

Antideficiency Act Reports – Fiscal Year 2015

The United States Government Accountability Office provides this information from reports sent to GAO as required by sections 1351 and 1517(b) of Title 31 of the U.S. Code. Please visit the GAO Antideficiency Act violation report Web site (www.gao.gov/legal/lawresources/antideficiency.html) for more information regarding the Antideficiency Act and reporting requirements.

GAO No.	Agency No.	Agency	Account(s)	Date Reported to GAO	Date(s) of Violation(s)	Amount Reported	Type of Violation	Description	Remedial Action Taken
GAO-ADA-15-01	None	Election Assistance Commission (EAC)	Election Reform Programs	October 21, 2014	October 25, 2013	\$2,266,085.00	31 U.S.C § 1341	<p>EAC reported that funds from its Election Reform Programs account, in the amount of \$2,266,085, were improperly disbursed after the funds were cancelled.</p> <p>EAC reported that it disbursed formula grant funds, for requirements payments under the Help America Vote Act of 2002, to a State grantee on October 25, 2013. EAC disbursed FY 2008 funds that had been cancelled on September 30, 2013, pursuant to 31 U.S.C. § 1552.</p>	<p>EAC determined that EAC staff did not willfully or knowingly violate the Antideficiency Act, therefore, no disciplinary action was taken.</p> <p>EAC reported it is taking steps to recover the funds disbursed to the State. EAC has modified its procedure to send assurance forms to the State at the time of award, rather than post-award, and also provided EAC financial staff with historical appropriations for future requirements payments. EAC also reported it has provided agency-wide internal control training, financial management report production training for staff, and accrual training to all contracting officer's technical representatives. EAC plans to provide additional appropriations law training to staff. Finally, EAC was informed that its financial service provider implemented across-the-board procedures and controls including a new funds-cancelling control in its financial management system, to prevent a recurrence of post-cancellation payments.</p>

Source: Unaudited information GAO extracted from agency Antideficiency Act reports; for further information about a specific report, please contact the relevant agency.

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GAO-ADA-15-02	None	Consumer Product Safety Commission (CPSC)	Salaries and Expenses	October 24, 2014	Approximately, January 1, 1996 to September 25, 2013	Approximately \$1,208,424.00	31 U.S.C § 1341; § 1348	<p>CPSC reported that it used appropriated funds to pay for residential telephone and internet services for certain full-time teleworking employees, resulting in a violation of the Antideficiency Act (ADA).</p> <p>CPSC reported that these expenditures were made pursuant to CPSC’s telework program. Based on the records available, CPSC determined that over \$1,208,484 of appropriated funds were expended.</p> <p>CPSC’s Office of Inspector General determined that the expenditures did not meet the statutory requirements found in § 620 of the Treasury, Postal Service, and General Government Appropriations Act, 1996, which permitted the use of appropriated funds for otherwise prohibited purposes. Accordingly, CPSC lacked the necessary legal authority to expend funds for these telework-related expenses.</p>	<p>CPSC reported that based on the amount of time that has elapsed since the first improper expenditure, and because of the lack of documentation available, it is impossible to determine the individual or individuals responsible for this violation. CPSC further reported that the individuals who proposed and approved the payment of the full-time teleworkers’ internet and telephone expenses in 1996 left CPSC long before this ADA violation was discovered. CPSC determined that there was no evidence of willful or knowing intent.</p> <p>CPSC reported taking corrective action by implementing new internal controls over the reimbursement program and taking additional steps to ensure its compliance with § 620.</p>

