

# Department of Homeland Security **Office of Inspector General**

The Preparedness Directorate's Anti-Deficiency  
Act Violations for Fiscal Year 2006 Shared  
Service Administrative Assessments





**Homeland  
Security**

DEC 27 2011

Preface

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the Department.

This report addresses the former Preparedness Directorate's *Anti-Deficiency Act* violations for shared and other administrative services. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

The recommendations herein have been developed to the best knowledge available to our office, and have been discussed in draft with those responsible for implementation. We trust this report will result in more effective, efficient, and economical operations. We express our appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in cursive script that reads "Anne L. Richards".

Anne L. Richards  
Assistant Inspector General for Audits

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## Abbreviations

ADA	<i>Anti-Deficiency Act</i>
A&E	Assessment and Evaluations
DHS	Department of Homeland Security
FY	fiscal year
GAO	Government Accountability Office
IAIP	Information Analysis and Infrastructure Protection
IPIS	Infrastructure Protection and Information Security
IAA	interagency agreement
M&A	Management and Administration
NPPD	National Protection and Programs Directorate
OCFO	Office of the Chief Financial Officer
OIG	Office of Inspector General
OMB	Office of Management and Budget
PR	purchase requisition

# OIG

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*Department of Homeland Security  
Office of Inspector General*

## **Executive Summary**

The fiscal year 2007 Department of Homeland Security Appropriations Bill Conference Committee report directed the Government Accountability Office and the Department of Homeland Security, Office of Chief Financial Officer, to review the Preparedness Directorate's use of fiscal year 2006 program appropriations to fund shared services administrative transactions. According to the Government Accountability Office legal opinion letter, September 17, 2007, the Preparedness Directorate inappropriately pooled its appropriations to fund shared services transactions. Subsequently, the Department hired a contractor to conduct the review. The contractor identified 21 improper uses of program appropriations to fund shared services. The Department concluded that the improper uses were *Anti-Deficiency Act* violations totaling between \$21.7 million and \$28.3 million in fiscal year 2006.

The objective of this audit was to determine whether the Preparedness Directorate violated the *Anti-Deficiency Act* when it used program appropriations to pay for crosscutting services such as training, facilities enhancements, and business office operations of mutual benefit to internal components and offices. We concur with the contractor's methodology used to identify the potential *Anti-Deficiency Act* violations.

We made four recommendations to the National Protection and Programs Directorate. The Office of the Under Secretary concurred with three of the recommendations. Written responses are summarized and evaluated in the body of this report and included in their entirety in appendix B.

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## Background

The Department of Homeland Security (DHS) Information Analysis and Infrastructure Protection (IAIP) Directorate was reorganized and renamed the Preparedness Directorate in fiscal year (FY) 2006. During FY 2007, the Preparedness Directorate was further reorganized and renamed the National Protection and Programs Directorate (NPPD).

According to the Government Accountability Office (GAO), the DHS FY 2006 congressional budget justification submitted prior to the reorganization, and as amended, was not sufficient to meet the new organizational requirements of the Preparedness Directorate's Management and Administration (M&A) appropriation. The appropriation did not include enough funding to cover the costs of salaries, DHS shared service fees, and other administrative expenses. To meet the budget shortfall, the Preparedness Directorate elected to pool the M&A and Programs, Projects, and Activities appropriations to fund shared services and other administrative expenses.

The FY 2007 DHS Appropriations Bill Conference Committee report directed GAO and the DHS Office of the Chief Financial Officer (OCFO) to review the Preparedness Directorate's use of program appropriations to fund shared services. GAO issued a legal opinion dated September 17, 2007,<sup>1</sup> that the Preparedness Directorate improperly pooled program appropriations to fund shared service transactions and recommended that DHS adjust the affected appropriations and report any *Anti-Deficiency Act* (ADA) violations, as required by 31 U.S.C. § 1351. DHS hired a contractor to conduct an internal review to determine whether shared services were funded inappropriately and to identify potential ADA violations.

