

June 2010

SECRET SERVICE

Additional Guidance Would Enhance Financial Management and Communication of Candidate Protection Spending to Congress



GAO

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Highlights of [GAO-10-762](#), a report to congressional committees

Why GAO Did This Study

Due to the unprecedented pace and crowds of the 2008 presidential campaign, the U.S. Secret Service (Secret Service), a component of the Department of Homeland Security (DHS), exceeded its budgeted amount for fiscal year 2009 presidential candidate nominee protection funding, but did not notify Congress of this shortfall (fiscal year 2009 shortfall) until June 2009—5 months after the Inauguration. In response to the Conference Report accompanying the 2010 DHS Appropriations Act, this report addresses the extent to which, at the time of the fiscal year 2009 shortfall, (1) Secret Service had the necessary internal controls in place to help ensure it could effectively manage and report on funds for presidential candidate protection; and (2) Secret Service and DHS had policies and procedures in place to help ensure that information related to the fiscal year 2009 shortfall was communicated to DHS and Congress. To conduct the audit work, GAO reviewed appropriation laws and regulations, Secret Service financial reports, and various DHS and Secret Service policy and procedural documents. GAO also interviewed officials from DHS and Secret Service.

What GAO Recommends

GAO recommends that DHS and Secret Service (1) document certain financial management, cost allocation, and benchmark procedures, and (2) provide guidance on remaining communications-related corrective actions. DHS concurred.

View [GAO-10-762](#) or [key components](#). For more information, contact David C. Maurer at (202) 512-9627 or maurerd@gao.gov, or Susan Ragland at (202) 512-9095 or raglands@gao.gov.

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Additional Guidance Would Enhance Financial Management and Communication of Candidate Protection Spending to Congress

What GAO Found

At the time of the fiscal year 2009 shortfall, Secret Service did not have—and still does not have—all of the necessary internal controls, including policies and procedures, in place to help ensure it can effectively manage and report on funds for presidential candidate protection. For example, the agency relied on undocumented manual processes to prepare and review two key reports—the Monthly Execution and Staffing Report and the Presidential Campaign Cost Report—used to monitor obligations, manage its funds by subaccounts, and report to Congress. Documenting the processes to prepare and review these reports could decrease the risk of future reporting errors and be useful to managers in controlling operations. Secret Service also did not have documented procedures for charging costs for certain candidate protection activities that cut across multiple subaccounts. The subaccounts are not discrete, and Secret Service officials stated that they lacked clarity and procedures on which to use to cover costs for certain protection activities. Documenting policies and procedures for charging such costs could be useful in controlling operations and monitoring budget execution. Also, neither DHS nor Secret Service had documented benchmarks to serve as an early warning system when monitoring obligations and expenditures for potential future funding shortfalls. Lastly, DHS' budget guidance did not specify how to develop such benchmarks. Developing and implementing guidance on how to document benchmarks could help ensure that any future potential shortfalls in presidential candidate protection funds are identified in a timely manner.

DHS and Secret Service lacked sufficient policies and procedures to ensure that information related to the fiscal year 2009 shortfall was communicated to DHS and Congress. At the time of the shortfall, DHS had written guidance on how to communicate a violation of the Antideficiency Act—which prohibits federal officials from obligating or expending funds in excess of appropriations—and notify Congress of a reprogramming, or shifting funds within an appropriation. However, because they mistakenly determined the guidance did not apply, Secret Service informed DHS of the shortfall and requested assistance in covering it. GAO issued a legal opinion determining that DHS and Secret Service violated reprogramming notification requirements and the Antideficiency Act. Further, DHS had no written guidance on communicating a reprogramming that did not require congressional notification. Since the shortfall, DHS and Secret Service developed a Corrective Action Plan (CAP) to address issues related to the shortfall. DHS implemented two of the four communication-related CAP measures, but has not provided written guidance for implementing the other two, which require that (1) components complete internal funding reviews prior to submitting reprogramming requests and articulate the negative impact of using internal resources to cover shortfalls, and (2) DHS provide timely submission of reprogramming notifications to the Appropriations Committees. Implementing these measures could help ensure better communication among Secret Service, DHS, and Congress in the event of future shortfalls, and help DHS and the committees assess whether DHS effectively provides information about potential shortfalls.

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Abbreviations

CAP	Corrective Action Plan
CFO	Chief Financial Officer
CFOC	Chief Financial Officer's Council
CFOC A-123 Guidance	Chief Financial Officers Council's <i>Implementation Guide for OMB Circular A-123, Management's Responsibility for Internal Control</i>
DHS	Department of Homeland Security
fiscal year 2009 shortfall	Fiscal Year 2009 Presidential Candidate Nominee Protection Funding Shortfall
NSSE	National Special Security Event
OCFO	Office of the Chief Financial Officer
OMB	Office of Management and Budget
PPA	Program, Project, or Activity
TOPS	Travel Manager, Oracle, PRISM, Sunflower system

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United States Government Accountability Office
Washington, DC 20548

June 30, 2010

The Honorable Frank R. Lautenberg
Interim Chairman
The Honorable George V. Voinovich
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
United States Senate

The Honorable David E. Price
Chairman
The Honorable Harold Rogers
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
House of Representatives

The U.S. Secret Service (Secret Service)—a component agency of the Department of Homeland Security (DHS)¹—protects, among others, major presidential and vice presidential candidates during presidential campaigns.² During the 2008 presidential campaign and 2009 Inauguration, Secret Service provided an unprecedented level of protection, including for more than 700 candidate campaign trips in the final weeks of the campaign, as well as the swearing-in ceremony, attended by an estimated 2 million people. In June 2009—7 months after the 2008 presidential election and 5 months after the Inauguration—DHS notified the Senate and House Appropriations Committees that the final protection costs associated with the 2008 presidential campaign and Inauguration exceeded the amount Secret Service had budgeted for fiscal year 2009 campaign protection and

¹Homeland Security Act of 2002, Pub. L. No. 107-296, title VIII, § 821,116. Among other things, this law transferred Secret Service from the Department of the Treasury to DHS, effective March 1, 2003.

²“Major” presidential and vice presidential candidates are determined by the DHS Secretary after consultation with an advisory committee consisting of the Speaker and minority leader of the House of Representatives, Senate majority and minority leaders and at least one other member chosen by the committee. Secret Service also protects, among others, the President and Vice President; the President- and Vice President-elect; former Presidents and their spouses; and, within 120 days of the general presidential elections, spouses of major presidential and vice presidential candidates. 18 U.S.C. sec. 3056(a)(7).

that it would reprogram \$5.1 million to cover this shortfall.³ In the Conference Report accompanying the 2010 DHS Appropriations Act, the conferees expressed concerns about the ability of DHS and Secret Service to provide timely budget information, and noted other instances of budgetary execution problems at Secret Service.⁴ The Conference Report also directed GAO to

- review the events surrounding the fiscal year 2009 presidential candidate nominee protection funding shortfall (fiscal year 2009 shortfall);
- determine whether Secret Service’s actions violated section 503 of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (section 503),⁵ which requires DHS to notify the Appropriations Committees 15 days in advance of reprogramming appropriated funds if the reprogramming exceeds \$5 million or 10 percent of the amount allotted for a particular activity, or the Antideficiency Act,⁶ which prohibits federal officials from obligating or expending funds in excess or advance of an appropriation; and
- identify any actions taken or provide recommendations for actions to be taken to address any violations.

On April 27, 2010, GAO issued a legal opinion determining that DHS and Secret Service violated section 503 and the Antideficiency Act.⁷ The legal opinion is reproduced in appendix I.

In accordance with the mandate, this report addresses (1) the extent to which Secret Service had the necessary internal controls, including financial management policies and procedures, in place to help ensure it could effectively manage and report on funds for presidential candidate protection, and (2) the extent to which Secret Service and DHS had policies and procedures in place to help ensure that information related to the fiscal year 2009 shortfall was communicated to DHS and Congress. As

³Reprogramming is the shifting of funds within an appropriation—from one object class to another or from one program activity to another—to use them for purposes other than those contemplated at the time of the appropriation. See GAO, *Glossary of Terms Used in the Federal Budget Process*, at 85, [GAO-05-734SP](#) (Washington, D.C.: September 2005).