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GAO-ADA-15-03	None	Department of Commerce	Bureau of the Census, Salaries and Expenses	November 3, 2014	September 24, 2010	\$262,000.00	31 U.S.C § 1341 (a)(1)(B)	<p>The Department of Commerce reported that the Bureau of the Census improperly obligated funds in advance of its appropriation. The Bureau of the Census entered into an interagency agreement (IAA), in the amount of \$262,000, with the Department of Labor's Bureau of Labor Statistics (BLS), in which it agreed to reimburse BLS for the provision of data-matching services during fiscal year 2011.</p> <p>The Department of Commerce reported that the IAA mistakenly cited the Bureau of the Census' working capital fund as the appropriate account for the work. However, that account was not available for the IAA's purpose, and as such, obligations pursuant to this IAA resulted in an Antideficiency Act violation. The Department of Commerce reported that the Bureau of the Census' Salaries and Expenses account should have been charged for the obligation.</p>	<p>The Department of Commerce reported that because an appropriation was subsequently enacted and was legally available for the expense at issue, the Bureau of the Census later charged this appropriation for the expense and reimbursed the BLS for its costs.</p> <p>The Department of Commerce reported that one employee, then the acting Associate Director for Economic Programs, was responsible for the violation; the employee was orally admonished. The Department determined that there was no willful or knowing intent on the part of the responsible employee.</p> <p>The Department reported that the Budget Division of the Bureau of the Census is taking corrective action by conducting advance reviews of all IAAs to ensure that the IAAs include the correct accounting information, in addition to sufficient funds-availability. Also, the Budget Division has revised its procedures for</p>

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									<p>tracking appropriations and implemented new management controls.</p> <p>In addition, the Bureau of the Census now ensures that all agreements involving the obligation of funds receive advance review by the Department of Commerce's Office of the General Counsel. The Bureau has also updated its Interagency Agreement Policies and Procedures Manual, to clarify the roles and responsibilities of the Bureau's personnel, as it relates to the obligation of funds through IAAs, and to strengthen its IAAs standard operating procedures. Further, the Bureau now requires its personnel involved in the IAA process to participate in fiscal law training provided by the Department of Commerce's Office of the General Counsel.</p>
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GAO-ADA-15-04	None	Department of the Army	N/A	December 2, 2014	September 26, 2006	None reported	31 U.S.C. § 1341	The Department of the Army (Army), through the Department of Defense (DOD), reported that GAO found that the Army violated the Antideficiency Act (ADA) when it entered into escrow agreements for three military installations in 2006, which provided full indemnification to the escrow agent against all liabilities. The Army reported that GAO found that the indemnity provisions were open-ended, and therefore violated the ADA in B-321367, Mar. 30, 2011.	<p>The Army reported that the provisions of the escrow agreements relating to indemnification were not exercised, and that the parties amended the agreements to delete the provisions. Therefore, the potential for the misuse of funds through full indemnification was eliminated.</p> <p>DOD reported that its Office of General Counsel examined the alleged violation and concluded that no violation of the ADA occurred. Therefore, no disciplinary or remedial actions were taken. However, DOD stated that it filed an ADA report in accordance with OMB guidance in Circular A-11, § 145.8.</p>

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GAO-ADA-15-05	Navy N13-01	Department of the Navy	Defense Working Capital Fund, Navy	December 23, 2014	April 6, 2012	\$2,524.00	31 U.S.C. § 1301; 1341	<p>The Department of the Navy (Navy), through the Department of Defense, reported that it violated the Antideficiency Act when it improperly used Navy Working Capital funds to procure ball bearings for T-34/T-44 Hawker Beechcraft trainer planes from a non-domestic source. The violation occurred at the Naval Supply Systems Command Center (NAVSUP) Fleet Logistics Center (FLC), San Diego, CA.</p> <p>The Navy reported that it procured the ball bearings from a Japanese manufacturer on April 6, 2012. Section 8046 of the 2012 Department of Defense Appropriations Act stipulates that ball and roller bearings must be purchased by a domestic source.</p>	<p>The Navy reported that one individual was named responsible for the violation and he was issued a letter of caution.</p> <p>The Navy reported that NAVSUP directed its FLC contracting offices to forward all future procurements for ball and roller bearings to Defense Logistics Agency (DLA) Aviation for acquisition, since DLA Aviation is the proper procurement authority. The Navy reported that a tailored training program was also developed for the DLA contracting employees and Office of General Counsel attorneys, specifically addressing foreign source restrictions, such as the Buy American Act.</p>

