



December 23, 2025

VIA Electronic Delivery

U.S. Government Accountability Office
The Honorable Gene Dodaro
Comptroller General of the United States
441 G Street, NW Washington, DC 20548
OfficeoftheComptrollerGeneral@gao.gov
AntideficiencyActRep@gao.gov

Re: Potential violations of the Antideficiency Act

Dear Comptroller General Dodaro:

Democracy Forward Foundation (“DFF”), a national legal organization that conducts investigations and litigation to promote government accountability, is writing to inform the U.S. Government Accountability Office (“GAO”) of serious potential violations of the Antideficiency Act (“ADA”) during the historic government shutdown of October and November 2025. Congress enacted the ADA to ensure that executive branch officials do not incur obligations or expend funds absent lawful appropriations.¹ The ADA is an important safeguard for our Constitution’s command that no money be spent without lawful appropriation, and it is critical that violations do not go unaddressed. As the Department of Justice’s Office of Legal Counsel wrote in an opinion in 1980,

“The manifest purpose of the Antideficiency Act is to insure that Congress will determine for what purposes the government’s money is to be spent and how much for each purpose. This goal is so elementary to a proper distribution of governmental powers that when the original statutory prohibition against obligations in excess of appropriations was introduced in 1870, the only responsive comment on the floor of the House was, ‘I believe that is the law of the land now.’”²

The ADA prohibits federal officers and employees from (1) making or authorizing expenditures or obligations in excess of available appropriations or before an appropriation is made and (2) accepting voluntary services for the government or employing personal services beyond those

¹ 31 U.S.C. §§ 1341–1342, 1517.

² *Applicability of the Antideficiency Act Upon a Lapse in an Agency’s Appropriation*, Department of Justice (April 25, 1980), <https://www.justice.gov/olc/opinion/applicability-antideficiency-act-upon-lapse-agency%E2%80%99s-appropriation>

authorized by law, except in narrow circumstances.³ The Act further prohibits agencies from obligating funds in excess of or in advance of apportionments established under law.⁴

As GAO has recognized, the Antideficiency Act is a core fiscal control statute that implements agency fiscal discipline and is central to Congress's constitutional control of federal spending.⁵ GAO's reviews have included an explicit focus on whether agencies have systems in place to prevent, detect, investigate, and address ADA violations, and whether appropriate disciplinary actions are taken, indicating that a failure to investigate or remedy violations weakens internal controls and accountability.⁶ Moreover, GAO's annual compilations of ADA reports emphasize that agencies must report violations and remedial actions taken, underscoring the importance of addressing ADA violations rather than allowing them to persist unexamined.⁷

Accordingly, we urge GAO to review the potential ADA violations identified below, as well as in Appendix A, to determine whether obligations, expenditures, or personnel practices during the government shutdown of October and November 2025 violated the law. Failure to investigate and address potential violations may create incentives for agencies to circumvent funding limits during future lapses. We appreciate GAO's vital role in the oversight of our nation's budget and spending, and urge you to identify any violations and recommend corrective actions.

I. Government-Wide Layoffs and Reductions-in-Force

During the shutdown, President Donald J. Trump, the Office of Management and Budget ("OMB"), and the Office of Personnel Management ("OPM") engaged in planning and actions that would have federal agencies prepare for mass layoffs and reductions-in-force ("RIFs") of federal employees as a direct consequence of the lapse of appropriations. President Trump publicly stated on social media that he would meet with OMB Director Vought to "determine which of the many 'Democrat Agencies' most of which are a political SCAM, he recommends to be cut, and whether or not those cuts will be temporary or permanent."⁸ The White House press office and OMB circulated directives urging agencies to consider RIF planning for programs subject to a lapse in funding and Vought reportedly told lawmakers that layoffs would begin in a

³ 31 U.S.C. §§ 1341(a)(1), 1342.

⁴ 31 U.S.C. § 1517.

⁵ See e.g., U.S. Gov't Accountability Off. *Office of Science and Technology Policy Violation of the Antideficiency*, 3 (Nov. 2, 2011), <https://www.gao.gov/assets/gao-12-200t.pdf>.

⁶ See e.g., U.S. Gov't Accountability Off., DOD Financial Management: Improvements Are Needed in Antideficiency Act Controls and Investigations, GAO-08-1063 (2008), <https://www.gao.gov/products/gao-08-1063>.

⁷ See e.g., U.S. Gov't Accountability Off., Fiscal Year 2024 Antideficiency Act Reports Compilation, B-336351 (Dec. 20, 2024), <https://www.gao.gov/products/b-336351>.

⁸ Christian Datoc & Mabinty Quarshie, *Trump marvels at 'unprecedented opportunity' for federal layoffs on day two of shutdown*, Wash. Examiner (Oct. 2, 2025), <https://www.washingtonexaminer.com/news/white-house/3832227/shutdown-day-two-trump-imminent-federal-layoffs>.

day or two if the shutdown persisted.⁹ In addition, various agencies took actions to implement RIFs at their agencies during the shutdown, including the Department of Commerce (“DOC”), the Department of Education (“Ed”), the Environmental Protection Agency (“EPA”), and the Department of Health and Human Services (“HHS”).¹⁰

II. Troop Payment During the Shutdown

Also during the shutdown, the Trump-Vance administration publicly announced that active-duty military service members would continue to receive pay despite the absence of enacted funding for the Department of Defense (“DOD”). To accomplish this, the White House and the DOD reportedly redirected funds from multiple existing accounts that were not expressly appropriated for military payroll, including research and development, and other unobligated accounts, and facilitated the acceptance of a large private donation intended to cover troop salaries.¹¹