On November 26, 2008, the contractor completed its review and provided the results to DHS OCFO. OCFO evaluated the results and incorporated certain of the contractor's conclusions in a preliminary review report, dated December 17, 2008, to the Chief Financial Officer. DHS concluded that the Preparedness Directorate violated 31 U.S.C. § 1341(a)(1)(A) (a provision of the

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<sup>1</sup> GAO, B-308762, Department of Homeland Security's Use of Shared Services within the Preparedness Directorate.

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ADA),<sup>2</sup> 31 U.S.C. § 1301(a)<sup>3</sup> (also known as the “purpose statute”), and 31 U.S.C. § 1517(a)<sup>4</sup> when it inappropriately used between \$21.7 million and \$28.3 million in FY 2006 program appropriations to fund shared administrative services. DHS also determined that the Preparedness Directorate’s controls and control policies were insufficient at the time of the ADA violation.

On September 14, 2009, DHS requested that the Office of Inspector General (OIG) independently determine whether the Preparedness Directorate violated the ADA, and requested that OIG identify the following:

- Title and Treasury symbol of the fund or appropriation account
- Violation amount and date
- Who was at fault for the violation
- Type of violation
- Primary reason or cause for the violation
- Statement regarding the adequacy of the system of administrative control
- An analysis of the action taken to prevent recurrence of the same type of violation.

## Results of Review

During FY 2006, the Preparedness Directorate improperly used program appropriations to fund shared services in excess of available appropriations. Although the directorate had authority to pool appropriations to fund shared services, it did not enter into valid *Economy Act* agreements and did not properly record allocated charges against each benefiting appropriation, as required by the account adjustment statute, 31 U.S.C. § 1534. According to GAO, the DHS FY 2006 congressional budget justification submitted prior to the reorganization, and as amended, did not contain sufficient funding to meet the Preparedness Directorate’s M&A requirements.

We were unable to obtain all of the Preparedness Directorate’s accounting and contracting records supporting the shared services transactions. As a result, we examined the DHS contractor’s methodology and supporting documentation for

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<sup>2</sup> Prohibits an expenditure or obligation exceeding an amount available in an appropriation for that expenditure or obligation.

<sup>3</sup> Appropriations shall be applied only to objects for which the appropriations were made except as otherwise provided by law.

<sup>4</sup> Prohibits making or authorizing an expenditure or obligation exceeding an apportionment or reapportionment, or the amount permitted by regulation.

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identifying 21 potential ADA violations during FY 2006. We concurred with the contractor's methodology used to identify the purpose and use of Preparedness Directorate's program appropriations. However, DHS did not have the documentation necessary for us to fully conduct our review. We were unable to extend our audit procedures beyond the contractor's work to identify which appropriations should have been charged, how much the separate appropriations may have benefited from amounts expended, and whether additional parties were responsible for the identified ADA violations. We recommend that DHS report 21 violations totaling approximately \$28 million. To the extent that any of the 21 expenditures should have been charged to the Infrastructure Protection and Information Security (IPIS) M&A and the Preparedness Directorate's M&A accounts, we recommend that NPPD make adjustments to charge those accounts, and return any available funds to the program appropriations improperly used.

NPPD was unable to provide documentation that the Preparedness Directorate had internal controls that complied with financial and appropriation law and regulations. Further, NPPD has not designed effective controls to ensure compliance with appropriations law and financial regulations. As a result, we were not able to analyze the actions taken by NPPD to prevent recurrence of the same type of violation and did not test for violations in subsequent years. We recommend that NPPD develop and implement effective controls to ensure compliance with appropriations law and other financial regulations, and test for violations in subsequent years.

### **Fiscal Year 2006 ADA Violations**

Purchase requisitions (PRs) for shared services activities were not readily identifiable in the Federal Financial Management System or in PRISM. As a result, the DHS contractor identified potential shared service ADA violations during FY 2006 by examining known shared services organization locations and PR categories. Based on these selection criteria, the contractor reduced the number of transactions for review from 50,788 to 123, and the PRs from 808 to 35. These 123 transactions and 35 PRs were evaluated to determine whether program appropriations were improperly used to fund shared services.

The contractor examined PRs, contracts and interagency agreements (IAAs), statements of work, and PR print screens to determine whether shared services transactions were authorized and properly funded. NPPD was unable to provide documentation necessary to extend our audit procedures beyond what the contractor had already identified as selection criteria. As a result, we limited our audit procedures to potential ADA violations identified by the contractor.

