

Antideficiency Act Reports – Fiscal Year 2013

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GAO No.	Agency No.	Agency	Account(s)	Date Reported to GAO	Date(s) of Violation(s)	Amount Reported	Type of Violation	Description	Remedial Action Taken
GAO-ADA-13-01	None	Department of Veterans Affairs (VA)	Construction, Major Projects Account	November 21, 2012	FY 2009	\$14,911,468	31 U.S.C. § 1341(a)	<p>VA reported that the Medical Center (VAMC) in Miami, Florida used the Construction, Minor Projects account to fund projects that were determined to be related, interdependent work comprising a single major construction project. VA determined that because of this, the Construction, Major Projects account should have been charged. The funds in the Construction, Minor Project account were not available for this project because it constituted major construction, and the funds in the Construction, Major Project account were not available because certain statutory requirements for a major construction project had not been satisfied.</p>	<p>VA reported that one responsible official has retired from the federal service and that disciplinary action was taken against two additional responsible officials.</p> <p>VA reported that it has modified its minor construction approval process to prevent similar violations. VA reported that a minor construction project that is part of a phased and independent construction effort will not be approved until the prior, independent project is 95% complete, thereby preventing VA officials from combining funds from 2 projects into a single project. Additionally, VA reported that there will be design reviews of minor projects at the 50% and 95% completion stages, and that 20% of all VAMCs will have their active construction projects audited annually.</p>

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GAO-ADA-13-02	None	General Services Administration (GSA)	General Services Administration Federal Buildings Fund	September 28, 2012	May 8, 2009	Unlimited liability contract provision violation under which no funds were expended	31 U.S.C. § 1341	GSA reported a violation that involved GSA's Federal Buildings Fund. This violation occurred when GSA entered into a contract on May 8, 2009 with a hotel to provide conference space and accommodations for a conference that was held in October 2010 that included a contractual provision that obligated the Government to unlimited liability.	GSA reported that it removed the employee responsible for the violation from Federal service on June 1, 2012. GSA determined that the violation did not involve willful or knowing intent on the part of the responsible employee. GSA reported that it has issued an instructional letter requiring that all conferences and award ceremonies be reviewed and approved by the Office of Administrative Services. GSA stated that the Office of Administrative Services was also made responsible for procurement actions for internal conferences. GSA also reported that there will also be a high level review and a centralization of procurement authority for conferences and a control on future procurements of the type that led to the violation.

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GAO-ADA-13-03	None	General Services Administration (GSA)	GSA Working Capital Fund Treasury symbol 47X 4540	September 28, 2012	From October 1, 2011, through October 27, 2011	All funds obligated and expended during period from October 1 - 27, 2011	31 U.S.C. § 1517	GSA reported that funds in its working capital fund were obligated and expended for routine business in fiscal year 2012 without a signed apportionment for the period of October 1 through 27, 2011. GSA stated that the apportionment drafted for that period was not submitted to or approved by OMB before funds were obligated and expended.	GSA reported that it determined that the responsible officials had no willful or knowing intent to violate the Antideficiency Act. GSA reported that one of the responsible employees was dismissed from Federal employment and the other responsible official resigned. GSA reported that it has instituted an additional control of having the Budget Control Division review and track all initial apportionments, and provided refresher training on the apportionment process to employees.

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GAO-ADA-13-04	None	U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA)	FMCSA Administrative Expense account (69X8055), Motor Carrier Safety Grant account April 29, 2013 (69X8158), and Motor Carrier Safety Operations and Programs account (69X8159)	April 29, 2013	Multiple violations from fiscal years 2005 through 2010	A total of \$25,560,024	31 U.S.C. § 1341(a)(1) (A) and 31 U.S.C. § 1517(a)	<p>DOT reported multiple violations, involving grant awards in excess of statutory limits; reprogramming not authorized by law; and incurring obligations in excess of apportionments. FMCSA issued grant awards to multiple states in excess of statutory funding limits.</p> <p>FMCSA reprogrammed funds in the CVISN and Performance Information Systems Management grant programs to the Motor Carrier Safety Assistance Program (MCSAP) and Safety Data Improvement Program in violation of the Department of Transportation's fiscal year 2008 Appropriations Act. FMCSA incurred obligations in the MCSAP grant program in excess of the amount apportioned.</p>	<p>DOT determined that these matters did not involve knowing and willful violations of the Antideficiency Act. DOT reported that some of the officials found responsible were not subject to administrative discipline because they are no longer employed by the agency. DOT reported that the other responsible officials were counseled and received additional fiscal law and program management training.</p> <p>DOT reported that FMCSA has revised the agency's internal guidance on control of funds; realigned responsibility for administration of CVISN grant functions, is standardizing grants management, and implementing a new grants management system that gives the Office of Chief Counsel and CFO greater roles in management and oversight. DOT also reported that it has</p>

