



B-331094

June 25, 2020

The Honorable Michael R. Pence
President of the Senate

The Honorable Nancy Pelosi
Speaker of the House of Representatives

Subject: *U.S. Department of Agriculture—Early Payment of SNAP Benefits*

This letter is to inform you that the U.S. Department of Agriculture (USDA) violated the Antideficiency Act, 31 U.S.C. §1341(a), when it obligated funds in a manner prohibited by law. Notwithstanding the Act's reporting requirement, 31 U.S.C. § 1351, USDA failed to report this violation.

In a September 5, 2019 decision, GAO concluded that USDA was not authorized to obligate amounts for the early payment of February 2019 SNAP benefits because the continuing resolution USDA was operating under at that time only authorized SNAP benefit payments that were due on or about November 1, 2018, December 1, 2018, and January 1, 2019. B-331094, Sept. 5, 2019. In that same decision, GAO noted that USDA could have properly incurred obligations for the early issuance of the February SNAP benefit payments if it had available budget authority to make the payments, such as remaining funds in the SNAP contingency fund, or if the agency properly relied on an exception to the Antideficiency Act. *Id.* GAO also noted that failure to correct the improper obligation would result in a violation of the Antideficiency Act if an exception did not apply. *Id.*

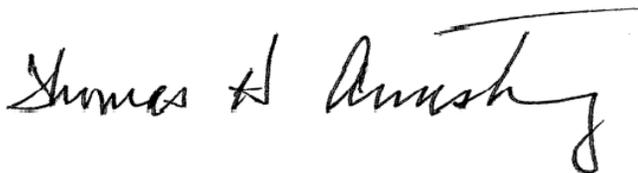
By law, agencies must immediately report Antideficiency Act violations to the President and to Congress, and must transmit a copy of the report to the Comptroller General. 31 U.S.C. § 1351. The report must state all relevant facts and actions taken. *Id.* This reporting requirement protects Congress's power of the purse while promoting sound funds control throughout government. Senate Committee on Government Operations, *Financial Management in the Federal Government*, S. Doc. No. 87-11, at 45 (1961) (stating that one of the principal purposes of the Antideficiency Act is to provide effective control over the use of appropriations). GAO has notified agencies that if an agency fails to report a violation that GAO finds, GAO will report the violation, noting the agency's failure to report. B-331295, Sept. 23, 2019. The Antideficiency Act serves to protect and underscore Congress's constitutional power of the purse. See U.S. Const., art. I, § 9, cl. 7 (power of the

purse, statement and account of public money); B-328450, Mar. 6, 2018; B-317450, Mar. 23, 2009.

On March, 6, 2020, GAO sent a letter to remind USDA of the conclusions in the September 2019 decision. Letter from Managing Associate General Counsel, GAO, to General Counsel, USDA (March 6, 2020). USDA's response stated that it disagreed with the legal opinion in GAO's decision and that it ". . . will take no further action. . ." Letter from Associate General Counsel, USDA, to Managing Associate General Counsel, GAO (May 21, 2020). Although USDA asserts it had authority to make the February 2019 payment, it has not identified any other budget authority or an exception to the Antideficiency Act that would have applied. *Id.* Without additional information to demonstrate otherwise, we conclude USDA has violated the Antideficiency Act, 31 U.S.C. §1341(a), when it improperly obligated amounts for the early payment of February 2019 SNAP benefits.

USDA's letter notwithstanding, this does not absolve the agency of its failure to report, even though it disagrees with the GAO decision. Rather we recommend that agencies continue to submit reports explaining the agency's position on GAO's findings, including when the agency disagrees, in an effort to enhance government transparency and accountability to the President, Congress, and the American people. We send you this information because the reporting of Antideficiency Act violations is critical to congressional oversight of executive use of public money and central to Congress's constitutional power of the purse.

Sincerely,

A handwritten signature in black ink that reads "Thomas H. Armstrong". The signature is written in a cursive style with a horizontal line above the name.

Thomas H. Armstrong
General Counsel

Enclosure

cc: Stephen A. Vaden
General Counsel, U.S. Department of Agriculture

Phyllis K. Fong
Inspector General, U.S. Department of Agriculture

Mark R. Paoletta
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