

<p style="text-align: center;"><b>SUMMARY OF MAJOR CHANGES TO DoD 7000.14-R, VOLUME 5, APPENDIX C “LOSS OF FUNDS - INFORMATION FOR INVESTIGATING OFFICER”</b></p> <p style="text-align: center;">Substantive revisions are denoted by a ★ preceding the section or paragraph with the substantive change or revision.</p>			
<b>PAGE</b>	<b>PARA</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
C-2	B.2 and B.3	Requires that copies of appointments of investigating board officers (IBOs) and investigating officers (IOs) shall be submitted to the Defense Finance and Accounting Service, Financial Services Division, Kansas City (DFAS-DFD/KC).	Update
C-3	B.4.a	Requires that IOs and IBOs shall submit status reports to the DFAS-DFD/KC, every 30 days.	Update
C-4	B.6	Requires that requests for extension to submit the Report of Investigation (ROI) shall be submitted to the DFAS-DFD/KC.	Update
C-4	B.6.a(1)	Requires that social security numbers of accountable individuals shall be provided on the ROI.	Update
C-5 C-6	B.7.a and B.8.f	Requires that the original report of investigation shall be sent through the major command to the DFAS-DFD/KC.	Update
C-6	B.10 and B.11	Outlines other responsibilities of the DFAS-DFD/KC, with regard to reports of investigation.	Update

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## APPENDIX C

## LOSS OF FUNDS - INFORMATION FOR INVESTIGATING OFFICER

A. OVERVIEW

This appendix contains general information concerning the main issues that should be addressed in a loss of funds investigation for full consideration in making findings of fact and recommendations.

★B. APPOINTMENT OF AN INVESTIGATING OFFICER OR BOARD OF OFFICERS

1. General. The convening authority shall appoint either an investigating officer (IO) or investigating board of officers (IBO) to investigate the loss of funds. The purpose of the investigation is to develop all facts leading up to and connected with, the loss including the amount, date, time, and place of the loss. The purpose of the investigation is to identify accountable individuals and others involved in the loss of funds and to confirm the authenticity of documentary evidence and the veracity of oral testimony obtained. The investigation shall identify the cause of the loss of funds. The investigation also shall include a determination with respect to the adequacy of internal controls and whether the internal controls were effectively implemented. Specific instructions for conducting both formal and informal investigations may be contained in regulations issued by the Department of Defense (DoD) Components. The following paragraphs summarize basic requirements applicable to investigations of fiscal irregularities.

★ 2. Appointment of an IBO. The convening authority shall appoint an IBO in writing. The IBO should be comprised of officers who are skilled in applying professional investigative techniques and financial accounting controls, and experienced in the interpretation of law. Members of the IBO shall not have a vested interest in the outcome of the investigation. If considered necessary, military members (or civilian employees of a DoD Component) with these skills may be designated as technical advisors to the IBO. A copy of official appointment notifications to the IBO shall be forwarded to the Defense Finance and Accounting Service, Financial Services Division, Kansas City (DFAS-DFD/KC), 1500 East 95th Street, Kansas City, MO 64197-0300, for review and retention.

★ 3. Appointment of an IO. The convening authority shall direct issuance of an order to appoint an IO. The order shall name the individual, specify the matter to be investigated, and cite this volume and any authorizing DoD Component regulation as the authority for the investigation. The order shall also specify the approximate period of time allowed for the investigation. A copy of the order shall be entered into the report of investigation as an exhibit. Only commissioned officers of field grade (O-4 and above), or civilian employees of equivalent grade, may be appointed as an IO. Officers appointed to conduct investigations under this Regulation should be senior in rank to persons under investigation whenever possible and shall not have a vested interest in the outcome of the investigation. The best qualified officers should

be appointed as the IOs. They should be familiar with investigative techniques and have knowledge of the required internal controls, pertinent laws, and directives. (This requirement should not be interpreted to require the appointment of comptroller personnel. Comptroller personnel should be used only when there is no feasible alternative.) Officers appointed as the IOs who do not fully meet these requirements should be given technical guidance by the base comptroller and staff judge advocate. A copy of the appointment of the IO shall be forwarded to the DFAS-DFD/KC.

