

**VOLUME 3, CHAPTER 8: “STANDARDS FOR RECORDING AND REVIEWING  
COMMITMENTS AND OBLIGATIONS”**

**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an \* symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated November 2000 is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
080201	Added bona fide need requirements for commitments.	Add
080202.G	Incorporates new information on the commitment of Commercial Purchase Cards.	Add
080202.H	Added requirement to commit funds before imprest funds are advanced to a cashier.	Add
080301	Defined an obligation, added reference to expired and cancelled funds policy, clarifies when DoD Components may incur obligations, and references the Administrative Control of Funds chapter.	Add
080301	Deletes sentence restricting the creation of obligations where no prior obligation is found.	Delete
080303.A	Clarified when to obligate funds for option years and other normal limitations.	Update
080303.B	Added procurement lead time and delivery stipulations.	Add
080803.C	Added obligation requirements for severable and non-severable service contracts to include training contracts.	Add
080303.D	Deletes the reference to international agreements as contracts.	Delete
080303.E	Added policy for retention of refunds for reprocurement and excess recovered amounts. Referenced Chapter 10 for reprocurements involving expired funds.	Add
080304.A	Replaces reference to DoD Component counsel with cognizant counsel.	Update
080304.B	Replaces “original” with “New” obligations.	Update

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
080304.D	Clarified that the existence of additional deliverable services is a change in scope.	Update
080304.F. 1. and 2	Modifies source of funds to those available for the same purpose and clarifies funds as those current at the time of the judgment. Clarified that attorney fees and other expenses are not payable by the Judgment Fund and should be funded with funds current at time the awards are made by the deciding official or court. Deleted reference to Comptroller General's Decision as authority for DoD policy.	Update/ Delete
080304.F.6	Added a section on No FEAR claims.	Add
080305	Added guidance for Purchase Card obligations.	Add
080401	Changes paragraph's title to read: "Triannual Reviews of Commitments, Obligations, Accounts Payable and Accounts Receivable. Defines a fund holder as the DoD official receiving an administrative subdivision of funds. Dormant transactions exclude FFP contracts and current commitments and obligations from Triannual Review. Provides language for reviewing Accounts Payable and Receivable. Provides requirement for Overseas Contingency Operations Costs review as a special emphasis item.	Update
080402	Renamed "Responsibilities of Accounting Offices" to "OUSD(C) Triannual Review Goals". Adds specific OUSD(C) goals to be achieved by completing the Triannual Review.	Add
080403	Renamed "Responsibilities of Fund Holders" to "Responsibilities of Accounting Offices". Substitutes the word dormant for outstanding.	Update
080403.C	Adds policy for deobligating funds on dormant contracts under \$1000.	Add
080404	Renamed "Responsibilities of the Assistant Secretaries of the Military Departments (Financial Management and Comptroller) and the Comptroller of the Defense Agencies and DoD Field Activities" to "Responsibilities of Fund Holders". Substitutes the word dormant for outstanding through the section.	Update

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
080405	Renamed "Documentation" to "Responsibilities of the Assistant Secretaries of the Military Departments (Financial Management and Comptroller) and the Comptroller of the Defense Agencies and DoD Field Activities".	Update
080406	Adds new paragraph number for Documentation. Substitutes the word dormant for outstanding through the section.	Add/Update
080406.B	Adds policy for deobligating funds and contract closeout for dormant contracts of less than \$1000.	Add
080406.C	Renumbered "B" to "C". Adds the words "Component level".	Update/Add
080406.C.2	Adds requirement specifically adding research for duplicate obligations to the Triannual Review.	Update
080406.C.12	Provides that a sentence be included in the Certification Document indicating percentage of Contingency Operations related documents reviewed.	Add
080406.C.13	Adds a specific attestation on the Triannual Review certification that all existing interagency agreements are consistent with DoD policy.	Add
080406.C. 18, 19, and 20	Adds specific attestation on payables, receivables and interagency agreements with non-Defense entities.	Add
080408	Adds a new paragraph requiring that Fund holders provide confirmation statements to the Under Secretary of Defense (Comptroller) within 45 working days of the end of January and May each fiscal year. Original guidance of May 14, 1996, was modified in the November 2000 change and is now reinstated. Adds requirement that Confirmation Statement include name, email address, office symbol and telephone number of Certifying Official.	Add
080409	Add Automated Tools supporting review to the language.	Add
080410	Adds definition of due diligence including a due diligence checklist.	Add
080411	Adds language for Reimbursable Funding roles and responsibilities for review and certification. Adds guidance on proper use of non-DoD contracts.	Add
0805	Deletes paragraph 080514 for Advisory and Assistance Services.	Delete
080503	Updated obligation policy on Cost-Reimbursement and Time-and-Material contracts.	Update
080504	Added an Indefinite-Delivery Type Contracts section .	Add

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
080507.C	Delete the requirement that Components record a miscellaneous obligation at year end for undefinitized amount of an undefinitized contract action.	Delete
080508	Updated policy on interest on contractor claims.	Update
080509	Deletes the reference to Public Law and replaces it with a reference within Volume 10, Chapter 12.	Delete
080510.B	Reworded paragraph on purchase orders for clarity and ease of reading.	Update
080511.D	Delete reference to cost plus award-fee.	Delete
080605	Affirms that for foreign leases of structures and real property signed for up to 5 years, obligations are paid on an annual basis from the yearly funds appropriated for that year.	Update
080606	Updated policy for domestic lease agreements, which must be fully funded at inception unless the lease includes a cancellation clause. Added hyperlinks for U.S.C. references.	Update/Add
080701	Clarified reimbursable agreements are recorded as a valid obligation for the full amount stipulated in the agreement as of the date of acceptance.	Update
080703	References the Project Order, Economy Act, and Non-Economy Act chapters in Volume 11A.	Update
080703.A	Clarified project order authority is available only for intra- or inter- DoD orders.	Update
080703.B	Provides the specific circumstances where Economy Act orders remain viable vice referencing the Public Law.	Update
080703.C	Adds requirements for Non-Economy Act orders.	Add
080704	Added guidance on modifying reimbursable orders.	Add
0808	Refined terminology for the two types of DWCF activities, stock and service.	Update
080903	Replaces the time for obligating annual leave from when it becomes due and payable to when it is actually taken.	Update
0810	Updates policy to obligate permanent change of station orders at the time the orders are issued for military personnel.	Update
081202	Added requirement to track the amount of undisbursed grant funding remaining in expired grant accounts.	Update
081203	Added obligation requirements for bid protests and other challenges.	Add
081204	Added obligation requirements for liquidated damages.	Add

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
081206	Deletes the term “tentative” as a type of obligation. Renumbered from “081204”.	Delete
081207	Updated policy for public utility services. Renumbered from “081205”.	Update
081213.A	Incorporates a <sup>4th</sup> exception to the prohibition against obligating appropriated funds for firefighting contracts. Renumbered from “081211”.	Update
081214	Added policy for recording proper obligations for postage.	Add
0813	Deleted specific verbiage involving upward adjustments in excess of \$4 million per 31 U.S.C. 1553 because policies are already captured in Volume 3, Chapter 10.	Delete
0814	Renumbered “0814” to “0813”	Update

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## CHAPTER 8

**STANDARDS FOR RECORDING AND REVIEWING COMMITMENTS AND OBLIGATIONS**

## 0801 PURPOSE

This chapter sets forth the basis for determining the amount and accounting period in which commitments and obligations shall be recorded under various circumstances. Departmental standards for recording transactions in the execution-level budgetary accounts are in Chapter 15. Priorities for researching and correcting disbursement transactions are in Chapter 11.

## 0802 COMMITMENTS

**\*080201. General**

The term “commitment” is defined in Chapter 15, subparagraph 150202.A. The amount to be recorded as a commitment is the estimated procurement cost set forth in the commitment document. The date the commitment document is signed by an authorized official determines the accounting period in which the commitment is to be recorded. **Officials may commit funds only to acquire goods, supplies, and services that meet the bona fide needs of the period for which Congress appropriated funds, or to replace stock used during that period. See paragraph 080303.A of this chapter for further bona fide need concepts that apply to commitments.**

## 080202. Special Provisions for Determining the Amounts of Commitments

A. **Contingent Liabilities Remaining under Outstanding Contracts.** There are contingent liabilities for price or quantity increases or other variables that cannot be recorded as valid obligations in the cases of (1) outstanding fixed-price contracts containing escalation, price redetermination, or incentive clauses, or (2) contracts authorizing variations in quantities to be delivered, or (3) contracts where allowable interest may become payable by the U.S. Government on contractor claims supported by written appeals pursuant to the “Disputes” clause contained in the contract (see subparagraph 080202.D below). Amounts to cover these contingent liabilities should be carried as outstanding commitments pending determination of actual obligations. The amounts of such contingent liabilities, however, need not be recorded at the maximum or ceiling prices under the contracts. Rather, amounts should be committed that are estimated conservatively to be sufficient to cover the additional obligations that probably will materialize, based upon judgment and experience. In determining the amount to be committed, allowances may be made for the possibility of downward price revisions and quantity under runs. Each contingent liability shall be supported by sufficient detail to facilitate audit.

B. **Letter Contracts and Letters of Intent.** When accepted, a letter contract or letter of intent shall be recorded as an obligation, but only in the amount of the maximum liability stated. The maximum liability amount may be required by other regulations to be limited to the costs that the contractor may incur pending execution of a definitive contract. In that case,

the estimated amount of the definitive contract, over and above the obligation recorded under the letter contract or letter of intent, shall be carried as an outstanding commitment, pending execution of the definitive contract. If the letter stipulates that awarding of the definitive contract is dependent upon a congressional appropriation, then no funds are available to commit and no commitment may be recorded.

C. Open-end Contracts and Option Agreements. An authorization to incur an obligation under an open-end contract or option agreement (when neither the items nor quantities are specified, but are to be the subject of subsequent orders) shall be recorded as a commitment only when the amount estimated is reasonably firm. The existence of a specific dollar amount in the procurement directive or request does not make the dollar amount reasonably firm. Rather, the required quantities and the quality specification must have been determined by competent authorized personnel so that reasonable prices may be estimated. An example is a planning estimate for spare parts. While it is known that an initial complement of spare parts will be acquired, the specification and quantity still shall be determined. Experienced personnel can estimate an amount useful in planning, but this amount is not reasonably firm. The amount is recordable as a memorandum "initiation" (see Chapter 15), but not as a commitment.

D. Contract Amendments or Engineering Changes. An authorization to execute engineering change orders during the course of performance of a contract may be recorded as a commitment upon the basis of a stated cost limitation even though the scope and amount of such changes are not yet defined and require specific approval of the person authorizing the procurement (or another designee) before the execution of the change orders. In such circumstances, however, it may be necessary to revise the authorization (and the recorded commitment) in light of subsequent events, including change orders actually placed.

E. Intra-Governmental Requisitions and Orders. Intragovernmental requisitions and orders (such as DD Form 448, "Military Interdepartmental Purchase Request") shall be considered as commitments until validly obligated under the guidelines in section 0807 below.

