Introduction to Fiscal Law

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15 July 2020
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or

What you can and can’t do with money from Congress

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Constitutional Framework

We the People

- **Article 1 Section 8:** The Congress shall have power to lay & collect taxes, duties, imposts & excises, to pay the debts & provide for the common defense & general welfare….
  - To raise & support armies
  - To provide & maintain a navy
  - To make rules for the government & regulation of the land & naval forces

- **Article 1 Section 9:** …no money shall be drawn from the Treasury, but in consequence of appropriations made by law…
Constitutional Framework

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Appropriations Acts

• House Appropriations Committee (HAC)
• Senate Appropriations Committee (SAC)
• Provide budget authority (BA) - permission to obligate
• 12 annual appropriations acts
  – Defense
  – Military Construction, VA & Other Related agencies
  – Energy and Water Development
(a normal) Appropriations Process

HOUSE APPROPRIATIONS COMMITTEE (HAC)

COMMITTEE / SUBCOMMITTEE HEARINGS APRIL / JUNE

HOUSE BILL / REPORT

AMENDMENTS

FLOOR

BILL

HAC / SAC CONFERENCE

JUN - AUG

FLOOR

ACT / REPORT

PRESIDENT SIGNS

SEP

UNITED STATES SENATE

UNITED STATES SENATE

UNITED STATES SENATE

UNITED STATES SENATE

UNITED STATES SENATE

UNITED STATES SENATE
Misappropriation Act [Title 31, U.S. Code, Sec 1301]

- Requires that appropriated funds be used **only for the purposes and programs** for which appropriation was made
The Permanent Laws (31 U.S. Code)

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**Bona Fide Need Rule** [Title 31, U.S. Code, Sec 1502]
- Appropriations made for a definite period of time may be used only for expenses properly incurred during that time
- Requires that appropriated funds be used only for needs or services that arise in the year(s) of the appropriation’s obligation availability period
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- Prohibits making or authorizing an obligation in excess of the amount available in the appropriation, at the appropriation OR apportionment levels
- Forbids obligating funds in advance of appropriation
- Requires fixing responsibility for violations of the Act
- Can’t accept voluntary gifts or services without statutory authority
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The Three Legs of the Stool

- **Purpose**
- **Time**
- **Amount**

Each Appropriation Act defines these

- But watch for special provisions, e.g., “None of the funds made available in this act may be used to purchase . . .

DD-1414 Base for Reprogramming
Misappropriation Act
Title 31, U.S. Code, Sec 1301

Requires funds to be used only for the purposes and programs for which the appropriation was made
Purpose (Color)

• Can not spend appropriated funds outside the definition of that appropriation

• Money is legally available only for the specified object(s)

• Not sure? Read the Acts, the conference reports and your program’s budget exhibits and justification materials, e.g., P-forms
• “Necessary expense” doctrine - law can’t specify every expenditure
  - While an agency has reasonable discretion in determining how to carry out the objects of the appropriation -- however that discretion is not unfettered! See 6 Comptroller General 619, 621 (1927).
Major classification of appropriations based on purpose:

- Research, Development, Test and Evaluation (RDT&E)
- Procurement
  - Shipbuilding and Conversion, Navy (SCN)
- Operation and Maintenance (O&M)
- MILPERS
- MILCON
Purpose: The Colors of Money

Military Personnel (MILPERS)
- Active & Reserve Forces

Operation & Maintenance (O&M)
- Active & Reserve Forces
- Civilian salaries, supplies, spares, fuels, travel, etc...
- Environmental Restoration
- Former Soviet Union Threat Reduction
- Overseas Humanitarian, Disaster, & Civic Aid

Procurement
- Aircraft
- Missiles
- Weapons
- Weapons & Tracked Combat Vehicles
- Ammunition
- Other Procurement
- Shipbuilding & Conversion
- Marine Corps
- Defense wide procurement
- National Guard & Reserves

Research, Development, Test & Evaluation (RDT&E)
- Basic Research
- Applied Research
- Advanced Technology Development
- Advanced Component Development & Prototypes
- System Development & Demonstration
- RDT&E Management Support
- Operational Systems Development

Military Construction (MILCON)
- Facilities
- Family Housing
- Base Realignment & Closure (BRAC)
Bona Fide Need and Availability
Title 31, U.S. Code, Sec 1502