⁴H.R. Conf. Rep. No. 111-298, at 92 (2009).

⁵Pub. L. No. 110-329, div. D., § 503, 122 stat. 3652, 3680 (Sept. 30, 2009).

⁶31 U.S.C. § 1341 (a)(1)(A).

⁷GAO, *U.S. Secret Service—Statutory Restriction on Availability of Funds Involving Presidential Candidate Nominee Protection*, B-319009 (Apr. 27, 2010).

our report was focused on financial management internal controls and communication among DHS, Secret Service, and the Appropriations Committees regarding presidential candidate protection funding, we did not assess the appropriateness of overall fiscal year 2009 presidential candidate protection spending. On April 27, 2010, we briefed the staff of the Senate and House Appropriations Subcommittees on Homeland Security regarding information contained in this report.

To address our objectives, we reviewed and analyzed DHS and Secret Service policies and procedures for funds control in place during the fiscal year 2009 shortfall, which we compared against *Standards for Internal Control in the Federal Government*,⁸ to determine if they were designed to help ensure that Secret Service could effectively manage and report on funds for presidential candidate protection, and help prevent violations of the Antideficiency Act. We also reviewed and analyzed section 503, the Antideficiency Act, Office of Management and Budget (OMB) Circular A-11,⁹ and internal DHS guidance—such as the fiscal year 2009 Budget Execution Guidance—to compare the policies and procedures in place during the fiscal year 2009 shortfall to maintain compliance with these laws and regulations against communication and actions taken by Secret Service and DHS officials. Further, we compared the November 2009 DHS Chief Financial Officer (CFO)–Secret Service Corrective Action Plan (CAP) against the Chief Financial Officers Council’s Implementation Guide for OMB Circular A-123, Management’s Responsibility for Internal Control (CFOC A-123 Guidance)—widely viewed as a “best practices” methodology for developing and executing CAPs.¹⁰ We did so in order to determine whether the CAP was developed and executed in accordance with this guidance. In addition, we reviewed and analyzed updated policies and procedures in place since the fiscal year 2009 shortfall—such as the fiscal year 2010 Budget Execution Guidance and the DHS CFO Financial Management Policy Manual Draft of Section 2.4–Budget Execution—which we compared against the CAP to determine the extent to which the CAP measures had been incorporated into guidance. We also reviewed and

⁸GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

⁹OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget* (June 2008). This circular was updated in March 2010.

¹⁰Chief Financial Officer’s Council, *Implementation Guide for OMB Circular A-123, Management’s Responsibility for Internal Control Appendix A, Internal Control Over Financial Reporting* (July 2005).

analyzed Secret Service financial reports to determine if they provided financial management officials with adequate information for decision-making purposes. We discussed the reports' methodology with Secret Service officials and determined that the results are sufficiently reliable for the purposes of this review. As this was not a financial audit, we did not trace individual transaction-level information to source documentation, nor did we assess the reliability of information drawn from financial management and personnel systems that fed into these reports.

In addition, we interviewed Secret Service and DHS financial management officials to determine whether these officials had adequate financial management information for decision-making purposes. We also interviewed Secret Service and DHS officials to determine the management and reporting process for the fiscal year 2009 presidential campaign protection costs. Finally, we interviewed budget officials and congressional liaisons at Secret Service and DHS involved in communication related to the fiscal year 2009 shortfall to describe their role in (1) communicating the shortfall among Secret Service, DHS, and the Appropriations Committees; (2) taking actions to address the shortfall; and (3) developing and implementing new or revised policies and procedures to address potential future funding shortfalls.

We conducted this performance audit from November 2009 to June 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the work to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

Background

Secret Service has two missions—conducting criminal investigations and providing protection. The criminal investigative mission includes conducting investigations in areas such as financial crimes, identity theft, counterfeiting, computer fraud, and computer-based attacks on banking, financial, and telecommunications infrastructure, among other activities. As part of the protective mission, Secret Service protects, among others, the sitting President and Vice President and their families; major presidential and vice presidential candidates and, within 120 days of the general presidential elections, their spouses; the President- and Vice President-elect; and former presidents and their spouses.

In addition to day-to-day protection activities, Secret Service is required to provide protection for National Special Security Events (NSSE).¹¹ The NSSE designation was established by statute in December 2000, for “special events of national significance” requiring significant law enforcement presence. The kinds of events categorized as NSSEs include presidential inaugurations, international summits held in the United States, major sporting events attended by protected persons, and presidential nominating conventions. For instance, during the 2008 presidential campaign and the 2009 Inauguration, a number of events were designated as NSSEs, including both the Democratic and Republican Nominating Conventions, and the concert celebrating the Inauguration on the National Mall. Designations are at the discretion of the President, signed by the Secretary of DHS, generally on the basis of the size of the event, its significance, and importance of anticipated attendees. Since fiscal year 2007, Secret Service has received \$1 million annually in appropriations towards NSSE funding, which is available until expended.

Like other federal agencies receiving annual appropriations, Secret Service must comply with a variety of fiscal laws, or those laws related to the control and use of public funds. Specifically, the Antideficiency Act and section 503 outline requirements that must be met in the management of, and reporting on, funds, such as the funds for 2008 presidential candidate protection. The Antideficiency Act prohibits the making or authorizing of “an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation.”¹² Section 503 states that “None of the funds ... shall be available for obligation or expenditure for programs, projects or activities through a reprogramming of funds in excess of \$5,000,000 or 10 percent, whichever is less ... unless the Committees on Appropriations ... are notified 15 days in advance of such reprogramming of funds.”¹³

Reliable financial systems are critical to meeting the reporting requirements associated with the Antideficiency Act and section 503. Since October 2004, Secret Service has been using the “Travel Manager, Oracle, PRISM, Sunflower” system (TOPS) to manage its financial business

¹¹Pub. L. No. 106-544, § 3, 114 Stat. 2715, 2716 (Dec. 19, 2000).

¹²31 U.S.C. § 1341(a)(1)(A).

¹³Pub. L. No. 110-329, div. D., 122 Stat. 3652, 3680 (Sept. 30, 2008).

processes.¹⁴ TOPS is an integrated financial management system comprised of four applications:

- Travel Manager—input and management of travel vouchers;
- Oracle Financials—core financial and general ledger system;
- PRISM—procurement activities; and
- Sunflower—property management.

Secret Service maintains financial data within TOPS by project code and object class.¹⁵ In addition, Secret Service uses the Manhours system to capture hours worked by its agents and certain support staff.

According to Secret Service officials, prior to fiscal year 2005, Secret Service had one appropriation account, the Protection Services and Activity account, to manage appropriated funds for salaries and expenses. In fiscal year 2005, the Conference Report accompanying the 2005 DHS Appropriations Act itemized specific amounts for activities supported by Secret Service’s Salaries and Expenses appropriation account.¹⁶ The itemizations were made at Secret Service’s Program, Project, or Activity (PPA) level. Secret Service uses PPAs as subaccounts used to capture and track financial data such as funds allotted, obligations, and expenditures.¹⁷ According to Secret Service, three PPAs were used to fund 2008 campaign-related protection activities:

- Presidential Candidate Nominee Protection, which is for the protection Secret Service provides to major presidential and vice presidential candidates, and their spouses;
- NSSE, which is used for Secret Service planning and implementing security for designated NSSEs to ensure the physical protection of the President, the public, and other Secret Service protectees who participate in NSSEs; and

¹⁴DHS does not currently have an integrated departmentwide financial system and therefore there are various financial systems in place across the DHS components.

¹⁵Secret Service uses project codes to internally capture and track financial data. The first three digits of the project code indicate, for example, inauguration, campaign, or president-elect protection. Following guidance from OMB Circular No. A-11, Schedule O, object classes are types of transaction categories such as overtime, travel of persons, and communications.

¹⁶H.R. Conf. Rep. No. 108-774, at 60-61 (2004).