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GAO-ADA-15-06	None	Broadcasting Board of Governors (BBG)	Not Identified	December 18, 2014	Over a period of four decades	\$37,731.00	31 U.S.C. § 1342; 1517(a)(2)	<p>BBG reported that the agency's Office of Inspector General (OIG) concluded that the agency violated the personal services prohibition of the Antideficiency Act (ADA) by contracting with Purchase Order Vendors (POVs), whom the agency actually deemed as self-employed individuals. BBG contracted with the POVs for functions related to international broadcasting. BBG reported that its OIG conducted an audit of 16 POV contracts and concluded that 14, which represented 88 percent, were personal services contracts. BBG reported that the OIG determined that the overwhelming majority of BBG's services contracts were likely personal in nature, thus exceeding that which was authorized by law, thereby violating the ADA.</p> <p>BBG also reported that the OIG, in a separate finding, concluded that two orders to two contractors totaling \$37,731.00, constituted obligations in excess of</p>	<p>BBG did not report that any disciplinary actions have been taken related to these reported violations.</p> <p>BBG reported that notwithstanding its position on the OIG's findings, it has already transitioned a significant portion of its POV workforce to a staffing agency. This transition will end a decades-long practice of relying on POVs to support certain international broadcasting functions.</p> <p>BBG also reported that it is considering updating its Funds Control Policy to add express language to specify that obligations prior to the creation of a sub-allotment are, by definition, not in excess of the amount permitted by that policy.</p>

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								<p>internal, agency-created, sub-divisions of funds, which violated the ADA.</p> <p>BBG stated that it disagreed with the OIG's conclusions, but is reporting ADA violations in accordance with OMB guidance in Circular A-11, § 145.8.</p>	
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GAO-ADA-15-07	None	Department of Energy (DOE)	Departmental Administration, 08915/160228	April 30, 2015	December 17, 2014 through February 5, 2015	\$29,880.67	31 U.S.C. § 1341	DOE reported that a violation of the Antideficiency Act (ADA) occurred when it twice nominated and the Senate twice returned an individual for the position of Assistant Secretary for International Affairs, and then expended appropriated funds for his salary while he served as acting Assistant Secretary for International Affairs. This resulted in a violation of Section 749, Division D of the Omnibus Appropriations Act of 2009.	DOE reported that no administrative discipline was implemented as no officer was responsible for the violation. DOE also determined that the violation did not contain any willful or knowing intent on the part of any officer to violate the ADA. DOE reported that it has updated its policies and procedures as it relates to nominees to ensure compliance with Section 749.

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GAO-ADA-15-08	None	Commodity Futures Trading Commission (CFTC)	Expenses, CFTC 95-1400	July 20, 2015	September 21, 2012 to November 1, 2012	None reported	31 U.S.C. § 1342	<p>CFTC reported that during fiscal year 2013, a violation of the Antideficiency Act (ADA) occurred within its Office of the Chief Economist (OCE) when OCE accepted voluntary services from two individuals without obtaining a written waiver of compensation in advance of the services provided.</p> <p>CFTC reported that one unpaid academic researcher provided services to OCE from September 21, 2012, to February 7, 2013, with a waiver of compensation signed on November 2, 2012. A second unpaid academic researcher provided services to OCE from a period of September 24, 2012, to February 7, 2013, with a waiver of compensation signed on November 2, 2012. For the time period not covered by these waivers, the researchers provided voluntary services.</p> <p>CFTC further reported that the agency may have accepted voluntary services without obtaining written waivers of</p>	<p>CFTC reported that it determined that the violation contained no willful or knowing intent to violate the ADA.</p> <p>CFTC further reported that it has instituted new policies and procedures to prevent a reoccurrence of this type of violation.</p>

