



## DATE

August 3, 2009

## SUBJECT

**Management Implication Report  
Publication of House Document 111-37 on U.S. Nuclear Sites**

## REPLY TO ATTENTION OF

J. Anthony Ogden, Inspector General

## TO

Honorable Robert Tapella, Public Printer of the United States

***EXECUTIVE SUMMARY***

This memorandum communicates the findings of our investigation of GPO's publication and Internet posting of House Document 111-37 (HD 111-37), which contains a 266-page list of U.S. civilian nuclear sites, locations, facilities, and activities declared to the International Atomic Energy Agency (IAEA) by the President of the United States. Media reports indicated that HD 111-37 was "mistakenly released online . . . by the Government Printing Office."

Our investigation found no wrongdoing on the part of GPO or its employees. GPO's customer agency is responsible for identifying whether a document is of a sensitive or otherwise restricted nature when requesting document publishing. The Executive Communications Clerk of the U.S. House of Representatives transmitted HD 111-37 to GPO for publication on May 6, 2009, without restriction or special handling requirements. As directed by its customer, GPO printed HD 111-37 on May 6 and posted the document under normal procedures on the GPO Access Web site within a day of printing. When the Clerk notified GPO of the sensitivity of the document on June 2, 2009, it was promptly removed from GPO Access.

Additional controls at GPO may help identify and prevent in the future an unwanted disclosure of sensitive information. All Federal agencies share the responsibility of preventing the inappropriate disclosure of sensitive documents. Accordingly, as further explained below, we make four recommendations to GPO management designed to help improve GPO's process for handling and publishing sensitive information.

## **BACKGROUND**

On June 2, 2009, multiple media outlets began reporting that the government “inadvertently” and “mistakenly” posted on the GPO Access Web site<sup>1</sup> HD 111-37, including an attached list of U.S. nuclear sites that “provided a one-step guide for anyone wanting details about such sensitive information.” The list, each page of which was marked “Highly Confidential Safeguards Sensitive” (with the exception of pages that detailed additional information like site maps), was reportedly discovered posted on [www.gpoaccess.gov](http://www.gpoaccess.gov) by a group that focuses on government secrecy. Obama administration officials stated that the document did not contain classified material about nuclear weapons, but Energy Secretary Steven Chu said “a snafu” led to the online posting.

GPO spokesperson, Gary Somerset, was quoted as saying that GPO had “produced” the document under normal operating procedures, and that “[u]pon being informed about potential sensitive nature of the attachment in this document, the Public Printer of the United States removed it from GPO’s Web site pending further review. After consulting with the White House and Congress, it was determined that the document, including the sensitive attachment, should be permanently removed from the Web site.”

This matter first came to the OIG’s attention via the June 3, 2009, GPO Daily News e-mail briefing that featured an article from The New York Times entitled *U.S. Accidentally Releases List of Nuclear Sites*.<sup>2</sup> By 10:00 am on June 3, the OIG had initiated an investigation to determine GPO’s responsibility, if any, for possible security lapses or other violations that may have led to the disclosure of HD 111-37.

A torrent of media activity ensued throughout that day and was bolstered by a request from House Speaker Nancy Pelosi for a review by the Government Accountability Office (GAO). In response to this announcement, by letters dated June 4, 2009, the OIG informed Speaker Pelosi as well as Senator Charles Schumer and Representative Robert Brady (as Chairman and Vice Chairman of the Joint Committee on Printing) of the OIG investigation. We have since met with representatives from GAO and will share the results of our investigation with them. Due to our jurisdictional limitation, the OIG

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<sup>1</sup> GPO Access ([www.gpoaccess.gov](http://www.gpoaccess.gov)) is a GPO Web site service that provides free access to a wealth of important federal electronic information products. The information provided on the GPO Access Web site is the official, published version and the information retrieved from GPO Access can be used without restriction, unless specifically noted. GPO Access was authorized under Public Law 103-40, known as the Government Printing Office Electronic Information Enhancement Act of 1993, codified at 44 U.S.C. §4101.

<sup>2</sup> <http://www.nytimes.com/2009/06/03/us/03nuke.html>.

investigation focused solely on the roles and responsibilities of GPO. The GAO investigation will address all of the entities involved in the preparation and dissemination of HD 111-37 and other interested parties.

### ***RESULTS OF INVESTIGATION***

The OIG investigative staff interviewed employees at GPO involved in processing, printing, and posting HD 111-37. We interviewed employees and supervisors in GPO's Congressional Publishing Services (CPS), who received the request to print HD 111-37, and those in the Pre-Press Division who managed and performed the process of typesetting, scanning, and proofreading HD 111-37. We also reviewed the document request, related GPO tracking documents, and e-mails provided by those interviewed.