- Requires funds to be used only for needs or services in the year(s) of the appropriation’s obligation period
- Can spend only when budget authority is available
Time (Year)

- Classification of Appropriations based on time:
  - One-year
  - Multi-year (2, 3, or 5)
  - No Year “to remain available until expended”

All appropriations are annual unless expressly stated otherwise.
Classification of Appropriations based on availability for new obligations:

- Current appropriations
- Expired appropriations
- Closed/Cancelled appropriations
Appropriation Life Cycle

**PHASE 1**
CURRENT ACCOUNT
(1 - 5 YEARS)

**PHASE 2**
EXPIRED ACCOUNT
(5 YEARS)

**PHASE 3**
CLOSED/CANCELED ACCOUNT
(FOREVER)

UNOBLIGATED BALANCES & UNLIQUIDATED OBLIGATIONS

UNOBLIGATED BALANCES & UNLIQUIDATED OBLIGATIONS
Appropriation Life Cycle

<table>
<thead>
<tr>
<th>PHASE 1</th>
<th>PHASE 2</th>
<th>PHASE 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>CURRENT ACCOUNT (1 - 5 YEARS)</td>
<td>EXPIRED ACCOUNT (5 YEARS)</td>
<td>CLOSED/CANCELED ACCOUNT (FOREVER)</td>
</tr>
<tr>
<td>✅ UNOBLIGATED BALANCES &amp; UNLIQUIDATED OBLIGATIONS</td>
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Available for new obligations, payments & adjustments
Appropriation Life Cycle

**PHASE 1**

CURRENT ACCOUNT
(1 - 5 YEARS)

**PHASE 2**

EXPIRED ACCOUNT
(5 YEARS)

**PHASE 3**

CLOSED/CANCELED ACCOUNT
(FOREVER)

Available for new obligations, payments & adjustments

Available for payments & obligation adjustments

FY, appropriation, line item, etc. identity remains
Appropriation Life Cycle

PHASE 1
CURRENT ACCOUNT
(1 - 5 YEARS)

Available for new obligations, payments & adjustments

UNOBLIGATED BALANCES & UNLIQUIDATED OBLIGATIONS

PHASE 2
EXPIRED ACCOUNT
(5 YEARS)

Available for payments & obligation adjustments

FY, appropriation, line item, etc.
identity remains

UNOBLIGATED BALANCES & UNLIQUIDATED OBLIGATIONS

PHASE 3
CLOSED/ CANCELED ACCOUNT
(FOREVER)

No longer available for payments or obligation adjustments

Adjustments and payments charged to currently available appropriation of same type, up to lesser of 1% of currently available appropriation or unexpended balance of closed appropriation
## Appropriation Life

<table>
<thead>
<tr>
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<th>Years</th>
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<tr>
<td></td>
<td>1</td>
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<tr>
<td>O&amp;M</td>
<td><img src="current" alt="Green" /></td>
</tr>
<tr>
<td>RDT&amp;E</td>
<td><img src="current" alt="Green" /></td>
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<td>MILCON</td>
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<tr>
<td>MILPERS</td>
<td><img src="current" alt="Green" /></td>
</tr>
</tbody>
</table>

- **Current Period**: Available for new obligations, obligation adjustments, expenditures, & outlays
- **Expired Period**: Available for obligation adjustments, expenditures, & outlays
- **Cancelled**: Unavailable for obligations, obligation adjustments, expenditures, & outlays
In limited cases, prior year money can be used to award a new contract, e.g., original contract was improperly awarded.
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• Can not enter into a multi-year contract with single-year appropriated money. Enter into single year contracts with option years. Exceptions are by statutory relief, e.g., commercial leases.
In limited cases, prior year money can be used to award a new contract, e.g., original contract was improperly awarded.

Can not enter into a multi-year contract with single-year appropriated money. Enter into single year contracts with option years. Exceptions are by statutory relief, e.g., commercial leases.

