



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

May 18, 2005

The Honorable David M. Walker
Comptroller General of the United States
Government Accountability Office
Office of the Comptroller General
441 G Street, N.W., Room 7100
Washington, DC 20548

Dear Mr. Walker:

On behalf of the U.S. Commission on Civil Rights ("Commission"), this letter is being sent to report probable violations of the Antideficiency Act, as required by section 1351 of Title 31, United States Code.

The agency's recent internal investigation indicates that in FY2004, violations of section 1341(a)(I)(B) of the Antideficiency Act occurred in the total amount of \$75,000, in advanced obligations, causing probable violations of section 1341(a)(I)(A) of the Antideficiency Act in account TFM ALC 9519001- 9541900, in an estimated total amount of \$56,819.96. Although the final balance is yet to be confirmed by the Department of Treasury, according to preliminary figures, the Commission has a fund balance of \$37,910.81 in the FY2004 account. This fund balance includes approximately \$18,180.04 of unobligated funds, but does not reflect a \$75,000 liability incurred by the agency during FY2004, which was improperly charged to FY2005. In addition, the agency has approximately \$19,730.77 of obligated but not yet expended funds.

The violations occurred in approximately August of 2004 in connection with the deferral of building lease payments for the U.S. Commission on Civil Rights. Alexander Sun, a former Special Assistant (Schedule C, GS-14) to the former Staff Director, entered into an agreement with the U.S. General Services Administration ("GSA"), described below, that caused the agency to violate the Antideficiency Act. Mr. Sun is no longer employed by the Commission, having separated from the agency in December 2004.

Specifically, Mr. Sun entered into a rent deferral agreement with GSA's National Capital Region Office for the Public Buildings Service, pursuant to which the Commission deferred payment of \$75,000 of the agency's FY2004 rent obligation until FY2005 and paid that rent with funds from FY2005 appropriations. Under the rent deferral agreement, approved by GSA, Mr. Sun obligated the Commission to pay \$75,000 of its FY2004 rent payments in FY2005 over an eight-month period, starting in October of 2004.

This rent deferral agreement appears to have violated two provisions of the Antideficiency Act. First, by entering into the rent deferral agreement with GSA on behalf of the Commission, Mr. Sun obligated \$75,000 of FY2005 funds in advance of the Commission's FY2005 appropriations.

Second, once funds have been credited to the correct year, the rent deferral agreement caused probable deficiency in the Commission's FY 2004 account of approximately \$56,819.96. Pursuant to the bona fide

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needs rule, the Commission's \$75,000 rent obligation that was incurred in FY2004, should have been discharged with FY2004 funds. The Commission is required to remedy this bona fide needs rule violation by discharging the FY2004 rent obligation with funds from FY2004. Currently, the Mr. Walker Commission has approximately \$18,180.04 of unobligated funds left in its FY2004 account and, therefore, has insufficient funds available in this account to properly discharge the \$75,000 of FY2004 rent obligation.

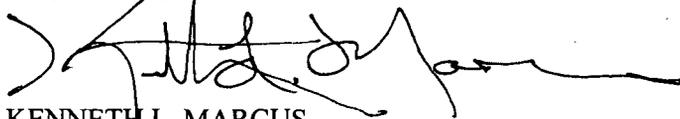
Upon investigating the Antideficiency Act violations, the Commission began to implement proper remedial measures. First, the agency is taking measures to implement budgetary controls. Although the Commission has a system of administrative funds control as part of the Commission's internal guidelines, Administrative Instructions ("AIs"), the Office of Management and Budget ("OMB") has not approved our system of administrative funds control. The Commission is currently in the process of reviewing and revising our existing system and relevant AIs. Upon our completed review, the agency will submit the proposed changes to OMB. Moreover, in order to prevent any similar recurrence by staff, the Commission will issue a memorandum to all employees regarding the administrative funds control guidelines relating to the Antideficiency Act, and once OMB approves the revised AIs, distribute them for staff review.

Second, the agency is seeking to reform financial accountability. As part of those measures, the Commission intends to hire a new Director of Budget and Finance early in the next fiscal year. The Commission is also placing greater emphasis on the Federal Managers Financial Information Act's assessment of risks and weaknesses within the Office of Budget and Finance. In conjunction with senior staff, this new budget officer will enable the Commission to address and correct such risks and weaknesses.

Third, the Commission will, concurrent with this report, notify GSA of the Antideficiency Act violations that occurred because of the arrangement, and submit a request to rescind the deferral agreement with GSA. The Commission will request that its FY2005 account be charged back with the funds that were inappropriately used to discharge the agency's FY2004 rent obligation.

Please be aware that identical reports of the Antideficiency Act violations are being submitted to the President through the Director of the Office of Management and Budget, the President of the Senate, and the Speaker of the House of Representatives.

Respectfully yours,



KENNETH L. MARCUS
Staff Director