4. Required Loss Status Reports. Status reports shall be made as follows:

★ a. Loss of Funds. The IO or the IBO shall report every 30 days on the current status of each case. Reports shall be sent through the commander to the DFAS-DFD/KC with an information copy to the major command.

b. Loss of Blank Treasury Checks or Blank Savings Bonds. Status reports are not required.

5. Investigations

a. Investigations by IBOs. Before conducting its hearing, the IBO shall ensure that each accountable individual receives and reviews Chapters 6 and 33 of this volume regarding liabilities and responsibilities of accountable individuals and statutory authority for relief of liability. Prior to testifying, an accountable individual may examine records or documents relating to the loss in the DO's or the IBO's custody. All factual information pertaining to the loss or deficiency should be developed and be available for use by higher authority.

b. Investigations by IOs. The IO shall obtain evidence in the form of statements from accountable individuals and others concerning the loss. The IO shall ensure that each accountable individual receives and reviews Chapters 6 and 33 of this volume regarding liabilities and responsibilities of accountable individuals and statutory authority for relief of liability before the IO interviews the individual for the first time. An accountable individual may examine records or documents in the IOs custody that relate to the loss. Testimony may be reported verbatim or summarized by the IO. Whenever possible, the transcript or summary of testimony should be reviewed, sworn to, and signed by the witness. (When sworn testimony cannot be obtained, the IO shall submit a statement giving the substance of the interview and the reason for absence of attestation.) In addition, the IO shall gather records, documents, photographs, and sworn affidavits relating to the loss. The IO may use evidence developed in investigations already conducted concerning the loss by other agencies (e.g., FBI, U.S. Secret Service, or local authorities). Those investigations usually are for purposes other than those outlined above, and it might be necessary to obtain additional evidence from a source previously contacted in another investigation. The IO, by further investigation, shall make a determined effort to resolve or clarify all apparent discrepancies or contradictions in the evidence.

★ 6. Preparation of the Report of Investigation (ROI). Within 90 days after the loss is discovered, the IO or the IBO shall complete the investigation and submit an ROI to the convening authority in triplicate. When extraordinary circumstances require an extension to complete the ROI, the IO or the IBO may request an extension from the DFAS-DFD/KC through the convening authority. The ROI shall include the following elements:

a. Facts

★ (1) Identities of all accountable individuals who are pecuniarily liable for the loss, their social security numbers (SSNs), the amount for which each is accountable, and the involvement of each in the loss.

(2) Circumstances leading to, and surrounding, the loss and the efforts undertaken to discover the cause of a loss that remains unexplained.

(3) Description of the internal controls prescribed to prevent losses of the type experienced and the steps taken to implement those controls.

(4) Other relevant information that would aid in understanding how the loss occurred and in evaluating whether relief is appropriate for the accountable individuals involved.

(5) Documentary evidence (e.g., statements, transcripts, affidavits, investigative reports of other agencies, records and photographs) as exhibits to the ROI.

b. Findings

(1) Whether there was a loss to the U.S. Government.

(2) The amount of the loss.

(3) Whether the loss is a physical loss or one that involves fraud.

(4) Whether the accountable individual was acting in the line of duty with respect to the loss.

(5) Whether the loss was due to the fault or negligence of the accountable individual. A separate finding shall be made for each accountable individual involved.

c. Recommendations

(1) Whether the accountable individual should be relieved of pecuniary liability for the loss. Separate recommendations concerning each accountable individual involved are required.

(2) Corrective action for improving controls or procedures, if applicable.

(3) Any other recommendations that are appropriate, considering the facts developed during the investigation.

