (Exhibit 19); *see, e.g.*, Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000162 – PalCMS-0000164) (Exhibit 34); Invoice from Deloitte to Office of the Secretary, HHS (Mar. 15, 2018) (DC0000216 – DC0000224, at DC0000221) (Exhibit 229).

<sup>227</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 27, 2020) (CR06994 – CR07003, at CR06998) (Exhibit 37).

<sup>228</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 27, 2020) (CR06994 – CR07003, at CR06998) (Exhibit 37); Email from Laura Wotycha to Ken Nahigian and Kendra Kojcsich attaching Subcontract Agreement between Porter Novelli Services, Inc. and Nahigian Strategies (Aug. 21, 2018) (Nahigian-0097 – Nahigian-0115, at Nahigian-0115) (Exhibit 18); *see, e.g.*, Invoice from Deloitte to Office of the Secretary, HHS (Mar. 15, 2018) (DC0000216 – DC0000224, at DC0000221) (Exhibit 229).

<sup>229</sup> Public Voucher for Purchases and Services Other Than Personal, Centers for Medicare & Medicaid Services for CMGRP, Inc. D/B/A Weber Shandwick (July 25, 2017) (WS0110 – WS0129, at WS0117) (Exhibit 8); *see, e.g.*, Invoice from Deloitte to Office of the Secretary, HHS (Mar. 15, 2018) (DC0000216 – DC0000224, at DC0000221) (Exhibit 229).

<sup>230</sup> Weekly Timesheets for Brett O'Donnell from June 13, 2017 to September 1, 2017 (WS0013 – WS0031) (Exhibit 240).

\$31,000 for approximately 111 hours of Stevens’s work.<sup>231</sup> The rates charged by Nahigian Strategies consultants also resulted in significant monthly bills despite relatively few hours worked, including a charge of more than \$14,000 for just 37 hours worked by Keith Nahigian in December 2018.<sup>232</sup>

Documents reflect that consultants also at times billed CMS significantly more hours over much shorter periods. Invoices obtained by the Committees show that Barlow, in particular, billed a substantial number of hours on CMS matters, including 240 hours in October 2018—translating to nearly 8 hours per day for every day of the month, including weekends—resulting in charges of approximately \$50,210, and 200 hours in December 2018, resulting in charges of \$41,842.<sup>233</sup> Documents also indicate that Stevens submitted time entries that exceeded “normal” workdays by what a Porter Novelli employee characterized as a “significant amount.”<sup>234</sup> For example, for January 4, 2019, Stevens billed 21 hours of work in total for a charge of more than \$5,800,<sup>235</sup> and for December 19, 2018, billed 14 hours in total, for a charge of more than \$3,350.<sup>236</sup> As a result, Porter Novelli sent CMS multiple six-figure monthly invoices, including a \$110,000 bill for October 2018 services<sup>237</sup> and a \$340,000 bill for December 2018 services.<sup>238</sup>

The costs associated with retaining these consultants were significantly higher than the amounts CMS pays salaried full-time employees, including the most senior political appointees at CMS. For example, a job posting in 2017 for a CMS public affairs officer offered an annual salary range of \$94,796 to \$123,234.<sup>239</sup> The job description listed responsibilities that were similar or identical to activities the consultants carried out at much greater costs, including “arrange and manage media briefings, media availabilities, and other news-related activities,” “create, write, and edit materials, including news releases, press statements,” and “brief CMS officials to prepare them for interacting with the media and/or political entities.”<sup>240</sup> Even the

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<sup>231</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000139) (Exhibit 34).

<sup>232</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000164) (Exhibit 34).

<sup>233</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 26, 2018) (PalCMS-0000115 – PalCMS-0000127, at PalCMS-0000119) (Exhibit 32); Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000139) (Exhibit 34). Kojcsich stated during a transcribed interview it was possible that Barlow’s 240-hour bill in October 2018 reflected work performed in earlier months. She could not, however, explain in which months this work could have been performed given that Barlow submitted 80 hours for September when his contract had not become effective until September 15. *See* Kojcsich Interview at 3908-3963.

<sup>234</sup> Email from [Office of Pam Stevens] to [Porter Novelli] (Apr. 3, 2019) (Stevens-010099 – Stevens-010101, at Stevens-010100 – Stevens-010101) (Exhibit 241).

<sup>235</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04158) (Exhibit 187).

<sup>236</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04157) (Exhibit 187).

<sup>237</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 26, 2018) (PalCMS-0000115 – PalCMS-0000127, at PalCMS-0000115) (Exhibit 32).

<sup>238</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000135) (Exhibit 34).

<sup>239</sup> *Public Affairs Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services*, USAJOBS.gov (online at <https://www.usajobs.gov/GetJob/ViewDetails/482490700>).

<sup>240</sup> *Public Affairs Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services*, USAJOBS.gov (online at <https://www.usajobs.gov/GetJob/ViewDetails/482490700>).

