

**SUMMARY OF MAJOR CHANGES TO
DOD 7000.14-R, VOLUME 14, CHAPTER 5
“CONDUCTING FORMAL INVESTIGATIONS”**

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

Hyperlinks are designated with *underlined, bold italic fonts*

PARA	EXPLANATION OF CHANGE/REVISION	PURPOSE
0502	Incorporates policy in the Office of the Under Secretary of Defense (Comptroller) memorandum of June 21, 2007, titled “Inter-Agency Anti-Deficiency Act (ADA) Preliminary and Formal Investigation Compressed Schedule Policy”.	Incorporate
050201B	Added new guidance from the Office of Management and Budget Circular No. A-11, Section 145, 2007, requiring a transmittal letter to be sent to the Comptroller General of the United States.	Incorporate
050402	Inserted new paragraph describing the opportunity to request an advance decision prior to administering discipline and submission of the Report of Antideficiency Act Violation as a result of a Lean6 analysis accepted by the Department of Defense (Comptroller) to streamline the process.	Incorporate

TABLE OF CONTENTS

CONDUCTING INVESTIGATIONS

0501	Purpose of an Investigation
0502	Timeframes
0503	Developing Conclusions
0504	Corrective Actions
0505	Accumulating Costs
Figure 5-1	Investigating Officers Formal Investigation Checklist
Figure 5-2	Appointing Officials Formal Investigation Checklist

CHAPTER 5

CONDUCTING INVESTIGATIONS0501 PURPOSE OF AN INVESTIGATION

The purpose of a potential Antideficiency Act violation investigation is to determine the event that caused the potential violation, the responsible individual(s), action(s) required to correct the violation, and action(s) taken to ensure that a similar violation does not occur in the future. When an investigating officer is appointed, a formal investigation shall begin.

050101. Checklists. Figure 5-1, *Checklist for Investigating Officers*, may be used during an investigation to document the results. Figure 5-2, *Checklist for Appointing Officers*, may be used by the appointing officer in the review of the investigating officer's report of violation. The checklist in [Chapter 7](#), Figure 7-1, of this volume also may be used during the investigation and preparation of the Report of Antideficiency Act Violation.

050102. Research Effort. During the investigation, an investigating officer may be required to perform extensive research. The research effort may include researching accounting directives and regulations, directives and regulations related to the functional area involved, legal directives, public law, and legal opinions. An investigating officer will review all specific documentation in the functional area involved that relates to the violation such as purchase requests, contracts, work orders, vouchers, and supporting materials, etc.

★0502 TIMEFRAMES

050201. Timeframes for Investigation. Antideficiency Act violation investigations including the submission of the Report of Antideficiency Act Violation to the Office of the Under Secretary of Defense (Comptroller), shall be completed within nine months (**six months for inter-agency investigations**). See reporting requirements in [Chapter 6](#) of this volume.

A. All appointing officials shall stipulate in the investigating officer appointment memorandum (see [Chapter 4](#), paragraph 040102) a due date for the Report of Antideficiency Act Violation. Such due date shall conform to the nine month timeframe (**six months for inter-agency investigations**) regardless of the scope of the event or amount of the potential violation. The date established by the appointing official also shall consider the requirement for The applicable Office of the Assistant Secretary of the Military Department for Financial Management, or the Comptroller or Senior Financial Manager for other Department of Defense (DoD) Components, to submit the Report of Antideficiency Act Violation to the Office of the Under Secretary of Defense (Comptroller).

B. The total process for investigating and reporting potential Antideficiency Act violations shall take no more than one year (**nine months for inter-agency cases**) from the start date of the formal investigation through the preparation of transmittal letters to the President, through the Director of the Office of Management and Budget, the President of the

Senate, the Speaker of the House of Representatives, and the **Comptroller General of the United States**.

050202. Approving Exceptions to Timeframes. The Heads of the DoD Components may approve an exception to the above timeframe on a case-by-case basis. This responsibility may be delegated to the Assistant Secretary of the Military Department for Financial Management, or the Comptroller or Senior Financial Manager for other DoD Components. This responsibility shall not be redelegated. The Office of the Under Secretary of Defense (Comptroller) shall be notified of any extension that is approved and furnished a justification for that extension; however, any extension granted shall not allow the time for completing the entire investigation (see paragraph 050201B) to exceed one year (**nine months for inter-agency cases**) from the day the investigation began.

050203. Special Interest Investigations. When necessary, investigations of special interest may deviate from the nine month timeframe (**six months for inter-agency investigations**); however, the applicable appointing officer or investigating officer shall notify the Under Secretary of Defense (Comptroller) when such deviations are necessary. If the Under Secretary of Defense (Comptroller) agrees, the timeframe may be extended. Special interest investigations include potential violations that may have been the subject of a news release; requested by the Secretary, Deputy Secretary, or the Under Secretary of Defense (Comptroller); or involve a high-level DoD official.

050204. Involvement of the Under Secretary of Defense (Comptroller). The Under Secretary of Defense (Comptroller) may supervise the progress of an investigation when the nature of the violation or the implication of individuals in the violation warrants such involvement. Such supervision may include requirements for oral and written progress reports and may require a team of investigating officers and compressed timeframes.

