



THE SECRETARY OF HEALTH AND HUMAN SERVICES  
WASHINGTON, D.C. 20201

September 12, 2012

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

Dear Mr. Dodaro:

This letter is to report three violations of the Antideficiency Act, as required by section 1351 of Title 31, United States Code (U.S.C.).

Violations of section 1341 occurred in account TAFS 75-10-0390 – Indian Health Services (IHS) in the total amount of \$10,668,285. The violations occurred in April 2010 when fiscal year 2010 obligations were made that exceeded the amount appropriated for Contract Support Costs (CSC) associated with new or expanded self-determination contracts, grants, self-governance compacts, or annual funding agreements. The violations exceeded the ceiling on new or expanded contracts. IHS did not exceed the ceiling on total CSC funding.

Mr. Ronald Demaray, GS-15, Acting Director of the Office of Direct Service and Contracting Tribes, was the officer found responsible for the violation. The individual responsible has separated from federal service, so no administrative discipline has been imposed. The primary reason the violation occurred is that the individual responsible for the allocation did not apply the Congressional limitation on appropriations for CSC funding associated with new or expanded contracts correctly. The Department of Health and Human Services review revealed no evidence that the violations were committed with willful or knowing intent on the part of the responsible party to violate the Antideficiency Act.

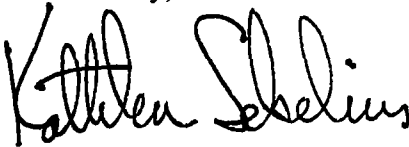
IHS's system of administrative control of funds has been approved by OMB and is available on the IHS website. The contracts have been reviewed in light of the Supreme Court's decision in *Salazar v. Ramah*, and that decision has no impact on this violation.

IHS has taken steps to strengthen internal controls for allocating CSC and prevent future violations from occurring. These steps included:

- Ensuring additional organizational components are involved in all aspects of reviewing, validating, and certifying CSC data, and reviewing all proposed CSC allocations, including allocations for new and expanded contracts or compacts;
- Requiring appropriations and contract training for all staff involved in the self-determination contracting process;
- Reviewing IHS's practices and procedures to proactively identify risks that could result in future violations and to strengthen the appropriate internal controls necessary to mitigate such risks; and,
- Evaluating the agency's policy for allocating CSC to ensure that application of the policy is consistent with appropriations acts.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Sebelius". The signature is fluid and cursive, with the first name "Kathleen" and last name "Sebelius" clearly distinguishable.

Kathleen Sebelius