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								<p>compensation in advance from an additional thirty-three individuals from January 1, 2010 to February 7, 2013; however, insufficient records, coupled with the nature of the independent research work being performed, have prevented CFTC from gathering sufficient evidence to definitively substantiate the number and scope of violations at this time.</p>	
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GAO-ADA-15-09	None	Commodity Futures Trading Commission (CFTC)	Expenses, CFTC 95-1400	July 20, 2015	May 22, 2013	\$3,564,752.63	31 U.S.C. § 1341(a)	<p>CFTC reported that a violation of the Antideficiency Act (ADA) occurred when it improperly transferred funds between two separate accounts in Fiscal Year (FY) 2013. CFTC reported that a transfer was made from its CFTC Information Technology (IT) fund to the CFTC Salaries and Expenses (S&E) fund on May 22, 2013. The transfer was executed by the Commission’s Financial Management Branch.</p> <p>The CFTC reported that on November 13, 2013, the Honorable Richard C. Shelby, Vice Chairman of the Senate Committee on Appropriations, requested that GAO determine whether the CFTC’s second transfer of funds on May 22, 2013 was appropriate. In B-325351, Apr. 25, 2014, GAO concluded that the CFTC did not have legally available transfer authority for the transfer of funds made on May 22, 2013.</p> <p>In light of GAO’s conclusion, and after it adjusted its</p>	<p>The CFTC reported that it determined that there was no willful or knowing intent to violate the ADA, and therefore administrative discipline would not be appropriate.</p> <p>The CFTC reported that the transfer was subsequently reversed.</p>

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								accounts, CTFC determined that its S&E account was deficient in the amount of \$3,564,752.63.	
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GAO-ADA-15-10	None	Department of Education	Program Administration, Departmental Management, Education, 91 0800	July 20, 2015	December 16, 2014, through February 12, 2015; January 13, 2015 through February 19, 2015	\$59,801.57	31 U.S.C. § 1341	The Department of Education (Department) reported that a violation of the Antideficiency Act (ADA) resulted from the payment of salaries and benefits to two Department employees, who were carrying out responsibilities and duties in an acting capacity, following the second return of their nominations for positions requiring the advice and consent of the Senate which violated Section 749, Division D of the Omnibus Appropriations Act of 2009.	<p>The Department reported that it was unaware of the prohibition in Section 749. Therefore, the Department determined that this action contained no willful or knowing intent on the part of the responsible parties to violate the ADA.</p> <p>The Department reported taking immediate steps to ensure that the two employees discontinued the performance of any responsibilities or duties, in an acting capacity, for positions requiring Senate advice and consent. The Department also reported that both of the employees have been reassigned to different positions within the Department.</p> <p>The Department further reported that it intends to provide each affected office with written information concerning Section 749 and the ADA.</p>

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GAO-ADA-15-11	Army 15-01	Department of the Army	Operations and Maintenance, Army	July 23, 2015	Fiscal Years 2012 and 2013	\$6.2 million	31 U.S.C. § 1341(a)(1)(A)	<p>The Department of the Army (Army), through the Department of Defense, reported a violation of the Antideficiency Act (ADA) regarding expenditures of its Fiscal Years (FY) 2012 and 2013 Operations and Maintenance, Army (OMA) funds. The ADA occurred within the Army's Office of the Deputy Chief of Staff for Intelligence, G-2 (G-2). The G-2 was designated by the Secretary of the Army as the Executive Agent (EA) for the Korean War 60th Anniversary Commemoration (KWC60). The Army reported that the G-2 improperly expended OMA funds in excess of the limit established for the KWC60 by law.</p> <p>The Army reported that the Secretary of Defense was given the authority to establish the KWC60 program in the FY 2011 National Defense Authorization Act. However, that legislation limited the Secretary's spending to \$5 million.</p>	<p>The Army reported that the Executive Director of the KWC60 and an employee of the Chief Budget and Execution Division were found responsible for the violation. The G-2's Lieutenant General administered oral counseling to these individuals, emphasizing the need to assess congressional language for impacts on funding levels, and to obtain a legal review for any future activities. The Army determined that there was no willful or knowing intent on the part of the responsible parties to violate the ADA.</p> <p>The Army reported that to prevent a recurrence of this type of violation, the Office of the Administrative Assistant to the Secretary of the Army is staffing a new Army regulation identifying the key processes, roles, and responsibilities for EA resource management. The regulation will establish a workgroup to periodically assess the status and</p>