III. The Coast Guard Purchased Two Gulfstream G700 Private Jets

On October 18, 2025, in the middle of the government shutdown, the United States Coast Guard (“USCG”) entered into a contract with Gulfstream to purchase two Gulfstream G700 private jets to support the travel of Secretary of Homeland Security Kristi Noem.¹² Members of Congress have raised concerns about the source of the \$172 million used for the purchase of these airplanes.¹³

⁹ Emily Hallas, *Trump to meet with Vought ‘of Project 2025 fame’ to determine which agencies to cut*, Wash. Examiner (Oct. 2, 2025), <https://www.washingtonexaminer.com/news/white-house/3834005/trump-meet-vought-project-2025-fame-determine-agency-cuts>; Tamara Keith, *White House threatens layoffs - not furloughs - if the government shuts down*, OPB (Sept. 25, 2025), <https://www.opb.org/article/2025/09/25/white-house-threatens-layoffs-if-the-government-shuts-down>.

¹⁰ Eric Katz, *Trump’s Promised Shutdown Layoffs Lead to At Least 4,200 Cuts at Seven Agencies*, Government Executive (Oct. 10, 2025), <https://www.govexec.com/workforce/2025/10/substantial-layoffs-begin-federal-agencies-white-house-says>.

¹¹ See e.g. Monica Alba & Courtney Kube, *Trump administration says members of the military will get paid Friday despite the government shutdown*, NBC News (Oct. 30, 2025), <https://www.nbcnews.com/politics/trump-administration/trump-administration-military-members-will-get-paid-friday-shutdown-rcna241031>; Anastasia Obis, *White House taps multiple accounts to pay troops amid shutdown*, Federal News Network (Oct. 30, 2025), <https://federalnewsnetwork.com/pay/2025/10/white-house-taps-multiple-accounts-to-pay-troops-amid-shutdown/>; Amelia Benavides-Colon, *Vance Says Trump Administration Has Found a Way to Pay the Military This Week*, NOTUS (Oct. 28, 2025), <https://www.notus.org/trump-white-house/vance-says-trump-administration-has-found-a-way-to-pay-the-military-this-week>; Tyler Pager, *Donor Who Gave \$130 Million to Pay Troops is Reclusive Heir to Mellon Fortune*, N.Y. Times (Oct. 25, 2025), <https://www.nytimes.com/2025/10/25/us/politics/timothy-mellon-donation-troops.html>.

¹² See Catie Edmondson, *Coast Guard Buys Two Private Jets for Noem, Costing \$172 Million*, N.Y. Times (Oct. 18, 2025), <https://www.nytimes.com/2025/10/18/us/politics/kristi-noem-dhs-gulfstream.html>.

¹³ House Comm. on Appropriations, *DHS Secretary Kristi Noem Spends \$200 Million of Taxpayer Money on Pair of Gulfstream G700 Private Jets During Government Shutdown* (Oct. 18, 2025), Democrats - House Appropriations Cmte. (press release),

The ADA prohibits federal officials from obligating or expending federal funds in excess of or in advance of appropriations, or from using appropriated funds for purposes not authorized by Congress. The examples described above involve senior executive branch officials directing or preparing actions during a lapse in appropriations that may create new financial obligations, including the redirection of funds, acceptance or use of non-appropriated sources to substitute for congressional funding, and the initiation of personnel actions such as RIFs during a shutdown. Such conduct appears to involve the exercise of official authority to incur or plan obligations without lawful appropriations, potentially undermining Congress's constitutional power of the purse.

In light of the serious concerns raised by these incidents, we respectfully urge GAO to open investigations into these potential ADA violations.

Sincerely,

/s/ Skye L. Perryman

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President & CEO

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Appendix A

The examples contained here represent additional select potential Antideficiency Act violations that occurred during the federal government shutdown from October to November 2025 at numerous executive branch agencies.

- On [October 1, 2025](#), the Department of the Interior (“DOI”) announced plans to redirect funds and use recreation fees to keep national parks open. When Interior did this during the first Trump administration, the [Government Accountability Office \(“GAO”\)](#) found it to be a violation of the Antideficiency Act.
- On [October 2, 2025](#), the Department of Homeland Security (“DHS”) continued efforts to recruit staff for Immigration and Customs Enforcement (“ICE”) by posting opportunities on X.
- On [October 3, 2025](#): the Department of the Treasury (“Treasury”) touted their work on the development of the Trump commemorative coin. U.S. Treasurer Brandon Beach tweeted via his official government account, “No fake news here. These first drafts honoring America’s 250th Birthday and @POTUS are real. Looking forward to sharing more soon, once the obstructionist shutdown of the United States government is over.”
- On [October 13, 2025](#), DHS Secretary Kristi Noem announced that Coast Guard Members would get paid during the government shutdown after the agency “found an ‘innovative’ way to provide the money.”
- On [October 15, 2025](#): Federal Bureau of Investigation (“FBI”) Director Kash Patel announced that the FBI would continue to get paid despite the government shutdown.
- On [October 21, 2025](#): NOTUS reported that DHS was spending hundreds of thousands of dollars during the government shutdown on self-deportation ads praising President Trump. Additionally, since the shutdown, DHS increased its spending on pushing its self-deportation YouTube ads, according to [Google’s ad transparency center](#).