

**VOLUME 14, CHAPTER 2: “ANTIDEFICIENCY ACT VIOLATIONS”**

**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

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

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

Hyperlinks are denoted by [bold, italic, blue and underlined font](#).

The previous version dated March 2009 is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
<a href="#">020202.B</a> <a href="#">020202.F</a>	<a href="#">Modified the fund correctability test.</a>	<a href="#">Update</a>
<a href="#">020202.J</a>	<a href="#">Clarified the violation.</a>	<a href="#">Update</a>
<a href="#">020401.B</a>	<a href="#">Changed the frequency of fiscal law training from every five to every three years and added training documentation requirement.</a>	<a href="#">Update/Add</a>
<a href="#">020401.B.4</a>	<a href="#">Added a requirement for DoD commanders, supervisors, and managers to ensure key fund control personnel coordinate with requiring officials prior to assignment of funding and obligation.</a>	<a href="#">Add</a>
<a href="#">020402.A</a>	<a href="#">Added a type of violation related to expired accounts and how the violation is commonly discovered.</a>	<a href="#">Add</a>
<a href="#">020402.A.3</a>	<a href="#">Added a process when estimating obligations.</a>	<a href="#">Add</a>
<a href="#">020402.B.1.b</a>	<a href="#">Added from Volume 3, Chapter 17 a provision that incremental-type construction is prohibited.</a>	<a href="#">Add</a>
<a href="#">020402.B.2.c</a> <a href="#">020402.E.1</a>	<a href="#">Clarified fund correctability.</a>	<a href="#">Update</a>
<a href="#">020402.F</a>	<a href="#">Added a type of violation related to retaining funds without authority.</a>	<a href="#">Update</a>
<a href="#">Figure 2-2</a>	<a href="#">Updated examples.</a>	<a href="#">Update</a>

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## CHAPTER 2

ANTIDEFICIENCY ACT VIOLATIONS

## 0201 OVERVIEW

## 020101. Governance

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. Section 1517 of title 31, U.S.C. is the primary foundation for the administrative control of funds set forth in Chapter 1. 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.

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

1. Make an obligation, expenditure, 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, [unless the law authorizes such contract or obligation](#).

B. Voluntary Services Limitation. Section 1342 of title 31, U.S.C. 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. Administrative Control of Funds, Amount Limitation. Section 1517 of title 31, U.S.C. stipulates that an officer or employee of the United States Government or of the District of Columbia government may not [make an obligation](#) or [expenditure](#) 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 [designated](#) by a Department of Defense (DoD) Component. See Chapter 1 for DoD administrative control of funds policy.

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

E. Time Limitation. Section 1502(a) of title 31, U.S.C. 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. See Volume 3, Chapter 8 for obligation policy and Volume 3, Chapter 10 for expired and closed account policy.

F. Miscellaneous Receipts Statute. Section 3302(b) of title 31, U.S.C. 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.

020102. Applicability

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, and Figures 2-1 and 2-2 for circumstances in which ADA violations may occur, section 0204 for ways to prevent ADA violations, and Chapter 9 for disciplinary action and criminal penalties for ADA violations. See Volume 3, Chapter 11, paragraph 110401.C for additional requirements.

0202 VIOLATIONS

020201. Discovery

An ADA violation may occur from various circumstances. If a suspected ADA violation is discovered, then a preliminary ADA review must be initiated. See Chapter 3 for details related to preliminary reviews of potential violations.

020202. General Violations

General ADA violations occur when:

A. Statutory limitation is exceeded for the amount authorized in an appropriation or fund, to include special and recurring statutory limitations or restrictions on the amounts for which an appropriation or fund may be used.

\* B. Statutory limitation on the purposes authorized in an appropriation or fund were violated and upon correction into the proper appropriation or fund, funds were not available at the time of the erroneous obligation or were not available when the obligation was recorded in the proper appropriation or fund.

C. Funding authority is issued in excess of the amount available in an appropriation or fund and the excess amount is obligated or expended. The issuance of funds by means of a formal administrative subdivision of funds (apportionment, allocation, allotment, suballotment or other formal administrative subdivision of fund), 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 issuance of a reimbursable order in excess of available funds may also result in an ADA violation.