#### *A. Request for Printing HD 111-37*

HD 111-37 was processed for printing and posting on the GPO Access Web site under normal procedures as requested by the Executive Communications Clerk of the House of Representatives (the Clerk) with no special handling instructions. GPO Jacket No. 79-011, which tracked the HD 111-37 work process, shows the document request was received by GPO's CPS on May 6, 2009, and was due for completion the next morning by 7:00 a.m. (Attachment A). The request was documented as three parts: a presidential transmittal (or boiler plate), a presidential letter, and a 266-page camera copy manuscript of the nuclear sites list.

The presidential transmittal is identified as the 37<sup>th</sup> Document of the 111<sup>th</sup> Congress, House of Representatives, and titled "The List of Sites, Locations, Facilities, and Activities Declared to The International Atomic Energy Agency" (Attachment B). The transmittal declared a message from the President of the United States about the list and ordered accompanying papers referred to the Committee on Foreign Affairs and "to be printed."

The presidential letter states that the list constituted a report to the IAEA as required by section 271 of Public Law 109-401 and also states "the IAEA classification of the enclosed declaration was 'Highly Confidential Safeguards Sensitive,' however, the United States regards this information as "Sensitive but Unclassified" (Attachment C). The presidential letter further states that, "under Public Law 109-401, information reported to, or otherwise acquired by, the United States Government under this title or under the U.S. -IAEA Additional Protocol **shall be exempt from disclosure under section 552 of title 5, United States Code.**" (Emphasis added.)

*B. GPO Publishing Process*

HD 111-37 was processed under normal procedures through GPO Production Control, typesetting, digital pre-press (scanning), proofing, and then to the Plate Room, Press Room, Bindery, GPO Access, and shipping. The HD 111-37 Jacket confirms this process was completed on May 6, 2009. The presidential transmittal and presidential letter were both typeset (keyed) and proofread, while the 266-page manuscript was processed by digital scanning. The presidential letter, containing the language cited above, was keyed, proofread, revised, and proofed again, to insure it was identical to the request package.

GPO production employees are not required to read and proof for meaning, but merely to check for proper characters and format. However, one GPO manager described the typeset and proofing process of production as one possible internal control within GPO for identifying concerns about sensitive content, noting that proofreading is an “intelligent process.”

Although the scanned 266-page manuscript contains the designation “Highly Confidential Safeguards Sensitive” on nearly every page, no GPO employees raised any concerns during the processing of the document. Witnesses stated that those who reviewed the scanned copy would look for page numbers and format, without proofreading or reviewing for meaning of document text or markings.

It is unclear when HD 111-37 was posted to GPO Access because the digital version was deleted and no paper trail maintained. GPO employees stated, however, that all printed House documents are automatically posted on GPO Access and the document would have been posted within a day of being sent to production for printing. The exceptions, according to CPS, are documents such as Statements of Disbursements, Financial Disclosures, and the Capitol Police Statement of Disbursements.

CPS reported that over 800 copies of HD 111-37 were printed. By the time the Clerk communicated its sensitivity to GPO on June 2, 2009, at least 265 copies had been shipped to Congress and some federal agencies, most to the House Committee on Foreign Affairs and to the House and Senate Document Rooms. No copies were sent to the Federal depository libraries under the Federal Depository Library Program.<sup>3</sup> The remaining copies were recalled or are secured in a safe within the GPO Office of Security Programs.

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<sup>3</sup> The Federal Depository Library Program (FDLP) involves the acquisition, format conversion, and distribution of depository materials to libraries throughout the United States and the coordination of Federal depository libraries in the 50 states, the District of Columbia and U.S. territories. The mission of the FDLP is to

*C. Request for Removal of HD 111-37 from GPO Access*

On June 2, 2009, CPS was contacted by an employee from the General Counsel's Office of the Department of Commerce. The employee demanded that HD 111-37 be removed from the GPO Access Web site because it contained sensitive data and cited the last paragraph of the President's letter indicating the document should be handled as "Sensitive but Unclassified." CPS referred the employee to the Clerk, stating only the House of Representatives, as GPO's customer, could direct GPO to remove the document from GPO Access.

Within a short time, the Clerk phoned GPO's CPS and directed that HD 111-37 be removed from the Web site. GPO immediately removed the document from GPO Access' five Web servers and cleaned the cache memory for any remnants of the file. The Clerk communicated to CPS that she thought she had done everything right in trying to determine whether to transmit HD 111-37 to GPO for publication and followed up the conversation with an e-mail on the same day outlining her actions to verify that HD 111-37 should be published.

