

**SUMMARY OF MAJOR CHANGES TO
DOD 7000.14-R, VOLUME 14, CHAPTER 2
“ANTIDEFICIENCY ACT VIOLATIONS”**

All changes are denoted by blue font

Substantive revisions are denoted by a ★ preceding the section,
paragraph, table, or figure that includes the revision

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

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
Various	Added hyperlinks to references throughout chapter.	Add
Title	Changed title of chapter from “Violations of the Antideficiency Act” to “Antideficiency Act Violations”.	Update
Various	Incorporated Chapter 10 of this volume into various sections and paragraphs of this chapter except for Chapter 10, section 1004 which was incorporated into Chapter 5 of this volume. Deleted Chapter 10 of this volume.	Add
0201 020103	This section previously was section 0202 of this chapter. Restructured the paragraphs within this section and added an explanation of the Antideficiency Act (ADA) along with the relationship to other funding statutes. Referenced sections 1502(a) and 3302(b) of title 31, United States Code, the Bona Fide Needs and Miscellaneous Receipts statutes, respectively. Also referenced the incorporated Volume 14 references into Figure 2-3.	Add/Update
020103	Deleted paragraphs 020201.B.3 and 020201.B.4 of previous version. Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 has expired.	Delete
020102	Added an explanation of discipline and criminal penalties associated with ADA violations and referenced Chapter 9 of this volume for further details.	Update
0202	This section previously was section 0201 of this chapter except for paragraphs 020202-020204 which were incorporated from Chapter 10, section 1003.	Update
020201	Clarified that ADA violations can occur from various circumstances and that a preliminary ADA must be initiated if a possible ADA is detected.	Update

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
020201.D	Added an explanation of when funds are not continuously available by defining the three-part test. And incorporated an exception to the three-part test prescribed in the Office of the Under Secretary of Defense (Comptroller) memorandum of July 21, 2003, titled “Report on Antideficiency Act Violation Army Case Number 03-02”.	Add
020201.I	Added an explanation of an ADA violation related to expired funds.	Add
020201.J	Added an explanation of an ADA violation related to canceled funds.	Add
020201.K	Added an explanation of an ADA violation related to miscellaneous receipts.	Add
020202 020203 020204	Incorporated paragraphs from Chapter 10, section 1003.	Add
0203 020301 020302	Incorporated Chapter 10, section 1001 and further clarified causes of DoD ADA violations.	Add
0204	Incorporated Chapter 10, section 1002.	Add
020401	Inserted reference to the managers’ control program. <u>DoD Instruction 5010.40</u> , “Managers’ Internal Control (MIC) Program Procedures” that was established on January 4, 2006 and deleted reference to DoD Directive 5010.38, “Management Control Program” that was canceled on April 3, 2006.	Update
020401.A	Incorporated a portion of Chapter 10, paragraph 100210.	Add
020401.A.2	Incorporated Chapter 8, section 0803.	Add

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
020401.B	Incorporated Chapter 10, paragraph 100211. Clarified fund control personnel and incorporated key fund control personnel training policy prescribed in the Office of the Under Secretary of Defense (Comptroller) memorandum of September 5, 2008, titled “Antideficiency Act (ADA) Policy and Metrics”.	Add
020401.C	Incorporated Chapter 10, paragraph 100209.B and the remaining portion of Chapter 10, paragraph 100210.	Add
020401.D	Incorporated Chapter 10, paragraph 100209.C. Added reference to the Certified Defense Financial Management Course that contains fiscal law in its accreditation program.	Add
020402	Incorporated Chapter 10, paragraph 100202. Inserted the formal administrative subdivision level as criteria.	Add
020403	Incorporated Chapter 10, paragraph 100203.	Add
020404	Incorporated Chapter 10, paragraph 100204. Combined minor construction and equipment sections together into paragraph 020404.A and separated exceeding an appropriation and a formal administrative subdivision of funds into paragraphs 020404.B and 020404.C, respectively. Added providing funds to servicing agencies before or past the period of availability as another common and frequent type of ADA violation.	Add/Update
020404.C	This paragraph was previously paragraph 020201.G.2 of this chapter and paragraph 100206.C of Chapter 10.	Add/Update
020404.D.1	Clarified the example of obligations in advance of availability and incorporated Chapter 10, paragraph 100206.C.	Add/Update

