

# **PART ONE**

# **DISBURSING**

## CHAPTER 01

PURPOSE, ORGANIZATION, AND DUTIES0101 PURPOSE

010101. Authority. This Volume of the Department of Defense Financial Management Regulation is issued under the authority of DoD Instruction 7000.14, "DoD Financial Management Policy and Procedures," (reference (a)). It governs all DoD disbursing policy by establishing and enforcing requirements, principles, standards, responsibilities, procedures, practices, and liability for disbursing officers (DOs) throughout the DoD. This Volume incorporates the policies and procedures of references (b) through (k), which are hereby canceled.

010102. Recommended Changes. Forward recommended changes to this Volume through channels to: Office of the Comptroller of the Department of Defense, Room 3E822, The Pentagon, Washington, DC 20301-1100.,

010103. Requests for Deviation or Exceptions. Submit requests for deviations from or exceptions to the policies, procedures, and standards in this Volume, with complete justification, through channels to: Office of the Comptroller of the Department of Defense, Room 3E822, The Pentagon, Washington, DC 20301-1100.

010104. Use of This Volume. Various paragraphs in this Volume specify the use of specific Treasury symbols (e.g., \*\*F3880, \*\*F3878, or \*\*F3875). In all instances, the double asterisk must be replaced by the appropriate DoD Component designator of 17 for Navy (including Marine Corps), 21 for Army, 57 for Air Force, or 97 for Defense, as appropriate. This Volume also prescribes the use of specific forms. Some of these forms are currently used by the DoD Components. However, some of the DoD Components are using specific DoD Component forms in lieu of the prescribed forms. In many instances, these equivalent forms are generated by disbursing systems currently in operation. It is not necessary or desirable for the DoD Components to modify existing disbursing systems to incorporate the forms prescribed by this Volume. Affected Components should continue to use existing automated systems and the forms they

generate until all existing disbursing systems are replaced by a standard DoD disbursing system. However, all disbursing offices which manually prepare forms are required to begin using the forms prescribed herein as soon as supplies of the forms can be obtained through normal supply channels. Examples of forms provided in this Volume are for illustrative purposes only. Under no circumstances should they be reproduced for use.

0102 ORGANIZATION

010201. Defense Finance and Accounting Service (DFAS). Pursuant to the authority vested in the Secretary of Defense under the provisions of Title 10, United States Code (reference (l)), the DFAS was established as an agency of the DoD by DoD Directive 5118.5 (reference (m)). The DFAS is under the direction, authority, and control of the Comptroller of the Department of Defense (DoD(C)). The Director, DFAS is the principal DoD executive for finance and accounting requirements, systems, and functions identified in DoD Directive 5118.3 (reference (n)), and shall:

A. Direct finance and accounting requirements, systems, and functions for all appropriated, nonappropriated, working capital, revolving, and trust fund activities, including security assistance.

B. Establish and enforce requirements, principles, standards, systems, procedures, and practices necessary to comply with finance and accounting statutory and regulatory requirements.

C. Provide finance and accounting services for DoD Components and other Federal activities.

D. Direct the consolidation, standardization, and integration of finance and accounting requirements, functions, procedures, operations, and systems and ensure their proper relationship with other DoD functional areas.

E. Execute statutory and regulatory financial reporting requirements and render financial statements.

F. Approve the establishment or maintenance of all finance and accounting activities independent of the DFAS.

The mailing address for DFAS Headquarters is: Director, Defense Finance and Accounting Service, DFAS-HQ/\_\_\_, 1931 Jefferson Davis Highway, Arlington, VA 22240-5291.

★010202. Defense Finance and Accounting Service Centers. Effective January 20, 1991, the DFAS took operational control of the DoD Component's finance centers. Accordingly, each center was redesignated as a DFAS Center.

A. DFAS - Cleveland Center. DFAS Cleveland Center (formerly the Navy Finance Center, Cleveland, OH) is responsible for:

1. Operation of the central site processing operations of the Joint Uniform Military Pay System (JUMPS) for the Navy.

2. Navy allotment program operations relating to payment of allotments and issuances of the U.S. Savings Bonds for all Navy members and retirees.

3. Examining and conducting a centralized program for the analysis of closed Navy master military pay accounts.

4. Payment of Federal income taxes withheld from Navy members and retirees.

5. Adjudication and payment of claims for military pay and allowances of Navy members and retirees.

6. Payment of drilling Naval reservists.

7. Payment of retired military pay for all DoD Components and Fleet Reserve rolls.

8. Preparing and forwarding to Treasury through DFAS Headquarters (Finance) (DFAS-HQ/F) requests from assigned Component(s) for establishment of disbursing offices.