7. Distribution of the ROI. Prepare the ROI in triplicate and deliver to the convening authority. The convening authority shall distribute the ROI as follows:

★ a. Upon completion of action by the convening authority, the original ROI and associated papers shall be sent through the major command to the DFAS-DFD/KC.

b. If the major command is the convening authority, one copy of the ROI shall be forwarded to the commander of the base, station, activity, ship, or unit where the accountable individual is located. For Army finance battalions, a copy also shall be transmitted to the parent finance group or finance command.

c. The convening authority shall keep one copy of the ROI.

8. Convening Authority Actions on ROIs. Without delay, the convening authority shall review the ROI for compliance with the requirements set forth above. If a report is not thorough, comprehensive, or complete, the convening authority shall return it to the original investigator, if possible, explaining the defects and directing supplementation. Upon acceptance of the ROI, the convening authority shall send one copy to the commander of the base, station, camp, post, activity, vessel, or unit where the accountable individual is located. (NOTE: The convening authority does not have the authority to grant relief.) Within 30 days following acceptance of the ROI, the convening authority shall:

a. Consider all the facts, findings, and recommendations.

b. Determine whether satisfactory evidence exists to support a recommendation for relief from liability of each accountable individual involved as a part of the ROI.

c. If sufficient evidence exists, recommend relief from liability for each accountable individual involved; otherwise recommend denial of relief. A specific, separate recommendation is required for each accountable individual involved.

d. Attach to the ROI a detailed explanation of the reasons for each determination and recommendation.

e. Set forth all evidence used to support a recommendation for denial of relief of each accountable individual involved in the loss or deficiency. The convening authority should formally inform the individual(s) concerned of the recommendation to grant or deny relief.

★ f. Forward the ROI, and all attachments thereto, through the major command to the DFAS-DFD/KC.

9. Commander Actions on ROI. Recommendations by local commanders other than the convening authority are not required; however, the ROI may be used for disciplinary or administrative action considered necessary by the commander.

★ 10. Major Command Actions on ROI. All transmittals and correspondence between the convening authority and the DFAS-DFD/KC concerning a loss shall be routed through the major command. This will keep the major command informed of issues involved in the loss and the progress toward their resolution. The major command also shall review the ROI and forward its own comments and recommendations to the DFAS-DFD/KC within 30 days. Requests for an extension should be sent to the DFAS-DFD/KC with a complete explanation of the delay and the estimated date of submission. (NOTE: The major command does not have the authority to grant or deny relief.)

★ 11. DFAS-DFD/KC Action on ROI. The ROI shall be reviewed by the DFAS-DFD/KC. If the ROI is not considered thorough, comprehensive or complete, it shall be returned to the convening authority, with an explanation of the deficiencies, for correction. The convening authority shall review the supplementary report from the investigator and, if there is no change in action, forward it to the DFAS-DFD/KC. The Director for Finance, DFAS-HQ, will use the completed ROI as the basis from which to determine whether the accountable individual(s) will be granted or denied relief of liability. If the recommendation is to deny the DO or any other accountable individual relief from liability for a loss that was investigated by an IO or an IBO, and that individual(s) has not been afforded an opportunity to file a rebuttal to the findings of the ROI, the DFAS-DFD/KC shall return the file through the major command to the convening authority giving the reasons for the adverse determination. The convening authority shall give the individual(s) who are liable the opportunity to file a rebuttal. Upon receipt of the rebuttal, the convening authority shall return the file through the major command to the DFAS-DFD/KC with comments, if any, on the rebuttal. The Director for Finance, DFAS-HQ, shall reconsider the adverse determination and affirm or reverse the determination.

#### C. ACCOUNTABLE INDIVIDUALS

An accountable individual is any government employee or military member who, by reason of his or her position, is responsible for or has custody of government funds. There may be, and usually is, more than one accountable individual in a given case. This occurs since the concept of accountability is not limited to the person in whose name the account officially is held, but also extends to those individuals who actually have control of the funds. Examples of those individuals considered to be accountable include deputy DOs, agents, cashiers, collection agents, paying agents, imprest fund cashiers, change fund custodians, cash control officers, and certifying officers.

