



B-331428

September 23, 2019

The Honorable Michael R. Pence  
President of the Senate

The Honorable Nancy Pelosi  
Speaker of the House of Representatives

Subject: *U.S. Environmental Protection Agency—Antideficiency Act Violation*

This letter is to inform you that the U.S. Environmental Protection Agency (EPA) violated the Antideficiency Act, 31 U.S.C. § 1341(a), when it obligated funds in a manner prohibited by law. Notwithstanding the Act's reporting requirement, 31 U.S.C. § 1351, EPA failed to report this violation.

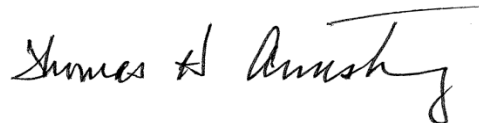
EPA violated the Antideficiency Act when it incurred obligations prohibited by section 710 of the Financial Services and General Government Appropriations Act, 2017. Pub. L. No. 115-31, div. E, title VII, § 710, 131 Stat. 135, 379 (May 5, 2017); B-329603, Apr. 16, 2018 (enclosed). Section 710 prohibits an agency from obligating or expending an amount in excess of \$5,000 to furnish, redecorate, purchase furniture for, or make improvements for the office of a presidential appointee during the period of appointment without prior notification to the Committees on Appropriations of the House of Representatives and the Senate. Pub. L. No. 115-31. EPA obligated \$43,238.68 from its fiscal year 2017 Environmental Programs and Management appropriation account for the installation of a soundproof privacy booth for the Administrator's office. B-329603. This purchase fell squarely within the meaning of "furnish," as the booth equipped the office with something that EPA asserted it needed. *Id.* Accordingly, section 710 applied to this obligation, and EPA was required to notify the appropriations committees in advance of its proposed obligation. *Id.* However, EPA failed to notify the appropriations committees prior to obligating these funds. *Id.* Because EPA did not comply with the notification requirement, the funds were not legally available at the time EPA incurred the obligation. *Id.* By obligating in excess of the amount available, EPA violated the Antideficiency Act. *Id.*

By law, agencies must immediately report Antideficiency Act violations to the President and to Congress, while transmitting a copy of the report to the Comptroller General. 31 U.S.C. § 1351. The report must state all relevant facts and actions taken. *Id.* This reporting requirement protects Congress's power of the purse while

promoting sound funds control throughout government. See 31 U.S.C. § 1514 (requiring a system of administrative funds control within each agency); Senate Committee on Government Operations, *Financial Management in the Federal Government*, S. Doc. No. 87-11, at 45–46 (1961) (stating that one of the principal purposes of the Antideficiency Act is to provide effective control over the use of appropriations).

Our records show that EPA has not transmitted a report as required by the Antideficiency Act. Our letter does not absolve the agency of its failure to report. We send you this information because the reporting of ADA violations is critical to congressional oversight of executive use of public money and central to Congress's constitutional power of the purse.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas H. Armstrong".

Thomas H. Armstrong  
General Counsel

Enclosure

cc: Matthew Z. Leopold  
General Counsel, EPA

Charles J. Sheehan  
Inspector General, EPA

Mark Paoletta  
General Counsel, OMB