The Antideficiency Act (ADA)

What actions are prohibited?

- Making or authorizing an expenditure from, or creating an obligation under, any appropriation or fund in excess of the amount available in an appropriation. [31 U.S.C. § 1341(a)(1)(A)];
- Involving the federal government in any obligation to pay money before funds have been appropriated for that purpose, unless otherwise allowed by statute [31 U.S.C. § 1341(a)(1)(B)];
- Accepting voluntary services for the United States, or employing personal services not authorized by statute, except in cases of emergency involving the safety of human life or the protection of property (31 U.S.C. § 1342); or

> Note:
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> - Student volunteers are permitted (5 U.S.C. § 3111)
> - Gratuitous services (individual agrees in advance to perform services without the expectation of payment) are not voluntary within the meaning of the ADA.

- Making obligations or expenditures in excess of an apportionment or reapportionment [31 U.S.C. § 1517(a)].

What happens if an ADA violation occurs?

- Potential violations require investigation by OB and OGC. If it is determined that a financial transaction is reportable, the General Counsel will send a formal memorandum to the CFO.
- Consistent with 31 U.S.C. § 1351 and OMB Circular A-11, Section 145, *Requirements for Reporting Antideficiency Act Violations*, ADA violations must be reported (in the form of a letter from the Administrator) to the:
  - President
  - Speaker of the House
  - President of the Senate; and
  - Comptroller General.
- OMB Circular A-11 has model letters that require we report:
  - The position of the individual responsible for the violation
  - Any extenuating circumstances, including statements from those responsible
  - Any discipline that was or will be taken against the individual responsible
  - Policies adopted to ensure the violation doesn't happen again

What are the penalties for violating the ADA?

- Appropriate administrative discipline; and
- If the violation is *knowing and willful*, criminal prosecution.

Options

Ex. 5 AC/DP