

## EXAMPLES OF POSSIBLE VIOLATIONS OF THE ANTIDEFICIENCY ACT

A. GENERAL. Most of the examples described below are taken from actual violations that have occurred within the Department. However, these violations are fact-specific and, in other circumstances, a potential violation may or may not be incurred. These examples are provided for information only and are not intended to imply that, in all similar, but not identical, circumstances, a violation would have been incurred.

### B. TITLE 31, UNITED STATES CODE, SECTION 1341

#### 1. Title 31, United States Code, section 1341(a)(1)(A)

a. An overobligation by a DoD activity exceeded a target distributed to that activity and caused the total appropriation to be exceeded. For example, a target of \$1 million of an operation and maintenance appropriation was exceeded by \$250,000, but the responsibility for violations was not passed to the organization that was provided the target. When the total obligations were summarized at the appropriation level, the total appropriation was exceeded because of this specific overobligation. There is no violation at the organization that was provided the target, but a potential violation has occurred at the appropriation level.

b. An overobligation by a DoD activity exceeded an allotment distributed to that activity--and the responsibility for violations was established at the allotment level--and caused the total appropriation to be exceeded. For example, an allotment of \$1 million of an operation and maintenance appropriation was exceeded by \$250,000, and the responsibility for violations was established at the allotment level. When the total obligations were summarized at the appropriation level, the total appropriation also was exceeded because of this specific overobligation. There is one potential violation at two different funding levels--the allotment level and the appropriation level.

c. A DoD activity exceeded the limitation specified in Title 10, United States Code, section 2805(c), by using operation and maintenance funds in excess of the minor construction limitation to construct improvements to a hazardous waste storage facility.

#### 2. TITLE 31, UNITED STATES CODE, SECTION 1341(a)(1)(B)

A DoD activity arranged for a lease to obligate and pay for a subsequent fiscal year's 12-month lease of a building with current fiscal year operation and maintenance funds. Specifically, fiscal year 19XX funds of \$180,000 were used to contract, obligate and pay for a FY 19XX+1 building lease. This action violated the Antideficiency Act because it obligated the Federal Government to a contract for the payment of money before the appropriation to be charged was available.

C. TITLE 31, UNITED STATES CODE, SECTION 1342

Apparently at the urging of the Chairman, a member of a Federal Commission agreed to waive his statutory entitlement to \$100 per day while involved in Commission business. The year after the Commission was disbanded, the former member changed his mind and filed a claim for a portion of the compensation he would have received had it not been for the waiver. Since the \$100 per day was a statutory entitlement, the purported waiver was invalid and the former commissioner was entitled to be paid. By accepting the waiver and allowing the commissioner to conduct Commission business without pay, the provision against acceptance of voluntary services was violated and a violation of the Antideficiency Act occurred.

D. TITLE 31, UNITED STATES CODE, SECTION 1517

1. A DoD activity improperly obligated \$225,000 of other procurement funds instead of required operation and maintenance (O&M) funds to document, not acquire, a specialized communications equipment program. When the error was discovered, the DoD activity had no O&M funds available to replace the other procurement funds obligated improperly. Therefore, the O&M appropriation apportionment was exceeded, and a violation of Title 31, United States Code, section 1517, occurred. To fund the violation, \$225,000 of O&M funds were requested from the Headquarters of the DoD activity. While this action corrected the funding of the obligation, a violation of the Antideficiency Act occurred because the fund holder did not have sufficient funds available to replace the other procurement funds improperly obligated.

2. A DoD activity used operation and maintenance funds, rather than other procurement funds to purchase a data processing local area network (LAN). Even though the hardware components and LAN operating system software were purchased separately, the components and the software together constituted a system with an aggregate cost in excess of the expense/investment threshold specified by the Congress for the required use of procurement appropriation funds. A violation of Title 31, United States Code, section 1517, occurred because the DoD activity did not have the required amount of other procurement funds at the time of the purchases.

3. A DoD activity used family housing operation and maintenance funds in excess of the statutory limit for the maintenance and repair of a family housing unit without prior congressional approval. The statutory limit was exceeded when additional costs were approved by the contracting officer. Therefore, a violation of the Antideficiency Act occurred because a statutory limit was exceeded.

4. Two different activities holding targets within an O&M appropriation at a DoD installation exceeded the targets established for their activities by the holder of the allotment. Even though both activities contributed to a violation of an allotment--an administrative subdivision of funds--the allotment holder is responsible for the resulting violation of the Antideficiency Act. The activities that exceeded their targets did not violate the Antideficiency Act because the holder of the allotment did not assign responsibility for violations of the Antideficiency Act to the two activities.

5. A funds holder erroneously distributed more funds than he/she had available. The activities receiving the funds incurred obligations and expenditures in excess of amounts available to the fund holder, but below the amount distributed to them. The funds holder incurred a violation of the Antideficiency Act because he/she was responsible for exceeding the total fund availability.