

## ACCOUNTING PRINCIPLES AND STANDARDS HANDBOOK

### CHAPTER 7. ADMINISTRATIVE CONTROL OF FUNDS

#### Section 1.0: Statement of Purpose

The purpose of this Chapter is to set forth broadly the Department of Commerce's (hereafter referred to as the Department) procedures to follow in budget execution and to specify basic fund control principles and concepts, including the administrative control of all funds in all Departmental operating units. This Chapter specifically:

- Establishes policy regarding the administrative control of funds.
- Prescribes a system for positive administrative control of funds designed to restrict obligations and expenditures (disbursements) to the amount available in each appropriation or fund account.
- Restricts both obligations and expenditures from each appropriation or fund account to the lower of the amount of apportionments made by the Office of Management and Budget (OMB) or the amount available for obligation and/or expenditure in the appropriation or fund account.
- Enables the Secretary of Commerce (Secretary) to identify the person responsible for any obligation or expenditure exceeding the amount available in the appropriation or fund account, the OMB apportionment or reapportionment, the allotment or suballotments made by the agency, any statutory limitations, and any other administrative subdivision of funds made by the Department.
- Provides procedures for dealing with violations of the Antideficiency Act as well as violations of limitations that do not *per se* violate the Antideficiency Act.

These policies and procedures are issued pursuant to the applicable authorities set forth in Section 2.0, *Authority*, and have been approved by the Director of OMB, as required by [United States Code \(U.S.C.\), Title 31, Money and Finance, Section 1514, Administrative Division of Apportionments](#).

This Chapter's sections 1.0 through 13.0 align with sections 1 through 13 of [OMB Circular A-11, Preparation, Submission, and Execution of the Budget, Appendix H, Checklist for Funds Control Regulations](#), as follows:

- Section 1.0: Statement of Purpose
- Section 2.0: Authority
- Section 3.0: Scope
- Section 4.0: Definitions, Terminology, and Concepts
- Section 5.0: Responsibilities and Functions of Individuals
- Section 6.0: Actions Prohibited

- Section 7.0: Penalties
- Section 8.0: Investigating and Reporting Violations of the Antideficiency Act
- Section 9.0: Accounting Support for Funds Control Systems
- Section 10.0: Apportionment Procedures
- Section 11.0: Policy on Allotments and Suballotments
- Section 12.0: Treatment of Anticipated Budgetary Resources Already Enacted into Law
- Section 13.0: Deficiency Apportionments

This Chapter's Exhibits 1 through Exhibit 5 provide tools for investigations undertaken regarding a suspected violation of the Antideficiency Act, as follows

- **Exhibit 1:** Template: Memorandum Appointing Investigator for Suspect Antideficiency Act Violation
- **Exhibit 2:** Investigator Checklist
- **Exhibit 3:** Template: Investigator Report
- **Exhibit 4:** Template: Cover Memorandum Transmitting Internal Investigation Report
- **Exhibit 5:** Template: Memorandum Identifying Responsible Parties and Corrective Actions

The policies and procedures in this chapter are consistent with the [Department's Budget, Performance and Program Analysis Handbook, Volume V, Budget Execution](#).

### Section 2.0: Authority

The policies and procedures contained in this Chapter are issued pursuant to, or are in accordance with, the following authorities and directives:

- .01 The [Department's Budget, Performance and Program Analysis Handbook](#).
- .02 [United States Code \(U.S.C.\), Title 31, Money and Finance](#), including, but not limited to:
  - a. Sections 1341-1342, 1349-1351, and 1511-1519 (part of the Antideficiency Act, as amended);
  - b. Sections 1101, 1104-1108, and 3324 (part of the Budget and Accounting Act, 1921, as amended);
  - c. Sections 1501-1502 (part of Section 1311 of the Supplemental Appropriations Act of 1950);
  - d. Sections 1112, 1531, 3511-3512, and 3524 (part of the Budget and Accounting Procedures Act of 1950); and
  - e. Sections 1301, 1532, 1551-1555, 1558, 3302, 3324 and 3528.

- .03 [OMB Circular A-11, Part 4, \*Instructions on Budget Execution\*](#), and related OMB guidelines.
- .04 [Department Organization Order 10-5, \*Chief Financial Officer and Assistant Secretary for Administration\*](#), which covers the conduct of all administrative functions required in the overall management of the Department.
- .05 [Department Administrative Order 202-311, \*Voluntary and Uncompensated Services\*](#), which covers policies and procedures regarding voluntary and uncompensated services.

### Section 3.0: Scope

The provisions of this Chapter apply to all operating units, appropriations, and funds of the Department.

### Section 4.0: Definitions, Terminology, and Concepts

The definitions, terminology, and concepts in [OMB Circular A-11](#) apply.

#### .01 Definitions and Terminology

The following definitions (not an all-inclusive list) are applicable to this Chapter:

- a. *Allotments* are subdivisions of apportionments that are made by the heads of agencies.
- b. *Allowances and allocations* are subdivisions of suballotments.
- c. *Apportionment* is a plan, approved by OMB, to spend resources provided by one of the annual appropriations acts, a supplemental appropriations act, a continuing resolution, or a permanent law (mandatory appropriations). Resources are apportioned by Treasury Account Fund Symbol (TAFS). The apportionment identifies amounts available for obligation and expenditure. It specifies and limits the obligations that may be incurred and expenditures made (or makes other limitations, as appropriate) for specified time periods, programs, activities, projects, objects, or any combination thereof. An apportioned amount may be further subdivided by an agency into allotments, suballotments, and allocations.

- d. *Appropriation* means a provision of law (not necessarily in an appropriations act) authorizing the expenditure of funds for a given purpose. Usually, but not always, an appropriation provides budget authority.
- e. *Budget authority* means the authority provided by law to incur financial obligations that will result in outlays. Specific forms of budget authority include appropriations, borrowing authority, contract authority, and spending authority from offsetting collections.
- f. *Obligation* means an action that creates a legal liability to disburse funds, immediately or in the future. Budgetary resources must be available before obligations can be incurred legally.
- g. *Operating Unit*, for purposes of this Chapter, refers to the Office of the Secretary and the Department's primary operating units as that term is defined in [Department Organization Order 1-1, Mission and Organization of the Department of Commerce](#); thus, it includes Departmental bureaus, but not constituent operating units such as bureau line or program offices.
- h. *Program, Project, or Activity (PPA)* refers to an element within a budget account that indicates the amount of funds designated to carry out a specified activity or group of activities (generally defined either by project, activity, or operating unit). PPAs are identified in legislative reports or, else, executive branch budget justifications.
- i. *Reprogramming* refers to the use of funds designated for one PPA within a given appropriation account to carry out activities related to another PPA within the same appropriation account.
- j. *Suballotments are subdivisions of allotments.*
- k. *Transfer* means to move budgetary resources from one budget account to another. Depending on the circumstances, the budget may record a transfer as an expenditure transfer, which means a transfer that involves an outlay, or as a nonexpenditure transfer, which means a transfer that doesn't involve an outlay.
- l. All terms and concepts found within Section 20, Terms and Concepts of [OMB Circular A-11, Section 20, Terms and Concepts](#).

## .02 Budget Execution Concept

Budget execution is the process by which the financial resources made available to an agency are directed and controlled toward achieving the purposes and objects for which budgets were approved. The process involves compliance with both legal and administrative requirements, primarily as they are set forth in the detailed instructions contained in [OMB Circular A-11](#). The Department's Office of Budget sets forth the Department's policies and procedures for budget execution in the [Department's Budget, Performance and Program Analysis Handbook, Volume V, Budget Execution](#).

