



Department of Energy

Washington, DC 20585

April 30, 2015

The Honorable Gene Dodaro, Comptroller General
United States Government Accountability Office
Washington, D.C. 20548

Dear Mr. Comptroller General,

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 account 08915/160228, Departmental Administration, in the total amount of \$29,880.67. The violation occurred from December 17, 2014 until February 5, 2015 in connection with the International Affairs office for FY 2015. There was no officer responsible for the violation; this was a systemic shortcoming which has been corrected.

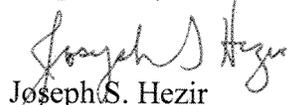
Section 749 of division D of the Omnibus Appropriations Act, 2009, prohibits the use of appropriated funding "for the payment of services to any individual carrying out the responsibilities of any position requiring Senate advice and consent in an acting or temporary capacity after the second submission of a nomination for that individual to that position has been withdrawn or returned to the President." (Pub. L. 111-8, div. D, title VII, §749, *codified at* 5 USC 5501 note prec.). The position of Assistant Secretary for International Affairs is a position within the Department of Energy that requires Presidential appointment and the consent of the United States Senate. 42 U.S.C. 7133(a)(4). Jonathan Elkind was appointed as the Principal Deputy Assistant Secretary for International Affairs on June 8, 2009. He was first nominated to be the Assistant Secretary for International Affairs on October 30, 2013. His nomination was returned to the President on January 3, 2014. Mr. Elkind was again nominated as the Assistant Secretary for International Affairs on January 6, 2014. The Senate returned his nomination on December 17, 2014. The position of Assistant Secretary for International Affairs has been vacant since David Sandalow resigned from the position and left Federal service on May 6, 2013. Since that time, Mr. Elkind had been serving as the Acting Assistant Secretary for International Affairs. On February 5, 2015, Mr. Elkind was informed that he can no longer serve as Assistant Secretary for International Affairs in an acting capacity as a result of the provisions in section 749.

No administrative discipline was carried out, as there was no officer responsible for the violation. The Department has determined that the violation contained no willful or knowing intent on the part of any officer to violate the Antideficiency Act.



The Department has updated its policies and procedures with regard to nominees to ensure there are no further violations of section 749.

Respectfully,


Joseph S. Hezir
Chief Financial Officer