D. 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 level or limitation to be breached, then a potential ADA violation arises. 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. An exception [applies](#) when funds [are required at the formal administrative subdivision level but 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. Obligations are authorized or incurred in advance of funds being available.

\* F. Obligations or expenditures of funds do not provide for a bona fide need of the fund or account (time violation) and upon correction into the proper fund or account, proper funds were not available at the time of the erroneous obligation or were not available when the obligation was recorded in the proper fund or account.

G. Obligations charged against a current account that would otherwise be properly chargeable (except as to amount) to an expired account, [but insufficient funds do not](#) exist in the applicable expired account to fund the obligation.

H. 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.

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

\* J. Funds are retained without authority and are not deposited into the miscellaneous receipts of the U.S. Treasury but instead augment an appropriation [and obligations or expenditures exceed the amount](#) appropriated by Congress.

#### 020203. Recording Obligations/Expenditures

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 [appropriation, fund, or at the formal administrative subdivision of funds level](#).

## 020204. Recording Errors/Omissions

An ADA violation is **not** considered to have occurred when an over-obligation or over-expenditure 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. **These** actions shall not include the deletion or adjustment of any valid transactions. If, after the proper recording of the transactions, an over-obligation or expenditure **of the appropriation, fund or amount limited by a formal administrative subdivision of funds** remains, then a potential ADA violation has occurred.

## 0203 CAUSES OF VIOLATIONS

## 020301. Most Frequent Causes

**ADA violations occur for several reasons.** The following is a list of the most frequent causes of DoD ADA violations:

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

## 020302. Oversight and Training

Inadequate supervisory involvement and oversight along with **a** 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 training to prevent violations. The following section discusses specific actions that can be taken to reduce or prevent violations.

## 0204 PREVENTING VIOLATIONS

## 020401. Requirements

To assist in the prevention of ADA violations, DoD personnel shall be knowledgeable of requirements in this chapter and Chapter 1. The following subparagraphs provide specific actions that shall be taken to reduce or prevent violations.

A. Heads of DoD Components shall:

1. 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 to prevent ADA violations.

2. Develop a full spectrum of DoD formal education programs for all military officers, from staff officer courses to executive development courses, and 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 financial, program, and project managers; engineers; contracting, information system, and comptroller personnel; commanders; supervisors; and managers.

3. Develop formal education structures 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 Enhanced Defense Financial Management training course hosted by the American Society of Military Comptrollers includes fiscal law in its accreditation program.

B. DoD commanders, supervisors, and managers shall:

1. Be aware of the ADA, related funding statutes, types of violations, and causes of violations as described in this chapter.

2. Provide appropriate ADA training to financial, program, and project managers; engineers; and contracting, information system, and comptroller personnel. The focus of this training shall include the basics of fund control, the ADA statute, and related funding statutes; 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. The training shall be kept current and videos, computer courses or handbooks may be used for such training.

\* 3. Identify key fund control personnel, incorporate the provisions of this volume into key fund control personnel training programs, require key fund control personnel receive appropriations law training at least every three years, maintain the documents that identify key fund control personnel, and maintain documents that confirm completion of the appropriations law training. Key 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 **with their** individual DoD Components as to the appropriate source of training that satisfies this requirement.

\* 4. Ensure key fund control personnel coordinate with requiring officials, such as program managers, contracting officers, and engineers, to verify requests comply with funding statutes applicable to the assignment of funding on a commitment or obligation document before the obligation is incurred.

5. 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. Inadequate supervisory involvement or oversight along with lack of appropriate training are common in DoD ADA violations.

6. Ensure regular reviews of fund status type reports **are performed**. If the amount of commitments and 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, a violation could occur if all or some of the commitments eventually become valid obligations.

7. Take proactive measures specifically tailored to address the causes and corrective actions required to prevent **violations**. See section 0203 for causes of violations.