F. Multiyear Contracts. Contingent liabilities for multiyear contracts that provide for cancellation charges, when it is necessary for the government to cancel the contract for reasons other than contractor liability, are not recorded as commitments. Any such cancellation charge must be recorded as an obligation when it becomes necessary to cancel the contract and the contractor is so notified.

\* G. Commercial Purchase Cards. Commitments shall be established in advance in amounts no less than the periodic purchase limits authorized for commercial purchase cards. Commitments are used by an activity to ensure positive funds control and limit expenditures to funds available for the purchase card program. Separate commitments shall be established when the line of accounting is different. Advance reservations of funds are used in conjunction with purchases made using purchase cards. Advance reservations of funds are established by the resource manager (or equivalent), in conjunction with the assigned Purchase Card Program agency program coordinator (APC) and must be considered when setting office and cardholder purchase limits. The use of advance reservations of funds will ensure positive

funds control precluding expenditures from exceeding obligations. [Refer to \*OMB Circular A-123 Appendix B\*](#) and the [DoD Government Charge Card Guidebook](#) for additional guidance on purchase cards.

\* H. [Imprest Funds](#). Records as a commitment before funds are advanced to the imprest fund cashier.

## 0803 OBLIGATIONS

### \*080301. General

An obligation is legally binding agreement or action that will result in outlays, immediately or in the future. Funds that are not legally obligated before their period of availability expires are no longer available for new obligations. The period of availability applies to the obligation of funds, not the liquidation of the obligation by disbursement of payment (expenditure). Chapter 10 prescribes policy related to adjustments to obligations or expenditures chargeable to expired and cancelled accounts. Provisions of Chapter 15 and Volume 14, Chapter 1 require that funds be allocated to DoD Component activities before the activities incur obligations. Also, obligations may not be made in excess of apportionments or formal subdivisions of funds. The recording of obligations related to unmatched disbursements and negative unliquidated obligations is specified in Chapter 11. Unless otherwise specified, primary responsibility for recording obligations remains with the DoD Components. The guidance for recording obligations by the accounting office, when it does not have the primary responsibility for such recording, is contained in this chapter.

A. [Ten-Day Rule](#). Obligations shall be recorded in the official accounting records at the time a legal obligation is incurred, or as close to the time of incurrence as is feasible. In no instance shall obligations be recorded any later than 10 calendar days following the day that an obligation is incurred (to include obligations incurred when invoices are overpaid or duplicate payments are made). Every effort shall be made to record an obligation in the month incurred. Notwithstanding the 10-day rule, obligations of \$100,000 or more--per fund citation or accounting line on the obligation document--shall be recorded and included in the official accounting records in the same month in which the obligation is incurred. If an obligation is not recorded within the specified timeframe, the guidance in section 0813 shall be followed.

B. [Responsibilities](#). The office that incurs an obligation shall provide, within 6 calendar days of the date the obligation is incurred, a copy of the obligating document(s), via electronic mail, fax, or other documented means, to the office responsible for recording the obligation. The office that is responsible for recording the obligation shall record the obligation in the official accounting records within 3 calendar days of receipt of such documentation, information, or data. Timely and accurate recording of obligations facilitates the disbursing officer's (DO) ability to verify fund availability before authorizing a payment (a process called prevalidation) and, consequently, promptly pay the associated invoice.

## 080302. When to Record Obligation

An amount shall be recorded as an obligation only when supported by documentary evidence of the transaction. A verbal order or agreement shall be reduced to writing before the obligation may be recorded. When the amount is not known or cannot be ascertained feasibly at the time that it is to be recorded, the best estimate shall be used. The best estimate should be based on a thorough analysis of the transaction that actually occurred.

## 080303. Recording Obligations

When recording obligations under this section, utilize the principles specified below.

\* A. Contracts or Orders for Goods, Supplies, or Services to Meet Bona Fide Need. DoD Components shall determine that the goods, supplies, or services required under contracts entered into, or orders placed obligating an annual or multiple-year appropriation, are intended to meet a bona fide need of the period for which funds were appropriated. Such determinations shall consider estimated current consumption, the requirements that may be foreseen for future years based upon the procurement lead time, authorized stock levels, and authorized mobilization reserves. If, however, a provision of law makes such appropriations available for payments under contracts for specified services for periods beyond the period for which the appropriation otherwise is available, the contract for such services extending into the ensuing period (e.g., fiscal year) may be charged to the appropriation current at the time that the contract is signed. [Obligate funds for each option period after funds become available. Obligations must be consistent with all normal limitations on the obligation of appropriated funds, e.g., bona fide needs rule, period of availability, and type of funds.](#)

\* B. Performance Under Contracts or Orders. Contracts entered into or orders placed for goods, supplies, or services shall be executed only with bona fide intent that the contractor (or other performing activity) shall commence work and perform the contract without unnecessary delay. [For standard commercial items readily available from other sources, the bona fide needs rule cannot be satisfied based on the delivery, production or manufacturing lead time exception to the bona fide needs rule if the materials were obtainable by another source before funds expired. See Volume 11A Chapter 2, paragraph 020508 and Volume 11A, Chapter 18, paragraph 180302.A.1. If the contractor is directed to withhold delivery until after the lead time then there is not a bona fide need for the item in the current fiscal year and funds for the next fiscal year must be used.](#)

\* C. Service Contracts. Services are generally chargeable to the appropriation current at the time the services are rendered. The determination to charge the appropriation current on the date the contract is let, or to charge the funds current at the time services are rendered, depends upon whether the services are “severable” or “entire.” A contract which is considered entire is charged to the fiscal year current when it was let, even though performance may extend into the next fiscal year. On the other hand, service contracts that are considered severable must be charged to the fiscal year in which the services are rendered. Service contracts which are severable may not cross fiscal years, in the absence of statutory authority. There is no precise formula or rule that determines whether a contract is severable or entire. Each case must be determined by the terms and circumstances involved.

1. Severable Services. Service contracts can be for either a single undertaking or end item (entire) or for performance with compensation fixed in proportion to the amount of service performed (Absent a statutory authority, the term of a severable service contract that is funded by annual appropriations will not extend beyond the end of the FY current at the time the contract is awarded except when authorized by law. Option years are treated as new contracts. Therefore, when the severable service contract has renewal options, obligate funds for the basic period and any penalty charges for failure to exercise options. 10 U.S.C. 2410a is a statutory authority that permits the full obligation of severable service contracts that begin in one fiscal year and end in the next, provided the contract period does not exceed one year. The contract period for performance of severable services must begin during fund's period of availability and may not exceed the fund's period of availability, absent statutory authority.

2. Non-Severable Services. Non-severable services contracts (such as services to produce a single or unified outcome, product, or report) are "entire" and must be funded entirely with appropriations available for new obligations at the time the contract is awarded, and the period of performance may extend across fiscal years.

3. Training Contracts. Contracts for single training courses are considered a single undertaking (entire). Record the obligation at the time the contract is executed for the full amount of the contract. In general, the training represents a single undertaking where benefit of the training is received when the employee has completed the training in full. Training contracts shall be obligated in full with the fiscal year money current at the time the contract is executed even though the course extends into the next fiscal year. Training courses that begin on or after 1 October may constitute a bona fide need of the prior year if the need for training is an immediate need in the prior year and if the commencement of the course in the next fiscal year is beyond the agency's control. The time between award of the contract for the training and performance the training should not be excessive.

\* D. Specific Guidelines for Maintenance and Repair Projects. Current fiscal year appropriations may be obligated for those maintenance and repair contracts awarded near the end of the fiscal year, even though contractor performance may not begin until the following fiscal year. The contract shall satisfy a bona fide need that exists in the fiscal year of the appropriation to be charged. In addition, contracts awarded near the end of the fiscal year shall contain a specific requirement that work begin before January 1 of the following calendar year. Guidelines for the administrative contracting officer to use in determining the commencement of work are as follows:

1. Physical Onsite Evidence. A visual inspection of the work site discloses significant work has been accomplished, or contractor employees actually are engaged in work performance. (No further verification is necessary.)

2. Documentary Evidence. If physical onsite evidence of performance does not exist, and to prevent unwarranted default proceedings, the contractor may be requested to produce documentary evidence that cost has been incurred or material has been ordered to allow performance of the contract.

\* E. Contractor Default. In the event of contractor default and termination for default of the contract, the funds cited on the defaulted contract may be cited again on the replacement contract. The contract shall satisfy the following general criteria to be considered a replacement contract, as opposed to a new contract: The replacement contract shall be made without undue delay after the termination of the original contract: Its purpose shall be to fulfill a bona fide need that has continued from the original contract, and the replacement contract shall be awarded on the same basis and be **substantially similar** to the original contract in its scope and size. **Reprocurement or completion costs, liquidated damages, and performance bond money recovered from the contractor as refunds may also be retained and applied to the replacement contract's specific appropriation.** Amounts recovered that exceed the actual costs of the replacement contract must be deposited as miscellaneous receipts. See Chapter 10 for reprocrements involving expired funds.

080304. Specific Guidelines for Determining Scope of Work Changes

\* A. Responsibilities for Making Determinations. The contracting officer is primarily responsible for determining whether a change is within the scope of a contract. In making such a determination, the contracting officer shall be guided by appropriate provisions of the Federal Acquisition Regulation (FAR), the DoD FAR Supplement, legal principles applicable to scope changes, and the provisions of this Regulation. In cases where no clear cut determination can be made by the contracting officer, the cognizant **counsel** shall provide appropriate guidance and determinations concerning the scope of a contract.

B. Standards for Making Determinations. Statutes and DoD policies for the use of appropriations limit the period of availability to fund new obligations. Unobligated balances, however, which have expired for the purpose of **new** obligations, are available to fund within scope cost growth or increases in costs arising from claims arising out of the original obligation. This paragraph sets standards for determining if cost growth or a price increase is within scope. The baseline scope of a contract is all work that is contracted for prior to the expiration of funds. This includes changes incorporated by modification -- provided that they are within the scope of the contract.

C. Increases in Quantities. Changes in the quantity of the major items called for by a contract generally are not authorized under the "Changes" clause. Therefore, a change that increases the number of end items ordered on a contract is a change in the scope of the contract and would have to be funded from funds available at the time the change is made. For example, if the original contract provided for delivery of 50 items and a modification was issued to provide for the delivery of 70 items, the additional 20 items would represent a change in the scope of the contract. Thereafter, cost growth, or claims arising out of the delivery of the first 50 items, would be funded from the appropriation available at the time of the order of those items, and those arising out of the additional 20 items would be funded from the appropriation charged for those items. The foregoing applies in general; however, changes in the quantity of subsidiary items under a contract, such as spare parts, generally are considered to be within the scope of a contract unless they are so significant that they alter the basic contractual undertaking.

