

Antideficiency Act Reports - Fiscal Year 2008

The United States Government Accountability Office provides this information from reports required by section 1401 of the Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809, 3192 (Dec. 8, 2004). Please visit the GAO Antideficiency Act violation report Web site (www.gao.gov/legal/antideficiency.html) for more information regarding the Antideficiency Act and reporting requirements.

GAO No.	Agency No.	Agency	Account(s)	Date Reported	Date(s) of Violation(s)	Amount Reported	Type of Violation	Description	Remedial Action Taken
ADA-08-01	03-09	Department of the Army	Operation and Maintenance, Army (OMA), Defense Environmental Restoration Account (DERA), Research, Development, Technical, and Evaluation (RDT&E), Military Construction, Army (MCA)	10/24/2007	FY 1996 to FY 1998	\$2,713,681.00	31 U.S.C. §§ 1341(a)(1)(A), 1517(a)	Aberdeen Proving Ground (APG) personnel improperly obligated a mix of FYs 1997 & 1998 OMA and FYs 1996, 1997, & 1998 DERA appropriations to renovate a building. The work that was classified as renovation was actually minor military construction. The Army reported an Antideficiency Act (ADA) violation because funds in the accounts it identified as the correct accounts, FY 1996 RDT&E, FY 1996 OMA, and FY 1997 MCA, were not continuously available from the time of obligation to the time of correction.	The responsible official was given an oral reprimand. The Army deobligated the improperly obligated funds and applied funds from the RDT&E, OMA, and MCA accounts to cover the costs. APG has begun to more rigorously review funding of all construction/repair orders.
ADA-08-02	06-10	Department of the Army	Operation and Maintenance, Army (OMA)	11/5/2007	9/22/2003; 9/30/2003	\$130,257.03*	31 U.S.C. § 1341(a)(1)(B)	Army Corps of Engineers, Sacramento District, obligated expiring FY 2003 OMA funds on September 22 & 30, 2003, as part of the issuance of two orders to the General Services Administration for FY 2004 technical and administrative support services. Because the orders were placed before the enactment of the FY 2004 appropriations act and did not include a clause providing that the obligation was contingent upon enactment of the appropriation, the obligations in FY 2003 for FY 2004 services violated the ADA.	Responsible officials received letters of counseling. The Corps charged the correct FY 2004 accounts for the Army's obligations. The Corps implemented a new system for processing interagency orders and service contracts. The Corps issued a new fund certification policy permitting only Resource Management personnel to certify funds for government orders and contractual services.

Source: Unaudited information GAO extracted from agency Antideficiency Act reports; for further information about a specific report, please contact the relevant agency.

* The two order amounts were \$102,988.38 and \$119, 536.63, totaling \$222,525.01. The investigative team determined that some of the line items on the obligations appropriately cited funds that were not expiring for new obligations on 9/30/03 and were therefore properly funded. After that amount (\$92,267.98) was subtracted the total amount reported for the violations was \$130,257.03.

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ADA-08-03	07-07	Department of the Navy	O&M, Navy	11/5/2007	FY 2006, First Quarter	\$311,076.93	31 U.S.C. § 1517(a)	Joint POW/MIA Accounting Command obligated funds in excess of its allocation during a period governed by a Continuing Resolution.	The responsible officials received letters of reprimand. The Navy adjusted the allocation to eliminate the overobligation. The Navy instituted internal controls to ensure obligations do not exceed funding limits.
ADA-08-04	07-03	Department of the Navy	Navy Working Capital Fund	12/6/2007	FY 1996 to FY 2006	\$701,479.69	31 U.S.C. § 1341(a)(1)(A)	Naval Surface Warfare Center, Port Hueneme, California, personnel improperly purchased bottled drinking water, for which appropriations were not available. Navy explained that the expenditures resulted in an uncorrectable violation of the Purpose Statute, 31 U.S.C. § 1301, and therefore violated the ADA.	Two individuals were verbally counseled, one of whom also received oral admonishment. The Navy implemented a fund certification review process and now requires financial managers to annually complete fiscal law and funds usage training courses.

