

Antideficiency Act Reports - Fiscal Year 2006

The United States Government Accountability Office provides this information from reports required by section 1401 of the Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809, 3192 (Dec. 8, 2004). Please visit the GAO Antideficiency Act violation report website (<http://www.gao.gov/ada/antideficiencyrpts.htm>) for more information regarding the Antideficiency Act and reporting requirements.

GAO No.	Agency No.	Agency	Account(s)	Date Reported	Date(s) of Violation	Amount Reported	Type of Violation	Description	Remedial Action Taken
ADA-06-01	03-03	Department of the Air Force	Missile Procurement, Air Force	10/14/2005	10/10/2001 and 10/23/2001	\$301,152,402.00	31 U.S.C. § 1517(a)(1)	Air Force obligated funds in excess of amounts apportioned under a continuing resolution for missile procurement associated with replacement of guidance systems of Minuteman missiles.	(1) Air Force de-obligated \$75,000,000 from the Missile Procurement Account, which, when coupled with an increase in budget authority provided by a continuing resolution, was sufficient to cover both contract options. (2) Air Force ceased the practice of providing verbal or electronic notification concerning the appropriate use and obligation of Missile Procurement funds, and developed a formal budget authority document.
ADA-06-02	04-01	Department of the Navy	Research, Development, Test and Evaluation, Navy	12/27/2005	FY 2000 FY 2001	\$1,369,197.24	31 U.S.C. § 1517	Navy exceeded the \$1 million threshold allowing the use of O&M funds for unspecified minor construction under the Laboratory Revitalization Demonstration Program.	Violation over and above the threshold corrected when Navy entered new contract, utilizing Military Construction, Navy funds. Navy implemented a new process whereby the Commander, Naval Installations reviews and approves facilities projects anticipated to exceed \$500,000. Navy also revised the process for approving proposed LRDP projects to include involvement by the comptroller.

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ADA-06-03	02-06	Department of the Army	O&M, Army National Guard	1/5/2006	Between 12/17/1997 and 11/20/2000	\$388,838.09	31 U.S.C. §§ 1301(a); 1517	National Guard Bureau violated the Purpose Statute, § 1301(a), when it charged O&M account instead of Other Procurement, Army account for procurement of digital publishing system. The Bureau violated the Antideficiency Act, § 1517, because appropriate procurement funds were not continuously available from the time the violations occurred until they were corrected.	O&M, Army National Guard funds were de-obligated. Bureau charged Other Procurement, Army account for procurement of digital publishing system.
ADA-06-04	04-06	Department of the Army	O&M, Army	2/15/2006	7/2001	\$952.00	31 U.S.C. § 1341(a)(1)(A)	Army Contracting Command used government funds for the purchase of Army Supply Excellence Award coins on behalf of a private, non-DoD organization, to be used as gifts to students at a training course. Army violated the ADA because appropriated funds are generally unavailable for the purchase of gifts.	Command conducted additional training on observing fiscal guidance. Command also instituted supplemental management control measures for purchases which include verification by the Office of the Principal Assistant Responsible for Contracting and the Compliance and Policy Branch.

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ADA-06-05	04-10	Department of the Army	Foreign Taxes Withheld	2/22/2006	2/28/2003	\$442,229.97	31 U.S.C. § 1341	A deposit fund account for Korean local national tax withholding was overdisbursed.	Account was restored to a positive balance. To prevent a reoccurrence of the violation, new procedures have been implemented to prevent a negative balance by increasing the balance in the withholding account as tax refund time approaches.
ADA-06-06	04-01	Department of the Air Force	O&M, Air Force	2/22/2006	9/30/2002	\$506,580.81	31 U.S.C. § 1517(a)(2)	Air Force improperly used O&M, Air Force appropriation funds for a lease with purchase option of an Explosive Ordnance Disposal Vehicle and a Medium Fire Rescue Truck, when Other Procurement, Air Force appropriation funds should have been used. Sufficient Other Procurement funds not available at the lowest administrative subdivision level of funds, resulting in two ADA violations.	Air Force implemented revised guidance for vehicle lease procedures. Additional FY2002 funds were transferred from Air Force O&M account to Other Procurement, Air Force appropriation. FY2006 lease payment will be paid from FY2002 Other Procurement, Air Force appropriation.
ADA-06-07	05-04	Department of the Army	O&M, Army	2/22/2006	9/30/2003	\$2,129,180.96	31 U.S.C. § 1517(a)(2)	Valid contract obligations were not entered into the accounting system in a timely manner. As a result, obligations exceeded available funds.	Increased internal controls were implemented, guidance was re-written, and budget analysts received additional training.