#### D. LIABILITY OF ACCOUNTABLE INDIVIDUALS

Certifying officers, DOs, deputy DOs, agents, cashiers, collection agents, paying agents, imprest fund cashiers, change fund custodians, cash control officers, and other accountable individuals who have physical custody of government funds are held to a standard of strict liability. They are, in effect, insurers of the public funds and are excusable only for losses due to acts of God or the public enemy. This liability has been established in a line of Supreme Court decisions (United States v. Prescott, 44 U.S. (3 How) 578 (1845); United States v. Thomas, 82 U.S. (15 Wall) 337 (1872); Smythe v. United States, 188 U.S. 156 (1903)). A certifying officer, DO, deputy DO, agent, cashier, collection agent, paying agent, imprest fund cashier, change fund custodian, or cash control officer is automatically liable at the moment either a physical loss occurs or an illegal, incorrect, or improper payment is made. See Volume 54, Decisions of the Comptroller General, page 112. Where a subordinate of the DO actually disburses the funds, the DO may be relieved of liability only upon a showing that the DO properly supervised the subordinate, maintained an adequate system of procedures and controls to safeguard the funds, and took steps to ensure the system's implementation and effectiveness.

#### E. RELIEF OF ACCOUNTABLE INDIVIDUALS

It is important to distinguish between liability and relief from such liability. The basic legal liability of an accountable individual is strict, automatic, and not affected by any lack of fault or negligence on his or her part. Yet, lack of fault or negligence may provide a basis for relief upon proper administrative request.

1. The relief of accountable individuals of the DoD responsible for the physical loss or deficiency of any public funds, vouchers, or records is authorized by 31 U.S.C. 3527(b) (reference (e)). In order for relief to be granted, the Secretary of Defense, or designee, shall make the following determinations.

- a. The individual was carrying out official duties when the loss or deficiency occurred.
- b. The loss or deficiency was not the result of an illegal, incorrect, or improper payment.
- c. The loss or deficiency was not the result of fault or negligence by the individual.

2. As relief may be granted only when the Secretary of Defense, or designee, is able to make these determinations based upon a review of available evidence, these requirements should be considered during the course of the investigation. Additionally, findings of fact in this regard should be made in conjunction with all accountable individuals for whom relief is being sought.

3. Title 31, United States Code, section 3527(b) (reference (e)) also provides the authority for the granting of relief of an official of the Armed Forces for an illegal, improper, or



incorrect payment. Relief of liability is granted when the Secretary of Defense, or designee, determines that diligent collection action was taken, the certification was based on official records, and that the official did not know, and by reasonable diligence and inquiry could not have discovered the correct information, or the obligation was incurred in good faith, no law specifically prohibited the payment, and the U.S. Government received value for the payment.

#### F. STANDARDS OF NEGLIGENCE

The liability of an accountable individual is strict and independent of any fault or negligence. Yet, in evaluating the facts to determine whether any accountable individual was negligent for purposes of relief from liability, the standard of “reasonable care” is applied. This is the standard of simple or ordinary negligence, not gross negligence. The standard has been stated as what the reasonably prudent and careful person would have done to take care of his or her own property of like description under like circumstances. See Volume 54, Decisions of the Comptroller General, page 112.

#### G. PRESUMPTION OF NEGLIGENCE

Since liability of an accountable individual is strict and automatic at the time of the loss or deficiency, the fact of the occurrence of a loss or deficiency gives rise to a presumption of negligence on the part of the accountable individual. While the presumption may be rebutted by evidence to the contrary, it is the accountable individual's burden to produce the evidence. The administrative determination that there was not fault or negligence, unsupported by evidence, is not sufficient to rebut the presumption. The accountable individual must come forward with affirmative evidence that he or she exercised the required degree of care. It should be emphasized that the government does not have to produce evidence to establish that the accountable individual was at fault to hold him or her liable; liability is automatic. Rather, in order to be entitled to relief, the accountable individual must produce evidence to show that there was no contributing fault or negligence on his or her part. Thus, in the case of an unexplained loss or deficiency where there is no evidence to rebut the presumption of negligence, there is no basis upon which to grant relief. The presumption of negligence and its application to unexplained losses are discussed in Volume 48, Decisions of the Comptroller General, page 566 (case no. B-166174). The Court of Claims has affirmed this concept in *Serrano v. United States*, 612 F.2d 525 (Ct. Cl. 1979).

