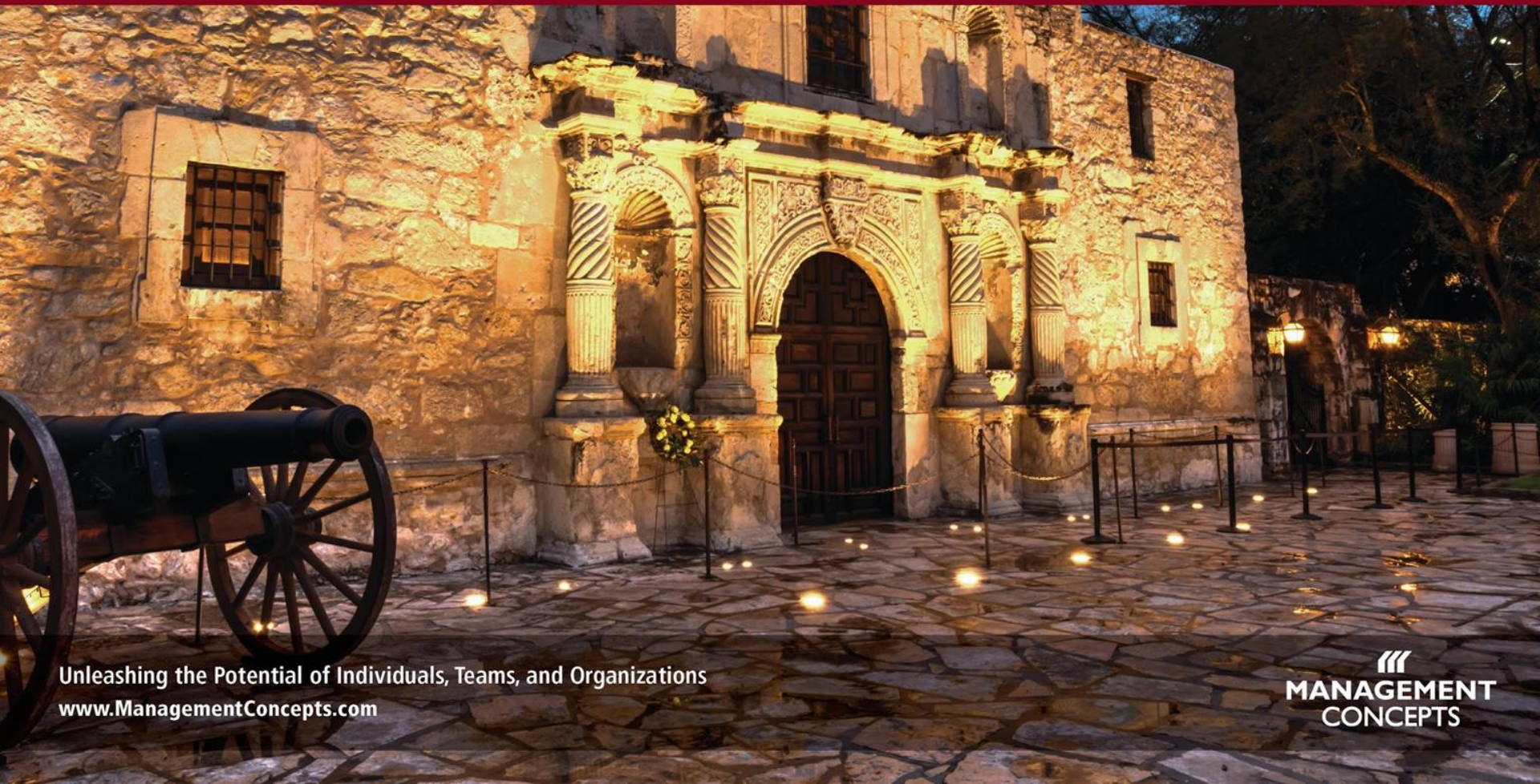


# ADA – Practical Application

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# Overview



- What is ADA?
- Power of PURSE
- ADA Statistics
- Fiscal Law Box
- ADA Laws
- Plan: Examples of violations
- What Can Cause Violations?
- Punishment
- How To Avoid...

# What is the Antideficiency Act (ADA)?

- Where Congress exercises its constitutional control of public purse
- Designed to prevent obligations in excess of amounts appropriated
- To prevent obligations in excess of apportionments and sub-divisions of apportionments

# Power of PURSE



**Purpose**



**Time**



**Amount**

# ADA Violation Statistics Last 13 Years (2005 - 2017)

	# Cases	\$ Millions	How Long?
DA	121	707	4 YR, 5 Mo
DAF	34	482	6 YR, 3 Mo
USN	46	297	4 YR
Agencies	13	223	5 YR, 11 Mo

NOTE: In 2006, NOAA reported 80 ADA violations. They spanned from 1923-1995. They were for open-ended indemnification clauses.