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ADA-08-05	None	Department of Energy	Departmental Administration, Science, Energy Supply and Conservation	1/14/2008	September 2006 to February 2007	\$503,000.00	31 U.S.C. § 1341(a)	The Department of Energy (DOE) submitted a report based on GAO's conclusion in B-308715, Apr. 20, 2007, that the department had violated the ADA. DOE disagrees with GAO's conclusion. GAO found that the department incurred obligations totaling \$503,000 to implement its title XVII loan guarantee program before appropriations were available to do so, in violation of 31 U.S.C. § 1341(a). Because the agency had not reported its violation, GAO reported the violation to Congress on November 13, 2007. B-308715, Nov. 13, 2007. The department did not submit a report of the violation until after GAO reported the violation.	DOE has not taken any disciplinary action or any other remedial action regarding the matter.
ADA-08-06	None	Selective Service System	Salaries and Expenses	3/10/2008	9/4/2007 to 10/15/2008	\$1,226,836.04	31 U.S.C. § 1341(a)(1)(B)	The Selective Service System (SSS) incurred obligations for rent and other items using FY 2007 funds for FY 2008 needs. SSS's orders for these items resulted in funds being obligated in advance of the agency's appropriation, violating the ADA. In total, the agency reported 14 violations.	SSS is reviewing appropriate disciplinary measures. SSS has deobligated all unexpended funds; however, two obligations have already been liquidated as payment to a private realtor and have not been recovered. SSS directed its Procurement Officer to attend appropriation and contract law training classes.

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ADA-08-07	None	Department of Homeland Security, Transportation Security Administration (TSA)	TSA Expenses, Border and Transportation Security	2/15/2008 (this final report is a follow-up to a preliminary report submitted Dec. 4, 2006)	FY 2004, fourth quarter	\$155,600,000.00	31 U.S.C. § 1341(a)(1)(A)	TSA stated that it had made erroneous accounting entries, giving rise to the appearance that TSA had more funds available than actually existed. As a result, TSA overobligated its FY 2004 appropriation.	No administrative disciplinary action was taken against the individual responsible for the violation because the responsible individual is no longer working for DHS. Congress provided DHS with authority to transfer other TSA funds to liquidate the agency's overobligation. Fiscal Year 2007 Revised Continuing Appropriations Resolutions, Pub. L. No. 110-5, § 21101. DHS has efforts underway to correct any remaining weakness in its funds control procedures as part of a comprehensive action plan, including OMB approval of funds control policies and procedures.

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ADA-08-08	07-09	Department of the Navy	Operations and Maintenance (O&M), Navy	2/23/2008	FY 2004	\$31,650.14	31 U.S.C. § 1341(a)(1)(B)	Navy engaged FEDSOURCE, a Department of the Treasury franchise fund, to enter into a contract for professional services on behalf of Navy. FEDSOURCE entered into a contract for Navy for 14 months. Personnel at Naval Base Ventura County (CA) improperly placed orders for services to be provided over a 14 month period. (September 30, 2004 through November 30, 2005). The Navy is permitted to enter into such contracts only up to 12 months. 10 U.S.C. § 2410(a). Consequently, Navy reported that amounts obligated beyond the 12 month period constitute obligations in advance of an appropriation, a violation of the ADA.	One of the responsible individuals received a letter of caution; the other has retired from active duty and no disciplinary action was taken. Navy issued task orders to properly obligate FY 2005 funds for the additional two months of the contract period to replace FY 2004 funding. Navy has developed a policy to better define contract requirements and strengthen contract oversight.
ADA-08-09	07-06	Department of the Navy	Operations and Maintenance (O&M), Navy	2/25/2008*	FY 2004	\$2,422,618.57	31 U.S.C. § 1341(a)(1)(B)*	Fleet Numerical Meteorology and Oceanography Center (FNMOC) entered into interagency transactions with GSA for assisted acquisition contracting support. When it placed the orders, FNMOC obligated FY 2004 O&M funds for services that were needed and provided in FY 2005 and FY 2006. Thus, the Navy obligated funds in advance of an appropriation in violation of the Antideficiency Act.	The responsible individual received verbal reprimand. The Navy adjusted its accounts by obligating FY 2005 funds and deobligating FY 2004 funds. FNMOC Comptroller personnel completed financial management, contract, ethics, fiscal law, and acquisition courses. The Naval Meteorology and Oceanography Command also established a financial assessment program for subordinate commands.