#### H. PROXIMATE CAUSE

An accountable individual may be relieved from liability even though negligent if it can be established that the negligence was not the proximate cause of the loss. The proximate cause concept implies a cause-and-effect relationship between the negligence and the loss. In other words, the negligence must have contributed to the loss. In analyzing proximate cause, it may be helpful to ask certain questions. First, if the accountable individual had not been negligent, would the loss have occurred? If the answer to this question is “Yes,” the negligence is not the proximate cause of the loss and relief will probably be granted. Nevertheless, it may not be possible to answer this question with any degree of clarity. If not, the next question to ask is

whether the negligence was a “substantial factor” in bringing about the loss. If the answer to this question is “Yes,” relief probably will be denied.

## I. LOSSES BY CASHIERS

If the shortage is in funds for which a cashier is accountable, the following questions shall be considered when completing the investigation.

1. Have the DO and any other persons who might be held liable for the loss been afforded all the rights and privileges of parties in interest?
2. Has testimony been obtained from every person who may have relevant information regarding the circumstances surrounding the loss?
3. Has each witness been thoroughly questioned? Have other investigations of the loss been considered? (NOTE: Do not consider lie detector test results.)
4. Was a thorough physical search of the area made for missing cash or vouchers?
5. Were the transactions made during the day of the loss thoroughly reviewed in an effort to determine the cause of the shortage?
6. Were any individuals contacted in an effort to determine if an overpayment had been made and could be recovered?
7. Were individuals who made collections contacted to determine if they found a compensating overage in their accounts?
8. Was all the cash-on-hand in the disbursing office counted to make sure that there was no compensating overage?
9. What was the number of transactions handled by the cashier during the period in which the loss occurred? Did distracting influences exist or were working conditions poor?
10. Was the cashier working under pressure because of the heavy volume of business?
11. Was the cashier handling new currency that has a tendency to stick together?
12. Was the cashier experienced or inexperienced?
13. What procedures and internal controls has the DO established for safeguarding funds? What written standard operating procedures (SOPs) has he or she provided for the guidance of cashiers? Has he or she issued any oral instructions?

14. Are the SOPs adequate?
15. Has the cashier complied with the SOPs?
16. On the day of the loss, what procedures were followed by the cashier in counting money when he or she (a) received advances of public funds from the DO or his or her deputies, (b) made disbursements, or (c) received collections?
17. What actions were taken by the cashier to protect cash and vouchers during temporary absences from the cashier's window?
18. What facilities were furnished to the cashier to protect cash for which he or she was accountable, such as a cash drawer with key lock or a separate safe?
19. Was the cashier's cage accessible to persons other than the cashier?
20. What procedures were followed by the DO, the deputy DO, cash control officer and/or chief cashier in making daily settlements with the cashier?
21. Did theft occur?
22. Are there inconsistencies among the testimonies of different witnesses?
23. Are orders issued to appoint cashiers, deputies, etc., and amended where appropriate?
24. Were paid vouchers properly safeguarded by both the cashier and the DO?

**J. LOSSES BY RECEIPT OF COUNTERFEIT CURRENCY**

If the loss was caused by receipt of counterfeit currency, the following questions shall be considered when completing the investigation.

1. Have the DO and any other persons who might be held liable for the loss been afforded all the rights and privileges of parties in interest?
2. Has testimony been obtained from every person who may have relevant information regarding the circumstances surrounding the receipt of the counterfeit currency?
3. When, and by whom, was the receipt of counterfeit currency detected?
4. Was an effort made to determine the source of the counterfeit note(s)?
5. Has the DO provided instructions in detecting counterfeit money for those in the office who handle money?

