



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

AUG 11 2016

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

Dear Mr. Dodaro:

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

A violation of section 1341 of title 31 U.S.C. occurred during fiscal year 2015 in the amount of \$28,416.21 in account 75-15-0390 of the Indian Health Service (IHS) when appropriated funds were used in violation of an appropriations provision, section 749 of division D of Public Law 111-8, which provides that:

“[e]ffective January 20, 2009, and for each fiscal year thereafter, no part of any appropriation contained in this or any other Act may be used 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acting or temporary capacity after the second submission of a nomination for that individual to that position has been withdrawn or returned to the President.”

The violation occurred when Dr. Yvette Roubideaux carried out the responsibilities of the Director of IHS after her nomination for a second term had been returned twice by the Senate without action.

Dr. Roubideaux was nominated to a second term as Director of IHS in 2013 and 2014. Her nomination was returned a second time on December 16, 2014, after which the IHS annual appropriation was no longer available to pay her salary to carry out the responsibilities of the position. However, since neither IHS nor other individuals in the Department of Health and Human Services (HHS) with responsibility for nominations were aware of this limitation, Dr. Roubideaux continued carrying out the responsibilities of this position until February 10, 2015, when HHS learned of the applicability of this limitation.

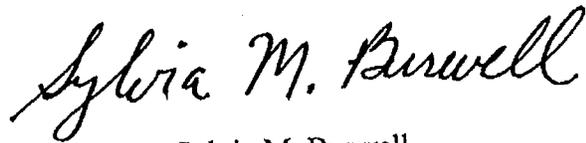
Dr. Roubideaux was reassigned to the Office of the Secretary, where she served as a Senior Advisor to the Secretary for American Indians and Alaska Natives until her departure from the Department. To prevent future recurrences, individuals involved in tracking the nomination process and key budget execution staff in each of the components of the Department with Senate-confirmed appointees have been informed of the limitation set forth in section 749.

This action was not committed willfully and knowingly. Since the error resulted from a lack of knowledge within HHS, the Department has concluded that responsibility cannot be fairly attributed to specific individuals.

IHS's system of administrative control of funds has been approved by OMB and is available for review on the IHS website.

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

Sincerely,

A handwritten signature in cursive script that reads "Sylvia M. Burwell". The signature is written in black ink and is positioned above the printed name.

Sylvia M. Burwell