¹⁷GAO, *Glossary of Terms Used in the Federal Budget Process*, at 80, [GAO-05-734SP](#) (Washington, D.C.: September 2005).

- Protection of Persons and Facilities, which operates to ensure the personal safety of certain designated individuals, such as the President and Vice President and former presidents and their spouses, protect the buildings and grounds where these individuals reside and work, and protect foreign heads-of-state visiting the United States.

Table 1 shows the PPAs for Secret Service’s Salaries and Expenses account and the related fiscal year 2009 itemizations for each PPA.

Table 1: PPAs for Secret Service Salaries and Expenses

Name of PPA	Fiscal year 2009 itemizations (dollars in thousands)	Percentage of total budget authority
Protection of Persons and Facilities ^a	\$705,918	50.1
Domestic Field Operations	241,772	17.2
Headquarters, Management and Administration	182,104	12.9
Protective Intelligence Activities	59,761	4.2
Rowley Training Center	53,189	3.8
Electronic Crimes Special Agent Program and Electronic Crime Task Forces	51,836	3.7
Presidential Candidate Nominee Protection ^a	41,082	2.9
White House Mail Screening	33,701	2.4
International Field Office Administration, Operations and Training	30,000	2.1
Support Missing and Exploited Children	8,366	0.6
National Special Security Events (NSSE) ^a	1,000	0.1
Total	\$1,408,729	100.0

Source: GAO analysis of H.R. Conf. Rep. No. 111-298 (2009).

^aThese PPAs will be discussed in greater detail later in this report.

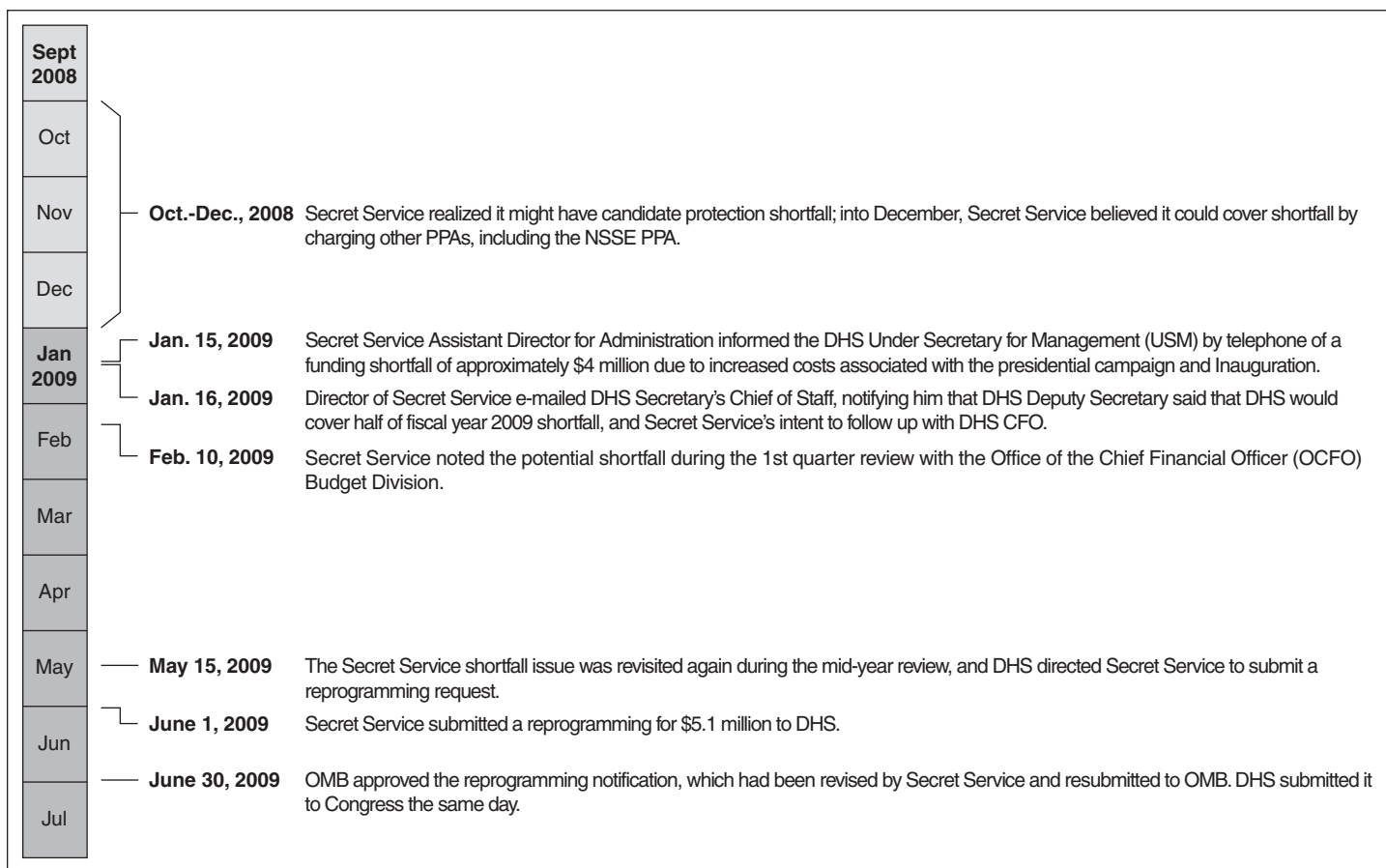
The unpredictable and changing nature of protectee activities creates ongoing challenges for Secret Service. These challenges include

1. generally short notice—sometimes 2-3 days—of protectees’ schedules and frequent schedule changes, which makes it difficult to budget for costs in advance;
2. newly scheduled events requiring shifts in personnel to maintain current assignments, often resulting in unexpected or additional overtime costs;

-
3. personnel cost information not being in real time due to delays in completion of travel vouchers;
 4. the unanticipated increase in pace of the 2008 presidential campaign compared to previous campaigns upon which the fiscal year 2009 budget was based—for instance, the preinaugural events following the 2008 campaign included a three-stop train trip and a concert on the National Mall, not part of previous campaigns; and
 5. the venue and activity being at the discretion of the protectee, to which Secret Service must adapt its protection services.

In this context, Secret Service received \$41 million in appropriated funds within its Presidential Candidate Nominee Protection PPA for fiscal year 2009. The amounts designated for PPAs are found in the explanatory statement accompanying DHS' fiscal year 2009 Appropriations Act. Section 503(e) of the Appropriations Act provides that “such dollar amounts specified in this Act and accompanying explanatory statement shall be subject to the conditions and requirements ... of this section.” Early in fiscal year 2009, Secret Service realized that, due to the increased pace of the campaign and the large crowds, it might have a shortfall but believed at the time it could cover the additional expenses with funds from other PPAs. In January 2009, Secret Service contacted DHS and requested assistance to cover the shortfall. In May 2009, DHS directed Secret Service to submit a reprogramming request for the funding, which, after revision by DHS and Secret Service, was submitted to the Senate and House Appropriations Committees June 30, 2009. Figure 1 outlines the key events pertaining to the fiscal year 2009 shortfall.

Figure 1: Fiscal Year 2009 Shortfall: Timeline of Key Events



Source: GAO analysis of DHS and Secret Service documents.

In light of these events, the Conference Report accompanying the fiscal year 2010 DHS Appropriations Act required the DHS CFO and the Secret Service Assistant Director for Administration to brief the Appropriations Committees on the process to be implemented in fiscal year 2010 to ensure the problems related to the fiscal year 2009 shortfall did not reoccur.¹⁸ Prior to the briefing, DHS and Secret Service developed a corrective action plan (CAP) to address the issues surrounding the shortfall. The CAP includes measures to “increase visibility,” “improve funds control,” and

¹⁸H.R. Conf. Rep. No. 111-298, at 92 (2009).

“increase the rigor of internal and external reprogrammings.” See appendix II for the full text of the CAP.

