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)

<table>
<thead>
<tr>
<th>Agencies</th>
<th># Cases</th>
<th>$ Millions</th>
<th>How Long?</th>
</tr>
</thead>
<tbody>
<tr>
<td>DA</td>
<td>121</td>
<td>707</td>
<td>4 YR, 5 Mo</td>
</tr>
<tr>
<td>DAF</td>
<td>34</td>
<td>482</td>
<td>6 YR, 3 Mo</td>
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<tr>
<td>USN</td>
<td>46</td>
<td>297</td>
<td>4 YR</td>
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<tr>
<td>Agencies</td>
<td>13</td>
<td>223</td>
<td>5 YR, 11 Mo</td>
</tr>
</tbody>
</table>

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 60th 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
THANK YOU!

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