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ADA-06-08	05-02	Department of the Army	O&M, Army	3/3/2006	Between 1/30/2004 and 3/30/2004	\$799,676.18	31 U.S.C. § 1517(a)	Purchased video teleconference equipment using O&M, Army appropriation instead of Other Procurement, Army funds. Sufficient Other Procurement, Army funds were not continuously available at the suballotment level from the date of the erroneous obligations until the time of correction, resulting in an ADA violation.	Army implemented revised fund control procedures. FY2004 Other Procurement, Army, funds made available to correct the violation.
ADA-06-09	None	National Oceanic and Atmospheric Administration	Operations, Research and Facilities, National Oceanic and Atmospheric Administration	10/14/2005	Between 1923 and 2005	\$0	31 U.S.C. § 1341(a)(1)(B)	Agreements with non-profit entities included open-ended indemnification clauses. The clauses violated the ADA because they constituted open-ended obligations of the Government.	NOAA is renegotiating any agreements containing open-ended indemnification clauses that are still in force; developing and issuing guidance to staff on standard leasing practices and management controls; implementing procedure for review of non-standard lease clauses; providing status reports on the progress made in implementing corrective action plans.

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ADA-06-10	None	U.S. Agency for International Development	Operating Expenses, USAID	3/31/2006	9/30/2005	\$7,484,573.00	31 U.S.C. § 1341(a)	USAID entered into a five-year lease agreement for office space. The agreement created an obligation of funds in advance of an appropriation because it did not condition future lease payments as subject to the availability of funds and affirmative action by the U.S. Government. The agency lacked statutory authority to obligate FY2005 Operating Expense funds for the entire term of the lease. In addition, indemnification provisions contained within the lease subjected the agency to liability that could exceed available appropriations.	Financial responsibilities and delegation of authority to execute leases removed from office charged with violation. Agency is conducting assessments of management and legal practice to strengthen identified weaknesses in the internal review and clearance process.
ADA-06-11	05-06	Department of the Army	O&M, Army	4/19/2006	9/26/2003	\$515,500.00	31 U.S.C. § 1341(a)(1)(A)	O&M funds used for lease of armored vehicles. Lease was considered a capital acquisition and Other Procurement, Army appropriation funds should have been obligated.	Contract cancelled at no cost to the government before any funds were disbursed. Responsible department has revised contract and purchase request certification procedures.

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ADA-06-12	None	Department of Education	Salaries and Expenses	5/25/2006	*	*	31 U.S.C. § 1341(a)(1)(B)	GAO found appropriated funds unavailable for production of certain video news releases, as well as a contract for commentary related to the No Child Left Behind Act, that constituted covert propaganda. GAO found these activities to violate the publicity or propaganda prohibition. Because no Department of Education funds were available for these purposes, these activities constituted purpose violations which resulted in an ADA violation. B-304228, Sept. 30, 2005; B-305368, Sept. 30, 2005	Department of Education disagreed with GAO opinions finding ADA violations.
ADA-06-13	None	Research and Innovative Technology Administration, Department of Transportation	Research and Development	6/1/2006	FY 2006	\$3,628,599.00	31 U.S.C. § 1517(a)(2)	While requesting an apportionment of funds to reflect RITA's enacted appropriation, adjustment for reimbursable funding in the first quarter of FY 2006 was below what was needed to cover funding obligations for the Transportation Safety Institute. An obligation exceeding the apportionment resulted in a violation of the ADA.	RITA has revised internal procedures to prevent a reoccurrence of this type of violation and to ensure that all financial management procedures are in accordance with the Department of Transportation's administrative controls.