#### 020402. Common Violations

To prevent ADA violations, DoD personnel shall be knowledgeable of the most common and frequent types of ADA violations as follows:

\* A. 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 **thus causing** the official accounting records to 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. **This violation also occurs when obligations are charged against a current account that would otherwise be properly chargeable (except as to the amount) to an expired account, but sufficient funds do not exist in the applicable expired account to fund the obligation.**

2. This type of potential violation is commonly discovered when an unmatched disbursement is recorded in the accounting system, **when** correcting inaccurately recorded obligations, **or when a reprogramming action requests additional funds for an expired account**. 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 are 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. Also when recording estimated obligations, it is important to record the initial obligation based on the most current data available and adjust the estimated obligations as conditions change to avoid making an obligation or expenditure that exceeds the amount available in an appropriation or fund.

#### B. Exceeding Limits on the Use of O&M Funds

1. Military Construction. To prevent an ADA violation, engineering and contracting personnel shall be advised of the provisions of sections 2801, 2802, and 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 are frequently identified 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 sections 2801, 2802, and 2805 of title 10, U.S.C. and DoD rules and regulations on minor projects.

a. Congress establishes by statute, the amount of O&M funds that may be used for a minor construction project. From time to time, that limit is increased by Congress. If the specified limit is exceeded, Military Construction funds must 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. A military construction project includes all work necessary to produce a complete and usable facility, or a complete and usable improvement to an existing facility under provisions of section 2801(b) of title 10, U.S.C. Incremental construction, which is the planned acquisition of, or improvement to, a real property facility through a series of minor construction projects is prohibited. See Volume 3, Chapter 17 for military construction project requirements.

c. 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 a 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.

d. 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. Expense versus investment criteria is in Volume 2A, Chapter 1, paragraph 010212 and Volume 2B, Chapter 18.

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 020402.B.2.a and 020402.B.2.b because the obligation can be moved from the O&M account to the applicable procurement account. If [proper funds were available in the proper procurement account at the time of the erroneous obligation of O&M funds and funds are available when the obligation is recorded in the procurement account](#), including all other known valid obligations and deobligations, then a potential ADA violation has not occurred. However, [if proper procurement funds were not available at the time of the erroneous obligation or were not available when the obligation is recorded in the procurement account](#) to cover the obligation in the procurement account, a potential ADA violation may have occurred.

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.

C. Exceeding a Formal Administrative Subdivision of Funds. If a formal administrative subdivision of funds level 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. Also, 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 [appropriation fund or other formal administrative fund subdivision level](#) 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 level 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 [the](#) Period of Availability

\* 1. The most common scenario is when funds cited 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 [an erroneous](#) obligation is moved to the applicable fiscal year and [proper](#)

funds were not available at the time of the erroneous obligation or were not available when the obligation was recorded in the proper fund or account, a potential ADA violation may have occurred.

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.

\* F. Retaining Funds Without Authority

1. This violation often occurs when funds are retained without authority and are not deposited into the miscellaneous receipts of the U.S. Treasury but instead augment an appropriation and obligations or expenditures exceed the amount appropriated by Congress.

2. This violation is often discovered when new personnel arrive and raise concerns over accepting and retaining unauthorized funds. Therefore, it is essential that DoD decision makers, such as DoD Commanders and Comptrollers, are knowledgeable of this type of violation and that financial managers be trained on this issue and understand the authority related to funds under their control to preclude augmenting an appropriation.

Figure 2-1. Potential Violations

A VIOLATION MAY OCCUR WHEN	DESCRIPTION OF POTENTIAL VIOLATION	SECTION OF TITLE 31, UNITED STATES CODE (U.S.C.)
<b>Any military member or DoD employee:</b>	1. Makes or authorizes an obligation or expenditure that exceeds: a. The available amount of any appropriation or fund.	<b>1341(a)(1)(A)</b>
	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.	<b>1341(a)(1)(A)</b>
	c. The available amount of any apportionment or reappropriation.	<b>1517(a)(1)</b>
	d. The available amount of any formal administrative subdivision.	<b>1517(a)(2)</b>
	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.	<b>1517(a)(2)</b>
	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.	<b>1341(a)(1)(B)</b>
	3. 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.	<b>1341(a)(1)(A)</b>
	4. 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