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To determine whether program funds were properly used to fund shared services transactions, DHS' contractor tested key data to verify—

- Proper consistency throughout the supporting documentation,
- Reasonable amounts throughout the funds control life cycle,
- Funding utilized from the appropriate year, and
- Funds expended for the purposes for which they were appropriated.

The contractor determined that 21 PRs totaling \$28,273,975 had no documentation to support the use of IPIS and Assessment and Evaluations (A&E) program appropriations for the shared services. The contractor recommended that the accounts be adjusted to charge those obligations against the IPIS M&A appropriation, and that any available funding be returned to the IPIS and A&E appropriations. Of the 21 ADA violations identified, 18 were for shared services, 2 were for facilities build-out, and 1 was for miscellaneous services. Although we agree with the contractor's methodology for identifying potential ADA violations, we do not agree that all 21 are chargeable to the IPIS M&A appropriation, because the documentation provided does not support that conclusion. It appears that certain of the PRs could have been charged to the IPIS M&A account, but some could have been charged to the Preparedness Directorate's M&A account instead. The ADA<sup>5</sup> requires U.S. government employees to limit expenditures to the amounts authorized in appropriations. Agency heads must promptly report violations to the President, Congress, and the Comptroller General.<sup>6</sup> See appendix C for a list of the ADA violations, totaling \$28.3 million, that must be reported to the appropriate authorities.

The ADA violations occurred because the Preparedness Directorate's Director of Business Operations improperly used IPIS and A&E program appropriations. The directorate used those funds to pay for purportedly shared services costs even though they were not available for that purpose. Further, there was no documentation to show that the IPIS and A&E programs benefited from the services it paid for. Thus, although each program could have used its funds to pay for administrative services that it received, it could not augment another appropriation by using its funds to pay for services provided to and received by another program. This inappropriate use of funds violated 31 U.S.C. §§ 1301 and 1341(a). The Preparedness Directorate spent money for purposes for which no appropriations were available and did not subsequently adjust its accounts to remedy the improper expenditures. In addition, these transactions

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<sup>5</sup> 31 USC § 1341(a), "An officer or employee of the United States government...may not make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation."

<sup>6</sup> 31 USC § 1351; Office of Management and Budget (OMB) Circular A-11, Section 145.



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violated 31 U.S.C. §1532 and section 503 of the *FY 2006 DHS Appropriations Act*, P. L. 109-90, and thus constituted unlawful transfers, which the Preparedness Directorate did not remedy. The contracting officers and the deputy chief of staff who approved the administrative contracts and IAAs that were funded with program appropriations are also responsible for the ADA violations.

Some key Preparedness Directorate personnel were no longer accessible, and DHS was unable to provide all the Preparedness Directorate documentation. The Preparedness Directorate's records of financial decisions as well as some personnel records were unavailable during our review. For example, we were unable to obtain all financial data and contracting documentation for the directorate's shared services assessments, records of the decision to fund shared services with program appropriations, and the minutes from meetings in which the DHS Office of the General Counsel discussed reorganizational resource problems with the directorate. Further, position descriptions were not available for various Preparedness Directorate personnel, including financial management and budget execution staff. As a result, we were unable to determine whether additional ADA violations existed and whether other individuals were responsible for the ADA violations.

During the exit conference, Department officials expressed concern that OIG did not include senior Preparedness Directorate leadership as responsible parties for the ADA violation. In response, the Department provided additional documentation related to future budget planning. We also conducted an interview with an official who approved one of the administrative IAAs. The official indicated that she was verbally directed to sign the IAA and had a memorandum supporting this direction. However, the additional documents provided by the Department did not include a memorandum from senior Preparedness Directorate leadership that approved the use of program appropriations to fund shared services. As a result, OIG was unable to confirm that senior Preparedness Directorate officials were responsible for the ADA violations.

## **Internal Controls**

NPPD was unable to provide documentation that the Preparedness Directorate had internal controls that complied with financial and appropriation law and regulations.