Discount is not justification for a multi-year periodical subscription; must limit to one year.
• The BONA FIDE NEEDS rule: While an agency has reasonable discretion in determining how to carry out the objects of the appropriation – however, that discretion is not unfettered! See 6 Comptroller General 619, 621 (1927).
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• Can prepay supplies, if reasonable, e.g., end of year money for three months of office supplies is reasonable; six-month supply is not. Affected by normal lead time, e.g., need next summer, but takes 10 months to build.
Can use FY money late in the FY to pay for next year’s training, as long as reasonable – if no long range registration requirement, can use Aug/Sep money for classes in Oct/Nov.
• Can use FY money late in the FY to pay for next year’s training, as long as reasonable – if no long range registration requirement, can use Aug/Sep money for classes in Oct/Nov

• Can not pay for services before delivery of services (e.g., no prepaying cable bill (unless payment is to a government agency)). Some exceptions like subscriptions.
Can award for a severable services or unseverable contract of up to 12 months that crosses fiscal years and fully fund with funds available for obligation in the year of award

- MUST fund all at once, from a single year’s appropriation; can’t incrementally fund across Fys – violates Bona Fide need
Can award for a severable services or unseverable contract of up to 12 months that crosses fiscal years and fully fund with funds available for obligation in the year of award

• Janitorial services contract June 2020 – May 2021? Fund with FY20 O&M.

• “Build me a box” contract awarded in April 2020.
  • The company needs 9 months to build the box, i.e., into FY21. Fully fund with FY20 budget authority.
Appropriation Life - Example
Procurement Appropriation (3-Year Availability)

**CURRENT**
- FY12
- FY13
- FY14

**EXPIRED ACCOUNT**
- FY15
- FY16
- FY17
- FY18
- FY19

**CANCELLED**
- FY20

**NEW OBLIGATIONS**
- NO NEW OBLIGATIONS

**OBLIGATION ADJUSTMENTS**
- Limited to lesser:
  - 1% of current appropriation
  - Unexpended balance of cancelled appropriation

**EXPENDITURES**

**ACCOUNTING IDENTITY**

Appropriation Life - Example
Procurement Appropriation (3-Year Availability)

Time now is July 2020

CURRENT
FY12 FY13 FY14

NEW OBLIGATIONS

OBLIGATION ADJUSTMENTS
- EXPENDITURES
- ACCOUNTING IDENTITY

EXPIRED ACCOUNT
FY15 FY16 FY17 FY18 FY19

NO NEW OBLIGATIONS

CANCELLED
FY20

USE CURRENT APPROPRIATION
Limited to lesser:
- 1% of current appropriation
- Unexpended balance of cancelled appropriation
Appropriation Life - Example
Procurement Appropriation (3-Year Availability)

You receive an invoice citing an FY14 Procurement contract, citing an FY12 Appn

Time now is July 2020
You receive an invoice citing an **FY14** Procurement contract, citing an **FY12** Appn

**Appropriation Life - Example**

Procurement Appropriation (3-Year Availability)

**CURRENT**

FY12  FY13  FY14

FY 1  FY 2  FY 3

**NEW OBLIGATIONS**

OBLIGATION ADJUSTMENTS

EXPENDITURES

ACCOUNTING IDENTITY

**EXPIRED ACCOUNT**

FY15  FY16  FY17  FY18  FY19

FY 4  FY 5  FY 6  FY 7  FY 8

**NO NEW OBLIGATIONS**

**CANCELLED**

FY20

**USE CURRENT APPROPRIATION**

Limited to lesser:
- 1% of current appropriation
- Unexpended balance of cancelled appropriation

**Time now is July 2020**
**Appropriation Life - Example**

Procurement Appropriation (3-Year Availability)

**CURRENT**
- FY14
- FY15
- FY16
- FY1
- FY2
- FY3

**EXPIRED ACCOUNT**
- FY17
- FY18
- FY19
- FY20
- FY21
- FY4
- FY5
- FY6
- FY7
- FY8

**CANCELLED**
- FY22
- FY9

**NEW OBLIGATIONS**

**NO NEW OBLIGATIONS**

**OBLIGATION ADJUSTMENTS**
- Limited to lesser:
  - 1% of current appropriation
  - Unexpended balance of cancelled appropriation

**ACCOUNTING IDENTITY**

**Time now is July 2020**
You receive an invoice citing an FY14 Procurement contract, citing an FY14 Appn
Appropriation Life - Example
Procurement Appropriation (3-Year Availability)

CURRENT
FY14 FY15 FY16

NEW OBLIGATIONS

OBLIGATION ADJUSTMENTS

EXPENDITURES

ACCOUNTING IDENTITY

EXPIRED ACCOUNT
FY17 FY18 FY19 FY20 FY21

NO NEW OBLIGATIONS

USE CURRENT APPROPRIATION
Limited to lesser:
- 1% of current appropriation
- Unexpended balance of cancelled appropriation

