

VOLUME 14, CHAPTER 3: “PRELIMINARY REVIEWS OF POTENTIAL 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 November 2006 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
0301	Clarified how a potential violation is reported and reviewed.	Update
0301	Deleted requirement to report preliminary cases to the Office of the Under Secretary (Comptroller) Deputy Chief Financial Officer (OUS(D) DCFO).	Delete
030102	Clarified when a case number is assigned.	Update
030103	Added OUS(D) DCFO option to examine preliminary review cases.	Add
030201	Clarified the purpose of a preliminary review and revised the timeframe to complete a preliminary review.	Update
030204	Deleted requirement to advise OUS(D) DCFO of preliminary review results.	Delete
030302	Clarified DoD Component and investigator responsibilities and removed compressed timeframe for interagency related reviews.	Update
030202.A	This was subparagraph 030201.B in the previous version. Clarified the focus of a preliminary review and referenced the corrective actions section in Chapter 5.	Update
030202.B	This was subparagraph 030201.A in the previous version. Clarified the checks performed by the investigator. Added investigator independence criteria from Chapter 4.	Update
030202.C	Added procedures if an investigator identifies an accounting error.	Add

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
030202.D	Added fund control personnel definition from Chapter 2. Added procedures when fund control personnel properly certifies fund substitution and modified related correctability test.	Add
030202.E	Added procedures when fund control personnel do not certify fund substitution met the correctability test and refined the correctability test.	Add
030204	Changed timeframe to start a formal investigation.	Update
0303	Deleted paragraphs 030302 and 030303 of the previous version and referenced related chapter sections.	Delete
030402 030403	Revised procedures when an external organization reports a potential violation.	Update

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CHAPTER 3

PRELIMINARY REVIEWS OF POTENTIAL VIOLATIONS

0301 REPORTING SUSPECTED VIOLATIONS

*030101. Initial Discovery

Within [two weeks of discovering a potential](#) violation of the Antideficiency Act (ADA), the [activity](#) concerned shall report the [potential](#) violation, [with the related information in paragraphs 030101.A-J, through](#) command [channels](#) to the applicable Office of the Assistant Secretary of the Military Department for Financial Management and Comptroller or [the](#) Senior Financial Manager for other Department of Defense (DoD) Components ([referred herein as DoD Component](#)).

- A. Accounting classification of funds involved,
- B. Name and location of the activity where the alleged violation occurred,
- C. Name and location of the activity issuing the fund authorization, if different than subparagraph 030101.B,
- D. Amount of [the alleged violation](#),
- E. Nature of the alleged violation,
- F. Date the alleged violation occurred and date discovered,
- G. Means of discovery,
- H. Description of the facts and circumstances of the case,
- I. Anticipated dates of completion of the [preliminary review](#) and submission of the report, and
- J. The name(s) and work phone number(s) of [the preliminary investigator](#) or [the](#) members of the [preliminary review](#) team.

*030102. Evaluation

The DoD Component shall [evaluate the potential violation for validity and completeness and if it determines a potential violation has occurred](#), assign a case number for tracking purposes.

*030103. Deputy Chief Financial Officer Review

The Office of the Under Secretary of Defense (Comptroller) (OUSDC) Deputy Chief Financial Officer (DCFO) may routinely examine open or closed preliminary review cases.

0302 PRELIMINARY REVIEWS

*030201. Purpose

The purpose of a preliminary review is to gather facts and ultimately factually establish whether a reportable violation of section 1341 of title 31, United States Code (U.S.C.), section 1342 of title 31, U.S.C., or section 1517 of title 31, U.S.C. has occurred.

*030202. Investigation

When the DoD Component has evidence of a potential violation, as a result of the evaluation in section 0301, the DoD Component shall assign a preliminary review investigator and/or a review team to research the applicable business transactions and accounting records to determine the amount and cause of the potential statutory violation. The preliminary review should be completed within 14 weeks from the date of initial discovery.

* A. A preliminary review shall focus on the potential violation not the corrective actions. Applicable corrective actions will be developed during the formal investigation, if a formal investigation is warranted. See Chapter 5 for formal investigation requirements.

B. The preliminary review shall be performed by either an individual (the preliminary investigator) and/or a review team. The preliminary investigator or the review team lead shall be an individual with no vested interest in the outcome of the review. The preliminary investigator or the review team lead shall also be capable of conducting a complete, impartial, and unbiased review. A commander of a major command, a superior to a commander of a major command who is in the chain-of-command, or equivalent in an organization other than a Military Department, shall appoint a trained and qualified individual to serve as an investigator or a review team lead. To help assure independence and impartiality during the review, an investigator or review team lead shall be selected from an organization external to the installation-level organization being reviewed. DoD Components are required to document that investigators and/or review team leads are free of personal, external, and organizational impairments and retain the document(s) in the ADA case file.

* C. At the onset of the preliminary review, the investigator and/or review team shall check for accounting errors such as:

1. Duplications or other errors in recording the applicable obligation and/or expenditure;

2. Obligations and/or expenditures charged to invalid and/or improper fund accounts; and
3. Inaccurate fund status at the time the applicable transaction occurred.

