



United States Government
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE CHAIRMAN
Washington, DC 20570-0001

September 30, 2008

The President
The White House
Washington, DC 20500

Dear Mr. President:

This letter is to report two violations of the Antideficiency Act, as required by section 1351 of Title 31, United States Code.

Violations of section 1341 of Title 31, United States Code, occurred in account 63070100 as a result of a contracting officer entering into two contracts with open-ended indemnification clauses. There is no dollar amount to be reported with the violations, as there were no liability claims filed under the agreements.

The first violation occurred on April 5, 2007, in connection with a \$407,588 contract with Mythics for Oracle-Siebel software and support. Although the clause in the Mythics contract is somewhat ambiguous, I determined that, out of an abundance of caution, it is appropriate to report it as a violation. The second violation occurred on April 19, 2007, in connection with an \$85,008 contract with Four Points Technology for Pointsec disk encryption software and support. In both cases, the open-ended indemnification clauses were in the software licensing agreements that were executed by Mr. Madan Kar, Associate Chief Information Officer for Program Management.

The violations came to the attention of the Office of Inspector General (OIG) during an audit of procurement actions that were conducted by the Office of the Chief Information Officer. A subsequent investigation found that Mr. Kar did not exercise due diligence in either reading or understanding the terms of the licensing agreements that he executed. Mr. Kar implicitly acknowledged that he knew that open-ended indemnification clauses were improper, but that he was not aware that the indemnification clause was a part of either agreement. Mr. Kar defended his actions in this matter by stating that the agreements were reviewed by other officials, including attorneys, who should have brought the improper indemnification clauses to his attention. Although the investigation found that the Mythics agreement was reviewed by other Agency officials prior to being executed by Mr. Kar, there was no evidence that the Four Points Technology software licensing agreement was reviewed by any Agency official other than Mr. Kar. Additionally, there was no evidence that either software license agreement was reviewed by an Agency attorney prior to being signed by Mr. Kar.

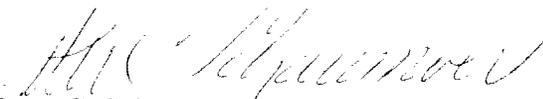
The President
Page 2
September 30, 2008

The Agency is in the process of revoking Mr. Kar's Certificate of Appointment for Contracting Authority. The Agency is also in the process of consolidating its procurement function into a single office with greater internal controls, including the requirement that all software licensing agreements be reviewed by an attorney. The OIG submitted the facts involving these violations to the U.S. Attorney's Office for the District of Columbia, which declined prosecution of this matter.

The NLRB fund control regulations, as required by the Antideficiency Act, were reviewed and approved by the Office of Management and Budget in October 2007. I am satisfied that they, along with the greater internal controls for software licensing agreements, are adequate to prevent future violations of the Antideficiency Act.

Identical reports will be submitted to the presiding officer of each House of Congress as well as the Comptroller General.

Sincerely,



Peter C. Schaumber
Chairman



United States Government
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE CHAIRMAN
Washington, DC 20570-0001

September 30, 2008

The Honorable Richard B. Cheney
President of the Senate
Washington, DC 20510

Dear Mr. Cheney:

This letter is to report two violations of the Antideficiency Act, as required by section 1351 of Title 31, United States Code.

Violations of section 1341 of Title 31, United States Code, occurred in account 63070100 as a result of a contracting officer entering into two contracts with open-ended indemnification clauses. There is no dollar amount to be reported with the violations, as there were no liability claims filed under the agreements.

The first violation occurred on April 5, 2007, in connection with a \$407,588 contract with Mythics for Oracle-Siebel software and support. Although the clause in the Mythics contract is somewhat ambiguous, I determined that, out of an abundance of caution, it is appropriate to report it as a violation. The second violation occurred on April 19, 2007, in connection with an \$85,008 contract with Four Points Technology for Pointsec disk encryption software and support. In both cases, the open-ended indemnification clauses were in the software licensing agreements that were executed by Mr. Madan Kar, Associate Chief Information Officer for Program Management.