An NPPD official indicated that, until recently, NPPD did not have the resources to develop and implement internal controls but it has started to

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hire and contract support to develop processes that address OMB Circular A-123, *Management's Responsibility for Internal Control*.<sup>7</sup> This circular requires management to establish and maintain internal control to achieve the objectives of effective and efficient operations, reliable financial reporting, and compliance with applicable law and regulations. According to DHS, it has taken steps to improve NPPD's compliance with appropriations law and financial regulations, including the following:

- Testing Transactions: On December 19, 2007, DHS reported the results of tests of FY 2007 NPPD shared services purchase requisitions. Of the 69 purchase requisitions totaling \$27.1 million tested, only 3 totaling \$502,474 were not authorized to use program funds.
- Issuing New Policies and Procedures: On February 12, 2010, DHS issued an OMB-approved *Administrative Control of Funds* policy, which establishes responsibility for the administrative control of funds and provides guidance for reporting ADA violations in accordance with OMB Circular A-11.
- Conducting Training: According to DHS officials, the DHS General Counsel provided *Appropriations Law 101* training to NPPD that addressed ADA violations; however, NPPD did not maintain attendance records for this training.

NPPD has not established controls to ensure compliance with financial and appropriations law and regulations. Without these controls, NPPD remains at high risk of violating appropriation law and financial regulations.

## Conclusion

We concur with DHS' methodology used to identify potential ADA violations for the Preparedness Directorate's shared services transactions that occurred during FY 2006. The Preparedness Directorate's Business Operations Director improperly used program appropriations to fund administrative shared services when those funds were not available for that purpose. Furthermore, there is no evidence that the IPIS and A&E programs benefited from the services paid for by the directorate. The contracting officers and the deputy chief of staff who approved the

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<sup>7</sup> The circular provides guidelines to federal managers on improving the accountability and effectiveness of federal programs and operations by establishing, assessing, correcting, and reporting on internal control.

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administrative contracts and IAAs that were inappropriately funded with program appropriations are also responsible for the ADA violations.

NPPD has not developed and implemented controls for ensuring compliance with federal and departmental appropriation and financial requirements. NPPD has begun to implement processes that address OMB requirements, but has not developed formal policies and procedures. Without proper controls, NPPD remains at risk for violating appropriations law and incurring additional ADA violations.

During our review, NPPD was unable to produce certain requested records from the former Preparedness Directorate. Thus, there may be additional ADA violations that we were unable to identify.

## **Recommendations**

We recommend that the National Protection and Programs Directorate:

**Recommendation #1:** To the extent that funds are available in the Preparedness Directorate's M&A and the IPIS M&A accounts for any of the 21 PRs, adjust the expired appropriations to return the available funding to the improperly charged program appropriations before the accounts close on September 30, 2011.

**Recommendation #2:** Report the FY 2006 Preparedness Directorate ADA violations that are not corrected to the President, Congress, and the DHS Secretary in compliance with ADA reporting requirements. For each violation, the report should include title and Treasury symbol (including fiscal year) of the appropriation account, the amount involved, the date the violation occurred, the name of the official responsible for the violation, the type of violation, and the primary reason or cause.

**Recommendation #3:** Develop and implement controls to ensure compliance with appropriations law and other financial regulations.

**Recommendation #4:** Conduct reviews of NPPD's shared services transactions for FYs 2007 to 2010, and identify and report any ADA violations according to OMB Circular A-11.

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## Management Comments and OIG Analysis

We obtained written comments on a draft of this report from the DHS Under Secretary for NPPD, and have included a copy of the comments in appendix B. NPPD concurred with three of our four recommendations and provided comments to all four recommendations. We summarize and address these comments below.

### **Response to Recommendation #1**

NPPD concurred. NPPD indicated that it is unable to make the recommended adjustments because as of September 30, 2011, the accounts involved have closed.

#### OIG Analysis

In accordance with fiscal law, the accounts remained open until September 30, 2011. Due to the closed status of the involved accounts, no further action is necessary, and we consider this recommendation closed.

### **Response to Recommendation #2**

NPPD concurred. NPPD indicated that the ADA violations will be reported in accordance with OMB Circular A-11.