## .03 Statutory Citations

[The Department's Budget, Performance and Program Analysis Handbook, Volume II, Laws and Regulations, Section 4, Statutory Citations and Excerpts](#), sets forth statutory citations and excerpts related to the budget process, including [United States Code \(U.S.C.\), Title 31, Money and Finance](#), that is closely related to budget execution and the administrative control of funds.

U.S.C. Title 31 codifies and consolidates laws applicable to the budget process, e.g., the budget system, budgetary and fiscal information, appropriations, apportionments and accounting, including the requirements of the Antideficiency Act, which prohibit the obligation or expenditure of funds in excess of amounts appropriated by law.

## Section 5.0: Responsibilities and Functions of Individuals

### .01 Purpose

The purpose of this section is to set forth positions within the Department charged with funds control responsibilities, describing (a) their funds control responsibilities and (b) their responsibilities regarding investigating, reporting, and following up on Antideficiency Act violations or other violations of agency limitations.

It is essential that bureau officials consult with the head of the operating unit, the operating unit's Chief Financial Officer (CFO), the Department's CFO and Assistant Secretary for Administration (CFO/ASA), the Department's Deputy CFO and Director for Financial Management, and the Department's Assistant General Counsel for Administration and Transaction, or others as may be applicable, when it appears that there may be problems in meeting the requirements of any law governing the administrative control of funds with a view toward resolving potential problems before they become violations of the Antideficiency Act.

The specific duties of these positions with respect to the investigation, reporting, and follow up regarding violations of the Antideficiency Act will be discussed in Section 8.0.

.02 Positions with Funds Control Responsibilities

a. All Employees

Any individual who has reason to believe that an (a) Antideficiency Act violation; or (b) violation of Departmental limitations that are not violations of the Antideficiency Act may have occurred should immediately report it upon discovery, through the appropriate supervisory chain, to the head of the operating unit and operating unit CFO.

b. The Secretary

The Secretary is responsible for prescribing a system of administrative funds control. The Secretary has delegated this responsibility to the Department's CFO/ASA.

The Secretary is responsible for reporting Antideficiency violations by letter to the President, the Congress, and the Comptroller General of the U.S. Government Accountability Office (GAO).

c. The Department's Chief Financial Officer and Assistant Secretary for Administration

The Department's CFO/ASA has been delegated the responsibility for establishing and maintaining a system of funds control. The Department's CFO/ASA is also responsible for developing and prescribing accounting systems that will provide for prompt and accurate recording in the official accounts of all financial transactions having an effect on apportionments and other subdivisions of funds. The Department's CFO/ASA has oversight responsibility for budgeting and management of financial resources to assure optimum utilization of funds in carrying out programs of the Department; coordinating administrative management matters with other departments and agencies; providing for budget coordination and liaison with OMB; providing central liaison for the Department with the Appropriations Committees of the Congress; and otherwise representing the Department on such matters with public or private groups.

The Department's CFO/ASA is responsible for participating in the investigation, reporting, and follow-up on Antideficiency Act violations and violations of Departmental limitations that are not violations of the Antideficiency Act.

- d. The Department's Deputy Chief Financial Officer and Director for Financial Management

The Department's Deputy CFO and Director for Financial Management assists the Department's CFO/ASA in carrying out his or her responsibilities as described above.

- e. The Department's Director, Office of Budget

The Departmental Office of Budget's primary responsibility is coordinating the preparation and presentation of the Department's annual budget request. The Office of Budget also supports long-range planning, conducts Department-level budget execution activities, supports development of performance measures, and assists operating units in implementing the Department's budget procedures and policies.

The Office of Budget maintains the [Department's Budget, Performance and Program Analysis Handbook](#). This Handbook was developed to provide guidance to the Department's operating units' budget offices in preparing their budget submission and in meeting other Departmental budget reporting requirements. It also sets forth responsibilities for budget execution.

[The Department's Budget, Performance and Program Analysis Handbook, Volume V, Budget Execution, Section 50, Roles and Responsibilities](#), sets forth that Departmental-level responsibilities for the execution of the budget are maintained through:

- i) Issuing policies, standards, and criteria;
- ii) Reviewing apportionments and approving bureau financial and FTE plans; and
- iii) Evaluating bureau activity through reports, audits, and special analyses.

- f. The Department's Director, Office of Human Resources Management, and/or each operating unit's Director, Servicing Human Resource Office

The Department's Office of Human Resources Management and the Servicing Human Resources Offices shall cooperate with and provide employee relations support to the Department's Office of the Assistant General Counsel for Administration and Transaction and the appropriate organizational supervisory chain of command in determining the extent and manner of applying any administrative discipline for violations of the Antideficiency Act or violations of other limitations that do not violate the Antideficiency Act.

- g. The Department's Assistant General Counsel for Administration and Transaction

The Department's Assistant General Counsel for Administration and Transaction advises operating units on the application of fiscal law and shall determine whether, as a matter of law, an operating unit has violated the Antideficiency Act or other fiscal laws.

- h. The Department's Inspector General

The Department's Inspector General shall be advised of any Antideficiency Act violation that may be knowing and willful in nature. The Department's Inspector General shall determine whether there are sufficient facts to suspect an Antideficiency Act violation was knowingly and willfully committed such that all available information should be provided to the U.S. Department of Justice for determination of whether further action is needed.

- i. Heads of Operating Units

[The Department's Budget, Performance and Program Analysis Handbook, Volume V, Budget Execution, Section 50, Roles and Responsibilities](#), sets forth that:

- In accordance with the Antideficiency Act (31 U.S.C. 1514), each operating unit must have in place an effective system for the administrative control of funds. Under an effective system, responsibility for over-obligations and over-expenditures is fixed through written delegations of authority indicating how authority is delegated, with a clear explanation of how the funds are to flow from the appropriation level down to the lowest practical administrative level.

- The administrative funds control system should be differentiated from the accounting system, but fully integrated with it. It should be consistent with legally prescribed accounting procedures including: complete, accurate and timely record keeping; a clearly defined method to ensure that funds are available prior to obligations; periodic reconciliation of records; and year-end review and analysis of transactions. Violations of the Antideficiency Act are subject to administrative and legal penalties.

[The Department's Budget, Performance and Program Analysis Handbook, Volume V, Budget Execution, Section 50, Roles and Responsibilities,](#) further sets forth that heads of operating units are also responsible for:

- (a) Developing systems and procedures consistent with the requirements of the Handbook;
- (b) Providing financial and program data upon which financial plans and reports and other requirements can be met;
- (c) Assuring that operations are maintained within the limits of approved financial plans and apportionments and other legal and administrative requirements;
- (d) Providing prior notification to the appropriations committees, through the Department's CFO and the Director, Office of Budget, of reprogramming actions; and
- (e) Obtaining proper clearances prior to proceeding with reprogramming actions.

j. CFOs of Operating Units

As described more fully in Section 8.0, Operating Unit CFOs (or equivalent) shall notify the Department's CFO/ASA, the Department's Deputy CFO and Director for Financial Management, and the Department's Assistant General Counsel for Administration and Transaction whenever he or she has reason to believe that an Antideficiency Act violation may have occurred and shall ensure that an investigation is conducted in the manner and timeframe specified in that section.

k. Operating Unit Budget Officers

[The Department's Budget, Performance and Program Analysis Handbook, Volume V, Budget Execution, Section 50, Roles and Responsibilities](#), sets forth that operating unit Budget Officers are responsible for:

- (a) Preparing and submitting on a timely basis the financial plans and reports, apportionment requests, reprogrammings, and other information and reports outlined in this volume of the Handbook; and
- (b) Maintaining liaison with the Office of Budget on the resolution of problems.

l. Accounting Officers

[The Department's Budget, Performance and Program Analysis Handbook, Volume V, Budget Execution, Section 50, Roles and Responsibilities](#), sets forth that:

- i) Accounting Officers are responsible for preparing, certifying and submitting the Reports on Budget Execution electronically through the Treasury's Federal Agencies' Centralized Trial-balance System II (FACTS II). A hard copy should also be provided to the Budget Coordination and Reports Division (BCRD).

