

Congress of the United States
Washington, DC 20510

May 10, 2018

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Pruitt:

On April 16, 2018, the Government Accountability Office (GAO) issued a legal opinion that found that the Environmental Protection Agency (EPA) violated federal law when the agency obligated federal funds totaling \$43,238.68 on the installation of a soundproof privacy booth in the EPA Administrator's office. These obligations violated both the Antideficiency Act, which prohibits agencies from incurring obligations in excess of legally available amounts, and section 710 of Division E of the Consolidated Appropriations Act, 2017 (Public Law 115-31), which requires advance notification to the Committees on Appropriations of the House of Representatives and the Senate for obligations or expenditures in excess of \$5,000 to furnish or redecorate the office of the head of an agency.

Several weeks have passed, yet EPA has not transmitted the statutorily-required Antideficiency Act report regarding this violation, nor has the agency fulfilled related notification requirements regarding other expenditures made to furnish or redecorate your office, such as biometric locks and a "Captain's Desk". We are writing to urge you to immediately comply with the law by providing Congress and the GAO all statutorily-required information to enable our Committees to conduct proper oversight of these expenditures of taxpayer dollars.

Specifically, following a finding of a violation by GAO, the Antideficiency Act requires the head of the agency responsible for such violation to "immediately" report such violation to Congress, the President, and the Comptroller General.¹ OMB Circular A-11, which provides guidance regarding federal financial controls and budget execution, states that such reports must contain specific detail related to the violation, including all facts pertaining to the violation and any actions planned and taken to prevent recurrence of the same type of violation.²

¹ 31 U.S.C. 1351. Office of Management and Budget (OMB) Circular A-11 specifies that the report is to be transmitted to the President through the Director of the Office of Management and Budget. OMB Circular A-11, Part 4, Section 145.

² OMB Circular A-11, Part 4, Section 145.

In our leadership positions on the Congressional committees charged with overseeing EPA programs and spending, it is critical for us to examine what management and budgetary failures caused this violation and how EPA plans to remedy such failures. We urge you to comply with the statutory requirement to “immediately” transmit such notifications.

Further, we note that on April 25, 2018, EPA’s Chief Financial Officer transmitted a notification to the Committees on Appropriations of the House of Representatives and the Senate that retroactively fulfilled the notification requirement related solely to the privacy booth. We appreciate that notification; however, it was incomplete.

The notification requirement in section 710 applies to all such obligations or expenditures made in excess of \$5,000 “[d]uring the period in which the head of any department or agency, or any other officer or civilian employee of the Federal Government appointed by the President of the United States, holds office”.³ As such, EPA was legally obligated to report all such obligations and expenditures as soon as such amounts exceeded a cumulative total of \$5,000 since you took office on February 17, 2017. Our staff have learned that GAO communicated this cumulative requirement to EPA’s Office of General Counsel after GAO completed its examination of the obligations for the privacy booth.

Based on publicly-available documents and the magnitude of the expenditures on the privacy booth, it is clear that the cumulative \$5,000 threshold was reached early in your tenure at EPA. In fact, we note that publicly-available documents indicate that several large expenditures have been made that either would have contributed to triggering the \$5,000 threshold or should have been immediately reported if the threshold was already met. None of these expenditures have been reported to the Appropriations Committees, including:

- Biometric locks for \$3,389.50
- Captain’s Standing Desk for \$2,963.05
- Sit-to-Stand Table for \$2,514.73
- Executive Desk Refurnishing for \$2,075
- Portraits (two) for \$1,200

We urge you to fully comply with section 710 by resubmitting the April 25, 2018 notification with corrected data detailing each and every expenditure made in excess of the \$5,000 threshold. In addition, given EPA’s lack of transparency in this area, we request that you submit detailed data and descriptions of all obligations and expenditures comprising the first \$5,000 of spending prior to the section 710 threshold being met. Finally, we urge you to ensure that all additional obligations and expenditures related to the Administrator’s office are reported to the Appropriations Committees throughout the entirety of your tenure at EPA, as required by law.

³Pub. L. No. 115-31, Div. E, Tit. VII, General Provisions — Government-wide.

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Given your public statements regarding the importance of the “rule of law”, we expect you should appreciate the importance of complying with these statutory requirements related to EPA’s expenditures of taxpayer dollars. We expect your prompt compliance.

Sincerely,



Tom Udall

Ranking Member, Subcommittee on
Interior, Environment, and Related Agencies
Committee on Appropriations
United States Senate



Betty McCollum

Ranking Member, Subcommittee on
Interior, Environment, and Related Agencies
Committee on Appropriations
United States House of Representatives



Tom Carper

Ranking Member
Committee on Environment and
Public Works
United States Senate



Peter DeFazio

Ranking Member
Committee on Transportation and
Infrastructure
United States House of Representatives

CC: The Honorable Gene L. Dodaro, Comptroller General of the United States