#### OIG Analysis

We consider NPPD's proposed action responsive to the recommendation and consider the recommendation resolved and open until the ADA violations are reported to the appropriate officials according to OMB Circular A-11.

### **Response to Recommendation #3**

NPPD concurred. It indicated that it has taken actions to ensure compliance with appropriations law and financial regulations, including fully staffing the Directorate's financial management positions.

#### OIG Analysis

In its response, NPPD noted actions it has taken to strengthen controls to address the findings in the report. However, we

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consider this recommendation unresolved and open until NPPD provides an analysis of controls in place to prevent further ADA violations, copies of standard operating procedures issued and implemented, and a plan to further develop and implement remaining procedures.

#### **Response to Recommendation #4**

NPPD did not concur. NPPD indicated that it does not believe that there was a significant risk of shared services–related violations from FY 2008 through FY 2010, and therefore it cannot justify the expenditure of resources to conduct the recommended reviews. NPPD explained that it has stopped pooling funds for shared services and has taken actions to strengthen its control environment. These actions include the assessment of its FY 2007 shared services transactions, and the Department’s monitoring of the agency’s internal controls through the OMB A-123 process.

#### **OIG Analysis**

We agree that NPPD has taken actions to prevent further shared services violations. However, since NPPD has not fully developed and implemented controls to ensure compliance with financial and appropriations laws and regulations, it remains at risk of violating these requirements. The FY 2007 self-assessment referred to in NPPD’s response did identify three shared services transactions totaling \$502,474 that were potential ADA violations. Therefore, the recommendation will remain open and unresolved until NPPD provides evidence supporting management’s determination on the FY 2007 potential ADA violations. Additionally, NPPD will need to provide evidence that it has conducted reviews of its shared services transactions for FYs 2008 through 2010 or that it no longer pools funds for shared services.

## Appendix A

### Purpose, Scope, and Methodology

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Our objective was to determine whether the Preparedness Directorate violated the *Anti-Deficiency Act* in using program appropriations to pay for crosscutting services such as training, facilities enhancements, and business office operations of mutual benefit to multiple internal components and offices.

Because the data for shared services transactions were not readily available, we examined the criteria used by the contractor, including the PRs, contracts and IAAs, statements of work, and print screens, verified the improper funding of shared services transactions, and determined who authorized the contractual obligations and IAAs for the ADA violations.

We performed our audit between March and October 2010 at GAO, DHS NPPD, OCFO, and Office of the General Counsel in Washington, DC. We conducted the audit pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.

We would like to thank NPPD for the cooperation and courtesies extended to our staff during this review.

Appendix B  
Management Comments to the Draft Report

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Office of the Under Secretary  
National Protection and Programs Directorate  
U.S. Department of Homeland Security  
Washington, DC 20528

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Homeland  
Security

Ms. Anne L. Richards  
Assistant Inspector General for Audits  
Office of Inspector General  
U.S. Department of Homeland Security  
245 Murray Lane, SW, Building 410  
Washington, DC 20528-0305

Dear Ms. Richards:

Re: Office of Inspector General Draft Report, "*The Preparedness Directorate's Anti-Deficiency Violations for Fiscal Year 2006 Shared Service Administrative Assessments*" (OIG Project No. 10-064-AUD-NPPD)

Thank you for the opportunity to review and comment on this draft report. The Department of Homeland Security (DHS)/National Protection and Programs Directorate (NPPD) appreciates the Office of Inspector General's (OIG's) work in planning and conducting its review and issuing this report, requested by the Department's Office of the Chief Financial Officer. The OIG conducted this review to determine whether the former Preparedness Directorate violated the Antideficiency Act (ADA) when it used program appropriations to pay for crosscutting services such as training, facilities enhancements, and business office operations of mutual benefit to internal components and offices.

This situation was unique because the Preparedness Directorate was in existence for slightly more than a year, and almost all of the Federal staff departed the organization upon implementation of the Post Katrina Emergency Management Reform Act that disbanded the Preparedness Directorate. As the OIG highlighted in the report, this made it extremely difficult for the NPPD personnel who were not in place at the time the Preparedness Directorate violations occurred to produce documentation on how the Preparedness Directorate made decisions to apply Administrative Assessments across the Preparedness Directorate offices.

