



Homeland Security

August 28, 2013

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

Re: U.S. Coast Guard *Antideficiency Act* Violation #DHS-11-01

Dear Mr. Dodaro:

This letter is to report a violation of the *Antideficiency Act* (ADA), as required by Section 1517(b) of Title 31, United States Code (31 U.S.C. § 1517(b)). A violation of 31 U.S.C. § 1517(a)(1) occurred in the U.S. Coast Guard (USCG) Acquisition, Construction, and Improvement appropriation (AC&I), Treasury Appropriation Fund Symbol 70X/0613, in the amount of \$157,897,157.

In FY 2010, USCG agreed to purchase CASA Aircraft for the Mexican Navy through the Foreign Military Sales Program on behalf of the U.S. Navy International Programs Office. On September 16, 2010, the USCG accepted a Military Interdepartmental Purchase Request; however, due to delays, the purchase was not finalized until October 1, 2010. Because USCG did not request the reapportionment of carryover authority for FY 2011, the purchase exceeded USCG's apportioned amounts. The USCG's Budget Execution Office discovered the violation on November 4, 2010, and no funds were disbursed. USCG requested a reapportionment of the funds on November 24, 2010, which OMB approved on December 6, 2010.

The obligation of funds took place at the point of transition to a new fiscal year, and there was a miscommunication between the Budget and Program Offices as to when the funds would be obligated. System issues also further confused matters; because contracting actions take place outside of the financial system, the budget office did not realize that the program had not obligated funds before the end of the fiscal year. Moreover, the program historically funds purchases out of the Operating Expenses appropriation, for which USCG automatically requests an apportionment at the beginning of each fiscal year; however, the nature of this purchase, as well as the funding mechanism, required the program to use AC&I funds, for which USCG does not request an apportionment unless it receives a request from any given program office.

The Department-wide *Administrative Control of Funds* regulation, which was signed by the DHS Chief Financial Officer on February 12, 2010, was in place at the time of the violation. The regulation establishes policies and standards to ensure that obligations and expenditures are restricted to the amount available in the appropriation. This system enables the Department to

determine responsibility for any obligation or expenditure exceeding the amount available in the appropriations, apportionment, allotments, or suballotments.

To prevent future recurrences, USCG implemented revised reimbursement policy and procedures in March 2012 to provide enhanced guidance and to improve processes. New procedures also require any purchase request packages involving AC&I funds created in the new fiscal year to include a statement from the Program Office confirming that the apportionment or reapportionment of funds has taken place, which the Program Office obtains in coordination with the Budget Office. Additionally, USCG has revised hard controls in the USCG financial system by implementing the lock out of unobligated commitments until funds are apportioned or reapportioned in the new fiscal year. With these changes, USCG asserts that all subsequent reimbursable transactions will conform to law.

The Department conducted an independent investigation, which concluded that Mr. Tod Reinert was responsible for the violation because he served as the program manager at the time of the violation and had oversight over the obligation of funds. The investigation determined that there was no willful or knowing intent on the part of the responsible party to violate the *Antideficiency Act*. Mr. Reinert has completed required training in both fiscal law and USCG procedures. Furthermore, USCG is requiring other program managers to participate in similar training, which will both increase awareness of appropriate procedures and prevent future violations.

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

Yours very truly,

A handwritten signature in black ink, appearing to read 'Janet Napolitano', with a long horizontal flourish extending to the right.

Janet Napolitano