9. Preparing and forwarding to Treasury through DFAS-HQ/F requests from assigned Component(s) for a change in the designation or location of disbursing offices.

10. Preparing and forwarding to Treasury through DFAS-HQ/F requests and notifications from assigned Component(s) for disestablishment of disbursing offices.

11. Maintaining files containing appointments, revocations, and specimen signatures of all assigned DOs and deputies.

12. Approving the use of check-signing machines and the certified facsimile signatures for all assigned DOs. After approval, notifying the DO that use of the check-signing machine and facsimile plate is authorized.

13. Providing copies of specimen signatures of assigned DOs to the Federal Reserve Banks on request.

14. Processing purchase orders for blank U.S. Treasury checks from all assigned DOs.

15. Reporting of financial information.

16. Accounting for Navy funds and property.

17. Consolidation of Navy and Marine Corps financial reports.

18. Providing a centralized service for clearance of exceptions against Navy DOs.

19. Processing requests for relief of liability from accountable officials.

20. Performing other accounting and disbursing functions as prescribed.

The mailing address for DFAS Cleveland Center is: Defense Finance and Accounting Service, Cleveland Center, DFAS-CL/\_\_\_, Cleveland, OH 44199-2056.

B. DFAS - Columbus Center. DFAS Columbus Center (formerly Defense Finance Center, Columbus, OH) is responsible for:

1. Payment of vendor's invoices.
2. Payment of civilian payrolls.
3. Accounting for funds and property.
4. Preparing and forwarding to Treasury through DFAS-HQ/F requests from assigned Component(s) for establishment of disbursing offices.
5. Preparing and forwarding to Treasury through DFAS-HQ/F requests from assigned Component(s) for a change in the designation or location of disbursing offices.
6. Preparing and forwarding to Treasury through DFAS-HQ/F requests and notifications from assigned Component(s) for disestablishment of disbursing offices.
7. Maintaining files containing appointments, revocations, and specimen signatures of all assigned DOs and deputies.
8. Approving the use of check-signing machines and the certified facsimile signatures for all assigned DOs. After approval, notifying the DO that use of the check-signing machine and facsimile plate is authorized.
9. Providing copies of specimen signatures of assigned DOs to the Federal Reserve Banks on request.
10. Processing purchase orders for blank U.S. Treasury checks from all assigned DOs.
11. Reporting of financial information.
12. Processing requests for relief of liability from accountable officials.
13. Performing other accounting and disbursing functions as prescribed.

The mailing address for DFAS Columbus Center is: Defense Finance and Accounting Service, Columbus Center, DFAS-CO/\_\_, Columbus, OH 43218-2317.

C. DFAS - Denver Center. DFAS Denver Center (formerly Air Force Accounting and Finance Center, Denver, CO) is responsible for:

1. Operation of the central site processing operations of the JUMPS for the Air Force.
2. Air Force allotment program operations relating to payment of allotments.
3. Examining and conducting a centralized program for the analysis of closed Air Force personal financial records.
4. Payment of Federal income taxes withheld from Air Force members.
5. Adjudication and payment of claims for military pay and allowances for Air Force members.
6. Payment of drilling Air Force reservists.
7. Payment of civilian payrolls.
8. Providing a centralized service for clearance of exceptions against Air Force DOs.
9. Payment of annuitant pay.
10. Examination and consolidation of Air Force DO's financial reports.
11. Preparing and forwarding to Treasury through DFAS-HQ/F requests from assigned Component(s) for establishment of disbursing offices.
12. Preparing and forwarding to Treasury through DFAS-HQ/F requests from assigned Component(s) for a change in the designation or location of disbursing offices.
13. Preparing and forwarding to Treasury through DFAS-HQ/F requests and

notifications from assigned Component(s) for disestablishment of disbursing offices.

14. Maintaining files containing appointments, revocations, and specimen signatures of all assigned DOs and deputies.

15. Approving the use of check-signing machines and the certified facsimile signatures for all assigned DOs. After approval, notifying the DO that use of the check-signing machine and facsimile plate is authorized.