CANCELLED FY22
FY9

You receive an invoice citing an FY14 Procurement contract, citing an FY14 Appn

Time now is July 2020
Anti-deficiency Act
Title 31, U.S. Code, Sec 1341, 1342 & 1517

• Prohibits making or authorizing an obligation *in excess* of the amount available
  • 1517(a) – Can’t spend more than you have, at the *apportionment* level
  • 1341(a) – Can’t spend more than you have, at the *appropriation* level
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- Requires agency to fix responsibility for violations of the Act
- 1342 – Can’t accept voluntary service or gifts (without statutory authority)

Amount

- Appropriation
- Apportionment
- Allocation
- Allotment
  • suballocotments
- Allowance
Amount, at what level?

Appropriation from Congress

Apportionment from OMB

Allotment from OSD Comptroller

Sub-Allotment from Service Comptroller

Allocation from MAJCOM/TYCOM/ SYSCOM Comptroller

PMO/Wing/Base/Region

An Allocation can come from an allotment or a sub-allotment.


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• Congress has the final word
• Earmarking . . . . Spend not less than, can’t spend until Agency, spend specifically for . . .
• Antideficiency Act
  • spending more than you have
  • accepting voluntary services (Congress see this as spending more money than it gave you)
Augmentation of Appropriations

• Can’t supplement an appropriation without specific statutory authority
  • Leases & Fees
  • Sales of USDA products
  • Customs fines and penalties
  • Sale of surplus public property

• Can’t: Collect conference fees to offset costs of the conference

• Mix funds from one year to another – example, paying an obligation using current year money for an obligation that occurred the prior year (Example: Constructive change to a contract for work done in the prior year.)
Violations

• What if I’m not sure it would be a violation?
• When would/could it happen?
• What happens when it does?
• What happens if I can’t fix it?
How do I find what I don’t know?

- Always start with your Comptroller
- Contracting Officer
- Office of Counsel
- Comp. Gen Decisions
  - GAO Red Book *(Principles of Federal Appropriations Law)*
A New Question?

Budget and Accounting Act of 1921: Directed to investigate the receipt, disbursement, and application of public funds . . .”

Comptroller General will give an Advance Decision, if asked.

Talk to your comptroller
When could it happen?
Apportionment Process

- Congress
  - Provides Budget Authority
  - Investment – Annual
  - Expense – Quarterly
  - Defer/ Rescind

- OMB
  - Technical Withholds
  - Administrative Withholds
  - General Reductions

- OSD Comptroller
  - Withholds
  - General Reductions

- Service Comptroller
  - Withholds
  - General Reductions

- MAJCOM/TYCOM/ SYSCOM Comptroller
  - Withholds
  - General Reductions

- PMO/Wing/ Base/Region
  - Withholds
  - General Reductions

Appropriaion

Apportionment

Allocation

Sub-Allocation

Allotment
Money in; Money out

1. Appropriation
   - 1. Unapportioned Authority
   - 2. Apportioned
     - 3. Allotted/Allocated
   - 4. Committed
     - 5. Obligated
       - 6. Undelivered Orders - Unpaid
       - 7. Delivered Orders - Unpaid
       - 8. Delivered Orders - Paid
Monetary Concepts

Budget Authority
Credit Card Spending Limit

Commitment Verification of Available Funds for a specific purpose, e.g., a PR

Legal Reservation of Funds
Obligation A legal/binding relationship, e.g., a signed contract

Expenditure Making the Payment (usually DFAS)

Outlay Debiting account books for the payment

P - Purpose
T - Time
A - Amount or
C - Color
Y - Year
A - Amount

Administrative Reservation of Funds
Monetary Concepts

- Budget Authority
- Credit Card Spending Limit

**Administrative Reservation of Funds**
- **Commitment**
  - Verification of Available Funds for a specific purpose, e.g., a PR

**Legal Reservation of Funds**
- **Obligation**
  - A legal/binding relationship, e.g., a signed contract

**Expenditure**
- Making the Payment (usually DFAS)

**Outlay**
- Debiting account books for the payment

**Simultaneous with EFT**

**Key Information**
- **P** - Purpose
- **T** - Time
- **A** - Amount or
- **C** - Color
- **Y** - Year
- **A** - Amount
Commitments

- A commitment is the amount of the allotment/ allocation reserved in anticipation of an obligation.
- A commitment is an administrative reservation of funds.
- Does it synch with the spend plan?