NOTE: In 2011, Health and Human Services reported 47 ADA violations totaling \$1.43 billion. Violations spanned from 2002-2010. Categories of violations encompassed improper, incremental, and forward-funding practices, as well as obligations of expired funds.

# Fiscal Law Box

1. Constitution and Laws

2. Case Law

- GAO/Courts/OLC

3. Rules / Regulations

- DOD FMR

4. Necessary Expense

- -3 tests

# What Laws Make Up ADA?

- The ADA is not one law, but many...
  - 31 USC 1341 – Appropriations Amount Limitation
  - 31 USC 1342 – Voluntary Services Prohibition
  - 31 USC 1349 – 1351
  - 31 USC 1511 – 1519
- And many more

# ADA – Practical Application

- Appropriation – 31 USC 1341
- Apportionment – 31 USC 1517
- Allotment – 31 USC 1517
- Sub-allotment – 31 USC 1517



# Appropriation

- **Agency/Account:** Army O&M
- **When/Where:** 2012 and 2013 Washington, DC
- **Amount:** \$6.2 million
- **What Happened?:** Army received earmark of \$5 million for Korean War 60<sup>th</sup> Anniversary Commemoration. Army overspent.

# Appropriation

- **Agency/Account:** Army O&M vs. MILCON
- **When/Where:** 2011 Bagram, Afghanistan
- **Amount:** \$18.8 million
- **What Happened?:** Total construction project for B-Huts at airfield was funded with O&M. Exceeded \$750,000 minor military construction threshold. Project was split. Was there a “knowing & willful” violation?

# Appropriation

- **Agency/Account:** AF Procurement
- **When/Where:** 2002 Hill AFB, UT
- **Amount:** \$301 million
- **What Happened?:** Obligated funds for missile procurement under CR in excess of authority prior to receipt of apportionment.

## 4 Don'ts

- Indemnification – 41 USC 6301
- Obligate in advance – 31 USC 1341
- Parking/Banking funds – 10 USC 2773
- Voluntary services – 31 USC 1342

# Indemnification

- **Agency/Account:** Army O&M
- **When:** 2007 Grafenwoehr, GE
- **Amount:** \$0
- **What Happened?:** Entered into escrow agreements for installation property for three military installations. Army provided full indemnification to escrow agent against all liabilities.

# Voluntary Services

- **Agency/Account:** Army NG O&M
- **When/Where:** 1998-1999 Oregon Army National Guard
- **Amount:** \$30,000
- **What Happened?:** Civilian technicians conducted training on weekends without compensation.

## 4 Mays

- **Allocation/Allowance:** 31 USC 1517
- **Augmentation:** Miscellaneous Receipts 31 USC 3302
- **Purpose:** 31 USC 1301
- **Time:** Bona Fide Needs – 31 USC 1502

# Augmentation Miscellaneous Receipts

- **Agency/Account:** Air Force O&M
- **When/Where:** 1998-2000 Hanscom AFB, MA
- **Amount:** \$310,000
- **What Happened?:** Collected reimbursements for state port authority into O&M account and then obligated funds. Should have been deposited into Treasury miscellaneous receipts account.



# Purpose

- **Agency/Account:** Navy WCF
- **When/Where:** 2012 San Diego
- **Amount:** \$2,444
- **What Happened?:** Navy procured ball bearings for a trainer aircraft from non-domestic source. NDAA requires purchase from domestic source.

# What Can Cause Violations?

- Lack of appropriate timely training
- Internal control is violated
- Minor construction in using O&M
- Equipment using O&M
- Not familiar with CH 3, GAO Red Book
- Severable/Non-severable
- Within scope change/Exceed scope change

# Punishment...

- Letter of admonishment
- Letter of concern
- Letter of caution
- Letter of notification
- Memo of reprimand
- Oral admonishment
- Oral counseling
- Verbal admonishment
- Verbal counseling
- Written counseling
- Written memorandum

# How To Avoid...

- Commit to annual training
- Establish and assess internal control
- Focus during annual SOA
- Review GAO emails and databases
- Read appropriation acts each year
- Purpose: Watch GPC buys

# Q&A



# THANK YOU!



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