*Note (regarding updated information to above DOC Budget Handbook paragraph):* Effective FY 2015, submitting Reports on Budget Execution electronically will be required through the Treasury's Governmentwide Treasury Account Symbol Adjusted Trial Balance System (GTAS) (early implementation in FY 2014 permitted).

- ii) The Office of Budget participates in defining accounting requirements for the Department's financial systems. Operating and staff offices should continuously review accounting systems to determine if revisions are needed in financial reporting in order to meet requirements of program and operating management, at both the operating unit and Departmental level, or to accommodate changes in budget and program classifications.

## Section 6.0: Actions Prohibited

.01 Except as specifically provided by law, the fiscal law limitations and the requirement to report violations described in this section or elsewhere in this Chapter apply to all appropriation accounts, whether annually appropriated or permanent in nature (e.g., revolving or working capital funds, gifts or bequests funds, or any other type of permanent, indefinite appropriation) and regardless of the account being current, expired, or closed.

.02 Violations of the Antideficiency Act

The following actions are prohibited by the Antideficiency Act:

- a. Making or authorizing an expenditure or obligation in excess of an amount available in an appropriation or fund. [31 U.S.C. § 1341\(a\)\(1\)\(A\)](#).

This prohibition includes entering into contracts or agreements containing indemnification clauses with open-ended liabilities. Through an open-ended indemnification clause, a party promises to compensate another for loss or injury, or otherwise commits to an amount of liability or expense that is indefinite, indeterminate, or potentially unlimited. Such clauses violate the Antideficiency Act even when the circumstance requiring the expense is never triggered and must be revised as appropriate or negotiated out of the contract or agreement before the contract or agreement may be signed.

- b. Involving the Federal Government in a contract or other obligation for the payment of money before an appropriation is made, unless such contract or obligation is authorized by law. [31 U.S.C. § 1341\(a\)\(1\)\(B\)](#).

Including language in a contract or agreement that merely conditions disbursement on the future appropriation of funds (i.e., including the mere statement “This contract or agreement is subject to the availability of funds”) does not negate the otherwise purported obligation made in advance of an appropriation being enacted into law.

- c. Making or authorizing an expenditure or obligation of funds, including involving the Federal Government in a contract or other obligation for the payment of money, required to be sequestered under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. [31 U.S.C. § 1341\(a\)\(1\)\(C\) and \(D\)](#).

- d. Accepting voluntary services for the United States or employing personal services in excess of that authorized by law, except (1) in cases of an emergency involving the safety of human life or the protection of property; or (2) as authorized by law. [31 U.S.C. § 1342](#).
1. The use of student volunteers under agreement between the Department and the school under an approved program, as provided by Office of Personnel Management regulations and Departmental and other relevant policies, is authorized by law. [5 U.S.C. § 3111](#).
  2. See [Department Administrative Order 202-311, \*Voluntary and Uncompensated Services\*](#), for relevant policies, guidelines, and procedures of the Department regarding the use of voluntary or uncompensated services.
- e. Making an expenditure or obligation in excess of an apportionment, reapportionment, allotment, or suballotment. [31 U.S.C. § 1517\(a\)](#); and [OMB Circular A-11, Section 145.2, \*What violations must I report\*](#).
- f. With respect to the application of the Antideficiency Act to credit programs, the over-obligation or over-expenditure of the following constitute Antideficiency Act violations:
1. The subsidy—where an officer or employee of the United States has made or authorized a direct loan obligation or loan guarantee commitment that requires a subsidy cost obligation or expenditure in excess of amounts appropriated and/or apportioned for such purposes. Modifications of direct loans or loan guarantees (or of direct loan obligations or loan guarantee commitments), as defined in [OMB Circular A-11, Section 185, \*Federal Credit\*](#), that result in obligations or expenditure in excess of apportioned unobligated balances of subsidy amounts are also violations. [31 U.S.C. §§ 1341, 1517\(a\)](#).
  2. The credit level supportable by the enacted subsidy—where an officer or employee of the United States has made or authorized a direct loan obligation or loan guarantee commitment, that is in excess of the level specified by law. This includes, for example, obligations or expenditures that exceed a limitation on direct loan obligations or guaranteed loan commitments. [31 U.S.C. § 1341](#).

3. The amount appropriated for administrative expenses—where an officer or employee of the United States has made or authorized an expenditure or created or authorized an obligation that is in excess of the amount appropriated for administrative expenses. [31 U.S.C. § 1341](#).
4. The expired unobligated balance of the subsidy—where an officer or employee of the United States has made or authorized an expenditure or created or authorized an obligation, including a commitment, against unobligated subsidy balances after the period of obligational authority has expired. Correction of mathematical or data input errors up to the amount of the expired unobligated balance of the subsidy are not violations. Corrections of these errors in excess of the amount of the expired unobligated balance of the subsidy are violations. [31 U.S.C. § 1341](#).
5. The apportioned borrowing authority in a financing account, which is required to be apportioned by Section 505(c) of the Federal Credit Reform Act. [31 U.S.C. § 1517\(a\)](#).

.03 Violations of Limitations that Do Not *Per Se* Violate the Antideficiency Act

- a. Charging Obligations or Expenditures to an Account Not Available for the Specified Purpose

Under the purpose statute, amounts appropriated by Congress are available for obligation and expenditure only for the purposes specified by law. [31 U.S.C. § 1301\(a\)](#). It is a violation of the purpose statute for an officer or employee of the Department to obligate or expend funds from a fund or appropriation account not legally available for the contemplated purpose. It is also a violation of the purpose statute for an officer or employee of the Department to deliberately charge an account not available for the specified purpose for purposes of expediency or administrative convenience (even if funds have been temporarily exhausted from the correct account), with the expectation of rectifying the situation by a subsequent transfer of funds or adjustment of accounts.

If an operating unit has an appropriation for a specific purpose, it must use such an appropriation for that specific purpose to the exclusion of any other general lump sum appropriation that may otherwise be available.

Should an account not available for the specified purpose be charged, the improperly recorded obligation or expenditure must be corrected and charged to the correct account. If no account was legally available at the time the obligation was incurred both as to time, purpose, and amount, an Antideficiency Act violation has occurred. [31 U.S.C. § 1341\(a\)\(1\)\(A\)](#).