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
020404.E	Added providing funds to servicing agencies before or past the period of availability as another common and frequent type of ADA violation. Referenced appropriation and fiscal policy in Volume 11A, Chapters 3 and 18.	Add
Figure 2-2 D.3	Clarified the ADA example.	Update
Figure 2-3	Incorporated Volume 14 references into Figure 2-3.	Add
Figure 2-3	Deleted potential violations on sequestered funds relating to sections 1341(a)(1)(C) and 1341(a)(1)(D) of title 31, United States Code. Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 has expired.	Delete

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CHAPTER 2

ANTIDEFICIENCY ACT VIOLATIONS0201 OVERVIEW

★ 020101. The Antideficiency Act (ADA) and related funding statutes consist of certain provisions of law prescribed in title 31, United States Code (U.S.C.). The ADA, prescribed in sections 1341, 1342, and 1517 of title 31, U.S.C., prohibits obligations and expenditures in excess of or before an appropriation and is the primary foundation for the administrative control of funds set forth in Chapter 1 of this volume. Noncompliance with sections 1301, 1502(a), and 3302(b) of title 31, U.S.C., which are additional funding statutes, may lead to an ADA violation. See Figure 2-3 for additional references.

★ 020102. Any military member or DoD employee who violates any provision or limitation imposed by any law may violate the ADA and shall be subject to discipline and/or criminal penalties. See section 0202 of this chapter for circumstances in which ADA violations may occur and see Chapter 9 of this volume for disciplinary action and criminal penalties for ADA violations.

★ 020103. Paragraphs 020103.A through 020103.F highlight provisions and limitations prescribed in sections 1341, 1342, 1517, 1301, 1502(a), and 3302(b) of title 31, U.S.C.

A. Section 1341 of title 31, U.S.C., Amount Limitation. This U.S.C. section stipulates that any officer or employee of the United States Government or of the District of Columbia government may not:

1. Obligate, expend, or authorize an obligation or expenditure of funds that exceeds the amount available in an appropriation or fund.

2. Involve the Government in any contract or obligation for the payment of money before an appropriation is made available.

B. Section 1342 of title 31, U.S.C., Voluntary Services Limitation. This U.S.C. section stipulates that an officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services on behalf of the Government or employ personal services in excess of that authorized by law, except as it may be necessary in emergencies involving the safety of human life or the protection of property.

C. Section 1517 of title 31, U.S.C., Administrative Control of Funds, Amount Limitation. This U.S.C. section stipulates that an officer or employee of the United States Government or of the District of Columbia government may not obligate or expend or authorize an obligation or expenditure that exceeds an apportionment or amount permitted by a regulation prescribed for the administrative control of an appropriation, including any other

formal administrative subdivision of funds designed by a DoD Component. See [Chapter 1, paragraph 010202](#) of this volume for DoD administrative control of fund policy.

D. [Section 1301 of title 31, U.S.C., Purpose Statute](#). This U.S.C. section stipulates that appropriations shall be applied only to the objects for which the appropriations were made, except as otherwise provided by law.

E. [Section 1502\(a\) of title 31, U.S.C., Time Limitation](#). This section stipulates that the balance of a fixed-term appropriation is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made and obligated within that period.

F. [Section 3302\(b\) of title 31, U.S.C., Miscellaneous Receipts Statute](#). This U.S.C. section requires an official or agent of the Government to deposit money received for the Government from any source into the miscellaneous receipts account of the U.S. Treasury without deduction for any charge or claim if the retention of the money is not authorized or exceeds authorized levels.

0202 VIOLATIONS

★ 020201. An ADA violation may occur from various circumstances. However, if a possible ADA violation is detected then a preliminary ADA investigation must be initiated (see [Chapter 3](#) of this volume). Figure 2-1 outlines when a potential violation may occur along with the section of title 31, U.S.C. that may be violated. Figure 2-2 provides examples of potential ADA violations. General ADA violations occur when:

A. Funding authority is issued in excess of the amount available and the excess amount is obligated or expended. The issuance of funds by means of a formal [administrative](#) subdivision of funds (allocation, allotment, suballotment or other formal designation of a limitation), in an amount that exceeds the amount currently available, would result in an ADA violation if those excess funds distributed actually are obligated or expended. The individual authorizing the release of those funds would be responsible for the violation. The issuance of a [reimbursable](#) order in excess of available funds may also result in an ADA violation.

B. Obligations or expenditures are authorized or incurred in excess of the amount of funds available at the formal [administrative](#) subdivision of funds level. Incurring an obligation or disbursement in excess of a target ([versus](#) a formal [administrative](#) subdivision of funds) does not in itself create an ADA violation; however, if exceeding a target causes the governing formal [administrative](#) fund subdivision or limitation to be breached, then a potential ADA violation arises.