\* D. Increases in Required Levels of Service Performance. Any modification of a service contract [that changes its scope by requiring additional](#) deliverable services, is a change in the scope of the contract. Such changes shall be funded by appropriations available at the time that the change is made. [For example](#), modification of a contract for accounting and audit services to a government agency is made to add a requirement for on-site technical assistance and training to grantees of the agency on financial management systems. Such a modification would be beyond the scope of the original contract, and would have to be funded from funds available at the time the additional requirement was added to the original contract. [See paragraph 080511 and Chapter 10 for additional policy for determining whether a contract modification involves a change in scope that must be recorded as a new obligation for additional work, or is a within scope contract change under Section 1553\(c\)\(3\) of title 31, U.S.C. that is recordable as an adjustment to the original obligation.](#) An increase in the number of people needed to complete the original contract, or to their level of expertise, would be a within scope cost growth change that could be funded as part of the original contract.

1. A modification of a contract to provide research and development for a new weapons system that is designed to meet a specified area of threat, and reach given levels of performance could be beyond the scope of the original contract. If, however, the “Changes” clause specifically authorizes unilateral changes within the scope of the contract (e.g., in specifications, drawings, and designs pertaining to the contract), then, the mere fact that there may be a change in the specifications regarding levels of performance or specifications regarding threats does not, thereby, automatically result in a change in scope. An increase in the number of people assigned to the project, or increased costs due to travel increases would be cost growth that would be within scope and could be funded as part of the original contract.

2. A modification of a cost type level of effort contract for a specified number of hours to be worked by personnel with a specific level of experience and training which calls for a change in the specified number of hours to be worked or the level of experience and training could be a change in the scope of the original contract. An increase, however, in direct or indirect rates under the contract would be cost growth that would be within scope and could be funded as part of the original contract.

E. Claims. As reflected in subparagraph 080304.C, above, claims arising out of an original undertaking, or resulting from a within-scope change, would be funded from the appropriation available at the time of the original undertaking. Claims arising out of a change-in-scope change to the original contract would be funded from the appropriation available and charged for the change-in-scope change.

F. Judgment Fund. [Title 31, United States Code, section 1304](#) and [Title 41, United States Code, section 612](#) provide that monetary judgments under the Contract Disputes Act of 1978, as amended, which are awarded by the Armed Services Board of Contract Appeals (ASBCA) or the Court of Federal Claims, are paid by the Department of the Treasury from the permanent, Judgment appropriation “Judgment Fund”: Claims for Contract Disputes (Treasury Symbol 20X1743). After such payment, the affected DoD Component is required to reimburse the Judgment Fund. [As provided for under the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 \(No FEAR Act\) \(5 U.S.C. 2301\)](#) DoD

Components must also reimburse the fund for payments of judgments, awards, or settlements with respect to discrimination and whistleblower protection cases. No FEAR claims are paid from the Treasury Symbol 20X1741. The following shall be followed when reimbursing the Judgment Fund.

\* 1. The affected DoD Components first must determine what appropriation(s) originally funded the portion of the contract that led to the claim and subsequent judgment. Second, the Judgment Fund be reimbursed with funds available for the same purpose that were current at the time of the judgment provided by [Title 41, U.S.C. 612](#). Expired appropriations that were current at the time of the judgment should be used to reimburse the Judgment Fund. If insufficient unobligated balances exist in the expired appropriation or the account has closed, use authority of Title 31, U.S.C. 1553 to charge the current appropriation available for the same purpose or obtain a special supplemental appropriation from Congress. If more than one appropriation is involved in the monetary judgment, then the reimbursement is prorated against those appropriations. Any proration between or among appropriations must be based on the nature of the claim and the basis of the monetary judgment in the particular case. Record obligations against current funds at the time the awards are made by the deciding official or by the court. Within 15 business days after paid claim confirmation, the Treasury Judgment Fund Branch sends a letter to the responsible DoD Components point of contact requesting reimbursement. Within 30 days of receipt of notice for reimbursement, the responsible DoD Component must repay Treasury Financial Management Service (FMS) or contact FMS to make payment arrangements. If the DoD Component fails to respond within 60 business days of the first demand letter and second demand letters, FMS will send a letter to the USD(C) Chief Financial Officer (CFO). The letter is sent quarterly to the USD(C)/CFO along with a statement summarizing the outstanding CDA amounts due to the Treasury. Component quarterly balances are posted at the following website <http://fms.treas.gov/tma/contract.html>.

\* 2. Reimbursement to the Department of the Treasury is not an antecedent liability of the original contract. Therefore, reimbursements shall not be charged back to the original fiscal year appropriation that funded the contract, unless the original appropriation was still current at the time of the judgment. Further, the existence of the legal requirement to reimburse the Judgment Fund does not give rise to a violation of the [Antideficiency Act](#).

3. In all official accounting and reporting systems, a separate and unique Sub-Activity Group (SAG) or P-1/R-1 designator shall be assigned for the recording and reporting of such reimbursements. This SAG or P-1/R-1 designator shall be identified as a separate line on the Appropriation Status by Fiscal Year Program and Subaccounts (DD Comp (M) 1002). This new line of accounting is to be called "Judgment Fund Reimbursement." Funds shall be reprogrammed into this new line from existing allocated funds within the appropriation. These reprogrammed funds are not subject to normal reprogramming rules with respect to the increase, but shall conform to reprogramming guidance governing delegated authority for program reductions.

4. Upon identification of funds to be charged and completion of any reprogramming actions, the documented package shall be forwarded to the DFAS site that has accounting responsibility for the designated fund accounts to process the payment. Ordinarily, a

miscellaneous obligation document shall be used to obligate the designated fund accounts. If, however, programming actions have reserved funds, the DFAS may be authorized to process the payment as an obligate-expend transaction. The DFAS can process the transfer of funds for the payment to the Department of the Treasury's Judgment Fund, using the [Intra-Governmental Payment and Collection \(IPAC\)](#) system.

5. Approval authority is required from the cognizant Assistant Secretary of the Military Department (Financial Management and Comptroller) or Defense Agency Comptroller for all Judgment Fund Reimbursements to the Department of the Treasury in excess of \$1,000,000.00.

\* 6. For No FEAR Act judgments, obligate the amount required to reimburse the Judgment Fund, out of the appropriation, fund or other account available for operating expenses of the DoD Component to which the discriminatory conduct involved is attributable. The No FEAR Act claims are obligated based on Treasury notice to the Department, which is within 15 business days after payment for the claim from the fund, as provided in [5 CFR 724](#). Within 45 business days of being notified, agencies are required to reimburse the Judgment Fund or work out a payment arrangement with Treasury. The Financial Management Service (FMS) of the Department of Treasury provides written notice to the USD(C) Chief Financial Officer (CFO) within 15 business days after payment from the Judgment Fund. Copies of the letters are sent to the Deputy CFO, Chief Counsel, and reimbursement point of contact. DoD Component quarterly balances are posted at the following website <http://fms.treas.gov/tma/fear-act.html>. Within 45 business days of receiving the FMS notice, DoD Components must reimburse the FMS or contact FMS to arrangements. If a DoD Component fails to meet this requirement FMS will annually post on their public website (<http://www.fms.treas.gov/judgefund/noncompliance.html>) the DoD Components that are delinquent.

**\*080305. Recording obligations for Commercial Purchase Cards**

Record obligations for Commercial Purchase Cards in the amounts placed for orders placed for goods or services.

**0804 TRIANNUAL REVIEWS OF COMMITMENTS, OBLIGATIONS, ACCOUNTS PAYABLE AND ACCOUNTS RECEIVABLE**

**\*080401. Triannual Reviews of Commitments, Obligations, Accounts Payable and Accounts Receivable.**

The Triannual Review process is an internal control practice used to assess whether commitments and obligations recorded are bona fide needs of the appropriations charged. Fund Holders, with assistance from supporting accounting offices, shall review dormant commitments, unliquidated obligation, accounts payable and accounts receivable transactions for timeliness, accuracy, and completeness during each of the four month periods ending on January 31, May 31, and September 30 of each fiscal year.

A. Review of Commitment and Unliquidated Obligation transactions. Fund holders review and validate commitments and obligations as transactions occur. For purposes of this chapter, commitments and obligations are defined as dormant if no obligations, adjustments, contract modifications, disbursements, or withdrawals occur within a 120 day period. Additionally, commitments and obligations are defined as dormant in the case of contracts that are physically complete and for which the period of performance has expired (hereinafter, “dormant contracts”). For dormant contracts, which have been physically complete for 12 months or more and have remaining funds of less than \$1,000.00, the accounting office will deobligate the funds based on a written consent from the funds holder and contracting officer. A physically completed contract is defined in FAR 4.804-4. Also, unliquidated obligations for Firm Fixed Price (FFP) contracts with an expected delivery date beyond the review period are considered current for that particular review period. “Current”, defined for this chapter, is having changes in the status for commitments, obligations, disbursements or contracting activity during the last 120 day period. Fund Holders are DoD officials that receive a documented administrative subdivision of funds including apportionments, allocations, suballocations, allotments and suballotments through their funding chain of command or from other government departments, agencies and activities holding an administrative subdivision of funds. Fund Holders are to ensure that obligations and commitments are valid for current transactions by validating them as transactions occur. The requirement for review of commitments and obligations applies to all appropriations and funds of all DoD Components. This requirement applies not only to direct appropriations, but also to all reimbursable transactions, as well as the Department’s revolving and trust funds.

B. Review of Accounts Payable transaction. Volume 4, Chapter 9 prescribes policy for recognizing, reviewing and accounting procedures that must be followed for the proper management of Accounts Payable. The Triannual Review must include the review of Accounts Payable to certify that payable transactions conform to the management requirements for proper financial management oversight. The review should include ensuring that recognition of the payables have been deemed a payable liability upon receipt of services or when accepting title of goods, whether delivered or in-transit. Further, the accounting office will review and reconcile the accounts payable balances for both account payable, and for accounts payable from canceled appropriations, to their specific accounts payable subsidiary ledgers and certify their accuracy. Also, the Triannual Review will ensure that the United States Standard General Ledger (USSGL) Standard Financial Information Structure Transaction (SFIS) Library has been adhered to for recording the proprietary and budgetary transactions. All provisions of Volume 4 Chapter 9 must be conformed to and confirmed as part of the Triannual Review. Large outstanding accounts payable balances indicate that additional managerial focus is required prior to consideration of cancelling a payable. Responsibility for management of accounts payable does not end simply because the associated appropriation cancels. Financial and program managers at all activities must actively review payables prior to cancellation to ensure that invalid balances do not cancel. For accounts payable deemed valid at cancellation, this review must continue indefinitely until the canceled accounts payable either are cleared via payment of a valid invoices, or the balances deemed invalid and reversed. See Volume 3, Chapter 10 for expired and canceling accounts policy.

