



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

April 8, 2016

Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW, Room 7100
Washington, D.C. 20548

Dear Mr. Dodaro:

This letter is to report a violation of the Antideficiency Act (ADA), as required by 31 U.S.C. 1351.

A violation of the ADA, 31 U.S.C. 1341(a), occurred in the Entrepreneurial Development Account (#028-00-0400) – Treasury Accounting Fund Symbol 73-0400 2015/2016, in the amount of \$12,202.15. The two employees responsible for this violation worked in the Office of the National Women’s Business Council (NWBC), a federal advisory council that serves as an independent source of advice and counsel to the President, Congress, and the U.S. Small Business Administration (SBA) on economic issues of importance to women business owners. The NWBC is funded through the SBA’s budget.

On Wednesday, November 19, 2014, NWBC staff sent an e-mail to 18,762 members of the public encouraging them to “let Congress know we want them to pass the Women’s Small Business Ownership Act of 2014.” The email included a link to a video in which the Chair of the NWBC specifically asks the viewers to support the bill. NWBC had hired a contractor to produce the video attached to the e-mail. One of the NWBC employees also posted the video on Facebook, YouTube, and Twitter. The email and video postings were in violation of section 715 of the Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. 113-235, Division E, which prohibits the use of appropriated funds for indirect or grassroots lobbying in support of, or in opposition to, pending legislation.

By using its appropriated funds in violation of the section 715 prohibition, SBA also violated the Antideficiency Act. Under the Antideficiency Act, an officer or employee of the U.S. Government may not make or authorize an obligation or expenditure exceeding the amount available in an appropriation. 31 U.S.C. 1341(a). The legal effect of section 715 is to make no appropriated funds available to SBA for indirect or grassroots lobbying regarding pending legislation. By obligating and expending funds to prepare and transmit the e-mail and video in question, actions for which no funds were available per section 715, SBA spent funds in excess of the appropriated amount available, thereby violating the Antideficiency Act.

According to both of the NWBC employees involved in the subject violation, they were not aware of the anti-lobbying prohibition. One of the employees also stated that the NWBC immediately took steps to ameliorate the situation as soon as the violation was brought to their attention. Specifically, on Monday, November 24, 2014, NWBC issued an email retracting the violating message and directing recipients to not read it if they had not yet done so. In the event

they had already read the email, recipients were asked to delete the message and not forward, distribute or disclose it to anyone. NWBC also removed the video from various online sources where it knew the video was posted (govdelivery.gov, YouTube, Facebook and Twitter).

The Agency has determined that the responsible parties had no willful and knowing intent to violate the Antideficiency Act. The Agency issued a letter of reprimand to one employee. The second employee resigned from the Agency before the letter of reprimand could be issued to them.

The Agency has periodically issued guidance to all SBA employees on grassroots lobbying, including using the "SBA Daily" (a daily electronic newsletter to all employees) on November 25, 2014.

In addition, on April 9, 2015, SBA provided special training on grassroots lobbying for the entire NWBC staff and will take additional action to educate all employees in order to prevent a recurrence of the same type of violation. The Agency now provides training on anti-lobbying restrictions and has been doing so since 2015 as part of the ethics training for new employees. This training will be incorporated as part of a computer-based ethics training currently being developed with SBA's Office of Human Resources Solutions. All new SBA employees will be required to take the training as part of their on-boarding process.

On June 30, 2015, SBA also issued an Information Notice to remind employees of the anti-lobbying restrictions and the consequences of violating such restrictions. That notice is posted on SBA's website and will be incorporated into one or more Standard Operating Procedures in the near future.

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

Sincerely,



Maria Contreras-Sweet