Documenting Internal Control Procedures Could Help Improve Financial Management of Funds for Presidential Candidate Protection

Secret Service Has Not Documented Processes for Preparing Key Reports

Secret Service financial management personnel use an undocumented, manual process to prepare two key reports used to monitor obligations, manage its funds by PPA, and report to Congress: the Monthly Execution and Staffing Report, and the Presidential Campaign Cost Report. The Monthly Execution and Staffing Report provides data, by account and PPA, on enacted funding, unobligated carryover(s), obligations and expenditures to date, and staffing levels. Secret Service provides the Monthly Execution and Staffing Report to other external parties, such as the Appropriations Committees. The Presidential Campaign Cost Report is used internally to monitor costs (budgeted and actual) during the presidential campaign.

Secret Service financial management personnel manually integrate information from several sources to prepare the Monthly Execution and Staffing Report. Each month, staff draw financial data from (1) 16 reports generated from TOPS—the Secret Service financial management system, (2) information from the Manhours system, which tracks work hours associated with each project, and (3) information from other accounting department reports and the SF-133¹⁹ to prepare the Monthly Execution and

¹⁹The SF-133 is a report on budget execution and budgetary resources. It allows for the monitoring of the status of funds that were apportioned by the SF-132 Apportionment and Reapportionment Schedule and funds that were not apportioned. It also ties an agency's financial statements to their budget execution. See OMB Circular No. A-11, at sec. 121 and 130 (March 2010).

Staffing Report. Furthermore, TOPS is set up to maintain and report financial data by project code and object class. As a result, the financial data needs to be manually adjusted in order to be presented by PPA in the Monthly Execution and Staffing Report. Secret Service officials acknowledged that they had not documented the procedures for developing and reviewing the Monthly Execution and Staffing Reports, and they agreed that it would be beneficial to have those procedures documented.

Standards for Internal Control in the Federal Government state that internal controls need to be clearly documented and the documentation should appear in management directives, administrative policies, or operating manuals.²⁰ Such documentation is useful to managers in controlling their operations and to any others involved in evaluating or analyzing operations. Documenting the process for preparing the Monthly Staffing and Execution Report would be useful to managers in controlling operations, as relying on an undocumented manual process to pull together information for the Monthly Execution and Staffing Report increases the risk of errors in that report. For example, as a result of human error, the Monthly Execution and Staffing Report for September 2009 originally sent to the Appropriations Committees overstated current year obligations for one PPA by \$3 million while understating obligations for another PPA by \$3 million. Similarly, an error in the Monthly Execution and Staffing Report for March 2009 occurred because the expenditures-to-date amount for one account was not updated and therefore the amount from the previous month was incorrectly carried forward for that account. Also, we noted several instances on the Monthly Execution and Staffing Reports that we reviewed where some formulas were inadvertently missing from columns such as unobligated authority and unexpended obligations. Secret Service could decrease the risk of reporting incomplete, inaccurate information by having documented procedures in place for its staff to prepare and review the Monthly Execution and Staffing Report. While other controls may also assist in helping to ensure Secret Service reports complete and accurate information, documenting these procedures to prepare and review the Monthly Execution and Staffing Report is a key first step.

²⁰ [GAO/AIMD-00-21.3.1](#).

Secret Service Uses Informal Processes for Splitting Costs across PPAs

Secret Service also does not have documented procedures in place for how to split out costs for protection activities that could cut across multiple PPAs. Congress itemizes specific amounts from the Salaries and Expenses appropriation to individual PPAs. According to Secret Service, the activities associated with PPAs are not discrete because activities and costs related to PPAs may overlap. For example, according to Secret Service budget staff, during fiscal year 2009 they split costs for the January 2009 Inauguration across multiple PPAs—Presidential Candidate Nominee Protection (\$4.1 million), Protection of Persons and Facilities (\$1.0 million), and NSSE (\$5.6 million). Budget staff explained that it charged some Inauguration costs to the Presidential Candidate Nominee Protection PPA because President-Elect Obama was in attendance. Similarly, some costs were charged to the Protection of Persons and Facilities PPA because former presidents and President Bush attended the Inauguration. Also, because the Inauguration was designated as an NSSE, some costs of the Inauguration were charged to the NSSE PPA.

Similarly, during fiscal year 2010, Secret Service had another instance when it could justify charging costs across multiple PPAs but before doing so it had to seek clarification from DHS on the appropriate process and any necessary documentation. To help cover costs for the April 2010 Nuclear Security Summit, an NSSE, Secret Service used funds from the Protection of Persons and Facilities PPA (\$1.9 million) because the summit included costs such as fencing and construction. While Secret Service staff have charged costs to multiple PPAs in some cases, they expressed concern because they were not certain whether this was the correct procedure to follow.

As with the documentation of the process for preparing the Monthly Execution and Staffing Reports, and in accordance with Internal Control Standards, documented policies and procedures for charging costs in situations where more than one PPA is applicable would be useful to managers in controlling their operations. Establishing policies and procedures for charging costs could clarify how Secret Service can split costs between multiple PPAs and help manage funds for presidential candidate protection and other PPAs. Also, the lack of documented policies and procedures increases the risk of reporting incomplete, inaccurate information because Secret Service officials could unknowingly charge expenditures to the wrong PPA.

DHS and Secret Service Lack Documented Early Warning System Benchmarks for Monitoring Obligations and Expenditures

Neither DHS nor Secret Service have documented early warning system benchmarks to use when monitoring Secret Service obligations and expenditures, and therefore these benchmarks may be inconsistently applied. The CAP developed by DHS and Secret Service outlines the actions that, if implemented, will help ensure that Secret Service financial management staff are monitoring obligations and expenditures, and effectively anticipating shortfalls. The plan directs Secret Service to implement an early warning system to track actual obligations against planned and anticipated obligations and to develop benchmarks that would act as “red flags” alerting the Secret Service CFO of potential funding shortfalls. While DHS and Secret Service have identified this as an action item in the CAP, Secret Service does not yet have a documented system of red flags to alert its staff to potential funding shortfalls. Similarly, DHS’ Budget Execution Guidance does not provide specific guidance on developing benchmarks, and Secret Service officials have not documented their own internal benchmark for monitoring obligations and expenditures as an early warning system.

Internal Control Standards state that internal controls need to be clearly documented and that managers need to compare actual performance to planned or expected results, and activities need to be established to monitor performance measures and indicators. Even though documentation does not exist for such a system, both Secret Service and DHS noted that they take certain actions to identify potential funding shortfalls. For example, DHS officials told us that for annual appropriations, they would expect to see 25 percent of the appropriated amount used each quarter. Any deviations would be communicated during DHS’ quarterly reviews of Secret Service. Secret Service budget staff also said they use this “straight-line” approach to monitor budget execution. Nevertheless, written guidance on how to develop and document appropriate benchmarks for monitoring obligations and expenditures could help ensure a consistent application of red flags and therefore increase the effectiveness of an early warning system to alert officials of potential funding shortfalls.

Additional Guidance Could Help DHS and Secret Service Further Improve Communication in the Event of Future Funding Shortfalls

DHS and Secret Service Did Not Follow DHS' Fiscal Year 2009 Guidance on Communicating Reprogramming Requests and Antideficiency Act Violations

At the time of the fiscal year 2009 shortfall, DHS had written guidance covering communication necessary if a funding shortfall required a reprogramming notification under section 503, or was a potential or actual Antideficiency Act violation. Specifically, DHS' fiscal year 2009 Budget Execution Guidance outlined the process for components to develop and submit a reprogramming request to DHS to comply with section 503 and required that DHS' Office of the CFO (OCFO) transmit decisions on the requests to the component.²¹ For example, the Budget Execution Guidance requires all reprogrammings to be submitted at least 45 days in advance of anticipated expenditure of funds. In July 2008, DHS' OCFO issued guidance concerning the investigation and reporting of Antideficiency Act violations. This guidance requires that, among other things, employees notify their supervisors if they suspect a potential Antideficiency Act violation, the component and DHS CFO evaluate the circumstances and complete a preliminary review, and—if it is determined a potential violation exists—an independent investigative officer complete a formal investigation and submit a report within 6 months.

