Potential Anti-Deficiency Act Violations

BACKGROUND:

- Per the Anti- Deficiency Act (ADA), federal employees are prohibited from obligating funds in excess of an appropriation, or before those funds are available, and from accepting voluntary services.
- EPA is currently reviewing three incidents regarding potential violations of the ADA. Such review includes two separate violations of the ADA's voluntary services prohibition in FY 2016, and a U.S. Government Accountability Office opinion related to the potential violation of the section 710 of the Financial Services and General Government Appropriations Act, 2017.
    - The alleged section 710 violation specifically related to the installation of a soundproof booth in former Administrator Pruitt's office.
- 31 U.S.C. § 1351 and OMB policy require that once an Anti-deficiency Act violation is known, agencies must send a letter signed by the Administrator through OMB to the President, the House, the Senate, and the Comptroller General.
- Potential and actual violations of the ADA are reported annually in the Agency's Annual Financial Report (AFR), due November 15th to Congress and OMB.

KEY POINTS:

- OCFO and OGC have made a determination that the incidents related to the acceptance of voluntary services are Anti-Deficiency Act violations.
    - OMB has approved the letters the Administrator will sign.
    - OCFO/OGC are briefing the Administrator on August 12, 2019, regarding next steps.
    - We are hopeful to report these incidents as closed in the annual AFR.
- Regarding the potential section 710 violation, the Agency continues its investigation into this incident.
- Once the voluntary services violations are reported to the President, Congress, and the Comptroller General, it is expected to garner media attention and raise questions about the section 710 potential violation, which is not yet resolved.
    - OCFO is working with OGC and OPA to prepare a desk statement.

ITEMS REQUIRING ACTING DEPUTY ADMINISTRATOR (ADA) ATTENTION:

- This memo is informational in nature given the high-profile nature of ADA violations. No actions required at this time.

KEY CONTACTS

- David Bloom, Deputy CFO, OCFO
- Maria Williams, Acting Director, OCFO Office of Budget
- Paige Hanson, Associate Deputy CFO, OCFO
- Matt Leopold, General Counsel, OGC

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