C. Special and recurring statutory limitations or restrictions on the amounts for which an appropriation or fund may be used are violated.

★ D. Regulatory limitation on the amounts authorized in an appropriation or fund are violated, when specifically carrying an antideficiency limitation and corrective funds are not available and do not meet a three-part test. An ADA violation may occur when corrective funds do not meet this three-part test; specifically, when one of the following is true: (1) the proper funds were not available at the time of the erroneous obligation; (2) the proper funds were not available when the obligation is recorded in the proper fund or account; or (3) funds were not continuously available between (1) and (2). An exception to this three-part test is when the only reason that funds may not have been available is because funds were returned to higher headquarters as the result of the customary practice of sweeping up funds near the end of a fiscal year.

E. Statutory limitations on the purposes authorized in an appropriation or fund are violated.

★ F. Regulatory limitation on the purposes for which an appropriation or fund is authorized are violated, when specifically carrying an antideficiency limitation and corrective funds are not available and do not meet the three-part test. See the three-part test in paragraph 020201.D of this chapter.

G. Obligations are authorized or incurred in advance of funds being available.

★ H. Obligations or expenditures of funds do not provide for a bona fide need of the fund or account (time violation) and corrective funds are not continuously available. See the three-part test in paragraph 020201.D of this chapter.

★ I. Obligations charged against a current account that would otherwise be properly chargeable (except as to amount) to an expired account, and insufficient resources exist to fund the obligation in the applicable expired account.

★ J. Obligations that otherwise would have been properly chargeable (both as to purpose and amount) to a canceled appropriation exceed the limits specified in Volume 3, Chapter 10, subparagraph 100201.F.

★ K. Funds are retained without authority and are not deposited into the miscellaneous receipts of the U.S. Treasury but instead augment an appropriation above the amount appropriated by Congress.

L. Voluntary services are accepted, or personal services are employed, except as authorized by law.

★ 020202. No ADA violation is considered to have occurred when an overobligation or overexpenditure results solely from recording a transaction in an erroneous account or recording an incorrect amount for a transaction. In each instance, the potential violation status is eliminated by correcting the erroneous transaction or by posting the omitted transaction. Those actions shall not include the deletion or adjustment of any valid transactions. If, after the proper

recording of the transactions, an overobligation or expenditure remains, then a potential ADA violation has occurred [if the proper funds are not available and proper funds do not meet the three-part test](#). See the three-part test in paragraph 020201.D of this chapter.

[020203.](#) A violation of [section 1517 of title 31, U.S.C.](#), may exist when more fund authorizations are granted to an allotment, operating budget authority, or other formal administrative subdivision of funds than actually are available. When such errors do occur, and the funds are not obligated or expended, there generally is no potential violation and the error shall be corrected as soon as it is detected. Conversely, errors that require correction by obtaining additional funds [at a formal](#) administrative subdivision of fund [level](#) cannot eliminate the fact that a violation likely has occurred and must be investigated.

[020204.](#) A violation may not be avoided by declining to record valid obligations or expenditures, in the official accounting records. All obligations or expenditures shall be recorded accurately and promptly even if the recording results in a negative amount in the accounting records.

[0203](#) CAUSES OF VIOLATIONS

[020301.](#) The following is a list of the most frequent [root](#) causes of [DoD](#) ADA violations:

- A. Established internal controls and standard operating procedures [are](#) not followed;
- B. Inadequate supervisory involvement or oversight;
- C. Lack of appropriate training; and
- D. Inadequate [internal controls and standard operating procedures](#).

★ [020302.](#) [Inadequate supervisory involvement and oversight along with lack of appropriate training are common throughout most DoD ADA violations](#). Therefore, supervisors of DoD personnel who have responsibility for control and use of DoD funds must ensure that their personnel receive proper oversight, support, and necessary training to prevent violations. The following section discusses specific actions that can be taken to reduce or prevent violations.

[0204](#) PREVENTING VIOLATIONS

★ [020401.](#) To assist in the prevention of ADA violations, DoD personnel must be knowledgeable of requirements in this [chapter and Chapter 1](#) of this volume. Supervisors at all levels must ensure that their employees receive the [necessary](#) training and experience in the control and use of funds at levels that [correspond](#) with their responsibilities. Furthermore, supervisors must perform oversight and validation checks to ensure that established internal controls and standard operating procedures are adequate and are being consistently followed by their subordinates. [Heads of DoD Components](#) must use [the](#) internal management control

programs, as required by [DoD Instruction 5010.40](#), “Managers’ Internal Control (MIC) Program Procedures”, to periodically assess the reliability of internal controls.