An inadvertent error in charging an account is not a violation of the Antideficiency Act as long as funds were available in the correct account at the time the obligation arose and remain available at the time when the error is corrected.

b. Charging Obligations or Expenditures to an Account Not Available for the Specified Time Period

Amounts appropriated by Congress for a fixed period are available for obligation only to meet the *bona fide* needs of the Department and its operating units that are attributable to that period. [31 U.S.C. § 1502](#). It is a violation of [Section 1502](#) to charge a fixed-year account for obligations that represent a *bona fide* need of a fiscal year for which the funds are not available absent specific statutory authority to do otherwise. Examples of statutory exceptions to the *bona fide* needs rule can be found in the provisions of the Federal Acquisition Streamlining Act, [41 U.S.C. § 3902](#), authorizing civilian agencies to procure by contract up to one year of services beginning in one fiscal year and continuing into another using funds that expire in the first fiscal year even if the services rendered in the second fiscal year represent a *bona fide* need of the second year; and, [41 U.S.C. § 3903](#), authorizing agencies to procure multi-year contracts under certain conditions).

Consistent with [31 U.S.C. § 1502](#), although funds that are appropriated in the current year to be available until expended (i.e., “no-year funds”) may be used to meet the *bona fide* needs of the Department and its operating units during the current or any future fiscal year, such funds may not be used to cover obligations incurred in prior years.

Should an account not available for the specified time period be charged because it is not temporally available for the obligation incurred, the improperly recorded obligation or expenditure must be corrected and charged to the correct account. If no account was legally available at the time the obligation was incurred both as to time, purpose, and amount, an Antideficiency Act violation has occurred. [31 U.S.C. § 1341\(a\)\(1\)\(A\) or \(B\)](#).

An inadvertent error in charging an account is not a violation of the Antideficiency Act as long as funds were available in the correct account at the time the obligation arose and remain available at the time when the error is corrected.

c. **Improper Recording of Financial Obligations in the Agency Financial Management System**

No obligation may be recorded in a Department or operating unit financial management system without proper, written evidence of the obligation as required by [31 U.S.C. § 1501](#). Once an obligation has arisen and is properly documented, it must be promptly recorded in the Department or operating unit financial management system. All obligations shall be recorded as having arisen on the date the obligation actually arose, not as an obligation of the date the obligation is recorded.

An inadvertent error to record an obligation is not a violation of the Antideficiency Act as long as the obligation is subsequently recorded in a proper manner against the correct account, sufficient funds were available in the correct account at the time the obligation arose, and sufficient funds remain available in the correct account at the time when the error is corrected.

A violation of the Antideficiency Act cannot be avoided by declining to record valid obligations in the operating unit's financial management system. All obligations must be promptly and accurately recorded in the operating unit's financial management system even if the recording results in a negative amount in the appropriation, fund, apportionment, allotment, or suballotment. If the proper recording of an obligation results in a negative amount in the appropriation, fund, apportionment, allotment, or suballotment, the Antideficiency Act has been violated. [31 U.S.C. §§ 1341\(a\)\(1\)\(A\), 1517](#).

d. **Crediting Funds to an Appropriation Account Without Authority**

The miscellaneous receipts statute requires that an official or agent of the Federal Government deposit any money received for the Federal Government from any source into the miscellaneous receipts account of the U.S. Treasury without deduction for any charge or claim unless crediting the money to an agency's appropriation account is authorized by law. [31 U.S.C. § 3302\(b\)](#).

If the Department or an operating unit improperly credits funds to one of its accounts without authority in violation of the miscellaneous receipts statute, then its appropriation account has been improperly augmented. Such funds are not legally available to the Department or the operating unit to incur obligations or to make expenditures.

If the Department or operating unit incurs obligations against improperly retained collections, and no other funds are legally available as to time, purpose, and amount to cover the obligation, an Antideficiency Act violation has occurred. [31 U.S.C. § 1341\(a\)\(1\)\(A\)](#).

e. Other Actions

Some actions may not violate the Antideficiency Act but may be considered so contrary to good management practices as to indicate possible negligence to the extent that an individual contributed to a potential violation. These actions may include, but are not limited to the following:

1. Failure of an allottee to formalize operating plans in time to establish administrative control of obligations or expenditures and to present such plans for incorporation into the accounting system;
2. Failure of an allottee to maintain such plans in a current status throughout the period of availability of an appropriation;
3. Failure of an accounting officer to monitor and analyze accounts in a professional manner and to provide formal notice of an impending violation where professional judgment would warrant such action;
4. Failure of an allottee to respond to and to resolve, as appropriate, to a formal warning from an accounting officer of an indication of impending violation;
5. Failure of an accounting officer to maintain the accounting system;
6. Failure of an accounting officer (or program official to provide such information) to enter a commitment (estimate) in an accounting record;

7. Failure of an automatic data processing manager to maintain an accounting system as designed or to provide highest priority to situations involving administrative control of funds;
8. Failure of a contracting/procurement officer, or any other approving official, to obtain the approval of an official authorized to certify fund availability before entering into a contract or a change order;
9. Failure of a certifying officer, in conjunction with the requirement in [31 U.S.C. § 3528](#), to determine that payments are in accordance with law and represent a legal obligation under the fund involved, to determine that an expenditure is generally preceded by an operating plan entered in the accounts, or is otherwise specifically approved by the allottee;
10. Failure of an employee to act promptly in matters of assembling, recording, and reporting obligations, including those personnel who have responsibility for administrative approval of expenditures;
11. Failure of any employee to cooperate with an allottee in formalizing control plans and revisions of plans in a timely manner; and
12. Failure of an employee responsible for furnishing an estimate to be recorded as an obligation to prepare such an estimate with reasonable skill and competence.

## Section 7.0: Penalties

### .01 Penalties for Violations of the Antideficiency Act

The law provides that any officer or employee of the United States who violates the prohibitions of the Antideficiency Act (see Section 6.02) will be subject to appropriate administrative discipline, and if the violation is knowing and willful, criminal prosecution. [31 U.S.C. §§ 1349-1350, 1518-1519](#).

a. Administrative Penalties

Examples of administrative penalties include:

1. Letter of reprimand or censure for the official personnel record of the officer or employee;
2. Unsatisfactory performance rating;
3. Transfer to another position;
4. Suspension from duty without pay;
5. Removal from office.

b. Criminal Penalties

The law provides that any officer or employee of the United States who knowingly and willfully violates the Antideficiency Act shall be fined not more than \$5,000, imprisoned for not more than two years, or both. [31 U.S.C. §§ 1350, 1519](#).

.02 Penalties for Violations of Limitations that Do Not *Per Se* Violate the Antideficiency Act

Individuals responsible for violations of limitations that do not *per se* violate the Antideficiency Act (see Section 6.03) are also subject to appropriate administrative discipline, including but not limited to the examples in paragraph .01.a., above.

Section 8.0: Investigating and Reporting Violations of the Antideficiency Act

The Department is required to be in compliance with [OMB Circular A-11, Section 145, Requirements for Reporting Antideficiency Act Violations](#). This section describes the procedures for investigating and reporting Antideficiency Act violations.

- .01 Any officer or employee who suspects the Antideficiency Act has been violated must report the suspected violation through the appropriate supervisory chain to the operating unit's CFO.
- .02 If either OMB or GAO informs the Department or an operating unit that it suspects that an operating unit has violated the Antideficiency Act, the operating unit shall follow the same procedures outlined by this section.