The Secret Service's former CFO told us that he did not believe that the actions Secret Service took in January 2009 to address the fiscal year 2009 shortfall required congressional notification under section 503, or constituted an Antideficiency Act violation. Secret Service budget officials reported that, to cover the fiscal year 2009 shortfall in the Presidential Candidate Nominee Protection PPA, which reached \$10.7 million, they

²¹DHS provides its Budget Execution Guidance to components to ensure that they adhere to statutory, administrative, and congressional budget execution requirements and procedures.

charged three PPAs. They showed a negative balance of \$4.1 million in the Presidential Candidate Nominee Protection PPA, and charged \$5.6 million to the NSSE PPA and \$1 million to the Protection of Persons and Facilities PPA. The former CFO told us that, at the time, he did not see the need for a reprogramming notification, and therefore the agency did not need to follow DHS' guidance on communicating reprogramming requests. However, Secret Service budget officials acknowledged that, as discussed later in this report, the reprogramming request Secret Service submitted to DHS—and DHS submitted to the Senate and House Appropriations Committees on June 30, 2009—was for a \$5.1 million reprogramming into the Presidential Candidate Nominee Protection PPA and did not mention or include amounts associated with other PPAs. The requested \$5.1 million reprogramming exceeded section 503 notification thresholds. Therefore, GAO concluded that DHS and Secret Service violated section 503 and the Antideficiency Act.²²

According to Secret Service officials, in January 2009 Secret Service communicated to DHS the fiscal year 2009 shortfall and requested assistance in covering it. According to the former Secret Service CFO, the agency realized it might have a shortfall in the Presidential Candidate Nominee Protection PPA as early as October 2008, but determined it could likely cover the costs using funding from both the Presidential Candidate Nominee Protection and NSSE PPAs. However, with the designation of additional NSSEs related to the Inauguration in December 2008, by January 2009 the agency realized it could not cover the costs from these two PPAs. Secret Service then informed DHS in January 2009 that it would have a funding shortfall in its Presidential Candidate Nominee Protection PPA—of which the agency could cover half. According to the former Secret Service CFO, DHS then agreed to look for funding to help cover the shortfall. DHS did not instruct Secret Service to submit a reprogramming request until May 2009—4 months after the agency's first communication.

Following DHS' direction, Secret Service submitted a \$5.1 million reprogramming request to DHS on June 1, 2009, an amount exceeding the section 503 threshold. DHS then followed its internal guidance in obtaining OMB approval of the request. Following OMB's initial approval of the reprogramming request on June 19, 2009, Secret Service then modified its request—increasing the amount to include costs associated with the G20 Summit, which had just been designated an NSSE, and extended

²²B-319009.

protection for former Vice President Cheney, of which Secret Service had just become aware—and resubmitted the request to DHS on June 25, 2009. After receiving OMB’s second approval on June 30, 2009, DHS submitted a reprogramming notification to Congress on the same day for \$5.1 million to be reprogrammed into the Presidential Candidate Nominee Protection PPA.

DHS Lacked Guidance on Process for Communicating Internal Reprogrammings

At the time of the fiscal year 2009 shortfall, there was no written guidance outlining the process for communicating within DHS or to the Appropriations Committees information about “internal reprogramming”²³ of funds. For instance, the fiscal year 2009 Budget Execution Guidance does not include direction to components regarding how to report internal reprogrammings under the section 503 threshold in Monthly Execution and Staffing Reports. However, DHS stated that Secret Service was aware that it was permitted to internally reprogram funds between PPAs. According to Secret Service officials, they determined at the time that they could internally reprogram funds, and when doing so that they should report a negative balance in the Monthly Execution and Staffing Report. According to Secret Service officials, DHS communicated to Secret Service after the fact that it should have internally reprogrammed funding from another PPA into the Presidential Candidate Nominee Protection PPA and avoided showing a negative balance in unobligated authority. However, in the past, Secret Service had submitted Monthly Execution and Staffing Reports that had included negative balances in the Unobligated Authority column. According to Secret Service officials in the Office of Administration, DHS had not informed them not to do so.

DHS and Secret Service Developed CAP to Improve Communication and Implemented Some of These CAP Measures

Since the fiscal year 2009 shortfall, Secret Service and DHS developed a CAP to, among other things, improve communication about internal and external reprogrammings. In addition, Secret Service officials told us that their communication with DHS about budget execution has improved, and DHS officials said that they now provide more training and guidance to components, such as guidance on general budget execution and Monthly Execution and Staffing Reports.²⁴ For instance, DHS’ fiscal year 2010

²³According to DHS’ fiscal year 2010 Budget Execution Guidance, internal reprogrammings are realignments between PPAs within the same appropriation that are below the section 503 thresholds. This is distinct from charging multiple PPAs to cover the costs of an activity, as Secret Service did during the 2008 presidential campaign.

²⁴As of June 2010, DHS’ training for Secret Service is scheduled for July 26, 2010.

Budget Execution Guidance now requires that Monthly Execution and Staffing Reports present information on both internal and section 503 reprogrammings. The CAP contains measures to improve guidance on what information to communicate during a funding shortfall, and requires that²⁵

- all internal transfers and reprogrammings be approved by the DHS CFO in writing within 24 hours of submission,
- all reprogramming proposals be submitted in writing and in the appropriate format with required information included,
- components must first initiate an internal funding review and clearly articulate the negative impact of using internal resources to cover the shortfall, and
- all above-threshold reprogrammings be submitted to the Appropriations Committees in a timely manner.

CFOC A-123 Guidance is widely viewed as a “best practices” methodology for executing the requirements of appendix A of OMB Circular A-123, which requires management to develop corrective action plans for material weaknesses.²⁶ This guidance provides that agencies construct a corrective action planning framework to facilitate plan preparation, accountability, monitoring, and communication. Key information to be included in corrective actions specified in this guidance includes, among other things, a description of the deficiency in sufficient detail to provide clarity and facilitate a common understanding of what needs to be done. DHS has developed and implemented two of the four communications-related CAP measures in accordance with this guidance. For instance, DHS’ fiscal year 2010 Budget Execution Guidance and DHS CFO’s Financial Management Policy Manual draft of Section 2.4–Budget Execution include updated guidance to components on how to implement two of the CAP measures outlined above, as shown in table 2. However,

²⁵For the purposes of our analysis the measures in the CAP related to increased rigor of internal and external reprogrammings are characterized as actions DHS and Secret Service are taking to improve communication.

²⁶A-123’s use of the term “material weakness” is similar to the same term used by auditors to identify internal control weaknesses found during a financial statement audit. The circular’s use of the same term encompasses not only financial reporting, but also encompasses weaknesses found in program operations and compliance with applicable laws and regulations. Material weaknesses for the purposes of this circular are determined by management, whereas material weaknesses reported as part of a financial statement audit are determined by independent auditors.

DHS did not develop and implement the remaining two of the communications-related CAP measures in accordance with this guidance.

Table 2: Communication-Related CAP Measures Implemented in DHS Guidance

CAP measure	Guidance	How CAP measure is implemented in guidance
All internal transfers and reprogrammings must be approved by the DHS CFO in writing within 24 hours of submission	DHS' fiscal year 2010 Budget Execution Guidance	The procedures for internal reprogramming requests—those below section 503 thresholds—now require the notification and written approval of the DHS CFO
	DHS CFO's Financial Management Policy Manual draft of Section 2.4—Budget Execution	DHS will notify components within 1 day of the CFO's decision on the internal reprogramming action
All reprogramming proposals must be submitted in writing and in the appropriate format with required information included	DHS' fiscal year 2010 Budget Execution Guidance	Guidance provides the appropriate format for internal and section 503 reprogramming requests, including a template for components' use

Source: GAO analysis of DHS data from DHS guidance and CAP.

