

Legal Opinion: GMP-0027

Index: 6.255, 6.820
Subject: "Audio-Visual Release Form" re HUD Employee Talk
FOIA Exemption 6: Names Withheld

December 3, 1991

MEMORANDUM FOR: Arnold Haiman, Director Office of Ethics, AE

FROM: Carole W. Wilson, Associate General Counsel for Equal
Opportunity and Administrative Law, GM

SUBJECT: Inquiry

This responds to your inquiry regarding whether a Department employee may sign an "Audio-Video Release Form" which permits a non-Federal association to market audio and video tapes of a talk presented as part of the employee's official duties. According to your correspondence, the [redacted] has asked Mr. [redacted] to participate on a panel at its National Housing Conference scheduled for December [redacted], 1991. Mr. [redacted] would participate in his official capacity. [redacted] plans to record Mr. [redacted] presentation and market it, along with other selected presentations, for sale. Proceeds from the sale of the tape would benefit [redacted] educational programs. [redacted] has asked Mr. [redacted] to execute a "Audio Video Release Form" which purports to waive any claims to royalties in connection with the sale of the tapes. You ask whether Mr. [redacted] may sign the agreement.

The right to royalties arises from the creation and reproduction of copyrightable materials. Copyright protection, however, is not available for work of the United States Government. Rather, work of the Government remains within the public domain and may be reproduced or recorded without limitation. "Work of the United States" includes discussions or writings prepared by an employee of the Government as part of that person's official duties. Since Mr. [redacted] participation would be in his official capacity, his presentation would be public information and not create copyrightable rights in favor of either the Department or Mr. [redacted]. Consequently, it is my opinion that Mr. [redacted] should not sign the release form since neither he nor the Department have copyrightable rights to waive.

Please contact me if you have further questions regarding this matter.