- .03 Operating unit CFOs must promptly notify the Department's CFO/ASA, the Department's Office of Financial Management (OFM)/Office of Internal Controls (OFIC), and the Assistant General Counsel for Administration and Transaction of suspected Antideficiency Act violations, advising that an investigation will be commenced immediately.
- .04 Appointment of Investigator(s)
- a. It shall be the responsibility of the head or the CFO of the affected operating unit to appoint an investigator. However, an appointment of an investigator may be made or reviewed by the Department's CFO/ASA or Deputy CFO and Director for Financial Management whenever a suspected violation demands specific attention, may involve a high-level official, or whenever other circumstances warrant such involvement. An investigator shall not be appointed by an individual who may be the subject of the investigation or who may otherwise have a conflict of interest.
  - b. Where a suspected violation involves complex facts or a multitude of functional areas, then multiple investigators may be appointed.
  - c. The investigator selected must be independent and unbiased; therefore, the investigator shall be selected from a part of the operating unit external to that being investigated and shall have no vested interest in the outcome of the investigation.
  - d. Investigators shall have the following qualifications:
    1. Training or relevant experience in basic fiscal law principles upon which the individual can rely in compiling the relevant facts and identifying the case-specific and systematic problems that may need to be resolved;
    2. Knowledge of Department and operating unit financial management policies and procedures; and
    3. Training or relevant experience that would enable the investigator to adequately interview witnesses, gather evidence, document findings, and prepare investigatory reports.

- e. In the absence of the operating unit having personnel with the appropriate knowledge, training, or experience to conduct an investigation, the operating unit CFO may request that the Department's CFO/ASA or Deputy CFO and Director for Financial Management appoint an investigator from outside the operating unit.
- f. Documenting the Appointment of Investigators
  - 1. The investigator's selection shall be documented by a memorandum from the appointing authority to the investigators which shall:
    - A. Briefly describe the nature of the suspected violation and the scope of the investigation to be conducted;
    - B. Specify that the investigator shall have access to such records as may be relevant to the course of the investigation;
    - C. Specify that the investigator is authorized to interview such officers and employees of the Department as may have relevant knowledge as to the circumstances pertaining to the suspected violation; and,
    - D. Specify the date on which a complete investigation report must be delivered to the operating unit CFO (this date may not exceed the date by which the operating unit CFO is required to submit the report to the Assistant General Counsel for Administration and Transaction as provided in paragraph .06, below).
  - 2. An optional memorandum template is included as **Exhibit 1, Template: Memorandum Appointing Investigator for Suspect Antideficiency Act Violation**, to this Chapter.

.05 Conducting the Investigation and Developing the Investigation Report

- a. The investigator shall be responsible for determining and compiling all facts relevant to the suspected violation. This includes:
  1. Compiling and reviewing all records of the operating unit relevant to the suspected violation such as:
    - A. Information within the operating unit's financial management system that shows what obligations were recorded, the amounts recorded, and when recorded;
    - B. Documents that serve as the basis for the agency's obligations, including contracts, purchase or task orders, financial assistance awards, loan or loan guarantee agreements, and inter-/intra- agency and other agreements;
    - C. Apportionment, allotment, and suballotment records;
    - D. Reprogramming notifications; and
    - E. Memoranda, email, and other forms of paper or electronic correspondence.
  2. Compiling and reviewing all Federal Government, Department, and operating unit financial management directives relevant to the suspected violation.
  3. Interviewing and documenting the interviews of all personnel with relevant knowledge.
    - A. If an employee to be interviewed is a member of a bargaining unit, then the investigator shall comply with appropriate statutory and collective bargaining unit agreement protections for the employee.
- b. The investigator shall consult with the Office of the Assistant General Counsel for Administration and Transaction on any legal issues associated with the investigation, including appropriate warnings to be given to an employee, relevant lines of inquiry, and whether sworn statements should be obtained.

- c. The investigator shall consult with the Office of the Assistant General Counsel for Administration and Transaction at any point during the course of the investigation if the investigator believes the Antideficiency Act may have been violated knowingly and willfully.
- d. If another Federal agency is involved, the investigator shall consult with the operating unit CFO, the Department's CFO/ASA, and the Assistant General Counsel for Administration and Transaction regarding any necessary coordination with the other agency.
- e. The investigator shall carefully consider all relevant evidence concerning the suspected violation, and he or she shall draft an investigation report that:
  - 1. Describes the nature of the suspected violation that was investigated;
  - 2. Describes the scope of the investigation, including the records analyzed and witnesses interviewed;
  - 3. Identifies the operating unit appropriation account(s) that are the subject of the investigation by name and treasury account symbol;
  - 4. Identifies when and in what amount funds from the operating unit's appropriation were apportioned, allotted, and suballotted, if relevant;
  - 5. Identifies the PPA(s) from the operating unit's appropriation that are the subject of the investigation, if relevant;
  - 6. Describes who undertook what actions and when (or who failed to take actions and when);
  - 7. Describes what led the individuals involved to take (or not take) such actions; and,

8. States whether, as a result of such actions or inactions, the evidence indicates that the operating unit may have:
  - A. Failed to properly record obligations;
  - B. Incurred obligations in excess of amounts available under the appropriate appropriation, apportionment, allotment, and/or suballotment;
  - C. Incurred obligations in advance of an appropriation being enacted into law and/or an apportionment, allotment, or suballotment being made available to an operating unit;
  - D. Incurred obligations against amounts required to be sequestered by law; and/or,
  - E. Such other factual conclusions the investigator believes may be pertinent to determine whether the Antideficiency Act or other fiscal laws have been violated.
- f. All conclusions of fact must be supported by the available evidence, which shall be attached as exhibits to the investigation report.
- g. The investigation report shall not draw legal conclusions as to whether the Antideficiency Act or other fiscal laws have been violated.
- h. The investigator shall attach to the investigation report a copy of all records relevant to the investigation, including: the memorandum required by paragraph .04f. of this section by which the operating unit CFO or other officer appointed the investigator, the records obtained and considered by the investigator, and the witness interviews conducted by the investigator.
- i. An investigator checklist is included as **Exhibit 2, Investigator Checklist**, to this Chapter.
- j. An optional investigation report template is included as **Exhibit 3, Template: Investigation Report**, to this Chapter.

- .06 Transmitting the Investigation Report to the Assistant General Counsel for Administration and Transaction
- a. Within 60 days from the date the operating unit CFO notified the Department's CFO/ASA, OFM/OFIC, and the Assistant General Counsel for Administration and Transaction of a suspected Antideficiency Act violation, the operating unit CFO shall forward a complete investigation report, along with pertinent exhibits, to the Assistant General Counsel for Administration and Transaction. Accompanying the report shall be a cover memorandum requesting that the Assistant General Counsel for Administration and Transaction determine whether, as a matter of law, the operating unit has violated the Antideficiency Act.
    1. A cover memorandum template is included as **Exhibit 4, Template: Cover Memorandum Transmitting Internal Investigation Report**, to this Chapter.
  - b. A courtesy copy of the investigation report and its exhibits shall be contemporaneously transmitted by the operating unit CFO to the Department's CFO/ASA, OFM/OFIC, and the Department's Inspector General.
  - c. The time to complete and provide a complete investigation report to the Assistant General Counsel for Administration and Transaction may be extended only with the concurrence of the Assistant General for Administration and the Department's CFO/ASA upon a showing by the operating unit CFO that the circumstances warrant such an extension of time.
- .07 Based upon the factual information contained in the investigation report, the Assistant General Counsel for Administration and Transaction will determine whether an Antideficiency Act violation has occurred.
- .08 Should the Assistant General Counsel for Administration and Transaction determine that additional facts beyond those found in the investigation report are necessary, the operating unit CFO shall be informed, and the operating unit CFO shall obtain and provide the requested information in the time frame established by the Assistant General Counsel for Administration and Transaction.
- The operating unit CFO may utilize the assistance of the originally-appointed investigator to compile any such requested information.
- .09 The Assistant General Counsel for Administration will transmit his or her determination to the Department's CFO/ASA and make a courtesy copy available

to the operating unit's CFO, OFM/OFIC, and the Department's Inspector General.