									required complete fiscal and project management training for employees involved in grants management or administration.
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GAO-ADA-13-05	None reported	Federal Highway Administration (FHWA), Department of Transportation (DOT).	American Recovery and Reinvestment Act of 2009 (ARRA); FHWA Highway Infrastructure Reinvestment; Transportation Investment Generating Economic Recovery (TIGER) Grants	April 29, 2013	August 2010	Multiple violations totaling \$11,511,453 \$10,000,000 (TIGER grants) \$1,045,951 (ARRA Funds) \$465,502 (ARRA Funds)	31 U.S.C. § 1517(a) and 31 U.S.C. § 1514(a)(2)	<p>DOT reported that the total obligations incurred by the Refuge Roads and Puerto Rico Highway programs exceeded the administrative subdivision of funds apportioned by the Office of Management and Budget.</p> <p>DOT reported that FHWA obligated TIGER Grant funds prior to the funds being allotted for that particular project by the Office of the Secretary (OST).</p>	<p>DOT reported no administrative disciplinary actions were taken against the individuals responsible for program management and obligation of funds.</p> <p>DOT reported that gaps in internal controls were the proximate cause of the violations. DOT reported that FHWA's Office of the Chief Financial Officer is reviewing all internal guidance regarding the administrative control of funds to determine whether any existing procedures need to be updated or improved. In addition, FHWA is working with the Department to pursue the possibility of a change in the Department's accounting system that will prevent recoveries from automatically being made available for obligation. DOT reported FHWA has taken actions to improve the internal controls for TIGER project funding, including review of all allocation memoranda for TIGER funding by the Office of</p>

									the Chief Financial Officer prior to funding allocation to ensure adequate project funding is available and the specific project has been allotted by OST.
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GAO-ADA-13-06	DHS-10-01	Department of Homeland Security (DHS)	Response Boat-Medium Projects in U.S. Coast Guard (USCG) Acquisition, Construction, and Improvements Account	April 18, 2013	Multiple violations from fiscal years 2004 through 2009	\$6,709,950	31 U.S.C. § 1301 and 1341	<p>DHS reported that the violation occurred between fiscal years 2004 through 2009 for Response Boat-medium Projects in the U.S. Coast Guard (USCG) Acquisition, Construction, and Improvements account. The DHS Office of Inspector General investigated the matter and identified 20 Response Boat-Medium Project transactions that violated the Purpose Statute. DHS reported that USCG made contract modifications for design changes and incorrectly charged those changes to the current year appropriations rather than to appropriations used for the original boat order and appropriations used to execute the base contract were no longer available. DHS concluded that the violations were uncorrectable, which resulted in violations of the Antideficiency Act.</p>	<p>DHS reported that USCG found one individual (since retired) responsible for the violation, but determined that the violation was not the result of willful or knowing intent on the part of the responsible employee.</p> <p>DHS reported that USCG has made a service-wide change in business processes that includes fiscal law training for contracting officers, project fund managers, and project managers.</p> <p>DHS also reported that USCG 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. DHS reported it has since</p>

									implemented Department-wide funds control policies through the DHS-wide Administrative Control of Funds regulation, signed by the DHS Deputy CFO on February 12, 2010.
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GAO-ADA-13-07	Army-11-07	Department of the Army	Military Personnel, Army Account 2152010	September 6, 2013	September 30, 2005	\$130,280,000.00	31 U.S.C. § 1341(a)(1)(A)	<p>Army reported that the violation occurred on September 30, 2005, when the Army made a payment to the Medicare-Eligible Retiree Health Care Fund (MERHCF) for fiscal year (FY) 2005 using FY 2004 Military Personnel, Army funds.</p> <p>Army reported that there were insufficient FY 2005 funds available to cover the FY 2005 deficiency and total obligations in the FY 2005 MPA account exceeded the appropriation's obligation authority.</p>	<p>Army reported that two individuals were responsible for the violation, and since both persons are no longer employed by the Department, Army officials deemed it inappropriate to impose administrative discipline. The Army reported that before their departure, both individuals were required to implement fund control procedures and practices to insure sufficient oversight of the MERHCF contributions. The Army reported that there was no willful or knowing intent on the part of the responsible parties to violate the Antideficiency Act.</p> <p>The Army reported that a reprogramming action was approved by the Office of Management and Budget on September 16, 2010, to provide sufficient funds for the FY 2005 MPA to enable the Army to cover the MERHCF deficiency. The Army also reported that in FY 2006, the Army began making annual</p>