16. Providing copies of specimen signatures of assigned DOs to the Federal Reserve Banks on request.

17. Processing purchase orders for blank U.S. Treasury checks from all assigned DOs.

18. Reporting of financial information.

19. Processing requests for relief of liability from accountable officials.

20. Performing other accounting and disbursing functions as prescribed.

The mailing address for DFAS Denver Center is: Defense Finance and Accounting Service, Denver Center, DFAS-DE/\_\_\_, 6760 E. Irvington Place, Denver, CO 80279-1500.

D. DFAS - Indianapolis Center. DFAS Indianapolis Center (formerly Army Finance and Accounting Center, Indianapolis, IN) is responsible for:

1. Operation of the central site processing operations of the DJMS for the Army.

2. Army allotment program operations relating to payment of allotments.

3. Examining and conducting a centralized program for the analysis of closed Army personal financial records.

4. Payment of Federal income taxes withheld from Army members.

5. Adjudication and payment of claims for military pay and allowances of Army members.

6. Payment of drilling Army reservists.

7. Providing a centralized service for clearance of exceptions against Army DOs.

8. Examination and consolidation of Army DO's reports.

9. Preparing and forwarding to Treasury through DFAS-HQ/F requests from assigned Component(s) for establishment of disbursing offices.

10. Preparing and forwarding to Treasury through DFAS-HQ/F requests from assigned Component(s) for a change in the designation or location of disbursing offices.

11. Preparing and forwarding to Treasury through DFAS-HQ/F requests and notifications from assigned Component(s) for disestablishment of disbursing offices.

12. Maintaining files containing appointments, revocations, and specimen signatures of all assigned DOs and deputies.

13. Approving the use of check-signing machines and the certified facsimile signatures for all assigned DOs. After approval, notifying the DO that use of the check-signing machine and facsimile plate is authorized.

14. Providing copies of specimen signatures of assigned DOs to the Federal Reserve Banks on request.

15. Processing purchase orders for blank U.S. Treasury checks from all assigned DOs.

16. Reporting of financial information.

17. Processing requests for relief of liability from accountable officials.

18. Performing other accounting and disbursing functions as prescribed.

The mailing address for DFAS Indianapolis Center is: Defense Finance and Accounting Service, Indianapolis Center, DFAS-IN/\_\_\_\_\_, Column \_\_\_\_\_, 8899 E. 56th Street, Indianapolis, IN 46249-0833.

E. DFAS - Kansas City Center. DFAS Kansas City Center (formerly Marine Corps Finance Center, Kansas City, MO) is responsible for:

1. Operation of the central site processing operations of the JUMPS for the Marine Corps.

2. Marine Corps allotment program operations relating to payment of allotments.

3. Examining and conducting a centralized program for the analysis of closed Marine Corps personal financial records.

4. Payment of Federal income taxes withheld from Marine Corps members.

5. Adjudication and payment of claims for military pay and allowances of Marine Corps members.

6. Payment of drilling Marine Corps reservists.

7. Providing a centralized service for clearance of exceptions against Marine Corps DOs.

8. Examination and consolidation of Marine Corps DO's reports.

9. Reporting of financial information.

10. Preparing and forwarding to Treasury through DFAS-HQ/F requests from assigned Component(s) for establishment of disbursing offices.

11. Preparing and forwarding to Treasury through DFAS-HQ/F requests from as-

signed Component(s) for a change in the designation or location of disbursing offices.

12. Preparing and forwarding to Treasury through DFAS-HQ/F requests and notifications from assigned Component(s) for disestablishment of disbursing offices.

13. Maintaining files containing appointments, revocations, and specimen signatures of all assigned DOs and deputies.

14. Approving the use of check-signing machines and the certified facsimile signatures for all assigned DOs. After approval, notifying the DO that use of the check-signing machine and facsimile plate is authorized.

15. Providing copies of specimen signatures of assigned DOs to the Federal Reserve Banks on request.

16. Processing purchase orders for blank U.S. Treasury checks from all assigned DOs.

17. Processing requests for relief of liability from accountable officials.

18. Performing other accounting and disbursing functions as prescribed.

The mailing address for DFAS Kansas City Center is: Defense Finance and Accounting Service, Kansas City Center, DFAS-KC/\_\_\_\_\_, Kansas City, MO 64197-0001.

010203. DoD Disbursing Offices. Commanders shall ensure that DOs in their command are following the provisions of this Volume.

010204. Disbursing Officers. The DO shall ensure that the operation of the disbursing activity follows the provisions of this Volume.