According to the e-mail, the Clerk contacted the House Legislative Operations, the House Security Office, the IAEA, and the White House Clerk's Office for guidance on publishing the document because of its "Highly Confidential Safeguards Sensitive" markings. The Clerk was told that since the document was marked unclassified, it should be forwarded to GPO for printing.

In addition, the Clerk's email shows that on June 2, 2009, the Clerk was contacted by the Department of Commerce and informed that the document should not have been printed because of the last paragraph in the letter that states, "...shall be exempt from disclosure under section 552 of Title 5, U.S. Code," (the Freedom of Information Act). According to the e-mail, the Clerk and those she had contacted earlier were unfamiliar with that reference. Those interviewed at GPO were also unfamiliar with the significance of the language.

*D. GPO Policy on Identifying and Safeguarding Sensitive Information*

Our investigation inquired whether GPO or its employees had any standard operating procedures for identifying potentially sensitive documents from customers and how to handle them. Those interviewed stated that sensitive

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disseminate information products from all three branches of the Government to about 1,250 libraries nationwide at no cost. Depository libraries provide local, no-fee access to Government information.

or classified documents are rarely printed at GPO. One recalled three or four occasions in the last 10 years of GPO printing sensitive documents. Many were unaware of any print requests for sensitive documents. All believed that GPO's customer agencies are responsible for identifying sensitive documents and communicating special instructions, given the high volume of print requests, which can be up to 100 to 200 a day from the House of Representatives.

Most employees had not received education or training for recognizing or identifying sensitive documentation or information. Some described verbal communications or long-standing protocol for handling sensitive documents. However, all of those interviewed, except for the Assistant Superintendent of Pre-Press, were unable to cite or provide written instructions. The Assistant Superintendent provided a one-page document titled "Security Work for Digital Prepress, Standard Operating Procedure." The document cites GPO Directive 825.7C, *GPO Security Program Regulations* and its amendments concerning safeguarding of materials and data.

GPO Directive 825.7D, *Information Security Program*, dated August 15, 2008, provides GPO's "policy governing the protection of Classified National Security Information, and other sensitive information."<sup>4</sup> The directive describes a program managed by the Physical Security Branch (PSB) for ensuring that GPO personnel know and understand their role in protecting and safeguarding "sensitive or classified information" against unauthorized use or disclosure. Among other things, Section 7(z) of that directive states that all GPO employees need Security Awareness Training and Education "whether they have access to classified information or not" and that "all GPO employees are individually responsible for protecting the national interests of the United States." Although the directive presents specific procedures on how to recognize, handle, and safeguard classified information, it does not present similar specific policies or procedures for sensitive information.

### ***RECOMMENDATIONS***

We make the following recommendations in the interest of improving GPO's process in the handling of any sensitive information and preventing the inadvertent disclosure of sensitive information in the future. Although we realize that these recommendations may not have changed the outcome in this instance because GPO's customer appears to have fully vetted the printing request, the OIG nevertheless recommends that GPO management

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<sup>4</sup> Although the directive refers to "sensitive information," that term is not defined. However, the directive does define two sensitive information markings: For Official Use Only (FOUO) and Sensitive But Unclassified (SBU). GPO Directive 825.7D, paragraph 6(o) and 6(y). In addition, paragraph 6(bb) of the directive notes that "[o]ther definitions not addressed herein may be located within DoD 5200.1-R."

consider the following actions:

- 1) Establish a protocol with customer agencies on clearly identifying sensitive information, which may be published, and written procedures for handling such information accordingly.
- 2) Establish written procedures for verifying any request for publishing documents that are clearly identified or marked as being of a sensitive or otherwise restricted nature.
- 3) Update GPO Directive 825.7D to define "sensitive information" and how to specifically recognize, mark, and safeguard such information.
- 4) Develop and conduct ongoing training of GPO employees, in conformance with current GPO policy, on how to recognize, handle, and safeguard sensitive information and documents. Management should ensure basic training for all GPO employees to recognize simple language or key words that may indicate the sensitive or otherwise restricted nature of a document.

Please provide a written response to these recommendations by August 21, 2009. Should you have any questions or require additional information, please feel free to contact me or Debra Miller of my staff at 3-0011.