- ★ A. DoD commanders and managers shall:
 1. Become aware of the ADA and the most common causes of violations as described in this chapter.
 - ★ 2. Provide appropriate training for financial, program, and project managers. The focus of this training shall include the basics of fund control and the ADA statute; the types of violations that can occur; the most frequent types of violations that occur within the DoD and their causes; the necessary training, supervision, and oversight of personnel who perform financial management or programmatic functions; and methods for preventing violations. Video, computer courses or a handbook may be used for such training. The training shall be provided to these managers on a periodic basis to ensure topics are current.
- ★ B. Supervisors and managers shall incorporate the provisions of this volume into key fund control personnel training programs. Key fund control personnel must be identified and training programs for key fund control personnel must include an appropriations law course every five years. Fund control personnel are those responsible for the proper assignment of funding on a commitment or obligation document before the obligation is incurred. Examples are resource managers, fund holders, funds certifying officials, and authorizing officials. Key fund control personnel should inquire individual DoD Components as to the appropriate source of training that satisfies this requirement.
- ★ C. The full spectrum of DoD formal education programs for all military officers, from staff officer courses to executive development courses, shall incorporate relevant aspects of this volume to highlight the potential pitfalls and risks associated with the ADA. This volume shall be used as source material to conduct seminars and workshops targeted to general and specific audiences including program managers; engineers; contracting, information systems, and comptroller personnel; commanders; and supervisors and managers.
- ★ D. Formal education structures within the DoD shall be used to educate personnel about the ADA. Formal courses can be used to alert personnel to common violations and high-risk business transactions and decisions that can result in a violation. The DoD financial management community sponsors professional development courses that include discussions on ADA violations. These courses include the Army Comptroller and Advanced Resource Management Programs at Syracuse (NY) University; the Naval Post Graduate School at Monterey, California; and the Defense Financial Management and Comptroller School at Maxwell Air Force Base, Alabama. In addition, the U.S. Army Judge Advocate General School at Charlottesville, Virginia, includes a fiscal law course in its curriculum and the Certified Defense Financial Management Course hosted by the American Society of Military Comptrollers include fiscal law in its accreditation program.
- ★ 020402. Another effective way to prevent ADA violations is to perform regular reviews of fund status type reports. If the amount of commitments and the amount of obligations

(undelivered orders and delivered orders unpaid or paid) exceed the total amount available in an appropriation or the total amount of funds available at the formal administrative subdivision level, then a violation could occur if all or some of the commitments eventually become valid obligations.

★ 020403. The most common violations within the DoD can be decreased significantly by proactive measures specifically tailored to address the causes and corrective actions required to prevent their occurrence (see section 0203 of this chapter for causes of violations). DoD personnel with the responsibility to control the use and type of funds used must be aware of the common violations in paragraph 020204 of this chapter and are required to take positive actions to avoid their occurrence.

★ 020404. The most common and frequent types of ADA violations are exceeding limits on the use of Operation and Maintenance (O&M) funds for minor construction and equipment; exceeding an appropriation; exceeding a formal administrative subdivision of funds; obligating funds in advance of availability; and providing funds to servicing agencies before or past period of availability.

A. Exceeding Limits on the Use of O&M Funds

1. Minor Construction. To prevent an ADA violation, engineering and contracting personnel shall be advised of the provisions of section 2805 of title 10, U.S.C., and DoD rules and regulations that cover minor construction projects. Engineering personnel and those who authorized the construction frequently are determined to be responsible for violations involving construction projects exceeding statutory construction limitations and administrative construction limitations placed in engineering regulations. The following is a brief summary of some of the provisions of section 2805 of title 10, U.S.C. and DoD rules and regulations on minor projects.

a. The amount of O&M funds that may be used for a minor construction project is limited by statute. From time to time, that limit is increased by Congress. If the specified limit is exceeded, then Military Construction funds are required to be used for the entire project including planning and design. A violation of section 1341(a)(1)(A) of title 31, U.S.C., may occur when the limitation is exceeded. The limitation applies to the use of O&M funds for a minor construction project even though there is sufficient obligational authority available in the O&M account (that was charged) at the time that the project is authorized and approved.

b. Engineering and contracting personnel must be familiar with the statutory limitation, under the provisions of section 2825 of title 10, U.S.C., on the maintenance and repair funds that may be used for a family housing unit. That limit may not be exceeded without prior notification to Congress. When that limit is exceeded for any reason during the completion of a family housing maintenance and repair project, and the conditions specified in the law for waiver of the statutory limitations have not been met, a violation of section 1341(a)(1)(A) of title 31, U.S.C., may occur.

c. The misclassification of construction costs as alterations by engineering personnel may result in an ADA violation. A potential violation may occur if the amount of the misclassification, when added to construction costs (if any), exceeds a statutory limitation. For example, an engineering project that has a minor construction cost close to the statutory limit, but which also has related maintenance and repair costs, could cause a violation of the statutory limit if the maintenance and repair work later is proven to be construction. Likewise, a maintenance and repair project exceeding the statutory construction limit could be a potential ADA violation if the maintenance and repair later is determined to be construction.