Director of Communications, a senior political appointee who leads the 200-person Office of Communications, was paid significantly less than the consultants—an annual rate of \$179,700 in 2016.<sup>241</sup>

Notably, a senior official in the Office of the Administrator was warned of the high costs associated with using consultants. When discussing Stevens’s new contract action in July 2018, an official in the CMS Office of Communications warned Deputy Chief of Staff Brady Brookes: “Just remember that people like this are expensive per hour.”<sup>242</sup>

## **B. Consultants Billed for Work Seemingly Unconnected to Official CMS Activities, and at Times Engaged in Questionable Billing Practices**

The OIG Audit identified multiple instances of “questionable costs” paid for by CMS, including a \$150,000 cancellation fee for a 2017 “bus tour” and travel costs that were improperly billed prior to the commencement of the performance period for a contract.<sup>243</sup> In another instance, OIG found that CMS did not provide written consent for Porter Novelli to use Nahigian Strategies as a subcontractor until many months after Nahigian Strategies began working, thereby violating FAR requirements.<sup>244</sup> OIG also concluded that CMS’s failure to properly manage its contracts created a risk of duplicate billing by Nahigian Strategies under the Deloitte agreement and the 2017 Porter Novelli agreement—which had overlapping performance periods and similar scopes.<sup>245</sup> OIG concluded that these costs and other errors resulted from CMS’s contract management practices.<sup>246</sup>

Information obtained by the Committees shows that consultants engaged in other questionable billing practices than those identified in the OIG Audit, and raises additional questions about the extent to which consultants charged taxpayers for work seemingly unconnected to official CMS activities.

**Consultants billed for work seemingly unconnected to official CMS activities.** Documents obtained by the Committees show that consultants, particularly Pam Stevens, billed for work seemingly unconnected to official CMS activities and that instead appeared primarily aimed at promoting Administrator Verma’s public profile and personal brand and expanding her network. For example, Stevens:

- Billed at least \$13,000 to “pitch” the Administrator for “Awards/Panels,” “nominations done for awards,” and other events and panels.<sup>247</sup>
- Submitted multiple entries regarding a “Girl’s Night” that totaled almost \$3,000, including 3 hours “Arrang[ing] Girl’s Night to honor the Administrator,” 2.5 hours for

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<sup>241</sup> *Profile of MaryJane O. Norris*, ProPublica Trump Town, accessed Aug. 24, 2020 (online at <https://projects.propublica.org/trump-town/staffers/maryjane-o-norris>); *The Plum Book* (2016), at 67, 213, 218, 220. According to *The Plum Book*, the Director of CMS’s Office of Communications position is one of the “Senior Executive Service General Positions Filled by Noncareer Appointment.” Such appointees “may be appointed to any SES General position. There is no requirement for competitive staffing, but the agency head must certify that the appointee meets the qualifications requirements for the position.” In 2016, these appointees could receive base pay of up to \$185,100 a year.

<sup>242</sup> Email from Mary Wallace to Brady Brookes (July 24, 2018) (PalCMS-0003035) (Exhibit 38).

<sup>243</sup> OIG Audit at 35-36.

<sup>244</sup> OIG Audit at 30-31; FAR § 44.202-1(b).

<sup>245</sup> OIG Audit at 32.

<sup>246</sup> OIG Audit at 35-37; *see also* FAR § 31.201-2.

<sup>247</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160) (Exhibit 187).

“Invite to attend girl’s night (networking),” and 5 hours for “Girls Night in her honor at Susan Page’s home.”<sup>248</sup>

- “Submitted [a] list for suggested media/influencers to meet with the [Administrator],” for which Stevens billed \$500.<sup>249</sup>
- Arranged various lunches for the Administrator with members of the media, including a reporter with the *Washington Examiner*, a *Fox News* contributor, and a senior executive at AARP, for which Stevens billed more than \$1,700.<sup>250</sup>
- Billed more than \$900 to place the Administrator in an ALEC event<sup>251</sup> and almost \$1,000 to place one of the Administrator’s op-eds on fox.com.<sup>252</sup>

**Consultants engaged in questionable billing practices.** Documents and information obtained by the Committees indicate that certain consultants failed to ensure that hours submitted to CMS were timely and accurately recorded. For example, in December 2018, a Porter Novelli employee sent Stevens an email stating that the company needed dates for the work Stevens performed in order to process her invoices.<sup>253</sup> In response, Stevens wrote to her assistant: “Dates need to be added to all of these things I did. Can you do that. [sic] some you will have to fudge and that’s fine[.] we will need to do the same with the new invoice. I basically work around the clock for them....”<sup>254</sup>

Documents obtained by the Committees also show that consultants submitted time entries that contained vague and seemingly insufficient descriptions to explain the number of hours purportedly spent on various CMS tasks. For example, Stevens’s entries included the following:

- Approximately \$1,800 for 6.5 hours to “pitch[] the Administrator for awards/panels.”<sup>255</sup>
- Approximately \$1,815 for 6.5 hours of “Conference panels/events pitching and work.”<sup>256</sup>
- Almost \$2,800 for 10 hours for “miscellaneous media services: Phone calls with CMS, Kendra, etc.”<sup>257</sup>
- Over \$1,950 for seven hours for “Other miscellaneous media activities.”<sup>258</sup>

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<sup>248</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04157) (Exhibit 187).

<sup>249</sup> Invoice from Pam Stevens to Porter Novelli for September-November 2018 (Nov. 9, 2018) (Stevens-010019 – Stevens-010020) (Exhibit 209).

<sup>250</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04156) (Exhibit 187).

<sup>251</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04157) (Exhibit 187).

<sup>252</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04156) (Exhibit 187).

<sup>253</sup> Email from Pam Stevens to [Office of Pam Stevens] (Dec. 3, 2018) (Stevens-010736 – Stevens-010740, at Stevens-010738) (Exhibit 242).

<sup>254</sup> Email from Pam Stevens to [Office of Pam Stevens] (Dec. 3, 2018) (Stevens-010736 – Stevens-010740, at Stevens-010736) (Exhibit 242).

<sup>255</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04156) (Exhibit 187).

<sup>256</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04159) (Exhibit 187).

<sup>257</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04157) (Exhibit 187).