#### 0103 DISBURSING OFFICER DUTIES AND AUTHORITY

##### 010301. Keeping of Public Funds

A. General. DOs are required to keep safely all the public funds collected by them or otherwise placed in their possession and custody. Lending, using, depositing in banks, or

exchanging for other funds except as specifically allowed by law is prohibited. DOs are required to safeguard public funds until ordered by the proper authority to transfer or pay out the funds. When such orders for transfer or payment are received, DOs shall faithfully and promptly make the transaction directed. DOs shall do and perform all other duties as fiscal agents of the Treasury which may be imposed by law or regulations made in conformity to law. In case of disaster, DOs shall secure and preserve the accounts of all personnel, public money, and such other papers and property, in the order of their importance, as circumstances permit.

B. Deposit of Public Funds. Except as otherwise authorized by law and by regulations, it is the duty of every DO to deposit funds in excess of amount authorized to be held at personal risk with an authorized depository of the United States without delay.

010302. Accounting and Reporting. Every DO is required to maintain detailed records of all transactions. These records shall be available for examination by authorized representatives of the Secretary of the Defense and the Comptroller General of the United States. Every DO is further required to submit periodic financial reports.

010303. Specific Authority for Disbursements

A. Authority. Public funds shall be received and disbursed by order of, or on proper authority of, the commander, when sanctioned by the Comptroller General.

B. Legality and Propriety

1. Sanction of Law. Transactions involving payments shall be examined for legality, propriety, limitations, and time frames under the statutes governing the various classes of expenditures and for validity under general provisions of law. There is no authority to disburse public funds to satisfy demands which are of doubtful validity or which should be supported by judicial action.

2. Sanction of Comptroller General's Decisions. DOs are governed by the rulings of the Comptroller General of the United States. When decisions of general application

are made by the Comptroller General, appropriate instructions shall be promulgated by the DFAS Headquarters. Doubtful claims or constructions of law not clearly covered by published decisions or instructions should be referred to the Comptroller General via official channels for decision. Disbursements made by a DO in accordance with a decision of the Comptroller General cannot be disallowed in the audit of the accounts upon a different construction of law.

3. Sanction of Regulations. A valid regulation of the head of an executive department providing for the payment of money under certain conditions by DOs has binding force on the accounting officers of the General Accounting Office. To be valid, a regulation shall be reasonable and shall be consistent with the law.

C. Substantiating Vouchers

1. Written Record of Transaction. Unless otherwise provided by law, each transaction conducted by an officer, agent, or employee of the Government of the United States, which when completed shall require the payment of money from the U.S. Treasury or payment to be made by a DO or agent of the Government of the United States, shall be evidenced by a written or printed signed document or series of documents which shall consist of a complete record of the transaction. Each statement of fact contained in such document or documents is to be certified or otherwise verified by a person who, in regular line of duty, has knowledge of the fact or facts certified or otherwise verified by that person, and who, when certification is made, shall state in the certification that the individual has personal knowledge of the facts certified or otherwise verified.

★ 2. Electronic Transactions. The Federal Reserve System (FRS) and its twelve Federal Reserve Banks (FRBs) act as the Treasury's fiscal agent in disbursing by electronic methods. Each disbursing office processing disbursements by electronic methods shall have a detailed written agreement with the servicing FRB of the FRS. These agreements contain detailed instructions for controlling tape delivery to the servicing FRB of the FRS, tape remaking procedures, credit routines, file label require-

ments, and other details explaining each office's unique requirements. Local operating instructions shall be written to implement these requirements. Further guidance on electronic transactions is provided in chapter 24 of this Volume.

3. Additional Evidence. The DO is not required to make payment on merely formal evidence. If the facts do not justify payment, a reasonable explanation or the submission of further evidence should be required.

010304. Alternatives Available in Connection with Questionable Payments. Upon the determination that a matter concerning the receipt or disbursement of public money is questionable in regard to the appropriate public law, previous Comptroller General decisions, court rulings, or regulations, a request for clarification shall be addressed to the DFAS Headquarters via the servicing DFAS Center. When, in the opinion of the DO, the matter requires a decision by the Comptroller General of the United States rather than a clarification of existing regulations or decisions, a request for advance decision shall be initiated. Procedures for requesting an advance decision from the Comptroller General of the United States are outlined in chapter 25 of this Volume.