Following is our response to the OIG's four recommendations.

**Recommendation 1: To the extent that funds are available in the Preparedness Directorate's M&A and the IPIS M&A accounts for any of the 21 PRs, adjust the expired appropriations to return the available funding to the improperly charged program appropriations before the accounts close on September 30, 2011.**

## Appendix B

### Management Comments to the Draft Report

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**Response:** Concur. Under normal circumstances NPPD would make the recommended adjustments to accounting records. However, NPPD is unable to do so since as of September 30, 2011, the accounts involved have closed (in accordance with fiscal law, the budget authority expired five years prior to the end of FY 2011). Therefore, NPPD is not planning any additional actions on this recommendation.

**Recommendation 2: Report the FY 2006 Preparedness Directorate ADA violations that are not corrected to the President, Congress, and the DHS Secretary in compliance with ADA reporting requirements. For each violation, the report should include title and Treasury symbol (including the fiscal year) of the appropriation account, the amount involved, the date the violation occurred, the name of the official responsible for the violation, the type of violation, and the primary reason or cause.**

**Response:** Concur. The ADA violations will be appropriately reported, in accordance with the Office of Management and Budget (OMB) Circular A-11, and will include the name of the official(s) responsible based on our ongoing review of the entire record.

**Recommendation 3: Develop and implement controls to ensure compliance with appropriations law and other financial regulations.**

**Response:** Concur. NPPD has taken many actions since its inception in April 2007 (at which time the Preparedness Directorate disbanded) to ensure compliance with appropriations law and financial regulations. As of June 2011, 100 percent of the Directorate's authorized Federal financial management positions were filled and internal control efforts strengthened.

NPPD has also issued and implemented several relevant standard operating procedures and several others are at various stages of development and implementation. For example, NPPD has implemented *Procedures for Reporting Antideficiency Act Violations*, *Procedures for Processing Purchase Requisitions and Obligating Documents*, *Procedures for Invoice Processing*, *Procedures for Intra-Governmental Payment and Collection Processing*, and *Funds Control and Financial Document Processing*. Additionally, NPPD has increased its focus on monitoring internal controls. This includes performing additional assessments of internal controls over financial reporting, documenting and updating documentation on financial management processes and mapping, and monitoring the implementation of corrective actions.

**Recommendation 4: Conduct reviews of NPPD's shared service transactions for FYs 2007 to 2010, and identify and report any ADA violations according to OMB Circular A-11.**

**Response:** Non-concur. The pooling of funds for shared services was unique to the former Preparedness Directorate and has not continued. The same contractor that conducted the FY 2006 ADA analysis also performed an assessment of FY 2007 transactions, which confirmed that NPPD had changed its processes and that the practice of pooling funds for shared services had been discontinued.

NPPD has made several other improvements to strengthen its control environment, including changes in NPPD's financial management senior-level staff in FY 2008.



**Appendix B**  
**Management Comments to the Draft Report**

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Current NPPD leadership has implemented improved procedures and remains committed to strengthening the control environment to lessen the possibility of future ADA violations. In addition, the Department has continued to monitor internal controls at NPPD through the OMB A-123 process, including NPPD's assessments of budgetary resource and payment management processes, and NPPD's implementation of corrective action plans when necessary.

Given these actions and a heightened commitment to a strong internal control environment, coupled with the results of the assessment of FY 2007 transactions, NPPD does not believe a significant risk of a violation related to shared services having occurred during FY 2008 through FY 2010 exists. NPPD, therefore, cannot justify the expenditure of increasingly scarce resources to conduct the recommended review given competing priorities and the overall lack of evidence that any violations exist.

Again, we thank you for the opportunity to review and provide comment on this draft report, and we look forward to working with you on future homeland security engagements.