<sup>258</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04158) (Exhibit 187).

- Almost \$1,120 for four hours for “Scheduling the Administrator.”<sup>259</sup>

Similarly, in his entries, Barlow uniformly described the work he performed as “strategic communications” or “strategic counsel”—without providing any specific supporting information.<sup>260</sup> Barlow generally billed exactly eight hours per day for work conducted between September 2018 and April 2019, amounting to almost \$1,700 per day, but at times billed as much as ten hours of work in one day, totaling almost \$2,100.<sup>261</sup>

### C. Administrator Verma’s Outsized Reliance on Consultants Led to Additional Costs

While the use of consultants in general proved to be a significant cost to taxpayers, Administrator Verma’s outsized reliance on consultants also increased the overall expenses.

**Consultants heavily staffed Administrator Verma on official travel.** Documents indicate that Administrator Verma was often staffed by multiple consultants on official travel, even when CMS staff were present. For example:

- A CMS itinerary for a three-day trip in July 2018 to California, where Administrator Verma gave a speech at the Commonwealth Club of California, participated in roundtables, and did media interviews, lists four Nahigian Strategies consultants accompanying her, along with three CMS staff.<sup>262</sup> The consultants charged hourly rates from approximately \$124 to almost \$380.<sup>263</sup>
- A CMS itinerary for a two-day trip in September 2018 to New York City, where Administrator Verma conducted off-the-record meetings with representatives from *Women’s Health*, *Woman’s Day*, *Fox News*, and the Hearst Lifestyle Group, lists five consultants, including Pam Stevens and Marcus Barlow, and two CMS staff accompanying the Administrator.<sup>264</sup> The consultants charged hourly rates from \$160 to approximately \$310.<sup>265</sup>
- A CMS itinerary for an October 2018 visit to a 104-bed nursing home in York, Pennsylvania—where, according to Porter Novelli’s Kendra Kojcsich, no press or media was present—shows Administrator Verma being accompanied by multiple consultants

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<sup>259</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04157) (Exhibit 187).

<sup>260</sup> Porter Novelli Consultant Time Entries (CR04133 – CR04136) (Exhibit 243).

<sup>261</sup> Porter Novelli Consultant Time Entries (CR04133 – CR04136) (Exhibit 243).

<sup>262</sup> Itinerary for Administrator’s Visit to San Francisco, St. Helena, and Palo Alto, CA (July 25, 2018) (Nahigian-0292 – Nahigian-0304) (Exhibit 66).

<sup>263</sup> Email from Laura Wotycha to Ken Nahigian and Kendra Kojcsich attaching Subcontract Agreement between Porter Novelli Services, Inc. and Nahigian Strategies (Aug. 21, 2018) (Nahigian-0097 – Nahigian-0115, at Nahigian-0115) (Exhibit 18).

<sup>264</sup> Itinerary for Administrator’s Visit to New York, NY (Sept. 11, 2018) (Nahigian-0312 – Nahigian-0320) (Exhibit 67).

<sup>265</sup> Order for Supplies or Services from Center for Medicare & Medicaid Services to Porter Novelli Public Services, Inc. (Aug. 31, 2018) (CumCMS-0000001 – CumCMS-0000065, at CumCMS-0000003) (Exhibit 4); Email from Laura Wotycha to Ken Nahigian attaching Subcontract Agreement between Porter Novelli Public Services, Inc. and Nahigian Strategies (Feb. 15, 2019) (Nahigian-0164 – Nahigian-0180, at Nahigian-0179 – Nahigian-0180) (Exhibit 19).

and four CMS staff.<sup>266</sup> The consultants charged hourly rates from \$160 to more than \$209.<sup>267</sup>

The size of Administrator Verma's travel entourage appears to be a particularly questionable use of taxpayer dollars given the high rates charged by Nahigian Strategies for logistical tasks such as driving and event labor on these trips. For example, for the September 2018 trip to New York City, three Nahigian Strategies consultants, all of whom billed \$160 per hour, were listed as drivers and site advance staff.<sup>268</sup> On other trips, Nahigian Strategies charged CMS between \$160 to \$203 per hour for consultants to be used as drivers and advance staff.<sup>269</sup> On a separate occasion, a Nahigian Strategies consultant—who billed CMS at a rate of \$203 per hour—worked to arrange parking and other logistics for Administrator Verma's husband to attend one of her events.<sup>270</sup>

**Consultants required reimbursements from CMS.** Administrator Verma's tendency to heavily staff her non-local travel resulted in significant reimbursements for consultants' expenses for transportation, accommodations, and per diems.<sup>271</sup> For example, for the September 2018 two-day trip to New York City, Nahigian Strategies submitted reimbursements that totaled almost \$8,900.<sup>272</sup> During this trip, consultants stayed in a hotel

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<sup>266</sup> Itinerary for Administrator's Visit to York, PA (Oct. 18, 2018) (Nahigian-0325 – Nahigian-0328) (Exhibit 68); Kojcsich Interview at 3201-3203; *Spiritrust Lutheran the Village at Sprenkle Drive*, Medicare.gov, accessed Aug. 24, 2020 (online at <https://www.medicare.gov/nursinghomecompare/profile.html#profTab=0&ID=395612>).

<sup>267</sup> Order for Supplies or Services from Center for Medicare & Medicaid Services to Porter Novelli Public Services, Inc. (Aug. 31, 2018) (CumCMS-0000001 – CumCMS-0000065, at CumCMS-0000003) (Exhibit 4); Email from Laura Wotycha to Ken Nahigian attaching Subcontract Agreement between Porter Novelli Public Services, Inc. and Nahigian Strategies (Feb. 15, 2019) (Nahigian-0164 – Nahigian-0180, at Nahigian-0179 – Nahigian-0180) (Exhibit 19).