2. Equipment

a. Congress designates an amount above which acquisitions of equipment shall be funded from a procurement fund (expense versus investment threshold rule). Using O&M funds to acquire equipment items that exceed the designated threshold amount for the mandatory use of procurement funds [could be a potential ADA violation](#). For instance, O&M funds [are used](#) to purchase a computer system when Other Procurement funds are required. Other Procurement funds shall be used whenever a piece of computer equipment becomes an integral part of a computer system or local area network (LAN), unless the total costs of the entire system or LAN is less than the amount designated for use of procurement funds. Additional expense versus investment criteria, as it applies to information technology equipment and software, can be found in [Volume 2A, Chapter 1, paragraph 010212](#) and [Volume 2B, Chapter 18](#) of this Regulation.

b. Similar problems also frequently occur when acquiring low dollar value equipment items that are estimated to cost less than the congressionally designated amount for procurement funds, but actually cost more than that amount when acquired.

c. An ADA violation does not occur automatically in the situations outlined in subparagraphs [020404.A.2.a](#) and [020404A.2.b](#) because, when discovered, the obligation simply is moved from the O&M account to the applicable procurement account. If sufficient funds are available after recording the obligation in the procurement account, including all other known valid obligations and deobligations, then a potential ADA violation has not occurred. [However](#), when sufficient funds are not continuously available to cover the obligation in the procurement account, a potential ADA violation may have occurred. [See the three-part test in paragraph 020201.D of this chapter to determine if funds are not continuously available](#).

d. DoD decision makers, such as program managers, information systems managers, and contracting personnel must be knowledgeable of the expense versus investment rules to prevent this type of violation. Program managers and information systems, contracting, and comptroller personnel shall be trained on this issue. Such training should help reduce the incorrect application of the expense versus investment rule and the resulting ADA violations.

B. Exceeding an Appropriation

1. All DoD commanders, managers, and personnel shall be aware of this type of violation and causal factors. This violation often occurs when obligations from an obligation document are not timely or accurately recorded. When obligations are not timely or accurately recorded, the official accounting records reflect an inflated (and incorrect) availability of funds. Since personnel use those records to certify funds **are available** for other obligations, a violation can easily occur because the records do not reflect the correct amount of funds available for obligation.

2. This type of potential violation is commonly discovered when an unmatched disbursement is recorded in the accounting system **or upon correcting inaccurately recorded obligations**. To help prevent this type of violation, DoD funds managers (for example, Comptrollers) shall require that all organizations that incur obligations and record obligations maintain strict and absolute positive controls over obligating documents (or their electronic equivalents) to ensure that none is lost or misplaced and all transactions are recorded accurately **and** in a timely manner. Such controls include batch totals of transactions and dollar amounts incurred, transmitted, received, processed, and recorded.

3. The establishment of a funds control system is **also** essential to ensure that all obligations are reconciled properly against available funds, and authorized before they are incurred. This process shall include **reserving available funds for** authorized obligations that are not immediately **recorded as an obligation**. The reservation shall be made by means of a formal commitment or an informal reservation record **that contains an** estimated amount. **The documented** estimated **reservation shall closely** approximate the obligation when incurred and recorded.

C. Exceeding a Formal Administrative Subdivision of Funds. If a formal administrative subdivision of funds is exceeded, then a potential violation **must** be reported. The receipt of additional funds before the end of a reporting period does not mitigate a **limitation** violation or eliminate the **potential violation** reporting requirement **as specified in Chapter 3 of this volume**. Also, a failure to record a valid obligation or expenditure as of the date incurred does not avoid the incurrence of, and the requirement to report, a potential ADA violation if, upon recordation, available funds in the account or other limitations are exceeded. For example, the Military Departments historically have experienced problems with overobligated Reserve Component (RC) personnel accounts. Funds in these accounts are used to pay RC personnel for such items as weekend drills, travel, special tours, or other training. Reserve Component unit commanders--who control a formal administrative subdivision of funds **are** subject to the ADA and shall, in advance of the incurrence and recording of these obligations, budget and reserve against available funds the amounts estimated for weekend drills and other scheduled training.