C. Review of Accounts Receivable transactions. Volume 4, Chapter 3 prescribes definitions, policy and procedures for accounting for Public and Intragovernmental Accounts Receivables. Also the chapter provides guidance for Reporting Receivables Due from the Public and reporting Receivables in the DoD Audited Financial Statements. The Triannual Review must include the review of Accounts Receivables to certify that receivable transactions conform to the management requirements for proper financial management oversight as prescribed in Volume 4, Chapter 3. Large outstanding balances indicate that additional managerial focus is required prior to cancellation. Financial and program managers at all activities must actively review receivable and ensure that provisions for disputed receivables are adjudicated in conformance with this chapter.

D. Review of Overseas Contingency Operations Costs. The DoD must ensure credibility, reliability, transparency and timeliness in reporting Overseas Contingency Operations Costs (OCOC) (formerly the Global War on Terrorism Contingency Operations). Therefore, the Triannual Review certification document should also include the following statement related to obligations for contingency operations: "I affirm that, as of (date), (number) % of obligation transactions for known contingencies and related documents for the Triannual period ending (date) were verified to be properly captured, classified, recorded and reported as Overseas Contingency Operations Costs or other special designated contingency operations obligations."

E. Interagency Agreements with Non-Department of Defense Entities. These agreements must be included in the Triannual Review. Chapters 3 and 18 of Volume 11A require activities to reconcile obligations and order performance in order to identify and coordinate the deobligation or return of expiring, expired or excess funds.

\*080402. OUSD(C) Triannual Review Goals

The goal in performing the Triannual Review is to increase DoD Component's ability to use available appropriations before they expire and ensure remaining open obligations are valid and liquidated before the cancellation of the appropriation,. The Triannual Reviews should be particularly rigorous in reviewing commitments and obligations of appropriations prior to their expiration. Attaining the Triannual Review goal is contingent on effective integration and synchronization of the Funds Holder (Resource Manager), Accounting, Program Management, Contracting Officers, and Acquisition/Logistics functions during each Triannual Review process. The responsibility for successfully completing the Triannual Review is a collaborative effort. The integrating of all the stakeholders into the review process will allow for an effective review of commitments, obligations, contracts, and all fiscally related requirements.

\*080403. Responsibilities of Accounting Offices

A. Accounting offices shall provide fund holders with listing(s) or automated media identifying both dormant commitments and unliquidated obligations recorded for the funds holder. The accounting office also shall provide listing(s) or automated media identifying accounts payable and accounts receivable which enable the funds holder to verify proprietary accounts (as well as budgetary accounts) and, thus, ensure that proprietary and budgetary

accounts are valid, accurate and reconciled. The transaction media must be such that the review can be documented and individual transactions can be annotated if the review reveals further action is required.

B. If requested, the accounting office shall assist fund holders in the conduct of their reviews by: (1) assisting in the identification and organization of transaction groupings in such a manner so as to facilitate the review by different segments of the funds holder's organization; (2) assisting in the identification and correction of situations that may delay the recording of commitments or obligations, or the matching of disbursements to obligations; and (3) entering corrections identified by the funds holder when such corrections are adequately documented and the entry of such transactions is the normal function of the accounting office.

\* C. The accounting office shall identify dormant commitments and unliquidated obligations eligible for closeout by the paying office as contracts that are physically complete and for which the period of performance has expired (hereinafter, "dormant contracts") For dormant contracts, which have been physically complete for 12 months or more and have remaining funds of less than \$1,000.00, the accounting office will deobligate the funds based on a written consent from the funds holder and contracting officer. It is the responsibility of the Contracting Officer to send notification to the Accounting Office, Program Office, and Funds Holder that a contract is complete and no further valid transactions will be forthcoming. The procedures specified in this paragraph, 080403.C, shall not apply to dormant contracts administered by the Defense Contract Management Agency (DCMA). The deobligation procedures for DCMA administered contracts will follow the DCMA Instruction and Guidebook.

\*080404. Responsibilities of Fund Holders.

Fund Holders, as defined in 080401, are responsible for conducting reviews of dormant commitments and unliquidated obligations (to include accounts payable and accounts receivable), irrespective of whether the funds holder or the accounting office actually records the commitments or obligations in the official accounting records. This responsibility is placed on the funds holder because the funds holder initiates those actions that result in commitments and obligations and, therefore, is in the best position to determine the accuracy and the status of such transactions. The funds holder shall accomplish the following minimum reviews no later than 14 working days following the end of January and of May, as well as by September 30 of each fiscal year.

A. Review **Dormant** Commitments for Investment Appropriations (Procurement; Research, Development, Test and Evaluation; Military Construction; Investment-Type Portion of the Foreign Military Sales (FMS) Trust Fund; and the Capital Budget of the Defense Working Capital Funds (WCF)). Each outstanding commitment of \$200,000 or more shall be reviewed using the guidelines specified in paragraph 080406, below, to determine if: (1) the requirement is still valid, (2) the amount of the commitment is accurate, and (3) the commitment has been converted to an obligation and should be recorded as an obligation in the official accounting system. The office that initiated the requirement that led to the commitment shall be required to participate in the review.

B. Review [Dormant](#) Commitments for Operating Appropriations (Operation and Maintenance, Military Personnel, Revolving Funds, Trust Funds Including the Operating-Type Portion of the FMS Trust Fund, the Operating Portion of the Defense WCF, and Other Appropriations/funds, as Appropriate). Each outstanding commitment of \$50,000 or more shall be reviewed using the guidelines specified in paragraph 080406, below, to determine if: (1) the requirement is still valid, (2) the amount of the commitment is accurate, and (3) the commitment has been converted to an obligation and should be recorded as an obligation in the official accounting system. The office that initiated the requirement that led to the commitment shall be required to participate in the review.

C. Review [Dormant](#) Unliquidated Obligations for Investment Appropriations (Procurement; Research, Development, Test and Evaluation; Military Construction; Investment-Type Portion of the FMS Trust Fund; and the Capital Budget of the Defense WCF). Each [dormant](#) obligation of \$200,000 or more shall be reviewed using the guidelines specified in paragraph 080406, below, to determine if: (1) the recorded obligation amount is accurate, (2) the unliquidated amount is valid, and (3) for goods and services received or provided, accrued expenditures or accrued earnings are reconciled with related accounts payable and accounts receivable accounts. If, based on the receipt of good or services, it appears that an outlay transaction should have been received but is not recorded; the paying/collecting office shall be contacted to determine the status of the transaction. The office that initiated the requirement that led to the obligation shall be required to participate in the review.

D. Review [Dormant](#) Unliquidated Obligations for Operating Appropriations (Operation and Maintenance; Military Personnel, Revolving Funds; Trust Funds Including the Operating-Type portion of the FMS Trust Fund; the Operating Portion of the Defense WCF; and Other Appropriations/funds, as Appropriate). Each [dormant](#) unliquidated obligation of \$50,000 or more shall be reviewed using the guidelines specified in paragraph 080406, below, to determine if: (1) the recorded obligation amount is accurate, (2) the unliquidated amount is valid, and (3) for goods and services received or provided, accrued expenditures or accrued earnings are reconciled with related accounts payable and accounts receivable accounts. If, based on the receipt of goods or services, it appears that an outlay transaction should have been received but is not recorded; the paying/collecting office shall be contacted to determine the status of the transaction. The office that initiated the requirement that led to the obligation shall be required to participate in the review.

E. Annual Review Requirements. All commitments and obligations shall be reviewed, whether current or dormant, at least annually in order to substantiate the year-end certification requirements. [Fund holders will initiate actions to resolve unliquidated commitments and obligations as appropriate.](#)

\*080405. Responsibilities of the Assistant Secretaries of the Military Departments (Financial Management and Comptroller) and Comptrollers of the Defense Agencies and DoD Field Activities

The Assistant Secretaries of the Military Departments (Financial Management and Comptroller), and Comptrollers of the Defense Agencies and DoD Field Activities shall

implement effective internal controls to ensure that the required reviews and identified corrective actions are completed in a timely manner. Fund holders shall establish aging criteria for identifiable groups of transactions that are based on the normal historical cycle for such transactions. For example, contract commitments should be reviewed once the normal time frame for contract award has elapsed. This may be longer than the normal cycle time for a purchase order. The same is true for obligation transactions. Purchase order delivery time frames normally would be shorter than the delivery time for a major weapons system procurement contract. The criteria for each group of transactions shall be documented and made part of the review documentation.

**\*080406. Documentation**

A. All required deobligations, adjustments or corrections identified during the review shall be documented and processed within 10 working days of their identification by the responsible individuals. Deobligations may result from a contract modification, determination of final contract closure, documented adjustments or corrections, cancellation of an order, or a Fast Track closure. No action, however, shall be taken to modify, cancel, or amend a contract or travel order below any amount that is **identified as due and owing a contractor, vendor, or traveler**. It is the Funds Holder's responsibility to identify such amounts upon notification by the accounting office that action will be taken.

\* B. In carrying out the deobligation responsibilities set forth in paragraph 080403.C, the accounting office shall provide the respective contracting officers with the contract number, notice of final payment and the remaining balance for each dormant contract with remaining funds of less than \$1,000.00. Such information shall be provided in a manner that will allow the contracting officer to consent simply by annotating and returning the information to the accounting office for further processing without a contract modification. The accounting office shall maintain a copy of the Fund Holder's consent for audit purposes and in a manner consistent with applicable record keeping requirements.

C. The Component level comptroller/fiscal officer of an activity or office that has been issued a formal subdivision of funds carrying Antideficiency Act responsibility (see **Volume 14, Chapters 1 and 2**) shall complete a formal signed confirmation statement attesting to the accomplishment of the review and the accuracy and completeness of the recorded amounts. The review documentation and the confirmation statement shall be completed within 21 working days following January 31 and May 31, and by September 30 of each fiscal year. The written confirmation statement shall:

1. Confirm that all **dormant** commitments recorded in the system have been validated to a paper or an electronic data interchange (EDI) representation source document.

\* 2. Confirm that all **dormant unliquidated** obligations recorded in the system have been validated to a hardcopy or an EDI source document. **This requirement includes the formal research of potential duplicate or otherwise erroneous obligations and the**

deobligation of confirmed duplicate or otherwise erroneous obligations to make the associated funds available for reuse prior to expiration.

3. Confirm that all dormant accrued expenditures unpaid have been validated to an accounts payable record or an EDI source document.

4. Confirm that all reimbursements and other income earned have been validated to an accounts receivable record or an EDI source document.

5. Confirm that adequate follow up was conducted on all dormant commitments over 120 days old to determine if the requirement is still valid, or if an obligation document has been issued but not received or properly recorded.

6. Confirm that adequate follow up has been conducted on all dormant obligations over 120 days old to determine if the obligation is still valid.

7. Confirm that adequate follow up was conducted on all dormant accrued expenditures and earned receivables over 120 days old to determine if a disbursement or collection requires recording or matching.

8. Confirm that all miscellaneous obligation documents, travel orders, and supply requisitions recorded in the system for more than 180 days have been deobligated, unless there is supporting documentation from the funds holder attesting to the purpose and validity of the obligation.

9. Confirm that all commitments that could not be substantiated or validated after a thorough review by the funds holder have been decommitted.

