



United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

SEP 14 2005

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 violation of section 1517(a)(1) of Title 31 occurred in the Rural Electrification and Telecommunications Direct Loan Financing Account (12X4208) in the amount of \$1,000,000,000.

There is no budget authority associated with the \$1 billion bond guarantee. The violation occurred in Fiscal Year 2005, and James R. Newby, Assistant Administrator of the Department of Agriculture's (USDA) Rural Development Utilities Programs, was responsible. In this situation, because the Department's funds control system operated correctly and promptly to flag the deficiency violation and the violation was reported immediately by Mr. Newby to the Acting Chief Financial Officer of the USDA, no disciplinary action was taken. Mr. Newby also initiated the corrective action.

The violation was not conducted knowingly or willfully. Specifically, officials of the Rural Utilities Service, following lengthy negotiation on the terms and conditions of a new credit guarantee program, executed the bond guarantee agreement and the related guarantee of payment (obligation of funds) prior to the approval of the apportionment of funds (official notification the funds were available for obligation). Although executed documents were exchanged among the parties, no funds were scheduled to be disbursed at that time. The controls built into the financial management system prevented any attempts to disburse a portion of the funds and the violation was discovered.

The sequencing of the obligation and the apportionment occurred because more time was required for all parties to review and approve the credit subsidy analysis than was anticipated. This analysis must be approved prior to approval of the apportionment of funds. As stated above, this is a new credit program with unique pricing, terms, and conditions much different than traditional Rural Development credit programs.

Section 6101 of the Farm Security and Rural Investment Act of 2002 (P.L. 107-171) directed the Secretary to guarantee Investment Grade Bonds issued by non-profit lenders if the proceeds were used for electric and telephone projects eligible for assistance under the Rural Electrification Act of 1936.

The President  
Page 2

The initial note and guaranteed loan level of \$1 billion was signed on June 14, 2005, and the apportionment was approved by the Office of Management and Budget on July 20, 2005. Once the obligation was made without an apportionment of the guaranteed loan level, the Antideficiency Act was violated even though no funds were scheduled to be disbursed.

To prevent a violation from occurring in the future, the unsigned note will be held in the Office of the Assistant Administrator for Electric Programs pending written verification that the Office of Management and Budget has processed the Apportionment of Funds. Completion of these two steps will trigger signing the note and disbursement of funds.

Identical letters are being submitted to the President of the Senate, the Speaker of the House of Representatives, and the Comptroller General.

Respectfully,

A handwritten signature in black ink, appearing to read "Mike Johanns", written in a cursive style.

Mike Johanns  
Secretary