#### 0104 ACCOUNTABILITY AND RESPONSIBILITY

##### 010401. Nature of Accountability

A. General. DOs are held personally and pecuniarily accountable for their disbursing acts and for the legal expenditure of the funds placed under their control. An officer shall be charged with all funds received for the Government. Credit shall be received from the General Accounting Office for all public funds expended by the DO which are in accordance with laws and regulations, substantiated in the required form, and accompanied by legal evidence. Detailed accounts of the activities of every DO shall be maintained for examination as to their correctness by the DoD and the General Accounting Office. Credit shall be withheld by the General Accounting Office for irregular, erroneous, or unsupported entries in an officer's account with the Government.

B. Knowledge of Laws Governing Disbursements. All accountable officials whose duties pertain to the disbursement of public funds shall take scrupulous care to ensure that all applicable laws are strictly observed.

C. Responsibility for Acts of Another. DOs are accountable for illegal, improper, or incorrect payments or for errors in their accounts even though they may have relied on deputies, agents, and cashiers and the errors were caused by the deputies, agents, and cashiers. A request for relief of the liability for such payments and errors shall be submitted by the DO and may also be required by the deputy, agent, or cashier who made the illegal, incorrect, or improper payment or error.

D. Payment on Forged or Fraudulent Vouchers or Pay Receipts. A DO is accountable for a payment made on a forged or fraudulent voucher or pay receipt even though not a participant or beneficiary in the fraud. Relief of liability for such payments may be requested by the DO and the deputy, agent, or cashier who made the payment.

##### 010402. Relief of Liability

A. General. The Comptroller General of the United States may relieve accountable officials of the DoD of liability for deficiencies in their account upon a finding that the statutory standards for relief prescribed by 31 U.S.C. 3527 (reference (o)) are met. Where a physical loss, regardless of amount, is incurred by an accountable disbursing official, the determination of the Secretary of Defense that relief should be granted is binding on the Comptroller General. In cases of illegal, incorrect, or improper payment, the Comptroller General acts upon a recommendation of the Secretary of Defense but independently determines whether relief shall be granted.

##### B. Statutory Standards

1. Physical Loss. The statutory standards for relief of liability for a physical loss are:

a. That the official was carrying out official duties when the loss or deficiency occurred.

b. That the loss or deficiency was not the result of an illegal, incorrect, or improper payment.

c. That the loss or deficiency was not the result of fault or negligence by the official.

2. Illegal, Incorrect, or Improper Payments. The statutory standards for relief of liability for illegal, incorrect, or improper payments are:

a. That the official was carrying out official duties when the illegal, incorrect, or improper payment occurred.

b. The Comptroller General decides that diligent collection action under procedures prescribed by the Comptroller General were carried out.

c. The Comptroller General decides that the illegal, incorrect, or improper payment was not the result of bad faith or lack of due reasonable care by the official.

### C. Delegation of Authority

1. Secretary of Defense. The Secretary of Defense has delegated authority to the Director, DFAS to make determinations and recommendations with respect to the granting of relief from pecuniary liability pursuant to 31 U.S.C. 3527 (reference (o)).

2. Director, DFAS. The Director, DFAS has delegated authority to the Directors of the DFAS Centers to make determinations and recommendations with respect to the granting of relief from pecuniary liability unless the accountable official operates from the DFAS Center, in which case the DFAS Deputy Director for Finance grants or denies relief pursuant to the authority contained in 31 U.S.C. 3527 (reference (o)).

D. Requests for Relief. Procedures and documentation requirements for submission of requests for relief of liability are outlined in chapter 06 of this Volume.

010403. Payments by Order of the Commander. The provisions of this paragraph apply only to

Navy and Marine Corps disbursing officers. Payments by the order of the commander are governed by 10 U.S.C. 7863 (reference (l)). In addition, it is the responsibility of the commander to inform the DO of any facts which warrant stoppage of pay or allotment.

A. Payment Under Protest. When a DO is ordered by the commander to make an expenditure of money which the DO believes to be illegal or contrary to regulation, the DO shall communicate the facts to the commander and request that the commander reiterate the order in writing if it is the commander's continued intention to order the expenditure. The DO shall not make the expenditure until receipt of the written reiteration. The pecuniary liability for the expenditure shall rest solely with the commander if the expenditure is determined to be illegal or contrary to regulation. The provisions for payment under protest apply only to commanders and DOs of the Department of the Navy. They do not apply to commanders and DOs of the Army, Air Force, or other DoD Components. Also, these instructions do not authorize an illegal advance of public funds to the commander or any other officer by written order of that officer.

B. Notification. Whenever a commander orders a DO to make a payment under protest, the commander shall submit copies of all available documentation, together with the facts and circumstances surrounding the payment, to the Director, DFAS Headquarters via the Director of the servicing DFAS Center.