- .10 If the Assistant General Counsel for Administration and Transaction determines that the Antideficiency Act was not violated, but that other fiscal limitations were violated, then the Department's CFO/ASA and the operating unit CFO shall take such corrective action to prevent future violations as they deem necessary. They shall also work with the appropriate operating unit managers to ensure that such administrative discipline as may be appropriate is taken with respect to those responsible for the violations in accordance with any guidance provided by the Directors of the Office of Human Resources Management or the Servicing Human Resources Office.
- .11 If the Assistant General Counsel for Administration and Transaction determines that the Antideficiency Act was not violated, nor any other fiscal limitations were violated, then no further action is required. However, if:
- a. The investigation had been prompted by OMB identifying a suspected violation, then the Assistant General Counsel for Administration and Transaction will prepare a report for the Secretary's signature so informing that Office of the results of the investigation and that no violation occurred.
  - b. The investigation had been prompted because GAO reported or opined that an operating unit had violated the Antideficiency Act, then the Assistant General Counsel for Administration and Transaction shall prepare the reports specified by paragraph .12g, below. However, the external reports will indicate that the Department does not agree that a violation occurred, and the reports will contain an explanation of the Department's position.
- .12 If the Assistant General Counsel for Administration and Transaction determines that the Antideficiency Act was violated, then:
- a. If the Assistant General Counsel for Administration and Transaction determines that there are facts indicating the violation may be knowing and willful, then he or she shall forward all relevant information to the Department's Inspector General.  
  
The Department's Inspector General shall review the information provided by the Assistant General Counsel for Administration and Transaction and determine whether sufficient facts exist to indicate the violation may have been knowing and willful so as to warrant the forwarding of all information regarding the violation to the Department of Justice for further action.

- b. The operating unit CFO shall work with the appropriate operating unit managers to determine which individual or individuals are responsible for the violation.
  - 1. The specific act(s) or failure to act that led to the violation shall be considered in determining those responsible.
  - 2. Supervisory officials, budget officers, or fiscal officers may also be considered as responsible officials because of their overall responsibility or position, or the fact that they are designated as the holder of a subdivision of funds, if they failed to properly exercise their responsibilities.
- c. The appropriate operating unit managers shall work with the Directors of the Office of Human Resources Management or the Servicing Human Resources Office, as appropriate, to determine the appropriate administrative discipline for those determined to be responsible and shall ensure the issuance of administrative discipline proposals to those determined responsible for the violation.
- d. The operating unit CFO shall review the investigation report (and may use the investigator) to determine the causes for the violation, including:
  - 1. What Federal Government, Department, and/or operating unit fiscal management directives were not followed that contributed to the violation, if applicable;
  - 2. Whether administrative control systems (including manual or automated controls) were disregarded or failed to work as intended, or whether the lack of such systems contributed to the violation;
  - 3. Whether the suspected violation was the result of an error, a mistake of judgment, negligence, or careless disregard of instructions by the responsible individuals; and
  - 4. Whether a lack of training or knowledge contributed to the violation.

- e. Based upon the causes of the violation, the operating unit CFO shall, with the advice and concurrence of the Department's CFO/ASA, develop corrective actions or safeguards to prevent recurrence of similar violations. Examples of corrective actions and safeguards include:
  - 1. Developing and instituting additional policy directives.
  - 2. Developing and instituting additional manual and/or automated controls.
  - 3. Mandating appropriate fiscal law or administrative controls training for those responsible for the violation and/or all those individuals with similar responsibilities to prevent recurrence of similar violations.
  
- f. Informing the Assistant General Counsel for Administration and Transaction of the Proposed Administrative Discipline and Corrective Actions.
  - 1. Within 30 days of the date of the Assistant General Counsel for Administration and Transaction's determination that an operating unit violated the Antideficiency Act, the operating unit CFO shall inform the Assistant General Counsel for Administration and Transaction by memorandum of:
    - A. The names of the individual or individuals determined to be responsible for the violation along with their rank, grade, and title.
    - B. The specific administrative discipline that the operating unit has proposed for each individual determined responsible along with a statement that the individuals have been informed of the proposed discipline.
    - C. The causes of the violation and any corrective actions and safeguards that the operating unit will implement to prevent recurrence of the same type of violation.
    - D. Whether the agency received a clean audit opinion during the fiscal year(s) in which the violation occurred.



2. A courtesy copy of this memorandum shall be contemporaneously transmitted by the operating unit CFO to the Department's CFO/ASA and the Department's Inspector General.
  3. The time to complete and provide this memorandum may be extended only with the concurrence of the Assistant General for Administration and the Department's CFO/ASA upon a showing by the operating unit CFO that the circumstances warrant such an extension of time.
  4. An optional memorandum template is included as **Exhibit 5, Template: Memorandum Identifying Responsible Parties and Corrective Actions**, to this Chapter.
- g. Upon receipt of the memorandum from the operating unit CFO described in paragraph f., the Assistant General Counsel for Administration and Transaction shall prepare for the Secretary's signature the reports to the President, leaders of each house of Congress, and the Comptroller General required by the Antideficiency Act. The Assistant General Counsel for Administration and Transaction shall also prepare the cover memorandum transmitting the report to the President through the Director of OMB as required by [OMB Circular A-11, Section 145, Requirements for Reporting Antideficiency Act Violations](#).
  - h. The external reports of the violation shall be forwarded by the Assistant General Counsel for Administration and Transaction to the Department's CFO/ASA and OFM/OFIC who shall present them to the Secretary for signature.
  - i. Upon the Secretary's signature, each external report shall be transmitted to the respective addressee as required by the Antideficiency Act, and final signed copy should also be provided to the Operating Unit, CFO/ASA, OFM/OFIC, and the Department's Inspector General.

## .13 Financial Statement Disclosures

Any violations of appropriations or other fund limitations shall be disclosed in the notes to the Department's financial statements. Any major restrictions or limitations on the use of funds (such as limitations on amounts which can be spent for certain types of expenditures, e.g., travel) contained in the appropriation acts shall also be disclosed, as well as any violations of such restrictions.

## Section 9.0: Accounting Support for Funds Control Systems

- .01 The Department's accounting system(s) must fully support the Department's funds control systems. The accounting systems should provide for:
- a. Recording all financial transactions affecting: apportionments; reapportionments; allotments; suballotments; agency restrictions; financial plans; program operating plans; obligations and expenditures; as well as anticipated, earned, and collected reimbursements.
  - b. Preparing and reconciling financial reports that display cumulative obligations, and the remaining unobligated balance by appropriation and allotment, and cumulative obligations by budget activity and object class.
- .02 The Department's accounting system(s) shall be designed and maintained in a manner to assist responsible officials in restricting the authorization or incurrence of commitments, obligations, and expenditures to amounts available in the appropriation or fund, apportionment, allotment, suballotment, or other administrative subdivision. The Departmental accounting system(s) must provide timely disclosure of the following:
- a. Total valid obligations incurred to date, and total budgetary resources available for obligation within each appropriation or fund, apportionment, allotment, suballotment, or other administrative subdivision. Credit accounts will be handled in the same manner as non-credit accounts.
  - b. Restrictions contained in appropriation acts or other statutes, along with total obligations incurred against such restrictions to date.
  - c. Status of estimated reimbursements, including orders received, amounts earned, and amounts collected to date.
  - d. The authorization or creation of commitments, obligations, or expenditures that exceed the appropriation or fund, apportionment, allotment, suballotment, or other administrative subdivision.