For example, submitted purchase request to the contracting shop.
Commitments

• A commitment is the amount of the allotment/ allocation reserved in anticipation of an obligation.

• A commitment is an administrative reservation of funds.

• Does it synch with the spend plan?

For example, submitted purchase request to the contracting shop
• Unauthorized Commitments: Funds must be concurrent to the “commitment”
  – What is an unauthorized commitment? A commitment by an unauthorized agent to a contractor –
    • Can be ratified
    • Funds were and are available
    • Price fair and reasonable
Obligations

• A binding commitment to pay for orders placed, contracts awarded, services received, and other similar transactions requiring payments

• The agency obligates budgetary authority, receives and uses products and services, and prepares and certifies vouchers and invoices for payment

When the contracting officer signed the contract (separate from recording the contract in the accounting system)
Obligations

- A binding commitment to pay for orders placed, contracts awarded, services received, and other similar transactions requiring payments
- The agency obligates budgetary authority, receives and uses products and services, and prepares and certifies vouchers and invoices for payment

When the contracting officer signed the contract (separate from recording the contract in the accounting system)
Delivered Orders

• The receipt of goods or services against a valid obligation
• Verify correctness of receipt
• Documentation
Delivered Orders

- The receipt of goods or services against a valid obligation
- Verify correctness of receipt
- Documentation
Expenditures/Outlay

• Confirmation of receipt is usually followed by expenditure – an outlay to the supplier from the Treasury

• Debit against the corresponding obligation

EFT: Expenditure = Outlay
Check Expenditure ⇔ Outlay
Expenditures/Outlay

• Confirmation of receipt is usually followed by expenditure – an outlay to the supplier from the Treasury

• Debit against the corresponding obligation

EFT: Expenditure = Outlay
Check: Expenditure = Outlay
Fixing an oops
The BIG rule!

“It's easier to ask forgiveness than it is to get permission.”

– As quoted in the U.S. Navy's Chips Ahoy magazine (July 1986)

Rear Admiral Grace Hopper
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Possible Local Actions

• Cancel the obligation (deobligate all of it)
• Descope (deobligate some of it)
• Administrative correction
  – Take out the wrong color and put in the right color
  – Usually means swapping out accounting data
Reprogramming is the use of funds for purposes other than originally appropriated

- Provides flexibility in execution of programs
- Reprogramming rules are based on agreements between DoD and Congress
- Funds can only be reprogrammed within the same fiscal year, not between fiscal years

Types of reprogramming actions:

- Below-Threshold Reprogramming (BTR) (DD 1416)
- Internal Reprogramming (DD 1415-3)
- Congressional Notification Letter (in advance of initiation)
- Congressional Prior Approval (DD 1415-1)
Reprogramming Actions

- Below Threshold Reprogramming (BTR)
  - “Rules” (not law) may be in annual report language for each appropriation
  - Thresholds are applied at different levels depending on the appropriation
  - New starts cannot be initiated with BTR authority
  - Authority does not apply to Congressional special interest items (SIs) and previous Congressionally denied items
  - Thresholds guidance updated in 2015 FMR
Reprogramming Actions

- Congressional Prior Approval:
  - Exceeding BTR amounts
  - Increase in major end item quantities
  - Congressional special interest items (SI)
  - Some program terminations
  - Requires HAC/SAC & HASC/SASC letter approval; intelligence actions require House/Senate Intelligence Committees approval
## Below Threshold Reprogrammings

<table>
<thead>
<tr>
<th>APPRN</th>
<th>MAX INCREASE</th>
<th>MAX DECREASE</th>
<th>LEVEL OF CONTROL</th>
<th>OBL AVAIL</th>
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</thead>
<tbody>
<tr>
<td>RDT &amp; E</td>
<td>Lesser of $10M or 20%*</td>
<td>Lesser of $10M or 20%*</td>
<td>PROGRAM ELEMENT</td>
<td>2 YEARS</td>
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<td>PROC</td>
<td>Lesser of $20M or 20%*</td>
<td>Lesser of $20M or 20%*</td>
<td>LINE ITEM</td>
<td>3 YEARS</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>(5 YEARS SCN)</td>
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<tr>
<td>O &amp; M</td>
<td>$15M</td>
<td>$15M</td>
<td>BUDGET ACTIVITY or DEFENSE AGENCY</td>
<td>1 YEAR</td>
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<td></td>
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<td></td>
<td>SOME BA 1 SUB-ACTIVITY LIMITATIONS ON DECREASES (OPERATING FORCES)</td>
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<tr>
<td>MILPERS</td>
<td>$10M</td>
<td>No Congressional restriction</td>
<td>BUDGET ACTIVITY</td>
<td>1 YEAR</td>
</tr>
<tr>
<td>MILCON</td>
<td>Lesser of $2M or 25%</td>
<td>No Congressional restriction</td>
<td>PROJECT</td>
<td>5 YEARS</td>
</tr>
</tbody>
</table>