010404. Decisions of the Comptroller General. A DO making payments in accordance with decisions of the Comptroller General of the United States is not liable for such payments.

010405. Turnover of Funds Upon Relief. When a DO is relieved of duties because of transfer or any other reason other than deactivation of the disbursing station symbol number (DSSN), all fund account records, public funds, and property shall be turned over to the relieving DO.

★010406. Internal Management Controls. Disbursing Officers are required to implement and abide by the requirements of the DFAS Internal Management Control (IMC) Program as set forth in the current edition of DFAS 5010.38-R, Inter-

nal Management Control Program. Effective IMC procedures depend largely on eliminating opportunities to conceal errors or irregularities. This, in turn, depends on assigning work so that no one individual controls all phases of a transaction. Separation of duties creates a situation that should preclude errors or attempts at fraud or embezzlement from going undetected. Key duties such as authorizing, approving, and recording transactions; issuing or receiving assets; making payments; preparing checks and check signing; certification of funding; and reviewing or auditing shall be assigned to separate individuals to minimize the risk of loss to the Government to the greatest extent possible. The DO should not be assigned duties that create a potential conflict of interest. For example: A payment is made under the DO's DSSN which results in a request for a waiver of indebtedness. If the DO also supervises those individuals involved in the adjudication of requests for waivers, he/she is placed in a position of influence over the decision of the waiver. It also eliminates his/her pecuniary liability for an illegal, incorrect, or improper payment. Appropriate separation of duties is not always practical or possible due to time constraints, manpower shortages, or the use of mechanized systems. For example, payments and collections through the On-Line Payment and Collection (OPAC) system can occur outside the disbursing work center without weakening internal controls because the payee is always another Federal agency and recovery of an erroneous payment is assured. Other situations can require closer scrutiny. The commander and the DO shall: be aware of situations where valid, long-standing separation of duties cannot be achieved, recognize that internal controls have been weakened as a result of such; and make every effort to compensate for loss of the internal control. Unique situations resulting in an inability to separate appropriate responsibilities should be reported to the applicable DFAS Center, together with a request for a waiver and recommendations for compensating for the loss of the internal control. Close review of IMC plans, policies, adequacy, compliance, and effectiveness will be the subject of all inspections and audits conducted in all disbursing offices.

010407. Receipts for Payments. A receipt is required for all cash payments. A receipt is not

required for payments made by check drawn by the DO except when required by law or contract. In no case shall receipt for payment be taken in duplicate. In all cases of cash payment, the exchange of currency and the receipt for it shall be simultaneous. Practices requiring receipts in advance of actual cash payments are prohibited. The accountable individual making the cash payment shall positively identify the payee. If the payee is not known personally, the accountable individual making the payment shall examine an appropriate identification card which includes both the payee's picture and signature. A comparison of the payee's signature should be made with that appearing on the identification card. For military personnel, the DD Form 2, Armed Forces Identification Card should be used. The responsibility for identifying the payee may not be delegated.

010408. Receipts for Collections. Receipts for collections shall be signed personally by the DO or an agent whose designated duties include receipt of collections.

#### 0105 RESTRICTIVE REQUIREMENTS

010501. Payment of Compensation. The use of public funds for the payment of compensation to any commission, council, board, or other similar body is prohibited by 31 U.S.C. 1346 (reference (o)) unless the creation of the body has been specifically authorized by law.

010502. Accounting for Premiums on Sales of Public Moneys or Securities. Under 31 U.S.C. 3341 (reference (o)), no DO of the United States shall either directly or indirectly sell or dispose of to any person for a premium any Treasury note, draft, warrant, or any other public security not of the officers private property. Further, no officer shall sell or dispose of the proceeds of such note, draft, warrant, or security in the hands of the officer for disbursement without depositing the premium and the proceeds in the officer's accounts to the credit of the United States.

010503. Advances, Prepayments, and/or Overpayments. Except as otherwise authorized under 31 U.S.C. 3324 (reference (o)), advances, prepayments, and overpayments of public monies are prohibited. Certain advances and prepayments are permitted by this Volume and Volumes 7, 8,

9, and 10 of this Regulation; Joint Travel Regulations; and Joint Federal Travel Regulations.

010504. Payments to Third Parties

A. General. Subject to the specific exceptions cited in subparagraphs 010504.B through 010504.I below, the payment of money to a person to whom the United States is not indebted is not authorized. Also, such payment is prohibited even though the claimant to whom the amount is due requests that payment be made to another person.