## Section 10.0: Apportionment Procedures

- .01 All Department accounts, including revolving funds, working capital funds, management funds, and trust funds, are subject to apportionment unless exempted by OMB pursuant to law.
- .02 The [\*Department's Budget, Performance and Program Analysis Handbook\*](#) sets forth the policies and procedures for requesting apportionments, which include:
  - a. Operating unit budget officers are responsible for preparing and submitting apportionment requests on a timely basis to the Department's Budget Office and maintaining liaison with the Office of Budget on the resolution of problems.
  - b. The Department's Budget Office is responsible for providing technical assistance to the operating units in preparing apportionments and reviewing and forwarding apportionment requests to OMB for approval.
- .03 The Department's Budget Office coordinates the OMB-approved apportionments with the operating units.
- .04 For all accounts not required to be apportioned, the operating unit is required to have the appropriate administrative control of funds necessary to restrict obligations and expenditures (disbursements) to the amount available in each appropriation or fund account consistent with the requirements of the Antideficiency Act.

## Section 11.0: Policy on Allotments and Suballotments

- .01 General Policy
  - a. Allotments and suballotments shall be established at the highest practical level, and each operational unit will be financed from no more than one subdivision for each appropriation or fund.
  - b. The allotment structure can only be changed by the authority (i.e., the applicable operating unit/position) who initially issued the allotment structure.
  - c. Allotments and suballotments are subject to the provisions of the Antideficiency Act.

.02 Function and Purpose of Allotments and Suballotments

The development and maintenance of a system for fund control shall include the formal allotment of funds as a means for establishing, within appropriation limitations established by the Congress and funds apportioned by OMB, the amounts available for obligation and outlay. The allotment system shall be established and maintained in such a manner as to assure compliance with all limitations, including those of the Antideficiency Act. Operating units' internal procedures shall clearly define an unbroken chain of responsibility from the head of an operating unit to those exercising responsibilities for fund control.

.03 Restrictions

- a. The sum of allotment amounts issued will not exceed the apportionment.
- b. The sum of suballotment amounts issued will not exceed the allotment amount.
- c. The amounts of allotments or suballotments will be fixed and will be changed only when authorized by the authority who initially issued the allotment or suballotment.
- d. Congressional restrictions contained in appropriation acts will be enforced.

.04 Allotment Procedures

- a. Allotments and suballotments must be made using formal documents, in writing, addressed to specific officials, utilizing forms approved by the Department's Office of Budget. Electronic transmissions may be used, provided adequate internal controls (including separate access controls for signatures) are present.

- b. The documentation for allotments and suballotments must identify:
  - 1. Amount available;
  - 2. Funding source (for example, appropriations, reimbursements);
  - 3. Time period of availability;
  - 4. The position title of the official responsible; and
  - 5. Justification for changes in allotments.
- c. In some cases, changes in allotments will create the need for a reapportionment, which requires OMB approval.

Section 12.0: Treatment of Anticipated Budgetary Resources Already Enacted into Law

- .01 Apportionments may include estimated amounts of “anticipated” budgetary resources that are the result of laws already enacted. This is done to reduce routine reapportionments of such amounts as they actually become available. These are presented on the apportionment and SF 133 (*Report on Budget Execution and Budgetary Resources*) on the following lines:
  - a. Anticipated increases (+) in budget authority (including anticipated transfers of new budget authority) into the account and anticipated decreases in budget authority (–) from the account; lines 1151, 1530, 1741, 1251, 1630, or 1841;
  - b. Anticipated transfers of unobligated balances into the account (+) and out of the account (–); line 1040;
  - c. Anticipated collections, reimbursements, and other income (+); lines 1740 or 1840;
  - d. Anticipated expenditure transfers from or into the account (+); lines 1740 or 1840;
  - e. Anticipated recoveries of prior year unpaid obligations (+); line 1041; and
  - f. Anticipated permanent reductions (–); lines 1042, 1152, 1330, 1531, 1742 or 1252, 1430, 1631, or 1842.

- .02 Operating units may choose not to allot amounts anticipated to increase (+) the total budgetary resources, even though the amount has been apportioned, until the increase actually occurs. This is the recommended course of action.
- .03 Alternatively, operating units may choose to allot amounts anticipated to increase the total budgetary resources before the increase actually occurs. Although this course of action is not recommended, budget control officials or employees of operating units that choose to allot anticipated increases in budgetary resources must maintain constant and careful oversight to ensure that these amounts materialize before they incur obligations or expenditures against this type of allotment. If actual amounts realized are less than anticipated, the operating unit must make appropriate funding adjustments and take other appropriate actions including requesting, through the Department's Budget Office, a reapportionment.
- .04 The anticipated decreases (–) under current law do not become a part of the amount of total budgetary resources available to be apportioned. Because the OMB apportionment will not include these amounts, these amounts must not be allotted.

#### Section 13.0: Deficiency Apportionments

- .01 Apportionments that anticipate the need for a deficiency or supplemental appropriation under [31 U.S.C. § 1515](#) will be specifically identified on the SF 132 (*Apportionment and Reapportionment Schedule*).
- .02 To qualify as a deficiency apportionment, the request must be required by:
  - a. Laws enacted subsequent to the transmittal of the annual budget for the year to Congress;
  - b. Emergencies involving human life, the protection of property, or the immediate welfare of individuals; or
  - c. Specific authorization by law.
- .03 When OMB approves a deficiency apportionment and transmits it to Congress, OMB is merely notifying the Congress that funds appropriated to date are being obligated at a more rapid rate than previously anticipated.
  - a. This notification does not guarantee that the Congress will approve any part of any associated supplemental requests and does not authorize an operating unit to incur obligations against amounts not yet provided by Congress.

#### Section 14.0: Bureau Evaluations of Material or Significant Possible or Actual Unusual Accounting Transactions

Bureaus are required to evaluate material or significant possible or actual unusual accounting transactions (e.g. a possible or actual accrued receivable/revenue or accrued payable/expense or asset, a possible, anticipated, or actual transfer, a possible, anticipated, or actual budgetary resource or reduction of budgetary resources, a possible or actual contingency), regardless of whether the item has been apportioned or not apportioned on the SF 132, *Apportionment and Reapportionment Schedule*, and research if a) a proprietary accounting transaction(s) should be recorded; b) a budgetary accounting transaction should be recorded; and c) if yes to either a) or b), the appropriate accounting transactions that should be recorded and when (month/year) the accounting transactions should be recorded.

For these material or significant possible or actual unusual accounting transactions, the bureau's evaluation is required to include consultation with a) the bureau's CFO or equivalent, of both the underlying bureau and that bureau's accounting service provider, if applicable, or his or her designee(s); and b) the Department's Office of Financial Management. As appropriate, consultations should also include c) other bureau or Departmental offices; d) the U.S. Department of the Treasury, the Office of Management and Budget, and/or the Federal Accounting Standards Advisory Board; e) any other federal agencies; and f) any other relevant or applicable sources.

**Exhibit 1****Template: Memorandum Appointing Investigator for Suspect Antideficiency Act Violation**

MEMORANDUM FOR: [Name of Investigator]

FROM: [Name of Operating Unit CFO]  
Chief Financial Officer  
[Operating Unit]

SUBJECT: Investigation of Suspected Antideficiency Act Violation

You are being appointed to investigate the facts surrounding a suspected violation of the Antideficiency Act, 31 U.S.C. §§ 1341-1342, 1349-1351, 1511-1519. This investigation is to be undertaken consistent with Chapter 7 of the Department's *Accounting Principles and Standards Handbook*.