*Reference: FMR Vol 3; 060401D*
Reprogramming Level

RDT&E
- Budget Activity
  - Program Elements
    - Projects

Procurement
- Budget Activity
  - Line Item

O&M
- Budget Activity
  - Activity Group
    - Sub Activity

MILPER
- Budget Activity
  - Activity Group
    - Sub Activity

MILCON
- Budget Activity
  - Activity Group
    - Project
What happens if you can’t fix it?

Sad to be you!
So what happens to me?

• **Administrative**
  – An officer or employee who violates . . . "shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office

• **Penal**
  – An officer or employee who "knowingly and willfully" violates any of the three provisions cited above "shall be fined not more than $5,000, imprisoned for not more than 2 years, or both

• The agency head "shall report immediately to the President (Via OMB) and Congress all relevant facts and a statement of actions taken

• Simultaneous report to the Comptroller General (Head of GAO)
Let’s see some examples
Who are the knuckleheads?

Find the dirt!

## Specific Violations

<table>
<thead>
<tr>
<th>Year</th>
<th>Owner</th>
<th>31 USC #</th>
<th>Amount</th>
<th>Issue</th>
<th>Remedial Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>Army NG</td>
<td>1342</td>
<td>$30,220</td>
<td>Army NG accepted volunteer services from civilians who helped conduct training</td>
<td>Counseling and Letter of Reprimand</td>
</tr>
<tr>
<td></td>
<td>Army</td>
<td>1301, 1341</td>
<td>$2,827</td>
<td>Bottled drinking water; Funds not appropriated for this</td>
<td>Training</td>
</tr>
<tr>
<td>2006</td>
<td>NOAA</td>
<td>1341</td>
<td>$0</td>
<td>1923 - 2005. Open-ended indemnification clauses with nonprofit entities = open-ended obligations</td>
<td>Renegotiated agreements</td>
</tr>
<tr>
<td></td>
<td>USAID</td>
<td>1341</td>
<td>$7,484,573</td>
<td>Entered into 5 year lease agreement w/out availability of funds clause</td>
<td>Financial responsibilities and delegation of authority to execute leases removed from office</td>
</tr>
<tr>
<td>2007</td>
<td>NASA</td>
<td>1517</td>
<td>$1,677,000,000</td>
<td>Overobligated balance of carryover/multiyear appn</td>
<td>Demonstrate to Administrator of new preventive admin controls</td>
</tr>
<tr>
<td></td>
<td>Navy</td>
<td>1301, 1341</td>
<td>$19,337</td>
<td>Bought meals and gifts for employees at banquet</td>
<td>CO: Admin discipline; XO relieved, i.e., fired</td>
</tr>
<tr>
<td>Year</td>
<td>Owner</td>
<td>31 USC #</td>
<td>Amount</td>
<td>Issue</td>
<td>Remedial Action</td>
</tr>
<tr>
<td>------</td>
<td>-------</td>
<td>----------</td>
<td>--------------</td>
<td>------------------------------------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------</td>
</tr>
<tr>
<td>2008</td>
<td>Navy</td>
<td>1517</td>
<td>$311,076</td>
<td>Overobligated allocation during Continuing Resolution</td>
<td>Letters of reprimand</td>
</tr>
<tr>
<td></td>
<td>USMC</td>
<td>1517</td>
<td>$4,090,625</td>
<td>Used O&amp;M (vice Procurement, MC) for IT</td>
<td>Counselled, letters of caution, retired</td>
</tr>
<tr>
<td>2009</td>
<td>AF (AWC)</td>
<td>1341</td>
<td>$21,760</td>
<td>Bought light refreshments over 5 years for regional studies events hosted by AWC</td>
<td>Letter of caution and retirement</td>
</tr>
<tr>
<td></td>
<td>Army</td>
<td>1341</td>
<td>$32,144,000</td>
<td>AMC used OMA instead of MILCOM for major MILCON without congressional approval or enough MILCOM money. Discovered during DOD IG audit.</td>
<td>3 &quot;memorandums of concern&quot;</td>
</tr>
<tr>
<td>2010</td>
<td>DISA</td>
<td>1341</td>
<td>$1,923,460</td>
<td>No MILCON available so DISA split construction into 5 increments to keep pieces below $750K threshold for minor construction (10 U.S.C. § 2805). Funded with O&amp;M and DWCF</td>
<td>5 days without pay, letter of caution, 2 already retired</td>
</tr>
<tr>
<td></td>
<td>USMC</td>
<td>1301, 1517</td>
<td>$810,981</td>
<td>Used Procurement, MC rather than MILCON</td>
<td>2 letters of caution and one relieved of duties as Supervisory Eng Tech</td>
</tr>
<tr>
<td></td>
<td>USMC</td>
<td>1341, 1502</td>
<td>$87,492</td>
<td>Bought training in year X for unspecified delivery dates in year X+1</td>
<td>Letter of caution</td>
</tr>
</tbody>
</table>
## Antideficiency Act Reports – Fiscal Year 2015

