



United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

SEP 30 2008

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

Dear Mr. President:

This letter is to report a violation of section 1517(a) of the Antideficiency Act (ADA) by the Department of Agriculture (USDA) Forest Service (the agency), as required by Section 1517(b) of Title 31, United States Code.

On September 30, 2005, the Office of Management and Budget (OMB) apportioned funds in account 12X1115 Wildland Fire Management with a footnote that stated, "not more than \$100,000,000 of suppression funds is available for acquisition of aviation resources five days after submission of an Exhibit 300." By August 3, 2006, in support of emergency fire suppression requirements, the agency had obligated \$117,509,605 in fiscal year (FY) 2006, funds for the acquisition of aviation resources. It also obligated FY 2006 funds prior to submitting to OMB an Exhibit 300.

In May 2007, USDA Office of the General Counsel (OGC) determined that, by obligating approximately \$17.5 million more than the amount apportioned by OMB for the acquisition of aviation fire fighting resources, the agency violated 31 U.S.C. § 1517(a) (1), the section of the ADA that pertains to apportionments. In addition, after discussions with OMB and the agency, OGC further determined that the agency also violated 31 U.S.C. § 1517(a) (1) by obligating fire suppression funds prior to submitting the Exhibit 300. This determination was based on the fact that the agency had obligated funds without timely seeking reapportionment to remove or amend the Exhibit 300 requirement.

On February 6, 2008, at the agency's request, the Government Accountability Office (GAO) issued a decision in which it also found the agency violated the ADA by exceeding the \$100,000,000 apportionment limitation. GAO did not consider whether the obligation of funds prior to submission of an Exhibit 300 was also a violation.

The Forest Service has determined that Deputy Chief of Business Operations Hank Kashdan was responsible for the programs and processes giving rise to the violations. In addition, the Washington Office (WO) of the Forest Service's Program and Budget Analysis Office was at fault for failing to obtain from OMB a reapportionment upon learning from the Albuquerque Service Center (ASC) that the agency was approaching its apportionment limit. The WO failed to convey to OMB the urgency of its situation. The agency has determined not to impose any administrative discipline for this violation.

With regard to improving performance on the apportionment footnotes, the agency has, among other things, instituted a more rigorous apportionment monitoring process. The ASC is the focal point for finance-related activity on forest fires. During fire seasons, the ASC receives daily accruals from each large fire incident's Finance Section Chief. These accruals report spending on that incident by category (e.g., aviation assets, contracts, etc.) and are recorded into the agency's financial system. The ASC reports fire spending on a daily basis to the WO, including spending against apportionment footnotes. Using this information, the WO and ASC can track apportionment limits on a "real-time" basis. In addition, the agency will be working with OMB on updating its Administrative Control of Funds.

When spending approaches certain thresholds of those limits, including limits imposed in footnotes, the WO requests a reapportionment from OMB. Since the FY 2006 violation occurred, there is an improved process of monitoring the status of reapportionment requests to ensure that they have, indeed, been granted before the agency exceeds its limitation. If no reapportionment has occurred, the agency is now in a better position to seek an emergency reapportionment from OMB.

In addition, pursuant to the Forest Service Manual, a Wildland Fire Situation Analysis (WFSA) must be developed and certified for each fire incident within 24 hours of escape of initial action. Certification of a WFSA represents approval by the appropriate line officer of the estimated total spending on that particular incident—the higher the estimated cost of an incident, the higher the level of authority needed to certify the WFSA. For example, district rangers have the authority to certify WFSAs of up to \$2 million, but the Forest Service Chief or Deputy Chief must approve any WFSA of more than \$50 million. In this way, top level Forest Service officials are quickly notified of costly fires that may require a reapportionment of fire suppression resources.

In FY 2007, the agency received an unqualified audit opinion for the 6<sup>th</sup> consecutive year.

Similar letters will be submitted to the President of the Senate, the Speaker of the House, and the Comptroller General.

Respectfully,



Edward T. Schafer  
Secretary



United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

SEP 30 2008

The Honorable Richard B. Cheney  
President of the Senate  
S-212 Capitol Building  
Washington, D.C. 20510

Dear Mr. Vice President:

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Sincerely,



Edward T. Schafer  
Secretary



United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

SEP 30 2008

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

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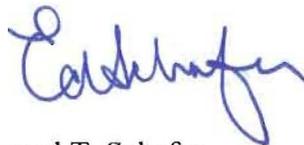
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