Additional Guidance Could Help Ensure Better Communication in the Event of Future Funding Shortfalls

While DHS has implemented two of the four communication-related measures from the CAP in accordance with CFOC A-123 guidance, it has not developed and implemented the remaining two. Specifically, DHS has not provided written guidance describing what needs to be done to implement the CAP measures requiring that (1) components complete internal funding reviews prior to submitting reprogramming requests and articulate the negative impact of using internal resources to cover the shortfall—such as delays in hiring or postponement of training activities, or both—or (2) DHS provide timely submission of reprogramming notifications to the Senate and House Appropriations Committees. Implementing these remaining communication-related measures from the CAP could help ensure that DHS and Secret Service communicate effectively with each other and Congress in the event of future funding shortfalls.

Specifically, receiving guidance on the information DHS would like to receive from components regarding their internal funding review and the negative impact of using their internal resources could help improve the effectiveness with which reprogramming requests are approved by DHS. For instance, Secret Service submitted a reprogramming request related to the April 12-13, 2010, Nuclear Security Summit to DHS on February 25, 2010. According to Secret Service officials in the Office of Administration, DHS denied their initial reprogramming request for the Nuclear Security Summit in part because it did not sufficiently describe Secret Service's

internal funding review and the negative impact upon the agency if it used internal resources. Secret Service subsequently revised and resubmitted its request to DHS on March 12, 2010. According to Secret Service officials, if DHS had provided clear guidance on its expectations for what information the reprogramming request should have included in this area, DHS could have approved the request more quickly.

In addition, clearly defining time frames for its timely submission of reprogramming notifications to the Appropriations Committees, a measure delineated by DHS in the CAP, could help enable DHS and the committees to assess whether DHS effectively provides information about potential funding shortfalls. After receiving the revised Nuclear Security Summit request from Secret Service, DHS submitted the request to OMB for approval on April 5, 2010, more than 5 weeks after Secret Service's initial submission. OMB approved the request on April 8, 2010—3 days after DHS' submission. DHS then submitted the reprogramming notification to the Appropriations Committees on April 9, 2010, 6 weeks after Secret Service's initial submission.²⁷ Having the notification submitted 3 days—including the weekend—before the Nuclear Security Summit created challenges for Secret Service because, according to Secret Service officials, it was unaware of what funds would be available to cover the costs of the summit. Without clarifying what is meant by timeliness with respect to processing reprogramming requests, DHS is limited in its ability to assess whether its submission of this notification was completed in a timely manner and, consequently, to help Secret Service manage potential funding shortfalls and provide Congress the information it needs when making budgetary decisions.

Conclusions

Secret Service performs the important mission of protecting presidential candidates and nominees. Because of the larger crowds and faster pace of the 2008 presidential campaign compared to prior campaigns, Secret Service's spending exceeded the amount budgeted in its fiscal year 2009 Presidential Candidate Nominee Protection PPA. Given the importance of providing the Appropriations Committees with complete and accurate financial data concerning presidential candidate protection activities, it is

²⁷In response to questions from the Appropriations Committees, DHS revised the reprogramming and resubmitted it to OMB on April 13, 2010. The revised reprogramming was approved by OMB April 15, 2010, and sent to the committees on April 16, 2010. It was approved by the Senate Appropriations Committee on April 21, 2010, and the House Appropriations Committee on April 27, 2010.

imperative that Secret Service have the necessary documented internal control procedures in place, including financial management policies and procedures, to help ensure it can effectively manage and report on funds for presidential candidate protection. Relying on an undocumented manual process to pull together information for key reports on presidential candidate protection activities increases the risk that inaccurate information will be reported to Congress and errors could be made in budget management. Similarly, the lack of documented policies and procedures for splitting costs for presidential candidate protection activities across multiple PPAs increases the risk of reporting incomplete, inaccurate information on these activities. Also, lack of guidance on how to develop and document appropriate benchmarks for monitoring presidential candidate protection obligations and expenditures limits the ability of Secret Service financial management officials to identify any future funding shortfalls.

Further, recognizing the communication breakdowns that occurred during fiscal year 2009, DHS and Secret Service have taken steps to improve communication, including developing the CAP. However, DHS has not clarified in its guidance all of the CAP measures, including components' required documentation of internal funding reviews and the negative impacts of using internal resources in reprogrammings; and the time frames associated with its timely submission of reprogramming notifications to the Appropriations Committees. Providing this guidance could help DHS ensure it is able to approve components' reprogramming requests more quickly, assess whether its submission of the reprogramming notifications to the Appropriations Committees are timely, and, ultimately, provide Congress the information it needs when making budgetary decisions.

Recommendations for Executive Action

To improve financial management controls and communication related to presidential candidate protection budget execution, we recommend that the Secretary of DHS take the following five actions:

- direct the Director of Secret Service to develop documented procedures for preparing and reviewing its Monthly Execution and Staffing Reports and Presidential Campaign Cost Reports;
- direct the Director of Secret Service to develop written policies and procedures for charging costs when protection activities may be funded by multiple PPAs;

-
- direct the DHS CFO to ensure that DHS' components, including Secret Service, have guidance and training on how to develop and document appropriate benchmarks for monitoring obligations and expenditures;
 - direct the DHS CFO to develop and provide written guidance clarifying the elements necessary in a reprogramming request from a component to document internal funding reviews and the negative impact of using internal sources; and
 - direct the DHS CFO to define time frames by which DHS could assess timeliness of submissions of reprogramming notifications to the Appropriations Committees.

Agency Comments and Our Evaluation

On June 23, 2010, DHS provided written comments on a draft of this report. DHS concurred with all five of our recommendations, and DHS and Secret Service are taking steps to improve financial management controls and communication related to presidential candidate budget execution. For instance, Secret Service has developed documented procedures for preparing and reviewing its Monthly Execution and Staffing Reports and Presidential Candidate Costs Reports, and begun to develop written policies and procedures for charging costs when protection activities may be funded by multiple PPAs. In addition, the DHS CFO plans to develop a scorecard to keep track of all reprogramming notifications and assess the timeliness of submissions. DHS' comments are reproduced in appendix III.

We are sending copies of this report to the Secretary of Homeland Security and interested congressional committees. In addition, this report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

Should you or your staff have any questions concerning this report, please contact either David Maurer at 202-512-9627 or by e-mail at maurerd@gao.gov or Susan Ragland at 202-512-9095 or by e-mail at raglands@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix IV.



David C. Maurer
Director, Homeland Security and Justice Issues



Susan Ragland
Director, Financial Management and Assurance

Appendix I: *U.S. Secret Service—Statutory Restriction on Availability of Funds Involving Presidential Candidate Nominee Protection*, B-319009, April 27, 2010



United States Government Accountability Office
Washington, DC 20548

B-319009

April 27, 2010

The Honorable Robert C. Byrd
Chairman, Subcommittee on Homeland Security
Committee on Appropriations
United States Senate

The Honorable George V. Voinovich
Ranking Minority Member, Subcommittee on Homeland Security
Committee on Appropriations
United States Senate

The Honorable David Price
Chairman, Subcommittee on Homeland Security
Committee on Appropriations
U.S. House of Representatives

The Honorable Harold Rogers
Ranking Minority Member, Subcommittee on Homeland Security
Committee on Appropriations
U.S. House of Representatives

Subject: *U.S. Secret Service—Statutory Restriction on Availability of Funds Involving Presidential Candidate Nominee Protection*

The conference report, H.R. Conf. Rep. No. 111-298, at 92 (2009), accompanying the Department of Homeland Security Appropriations Act, 2010, Pub. L. No. 111-83, 123 Stat. 2142 (Oct. 28, 2009), directed GAO to examine whether the Department of Homeland Security (DHS) and the United States Secret Service (USSS) violated section 503 of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Pub. L. No. 110-329, div. D, 122 Stat. 3652, 3680 (Sept. 30, 2008) and the Antideficiency Act, 31 U.S.C. § 1341.¹ For the reasons set out below,

¹ In addition to this legal opinion, GAO is examining DHS's and USSS's financial management practices, as well as DHS policy and procedures related to communications with its component agencies. See H.R. Conf. Rep. No. 111-298, at 92 ("conferees direct the Comptroller General to . . . identify all actions taken or recommended to be taken to address and correct any violation").

we conclude that DHS and USSS violated both section 503(b) and the Antideficiency Act.