B. Levy and Distraint for Delinquent Taxes. Salaries and wages of officers and employees of the U.S. Government, including all members of the Armed Forces, are subject to levy and distraint for delinquent Federal taxes as prescribed by 26 U.S.C. 6331 (reference (p)). An attachment for other than delinquent Federal taxes cannot be enforced against public money in the hands of a DO and no trustee process, garnishment, or injunction can be recognized by officers of the Government with respect to money due creditors of the United States.

C. Payments to Bankruptcy Trustees. A civilian employee or military member may file a chapter 7, 11, or 13 petition in bankruptcy under P.L. 95-598 (reference (q)). During the bankruptcy proceedings that follow, the Bankruptcy Court may order the individual's pay to be forwarded to the Bankruptcy Trustee. Such payments are proper, and DOs incur no additional liability as a result. If the individual is indebted to the United States as the result of a debt incurred prior to the filing of the bankruptcy petition, a setoff against the individual's pay through the date prior to the filing date of the bankruptcy petition should be effected where otherwise appropriate and authorized. The usual percentage restrictions on such a setoff are inapplicable to this situation. Debts that are not completely liquidated shall be collected in accordance with procedures required by the Bankruptcy Act. Debts incurred after the filing of the bankruptcy petition are collected in the usual manner.

D. Successor in Interest. Payments due contractors may be made to court-appointed trustees, receivers, or other legal representatives

under the conditions set forth in Volume 10 of this Regulation.

E. Assignment of Claims. Amounts due or to become due under contracts which provide for payments aggregating \$1,000 or more may be assigned under the procedures outlined in Volume 10 of this Regulation.

F. Authorized Withholdings and Allotments of Pay. Deductions from military and civilian payrolls for various purposes such as retirement, taxes, health benefits, group life insurance, allotments, and voluntary payments for child support, alimony, and other purposes are provided for by statutory authority.

G. Drawing of Checks in Favor of Financial Organizations for the Credit of Persons' Accounts. Checks in payment of salaries and wages of military members and civilian employees may be drawn in favor of financial organizations for the credit of persons' accounts as prescribed in 31 U.S.C. 3332 (reference (o)) and Volumes 7 and 8 of this Regulation. An example would be: Merchants National Bank, Cr: Tsgt John Doe, Account Number: 346-839, Taylor, MI 04180.

H. Garnishment of Pay for Child Support and Alimony. Salaries and wages of military members and civilian employees are subject to garnishment for child support and alimony as prescribed in P.L. 93-647 (reference (r)).

I. Withholding of Contract Payments. Payment is to be made to the Department of Labor for amounts owed by contractors to employees under a contract as prescribed in Volume 10 of this Regulation.

010505. Equitable Claims. Claims which are not founded on contracts, either expressed or implied, but upon merely equitable or moral grounds, can be paid only after direct authorization by Congress. The General Accounting Office has no authority to give credit for such payments even though they are claimed on equitable grounds.

010506. Insurance Fees. The Government is self insured (or bonded), therefore a DO or any of the agents of the DO are not authorized to insure public funds or property.

★010507. Municipal Services. In the absence of specific statutory authority, a DO is not authorized to pay for municipal services such as police and fire protection if those services are required to be provided to private citizens at no cost.

#### 0106 PUNITIVE PROVISIONS

##### 010601. Misuse of Public Funds

A. Disbursing Officers. DOs who convert to their own use, loan, exchange for other funds, or deposit public funds entrusted to them except as authorized by law are guilty of embezzlement. DOs who withdraw public funds from the Treasury or other public depository for any purpose not prescribed by law, or who wrongfully transfer the public funds entrusted to them, are guilty of embezzlement. Such officers are subject to fine, imprisonment, or both.

B. Agents. Individuals charged as agents who are responsible for the safekeeping of public funds and who loan, convert to their own use, deposit, or exchange for other funds except as provided by law any portion of those public funds, are guilty of embezzlement and subject to fine, imprisonment, or both.

010602. Failure to Deposit. Accountable officials who have funds of the United States in their possession or under their control for the purpose of safekeeping, transfer, or disbursement, and who fail to deposit with the Treasury or other authorized depository as required by the Secretary of the Treasury, the Secretary of Defense, or the General Accounting Office are guilty of embezzlement and subject to fine, imprisonment or both.