<sup>268</sup> Itinerary for Administrator's Visit to New York, NY (Sept. 11, 2018) (Nahigian-0312 – Nahigian-0320) (Exhibit 67); Email from Laura Wotycha to Ken Nahigian attaching Subcontract Agreement between Porter Novelli Public Services, Inc. and Nahigian Strategies (Feb. 15, 2019) (Nahigian-0164 – Nahigian-0180, at Nahigian-0179 – Nahigian-0180) (Exhibit 19).

<sup>269</sup> Itinerary for Administrator's Visit to Arlington, VA and Richmond, VA (Oct. 30, 2017) (CR03261 – CR03344) (Exhibit 244); Itinerary for Administrator's Visit to Boston, MA (Apr. 23, 2018) (Nahigian-0275 – Nahigian-0288) (Exhibit 245); Itinerary for BCBSA Roundtable in Washington, DC (June 19, 2018) (Nahigian-0289 – Nahigian-0291) (Exhibit 246); Itinerary for Administrator's Visit to Boston, MA (Nov. 27, 2018) (Nahigian-0340 – Nahigian-0347) (Exhibit 247); *see also* Email from Laura Wotycha to Ken Nahigian attaching Subcontract Agreement between Porter Novelli Public Services, Inc. and Nahigian Strategies (Feb. 15, 2019) (Nahigian-0164 – Nahigian-0180, at Nahigian-0179 – Nahigian-0180) (Exhibit 19). The consultants on these trips included Stephanie Zajac, who worked for a Republican member of Congress prior to working at Nahigian Strategies and currently works at CMS (*Stephanie Zajac*, LinkedIn, accessed Aug. 24, 2020 (online at <https://www.linkedin.com/in/stephanie-zajac5290/>)); Lynn Hatcher, who interned in the office of Vice President Pence and then-Majority Leader Scalise prior to working at Nahigian Strategies, and left the firm to work for another Republican member of Congress (*Lynn Hatcher*, Nahigian Strategies, accessed Aug. 24, 2020 (online at <https://nahigianstrategies.com/team/lynn-hatcher/>)); *Carousel: Sean Pugh joins Faegre Drinker from FTC*, National Journal, Apr. 1, 2020 (online at <https://www.nationaljournal.com/s/705762/carousel-sean-pugh-joins-faegre-drinker-from-ftc/>)); Matt Mlynarczyk, who advised Republican presidential campaigns and worked for Virginia Gov. George Allen (*Who We Are*, Advocatus Group, LLC, accessed Aug. 24, 2020 (online at <http://www.advocatusgroup.com/id1.html>)).

<sup>270</sup> Email from Kelly Dinicolo to Marcus Barlow and Matt Mlynarczyk (Oct. 21, 2018) (CR00853 – CR00856, at CR00854 – CR00855) (Exhibit 248); *see also* Email from Laura Wotycha to Ken Nahigian attaching Subcontract Agreement between Porter Novelli Public Services, Inc. and Nahigian Strategies (Feb. 15, 2019) (Nahigian-0164 – Nahigian-0180, at Nahigian-0179 – Nahigian-0180) (Exhibit 19).

<sup>271</sup> *See, e.g.*, Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187) (Exhibit 34).

<sup>272</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-

that cost more than \$500 per room per night.<sup>273</sup> For September 2018, the approved government hotel rate in New York City was \$291 per night.<sup>274</sup>

Documents also indicate that consultants submitted reimbursements for other non-travel expenses. For example, Porter Novelli invoiced CMS for a video production that included hiring a make-up artist for Administrator Verma at a cost of \$450.<sup>275</sup> In addition, Stevens attempted to get reimbursed for a \$131 flower purchase sent as a thank you to fox.com, although it appears she was denied the reimbursement.<sup>276</sup>

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0000165 – PalCMS-0000185) (Exhibit 34). OIG’s Audit further concluded that CMS approved these travel expenses as issued to the 2018 Porter Novelli agreement, even though they were incurred before the beginning of the performance period for that contract, in violation of the FAR requirement that costs be in compliance with the terms of the contract. *See* OIG Audit at 36.

<sup>273</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Feb. 4, 2019) (PalCMS-0000135 – PalCMS-0000187, at PalCMS-0000176 – PalCMS-0000178, PalCMS-0000185) (Exhibit 34).

<sup>274</sup> *FY 2018 Per Diem Rates for New York City, New York*, General Services Administration, accessed Aug. 24, 2020 (online at [https://www.gsa.gov/travel/plan-book/per-diem-rates/per-diem-rates-lookup/?action=perdiems\\_report&state=NY&fiscal\\_year=2018&zip=&city=New%20York%20](https://www.gsa.gov/travel/plan-book/per-diem-rates/per-diem-rates-lookup/?action=perdiems_report&state=NY&fiscal_year=2018&zip=&city=New%20York%20)).

<sup>275</sup> Public Voucher for Purchases and Services Other Than Personal, Department of Health and Human Services for Porter Novelli Public Services, Inc. (Nov. 26, 2018) (PalCMS-0000115 – PalCMS-0000127, at PalCMS-0000123) (Exhibit 32).

<sup>276</sup> Email from Pam Stevens to [Porter Novelli] (Oct. 30, 2018) (Stevens-010781 – Stevens-010783, at Stevens-010782) (Exhibit 249); *see also* Invoice from Pam Stevens Media, Inc. to Porter Novelli/CMS (Aug. 7, 2018 – Oct. 31, 2018) (Stevens-010015 – Stevens-010016, at Stevens-010016) (Exhibit 250).