D. Obligating Funds in Advance of Availability

★ 1. The most common scenario is the use of current year funds to procure goods or services that properly are funded only with a subsequent year appropriation. An ADA violation occurs when an individual obligates funds before those funds are authorized

and appropriated by Congress. For example, signing a facility or equipment [operating lease using one-year authority funds](#) and agreeing to pay, or obligating [the funds](#), for a two year lease during the first year would constitute an obligation in advance of the availability of the funds for the [amount associated to the second year of the lease](#). Similarly, agreeing to pay for, or obligating [the funds, for a two year equipment maintenance agreement using one-year authority funds](#) would constitute an ADA violation [related to the amount associated with the second year of the agreement](#).

2. To help prevent this type of violation, training programs shall include specific focus on the importance of ensuring funds are authorized and available before obligating the Government to contracts for future fiscal years' expenses.

★ E. [Providing Funds to Servicing Agencies Before or Past Period of Availability](#)

1. The most common scenario is when funds sited on an Economy or non-Economy Act order (see Volume 11A, Chapters [3](#) and [18](#)) do not meet the bona fide need arising or existing in the fiscal year (or years) for which the appropriation is available for obligation. When the obligation is moved to the applicable fiscal year and sufficient funds are not continuously available to cover the obligation, a potential ADA violation may have occurred. See the three-part test in paragraph 020201.D of this chapter to determine if funds are not continuously available.

2. To prevent this type of ADA violation, DoD personnel with the responsibility to control the use and type of funds used must be aware of the fiscal limitations of providing funds to servicing agencies before or past the period of availability. See specific policy for Economy and non-Economy Act orders in [Volume 11A, Chapter 3](#), section 0304 and [Volume 11A, Chapter 18](#), sections 1802 and 1803 of this Regulation.

Figure 2-1

Potential Violations

A VIOLATION MAY OCCUR WHEN	DESCRIPTION OF POTENTIAL VIOLATION	SECTION OF TITLE 31, UNITED STATES CODE (U.S.C.)
Any military member or DoD employee:	1. Makes or authorizes an obligation or expenditure against an appropriation account that was closed pursuant to sections 1552 or 1555 of title 31, U.S.C. or the period prescribed in an appropriations act for making expenditures as authorized by section 1557 of title 31, U.S.C.	1341(a)(1)(A)
	2. Involves the Government in any contract or other obligation for the payment of money for any purpose before appropriations are made for such purposes, unless the law authorizes such contract or obligation.	1341(a)(1)(B)
	3. Accepts voluntary service or employs personal service in excess of that authorized by law except in cases of emergency involving the safety of human life or the protection of property.	1342
	4. Makes or authorizes an obligation or expenditure that exceeds: a. The available amount of any appropriation or fund.	1341(a)(1)(A)
	b. Any statutory restriction imposed on the use of an appropriation or fund, such as limits on the use of O&M funds for unspecified minor construction or for purchase of investment items.	1341(a)(1)(A)
	c. The available amount of any apportionment or reapportionment.	1517(a)(1)
	d. The available amount of any formal administrative subdivision.	1517(a)(2)
	e. Any limitation imposed by an authorized official of the DoD or a DoD Component that is intended to restrict obligations of apportioned appropriations or funds.	1517(a)(2)

**Figure 2-1
(continued)**

Potential Violations

A VIOLATION MAY OCCUR WHEN	DESCRIPTION OF POTENTIAL VIOLATION	SECTION OF TITLE 31, UNITED STATES CODE (U.S.C.)
Any military member or DoD employee:	<p>5. Expends a working capital (revolving) fund established under section 2208 of title 10, U.S.C. in excess of amounts available in fund balances with Treasury whether apportioned or not.</p> <p>(Recurring provisions of annual DoD Appropriations Acts establish that cash balances (Fund Balance with Treasury) in working capital funds may be maintained only in such amounts as are necessary at any time for cash disbursements to be made from such funds. This provision allows working capital funds to incur liabilities in excess of available fund balances with Treasury.)</p>	1341(a)(1)(A)
	<p>6. Obligates a working capital (revolving) fund established under section 2208 of title 10, U.S.C. or a part of the fund, whether subject to or exempt from apportionment, in excess of the available amount.</p>	1517(a)(1)
	<p>7. Obligates a working capital (revolving) fund established under section 2208 of title 10, U.S.C. in excess of the available amount of budgetary resources.</p>	1517(a)(2)
In fund distribution:	<p>1. Total allocations or operating budget authorities for O&M type funds exceed the amount available for each apportionment period.</p>	1517(a)(1)
	<p>2. Total suballocations, allotments or operating budget authorities, and centrally managed allotments (CMAs) exceed the amount of the allocation or operating budget authority for each period.</p>	1517(a)(2)
	<p>3. Total allotments or operating budget authorities and CMAs exceed the amount of the available suballocation.</p>	1517(a)(2)
	<p>4. Total suballotments exceed the amount of the allotment.</p>	1517(a)(2)

