

**CHAPTER 1****VIOLATIONS OF THE ANTIDEFICIENCY ACT**0101 GENERAL

010101. Purpose. This chapter provides guidance on National Aeronautics and Space Administration's (NASA) Antideficiency Act policies, procedures, and responsibilities within the agency. Policies and procedures for the administrative control of funds are addressed in Volume 5 "Budget Execution and Funds Control" and procedures and details for controlling available funds are contained in Appendix A.

010102. Provisions. The provisions of this volume take precedence over any conflicting guidance in other volumes of this regulation.

010103. How Violations Occur. Generally, violations of the Antideficiency Act occur under the circumstances listed below. However, this list is not exhaustive of potential violations of the Act. Therefore, questions regarding the application of the Antideficiency Act to a particular transaction should be referred to the Office of General Counsel at Headquarters, or the Office of Chief Counsel at field centers.

A. Funding authority is issued in excess of the amount available and the excess amount is obligated or expended. The issuance of funds by means of a formal subdivision of funds (allocation, allotment, suballotment or other formal designation of a limitation), in an amount that exceeds the amount currently available, would result in a violation of the Antideficiency Act if those excess funds distributed are obligated or expended. The individual authorizing the release of those funds would be responsible for the violation. The issuance of a funded order in excess of available funds may also result in a violation of the Antideficiency Act.

B. Obligations or expenditures are authorized or incurred in excess of the amount of funds available at the formal subdivision of funds level. Incurring an obligation or disbursement in excess of a target (vice a formal subdivision of funds) does not in itself create a violation of the Antideficiency Act; however, if exceeding a target causes the governing formal fund subdivision or limitation to be breached, a potential violation of the Antideficiency Act would be incurred.

C. Special and recurring statutory limitations or restrictions on the amounts for which an appropriation or fund may be used are violated.

D. Regulatory limitation on the amounts for which an appropriation or fund are violated, when specifically carrying an antideficiency limitation.

E. Statutory limitations on the purposes for which an appropriation or fund may be used are violated.

F. Regulatory limitation on the purposes for which an appropriation or fund may be used are violated, when specifically carrying an antideficiency limitation and corrective funding is not available.

G. Obligations are authorized or incurred in advance of funds being available.

H. Obligations or expenditures of funds do not provide for a bona fide need of the period of availability of the fund or account and corrective funding is not available.

I. Voluntary services are accepted, or personal services are employed, in excess of that authorized by law. In particular NASA has specific statutory authority to accept unconditional gifts or donations of services, money, or property, in Section 203(c)(4) of the National Aeronautics and Space Act of 1958, as amended, 42 USC 2473(c)(4), but (2) this authority is construed narrowly, and is not general authority to accept voluntary or personal services.

## 0102 PROVISIONS

### 010201. Antideficiency Act, Section 1341 of Title 31, United States Code.

A. General. The Antideficiency Act consists of provisions of law identified in Title 31 of the United States Code to prevent agencies from spending their entire appropriations during the first few months of the year. Among other requirements the Act prohibits a Federal employee from:

1. Entering into contracts that exceed the enacted appropriations for the year.
2. Purchasing services or merchandise before appropriations are enacted.

B. Requirements. The Antideficiency Act:

1. Requires that the Office of Management and Budget (OMB) apportion the appropriations, that is, approve a plan that spreads out spending over the fiscal period for which the funds were made available.

2. Restricts deficiency apportionments to amounts approved by the agency heads only for extraordinary emergency or unusual circumstances.

3. Establishes penalties for Antideficiency Act violations. Violations are obligations or expenditures in excess of the lower of the amount in the affected account, the amount apportioned, or the amount allotted.

4. Requires the agency head to report any Antideficiency Act violations to the President, through the OMB Director, and Congress.

C. Under the Act, if an officer or employee of the Government obligates or expends more than the amount in the Treasury Account Fund Symbol or the amount apportioned or any other subdivision of funds, resulting in the overobligation of one of the previous amounts as prescribed by 31 U.S.C. 1517(a), that officer or employee is subject to appropriate administrative discipline. Such discipline includes a written reprimand, suspension of employment duty without pay, or removal from office. In addition, conviction of willfully and knowingly overobligating or overexpending the amount, can result in a fine not more than \$5,000, imprisoned for not more than 2 years, or both.

### 0103 CODIFICATION OF THE ANTIDEFICIENCY ACT

#### 010301. Title 31, Antideficiency Provisions and Limitations

A. Sections 1341, 1342, 1517. When the “Antideficiency Act” was codified into Title 31 of the United States Code, its provisions were incorporated into a number of sections of that Title. The most frequently cited sections are 1341, 1342, and 1517. Chapter 8 of this volume and Figure 1-1, below, furnish examples of the most common types of Antideficiency Act violations.