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* At the request of the Office of Management and Budget, the Department of the Navy resubmitted its report on May 6, 2008. The revised report cited a violation of 31 U.S.C. § 1517(a)(2).

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ADA-08-10	07-08	Department of the Navy	Operations and Maintenance (O&M), Navy	3/7/2008	FY 2005	\$1,652,157.12	31 U.S.C. § 1517(a)	Joint Intelligence Operations Center, through an interagency agreement with the Department of Interior, obligated FY 2005 funds for furniture with phased delivery into future fiscal years. Thus, the Navy obligated funds in advance of an appropriation in violation of the ADA.	The individual found responsible received a letter of admonishment. The Navy deobligated FY 2005 funds and obligated funds from correct fiscal years depending on the delivery dates. JIOC employees have been directed to receive immediate and continued training in fiscal law and budget policy.
ADA-08-11	05-05	Department of the Army	Army Civil Works Revolving Fund	3/17/2008	FY 2003	\$42,293.76	31 U.S.C. § 1341(a)(1)(A)	When hosting a conference, the Army Corps of Engineers collected vendor fees and nongovernmental participant registration fees and used them to pay for conference expenses. (Some portion of the fees was also used to pay for illegitimate expenses, which led to the criminal prosecution for embezzlement of one of the responsible individuals.) The expenses should have been charged to the Army Civil Works Revolving Fund, but because they were not, the Fund was illegally augmented by the amount used for conference expenses. To properly adjust the Fund's accounts, the Corps needed to transfer the amount of the augmentation into the Treasury as miscellaneous receipts. 31 U.S.C. § 3302(b).	The Corps transferred \$42,293.76 from the Fund into the Treasury Miscellaneous Receipts Account. Two responsible individuals received letters of admonishment. Another retired and received no disciplinary action. Another served a prison sentence for embezzlement, resigned, and has been paying restitution. The Corps developed conference guidance and implemented requirements that resource managers certify contracts. It also instituted a requirement that all approvers, certifiers, and program managers take fiscal law training, and the Corps now briefs conference funding requirements at senior leadership conferences.

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ADA-08-12	07-05	Department of the Navy	Operations & Maintenance (O&M), Navy	4/21/2008	5/4/2006	\$65,348.01	31 U.S.C. § 1517	A hotline complaint to the Navy Inspector General resulted in an ADA investigation that found a violation of 31 U.S.C. § 1517 had occurred when, in May of 2006, the Naval Observatory Command (USNO) liquidated a \$76,280.50 obligation for a multiyear USNO contract entered into in FY 2001. The account had insufficient funds (\$10,932.49) because funds originally obligated to the FY 2001 O&M account for the contract had been inappropriately deobligated in July 2004, prior to posting all expenditures related to the contract.	One of the responsible individuals received a verbal reprimand; the other has retired from government service and no disciplinary action was taken. The Resource Management Department was split into two separate departments with command administrative responsibilities and financial management responsibilities, respectively. All Comptroller staff were required to take refresher fiscal and appropriations law training. The Naval Observatory also implemented the Command Financial Management System.