Our practice when rendering opinions is to obtain the views from the relevant agency to establish a factual record and the agency's legal position on the subject matter. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), available at www.gao.gov/legal/resources.html. In this regard, we conducted meetings with both USSS and DHS officials, requesting and receiving from both agencies accounting reports, policy and procedure documents, and copies of relevant internal correspondence.

BACKGROUND

Both the Antideficiency Act and section 503(b) restrict the availability of funds for obligation and expenditure. The Antideficiency Act prohibits an officer or employee of the United States Government from making or authorizing an expenditure or obligation in excess of or in advance of available appropriations. 31 U.S.C. § 1341(a)(1). Thus, an appropriation must be available for an agency to incur an obligation or the Antideficiency Act will be violated.

Section 503(b) states:

“None of the funds provided by this Act . . . shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of \$5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; . . . that would result in a change in existing programs, projects, or activities as approved by the Congress, unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.”

Pub. L. No. 110-329, § 503(b).

This section, which applies to amounts greater than \$5 million, restricts the availability of funds for obligation (and expenditure) by means of reprogramming of programs, projects, and activities (PPAs) until proper notice is provided. The amounts designated for PPAs are found in the explanatory statement² accompanying DHS's fiscal year 2009 appropriations act. Section 503(e) of the appropriations act provides that “such dollar amounts specified in this Act and accompanying explanatory statement shall be subject to the conditions and requirements . . . of this section.” *Id.* at § 503(e).

USSS falls under the direction of the Secretary of Homeland Security, 18 U.S.C. § 3056(g), and is required, among other things, to protect presidential and vice presidential candidates along with their spouses and children, 18 U.S.C. § 3056(a).

²152 Cong. Rec. H9,801 (daily ed. Sept. 28, 2008).

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For fiscal year 2009, USSS received a fiscal year appropriation of \$1,408,729,000. Pub. L. No. 110-329, 122 Stat. at 3667. The explanatory statement itemizes \$41,082,000 for the Presidential Candidate Nominee Protection PPA. 154 Cong. Rec. H9,801. Obligations in connection with presidential candidate nominee protection end with the inauguration of the President and Vice President, in the present case, on January 20, 2009. Letter from Undersecretary of Management, Department of Homeland Security, to the Chairman, Subcommittee on Homeland Security, Committee on Appropriations, United States Senate, June 30, 2009 (Reprogramming Notification).

On June 30, 2009, 5 months after its presidential candidate nominee protection ended, DHS notified the Subcommittees on Homeland Security of the House and Senate Appropriations Committees that USSS had expended \$5,100,000 more than had been designated for the Presidential Candidate Nominee Protection PPA.³ Reprogramming Notification. DHS explained that USSS had used balances from another USSS PPA to “cover [a] shortfall in funding this fiscal year as a result of the protective efforts for the 2008 Presidential Campaign.” *Id.*

DISCUSSION

At issue here is whether (1) DHS and USSS violated section 503(b), and (2) if so, whether a violation of section 503(b) constitutes a violation of the Antideficiency Act.

Section 503(b)

On June 30, 2009, DHS notified the House and Senate Subcommittees on Homeland Security of a reprogramming of \$5.1 million to cover a shortfall in the USSS Presidential Candidate Campaign Protection PPA. Section 503(b) requires the Secretary of Homeland Security to provide a 15-day advance notification of proposed PPA reprogrammings in excess of \$5 million. As noted above, the 2008 presidential campaign officially ended on January 20, 2009, and all USSS obligations for candidate protection had been incurred by that time. Nevertheless, 5 months elapsed between the end of the campaign and notification of the \$5.1 million reprogramming for the Presidential Candidate Nominee Protection PPA.

While it is unclear from the documentation provided to us by USSS and DHS when USSS exceeded the section 503(b) \$5 million threshold, the threshold had to have been exceeded by the Inauguration on January 20, 2009, when candidate protection ended. According to DHS, USSS used amounts from its National Special Security Events PPA to cover its candidate protection obligations that exceeded the

³ On some fiscal management issues, USSS does not act independently of its parent agency, DHS. Meeting between DHS Directorate of Management, Budget and Finance, and GAO, Jan. 12, 2010. DHS requires its component agencies, including USSS, to submit a written reprogramming request to the DHS Directorate of Management, Budget and Finance. DHS submits all reprogramming notifications required under section 503(b) to the House and Senate Appropriations Committees. *Id.*

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\$41 million itemized in the explanatory statement for the presidential candidate protection PPA. Reprogramming Notification. However, section 503(b) specifically provides that *no funds are available* through a reprogramming in excess of \$5 million *unless* House and Senate Appropriations Committees are notified 15 days *in advance* of the reprogramming. Since DHS failed to notify the appropriations committees 15 days in advance of the obligation of the reprogrammed funds, and USSS incurred obligations in excess of the \$5 million threshold more than 15 days prior to congressional notification of the reprogramming, we conclude that DHS and USSS violated section 503(b).

Antideficiency Act

The second question asks whether a violation of section 503(b) constitutes a violation of the Antideficiency Act. If an agency incurs an obligation in excess or advance of amounts that are legally available to the agency, the agency has violated the act. B-317450, Mar. 23, 2009. The Antideficiency Act extends to all provisions of law that implicate the availability of agency appropriations and “agencies must consider the effect of all laws that address the availability of appropriations.” *Id.*, at 5. Section 503(b) is one such law. Under section 503(b), none of the funds appropriated to DHS in fiscal year 2009 were legally available for obligation through a reprogramming in excess of \$5 million “unless the Committees on Appropriations of the Senate and House of Representatives are notified 15 days in advance of such reprogramming.” Pub. L. No. 110-329, § 503(b).

In B-290600, July 10, 2002, we addressed a situation similar to the one at issue here. In that decision, we determined that both the Air Transportation Stabilization Board (ATSB) and the Office of Management and Budget (OMB) violated the Antideficiency Act when OMB apportioned and ATSB obligated an appropriation in advance of its legal availability. The Air Transportation Safety and System Stabilization Act of 2001 authorized ATSB to issue subsidies and loan guarantees to air carriers that incurred losses as a result of the September 11, 2001, terrorist attacks. Pub. L. No. 107-42, title I, § 101(a)(1), 115 Stat. 230 (Sept. 22, 2001). Congress enacted budget authority for this purpose but the act provided that the budget authority would be available only to the extent that the President notified Congress of a need to use the budget authority to make a loan guarantee. *Id.* at § 101(b). In January 2002, after enactment, OMB apportioned funds to ATSB, and ATSB signed a loan guarantee obligating \$172 million. B-290600. However, it was not until 4 months later, in May 2002, that the President transmitted to Congress the required notification. *Id.* As a result, when OMB apportioned and ATSB obligated the \$172 million in January 2002, the budget authority was not legally available. *Id.* The result was an Antideficiency Act violation. *Id.* Because the President’s notification followed rather than preceded the obligation of budget authority, ATSB obligated funds in advance of the legal availability of the appropriation.

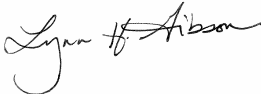
We arrive at a similar conclusion in this case. Like ATSB, USSS obligated funds that were unavailable for obligation because DHS had not satisfied the section 503(b) notification requirement. USSS reprogrammed and obligated \$5.1 million to cover

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shortfalls in the Presidential Candidate Nominee Protection PPA, yet these funds could not be reprogrammed until DHS *notified Congress 15 days in advance of the reprogramming*. Thus, USSS and DHS violated the Antideficiency Act.

The Antideficiency Act requires that the agency head “shall report immediately to the President and Congress all relevant facts and a statement of actions taken.” 31 U.S.C. § 1351. In addition, the agency must send a copy of the report to the Comptroller General on the same date it transmits the report to the President and Congress. 31 U.S.C. § 1351, *as amended by* Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, div. G, title I, § 1401, 118 Stat. 2809, 3192 (Dec. 8, 2004). *See also* B-304935, Mar. 8, 2005.

