

## United States Senate

WASHINGTON, DC 20510

May 5, 2022

The Honorable Gene Dodaro  
Comptroller General of the United States  
U.S. Government Accountability Office  
441 G Street NW  
Washington, D.C. 20548

Dear Comptroller General Dodaro:

I write to seek your determination regarding whether any officer or employee of the Department of Homeland Security (“Department”), including Secretary of Homeland Security Alejandro Mayorkas, violated the Antideficiency Act (31 U.S.C. § 1341(a)(1)(A)) with respect to the creation of the Disinformation Governance Board (“Board”).

As background, on April 27, 2022, at a House of Representatives Appropriations Committee hearing, Secretary Mayorkas announced the creation of the Board to focus on “countering misinformation and disinformation” in America. Nina Jankowicz was hired as the Board’s Executive Director.

On April 29, 2022, I wrote a letter to Secretary Mayorkas noting that establishment of this Board may violate the Antideficiency Act (31 U.S.C. § 1341(a)(1)(A)), which prohibits “making or authorizing an expenditure from, or creating or authorizing an obligation under, any appropriation or fund in excess of the amount available in the appropriation or fund unless authorized by law.” To this end, this Board was established and hired an Executive Director, despite that no funds were appropriated for this Board and that Congress expressly defunded its establishment through Section 513 of Division F of the Fiscal Year 2022 Omnibus Appropriations Act (P.L. 117-103), which specifically prohibited the Secretary of Homeland Security from using any funds provided by Congress to “allocate or reallocate functions among the officers of the Department of Homeland Security or to establish, consolidate, or alter organizational units within the Department of Homeland Security.” As you know, an officer or employee who violates the Antideficiency Act is subject to administrative and criminal penalties.

Perhaps as a result of this potential violation, on May 1, 2022, Secretary Mayorkas began calling the Board a “working group.” Yet, it’s clear that the Department has already used funds to establish this Board, including by hiring Ms. Jankowicz as its Executive Director. Thus, while the Department is now downplaying the Board as a “working group”, it seems indisputable that funds have already been expended on its establishment in violation of Antideficiency Act. Indeed, this hasty change of explanation suggests such a violation.

For these reasons, I am requesting your determination regarding whether any officer or employee of the Department of Homeland Security violated the Antideficiency Act with respect to the creation of the Disinformation Governance Board. I look forward to your opinion regarding this question. Given that this Board impacts bedrock American freedoms and the relationship

between the government and American people, I respectfully request that you provide your determination as expeditiously as possible.

Please let me know if my office can provide any additional information that may be helpful. Thank you, and I look forward to your prompt reply.

Sincerely,

A handwritten signature in blue ink that reads "Bill Hagerty". The signature is fluid and cursive, with the first name "Bill" and last name "Hagerty" clearly legible.

Bill Hagerty  
United States Senator