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ADA-08-13	06-08	Department of the Army	Operations & Maintenance, Army (OMA)	6/2/2008	December 2000 to September 2004	\$16,329,687.68	31 U.S.C. §§ 1341(a)(1)(B), 1517(a)	An October 2005 Inspector General audit discovered that the U.S. Army Pacific Command improperly obligated FY 2001 OMA 1-year funds for 2- and 4-year equipment leases of the Pacific Mobile Emergency Radio System, entered on its behalf by the General Services Administration (GSA). Since the FY 2001 OMA appropriation was available for only 1 year, the multiyear leases incurred obligations in advance of appropriations in violation of 31 U.S.C. § 1341(a)(1)(B). The use of some of the funds also failed to meet a <i>bona fide</i> need during the period of availability, thereby violating the <i>bona fide</i> needs rule, 31 U.S.C. § 1502. Attempts to correct the violations resulted in ADA violations because appropriate OMA funds from fiscal years 2002 and 2003 were not continuously available at the suballotment level from the date of initial obligation through correction, thereby violating 31 U.S.C. § 1517(a).	One responsible individual received a letter of warning and was directed to complete fiscal and appropriations law classes; the other responsible individual received a letter of admonishment. The Defense Finance and Accounting Service reconciled the obligations and disbursements to correct the funding violations. The Under Secretary of Defense (Comptroller) issued policy for all DOD components regarding interagency transactions conducted under authority other than the Economy Act. GSA has agreed to process all DOD orders consistent with the DOD policy.

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ADA-08-14	07-01	Department of the Army	Operation and Maintenance, Defense Health Program (O&M-DHP)	8/7/2008	7/27/2004	\$1,774,202.20	31 U.S.C. § 1517(a)	The U.S. Army Medical Command improperly obligated FY 2003 O&M-DHP funds for a contract modification for software development of the Judge Advocate General Third Party Collection Claims Single Interface System. The contract modification was outside the scope of the original contract and insufficient O&M-DHP funds in the formal subdivision were available to cover it.	The contracting officer responsible for the violation received a letter of counseling. The Health Care Acquisition Activity Center issued a policy letter (to be part of MEDCOM Regulation 715-1) requiring legal review of all contract modifications in excess of \$100,000, legal review of all modifications deobligating funds before the end of performance period, and written coordination from the Resource Management Office certifying funds for all modifications for new work in excess of \$250,000.
ADA-08-15	08-01	Department of the Navy	Operation & Maintenance (O&M), Navy; O&M, Army	8/7/2008	May to July 2005	\$5,883.91	31 U.S.C. § 1341(a)(1)(A)	A hotline complaint to the Commander Pacific Fleet Inspector General (IG) resulted in an ADA investigation of a joint Army/Navy military exercise with the Australian Defense Force that found several unauthorized reimbursements made to members of the Combined Exercise Support Group. The investigation found that Group members used FY 2005 Navy and Army O&M funds totaling \$5,883.91 (the report did not specify the amounts attributed to each O&M account) to purchase unauthorized public relations memorabilia and alcohol for an end-of-exercise function in Australia in violation of 31 U.S.C. § 1341(a)(1)(A).	Two responsible officers received letters of counseling. The Commander, Pacific Fleet and IG developed new operating procedures to ensure against similar situations occurring and held multiple educational meetings with participants of the joint exercise. A guidance book, <i>U.S. Finance & Disbursing for Logistics Support</i> , was also developed and furnished to the participants.

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ADA-08-16	05-13	Department of the Army	Operations & Maintenance, Army (OMA)	8/14/2008	9/21/2002; 12/28/2004	\$6,200,025.00 (\$3,800,015.00- first lease; \$2,400,010.00- second lease)	31 U.S.C. § 1341(a)(1)(B)	The Information Technology Business Center (ITBC), Fort Sam Houston, Texas, entered into two multiyear leases for storage area network software and improperly obligated FYs 2003 through 2007 OMA funds in advance of appropriations without legal authority in violation of 31 U.S.C. § 1341(a)(1)(B).	The three responsible individuals retired and no disciplinary action was taken against them. The lease contracts were terminated and contractor claims were settled from the appropriate fiscal year accounts. To prevent a recurrence of such violations, the ITBC contracting office now requires legal counsel review of all leases prior to execution. The Fort Sam Houston Resource Management Office was reorganized to collocate all budget analysts and certifying officials in one location.

