



UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

November 3, 2014

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Dodaro:

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

A violation of section 1341 occurred in the Bureau of the Census' (Census) Salaries and Expenses account, Treasury Account Symbol 13 1 0401, in the total amount of \$262,000. The violation occurred on September 24, 2010. Mr. William Bostic, Jr., then Acting Associate Director for Economic Programs, was the officer responsible for the violation.

This violation concerns an obligation of funds in advance of their appropriation. On September 24, 2010, Census entered into an interagency agreement with the Department of Labor's Bureau of Labor Statistics (BLS) whereby Census agreed to reimburse BLS for the provision of data matching services during fiscal year 2011. The agreement mistakenly cited Census' working capital fund as the account to bear the expense, but that account was not legally available for the purpose served by the agreement. The account that should have been charged, and against which the obligation was recorded, was its Salaries and Expenses account. However, because that account is a one-year appropriation, and a fiscal year 2011 appropriation had not been enacted as of the date Census entered into the agreement, Census obligated funds in advance of an appropriation being made available by law in violation of 31 U.S.C. § 1341(a)(1)(B).

This violation resulted from the mistaken belief that the agency's fiscal obligation did not arise until either the start of the agreement's period of performance, October 1, 2010, or the date the obligation was actually recorded in its financial management system, October 26, 2010. It was also believed that the agreement's inclusion of language stating that it was "subject to the availability of funds" otherwise obviated the obligation until funds had been appropriated by Congress. To the contrary, the obligation arose on September 24, 2010, when Census became the last party to execute the agreement, accepting its terms. Merely conditioning the obligation on the subsequent availability of funds neither negated the obligation nor prevented the Antideficiency Act violation that resulted.

Because an appropriation legally available for the purpose and time at issue was subsequently enacted, Census has been able to charge the expense to the correct account and reimburse BLS for its costs with properly available funds.


Mr. Bostic was orally admonished for his role in Census' violation of the Antideficiency Act. The agency has determined that the violation contained no willful or knowing intent on the part of Mr. Bostic to violate the Antideficiency Act.

To prevent recurrence of this type of violation, Census' Budget Division now conducts advance review of all interagency agreements to ensure they include the correct accounting information, that the appropriation to be charged has been enacted, and that a sufficient amount of funds remains available in that appropriation for the purposes contemplated. The Budget Division has also revised procedures for tracking appropriations actions, and implemented new management controls requiring confirmation of authorization and appropriation language review.

Additionally, Census now ensures that all agreements involving the obligation of funds receive advance review by the Department of Commerce's Office of the General Counsel. Census has also updated its Interagency Agreement Policies and Procedures Manual to clarify the roles and responsibilities of Census personnel related to the obligation of funds through interagency agreements, and to strengthen its interagency agreement standard operating procedures. Finally, Census now requires all individuals involved in the interagency agreement process, including all personnel delegated authority to obligate funds or responsible for identifying the availability of funds prior to their obligation, to participate in fiscal law training provided by the Department of Commerce's Office of the General Counsel.

Identical reports are being submitted to the President, the President of the Senate, and the Speaker of the House of Representatives.

Respectfully,



Penny Pritzker