Sincerely yours,



Lynn H. Gibson
Acting General Counsel

Appendix II: DHS CFO–Secret Service Corrective Action Plan (CAP)

November 30, 2009

DHS CFO-USSS Corrective Action Plan

Increase Visibility: Implement strategies so both USSS and CFO can more closely monitor obligations and expenditure, effectively anticipate shortfalls, and take the necessary actions before an over-obligation of funds occurs.

- **Annual Obligation Plan:** USSS will submit to CFO an annual obligation plan, with anticipated monthly obligations by PPA, prior to the start of each fiscal year. Updates for the plan will be provided to CFO before the start of each month.
- **Early Warning System:** USSS will track actual obligations against planned and anticipated obligations to develop benchmarks that would act as red flags alerting USSS CFO of potential funding shortfalls.

Improve Funds Controls: Implement strategies to improve the control over funds distribution, including allotment, obligation, and expenditure.

- USSS will implement fiscal controls procedures to ensure that internal and external reprogramming requests are submitted significantly before anticipated over-obligations are anticipated to occur.
- DHS CFO has specific procedures in place if the monthly Budget Execution Report shows overspending at the PPA level. Specific training will be implemented to ensure that these procedures are followed.

Increase the Rigor of Internal and External Reprogrammings: Specific processes will be implemented to standardize the process for internal and external reprogrammings, increase the rigor of the process, and ensure that the reprogramming vetting process does not impose burdensome delays.

- All internal transfers and realignments will now require the notification and written approval of DHS CFO. The Department's written response will be sent within 24 hours.
 - DHS will implement new procedures to increase the rigor and responsiveness of reprogramming requests.
 - All external (above threshold) reprogramming proposals will be submitted to the Appropriations Committees in a timely manner.
 - DHS components will be required to first initiate an internal funding review to identify lower priority spending within their components before reaching out to the Department to identify sources in other components.
 - A reprogramming can only be requested if insufficient internal funds can be identified and the component can clearly articulate the negative impact of using internal resources to cover the shortfall.
 - All reprogramming proposals must be submitted in writing and in the appropriate format. A reprogramming will only be considered in the Department after the impact of reducing funding for lower priority efforts is clearly articulated and communicated to DHS CFO in writing.

Appendix III: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



Homeland
Security

June 23, 2010

Mr. David C. Maurer
Director, Homeland Security and Justice Issues
and
Ms. Susan Ragland
Director, Financial Management and Assurance
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Maurer and Ms. Ragland:

RE: Draft Report GAO-10-762 (Reference # 440844), Secret Service: Additional Guidance Would Enhance Financial Management and Communication of Candidate Protection Spending to Congress

Thank you for the opportunity to review the draft report concerning the U.S. Secret Service's (USSS) Financial Management System. The Department of Homeland Security (DHS) and USSS concur with GAO's report findings and proposed recommendations. There were five recommendations for executive action. To facilitate oversight and ensure accountability over results, DHS will include these recommendations as Mission Action Plans for USSS and the DHS Chief Financial Officer (CFO), as appropriate. We would like to respectfully offer the following comments:

GAO Recommendation # (1): That the Secretary of DHS directs the Director, USSS, to develop documented procedures for preparing and reviewing its Monthly Execution and Staffing Report and Presidential Campaign Costs Reports.

DHS Response: DHS concurs with this recommendation. The DHS Financial Management Policy Manual (FMPM) Section 2.5, *Administrative Control of Funds*, requires Components to establish and maintain effective controls over appropriations and other funds, and to develop and implement procedures and internal controls to comply with administrative control of funds policy. The CFO recently conducted a limited-scope review of component-level policies and procedures to determine component compliance with department-wide policy. During the review, it was noted that USSS does not have policies and procedures in place regarding administrative control of funds.

DHS will direct USSS to develop internal policy and procedures that address administrative control of funds, including specific procedures for preparing and reviewing the Monthly Execution and Staffing Report and the Presidential Campaign Costs Reports. In addition, DHS will issue a memorandum to all DHS component heads stressing the importance of administrative control of funds and the need for written policies and procedures in place to ensure compliance with laws and regulations.

USSS has developed and documented procedures for preparing and reviewing its Monthly Execution and Staffing Reports and Presidential Campaign Costs Reports.

GAO Recommendation # (2): That the Secretary of DHS directs the Director, USSS, to develop written policies and procedures for charging costs when protection activities may be funded from multiple Programs, Projects, or Activities (PPAs).

DHS Response: DHS concurs with this recommendation. The DHS Financial Management Policy Manual Section 2.5, *Administrative Control of Funds*, requires components to establish and maintain effective controls over appropriations and other funds, and to develop and implement procedures and internal controls to comply with administrative control of funds policy. As stated above, USSS does not have policies and procedures in place regarding administrative control of funds. DHS will direct USSS to develop internal policy and procedures that address administrative control of funds, including specific policies for determining the appropriate funding for costs associated with protection activities that may be funded from multiple PPAs.

USSS has begun to develop written policies and procedures for charging costs when protection activities may be funded by multiple PPAs.

GAO Recommendation # (3): That the Secretary of DHS directs the DHS CFO to ensure that DHS' components, including USSS, have guidance and training on how to develop and document appropriate benchmarks for monitoring obligations and expenditures.

DHS Response: DHS concurs with this recommendation. The DHS CFO has established a budget execution workshop to train all DHS components in the following areas/categories:

- The purpose and process of apportionments and reappropriations
- The purpose of tracking all obligations and expenditures
- Administrative control of component resources
- The Anti-Deficiency Act (ADA)
- Fiscal Law: Purpose, Time and Amount
- Establishing obligation and outlay rates for annual, multi-year and no-year appropriations
- Preparing operating and expenditure plans
- Reporting obligations and expenditures to OMB and Congress
- The SF-133, Report on Budget Execution and Budgetary Resources

GAO Recommendation # (4): That the Secretary of DHS directs the CFO to develop and provide written guidance clarifying the elements necessary in a reprogramming request from a component to document internal funding reviews and the negative impact of using internal sources.

DHS Response: DHS concurs with this recommendation. On May 19, 2010, the DHS CFO issued updates to the *FY2010 Budget Execution Guidance*, Section F: Requirements for Reprogramming Requests & Below Threshold Requests. The updated guidance requires Components to—

- Perform an internal review of resources to identify lower priority spending that can be used to offset the potential shortfall before seeking assistance from the Department.
- Analyze the impact of shifting resources from lower priority activities.

The DHS CFO will expand the guidance on Section F of the *FY2010 Budget Execution Guidance* to include minimum elements required to document internal funding reviews and impact the reprogramming.

GAO Recommendation # (5): That the Secretary of DHS directs the DHS CFO to define timeframes by which DHS could assess timeliness of submissions of reprogramming notifications to the Appropriations Committees.

DHS Response: DHS concurs with this recommendation. The updated *FY2010 Budget Execution Guidance* requires Components to notify the Department no less than 45 calendar days before the reprogramming action needs to occur but no later than May 28, 2010. The DHS CFO will further define timeframes for reprogramming notifications for the following:

- Component submission to the DHS CFO.
- DHS CFO submission to the Office of Management and Budget.
- DHS CFO submission to the Appropriations Committees.
- DHS notification to Components of the Appropriations Committees decision.

In addition, the DHS CFO will develop a scorecard to keep track of all reprogramming notifications and assess the timeliness of submissions.

Thank you for the opportunity to comment on this draft report and we look forward to working with you on future homeland security issues.

Sincerely,



Jerald E. Levine
Director
Departmental Audit Liaison Office

Appendix IV: GAO Contacts and Acknowledgments

GAO Contacts

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Susan Ragland, (202) 512-9095 or raglands@gao.gov

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In addition to the contacts named above, Susan Poling, Managing Associate General Counsel; Kirk Kiester, Assistant Director; Glenn Slocum, Assistant Director; David Alexander; Thomas Armstrong; Labony Chakraborty; Kathryn Crosby; Jill Evancho; Gabrielle Fagan; Tyrone Hutchins; and Felicia Lopez made key contributions to this report.

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