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* In letters addressed to the President, the President of the Senate, and the Speaker of the House of Representatives, the Department did not report a date of violation or an associated amount. Under its May 14, 2003, contract with Ketchum, Inc., the Department issued a work request for \$38,421.06 in September 2003 to produce the Supplemental Educational Services VNR at issue in B-304228. Sept. 30, 2005, at 3. The Department amended the Ketchum contract on January 6, 2004, to subcontract with Graham Williams Group, making \$113,441.06 available for the minority outreach campaign at issue in B-305368. Sept. 30, 2005, at 3.

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ADA-06-14	05-03	Department of the Navy	O&M, Navy	5/30/2006	FY 1998	\$320,000.00	31 U.S.C. §§ 1301(a); 1517(a)(1)	Pursuant to an agreement, the United States Government developed a joint military department project designed to assist and train the local populations in the Federated States of Micronesia (FSM) and Palau in general engineering skills. The agreement permitted FSM and Palau to defray the costs of the program. The Navy deposited funds received from FSM and Palau into its O&M account, and subsequently drew those funds to purchase Civil Engineering Support Equipment (CESE). A violation of the purpose statute resulted because CESE purchases are properly charged to Other Procurement, Navy funds. The Navy violated the ADA because it did not have sufficient funds in the correct account to replace the improperly obligated O&M funds.	Accounting classification adjustments and corrections made so that sufficient Other Procurement funds would be available for obligation. Employees were made aware of the relevant international compact, as well as important DoD financial regulations related to expense/investment criteria and central management. Training on these subjects, in addition to fiscal law classes, are now required.

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ADA-06-15	02-13	Department of the Navy	O&M, Navy	5/30/2006	Between FY 1997 and FY 2001	\$561,906.87	31 U.S.C. §§ 1341(a)(1); 1517(a)	Prior to 1995, the Joint Oil Analysis Program - Technical Support Center (JOAP-TSC) was a working capital fund activity, statutorily permitted to perform certain functions for the private sector on a reimbursable basis. Due to various base realignments and closures, the program became mission funded; however, the program continued to perform work for the private sector, collecting reimbursements for services provided, and obligating and expending those funds. Collecting the reimbursements without depositing them into the general fund of the Treasury, and without statutory authority permitting retention, violated the miscellaneous receipts statute, 31 U.S.C. § 3302(b); obligating and expending those funds violated the ADA.	Beginning FY 2001, JOAP-TSC was realigned to become a working capital fund activity, permitted to sell services to private industry. JOAP-TSC financial management responsibilities have been realigned, including a new four-level oversight system.
ADA-06-16	03-03	Department of the Navy	O&M, Navy	5/30/2006	FY 1996	\$267,085.00	31 U.S.C. § 1341(a)(1)(A)	The Japanese government presented U.S. Forces Japan with funds to defray the costs of biennial bilateral military exercises. An agreement establishing authority to retain and expend those funds did not go into effect before the first exercise, resulting in a violation of the miscellaneous receipts statute and the ADA.	U.S. Forces Japan is undergoing a complete review of internal procedures related to the military exercises. USFJ will also review recommendations presented in the ADA report, including fiscal training and legal review.

