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April 26, 2018

The Honorable E. Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Pruitt,

On April 16, 2018, the U.S. General Accountability Office (GAO) opined in writing that your agency, the U.S. Environmental Protection Agency (EPA), had violated federal law by spending more than \$43,000 on a soundproof phone booth for your use.¹ I write to demand that you now comply with this law, which requires you to report this violation to the President and Congress, and take appropriate disciplinary action in response.

Specifically, the GAO found that, when the EPA obligated \$43,238.68 on your phone booth, the agency violated the Antideficiency Act, 13 U.S.C. § 1341(a), which prohibits federal agencies from incurring obligations in excess of legally available amounts.² When an Antideficiency Act violation occurs, that law further provides that “the head of the executive agency . . . shall report immediately to the President and Congress all relevant facts and a statement of actions taken.”³ Finally, the Antideficiency Act requires that its violator be punished: “An officer or employee of the United States Government . . . violating section 1341(a) . . . of this title . . . shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.”⁴

In light of the obligations that the Antideficiency Act imposes on you, I request that you respond to the following questions in writing by May 10, 2018:

¹ Letter from Thomas H. Armstrong, General Counsel, U.S. Government Accountability Office, to Senators Tom Carper and Tom Udall and Representatives Peter DeFazio and Betty McCollum (Apr. 16, 2018), <https://www.gao.gov/products/B-329603#mt=e-report>.

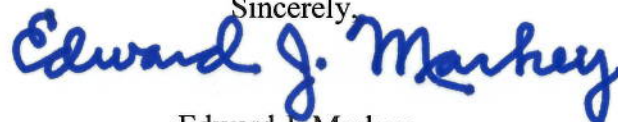
² 31 U.S.C. § 1341(a).

³ *Id.* § 1517(b).

⁴ *Id.* § 1349(a).

1. Have you, as the head of the EPA reported, to the President and the Congress all relevant facts and a statement of actions taken? If not, when do you intend to comply with this statutory provision?
2. Have you determined the mandatory “appropriate administrative discipline” for the Antideficiency Act violation? If so, who at EPA determined the administrative discipline, against whom is it being levied, what is it, and what was the basis for the level of discipline? If that discipline is not either suspension from duty without pay or removal from office, why not?
4. The EPA has an obligation to mitigate its violation of the Antideficiency Act.⁵ What steps has the EPA taken to mitigate its violation? If the EPA has not taken any steps, why not?
3. The Antideficiency Act, 13 U.S.C. § 1350, further provides: “An officer or employee of the United States Government . . . knowingly and willfully violating section 1341(a) . . . of this title shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.”⁶ Have you determined whether anyone at the EPA “knowingly and willfully” violated section 1341(a)? Please explain why or why not? If a knowing and willful violation occurred, have you referred the matter to the Department of Justice for prosecution? If not, why not?

Thank you in advance for your attention to these requests. If you have any questions, please contact Andrew Cohen of my staff at (202) 224-2742.

Sincerely,


Edward J. Markey
United States Senator

⁵ B-132900, Feb. 19, 1976, 55 Comp. Gen. 768.

⁶ 31 U.S.C. § 1350.