Figure 2-1. Potential Violations (continued)

A VIOLATION MAY OCCUR WHEN	DESCRIPTION OF POTENTIAL VIOLATION	SECTION OF TITLE 31, UNITED STATES CODE (U.S.C.)
<b>Any military member or DoD employee:</b>	5. Expends a working capital (revolving) fund established under section 2208 of title 10, U.S.C. in excess of amounts available in Fund Balance with Treasury whether apportioned or not. (Recurring provisions of annual DoD Appropriations Acts that establish 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.)	1341(a)(1)(A)
	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.	1517(a)(1)
	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.	1517(a)(2)
<b>In fund distribution:</b>	1. Total allocations or operating budget authorities for O&M type funds exceed the amount available for each apportionment period.	1517(a)(1)
	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.	<b>1517(a)(2)</b>
	3. Total allotments or operating budget authorities and CMAs exceed the amount of the available suballocation.	1517(a)(2)
	4. Total suballotments exceed the amount of the allotment.	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. Obligated O&M funds for site preparation construction costs on a relocatable building project. The project was incorrectly scoped into multiple projects and the cumulative costs of the construction exceeded the minor construction threshold and should have been authorized by Congress and funded with military construction funds. This unauthorized obligation of O&M funds instead of military construction funds resulted in a violation.
  - b. Obligated O&M and Working Capital funds on a single military construction project. The project amount exceeded the minor construction statutory limitation and resulted in a violation.
  - c. Obligated O&M funds rather than Procurement funds for recapitalization of a system and Procurement funds were not available when the obligation was recorded which resulted in a violation.
  - d. Obligated and expended Working Capital funds to purchase bottled drinking water when potable water was available. This purchase was an unauthorized obligation and resulted in a violation.
  - e. Government Purchase Cards were used for unauthorized non-government purchases and no other funds were available for that purpose resulted in an uncorrectable violation.
  - f. Failure to promptly record valid obligations in a reserve personnel appropriation resulted in valid obligations that exceeded the available amount in the appropriation and resulted in a violation.
  - g. Obligated O&M funds to purchase unauthorized food and gifts for attendees at an annual conference and no other funds were available for this purpose resulted in an uncorrectable violation.

Figure 2-2. Violation Examples (continued)

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

- a. Obligated O&M funds in advance of the appropriation when a 14 month severable services contract was awarded that exceeded the 12 month limit set forth in section 2410(a) of title 10, U.S.C., and resulted in a violation.
- b. Obligated O&M funds for two and four year severable equipment leases in advance of an appropriation which resulted in a violation.
- c. Obligated O&M funds for equipment with phased deliveries into subsequent fiscal years in advance of an appropriation which resulted in a violation.

## 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. Obligated O&M funds in excess of the Continuing Resolution Authority allocation which resulted in a violation.
2. Obligated O&M funds for information technology equipment in excess of the investment threshold. When correction was made, Procurement funds were not available at the suballotment level which resulted in a violation.
3. Obligated Research, Development, Test and Evaluation funds instead of O&M funds to repair and upgrade a building. When correction was made, O&M funds were not available at the suballotment level which resulted in a violation.
4. 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.

5. 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 obligations and expenditures 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**

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

Figure 2-3. References (continued)

## TITLE 31, UNITED STATES CODE (continued)

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

Figure 2-3. References (continued)

## TITLE 31, UNITED STATES CODE (continued)

- [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. References (continued)

## OTHER TITLES OF UNITED STATES CODE (continued)

<a href="#"><u>5 USC 1304</u></a>	Loyalty Investigations; Reports; Revolving Fund
<a href="#"><u>18 USC 4124</u></a>	Purchase of Prison-Made Products by Federal Departments
<a href="#"><u>33 USC 576</u></a>	Revolving Fund; Establishment; Availability; Reimbursement; Transfer of Funds; Limitation
<a href="#"><u>41 USC 6301</u></a>	Authorization Requirement