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<u>ADA-06-17</u>	05-04	Department of the Navy	O&M, Navy	5/30/2006	FY 2005	\$67,000.00	31 U.S.C. § 1517(a)	Naval Historical Center obligated in excess of its first quarter allocation for fiscal year 2005, with the excess funds used to pay for three new hires and overtime compensation.	NHC obligations must be checked daily against internal tracking reports and weekly budget reports; in turn, those documents must be cross-checked against the resource authorization document. NHC Comptroller plans to attend a fiscal law course.
<u>ADA-06-18</u>	05-19	Department of the Army	O&M, Army	5/30/2006	FY 2004	\$2,072,291.00	31 U.S.C. § 1517(a)	Army used O&M funds to purchase a Satellite Communications System and two Master Reference Terminals, along with training and support. Other Procurement funds should have been obligated for investment items, resulting in a violation of the purpose statute. Because sufficient Other Procurement funds at the suballotment level were not continuously available from the time of obligation, Army violated the ADA.	Army had sufficient funds available at higher levels, and therefore made additional Other Procurement funds available to replace incorrectly obligated O&M funds. Army issued new standard operating procedure for purchases in excess of \$250,000, requiring such purchase requests to be accompanied by a statement classifying the items sought as individual or part of a set.

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ADA-06-19	05-16	Department of the Army	O&M, Army	5/30/2006	Between FY 2003 and FY 2004	\$3,347,456.40	31 U.S.C. § 1517(a)	O&M funds used to purchase satellite terminals when Other Procurement funds should have been obligated for the purchase of investment items. The purpose violation rose to an ADA violation because sufficient Other Procurement funds were not available at the suballotment level from the time of obligation to the time of correction.	Army made additional funds available to replace incorrectly obligated O&M funds. Contracts modified to reflect accounts correctly charged. Acquisition review process memorandum requires advance review by Judge Advocate for all proposed acquisitions and procurements in excess of \$250,000. Army Materiel Command requested to review proper funding sources before issuing contracts.
ADA-06-20	05-04	Department of Defense, Small and Disadvantaged Business Utilization Office	Procurement, Defense-Wide	6/1/2006	Between 2/20/1998 and 1/29/2001	\$9,046,076.40	31 U.S.C. § 1341(a)(1)(A)	SABDU used funds allocated for the Historically Black Colleges and Universities/Minority Institutions Mentor-Protege program for organizations ineligible to receive awards under the program. The use of funds constituted purpose and ADA violations.	New management control measures were instituted, including: placing the Mentor-Protegee program under the responsibility of a person in the Senior Executive Service; delegation of review and approval of certain agreements to SABDU directors of participating entities; periodic reviews with participating entities to ensure management oversight and controls are in place for proper funds administration; review process evaluates questionable performance agreements before exercising option years.

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ADA-06-21	None	Economics and Statistics Administration	ESA Revolving Fund	6/9/2006	Between 1997 and 2005	\$0	31 U.S.C. § 1341(a)(1)(B)	ESA entered into subscription services agreements containing open-ended indemnification agreements with a Canadian government entity. Open-ended obligations of the Government violate the ADA. Each of the agreements has expired and no liability claims under the indemnification provisions were ever filed.	ESA amended the most recent agreement to remove the open-ended indemnification provision. ESA developed a checklist to prevent violations of the ADA, and trained managers and employees on internal controls and the types of documents requiring legal review. Managers and employees involved in interagency agreements received training in appropriations law and financial management best practices. The Department of Commerce directed its agencies and bureaus to review leases, memoranda of understanding, and contracts for the existence of such clauses.
ADA-06-22	None	National Endowment for the Humanities	Grants and Administration	7/12/2006	FY 2004	\$163,698.00	31 U.S.C. § 1517(b)	NEH neglected to plan for and set aside funds needed for the year-end accrual of payroll, obligating funds in excess of an apportionment.	NEH drafted a document setting forth procedures for the administrative control of funds, and will submit the document to OMB for approval.

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ADA-06-23	04-02	Department of the Army	Family Housing Construction, Army	8/21/2006	6/29/2001	\$4,898.70	31 U.S.C. § 1341(a)	Upgrade of a General/Flag Officer's porch exceeded statutory limitations on cost and living space permitted.	District commander delegates to division chiefs responsibility for fiscal management, administrative control, and funds availability certification. Executive staff tasked operating staff with fiscal management and development of process improvements.

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