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								<p>The Army reported that the Director of the Army Staff (DAS) approved a funding level of \$8.3 million for KWC60 which was above the \$5 million limit applied to the entire program, regardless of the fiscal years. Additionally, the Army reported that it increased the funding level by \$1.9 million, over the original \$8.3 million, to cover the additional costs of the final event. The Army reported that the G-2 continued to improperly obligate funds in support of the KWC60 program above the funding levels approved by the DAS. As a result, the Army incurred an uncorrectable violation of the ADA.</p>	<p>functionality of current Army EA initiatives and provide enhanced oversight and support to new Army EA responsibilities.</p>
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GAO-ADA-15-12	Army 13-08	Department of the Army	Operations and Maintenance, Army	September 1, 2015	Fiscal Year 2011	\$18,833,978.99	31 U.S.C. § 1341(a)(1) (A)	<p>The Department of the Army (Army) reported a violation of the Antideficiency Act (ADA) regarding its obligation of Fiscal Year (FY) 2011 Operations and Maintenance Army (OMA) funds. The ADA occurred at Bagram Airfield (BAF), Afghanistan.</p> <p>The Army reported that this project was improperly funded with OMA funds, instead of Military Construction (MILCON) appropriations. The Army also determined that the obligations incurred for the project exceeded the statutory limit for OMA-financed military construction projects, and thus resulted in a violation of the ADA. Further, the Army reported that the use of OMA funds to finance the project was not consistent with the authorized purpose of the appropriation, and this resulted in an incurable violation.</p>	<p>The Army reported that two contracting officers were found responsible for the violation. Disciplinary action was not administered because these individuals are no longer employed by the Department of Defense. The Army determined that there was no willful or knowing intent on the part of the responsible individuals to violate the ADA.</p> <p>The Army reported that to prevent a recurrence of this type of violation, the Army issued an order that requires approval at the U.S. Forces, Afghanistan-level for construction projects. This approval authority was previously retained at the Regional Command level at BAF.</p>

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GAO-ADA-15-13	None	Department of State	International Narcotics Control and Law Enforcement	September 28, 2015	Fiscal Years 2012 and 2014	\$4,902,671	31 U.S.C § 1517(a)	<p>The Department of State (State) reported that two violations of the Antideficiency Act (ADA) occurred during Fiscal Years 2012 and 2014. State reported that the violations were the result of obligating and expending funds for specific projects that were not properly catalogued in its International Narcotics Control and Law Enforcement (INCLE) account's approved apportionment form. State reported that the violations relate to funds made available pursuant to Section 1207 of the National Defense Authorization Act of 2006, (section 1207 funds).</p> <p>State reported that on November 19, 2013, it submitted a Congressional notification of reprogramming of \$4 million of section 1207 funds in the INCLE account, from reconstruction and stabilization programming in Ecuador, to reconstruction and stabilization programming in Nigeria.</p>	<p>State reported that it determined that there was no willful or knowing intent on the part of any individuals to violate the ADA. State reported that no disciplinary action was taken because the violations were due to procedural shortcomings, rather than the actions of any particular individual.</p> <p>State reported that because the obligations and expenditures were fully consistent with the Department's Congressional notification to reprogram section 1207 funds for the specific projects at issue, and did not exceed the apportioned or budgetary resource amounts, no action was required to recover or adjust the amounts obligated for these projects.</p> <p>State reported that it is taking a series of actions to remedy both the specific ADA violations, as well as the procedures that led to the violations. In addition, State reported that it was taking steps to improve the</p>