10. Confirm that all obligations that could not be substantiated or validated after a thorough review by the funds holder (and/or the accounting office) have been deobligated.

11. Confirm that reviews of dormant obligations include reviews of problem disbursements and in-transit disbursements.

\* 12. Affirm on the confirmation statement that, "As of (date), (number) % of obligation transactions for known contingencies and related documents for the Triannual period ending (date) were verified to be properly captured, classified, recorded and reported as Overseas Contingency Operations Cost (formerly Global War On Terrorism Contingency Operations) or other special designated contingency operations obligations."

\* 13. Confirm that existing interagency agreements with open balances have been reviewed to ensure that expiring, expired or excess funds are identified for purposes of undertaking deobligation actions required by Volume 11A, Chapters 3 and 18.

14. Identify problems noted as a result of the review.

15. Advise whether, and to the extent, which adjustments or corrections to remedy noted problems have been taken.

16. Summarize, by type, the actions or corrections remaining to be taken, and when such actions/corrections are expected to be completed.

17. Identify what actions have been taken to preclude identified problems from recurring in the future.

\* 18. Certify that recognition of the Accounts Payables have been deemed a payable liability upon receipt of services or when accepting title of goods, whether delivered or in-transit. That Accounts Payable balances are accurate and have been reconciled to the accounts payable ledger. That Accounts Payables are recorded to the applicable United States Standard General Ledger (USSGL) accounts for recording the proprietary and budgetary transactions.

\* 19. Certify that recognition of the Accounts Receivables policy and procedures for accounting for Public and Intragovernmental Accounts Receivables have been adhered to and that Reporting Receivables Due from the Public and reporting Receivables in the Department of Defense Audited Financial Statements are correctly stated.

\* 20. Provide specific attestation that all existing interagency agreements with Non-Department of Defense entities are consistent with DoD policy.

#### 080407. Retention of Supporting Documentation

Fund Holders are required to maintain, for a period of 24 months following the completion of the review, documentation that is sufficient to permit independent organizations, such as the Office of the Inspector General, DoD, or the DoD Component Audit Agency/Service or Inspector General, to verify that the reviews were accomplished as required.

#### \*080408. Confirmation Statements

Within 45 working days following the end of January, May and September each fiscal year, the Assistant Secretaries of the Military Departments (Financial Management and Comptroller) and the Comptrollers of the Defense Agencies shall provide confirmation statements to the Director for Program and Financial Control, Office of the Deputy Comptroller (Program/Budget), Office of the Under Secretary of Defense (Comptroller). The Confirmation Statement, and all Triannual Review documents, should include the name, email address, office symbol and telephone number (both commercial and DSN) of the Certifying Official. These confirmation statements must (1) confirm that the required commitment and obligation reviews have been conducted; (2) confirm that all known obligations have been recorded; and (3) identify the internal controls used to ensure that the detail reviews were conducted. In addition, the confirmation statement will identify by organization and individual, any funds holder that was unable to complete the required review or confirm the accuracy of the reported commitments and obligations and provide a full explanation of and any corrective action taken.

\*080409. Automated Tools Supporting the Triannual Review

Components are encouraged to adopt automated tools to support the Triannual Review. Several tools are available that track duplicate obligation documents; certification requirements as well as commitment and obligation status. Automated tools should be evaluated by the Components for possible savings in cost, time and enhanced accuracy of the review process.

\*080410. Due Diligence

Fund Holders are responsible for ensuring that funds appropriated or allocated to them are used consistently with the intent for which the funds were provided.

A. Fund Holders should document obligations and deobligations to reflect completion of investigation through analysis and review of the requirement and all relevant financial records. Research and documentation should be sufficient to provide reasonable assurance that the assets under management can be audited and that prudent and reasonable efforts have been performed to assure the public's trust. Degrees of due diligence are reflective of the risk imposed by an action.

B. Fundamental to being a Funds Holder is practicing sound fiscal management that comports with Office of Management and Budget and the DoD Financial Management Regulation requirements. Fund Holders should exercise due diligence in committing, obligating, decommitting, and deobligating funds appropriated by Congress for the DoD mission. Attaining due diligence is contingent on the effective integration and synchronization of the mission stakeholders including Funds Holder, Accounting, Program Management, and Acquisition/Logistics into a collaborative effort. Due diligence consists of implementing prescribed business practices and oversight of the documents for which they are responsible. Due diligence is the development and maintenance of documentation that includes contract, invoice, disbursement, task monitor notes, correspondence, and all supporting information available to determine compliance with the provisions of this chapter. The following is a checklist to follow for due diligence compliance:

1. Internal control systems are adequate.
2. Information is reliable and valid.
3. Applicable laws, regulations, and policies are followed.
4. Resources are safeguarded and managed economically and efficiently.
5. Desired program results are achieved.
6. Operations are effective and efficient.

7. Funds Holder, Contracting Officer and Program Manager should collaborate in reviewing commitments and obligations to determine if they are still valid, if goods and services are outstanding and if the funding level is sufficient to support the bona fide need.

8. The requirement should be reviewed to ensure that excess funding be withdrawn prior to the expiration of the appropriation for use on bona fide need requirements.

9. Documentation should be maintained showing the level of review; determining factors and resultant actions reflecting the due diligence performed by the Funds Holder. Documentation levels should be in accordance with DoD policy; DoD Inspector General guidelines and generally accepted accounting practices.

10. Documents should reference databases, contacts, references, contracting actions and other tools used to determine due diligence prior to taking action for decommitment or deobligation.

**\*080411. Reimbursable Funding Roles and Responsibilities**

Funds provided from a granting to performing organization are subject to the same scrutiny as all other appropriations. Both the granting and performing organizations must review the status of the reimbursable funds utilizing the same level of criteria and oversight as all appropriated funds. Components should also review Reimbursable Orders for conformance with the Economy Act. Non-Economy Act orders should be reviewed to ensure that the interagency agreements (Memorandums of Agreement/Service Level Agreements) are consistent with DoD policy.

**0805 RECORDING OBLIGATIONS FOR COMMERCIAL PROCUREMENT CONTRACTS AND ORDERS**

**080501. Firm Fixed-Price Contract**

When the contract is executed, an obligation shall be recorded for the total amount stated in the contract.

**080502. Fixed-Price Contract With an Escalation, Price Redetermination, or an Incentive Provision**

When the contract is awarded, an obligation shall be recorded for the amount of the target or billing price stated in the contract, even though the contract may contain a ceiling price in a larger amount. Subsequently, a target or billing price should be adjusted (upward or downward) to a "best-cost estimate" whenever it is determined that, and documentary evidence supports, the actual cost of the contract will differ materially from the original target or ceiling price stated in the contract.

\*080503. Cost-Reimbursement and Time-and-Material Contracts

Cost-reimbursement and time-and-material contracts include: cost, cost-sharing, cost-plus-fixed-fee, cost-plus-incentive-fee, cost-plus-award-fee, time-and-material, and labor-hour contracts. When the contract is executed, an obligation shall be recorded. The amount of the obligation is the total estimated payment provided by the contract's **funded ceiling**, including the fixed fee in the case of a cost-plus-fixed-fee contract, the target fee in the case of a cost-plus-incentive-fee contract, or the base fee in the case of a cost-plus-award-fee contract. **The amount recorded shall be increased or decreased by amounts provided by contract amendments, or a unilateral revision of an award fee estimate made by the contracting office. Any fee awarded in excess of the target fee in a cost-plus-incentive-fee contract shall be recorded as an obligation at the time the determination to award the larger fee is provided to the contractor. The amount of the obligation established for a cost-plus-award-fee contract shall be adjusted at the time the actual fee award amount is determined and the contractor notified or, if applicable, a provisional award fee payment is determined (see DFARS 216.405-2). In any of these cases, if the contract is incrementally funded, the amount obligated shall always be the funded increments.**

\*080504. Indefinite-Delivery Type Contracts

Where the quantity required under a contract is indefinite, the ultimate amount of obligation is determined by subsequent orders; the amount of any required minimum order specified in the contract, however, shall be recorded as an obligation upon execution of the contract. For contracts that require the contractor to perform unilaterally placed orders above the required minimum, record an obligation in the amount of the order price or ceiling at the time the order is placed. An order in excess of the required minimum that has to be negotiated or accepted by the contractor under terms of the contract shall be recorded as an obligation upon contractor's acceptance of the order in the amount of the agreed price or ceiling. In the case of orders for services where a contractor cannot undertake performance without direction from an authorized Government official, order amounts may be a consolidated periodically (at least monthly) into a list of orders placed with the contractor identifying the estimated dollar amount of each. On definite-quantity contracts, obligate the full amount of the definite quantity at the time of contract award.

080505. Contract Authorizing Variations in Quantities to be Delivered

When the contract is executed, an obligation shall be recorded for the price of the quantity specified for delivery, exclusive of the permitted variation. **The amount recorded may be increased or decreased to reflect the quantity actually delivered and accepted.**

080506. Multiyear Procurement Contract

An obligation for a multiyear procurement contract shall be recorded in the amount of the price of the quantities specified for delivery under the requirement for the first program year, and the amount shall be identified with that program year. Unless the contract is funded fully at inception, each time the contractor is notified that funds are available to cover another program year requirement, an obligation shall be identified with that program year and recorded in the

amount of the price of the quantities specified for delivery. If the contract is canceled, an obligation shall normally be charged to the program year current at the time of cancellation to cover the government's liability under the terms of the contract.

080507. Letter Contract or a Letter of Intent

When the offer and acceptance are sufficiently specific and definitive to show the purpose and scope of the final contract to be executed, a letter contract or a letter of intent and any amendments to them accepted in writing by the contractor is documentary evidence to support the recording of an obligation. The obligation shall be recorded in the amount stated as the maximum liability under the letter or amendment.

A. The maximum liability may be a limitation on the amount of obligations that may be incurred pending execution of a definitive contract. In this case, the estimated amount of the definitive contract, over and above the obligation recorded under the letter of intent, shall be carried as a commitment, pending execution of the definitive contract, unless the letter of intent provides that awarding of the definitive contract is dependent upon congressional appropriation action.

\* B. Commitments cannot be carried past the fiscal year-end.

\*080508. Interest on Contractor Claims

Contractor claims made pursuant to the Contract Disputes Act (CDA) and settled by the contracting officer in the contractor's favor may generate interest payable to the contractor. In such cases, an obligation for the interest payable to the contractor shall be recorded under the appropriation that financed the contract. Such interest shall be applied from the date payment was due, and is not calculated or paid pursuant to the Prompt Payment Act. Parties settling a CDA dispute can bargain away all or part of the interest in a settlement agreement.

\*080509. Interest Payable under the Prompt Payment Act

Such interest penalties are payable in accordance with Volume 10, Chapter 12. They are recorded as obligations against amounts available to carry out the program for which the penalty is incurred in the fiscal year or years in which the interest accrues. Penalties are charged to appropriations of the agency that funded the contract.