The United States Government Accountability Office provides this information from reports sent to GAO as required by sections 1351 and 1517(b) of Title 31 of the U.S. Code. Please visit the GAO Antideficiency Act violation report Web site (www.gao.gov/legal/lawresources/antideficiency.html) for more information regarding the Antideficiency Act and reporting requirements.

<table>
<thead>
<tr>
<th>GAO No.</th>
<th>Agency No.</th>
<th>Agency</th>
<th>Account(s)</th>
<th>Date Reported to GAO</th>
<th>Date(s) of Violation(s)</th>
<th>Amount Reported</th>
<th>Type of Violation</th>
<th>Description</th>
<th>Remedial Action Taken</th>
</tr>
</thead>
<tbody>
<tr>
<td>GAO-ADA-15-14</td>
<td>None</td>
<td>Executive Office of the President, Office of Management and Budget (OMB)</td>
<td>Salaries and Expenses, 100-55-0300</td>
<td>September 16, 2015</td>
<td>October 6, 2014 through January 26, 2015</td>
<td>None reported</td>
<td>31 U.S.C. § 1342</td>
<td>OMB reported that a violation of the Antideficiency Act occurred within its Management and Operations Division when OMB accepted voluntary services from a student intern from October 6, 2014 through January 26, 2015. OMB reported that it was later determined that the student intern did not meet the necessary half-time enrollment requirement pursuant to the voluntary services exception for student interns under 5 U.S.C. § 3111.</td>
<td>OMB reported that it immediately terminated the relationship with the student upon realizing the error. OMB determined that none of the individuals involved in hiring the student were aware that the student was enrolled less than half-time at the student’s educational institution. OMB also reported that its staff has not found any evidence that the violation was committed with willful or knowing intent, and that no disciplinary action was taken. OMB reported that to prevent a recurrence of this type of violation in the future, it has instituted a new standard operating procedure and checklist for on-boarding of student interns, implemented new documentation requirements, centralized its recruiting process, familiarized its management and staff on the new policies and procedures, and posted the new policy documents on its internal website.</td>
</tr>
</tbody>
</table>

*Source: Unaudited information GAO extracted from agency Antideficiency Act reports; for further information about a specific report, please contact the relevant agency*

United States Government Accountability Office

Why does it happen?

• Lack of or weak training
• Lack of/weak/ignored internal controls
• Lack of familiarity with current Appropriation and Authorization Acts
• Willful ignorance (turning a blind eye)
• Unwilling to stand tall
• Exceeding scope
• MILCON $1M with O&M
• Investments with O&M $250K
• Not familiar with GAO Red Book, Chapter 4
How to prevent it

• Lack of or weak training
• Lack of/weak/ignored internal controls
• Lack of familiarity with current Appropriation and Authorization Acts
• Willful ignorance (turning a blind eye)
• Unwilling to stand tall
• Exceeding scope
• MILCON > $1M with O&M
• Investments with O&M ≥ $250K
• Not familiar with GAO Red Book, Chapter 4