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ADA-08-17	07-04	Department of the Navy	Operation and Maintenance (O&M), Marine Corps	8/14/2008	March to September 2003	\$4,190,625.45	31 U.S.C. § 1517(a)(2)	The II Marine Expeditionary Force at Camp Lejeune improperly obligated FY 2003 O&M funds for information technology equipment. These costs should have been funded with Procurement, Marine Corps funds instead of O&M funds. When Marine Corps personnel corrected the violation, \$4,190,625.45 of FY 2003 Procurement, Marine Corps funds were not continuously available at the suballotment level in violation of 31 U.S.C. § 1517(a)(2).	Four officers were found responsible: two were counseled and received nonpunitive letters of caution; one received verbal counseling; and one retired and no disciplinary action was taken against him. The violation was subsequently corrected and required a transfer of funds. The Marine Corps updated its IT procurement process and now requires that certain purchases be approved by the appropriate level of financial management prior to purchase to ensure that the correct appropriation account is cited.
ADA-08-18	06-01	Department of the Air Force	Research, Development, Test and Evaluation (RDTE), Air Force	8/14/2008	8/1/2002	\$821,693.90	31 U.S.C. § 1517(a)(2)	Warner Robins Air Logistics Center personnel improperly obligated FYs 2002 and 2003 Air Force RDTE funds to repair and upgrade a building, due to a misinterpretation of the purpose rules governing funds availability for renovation, repair, and refurbishing of buildings on Air Force installations. The expenses should have been obligated to the Air Force O&M appropriations. However, when Air Force adjusted accounts to correct the misuse of RDTE, funds were not available at the Air Force O&M appropriation suballotment level, resulting in a violation of 31 U.S.C. § 1517(a)(2).	The responsible individual retired and no disciplinary action was taken against him. The Air Force approved an increase in the suballotment for O&M to cover the shortage. Air Force personnel at the Warner Robins Air Logistics Center instituted a fiscal law training program and training is conducted annually.

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ADA-08-19	None	U.S. Agency for International Development (USAID)	Operating Expenses, USAID	7/7/2008 (received by GAO 9/15/2008)*	9/30/2005	\$7,484,573.00	31 U.S.C. § 1341(a)	USAID, using FY 2005 appropriations, entered into a 5-year lease agreement for office space in Washington, D.C., obligating funds in advance of appropriations for FY 2006-2009. In addition, indemnification provisions in the lease subjected the agency to an indefinite liability that could exceed available appropriations.	USAID reported that the IG determined that there was evidence of a knowing violation of the ADA and referred the matter to the Department of Justice, which declined to prosecute. Three of the responsible individuals were counseled and received letters of admonishment. A fourth individual had retired before the violation was discovered. Financial responsibilities and delegation of authority to execute leases were removed from the office charged with the violation. The agency conducted a review of management and legal practices and implemented safeguards to strengthen identified weaknesses in the internal review and clearance process.

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* USAID initially reported this violation to GAO on 3/31/2006, and that report is posted on the GAO Web site as GAO No. ADA-06-10. USAID refrained from submitting the 2006 report to the President pending completion of a USAID Office of the Inspector General (IG) investigation. The IG investigation is completed and this is USAID's final report.