010603. Misrepresentation of Payment Amounts. Any person charged with the payment of any appropriation who pays a sum less than that required by law, and requires the recipient of the payment to receipt or give a voucher for an amount greater than what was actually paid, is guilty of an embezzlement.

010604. Failure to Render Accounts. Any officer, employee, or agent of the United States who neglects or refuses to make a report which is required at stated times by any Act of Congress or regulation, shall be subject to fine.

010605. Embezzlement of Public Funds, Property, or Records. Under 18 U.S.C. 653 (reference (s)), DOs or any other accountable officials shall be guilty of an embezzlement if they in any manner convert funds to personal use; loan funds with or without interest; deposit public funds entrusted to them in any place or in any manner, except as authorized by law; or for any purpose not prescribed by law, withdraw from the U.S. Treasury or any authorized depository, transfer, or apply any portion of the public funds entrusted to them. Persons who embezzle, steal, or knowingly convert to their own use or the use of another; or without authority sell, convey, or dispose of any record, voucher, funds, or thing of value of the United States shall be subject to fine, imprisonment or both. Further, persons who receive, conceal, or convert such items to their own use or gain, knowing them to have been embezzled, stolen, or converted, are likewise subject to the above punishments.

010606. Falsification of Accounts. Any DO or other accountable individual who with intent to deceive, mislead, injure, or defraud the United States or any person, makes in their accounts or records any false or fictitious entry or record of any matter relating to or connected with their duties is subject to the penalties prescribed by 18 U.S.C. 1001 (reference (s)).

##### 010607. Withholding Pay of Persons in Arrears to the United States

A. Statutory Authority. Under 5 U.S.C. 5512 (reference (t)), the pay of individuals in arrears to the United States shall be withheld until the individuals have accounted for and paid into the U.S. Treasury all sums for which they may be liable.

#### B. Applicability

1. General. The law applies only to persons who have been entrusted with public funds and who have failed to account for such funds. It does not apply to ordinary debtors of the United States. The fact that charges of embezzlement or other crimes or negligence are not brought against a person in connection with a deficit of public funds does not, of itself, serve to remove the requirement that the person restore the amount for which they are accountable. The findings of a court are not necessarily

conclusive as to the amount of the shortage for which the person is accountable. Persons accountable for public funds are accountable for the total of such funds in their possession, in cash or in valid documents representing cash. The portion of such funds which they cannot produce or satisfactorily account for, comprises the amount of the shortage for which they may be held liable.

2. Military Personnel. For instructions covering the withholding of the pay of military personnel in connection with a deficit of public funds or public property, see Volume 7 of this Regulation.

3. Civilian Employees. For instructions covering the withholding of the pay of civilian personnel in connection with a deficit of public funds and public property see Volume 8 of this Regulation.

C. Right of Setoff. The right of setoff shall govern all cases in which a person is both creditor and debtor to the Government in any form as prescribed in sections 3702 and 3728 of 31 U.S.C. (reference (o)).

010608. Conspiracy to Defraud the Government. Any person who enters into any agreement or conspiracy to defraud the United States by obtaining or aiding to obtain the payment or allowance of any false, fictitious, or fraudulent claim shall be subject to fine, imprisonment or both as prescribed by 18 U.S.C. 286 (reference (s)).

010609. False, Fictitious, or Fraudulent Claims

A. Penalty. Whoever makes or presents to any person or officer in the civil or military service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be fined, imprisoned, or both as prescribed by 18 U.S.C. 287 (reference (s)).

B. Forfeiture of Unpaid Claims. Under 28 U.S.C. 2514 (reference (u)), a claim against the United States shall be forfeited to the United States by any person who corruptly practices or attempts to practice any fraud

against the United States in the proof, statement, establishment, or allowance thereof. Fraudulent claims against the United States may be submitted in connection with civilian and military pay and allowances, contracts and purchase orders, reimbursement of personal funds expended on official business around the permanent duty station, loss and damages, as well as temporary duty and permanent change-of-station travel. A separate determination of fraud shall be made for each item individually claimed on the appropriate claim form.

C. Paid Claims. The forfeiture of claims described above has no application to a claim which has been paid or to the recovery of monies paid out as a result of fraud. However, in any case where payment of an item of pay or allowances is wrongfully obtained, whether through fraud, misrepresentation, or otherwise, such payment is an illegal, incorrect, or improper payment and shall be recouped as prescribed by 28 U.S.C. 2514 (reference (u)) and 41 Comp. Gen. 285 (reference (v)).