080510. Purchase Orders

A. A purchase order may create an obligation when issued in the amount stated. This occurs when the purchase order represents acceptance of a binding written offer of a vendor to sell specific goods or furnish specific services at a specific price, or the purchase order was prepared and issued in accordance with small purchase or other simplified acquisition procedures.

\* B. A purchase order requiring acceptance by the vendor in order to form a binding contractual agreement shall be recorded as an obligation in the amount specified in the order at the time of acceptance. Evidence of this acceptance shall be retained in the files. If written acceptance is not required or provided, then commencement of performance constitutes acceptance by the vendor, and the amount of the order shall be recorded as an obligation. Formation of the binding contractual agreement should occur during the period of availability of the appropriation cited on the purchase order. If contract formation occurs after expiration of the period of availability of funds cited on the purchase order, the obligation must be recorded against current funds, and the purchase order contract modified accordingly.

#### 080511. Amendment of a Contract

A change in the amount of the government's contractual liability that results from an amendment (within-scope change) to a contract is chargeable generally to the appropriation or other fund current at the time the contract was executed. Specific applications of and exceptions to this general rule follow:

A. The amount of the recorded obligation for a contract containing a provision for amendment or modification, within the general scope of the contract, shall be increased or decreased by the amount specified by any and all amendments or modifications when executed. The same source of funds that originally was obligated on the contract shall be charged or credited.

B. The amount of a recorded obligation shall be adjusted to reflect an increase or decrease resulting from a determination made, pursuant to the provisions of 50 U.S.C. 1431-1435 that results in the correction of a mistake or the formalization of an informal agreement. These adjustments shall be recorded against the same source of funds that originally was obligated when the amendments or modifications do not change the scope of the contract and, thus, do not result in a new procurement. When the scope of the contract is increased, the adjustment is chargeable properly to the appropriation or fund available at the time that the amendment is executed.

C. A contingent obligation, such as one existing under an indemnification clause or a clause involving an equitable adjustment, shall be recorded as an obligation only in the amount of the contractual liability incurred when the amendment fixing the obligation is executed. If no amendment is required, the adjustment is recorded as an obligation when the event occurs that fixes the amount of the liability under the contingent obligation. The obligation shall be recorded against the same obligation or fund that originally was cited on the contract.

\* D. When an increase occurs in the price of one or more items in a fixed-price contract that contains an escalation clause, a price redetermination clause or an incentive provision, or in the fee in a cost-plus-incentive-fee contract, an obligation shall be recorded in the amount of the increase at the time the changed price or fee is determined in accordance with the terms of the contract. The obligation shall be recorded against the same appropriation or fund that originally was obligated for the contract.

E. In some instances, it is appropriate to reduce a recorded obligation for firm fixed-price contracts with escalation, price redetermination, or incentive provisions. This occurs when a determination is made by the contracting officer (and approved by the allotment holder or a designee) that the anticipated amount of liability under the contract may be reduced and the amount of the recorded obligation may be decreased by the amount so determined and approved. Such action is taken after taking all circumstances into consideration, including available costs and production data or tentative offers from contractors.

F. Amounts for increases in cost reimbursement contracts that exceed the original contract ceiling price, and which are not based on an antecedent liability enforceable by the contractor (i.e. discretionary cost increase), are chargeable to funds available when the price increase is granted -- rather than funds from the fiscal year cited on the original contract.

#### 080512. Termination of Contracts and Agreements

When a contract or agreement is terminated in whole or in part for the convenience of the government by the giving of a "Notice of Termination" to the other party to the contract or agreement, the obligation recorded for the contract or agreement shall be decreased to an amount that is sufficient to meet the settlement costs under the termination. The obligation shall not be decreased below the amount estimated by the contracting officer, based on the best evidence then available, as the amount due as a result of the termination.

#### 080513. Foreign Currency Exchange Fluctuations

Changes in obligations and contractual liabilities caused by foreign currency exchange fluctuations are determined and recorded when payment is made. For foreign currencies not specified in a special foreign currencies fluctuations appropriation account, adjustments also are made at fiscal year-end, and may be made at any other time a significant change occurs in order to help avoid overobligation of an allotment.

### 0806 RENTAL AGREEMENTS AND LEASES OF REAL AND PERSONAL PROPERTY

#### 080601. Recorded Lease Obligation

The amount recorded as an obligation shall be based on the agreement or lease, or on a written administrative determination of the amount due under its provisions.

#### 080602. Rental Agreement Termination Notice

Under a rental agreement that may be terminated by the U.S. Government at any time without notice, and without incurring any obligation to pay termination costs, the obligation shall be recorded each month in the amount of the rent for that month.

## 080603. Number of Days' Notice for Termination

Under a rental agreement providing for termination without cost upon giving a specified number of day's notice of termination, an obligation shall be recorded upon execution of the agreement in the amount of rent payable for the number of days notice called for in the agreement. In addition, an obligation shall be recorded each month in the amount of the rent payable for that month. When the number of days remaining under the lease term equals the number of days advance notice required under that lease, no additional **monthly** obligation shall be recorded.

## 080604. Specified Dollar Payment in The Event of Termination

Under a rental agreement providing for a specified dollar payment in the event of termination, an obligation shall be recorded upon execution of the agreement in the amount of the specified minimum dollar payment. In addition, an obligation shall be recorded each month in the amount of the rent payable for that month. When the amount of rent remaining payable under the terms of the agreement is equal to the obligation recorded for the payment in the event of termination, no additional monthly obligation need be recorded.

**\*080605. Domestic or Foreign Rental Agreement Not Exceeding 12 Months**

For a domestic or foreign rental agreement **not exceeding 12 months that is financed under an annual appropriation**, an obligation shall be recorded at the time of its execution in the total amount of rent specified in the agreement -- even though the period of the lease extends into the subsequent fiscal year (**10 U.S.C. 2410a**). Leases of structures and real property, **other than military family housing**, in foreign countries may be entered into for periods of up to 5 years under authority of **10 U.S.C. 2675**, and the rent for each yearly period is paid from funds appropriated for that year. Leases of family housing in foreign countries may be for periods of up to 10 years (15 years in Korea) and rent may be paid on an annual basis from funds appropriated for that year. If the laws, regulations or customs of a foreign country require advance payment for rent, the advance payment may be made in accordance with **10 U.S.C. 2396** for the legal, regulatory, or customary term of a foreign lease, and an obligation may be recorded against the current appropriation in the same amount at the time the lease is consummated.

**\*080606. Domestic Lease Agreements Entered Into For Periods Greater Than 1 Year**

Domestic lease agreements entered into for periods greater than 1 year under authority delegated by the General Services Administration (GSA) under the Federal Property and Administrative Services Act, **40 U.S.C. 581**, et seq., and **40 U.S.C. 121(d)** need not include a provision to the effect that lease funding in future fiscal periods is subject to fund availability in those future fiscal periods. Annual rental payments may be made from funds appropriated for that fiscal year (**40 U.S.C. 585**). **Fully fund the lease at inception unless the lease includes a cancellation clause. In that case, the maximum liability is the amount of the lease payments over the minimum lease period plus any required cancellation payment.**

## 080607. GSA for Standard-Level User Charges

Obligations to the GSA for standard-level user charges are recorded as specified in the GSA bill.

## 0807 REIMBURSABLE ORDERS PLACED WITH DOD COMPONENTS OR OTHER U.S. GOVERNMENT AGENCIES

## \*080701. Reimbursable Procurement

The term “reimbursable procurement” refers to an order for supplies, material, [services](#) or equipment placed by a requiring DoD Component (a) for procurement by another DoD Component or federal agency on a contract funded by the procuring DoD Component or federal agency; and (b) with subsequent delivery to and reimbursement by the requiring DoD Component. [The date and amount recorded as an obligation for a reimbursable order by the requiring DoD Component is the date and amount of acceptance by the procuring activity.](#) For GSA orders, see paragraph 080704 below. NOTE: DD Forms 448, “Military Interdepartmental Purchase Requests” (MIPRs), are used for these orders. MIPRs are described in DoD Procedures, Guidance and Information (PGI), subpart 253.208, accompanying the [DoD FAR Supplement](#).

## 080702. Direct Citation Procurement

The term “direct citation procurement” refers to procurement accomplished by combining the requirements of one or more other DoD Components with those of the procuring DoD Component. The procuring DoD Component may issue one contract with separate schedules showing the quantities, prices, dollar amounts, and citation of funds of each requiring DoD Component. The direct citation order is recorded as an obligation by the requiring DoD Component when it is notified in writing that the procuring DoD Component’s contract or project order has been executed, or when a copy of the contract or project order is received. NOTE: MIPRS also are used for these orders.

## \*080703. Reimbursable Orders With Other DoD Activities

Reimbursable orders with other DoD activities for specific supplies, material, equipment, work, or services, may be placed under the Project Order statute ([41 U.S.C. 23](#)), the Economy Act ([31 U.S.C. 1535](#)), or other applicable authority. Reimbursable orders with Non-DoD activities may be placed under the Economy Act or other applicable statutory authority. The obligation reimbursable orders shall be recorded against the appropriation of the ordering DoD entity as follows.

\* A. [Project Order](#). Project Order authority is available only for intra- or inter-DoD orders. All project orders shall be identified on the order document itself. Fixed price and reimbursable project orders are funded like similar commercial procurement contracts. When a project order is accepted in writing by the performing activity, the amount of the project order shall be recorded as an obligation in the amount stated in the order. See Volume 11A, Chapter 2.

\* B. Economy Act Orders. Unless more specific statutory authority is applicable, the Economy Act, codified at 31 U.S.C. 1535, provides authority that allows DoD Components to order goods and services from other federal agencies (including other DoD Components) and from major organizational units within the same DoD Component. Economy Act orders citing an annual or multiyear appropriation must serve a bona fide need arising, or existing, in the fiscal year (or years) for which the appropriation is available for obligation. The requesting DoD activity must obligate funds when the performing activity accepts the order in writing. The work to be performed under Economy Act orders shall be expected to begin within a reasonable time after its acceptance by the servicing DoD Component or organizational unit. Funds must be deobligated by both the requesting and servicing agency to the extent that the servicing agency or unit filling the order has not, before the end of the period of availability of the appropriation of the requesting or ordering agency, (1) provided the goods or services, or (2) entered into an authorized contract with another entity to provide the requested goods or services. As specified in paragraph 0804, review all unliquidated obligations and deobligate all unsubstantiated obligations and excess funds. See Volume 11A, Chapter 3.

\* C. Non-Economy Act Orders. By DoD policy and by agreement with civilian agencies, Non-Economy Act reimbursable orders placed by DoD Components for supplies, material, services or equipment are placed with conditions that, in practical effect, make them subject to obligational standards used for Economy Act reimbursable orders. Non-Economy Act orders obligating annual or multiyear appropriation must satisfy a bona fide need of the appropriation's period of availability. The requesting DoD activity must obligate funds when the performing activity accepts the order in writing. By policy and agreement with civilian agencies that have non-Economy Act authorities to perform reimbursable orders, the DoD has further limited the fiscal principle that a performing agency with non-Economy Act authority has a reasonable period of time to use transferred funds, depending on the nature of the order. Thus, Chapter 11A and agreements civilian agencies provide that funds must be deobligated by both the requesting and performing agency to the extent that the performing agency has not, before the end of the period of availability of the DoD requesting agency appropriation, (1) provided the goods or services, or (2) entered into contract obligations with another entity (contractor) to provide the requested goods or services in a manner consistent with the bona fide needs rule. The triannual review requirements of section 0804 apply See also Volume 11A, Chapter 18.