* D. If the preliminary review determines that an accounting error occurred, the investigator or review team lead shall report this error to the DoD Component to make the appropriate accounting correction(s). An accounting error occurs when an obligation and/or expenditure was posted to a fund other than the fund approved by fund control personnel. 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. Once the accounting correction(s) has been made, the investigator or review team lead shall determine whether a reportable violation occurred. See paragraphs 030202.E and 030202.F for fund correctability tests.

* E. If fund control personnel properly certify that the proper funds were available at the time of the initial obligation and proper funds are available at the time of the correction or fund substitution, the potential violation may be corrected when the proper accounting corrections are complete (see paragraphs 030203, 030204 and 030205 for further requirements).

* F. If fund control personnel do not provide the certification, then the preliminary review report shall include evidence to support a determination that there is a violation of section 1341 of title 31, U.S.C. or section 1517 of title 31, U.S.C. (see paragraphs 030203, 030204 and 030205 for further requirements).

030203. Interpretation and Legal Issues

The existence of a violation may depend upon an interpretation of statutory or regulatory constraints imposed on the use of a particular appropriation or account, the proper fiscal year to be charged, or similar issues. In all cases, the reviewer shall request and obtain the advice of legal counsel on legal issues raised during the preliminary review.

030204. Review Results

The results of the preliminary review shall be documented in a preliminary review report, forwarded for approval to the applicable DoD Component, and coordinated with the applicable DoD Component office of legal counsel. If the DoD Component involved determines that there is not a violation and the DoD Component office of legal counsel concurs, then the preliminary report completes the actions regarding the potential violation.

*030205. Formal Investigations

If the DoD Component involved determines there is a potential violation, then a formal investigation shall be initiated by the applicable DoD Component within two weeks from the

approval of the preliminary review report. The provisions in Chapter 4 and Chapter 5 shall be followed when conducting a formal investigation. Status and violation report procedures are contained in Chapter 6 and Chapter 7, respectively.

0303 PRELIMINARY REVIEWS INITIATED BY THE UNDER SECRETARY OF DEFENSE (COMPTROLLER)

* When the OUSD(C) is informed of a potential violation by an audit report or otherwise learns of a potential violation, the applicable DoD Component may be directed to initiate a preliminary review of the circumstances surrounding the potential violation. The date the DoD Component receives the direction is considered the date of discovery for reporting purposes and the DoD Component shall follow procedures in sections 0301, 0302 and 0304.

0304 PRELIMINARY REVIEWS INITIATED AS A RESULT OF EXTERNAL REPORTS

030401. Oversight Entities

In some cases, the Government Accountability Office, DoD Office of Inspector General, a military department audit agency or other organizations external to a DoD Component may advise in a report that a potential violation may have occurred. Generally, in the case of audit reports, a recommendation to investigate the potential violation is included in the report.

*030402. Date of Discovery

When a draft report is issued by an organization that finds a potential violation may have occurred and recommends a preliminary review be conducted, the DoD Component involved shall review the finding(s) and recommendation(s) provided in the draft report. If the DoD Component agrees with the recommendation to perform a preliminary review then the date of the final report is considered the date of discovery for reporting purposes and the DoD Component shall follow procedures in sections 0301 and 0302.

*030403. Disagreement Resolution

When the DoD Component disagrees that a potential violation has occurred and believes a preliminary review is not warranted, the DoD Component shall provide applicable written comments to the draft report outlining the disagreement consistent with policy prescribed in [DoD Directive 7650.3, Follow-up on General Accounting Office \(GAO\), DoD Inspector General \(DoD IG\), and Internal Audit Reports](#). If disagreements between the DoD Component and the organization arise as to whether a preliminary review is warranted, the DoD Component may request assistance from the OUSD(C) DCFO. Upon resolution of the disagreement, if a preliminary review is not recommended, then no further action is required by the DoD Component. However, if the DoD Component and the organization agree that a potential violation may have occurred and a preliminary review is warranted, then the date of the agreement is considered the date of discovery for reporting purposes and the DoD Component shall follow procedures in sections 0301 and 0302.

030404. Reporting

If a preliminary review was deemed appropriate, the DoD Component shall supply the status of the preliminary review as requested by the applicable external organization.

0305 ROLES OF THE DOD INSPECTOR GENERAL

The *Inspector General Act of 1978* gives the DoD Inspector General the authority to conduct investigations of violations of the Antideficiency Act.

A. The DoD Inspector General reserves the right to initiate investigations of potential violations of the Antideficiency Act, depending upon the type, amount, or significance of the violation.

B. The DoD Inspector General may elect to conduct investigations not requested by the Under Secretary of Defense (Comptroller) or other DoD official.

C. When the DoD Inspector General conducts such investigations, the resultant report shall constitute the official DoD report on the matter; no other DoD Component shall conduct parallel or supplemental investigations unless directed to do so by the Secretary of Defense, Deputy Secretary of Defense, or Under Secretary of Defense (Comptroller).