Sincerely,



Rand Beers  
Under Secretary

**Appendix C**  
**Anti-Deficiency Act Violations**

	PR / Contract No.	Obligated Amount	Treasury Fund Title, Symbol, and Fiscal Year	Program Name*	Reason for Violation	Program Code No.	Violation Date
1	RPIT-06-00034 / HSHQDC06F00232	\$2,128,480	NPPD IPIS 70X0565 06/07	<u>NS/EP</u>	Shared Service Purpose Statue	M6_4080.01	8/21/2006
2	RPIT-06-00035 / HSHQDC06F00337	\$415,174	NPPD IPIS 70X0565 06/07	<u>NS/EP</u>	Shared Service Purpose Statue	M6_4080.01	9/29/2006
3	RPIT-06-00032 / HSHQDC06X00377	\$561,000	NPPD IPIS 70X0565 06/07	<u>CS</u>	Shared Service Purpose Statue	M6_4070.01	5/31/2006
4	RIIT-06-00007 / HSHQPA05X00715/P00004	\$4,264,520	NPPD IPIS 70X0565 06/07	<u>PA</u>	Shared Service Purpose Statue	M6_4050.04	5/24/2006
5	RPIT-06-00017 / HSHQPA05X01058	\$2,375,774	NPPD IPIS 70X0565 06/07	<u>CIOP</u>	Shared Service Purpose Statue	M6_4060.12	7/18/2006
6	RPIP-06-00037 / HSHQPA06A00010	\$2,374,026	NPPD IPIS 70X0565 06/07	<u>CIIE</u>	Shared Service Purpose Statue	M6_4020.01	9/30/2006
7	RIBO-06-00002 / HSHQDC06F00061	\$4,979,727	A&E IAIP 70 0911 05/06	<u>CIIE</u> <u>OUS</u> <u>M&amp;A IT</u>	Shared Service Purpose Statue	A5_4020 SA_1010 MA_1050	4/7/2006
8	RPUS-06-00005 / HSHQDC06F00127	\$996,660	NPPD IPIS 70X0565 06/07	<u>CIIE</u> <u>CIOP</u> <u>OUS</u>	Shared Service Purpose Statue	M6_4020.08 M6_4060.12 SA_1010	8/4/2006
9	RPUS-06-00012 / HSHQDC06J00445	\$497,819	NPPD IPIS 70X0565 06/07	<u>NS/EP</u>	Shared Service Purpose Statue	M6_4080.01	9/29/2006
10	RPIT-06-0051 / RPIT-06-00033 / HSHQPC05FR00004	\$694,000	A&E IAIP 70 0911 05/06	<u>CIOP</u>	Shared Service Purpose Statue	A5_4060.01	7/6/2006
11 / 12	RPIT-06-00015 / HSHQDC06J00187	\$3,795,085 \$586,000	NPPD IPIS 70X0565 06/07 A&E IAIP70 0911 05/06	<u>CIIE</u> <u>BIO</u> <u>NS/EP</u>	Shared Service Purpose Statue	M6_4020.01 A5_4040 M6_4080.01	8/8/2006
13	RPIT-06-00050 / HSSCHQ04F00761	\$125,168	A&E IAIP 70 0911 05/06	<u>BIO</u>	Shared Service Purpose Statue	A5_4040	8/29/2006
14	RPBO-06-00031 / HSHQDC06X00359	\$188,758	A&E IAIP70 0911 05/06	<u>BIO</u>	Shared Service Purpose Statue	A5_4040	6/16/2006
15	NFIC060016 / 7042GT62400016	\$2,300,000	A&E IAIP 70 0911 05/06	<u>CIIE</u>	Facility Build-out Purpose Statue	A5_4020.01	9/26/2006
16	NIFC-06-10018 / N0034908	\$1,600,000	NPPD IPIS 70X0565 06/07	<u>NS/EP</u>	Facility Build-out Purpose Statue	M6_4080.01	9/27/2006
17	RIBO-06-00007 / HSHQDC06F00032	\$70,000	A&E IAIP 70 0911 05/06	<u>CAE</u>	Shared Service Purpose Statue	A5_5010	12/19/2005
18	RPBO-06-00037A / HSHQDC06C00109	\$165,000	NPPD IPIS 70X0565 06/07	<u>CIOP</u>	Administrative Service Purpose Statue	M6_4060	9/26/2006
19	RPFI-06-00002 / HSSCHQ04A00519 HSHQDC05J00159	\$19,696	A&E IAIP 70 0911 05/06	<u>CAE</u>	Shared Service Purpose Statue	A5_5010	2/6/2006
20	RPUS-06-00017 / HSHQDC06J00468	\$40,348	NPPD IPIS 70X0565 06/07	<u>CIOP</u>	Shared Service Purpose Statue	M6_4060	9/29/2006
21	RPBO-06-2000 / No Contract	\$96,740	NPPD IPIS 70X0565 06/07	<u>PA</u> <u>CIOP</u>	Shared Service Purpose Statue	M6_4050 M6_4060	9/30/2006
		\$28,273,975					