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## VI. CONSULTANT WORK CONTINUED AFTER SUSPENSION OF THE 2018 PORTER NOVELLI AGREEMENT

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On April 3, 2019, following press reports that consultants had been used to enhance Administrator Verma’s public profile, CMS issued a 90-day stop-work order to Porter Novelli for the 2018 Porter Novelli agreement.<sup>277</sup> According to Porter Novelli’s Kendra Kojcsich, Porter Novelli did not resume its strategic communications work on behalf of the Office of the Administrator after receiving the stop-work order and had not worked with consultants Nahigian Strategies, Marcus Barlow, or Pam Stevens since April 2019.<sup>278</sup>

Documents indicate that after the stop-work order took effect, Administrator Verma may have expressed interest in restarting the 2018 Porter Novelli agreement.<sup>279</sup> While certain consultants—including Keith Nahigian, Ken Nahigian, Danielle Hagen, Marcus Barlow, and Pam Stevens—appear to have stopped working on behalf of CMS after the issuance of the April 2019 stop-work order, Porter Novelli continued to work for CMS under its other task orders with CMS.

Prior to the stop-work order, Stevens notified Porter Novelli that she would stop consulting for CMS as of March 31, 2019.<sup>280</sup> Days later, Stevens billed CMS more than \$1,250 for 4.5 hours of work to “[p]rovide[] CMS with contacts/updated list of conferences.”<sup>281</sup> After the stop-work order was issued, it appears Porter Novelli continued to pursue media appearances for Administrator Verma that were similar in nature to those originally planned by Stevens. For example, on June 14, 2019, a Porter Novelli employee sent an email to five CMS employees, reporting on the results of Porter Novelli’s “long-lead pitching efforts.”<sup>282</sup> The email attached a list of target publications, which included lifestyle magazines such as *O, The Oprah Magazine* and *Good Housekeeping*—both of which were listed in Stevens’s Executive Visibility Proposal—in addition to *Real Simple*, *Country Woman*, and *Family Circle*, as well as other health and senior citizen-oriented publications.<sup>283</sup>

In addition, on June 19, 2019, a Porter Novelli employee sent CMS information on an interview request from *HealthLeaders Media*, which was pitched to include “a profile on the Administrator as a leader transforming the healthcare industry.”<sup>284</sup> On July 22, 2019, Kojcsich sent an email to the CMS team, reporting that Administrator Verma would be on the cover of the September/October 2019 issue of *HealthLeaders* magazine and that Administrator Verma would need to attend a photo

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<sup>277</sup> Letter from Debra Hoffman to Laura Wotyca (Apr. 3, 2019) (CR00614) (Exhibit 23); *Key Trump Health Official Spends Millions on GOP-Connected Consultants*.

<sup>278</sup> Kojcsich Interview at 1038-1047, 1675-1680, 2108-2110, 3744-3748.

<sup>279</sup> Email from Ninio Fetalvo to Alec Aramanda et al. (Nov. 21, 2019) (PalCMS-0008474 – PalCMS-0008477, at PalCMS-0008474) (Exhibit 251).

<sup>280</sup> Email from Pam Stevens to Brady Brookes et al. (Mar. 28, 2019) (Stevens-008980 – Stevens-008981) (Exhibit 252).

<sup>281</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04160) (Exhibit 187).

<sup>282</sup> Email from Christopher Koepke to Thomas Corry et al. (June 14, 2019) (PalCMS-0010183 – PalCMS-0010187, at PalCMS-0010183) (Exhibit 253).

<sup>283</sup> Email from Christopher Koepke to Thomas Corry et al. (June 14, 2019) (PalCMS-0010183 – PalCMS-0010187, at PalCMS-0010185 – PalCMS-0010187) (Exhibit 253).

<sup>284</sup> Email from Seth Edlavitch to Laura Salerno (June 20, 2019) (PalCMS-0010228 – PalCMS-0010231, at PalCMS-0010229 – PalCMS-0010230) (Exhibit 254).

shoot for this feature.<sup>285</sup> On September 5, 2019, Verma was profiled in *HealthLeaders* in an article titled, “Seema Verma’s American Dream: Empower Consumers, Unleash Competition.”<sup>286</sup>

These documents indicate that, although CMS had suspended the 2018 Porter Novelli agreement and ceased its work with certain consultants, it did not stop using taxpayer funds on consultants to promote Administrator Verma’s public profile and personal brand.

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<sup>285</sup> Email from Seth Edlavitch to Laura Salerno (July 22, 2019) (PalCMS-0010188 – PalCMS-0010189) (Exhibit 255).

<sup>286</sup> *Seema Verma’s American Dream: Empower Consumers, Unleash Competition*, HealthLeaders (Sept. 5, 2019) (online at <https://www.healthleadersmedia.com/strategy/seema-vermas-american-dream-empower-consumers-unleash-competition>).

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## VII. CMS EXPENDITURES ON CONSULTANTS POTENTIALLY VIOLATED APPROPRIATIONS LAW

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Documents reviewed by the Committees during the course of the investigation suggest CMS's expenditures on private consultants for Administrator Verma may have violated applicable law governing the agency's use of appropriated funds. All funds paid out of the U.S. Treasury must be derived from appropriations authorized by Congress.<sup>287</sup> When an appropriation is made for a particular purpose, government agencies may only "incur expenses which are necessary or proper or incident to the proper execution" of the purpose of the appropriation.<sup>288</sup> Among other factors, to be "necessary or proper" to an appropriation, an expenditure may not be primarily personal in nature and may not be otherwise prohibited by law.<sup>289</sup> CMS appears to have made unlawful expenditures in violation of these conditions.