									MERHCF contributions at the beginning of each fiscal year, and as a result, the contributions are now paid in full on the first day of the fiscal year.
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GAO-ADA-13-08	Air Force - 11-08	Department of the Air Force	Operation and Maintenance (O&M), American Recovery and Reinvestment Act Fund (ARRA)	September 30, 2013	August 6, 2009	\$18,300,000.00	31 U.S.C. § 1341 and 31 U.S.C. § 1301	<p>Air Force reported that fiscal year (FY) 2009 Operations and Maintenance (O&M) funds from the American Recovery and Reinvestment Act, were used to fund a solar array construction project that should have been funded with military (MILCON) construction appropriation funds at the US Air Force Academy (USAFA). Air Force determined that the expenditure was improperly characterized as a service for payment of a connection charge.</p>	<p>Air Force reported that there were four individuals responsible for the violations. Air Force reported that two individuals received written and verbal counseling. The third individual received a letter of concern, and the fourth individual, who is retired, received a letter of notification informing him that he would have been disciplined if he were still on active duty. Air Force determined that there was no willful or knowing intent on the part of the responsible parties to violate the Antideficiency Act.</p> <p>Air Force reported that it is reviewing current procedures regarding Utilities Privatization projects to prevent this type of violation from occurring in the future, and projects must be reviewed and approved by the Air Force Civilian Engineering Support Agency. Air Force also reported that it has clarified guidance on how</p>

									these charges can be construed and how they should be funded with the regard to utilities generation.
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GAO-ADA-13-09	None	Maritime Administration (MARAD), Department of Transportation (DOT)	Operations and Training, MARAD	July 6, 2012	Multiple violations from fiscal years 2003 through 2008	\$5,000,000	31 U.S.C. § 1341(a)	DOT reported that the U.S. Merchant Marine Academy (USMMA), a component of MARAD, collected fees in excess of statutory authority in fiscal years 2003 through 2008. DOT reported that of the \$8.1 million in excess fees that were collected, \$5 million was used to help pay for the school's operations and this constituted an improper augmentation of the school's appropriation.	DOT reported that Congress provided a special appropriation of \$6 million to repay the students, and as of the end of June 2012, 99 percent of necessary refunds had been made. DOT reported that MARAD and USMMA have revised their internal control procedures and improved internal controls at the Academy to prevent similar problems in the future, and the Academy has worked to implement GAO recommendations on midshipman fees. DOT reported that MARAD established an Assistant Chief Financial Officer (CFO) position for Academy Operations who reports directly to MARAD's CFO and provides daily supervision of the school's budget and financial activities. DOT also reported that the Academy's financial staff is being rebuilt, and its Congressional Board of Visitors has been revitalized to provide more oversight. DOT reported that the two officials responsible for

									the violations have since retired and no action was taken against them. DOT concluded that there was insufficient evidence of a knowing and willful violation of the ADA.
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GAO-ADA-13-10	None	Department of Commerce (Commerce), National Oceanic and Atmospheric Administration (NOAA)	Operations, Research, and Facilities (ORF) and Procurement, Acquisition, and Construction (PAC)	November 21, 2012	Fiscal years 2010 and 2011	Commerce reported it was unable to determine the amount of improper reprogrammings, but estimated that as much as \$19.4 million (\$9.3 million in fiscal year 2010, and \$10.1 million in fiscal year 2011) was improperly reprogrammed via Summary Level Transfers (SLTs).	31 U.S.C. § 1341(a)	Commerce reported that the National Weather Service (NWS) improperly reprogrammed funds that resulted in obligations in excess of appropriations. Commerce reported that the CFO office of NOAA, a line office of NOAA, failed to fully assess costs that caused a budget gap of \$10 million during fiscal years 2010 and 2011 in NOAA's ORF account. Commerce reported that the funds were reprogrammed without the required notification by law and were not available for obligation.	Commerce reported that four individuals were found primarily responsible for the violations and two retired after the beginning of the investigation, and two were suspended without pay. The Commerce OIG determined there were sufficient facts to indicate the violations were willful and knowing, and the matter was referred to the Department of Justice. Commerce also reported taking other corrective actions, including an assessment of the use of SLTs and the related administrative controls, ensuring that CFOs of line offices are supervised by the NOAA CFO as well as the line office administrator; ensuring that costs of common services

									are properly assessed; and training key personnel on core appropriations law concepts.
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