\*080704. Caution In Modifying Reimbursable Orders

Requiring activities must also use caution in modifying reimbursable orders.

A. If the appropriation used to fund the initial order remains available for the new requirement, it may be used to fund modifications and amendments to the order that are a bona fide need of that appropriation.

B. If the appropriation used to fund the initial order has expired, it may be used only to liquidate or adjust prior obligations.

C. Under no circumstances should an order result in a performing agency's issuance of a contract for severable services crossing fiscal years that extends beyond 1 year from the date of contract award. 10 U.S.C. 2410a. Any such contract's performance period must begin during the period of availability of the requiring activity's appropriation

#### 0808 ORDERS PLACED WITH (OR THROUGH) DEFENSE WORKING-CAPITAL FUNDS (WCF) ACTIVITIES

##### \*080801. General

The DoD has authority under 10 U.S.C. 2208 and 2210 to establish WCFs to finance inventories of supplies and provide working capital for industrial and commercial-type activities. Activities funded through WCFs perform work for others under several different authorities. These include the Project Order Act (41 U.S.C. 23) for depots, the Economy Act (31 U.S.C. 1535) for reimbursable and direct citation procurements, and supply management operations (stock fund operations) that use WCF contract authority to acquire assigned items of supply for other DoD Components. WCF activities performing commercial-type services charge stabilized rates rather than charges based on Economy Act actual cost methodologies. Activities performing WCF operations can identify the transactional authority for work performed for others. Under 10 U.S.C 2208, the DWCF is used for two different types of activities, stock funds (supplies) and good and services. An order placed with a WCF activity may only be for a bona fide need of the period for which the ordering activity's financing appropriation is available.

##### \*080802. Stock Funds

For purposes of this chapter, stock-funded items are integrated material management (IMM) items for which supply management and acquisition responsibility has been assigned to a single WCF-funded activity and that activity uses contract authority to acquire the item. See, e.g., *DFARS Subpart 208.7*, for a definition of integrated material management. An order for an item for which a stock number has been assigned shall be recorded as an obligation at the time the order is placed. Record an obligation for a nonstock-numbered item (stock number not assigned at the time of placement of the order) when the WCF activity accepts the order for an IMM item that it will fill using its cost authority. Unlike Economy Act orders, and unlike non-Economy Act orders placed with civilian agencies pursuant to policies set forth in Chapter 18 of Volume 11A, purchases made by WCF stock fund activities using cost authority to fill customer orders are not legally required to be executed before expirations of the customer's financing appropriations. However, an order placed for an IMM item must be a bona fide need of the requesting activity's financing appropriation. Thus, consistent with bona fide need requirements, the WCF activity using contract authority to acquire an IMM must be able to satisfy the requirement within a reasonable period of time. Unreasonable delay in WCF execution (or delivery in a subsequent fiscal year not based on delivery, production or manufacturing lead time exceptions) may reflect that the order placed with the WCF was not a bonafide need of the requiring activity. There is no hard and fast rule in this regard, but a reasonableness standard does apply. The following policies apply to change notices:

A. [Cancellation](#). An obligation for an undelivered order placed with the stock fund activity shall be adjusted when a change notice affecting price, quantity, or an acceptable substitution of a like item is received from the stock fund. An undelivered order placed with the stock fund shall be canceled when the customer receives a notice of (1) substitution that is unacceptable, (2) transfer of a stock-funded item to funding by a centrally managed procurement appropriation within a DoD Component, or (3) advice that the stock fund is unable to perform under the terms of the order.

B. Transfers from [Centrally Managed Procurement to WCF Stock Fund](#). An obligation shall be recorded as a WCF stock fund order if a requiring activities receive notice that an ordered item funded by a centrally managed procurement appropriation has been transferred to funding by the stock fund.

C. [Funding Shortfall](#). If a change notice results in a shortfall of customer funds, the customer may cancel the order or reduce the quantity on order. If the customer does not receive a change notice, or does not receive it in time to cancel or modify the quantity on order, the material may be refused or returned to the stock fund. There is no violation of administrative control for customer funds if an apparent funding deficiency that results from a change notice is resolved with the stock fund by means of (1) cancellation or modification of the quantity on order, or (2) refusal or return to the stock fund of the material.

[\\*080803. Economy Act and Project Orders Placed with WCF Activities](#)

[DoD organizations record obligations for reimbursable procurement orders, direct citation orders, and project orders placed with WCF activities in accordance with Section 0807.](#)

0809 PERSONAL SERVICES AND BENEFITS

080901. Recording Obligations In the current For Military Members and Civilian Employees

Obligations for the amounts payable must befor the amounts payable to military members and civilian employees must be recorded in the month in which earned. These obligations shall be supported by written administrative determinations of the amounts of the liabilities incurred for personal services based on payroll or personnel records. Payroll charges based on salaries and wages, (such as civilian living and quarters allowances, equalization allowances under [5 U.S.C. 3584](#), and the employer's share of contributions to the retirement fund, insurance premiums, and FICA taxes) also are obligations at the time that salaries and wages are earned. [In the event a payroll period covers portions of two calendar months, the proportionate amount accruing within each month shall be recorded as an obligation applicable to that month.](#) Enlistment bonuses, and allowances to military members for subsistence, quarters and clothing, as well as civilian uniform allowances and incentive awards, are obligated in the month that they become payable to the member or employee.

## 080902. Obligation Shall Be Recorded For Subsistence In Kind Based

An obligation shall be recorded for subsistence in kind based on requisitions and orders, or on a written administrative determination of the estimated cost of subsistence furnished by others.

## \*080903. Obligate Annual Leave For Department Employees

Obligate annual leave for Department employees when it becomes due and payable as terminal leave or when otherwise specifically authorized by law, rather than at the time the leave is earned. Sick leave is obligated, costed, and paid when used.

## 080904. Severance Pay for U.S. Government Civilian Employees and Foreign National Employees

Severance pay for U.S. Government civilian employees and foreign national employees (such as those German nationals covered by the German Tariff Agreement) shall be reported as an obligation on a pay-period-by-pay-period basis, that is, at the time the severance pay becomes payable, regardless of the time it is disbursed.

## 080905. Obligations For Severance Pay Are Incurred And Reported

Obligations for severance pay are incurred and reported after an employee has been separated and specified conditions (such as those set forth in the German Tariff Agreement) have been met. The organization that terminates the employment of such individuals shall be responsible for recording and reporting the severance pay obligation. If the liability for severance pay is significant, reasonable estimates shall be made and an unfunded liability recorded and reported in accordance with the Federal Agencies' Centralized Trial Balance System (FACTS). In accordance with other foreign country contracts and agreements, certain foreign national employees earn a separation allowance, also sometimes called "severance pay" in some contracts and agreements, from inception of or during their employment. In such cases, a liability accrues from such date and obligations shall be recorded as indicated in the following paragraphs.

A. In general, obligations for separation allowances for foreign national employees shall be recorded against applicable current allotments in the full amount of the liability that accrues during the accounting period even though the amount may not currently be payable. When a foreign country is committed to fund part of the separation allowance for its nationals, however, DoD funds shall be obligated only for the Department's portion of that cost. The amount chargeable to the applicable current allotment is the separation allowance liability incurred during the current accounting period and adjustments to outstanding liabilities for separation as a result of changes in pay. Adjustments for fluctuations in foreign currency exchange rates must be made at the time of the disbursement. See paragraph 081210 below, however, for guidance on those currencies not covered by the foreign currency fluctuations appropriation.

B. Upon transfer of a foreign national employee from one DoD Component to another, the relinquishing DoD Component shall give detailed records to the gaining DoD Component on the unpaid accrued separation allowance for that employee. The detailed records shall include the name of the employee, beginning and ending dates of employment, grade or classification, or both, amounts of the accrued liability by fiscal year appropriations and accounting classifications to be charged at the time of separation, and the name (or designation) and address of the activity that will be responsible for retaining the appropriation records. The relinquishing DoD Component shall retain its liability for the accrued separation allowance, including the adjustment for any final fluctuation in the rate of foreign currency exchange, until notified of the employee's separation and payment of the allowance by the DoD Component effecting the separation. The gaining DoD Component is responsible for obligating separation allowances earned from the date of an employee's accession. Accrued separation allowances shall be paid when a foreign national employee is separated. The DoD Component effecting the separation shall coordinate its payment actions with the other DoD Components whose funds are to be charged. DoD Components should designate one of their activities to maintain centrally the detailed employee and appropriation records for all transferred employees to facilitate the closeout and liquidation of liabilities.

C. Appropriated funds may not be obligated for separation allowances earned by foreign national employees during any period of employment by DoD nonappropriated fund instrumentalities. The accrued separation allowance shall be paid when a foreign national employee transfers from an appropriated fund organization to a nonappropriated fund instrumentality.

#### \*0810 PERMANENT CHANGE OF STATION

At the time permanent change of station orders are issued for civilian and military personnel, obligations shall be recorded against current appropriations for all authorized reimbursable expenses incidental to relocation at the request of the U.S. Government and for transportation requests and bills of lading expected to be issued. The only exception is the obligation of costs for non-temporary contract commercial storage of household goods, which shall be obligated either in the period in which the service is rendered or to the appropriation current at the contract award. Record an adjustment to the obligation based on the costs itemized on the traveler's settlement voucher.

#### 0811 TEMPORARY DUTY TRAVEL

Tentative obligations for temporary duty travel shall be recorded from written administrative determinations, based on the travel authorizations issued, for the estimated transportation to be purchased and the estimated reimbursement to be earned by the traveler for per diem allowances, use of privately owned vehicles, and incidental travel expenses. When travel is performed under a blanket authorization (with the itinerary not definite), the amount of the tentative obligation recorded in the current month shall not exceed the estimate of the travel expenses to be incurred to the end of the current month. When the period covered by the travel authorization extends beyond the end of the fiscal year, and the travel costs are being paid by means of an annual appropriation or the final year of availability of a multiple-year

appropriation, the amount of the recorded obligation shall be the cost of transportation purchased and reimbursements earned to the end of the fiscal year.

## 0812 OTHER OBLIGATIONS

### 081201. Loan Agreements

Under 2 U.S.C. 661-661f, the Federal Credit Reform Act, unless otherwise provided by statute, new direct loan obligations may be incurred only to the extent that budget authority to cover their costs is provided in advance. When a direct loan obligation is incurred, its cost (i.e., the estimated long-term cost of the loan to the government) is obligated against the “program account” established for the loan program. The actual funding of the loan is made through a revolving, non-budget “financing account.” [OMB Circular No. A-11](#), Part 5, contains detailed guidance covering the obligation and disbursement of funds for direct and guaranteed loans.