**BACKGROUND**

[Briefly describe the nature of the suspected violation]

**CHARGE**

You shall obtain all relevant facts surrounding this matter, which shall be used by the Department's Office of the Assistant General Counsel for Administration and Transaction to determine whether these actions violated the Antideficiency Act or other fiscal laws. Specifically, your review shall include:

[Briefly describe the scope]

You shall have access to such records as may be relevant to the course of this investigation, and you are authorized to interview such officers and employees of the Department as may have relevant knowledge as to the circumstances pertaining to the suspected violation. You shall consult as necessary with the Office of the Assistant General Counsel for Administration and Transaction on issues of law and for guidance on relevant areas of inquiry.

**SCHEDULE**

Your investigation must be completed and your findings reported to me no later than [insert date].

**Exhibit 2****Investigator Checklist**

The investigator should consider the following items during the course of an investigation and the preparation of the investigation report:

- Develop questions, as needed, to ensure a full understanding of the facts and circumstances.
- Compile, document, examine, and analyze the physical and electronic evidence associated with the suspected violation.
  - This evidence may include: working group documents, planning documents, email communications, obligating documents (i.e., contracts, grants, cooperative agreements, interagency or other agreements), apportionment and allotment records, financial management system records, payment documents, or others.
  - This evidence includes not only documentation of the transaction(s) at issue, but any documentation that led up to or sheds light on the contributing circumstances that set the stage for, the transaction(s) that caused the potential violation.
  - This evidence may be located in the functional area originating the obligation, the contracting office, the budget office, the finance office, the cross-servicer, or elsewhere.
- Interview the key players and document the results of the interviews.
  - Identify the role each person played in the potential violation. Identify what actions each person took and when those actions were taken.
  - Identify the knowledge, training, and experience (or lack thereof) as well as the position responsibilities of each individual who may be responsible for the suspected violation.
  - Question facts and circumstances that do not appear logical or supportable.
  - If an individual indicates that their supervisor instructed them to perform certain acts that contributed to the potential violation, interview their supervisors.
  - Re-interview to address conflicts in documented evidence.
  - If an employee to be interviewed is a member of a bargaining unit, comply with appropriate statutory and collective bargaining unit agreement protections for the employee (consult with the operating unit's servicing human resources office and the Office of the Assistant General Counsel for Administration and Transaction, as appropriate)
- Compile, review, and analyze internal control mechanisms and Departmental and operating unit policies to determine if the acts that caused the potential violation complied with established internal controls and operating procedures.

**Exhibit 3****Template: Investigation Report**

MEMORANDUM FOR: [Name of Operating Unit CFO]  
 Chief Financial Officer  
 [Operating Unit]

FROM: [Name of Investigator]

SUBJECT: Investigation of Suspected Antideficiency Act Violation

Pursuant to your memorandum dated [insert date], an investigation has been undertaken into the suspected violation described therein.

**ALLEGED VIOLATION**

[Describe the nature of the suspected violation as alleged or originally presented, any procedural history leading to the investigation (such as how the allegation arose), and any other relevant background information.]

**INVESTIGATION METHODOLOGY**

[Describe the scope of the investigation, the sources of information used, and the manner in which the investigation was undertaken. For example, describe the records reviewed, the individuals interviewed, and the rationale for doing so.]

**INFORMATION OBTAINED**

[Identify the appropriation account(s) at issue, including their treasury account symbols. If relevant, identify when and in what amount funds from the operating unit's appropriation were apportioned, allotted, and suballotted. If relevant, identify the PPA(s) from the operating unit's appropriation that are the subject of the investigation. Describe all relevant information obtained through the review of records or interviews undertaken that shed light on the circumstances of the suspected violation. The records reviewed and interviews undertaken should be attached as exhibits to the report, and relevant records cited in this section by exhibit number.]

**CONCLUSIONS OF FACT**

[Describe the factual conclusions of the investigation. In light of all records reviewed and interviews undertaken, this section should state the investigator's conclusion as to what actions were taken, by whom, and when. It should also state the investigator's conclusions as to whether the operating unit failed to properly record obligations, incurred obligations in excess of available amounts, incurred obligations in advance of amounts being appropriated, of such other factual conclusions the investigator believes may be pertinent to determine whether the Antideficiency Act or other fiscal laws have been violated.]

Attachment(s)

**Exhibit 4****Template: Cover Memorandum Transmitting Internal Investigation Report**

MEMORANDUM FOR: [Name of Assistant General Counsel for Administration and Transaction]  
Assistant General Counsel  
for Administration and Transaction

FROM: [Name of Operating Unit CFO]  
Chief Financial Officer  
[Operating Unit]

SUBJECT: Investigation of Suspected Antideficiency Act Violation

Please find attached for your review the results of an investigation undertaken with regard to a suspected violation of the Antideficiency Act, 31 U.S.C. §§ 1341-1342, 1349-1351, 1511-1519. The suspected violation concerns [describe the nature of the suspected violation.] The investigation resulted in the factual conclusions that [briefly describe the facts].

Consistent with Chapter 7 of the Department's *Accounting Principles and Standards Handbook*, your review of this investigation is requested to determine whether, as a matter of law, the Antideficiency Act or any other fiscal laws have been violated.

If you have any questions concerning this matter, please contact [name of contact] at [phone and/or email] for assistance.

Attachment(s)

cc: [Name of the Department's CFO/ASA]  
[Name of the Department's Inspector General]

**Exhibit 5****Template: Memorandum Identifying Responsible Parties and Corrective Actions**

MEMORANDUM FOR: [Name of Assistant General Counsel for Administration and Transaction]  
Assistant General Counsel for Administration and Transaction]

FROM: [Name of Operating Unit CFO]  
Chief Financial Officer  
[Operating Unit]

SUBJECT: Corrective Actions Taken and Identification of Individuals  
Responsible for Antideficiency Act Violation

This is in response to your memorandum dated [insert date] concluding that the [name of operating unit] violated the Antideficiency Act, 31 U.S.C. § [1341 or 1517]. This violation occurred on [date] in account [Treasury symbol and title] in the amount of [amount].

Consistent with the Department's *Accounting Principles and Standards Handbook*, the [operating unit] has reviewed the original investigation report and your memorandum, and it has been concluded that Mr./Ms. \_\_\_\_\_ (rank/grade/title) [was/were] the officer(s) responsible for the violation(s).

[State whether and what administrative discipline has been proposed as well as any further action(s) taken with respect to the officer(s) or employee(s) involved.] Mr./Ms. \_\_\_\_\_ has been informed of the proposed administrative discipline.

[Explain the causes for the violation (e.g., error, mistake of judgment, negligence, careless disregard of instructions, disregard or lack of administrative controls and/or policies, lack of or failure of administrative oversight, lack of training or knowledge, etc.).]

[Explain the steps the operating unit has or will take to prevent similar violations from happening in the future (e.g., whether policy changes are being made, whether administrative controls are being added or changed, whether organizational reporting structures are being changed, whether and what training will be mandated and for whom, etc.)]

The [operating unit] [did/did not] receive a clean audit opinion during the fiscal year(s) in which the violation(s) occurred.

cc: [Name of the Department's CFO/ASA]  
[Name of the Department's Inspector General]