### A. Funds May Have Been Used Unlawfully for Personal Expenses

Federal appropriations law prohibits appropriated funds from being applied toward personal expenses unless the expense primarily benefits the government or is explicitly authorized by Congress.<sup>290</sup> In the absence of clear statutory authority, "an agency's appropriation is available for personal expenses only upon a documented legal determination that the expense is an essential, constituent part of the effective accomplishment of a statutory responsibility, notwithstanding the collateral benefit to the individual."<sup>291</sup> Documents indicate that, in multiple instances, CMS's expenditures on private communications consultants were made to benefit Administrator Verma personally beyond her role as CMS Administrator and therefore appear to violate the prohibition on use of appropriated funds for personal expenses.

For example, consultant Pam Stevens's Executive Visibility Proposal outlined efforts to promote Administrator Verma's public profile and personal brand and expand her network through private meetings with media personalities and other high-profile individuals.<sup>292</sup>

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<sup>287</sup> U.S. Const. art. I, § 9, cl. 7.

<sup>288</sup> 31 U.S.C. § 1341(a)(1)(A); 6 Comp. Gen. 619, 621 (1927).

<sup>289</sup> *Principles of Federal Appropriations Law*, Government Accountability Office (Mar. 2016) (online at <https://www.gao.gov/legal/appropriations-law-decisions/red-book>) (hereinafter, GAO Redbook). Three factors are considered to determine whether an expenditure is necessary to the appropriation: 1) whether the expenditure bears a logical relationship to the appropriation and is not primarily personal in nature; 2) whether the expenditure is prohibited by law; and 3) whether the expenditure falls within the scope of another appropriation or statutory funding scheme. Failure to meet any one of these criteria makes an expenditure unlawful. GAO Redbook at 3-9; GAO Redbook at 3-16 to 3-17. The U.S. Government Accountability Office (GAO) is authorized by Congress to determine whether government spending of appropriated funds is lawful. GAO legal decisions regarding the use of funds are made based on statute, yearly appropriations acts, the GAO Redbook, and a well-established history of past legal decisions by the Comptroller General. GAO Redbook at 1-12 to 1-15; see *Procedures and Practices for Legal Decisions and Opinions*, Office of the General Counsel, Government Accountability Office (2006) (online at <https://www.gao.gov/assets/210/203101.pdf>); see also 65 Comp. Gen. 738, 740 (1986); 31 U.S.C. § 1341; 31 U.S.C. § 3526(a).

<sup>290</sup> GAO Redbook, 3-33.

<sup>291</sup> GAO Redbook, 3-33; *Occupational Safety and Health Review Commission—Refreshments for a Combined Federal Campaign Event*, Government Accountability Office (July 11, 2014) (online at <https://www.gao.gov/products/B-325023>) (finding that food is a personal expense and Occupational Safety and Health Review Commission could not use appropriated funds to purchase food for an employee event).

<sup>292</sup> Draft Executive Visibility Proposal (CR03233 – CR03239, at CR03234) (Exhibit 178); Email from Pam Stevens to Kendra Kojcsich attaching Draft Executive Visibility Proposal Seema Verma (Aug. 16, 2018)

Documents show that consultants carried out many of these efforts, such as through arranging private meetings with Administrator Verma and representatives of *Woman's Day*, *Women's Health*, and *Fox News*, among others.<sup>293</sup> It appears that at least some activities outlined in this proposal and performed by consultants were not essential to CMS's execution of its statutory responsibilities.

Similar to this arrangement, the U.S. Government Accountability Office (GAO) has previously found that an agency could not use government funds to pay for photographs of an official giving a speech on behalf of the agency leader.<sup>294</sup> GAO determined, "while publicity by means of speeches may be a legitimate means of effecting encouragement in any national effort, it is quite clear that photographs of a particular individual engaged in or connected with such activity are of a personal nature, and have no such public relation as to authorize the payment of the cost thereof from public funds."<sup>295</sup> Using consultants for activities such as booking private meetings for Administrator Verma, seeking awards for her to receive, or arranging press coverage that focused on her personal story appear primarily personal in nature and therefore potentially prohibited.<sup>296</sup>

## **B. Funds May Have Been Used Unlawfully on Publicity or Propaganda**

Since 1951, annual appropriations laws have included a blanket prohibition on expenditures of appropriated funds "for publicity or propaganda purposes."<sup>297</sup> While these restrictions are not construed to prohibit agency officials from communicating with the public, they do prohibit "self-aggrandizement, covert propaganda, and purely partisan materials."<sup>298</sup> The Comptroller General has interpreted this prohibition on self-aggrandizement as restricting "publicity of a nature tending to emphasize the importance of the agency or activity in question."<sup>299</sup> A related statute prohibits using appropriated funds to pay for a publicity expert unless the funds are specifically appropriated for that purpose.<sup>300</sup> GAO has interpreted this statute as prohibiting publicity activities done "for the purpose of reflecting credit upon an

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(CR03480 – CR03482) (Exhibit 171); Draft Executive Visibility Proposal Seema Verma by Pam Stevens Media, Inc. (Aug. 2018) (Stevens-009281 – Stevens-009283) (Exhibit 172); Draft Executive Visibility Proposal by Pam Stevens Media, Inc. (Aug. 2018) (Stevens-009312 – Stevens-009314) (Exhibit 173); Draft Executive Visibility Proposal (Stevens-009321 – Stevens-009328) (Exhibit 174).