Figure 2-2**Violation Examples**

- A. **GENERAL.** Most of the examples described below are taken from actual violations that have occurred within the DoD; however, these violations are fact-specific and, in other circumstances, a potential violation may or may not be incurred. These examples are supplied for information only and are not intended to imply that, in all similar--but not identical--circumstances, a violation would have been incurred.
- B. **SECTION 1341 OF TITLE 31, UNITED STATES CODE**
1. **SECTION 1341(A)(1)(A) OF TITLE 31, UNITED STATES CODE**
- a. An overobligation by a DoD activity exceeded a target distributed to that activity and caused the total appropriation to be exceeded. For example, a target of \$1 million of an O&M appropriation was exceeded by \$250,000, but the responsibility for violations was not passed to the organization that was furnished the target. When the total obligations were summarized at the appropriation level, the total appropriation was exceeded because of this specific overobligation. There is no violation at the organization that was furnished the target, but a potential violation has occurred at the appropriation level.
 - b. An overobligation by a DoD activity exceeded an allotment distributed to that activity, where the responsibility for violations was established at the allotment level, and caused the total appropriation to be exceeded. For example, an allotment of \$1 million of an O&M appropriation was exceeded by \$250,000, and the responsibility for violations was established at the allotment level. When the total obligations were summarized at the appropriation level, the total appropriation also was exceeded because of this specific overobligation. There is one potential violation at two different funding levels, the allotment level and the appropriation level.
 - c. A DoD activity exceeded the limitation specified in section 2805(c) of title 10, U.S.C. by using O&M funds in excess of the minor construction limitation to construct improvements to a hazardous waste storage facility.

**Figure 2-2
(continued)**

Violation Examples

2. SECTION 1341(a)(1)(B) OF TITLE 31, UNITED STATES CODE

A DoD activity arranged for a lease to obligate and pay for a subsequent fiscal year's 12-month lease of a building with current fiscal year O&M funds. Specifically, fiscal year 20XX funds of \$180,000 were used to contract, obligate, and pay for a FY 20XX+1 building lease. This action violated the ADA because it obligated the [Government](#) to a contract for the payment of money before the appropriation to be charged was available.

C. SECTION 1342 OF TITLE 31, UNITED STATES CODE

Apparently, at the urging of the Chairman, a member of a Federal Commission agreed to waive his statutory entitlement to \$100 per day while involved in Commission business. The year after the Commission was disbanded, the former member changed his mind and filed a claim for a portion of the compensation he would have received had it not been for the waiver. Since the \$100 per day was a statutory entitlement, the purported waiver was invalid and the former commissioner was entitled to be paid. By accepting the waiver and allowing the commissioner to conduct Commission business without pay, the provision against acceptance of voluntary services was violated and a violation of the ADA occurred.

D. SECTION 1517 TITLE 31, UNITED STATES CODE

1. A DoD activity improperly obligated \$225,000 of Other Procurement funds instead of required O&M funds to document, not acquire, a specialized communications equipment program. When the error was discovered, the DoD activity had no O&M funds available to replace the Other Procurement funds obligated improperly. Therefore, an O&M [formal administrative subdivision of funds level](#) was exceeded and a violation occurred. To fund the violation, \$225,000 of O&M funds were requested from the Headquarters of the DoD activity. While this action corrected the funding of the obligation, a violation of the ADA occurred because the fund holder did not have sufficient funds available to replace the Other Procurement funds improperly obligated. [See the three-part test in paragraph 020201.D of this chapter.](#)

**Figure 2-2
(continued)**

Violation Examples

2. A DoD activity used O&M funds, rather than Other Procurement funds to purchase a data processing local area network (LAN). Even though the hardware components and LAN operating system software were purchased separately, the components and the software together constituted a system with an aggregate cost in excess of the expense/investment threshold specified by the Congress for the required use of procurement appropriation funds. A violation occurred because the DoD activity did not have the required amount of Other Procurement funds at the time of the purchases.
3. A funds holder [at a formal administrative subdivision of fund level](#) erroneously distributed more funds than available [at the subdivision level](#). The activities receiving the funds incurred obligations and expenditures in excess of amounts available to the fund holder, but below the amount distributed. The funds holder incurred an ADA violation because [the distribution exceeded the total amount in the formal administrative subdivision of funds](#).