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								<p>State began incurring obligations for Nigeria on March 25, 2014, after completion of the Congressional notification procedures. State reported that the approved Apportionment and Reapportionment schedule (SF-132) from the Office of Management and Budget (OMB) was not updated to reflect the reprogramming of section 1207 funds, but instead continued to reflect the amount of apportioned funds for Ecuador programming.</p> <p>State reported that in December 2014, OMB issued a SF-132, which apportioned \$682,221 in section 1207 funds for Nigeria programming. Prior to that apportionment, State had obligated \$3,317,779 in section 1207 funds for Nigeria programming, in excess of OMB's apportioned amount, thereby violating the ADA.</p> <p>State reported that after discovering the apportionment issue concerning Nigeria's section 1207 programming, it took measures to identify if there were other such instances of over-spending of the apportioned amount, and discovered one additional instance. State reported that this involved a July 19, 2012 submission of a Congressional notification for the reprogramming of \$5 million in section 1207 funds held in the INCLE</p>	<p>alignment of approved reprogrammings and Congressional notifications to the preparation of apportionment requests and approvals. State is requiring additional steps on reprogramming approvals to determine if there is a need for a corresponding reapportionment or apportionment actions. State is also implementing changes to its financial systems to improve the administrative control of funds related to the approved apportionments that include tighter controls. State reported that funding allocations will only be processed in the final system upon receipt and review of an approved apportionment, where necessary, for the associated reprogramming or Congressional notifications.</p>
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								<p>account from reconstruction and stabilization programming in Lebanon, to reconstruction and stabilization programming in Honduras.</p> <p>State reported that it began incurring obligations for Honduras programming with section 1207 funds in the INCLE account on September 4, 2012, but the SF-132 continued to apportion funds for Lebanon programming, which violated the ADA.</p>	
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Antideficiency Act Reports – Fiscal Year 2015

The United States Government Accountability Office provides this information from reports sent to GAO as required by sections 1351 and 1517(b) of Title 31 of the U.S. Code. Please visit the GAO Antideficiency Act violation report Web site (www.gao.gov/legal/lawresources/antideficiency.html) for more information regarding the Antideficiency Act and reporting requirements.

GAO No.	Agency No.	Agency	Account(s)	Date Reported to GAO	Date(s) of Violation(s)	Amount Reported	Type of Violation	Description	Remedial Action Taken
GAO-ADA-15-14	None	Executive Office of the President, Office of Management and Budget (OMB)	Salaries and Expenses, 100-55-0300	September 16, 2015	October 6, 2014 through January 26, 2015	None reported	31 U.S.C. § 1342	OMB reported that a violation of the Antideficiency Act occurred within its Management and Operations Division when OMB accepted voluntary services from a student intern from October 6, 2014 through January 26, 2015. OMB reported that it was later determined that the student intern did not meet the necessary half-time enrollment requirement pursuant to the voluntary services exception for student interns under 5 U.S.C. § 3111.	<p>OMB reported that it immediately terminated the relationship with the student upon realizing the error. OMB determined that none of the individuals involved in hiring the student were aware that the student was enrolled less than half-time at the student's educational institution. OMB also reported that its staff has not found any evidence that the violation was committed with willful or knowing intent, and that no disciplinary action was taken.</p> <p>OMB reported that to prevent a recurrence of this type of violation in the future, it has instituted a new standard operating procedure and checklist for on-boarding of student interns, implemented new documentation requirements, centralized its recruiting process, familiarized its management and staff on the new policies and procedures, and posted the new policy documents on its internal website.</p>

Source: Unaudited information GAO extracted from agency Antideficiency Act reports; for further information about a specific report, please contact the relevant agency.