### \*081202. Grants and Subsidies

The amount of a grant or subsidy shall be recorded as an obligation when supported by documentary evidence as follows:

A. A grant requiring the grantee to undertake prescribed activities shall be recorded as an obligation based on formation of a binding agreement. Usually, a signed grant offer is provided by a grants officer to the grantee for acceptance. The obligation is incurred when the grantee accepts or approves the Component’s offer by signing the grant document and providing the acceptance to the Component.

B. A grant or subsidy not preceded by a binding agreement shall be recorded as an obligation at the time payable.

C. Annually, Components shall:

1. Track the amount of undisbursed grant funding remaining in expired grant or subsidy accounts,

2. Determine why these funds were undisbursed, and

3. Take action to resolve the undisbursed funding and close the expired grants and related accounts.

### \*081203. Bid Protests or Other Challenges

The pertinent policy provisions follow.

A. Funds available at the time of protest or other action filed in connection with a solicitation for, proposed award of, or award of such contract, remain available for obligation for 100 calendar days after the date on which the final ruling is made on the protest or other action.

B. A protest or other action consists of a protest filed with the GAO, or an action commenced under administrative procedures or for a judicial remedy if:

1. The action involves a challenge to a solicitation for a contract; a proposed award for a contract; an award of a contract; or the eligibility of an offeror or potential offeror for a contract or of the contractor awarded the contract; and

2. Commencement of the action delays or prevents an executive agency from making an award of a contract or proceeding with a procurement.

C. A ruling is considered final on the date on which the time allowed for filing an appeal or request for reconsideration has expired, or the date on which a decision is rendered on such an appeal or request, whichever is later.

1. A request for reconsideration of a GAO protest must be made within ten days after the basis for reconsideration is known or should have been known, whichever is earlier.

2. The appeal of a protest decision of a district court or the Court of Federal Claims must be filed with the Court of Appeals for the Federal Circuit within 60 days after the judgment or order appealed from is entered.

**\*081204. Liquidated Damages**

Recover the amount of liquidated damages deducted and withheld from the contractor. If the contractor objects to the assessment of liquidated damages, treat the amount as a contingent liability. Reestablish an obligation only when a formal contractor claim is “approved,” i.e., sustained by government admission or by a judgment.

**081205. Litigation**

As a general rule, the amount of the liability expected to result from pending litigation shall be recorded as an obligation in cases where the government definitely is liable for the payment of money from available appropriations, and the pending litigation is for the purpose of determining the amount of the government’s liability. In other cases, an obligation shall not be recorded until the litigation has been concluded or the government’s liability finally is determined. A written administrative determination of the amount of the liability shall serve as documentary evidence of the obligation.

**\*081206. Bills of Lading**

A bill of lading issued to a commercial carrier shall be recorded, when issued, as an obligation in an amount representing the estimated value of the transportation to be furnished, based on established rates and adjusted on receipt of evidence of payment of the final bill. Obligations for transportation that has not been commenced at year-end must be deobligated and obligated in the next fiscal year if still valid.

\*081207. Public Utility Services

An obligation for recurring charges for utility services (such as gas, electricity, water, and steam) and communications will be recorded each month or as required based on a written administrative determination of the estimated cost of the service that will be furnished during the month. Charges for utility services and communications for a time period beginning in one fiscal year and ending in another fiscal year shall be charged against the appropriation current at the end of the time period covered by the service.

081208. Claims

A claim payable under law shall be recorded as an obligation, when finally approved, in the amount certified for such payment.

081209. Legal Determinations

A document evidencing a present legal liability of the U.S. Government, when the liability has been determined to exist by competent legal authority, shall be recorded as an obligation in the amount of the liability when that determination is made.

081210. Simultaneous Disbursement and Obligation

If a disbursement has been made (or is about to be made) without the related obligation previously having been recorded, an obligation shall be recorded immediately in the amount of the disbursement. Disbursement documents in payment of obligations not previously recorded shall be used to record the transaction as an Accrued Expenditure--Paid with a corresponding decrease in the uncommitted/unobligated balance of the affected allotment.

081211. Simultaneous Undelivered Order and Accrued Expenditure - Unpaid

If delivery or performance is due within a short period of time, contracts and other orders for \$1,000 or less may be entered into the budgetary accounts as Accrued Expenditures--Unpaid rather than Undelivered Orders. This will save one processing step when recording obligation transactions for small amounts.

081212. Foreign Currency Fluctuations

A. The Foreign Currency Fluctuations Appropriation was established to eliminate losses or gains to programs caused by fluctuation of specified foreign currency exchange rates from those used in the budget. (DWCF foreign currency fluctuations are absorbed by the incurring DWCF business area, not the foreign currency account.) Contractual obligations or other obligations payable in the specified foreign currencies may not be adjusted until disbursements are made from the appropriation account involved.

B. When foreign currencies not specified in the Foreign Currency Fluctuations Appropriation account are involved, any adjustments to cost at the time of payment shall be supplemented with adjustments made at year-end and may be made at any other time a significant change occurs in order to avoid overobligation of an allotment.

081213. Security Guard and Firefighting Services

\* A. [Title 10, United States Code, section 2465](#), prohibits the obligation or expenditure of appropriated funds for the purpose of entering into a contract for the performance of firefighting or security guard functions at any military installation or facility in the United States, including Alaska and Hawaii. This prohibition does not apply to (1) a contract that is to be performed in the commonwealths, territories, or possessions of the United States, or other locations outside the United States, when members of the Armed Forces otherwise would have to be used for the performance of firefighting or security guard services at the expense of unit readiness; (2) a contract to be carried out on a government-owned, contractor-operated (GOCO) installation; (3) a contract (or renewal of a contract) for the performance of a function that was under contract on September 24, 1983, or (4) [a contract for the performance of firefighting functions if the contract is for a period of one year or less and covers only the performance of firefighting functions that, in the absence of a contract, would have to be performed by members of the armed forces who are not readily available to perform such functions by reason of deployment.](#)

B. [Section 2905 \(b\)\(8\) of Public Law 100-510](#), the Defense Base Closure and Realignment Act of 1990, as amended, authorizes special procedures for providing security guard (or firefighting) services 180 days before an installation closes under the Base Realignment and Closure initiative.

\*081214. Postage

[An obligation for postage shall be recorded each month based on an estimate of the billing to be received and adjusted based on the actual billing received. If advance payment for post office box is required, the obligation shall be based on the advance billing. Stamps purchased shall be obligated at the time payment is made.](#)

0813 UNRECORDED OBLIGATIONS

081301. Dollar Threshold.

The following guidance shall be applied when the accounting office identifies that an obligation has been incurred but not recorded in the official accounting records and the accounting office is in possession of a valid obligating document (as specified in subparagraph 081302.C below):

A. The accounting office immediately shall record an obligation if the dollar amount is \$2,500 or less.

B. If the dollar amount is greater than \$2,500, the accounting office shall provide the appropriate DoD Component fund holder with a copy of the obligating document(s), via e-mail, fax, or other documented means (retaining proof of transmission and receipt of the notification), and allow 10 calendar days for the fund holder either to record the obligation or demonstrate that the obligation previously had been recorded. If, within 10 calendar days, the fund holder does not demonstrate that: (1) it is not accountable for the obligation, (2) the obligation is inaccurate, (3) the applicable obligation previously was recorded or (4) it has recorded the obligation in the accounting records, the accounting office shall record the obligation on behalf of the fund holder.

081302. Process Controls

A. Identification. Whenever the accounting office records an obligation, the appropriate fund holder shall be notified immediately and such notification shall be via e-mail, fax, or other documented means. Additionally, whenever the accounting office records an obligation, each such recording uniquely shall be identified, logged, formally approved by an appropriate level accounting office manager, and cross-referenced to the obligating document. The processed obligating document shall be similarly annotated. In lieu of a log file, it is acceptable for an automated system to identify the source of a DFAS recorded obligation.

B. Internal Control. To ensure proper internal controls within the accounting office, the duty of recording obligations shall be separate from other payment function duties; for example, the technicians responsible for recording an obligation also shall not post receiving reports or certify payments.

C. Supporting Documentation. Prior to recording an obligation, the accounting office responsible for the official accounting records of the fund holder shall have either:

1. A copy of the obligating document(s) via e-mail, fax, or other documented means (e.g., contract, contract amendment, letter contract, purchase order, reimbursable order, lease agreement, travel order, etc.) that will support an obligation, or

2. EDI transaction set that represents an obligating document or supports an obligation (e.g., an EDI 850 transaction set representing a contract or an EDI 860 transaction set representing a contract modification or equivalent electronic data).

D. Document Verification

1. The accounting office shall verify that the document previously was not recorded in the official accounting records under the applicable obligation reference number indicated. The verification process also shall include an appropriate review (e.g., review by amount, appropriation, and vendor name) to determine whether the obligation is recorded under another reference number, to include unrecorded modifications that are controlled in other obligating documents. For those accounting systems that contain commitments, the review also shall involve looking for a commitment.

2. The accounting office shall verify whether the obligation was recorded in the official accounting records at an amount that was less than the face value of the obligating document or EDI representation. If so, the amount of the obligation to be recorded shall be limited to the difference between the amounts authorized on the obligating document or EDI representation and the amount previously recorded in the official accounting records.

3. Once one of the above two conditions has been met, the supporting accounting office immediately shall record an obligation if the dollar amount is \$2,500 or less. If the amount of the obligation is over \$2,500, the accounting office shall follow the procedures in subparagraph 081301.B above.

E. Responsibilities. The fund holder and supporting accounting office shall implement procedures to ensure that obligations are promptly recorded, i.e., within 10 calendar days. Additionally, if the accounting office has recorded an obligation, and the fund holder demonstrates to the accounting office that the obligation so recorded by the accounting office is invalid, inaccurate or a duplicate of an obligation that already has been recorded, the accounting station shall reverse the accounting station recorded obligation within 10 calendar days of receipt of adequate documentation.

F. Research. When the accounting office records an obligation in accordance with this policy and it results in an apparent Antideficiency Act violation, that office immediately shall initiate research to include consulting with the fund holder.

1. If it is determined that the accounting office action resulted in a duplicate of an obligation that previously was recorded in the official accounting records, the accounting office action immediately shall be reversed after the error is identified and no Antideficiency Act violation will be considered to have occurred.

2. If it is determined that (a) the accounting office action has not resulted in a duplicate of an obligation that was previously recorded in the official accounting records and (2) the obligation has exceeded the fund holder's authorized budget authority, then a preliminary review of the potential violation shall be initiated in accordance with Volume 14, Chapter 3. If a valid obligation actually had been incurred in excess of available funds, the actual incurrence of the obligation, rather than the recording of the obligation, would be considered to have caused the apparent violation. In such cases, follow the appropriate DoD guidance for Antideficiency Act investigations contained in Volume 14.