B. Title 31, United States Code, Section 1341, Limitation on Expending and Obligating Amounts. Section 1341 forbids an employee of the United States Government from the following actions:

1. Obligating, expending, or authorizing the use of funds exceeding the amount available in an appropriation or fund.

2. Involving the Federal Government in any contract or obligation for the payment of money before an appropriation is made available.

3. Obligating, expending, or authorizing of funds required to be sequestered.

4. Involving the Federal Government in any contract or obligation for the payment of money required to be sequestered.

C. Title 31, United States Code (U.S.C.), Section 1342, Limitation of Voluntary Services. Section 1342 forbids the acceptance of voluntary services on behalf of the

Federal Government or employment of personal services in excess of that authorized by law, except as it may be necessary in emergencies involving the safety of human life or the protection of property. NASA has specific statutory authority, Section 203(c)(4) of the National Aeronautics and Space Act of 1958, as amended, “to accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible.” However, this authority has been construed conservatively, and the acceptance of any service, money or property pursuant to this authority must be coordinated in advance with the Office of General Counsel at Headquarters, or the Office of Chief Counsel at field centers.

D. Title 31, United States Code, Section 1517, Obligation and Expenditure Limits. Section 1517 forbids the overobligation and over expenditure of an apportionment or an amount permitted by a regulation prescribed for the administrative control of appropriations.

E. Violations Caused by Exceeding Limitations Imposed by Law. Violating a limitation imposed by law (the Congress) may be a violation of the Antideficiency Act under 31 U.S.C. 1341(a)(1).

F. Violations Caused by Exceeding Limitations Imposed by the Office of Management and Budget

1. Exceeding a limitation of funds administratively imposed by the Office of Management and Budget on obligations or expenditures may be a violation of the Antideficiency Act under subsection 1517(a).

2. If an administrative subdivision of funds is exceeded, then a potential violation shall be reported. The receipt of additional funds before the end of a reporting period does not mitigate a violation of a limitation or eliminate the reporting requirement for a potential violation. Also, a failure to record a valid obligation or expenditure as of the date incurred does not avoid the incurrence of, and the requirement to report, a potential violation of the Antideficiency Act if, upon recordation, available funds in the account or other limitations are exceeded.

Figure 1-1 POTENTIAL VIOLATIONS

| A VIOLATION MAY OCCUR WHEN | DESCRIPTION OF POTENTIAL VIOLATION   | TITLE 31, UNITED STATES CODE, SECTION |
|----------------------------|--|---------------------------------------|
| Any Federal employee:      | 1. Makes or authorizes an expenditure or obligation against an appropriation account that was closed pursuant to Title 31, United States Code (U.S.C), sections 1552 or 1555, or the period prescribed in an appropriations act for making expenditures as authorized by 31 U.S.C. 1557. | 1341(a)(1)(A)                         |
|                            | 2. Involves the Government in any contract or other obligation for the payment of money for any purpose before appropriations are made for such purposes, unless the law authorizes such contract or obligation.   | 1341(a)(1)(B)                         |
|                            | 3. Makes or authorizes an obligation or expenditure of funds required to be sequestered under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.  | 1341(a)(1)(C)                         |
|                            | 4. Involves the 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.   | 1341(a)(1)(D)                         |
|                            | 5. In the absence of specific statutory, accepts voluntary services or employs personal services in excess of that authorized by law except in cases of emergency involving the safety of human life or the protection of property.  | 1342                                  |

| A VIOLATION MAY OCCUR WHEN                                      | DESCRIPTION OF POTENTIAL VIOLATION   | TITLE 31, UNITED STATES CODE, SECTION |
|---|--|---------------------------------------|
| Obligations authorized or incurred or expenditures made exceed: | 1. The available amount of any appropriation or fund.  | 1341(a)(1)(A)                         |
|   | 2. The available amount of any apportionment or reappportionment.  | 1517(a)(1)                            |
|   | 3. Any statutory restriction imposed on the use of an appropriation or fund.   | 1341(a)(1)(A)                         |
|   | 4. Any limitation imposed by an authorized official of NASA that is intended to restrict obligations of apportioned appropriations or funds. | 1517(a)(2)                            |

Figure 1-1 POTENTIAL VIOLATIONS

(continued)

**Figure 1-1 POTENTIAL VIOLATIONS**  
(continued)

| A VIOLATION MAY OCCUR WHEN                   | DESCRIPTION OF POTENTIAL VIOLATION  | TITLE 31, UNITED STATES CODE, SECTION |
|--|---|---------------------------------------|
| <b>In a working capital (revolving) fund</b> | 1. A working capital (revolving) fund or a part of that fund is apportioned and obligations of that fund or part of that fund exceed the available amount of the apportionment. | 1517(a)(1)                            |
|  | 2. Obligations exceed the available amount of budgetary resources.  | 1517(a)(2)                            |
|  | 3. Amounts expended that exceed available fund balances with Treasury whether apportioned or not.   | 1341(a)(1)(A)                         |

**Figure 1-1, Potential Violations**