<sup>293</sup> Email from Pam Stevens to Marcus Barlow (Aug. 22, 2018) (Stevens-000158 – Stevens-000159) (Exhibit 210); Itinerary for Administrator's Visit to New York, NY (Sept. 11, 2018) (Nahigian-0312 – Nahigian-0320, at Nahigian-0312) (Exhibit 67).

<sup>294</sup> *B-108060*, Government Accountability Office (Mar. 5, 1952) (online at [www.gao.gov/products/480011#mt=e-report](http://www.gao.gov/products/480011#mt=e-report)).

<sup>295</sup> *B-108060*, Government Accountability Office (Mar. 5, 1952) (online at [www.gao.gov/products/480011#mt=e-report](http://www.gao.gov/products/480011#mt=e-report)).

<sup>296</sup> This conclusion is not intended to suggest that it is unlawful for government officials to attend private meetings with high-profile individuals or be featured in press stories that focus on the official's personal history. It is the use of taxpayer-paid consultants to arrange these opportunities that raises questions.

<sup>297</sup> GAO Redbook, 3-280; *see also, 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.").

<sup>298</sup> GAO Redbook at 3-282.

<sup>299</sup> GAO Redbook at 3-284 (citing 31 Comp. Gen 311 (1952) at 313).

<sup>300</sup> 5 U.S.C. § 3107. GAO has noted that application of this statute is difficult because it does not define the term publicity expert, and because it can be difficult to distinguish pure publicity work from "legitimate information dissemination regarding agency work or services." Redbook at 3-301 – 3-303.

activity, or upon the officials charged with its administration, rather than for the purpose of furthering the work which the law has imposed upon it.”<sup>301</sup>

Consultants’ efforts to promote Administrator Verma’s public profile and personal brand and expand her network may constitute prohibited forms of “self-aggrandizement.” While CMS is authorized to spend appropriated funds on education and outreach activities relevant to the public health programs it administers, at least some of the tasks performed by consultants, such as booking private meetings, seeking to nominate Administrator Verma for awards, or pitching profile pieces, appear to go beyond the educational or outreach activities that CMS is permitted to conduct.<sup>302</sup>

GAO has concluded that promotional activities may be allowed “to protect an agency’s right or duty to inform the public regarding its activities and programs,” and it has found no self-aggrandizement where contracts were used to disseminate information about specific government programs or services.<sup>303</sup> However, GAO has not endorsed other forms of publicity beyond these program-specific efforts.<sup>304</sup>

Several consultants were used to pitch press articles that focused on Administrator Verma personally, beyond her role as CMS Administrator.<sup>305</sup> Additionally, consultants performed other activities that appear to be primarily aimed at promoting Administrator Verma’s public profile and personal brand and expanding her network:

- Consultants made plans to nominate Administrator Verma for *Glamour’s* “Woman of the Year” awards and researched other award opportunities.<sup>306</sup>

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<sup>301</sup> Redbook at 3-303 (citing A-82332 (Dec. 15, 1936)); *see also* B-181254(2) (Feb. 28, 1975).

<sup>302</sup> The Social Security Act authorizes CMS to engage in education and outreach regarding Medicare, Medicaid, and the Children’s Health Insurance Program. *See* Social Security Act, Title XI Section 1144 & Section 1149; SSA, Title XVIII, Section 1847 & Section 1874A; SSA, Title XIX, Section 1943; SSA, Title XXI, Section 2113; *see also* 42 U.S.C. §§ 1320b–14, 1320b–20, 1395w–3, 1395kk–1, 1396w–3, and 1397mm. Appropriations laws for 2016 to 2019 instruct the appropriations to be used “[f]or carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII of the PHS Act, the Clinical Laboratory Improvement Amendments of 1988, and other responsibilities of the Centers for Medicare & Medicaid Services.” Pub. L. No. 114–113 (2016) Division H, Title II; Pub. L. No. 115–31 (2017) Division H, Title II; Pub. L. No. 115–141 (2018) Division H, Title II; Pub. L. No. 115–245 (2019) Division B, Title II.

<sup>303</sup> *Forest Service—Sierra Nevada Forest Plan Amendment Brochure and Video Materials*, Government Accountability Office (Sept. 10, 2004) (online at [www.gao.gov/decisions/appro/302992.htm](http://www.gao.gov/decisions/appro/302992.htm)); Redbook at 3-284; *see also Medicare Prescription Drug, Improvement, and Modernization Act of 2003—Use of Appropriated Funds for Flyer and Print and Television Advertisements*, Government Accountability Office (Mar. 10, 2004) (online at [www.gao.gov/products/405756#mt=e-repor](http://www.gao.gov/products/405756#mt=e-repor)); *Department of Health and Human Services—Use of Appropriated Funds for Technical Assistance and Television Advertisements*, Government Accountability Office (Oct. 19, 2010); *Department of Health and Human Services—Use of Appropriated Funds for Medicare Brochure*, Government Accountability Office (Sept. 9, 2010); *Department of Health and Human Services—Use of Appropriated Funds for “HealthReform.gov” Web Site and “State Your Support” Web Page*, Government Accountability Office (Apr. 23, 2010).

<sup>304</sup> *Forest Service—Sierra Nevada Forest Plan Amendment Brochure and Video Materials*, Government Accountability Office (Sept. 10, 2004) (online at [www.gao.gov/decisions/appro/302992.htm](http://www.gao.gov/decisions/appro/302992.htm)).

<sup>305</sup> *Supra* Section IV.

