



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 13 2009

THE ADMINISTRATOR

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

This letter is to report a violation of the Antideficiency Act, as required by section 1517(b) of Title 31, United States Code. A technical violation occurred on September 30, 2008 in Account 6880118 entitled the "Abatement, Control, and Compliance Loan Program Account" which is part of the U.S. Treasury accounts for the Asbestos Loan Program. A payment of \$32,530 was made in excess of our approved apportionment from the Office of Management and Budget (OMB). The payment was made from the Asbestos Loan Program Account to the Asbestos Loan Financing Account of this federal loan program to pay for increased FY 2008 subsidy and interest costs.

Background

The Asbestos Loan Program is a federal loan program authorized by the Asbestos School Hazard Abatement Act of 1984. This law authorized the U.S. Environmental Protection Agency (EPA) to issue direct (no-interest) loans and grants starting in FY 1985 to support actions by local school boards to abate adverse exposure by school children to asbestos in schools. A total of \$235 million in loans was issued. The last appropriation was issued in FY 1993. Since 1985, loan repayments are made semi-annually by the borrowers to the U.S. Treasury. Final repayments are expected by FY 2013.

For the final two years Asbestos loans were issued (1992 and 1993) the Credit Reform Act of 1990 requires EPA to finance the loan debt by annually re-estimating credit subsidies and calculating the interest due on the re-estimate. Subsidy re-estimates may be either upward or downward. Once OMB approves the annual re-estimates, payments are made by EPA from the Asbestos Loan Program Account into the Asbestos Loan Financing Account for upward subsidy re-estimates. Downward subsidy re-estimates are made within the Asbestos Loan Financing Account.

The character of the violation was an inadvertent disbursement in advance of an approved OMB apportionment from the Asbestos Loan Program Account into the Asbestos Loan Financing Account. This payment was for the FY 2008 re-estimate of increased financing costs on the outstanding asbestos loan balances. It was made on September 30, 2008 (the last day of

FY 2008) to complete a payment to the U.S. Treasury by the end of FY 2008. EPA believed we had an automatic apportionment, as authorized by OMB Circular A-11, Section 120.38, since this re-estimate primarily consisted of increased "interest" costs. In discussions with OMB, we learned that EPA did not have an automatic apportionment for this account since it was not listed in OMB's system. As a result, EPA prepared an apportionment request; however, it was not approved since it was submitted in FY 2009 (after September 30, 2008) for a FY 2008 payment. EPA's Inspector General, in their review of EPA's FY 2008 Annual Financial Statement, reported this payment as a potential violation of the Antideficiency Act and recommended EPA report this action to OMB. Nonetheless, the Inspector General gave EPA a clean audit opinion on our FY 2008 Annual Financial Statement.

Finding

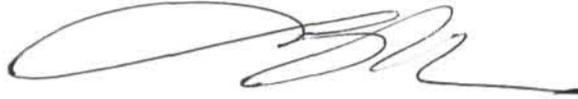
This violation was an inadvertent technical transaction between two accounts within the U.S. Treasury for the Asbestos Loan Program. This payment was based on a re-estimate of \$32,530 for increased loan financing costs within these Treasury accounts in FY 2008. This re-estimate was believed to consist of only "interest" costs for the Asbestos Loan Financing Account and, as such, an automatic apportionment, per OMB Circular A-11, Section 120.83, was deemed appropriate. However, approximately one third (\$11,757) of the \$32,530 re-estimate was for increased "subsidy" costs which required an approved apportionment by OMB before any payment could be made. This oversight resulted in a minor technical violation which EPA believes is not egregious. EPA employees were counseled and new training and review procedures were instituted. Thus, no disciplinary action is warranted. Rather EPA is addressing this problem by the following actions to ensure no such reoccurrence happens in the future.

Follow-up Actions

EPA recognizes that improved internal controls are needed to ensure all the right steps are taken in managing federal credit accounts. Internally, EPA has strengthened agency policies and procedures for updating the annual Asbestos Loan Program re-estimates and payments. We initiated a review of our current standard operating procedures. We then identified each separate office and function affected and the process milestones needed in order to ensure apportionments are approved by OMB. This would ensure payments made by EPA to the U.S. Treasury are completed at least one week prior to the end of the fiscal year. We amended our annual close-out policies and procedures to ensure all apportionments (except for emergencies) are initiated for submission to OMB at least 30 days prior to the end of the fiscal year. We also initiated a new training program for all EPA staff who handle EPA's federal credit accounts to strengthen their understanding of how to properly manage these accounts. Lastly, EPA is seeking automatic apportionment authority from OMB for annual downward re-estimates of these credit accounts up to \$100,000. Having automatic apportionment authority for small credit adjustments should streamline processing of payments for these Treasury credit accounts.

I will submit an identical report of this violation to the presiding officers of each House of Congress and the Comptroller General. Copies of these letters are enclosed for your information.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Jackson', with a large loop at the beginning and a horizontal line at the end.

Lisa P. Jackson

Enclosures (3)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 13 2009

THE ADMINISTRATOR

The Honorable Joseph Biden
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

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For the final two years Asbestos loans were issued (1992 and 1993) the Credit Reform Act of 1990 requires EPA to finance the loan debt by annually re-estimating credit subsidies and calculating the interest due on the re-estimate. Subsidy re-estimates may be either upward or downward. Once OMB approves the annual re-estimates, payments are made by EPA from the Asbestos Loan Program Account into the Asbestos Loan Financing Account for upward subsidy re-estimates. Downward subsidy re-estimates are made within the Asbestos Loan Financing Account.

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I will submit an identical report of this violation to the President, the Speaker of the House, and the Comptroller General. Copies of these letters are enclosed for your information.

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Lisa P. Jackson

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 13 2009

THE ADMINISTRATOR

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Madam Speaker:

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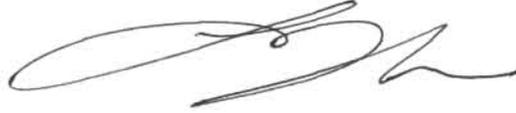
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Lisa P. Jackson

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