

Secretary

U.S. Department of Homeland Security
Washington, DC 20528



Homeland
Security

April 18, 2013

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

Re: U.S. Coast Guard *Antideficiency Act* Violation #DHS-10-01

Dear Mr. Dodaro:

This letter is to report several violations of the *Antideficiency Act* (ADA), as required by Section 1351 of Title 31, United States Code (31 U.S.C. § 1351). From Fiscal Years (FY) 2004–2009, violations of 31 U.S.C. § 1341 totaling \$6,709,950 occurred for Response Boat-Medium Projects in the U.S. Coast Guard (USCG) Acquisition, Construction, and Improvements, Treasury Appropriation Fund Symbol 705/90613, 707/10613, 708/20613, and 709/30613.

The Department of Homeland Security (DHS) Office of Inspector General (OIG) conducted an investigation to complete the factual record of violations with respect to the people, policies, and processes responsible for these acts so that appropriate corrective actions could be completed. On May 10, 2011, DHS OIG issued its management report. The investigation identified 20 Response Boat-Medium Project transactions which occurred from FY 2004–2009 that violated the "Purpose Statute" (31 U.S.C. § 1301). USCG made contract modifications for design changes and incorrectly charged those changes to current-year appropriations rather than to appropriations used for the original boat order. Federal appropriations law requires that costs arising from changes to an existing contract must be charged to appropriations used to fund the base contract. Since appropriations used to execute the base contract were no longer available, the violations were uncorrectable, resulting in violations of 31 U.S.C. § 1341. Enclosure (1) provides a list of the violations and enclosure (2) includes specific details of the causes and corrective actions.

The ADA violations were attributable to a lack of USCG acquisition policies, procedures, and training, which resulted in using wrong appropriations for contract modifications to fund design changes. CAPT Mark Porvaznik, USCG (Ret), is identified as the responsible party.

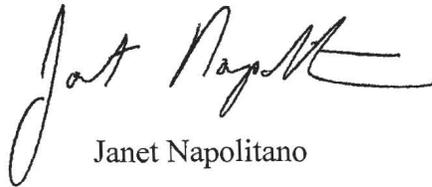
www.dhs.gov

The Department has determined that the violations contained no willful or knowing intent on the part of the responsible parties to violate the ADA and no administrative disciplinary actions are warranted.

USCG made a service-wide change in business processes to include fiscal law training for contracting officers, project funds managers, and project managers. USCG also sent a memorandum to the contracting community detailing specific requirements for the proper contract management of Firm Fixed Price Contracts and elevated the certification of funds availability to a senior financial manager in a different chain of command to ensure adequate segregation of duties and responsibilities. Additionally, DHS has since implemented Department-wide funds control policies through the DHS-wide *Administrative Control of Funds* regulation, which the DHS Deputy CFO signed on February 12, 2010.

An identical copy of this letter has been sent to the President, the President of the Senate, and the Speaker of the House of Representatives. A copy of this letter was also provided to the Director of OMB.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano". The signature is fluid and cursive, with a large initial "J" and a long, sweeping tail.

Janet Napolitano

Enclosures: (1) List of Violations
(2) DHS Review Report (OIG-11-82)