★Figure 2-3

References

Office of Management and Budget Circular A-11, “Preparation, Submission, and Execution of the Budget” (formerly A-34)

U.S. Government Accountability Office Principles of Federal Appropriations Law

TITLE 31, UNITED STATES CODE

<u><i>31 USC 1104</i></u>	Budget and Appropriations Authority of the President
<u><i>31 USC 1105</i></u>	Budget Contents and Submission to Congress
<u><i>31 USC 1106</i></u>	Supplemental Budget Estimates and Changes
<u><i>31 USC 1107</i></u>	Deficiency and Supplemental Appropriations
<u><i>31 USC 1108</i></u>	Preparation and Submission of Appropriations Requests to the President
<u><i>31 USC 1112</i></u>	Fiscal, Budget, and Program Information
<u><i>31 USC 1301</i></u>	Application
<u><i>31 USC 1321</i></u>	Trust Funds
<u><i>31 USC 1341</i></u>	Limitations on Expending and Obligating Amounts
<u><i>31 USC 1342</i></u>	Limitation on Voluntary Services
<u><i>31 USC 1349</i></u>	Adverse Personnel Actions
<u><i>31 USC 1350</i></u>	Criminal Penalty
<u><i>31 USC 1351</i></u>	Reports on Violations
<u><i>31 USC 1501</i></u>	Documentary Evidence Requirement for Government Obligations
<u><i>31 USC 1502</i></u>	Balances Available

★Figure 2-3
(continued)

References

TITLE 31, UNITED STATES CODE

<u>31 USC 1511</u>	Definition and Application
<u>31 USC 1512</u>	Apportionment and Reserves
<u>31 USC 1513</u>	Officials Controlling Apportionments
<u>31 USC 1514</u>	Administrative Division of Apportionments
<u>31 USC 1515</u>	Authorized Apportionments Necessitating Deficiency or Supplemental Appropriations
<u>31 USC 1516</u>	Exemptions
<u>31 USC 1517</u>	Prohibited Obligations and Expenditures
<u>31 USC 1518</u>	Adverse Personnel Actions
<u>31 USC 1519</u>	Criminal Penalty
<u>31 USC 1531</u>	Transfer of Functions and Activities
<u>31 USC 1552</u>	Procedure for Appropriation Accounts Available for Definite Periods
<u>31 USC 1553</u>	Availability for Appropriation Accounts to Pay Obligations
<u>31 USC 1555</u>	Closing of Appropriation Accounts Available for Indefinite Periods
<u>31 USC 1557</u>	Authority for Exemptions in Appropriation Laws
<u>31 U.C 3302</u>	Custodians of Money
<u>31 USC 3324</u>	Advances

★Figure 2-3
(continued)

References

TITLE 31, UNITED STATES CODE

31 USC 3512 Executive Agency Accounting and Other Financial Management Reports and Plans

31 USC 3524 Auditing Expenditures Approved without Vouchers

TITLE 10, UNITED STATES CODE

10 USC 2201 Apportionment of Funds; Authority for Exemption; Excepted Expenses

10 USC 2204 Obligation of Appropriations

10 USC 2208 Working-Capital Funds

10 USC 2410(a) Severable Service Contracts for Periods Crossing Fiscal Years

10 USC 2805 Unspecified Minor Construction

10 USC 2825 Improvements to Family Housing Units

OTHER TITLES OF UNITED STATES CODE

2 USC 681 Disclaimer

2 USC 682 Definitions

2 USC 683 Rescission of Budget Authority

2 USC 684 Proposed Deferrals of Budget Authority

2 USC 685 Transmission of Messages; Publication

2 USC 686 Reports by Comptroller General

2 USC 687 Suits by Comptroller General

2 USC 688 Procedure in House of Representatives and Senate

★Figure 2-3
(continued)

References

OTHER TITLES OF UNITED STATES CODE (continued)

<u>5 USC 1304</u>	Loyalty Investigations; Reports; Revolving Fund
<u>18 USC 4124</u>	Purchase of Prison-Made Products by Federal Departments
<u>33 USC 576</u>	Revolving Fund; Establishment; Availability; Reimbursement; Transfer of Funds; Limitation
<u>41 USC 11</u>	No Contracts or Purchases Unless Authorized or Under Adequate Appropriation; Report to the Congress