<sup>306</sup> Draft Executive Visibility Proposal Seema Verma by Pam Stevens Media, Inc. (Aug. 2018) (Stevens-009281 – Stevens-009283, at Stevens-009283) (Exhibit 172); Draft Executive Visibility Proposal (CR03233 – CR03239, at CR03234) (Exhibit 178).

- Consultants booked private meetings with media executives, editors, or other high-profile individuals that were seemingly unconnected to official CMS activities.<sup>307</sup>
- Consultants aimed to place Administrator Verma on profile-enhancing lists, such as the *Washingtonian's* “Most Powerful Women in Washington” list.<sup>308</sup>
- Consultants targeted media outlets for Administrator Verma with no clear connection to CMS initiatives, such as *Badass Women of DC*.<sup>309</sup>
- Consultants generated ideas for potential social events for Administrator Verma to attend, such as the Ford’s Theatre Gala, Kennedy Center Honors, and Motion Picture Association events.<sup>310</sup>
- Consultants arranged a “girl’s night” event to honor Administrator Verma.<sup>311</sup>

Such work performed by consultants appears largely unrelated to CMS initiatives and instead primarily aimed at “emphasiz[ing] the importance of...agency...officials,” precisely the conduct that GAO defines as “self-aggrandizement.”<sup>312</sup> Permitting an agency official to use private consultants in the manner that Administrator Verma did would render the prohibition on use of taxpayer funds for self-aggrandizement virtually meaningless. Payments to consultants for the time spent to perform this type of work therefore appear to have been made in excess of the lawful appropriation.

Furthermore, the scope of the consultants’ work raises questions as to whether funds were used to pay publicity experts, which would be prohibited under statute unless funds were specifically appropriated for that purpose.<sup>313</sup> Documents obtained by the Committees indicate that consultants engaged in activities such as booking private meetings between Administrator Verma and high-profile individuals, placing Administrator Verma on profile-enhancing lists, and generating ideas for social events that Administrator Verma could attend.<sup>314</sup> Because these activities appear intended to promote Administrator Verma’s public

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<sup>307</sup> Email from Pam Stevens to Marcus Barlow (Aug. 22, 2018) (Stevens-000158 – Stevens-000159) (Exhibit 210); Email from Pam Stevens to Benjamin Kenney (Aug. 23, 2018) (Stevens-000439 – Stevens-000442, at Stevens-000441) (Exhibit 211); Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04156) (Exhibit 187); Itinerary for Administrator’s Visit to New York, NY (Sept. 11, 2018) (Nahigian-0312 – Nahigian-0320, at Nahigian-0318) (Exhibit 67); Email from Pam Stevens to Kendra Kojcsich and Meredith Good-Cohn (Feb. 4, 2019) (CR02167 – CR02170) (Exhibit 184); Email from Brady Brookes to Pam Stevens and Kendra Kojcsich (Nov. 15, 2018) (CR01918 – CR01920) (Exhibit 183); Email from Pam Stevens to Emma Boone and Kendra Kojcsich (Dec. 19, 2018) (Stevens-005293 – Stevens-005297, at Stevens-005296 – Stevens-005297) (Exhibit 213); Email from Marcus Barlow to Pam Stevens (Jan. 11, 2019) (CR02328 – CR02333, at CR02329 – CR02330) (Exhibit 214).

<sup>308</sup> Email from Pam Stevens to Kendra Kojcsich attaching Draft Executive Visibility Proposal Seema Verma (Aug. 16, 2018) (CR03480 – CR03482) (Exhibit 171).

<sup>309</sup> Draft Executive Visibility Proposal (CR03233 – CR03239, at CR03234) (Exhibit 178).

<sup>310</sup> Draft Executive Visibility Proposal (Stevens-009321 – Stevens-009328, at Stevens-009322) (Exhibit 174).

<sup>311</sup> Porter Novelli Consultant Time Entries (CR04156 – CR04160, at CR04157) (Exhibit 187).

<sup>312</sup> Redbook at 3-236.

<sup>313</sup> 5 U.S.C. § 3107.

<sup>314</sup> Email from Pam Stevens to Marcus Barlow (Aug. 22, 2018) (Stevens-000158 – Stevens-000159) (Exhibit 210); Email from Pam Stevens to Benjamin Kenney (Aug. 23, 2018) (Stevens-000439 – Stevens-000442) (Exhibit 211); Porter Novelli Consultant Time Entries CR04156 – CR04160, at CR04156) (Exhibit 187); Itinerary for Administrator’s Visit to New York, NY (Sept. 11, 2018) (Nahigian-0312 – Nahigian-0320, at Nahigian-0318) (Exhibit 67); Email from Pam Stevens to Kendra Kojcsich and Meredith Good-Cohn (Feb. 4, 2019) (CR02167 – CR02170) (Exhibit 184); Email from Brady Brookes to Pam Stevens and Kendra Kojcsich (Nov. 15, 2018)

profile and personal brand and expand her network, questions remain as to whether the consultants could be considered publicity experts and, if so, whether payments to consultants for these activities were made in excess of the lawful appropriation.

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(CR01918 – CR01920) (Exhibit 183); Email from Pam Stevens to Emma Boone and Kendra Kojcsich (Dec. 19, 2018) (Stevens-005293 – Stevens-005297) (Exhibit 213); Email from Marcus Barlow to Pam Stevens (Jan. 11, 2019) (CR02328 – CR02333, at CR02329 – CR02330) (Exhibit 214); Draft Executive Visibility Proposal (Stevens-009321-Stevens-009328, at Stevens-009322) (Exhibit 174).