The violations came to the attention of the Office of Inspector General (OIG) during an audit of procurement actions that were conducted by the Office of the Chief Information Officer. A subsequent investigation found that Mr. Kar did not exercise due diligence in either reading or understanding the terms of the licensing agreements that he executed. Mr. Kar implicitly acknowledged that he knew that open-ended indemnification clauses were improper, but that he was not aware that the indemnification clause was a part of either agreement. Mr. Kar defended his actions in this matter by stating that the agreements were reviewed by other officials, including attorneys, who should have brought the improper indemnification clauses to his attention. Although the investigation found that the Mythics agreement was reviewed by other Agency officials prior to being executed by Mr. Kar, there was no evidence that the Four Points Technology software licensing agreement was reviewed by any Agency official other than Mr. Kar. Additionally, there was no evidence that either software license agreement was reviewed by an Agency attorney prior to being signed by Mr. Kar.

September 30, 2008

The Agency is in the process of revoking Mr. Kar's Certificate of Appointment for Contracting Authority. The Agency is also in the process of consolidating its procurement function into a single office with greater internal controls, including the requirement that all software licensing agreements be reviewed by an attorney. The OIG submitted the facts involving these violations to the U.S. Attorney's Office for the District of Columbia, which declined prosecution of this matter.

The NLRB fund control regulations, as required by the Antideficiency Act, were reviewed and approved by the Office of Management and Budget in October 2007. I am satisfied that they, along with the greater internal controls for software licensing agreements, are adequate to prevent future violations of the Antideficiency Act.

Identical reports will be submitted to the President, the Speaker of the U.S. House of Representatives, as well as the Comptroller General.

Sincerely,

A handwritten signature in cursive script, appearing to read "Peter C. Schaumber".

Peter C. Schaumber
Chairman



United States Government
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE CHAIRMAN
Washington, DC 20570-0001

September 30, 2008

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515

Dear Madam Speaker:

This letter is to report two violations of the Antideficiency Act, as required by section 1351 of Title 31, United States Code.

Violations of section 1341 of Title 31, United States Code, occurred in account 63070100 as a result of a contracting officer entering into two contracts with open-ended indemnification clauses. There is no dollar amount to be reported with the violations, as there were no liability claims filed under the agreements.

The first violation occurred on April 5, 2007, in connection with a \$407,588 contract with Mythics for Oracle-Siebel software and support. Although the clause in the Mythics contract is somewhat ambiguous, I determined that, out of an abundance of caution, it is appropriate to report it as a violation. The second violation occurred on April 19, 2007, in connection with an \$85,008 contract with Four Points Technology for Pointsec disk encryption software and support. In both cases, the open-ended indemnification clauses were in the software licensing agreements that were executed by Mr. Madan Kar, Associate Chief Information Officer for Program Management.

The violations came to the attention of the Office of Inspector General (OIG) during an audit of procurement actions that were conducted by the Office of the Chief Information Officer. A subsequent investigation found that Mr. Kar did not exercise due diligence in either reading or understanding the terms of the licensing agreements that he executed. Mr. Kar implicitly acknowledged that he knew that open-ended indemnification clauses were improper, but that he was not aware that the indemnification clause was a part of either agreement. Mr. Kar defended his actions in this matter by stating that the agreements were reviewed by other officials, including attorneys, who should have brought the improper indemnification clauses to his attention. Although the investigation found that the Mythics agreement was reviewed by other Agency officials prior to being executed by Mr. Kar, there was no evidence that the Four Points Technology software licensing agreement was reviewed by any Agency official other than Mr. Kar. Additionally, there was no evidence that either software license agreement was reviewed by an Agency attorney prior to being signed by Mr. Kar.

September 30, 2008

The Agency is in the process of revoking Mr. Kar's Certificate of Appointment for Contracting Authority. The Agency is also in the process of consolidating its procurement function into a single office with greater internal controls, including the requirement that all software licensing agreements be reviewed by an attorney. The OIG submitted the facts involving these violations to the U.S. Attorney's Office for the District of Columbia, which declined prosecution of this matter.

The NLRB fund control regulations, as required by the Antideficiency Act, were reviewed and approved by the Office of Management and Budget in October 2007. I am satisfied that they, along with the greater internal controls for software licensing agreements, are adequate to prevent future violations of the Antideficiency Act.

Identical reports will be submitted to the President, the President of the Senate, as well as the Comptroller General.

Sincerely,



Peter C. Schaumber
Chairman