S/o

J. ANTHONY OGDEN  
Inspector General

Attachments

cc: Paul Erickson, Deputy Public Printer  
Maria Lefevre, Chief of Staff  
Janet Sansone, Chief Management Officer  
Drew Spalding, Acting General Counsel  
Andrew Sherman, Director of Congressional Relations

# **Attachment A**



**PRESS PRESS**

**7 am**

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	<b>EPD JACKET</b> U.S. GOVERNMENT PRINTING OFFICE WASHINGTON, D.C. 20540	Title <u>H. Doc. 111-37 (Pres. Message)</u> Special Instructions <b>HOUSE DOC.</b> <input type="checkbox"/> See Memo Inside Jacket			<input type="checkbox"/> Contents <input type="checkbox"/> Wkt. Not <input type="checkbox"/> Index } FBI In / Verify	<b>ALL CONGRESSIONAL TEXT FILES ARE DATA BASE MANAGEMENT</b> <input type="checkbox"/> Place Online and Create Special Link <small>After completion return jacket to Production Control</small>	

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*Indexed on VHS*

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# **Attachment B**

**HOUSE DOC.**

**RETURN COPY TO PROD. CONTROL**

**HOUSE OF REPRESENTATIVES**

111th CONGRESS  
1st SESSION

DOCUMENT  
NO. 111-37

37--The List Of Sites, Locations, Facilities, And Activities  
Declared To The International Atomic Energy Agency

MESSAGE  
FROM

**7** **101**

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

a list of the sites, locations, facilities, and activities in the United States declared to the International Atomic Energy Agency (IAEA), under the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes, as required by Section 271 of Public Law 109-401.

Message and accompanying papers referred to the Committee on Foreign Affairs and ordered to be printed May 6, 2009.

**HOUSE DOC.**

**RETURN COPY TO PROD. CONTROL**

*Multiple Copy*

# **Attachment C**

268 pages

[DOCID: f:hd037.111]  
From the House Documents Online via GPO Access  
[wais.access.gpo.gov]

Fed. Sys  
House Document 111-37

111th Congress, 1st Session - - - - - House Document 111-37

THE LIST OF SITES, LOCATIONS, FACILITIES, AND ACTIVITIES DECLARED TO  
THE INTERNATIONAL ATOMIC ENERGY AGENCY

MESSAGE

from

THE PRESIDENT OF THE UNITED STATES

transmitting

A LIST OF THE SITES, LOCATIONS, FACILITIES, AND ACTIVITIES IN THE  
UNITED STATES DECLARED TO THE INTERNATIONAL ATOMIC ENERGY AGENCY  
(IAEA), UNDER THE PROTOCOL ADDITIONAL TO THE AGREEMENT BETWEEN THE  
UNITED STATES OF AMERICA AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR  
THE APPLICATION OF SAFEGUARDS IN THE UNITED STATES OF AMERICA, WITH  
ANNEXES, AS REQUIRED BY SECTION 271 OF PUBLIC LAW 109-401

<GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT>

May 6, 2009.--Message and accompanying papers referred to the Committee  
on Foreign Affairs and ordered to be printed  
To the Congress of the United States:

I transmit herewith a list of the sites, locations,  
facilities, and activities in the United States that I intend  
to declare to the International Atomic Energy Agency (IAEA),  
under the Protocol Additional to the Agreement between the  
United States of America and the International Atomic Energy  
Agency for the Application of Safeguards in the United States  
of America, with Annexes, signed at Vienna on June 12, 1998  
(the "U.S.-IAEA Additional Protocol"), and constitutes a  
report thereon, as required by section 271 of Public Law 109-  
401. In accordance with section 273 of Public Law 109-401, I  
hereby certify that:

- (1) each site, location, facility, and activity included in the list has been examined by each department and agency with national security equities with respect to such site, location, facility, or activity; and
- (2) appropriate measures have been taken to ensure that information of direct national security significance will not be compromised at any such site, location, facility, or activity in connection with an IAEA inspection.

The enclosed draft declaration lists each site, location, facility, and activity I intend to declare to the IAEA, and provides a detailed description of such sites, locations,

facilities, and activities, and the provisions of the U.S.-IAEA Additional Protocol under which they would be declared. Each site, location, facility, and activity would be declared in order to meet the obligations of the United States of America with respect to these provisions.

The IAEA classification of the enclosed declaration is ``Highly Confidential Safeguards Sensitive``; however, the United States regards this information as ``Sensitive but Unclassified.``

Nonetheless, under Public Law 109-401, information reported to, or otherwise acquired by, the United States Government under this title or under the U.S.-IAEA Additional Protocol shall be exempt from disclosure under section 552 of title 5, United States Code.

Barack Obama.

The White House, May 5, 2009.

<GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT>

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