6. Does the volume of transactions handled by cashiers preclude a careful inspection of each piece of currency?

7. Are there inconsistencies among the testimonies of different witnesses?

K. LOSSES BY AGENT OFFICERS

If the loss involved agent officers, the following questions should be considered when completing the investigation.

1. Have the DO and any other persons who might be held liable for the loss been afforded all the rights and privileges of parties in interest?

2. Has testimony been obtained from every person who may have relevant information regarding the circumstances surrounding the loss?

3. Has each witness been thoroughly questioned?

4. Have other investigations of the loss been considered? (NOTE: Do not consider lie detector test results.)

5. Was a thorough physical search of the area made for missing cash or vouchers?

6. Were the transactions made during the day of the loss thoroughly reviewed in an effort to determine the cause of the shortage?

7. Do exhibits show the amount the DO entrusted to the agent officer, the signature of agent officer in receipt of funds, the turn-in made by agent officer, and the amount of the shortage or a statement of the agent officer's account?

8. Does an exhibit show the appointment of the individual as an agent officer?

9. Has the DO provided the agent officer with adequate instructions?

10. If the loss involves funds in the hands of an agent officer, has the DO inspected and supervised the agent office, or arranged for such inspections?

11. If the loss involves funds advanced to an agent officer appointed for the specific purpose of exchanging foreign currency for military payment certificates, has the DO made certain that verification of the fund on an unannounced basis has been made at least once each quarter?

12. Did the agent officer verify money at the time of receipt?

13. What precautions did the agent officer take to safeguard government funds?
14. If the agent officer used a safe to which any other persons had access, did he or she attempt to obtain other safekeeping facilities? Was he or she directed to use the safe in question?
15. Were all persons interviewed who had access to the funds during the period in which the loss occurred?
16. Did theft occur?
17. What procedures did the agent officer follow in making payments?
18. Was the agent officer working under pressure?
19. Did the agent officer have previous experience in making payments?
20. Were working conditions poor in any respect?
21. Are there inconsistencies among the testimonies of different witnesses?

**L. LOSSES BY FRAUD IN THE DISBURSING OFFICE**

If the loss involved payments as a result of fraud in the disbursing office, the following questions should be considered when completing the investigation.

1. Have the DO or any other persons who might be held liable for the loss been afforded all the rights and privileges of parties in interest?
2. Has testimony been obtained from every person who may have relevant information regarding the circumstances surrounding the fraudulent payments?
3. Have other investigations of the loss been considered? (NOTE: Do not consider lie detector test results.)
4. Has a thorough investigation been made in order to ensure that the full extent of the loss has been discovered?
5. Have the methods used to defraud the U.S. Government been clearly described?
6. What internal controls have been established by the DO in an effort to preclude fraudulent activity by disbursing personnel?
7. Has all possible collection action been taken?

a. In the case of military personnel, is collection action being taken in the field or by the supporting DFAS site in cases when personnel have been separated from the service?

b. In the case of civilian employees, has the individual involved authorized application of pay to offset the shortage? Have steps been taken to secure application of final pay to settle the indebtedness? If the amount of indebtedness has been determined, has a request been made to the Office of Personnel Management for set off against the Civil Service Retirement and Disability Fund?

**M. LOSSES BY IMPREST FUND CASHIERS AND CHANGE FUND CUSTODIANS**

If the loss was in funds advanced to imprest fund cashiers or individuals accountable for change funds (e.g., the accountable individual for the quartermaster account, accountable individual for medical services or post signal officer), the following questions should be considered when completing the investigation.

1. Has the DO and any other person who might be held liable for the loss been afforded all the rights and privileges of parties in interest?

2. Has testimony been obtained from every person who may have relevant information regarding the circumstances surrounding the loss?

3. Have other investigations of the loss been considered? (NOTE: Do not consider lie detector test results.)

4. Did the accountable individual follow procedures applicable to the particular fund?

5. Has the cause of loss been clearly established?

6. Did theft occur?

7. Are there inconsistencies among the testimonies of different witnesses?