**Appendix C**  
***Anti-Deficiency Act Violations***

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\* Note to Table

**Program Name Abbreviations:**

NS/EP – Telecommunications

CS – Cyber Security

PA – Protective Actions

CIOP – Critical Infrastructure Outreach and Partnership

CIIE – Critical Infrastructure Identification and Evaluation

OUS – Office of the Under Secretary

M&A IT – Management & Administration Information Technology

BIO – Biosurveillance

CAE – Competitive Analysis and Evaluation

## Appendix D

### Response to the Office of the Chief Financial Officer

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Below are our responses to the Office of the Chief Financial Officer's ADA investigation request dated September 14, 2009.

1. *The title and Treasury symbol (including fiscal year) of the appropriation or fund account, the amount involved for each violation, and the date on which the violation occurred.*

See appendix C for each violation date, amount, and appropriation account title/Treasury symbol/fiscal year.

2. *A determination as to who was at fault for the violation, to include the name and position of all officers or employees responsible and all circumstances surrounding their involvement.*

We determined that the Preparedness Directorate Director of Business Operations inappropriately used program appropriations to fund shared services requirements, which caused the ADA violations. Additionally, we determined that the contracting officers and the deputy chief of staff who approved the shared services contracts and IAAs are responsible for the ADA violations. We will provide the names of these individuals under separate cover.

3. *All facts pertaining to the violation, including the type of violation, the primary reason or cause, any statement from the responsible officer(s) or employee(s) with respect to any extenuating circumstances, and any germane report by DHS and/or NPPD counsel.*

All 21 of the violations identified in appendix C are 31 U.S.C. § 1301(a) and 31 U.S.C. § 1341(a) type violations. These ADA violations occurred because the Preparedness Directorate elected to inappropriately use program appropriations to fund a budget shortfall in shared service requirements. In addition, these transactions violated 31 U.S.C. § 1532 and section 503 of the *FY 2006 DHS Appropriations Act*, P. L. 109-90, and thus constituted unlawful transfers, which the Preparedness Directorate did not remedy.

DHS' *Preliminary Review of an Anti-Deficiency Act Violation, Preparedness Directorate – Shared Services* memorandum, dated December 17, 2008, concludes that

**Appendix D**  
**Response to the Office of the Chief Financial Officer**

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the Preparedness Directorate violated 31 U.S.C. § 1301(a), 31 U.S.C. § 1341(a)(1)(A), and 31 U.S.C. § 1517(a) when it inappropriately used between \$21.7 and \$28.3 million in FY 2006 program appropriations to fund shared administrative services. DHS also concluded the Preparedness Directorate's controls and control policies were insufficient at the time of the ADA violation.

4. *A statement regarding the adequacy of the system of administrative control prescribed by the DHS and approved by the Office of Management and Budget.*

Although DHS issued its *Administrative Control of Funds* policy on February 12, 2010, NPPD has not established controls to ensure compliance with financial and appropriations law and regulations. Without these controls in place, NPPD is at a higher risk of violating appropriation law and financial regulations.

5. *An analysis of any additional action taken by, or at the direction of, the Department of Homeland Security and/or NPPD, including new safeguards proved to prevent recurrence of the same type of violation.*

Although DHS has an *Administrative Control of Funds* policy, NPPD has not established controls to ensure compliance with appropriations law and financial regulations. Without proper controls in place, NPPD is at a higher risk of violating appropriation law and financial regulations.

**Appendix E**  
**Major Contributors to this Report**

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John Shiffer, Audit Manager  
Sue Vernier, Auditor  
Jose Benitez-Rexach, Auditor  
Gary Alvino, Independent Referencer

**Appendix F**  
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