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ADA-08-20	07-01	Defense Advanced Research Projects Agency (DARPA)	Research, Development, Test and Evaluation (RDTE), Defense-Wide	9/11/2008	9/9/2005	\$2,650,000.00	31 U.S.C. § 1517(a)	DARPA was allocated by OSD a total of \$2,650,000 FY 2005 RDTE funds for application to a DARPA-Boeing Aerospace agreement. In July 2005, DARPA obligated the full amount for a modification to the agreement. However, the modification was not properly recorded in the relevant accounting and paying systems, so it incorrectly appeared that the funds were not obligated and were thus available for obligation. On Sept. 9, 2005, because of the failure to record, the same funds were obligated a second time for another modification to the same agreement.	The financial adjustments required in the accounting and pay systems were made. The ADA investigation team determined that the violation was due to systemic causes; however, because the program was in a state of turmoil at the time, one person was found to be statutorily liable for the violation. The responsible person received a verbal reprimand and counseling. To prevent a reoccurrence of this type of violation, DARPA strengthened internal controls and provided functional training.
ADA-08-21	None	National Labor Relations Board (NLRB)	Salaries and Expenses	9/30/2008*	4/5/2007; 4/19/2007	Open-ended	31 U.S.C. § 1341	NLRB reports two violations as a result of a contracting officer entering into two software licensing and support contracts containing open-ended indemnification clauses that could exceed available appropriations. There was no dollar amount reported since there were no liability claims filed under the contracts. The ADA investigation found that the contracting officer did not exercise due diligence in either reading or understanding the terms of the contracts he executed, although he acknowledged that he knew open-ended indemnification clauses were improper.	NLRB revoked the responsible contracting officer's Certificate of Appointment for Contracting Authority and consolidated NLRB's procurement function into a single office with greater internal controls, including attorney review of all software licensing contracts. NLRB reported that the IG referred the matter to the Department of Justice, which declined prosecution. The report does not indicate whether NLRB terminated the two contracts with the improper indemnification clauses.

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* NLRB resubmitted its report on November 10, 2008.

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The United States Government Accountability Office provides this information from reports required by section 1401 of the Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809, 3192 (Dec. 8, 2004). Please visit the GAO Antideficiency Act violation report Web site (www.gao.gov/legal/antideficiency.html) for more information regarding the Antideficiency Act and reporting requirements.

GAO No.	Agency No.	Agency	Account(s)	Date Reported	Date(s) of Violation(s)	Amount Reported	Type of Violation	Description	Remedial Action Taken
ADA-08-22	None	Forest Service, U.S. Department of Agriculture (USDA)	Wildland Fire Management	9/30/2008	FY 2006	\$17,509,605.00	31 U.S.C. § 1517(a)(1)	When the Office of Management and Budget (OMB) apportioned the FY 2006 Wildland Fire Management funds it included a footnote stating "not more than \$100,000,000 of suppression funds is available for acquisition of aviation resources five days after submission of an Exhibit 300." However, by the end of July 2006, and prior to submitting to OMB an Exhibit 300, the Forest Service had obligated \$117,509,605 for the acquisition of aviation resources. GAO (see B-310108, Feb. 6, 2008) determined that the overobligation of the apportionment limit violated 31 U.S.C. § 1517(a)(1). The USDA General Counsel also determined that the Forest Service had violated the ADA when it obligated the funds before submitting the Exhibit 300.	The Forest Service (FS) identified one individual as responsible for the programs and processes giving rise to the violation but did not impose any administrative discipline. FS also noted that its Washington office failed to obtain a reapportionment when it learned that FS was approaching its apportionment limit. The agency instituted a more rigorous apportionment monitoring process to enable tracking apportionment limits on a "real-time" basis so that when spending approaches limitations, the Forest Service will be alerted to request emergency reapportionment from OMB.
ADA-08-23	None	Department of Labor, Employment and Training Administration (ETA)	Community Service Employment for Older Americans	9/12/2008 (received by GAO 12/3/2008)	FY 2003 to FY 2008	\$39,450,476.00	31 U.S.C. § 1341(a)(1)	ETA has specific authority to recapture obligated but unexpended funds at the end of a program year to make such amounts available for reobligation. However, in several appropriations acts, Congress limited ETA's exercise of the authority. ETA budget personnel failed to recognize the limitation and obligated funds beyond the period of availability.	ETA suspended work on improperly obligated FY 2004 and FY 2005 funds and ceased liquidating invoices on such funds. ETA and the Department of Labor instituted training of certain budget staff regarding the appropriations issues presented with this violation, and modified pertinent regulations and guidance. No discipline was administered because the budget officers responsible no longer hold such positions, and those who had given advice on the matter have since retired.

Source: Unaudited information GAO extracted from agency Antideficiency Act reports; for further information about a specific report, please contact the relevant agency.