0503 DEVELOPING CONCLUSIONS

During the investigation process, the investigating officer shall use extreme care in obtaining and documenting all the relevant and specific facts of the case. The conclusions in the Report of Antideficiency Act Violation, including the identification of the individual(s) responsible for the violation, shall be supported by the facts presented in the report.

050301. Identifying Circumstances and Fixing Responsibility. The investigating officer shall carefully consider the facts and circumstances surrounding the violation before affixing responsibility for the violation. Commanding officers, budget officers, or fiscal officers may be named because of their overall responsibility or position, or the fact that they are designated as the holder of a subdivision of funds, if they failed to properly exercise their responsibilities. The investigating officer, however; shall attempt to discover the specific act, or the failure to take action, that resulted in the violation, and the responsible individual(s) for the act or the failure to take action. The Report of Antideficiency Act Violation is considered incomplete until an individual(s) has been named as responsible for the violation. A conclusion

that no one could be determined responsible for the violation is not acceptable. [Chapter 9](#) of this volume contains additional guidance regarding recommended disciplinary actions.

A. The Report of Antideficiency Act Violation shall include assignment of responsibility to one or more individuals for the violation so appropriate administrative or disciplinary action, if any, may be imposed as required by Title 31, United States Code, [Sections 1349, 1350, 1518, and 1519](#).

B. All relevant aspects of the case, including all individual(s) and records connected with the event, shall be investigated to the fullest extent. Key personnel involved in a violation shall be interviewed. If an employee to be interviewed is a member of a bargaining unit, then the investigating officer shall comply with appropriate statutory and collective bargaining agreement protections for such employee. Key facts associated with the events leading to the potential violation shall be examined and documented in the report and the investigating officer shall address any conflicts. If a series of events at several levels led to the violation, then the report clearly shall identify what happened at each level and how the events contributed to the violation.

C. The investigating officer logically shall support a determination from the documented facts that one or more of the individuals involved are responsible for causing the violation.

D. The investigating officer shall clearly identify the involvement of each individual(s) and what each individual(s) did or failed to do that caused the violation. The following questions shall be considered:

1. Did the violation occur because an individual carelessly disregarded instructions?
2. Did the violation occur because an individual was inadequately trained or lacked knowledge to properly perform their job? If so, then was the individual or a supervisor at fault?
3. Did the violation occur because of an error or mistake in judgment by an individual or a supervisor?
4. Did the violation occur because of lack of adequate procedures and controls? If so, then who was at fault?
5. Did the violation occur because of other reasons? If so, then who was at fault?

E If, at any time during an investigation, the investigating officer believes there may be a criminal issue(s) involved, then the investigation shall be stopped immediately. The investigating officer shall consult with legal counsel to determine if the issue should be referred to appropriate criminal investigators for resolution.

0504 CORRECTIVE ACTIONS

050401. Developing Corrective Actions. When the causes and the individual(s) responsible for the violation have been determined, officials of the DoD Component under investigation, working with the investigating officer, shall determine the corrective actions necessary to ensure a violation of a similar nature will not recur. Those actions shall be included in the Report of Antideficiency Act Violation. In addition, officials of the DoD Component under investigation, working with the investigating officer, shall develop a summary of lessons learned from the specific circumstances of the case that can be applied to the installation involved, the major command, the DoD Component, or all DoD Components. [Chapter 10](#), paragraph 1004 of this volume contains further guidance on corrective actions.

★ 050402. Request for Advance Violation Decision. The applicable Office of the Assistant Secretary of the Military Department for Financial Management, or the Comptroller or Senior Financial Manager for other DoD Components, may submit the Report of Antideficiency Act Violation to the Office of the Under Secretary of Defense (Comptroller) Deputy Chief Financial Officer with a copy to Office of the Deputy General Counsel (Fiscal) and request a determination of whether or not the case is or is not an Antideficiency Act violation prior to completing the Report of Antideficiency Act Violation and administering the discipline. If the Office of the Deputy General Counsel (Fiscal) agrees that the case is a violation then discipline shall be administered according to [Chapter 9](#) of this volume.

050403. Recommending Disciplinary Action. At the conclusion of an investigation, appropriate disciplinary action (to include no disciplinary action) shall be determined for the individual(s) named as responsible for the violation. That determination shall be based on consultations involving the individual's commander, the investigating officer, the staff judge advocate, and others with appropriate authority but on the ultimate responsibility of the appropriate commander or other official. The recommended disciplinary action, if any, shall be based on the severity of the violation, the degree of responsibility of the named individual and any mitigating circumstances. If the individual responsible is from another DoD Component, the appointing official shall follow the procedures in [Chapter 7](#), paragraph 070207, of this volume. The type of disciplinary action taken shall be included the Report of Antideficiency Act Violation. [Chapter 9](#) of this volume contains additional guidance regarding recommended disciplinary actions.

0505 ACCUMULATING COSTS

When conducting an investigation outside the major command to which the investigating officer is assigned, incidental costs (TDY, local travel, etc.) incurred shall be identified and accumulated. In accordance with [Volume 11A](#) and [Volume 11B](#) of this Regulation, reimbursement shall be requested from the command that was under investigation.

Figure 5-1

INVESTIGATING OFFICERS FORMAL INVESTIGATION CHECKLIST

The investigating officer shall ensure the following items have been considered during the course of an investigation and the preparation of the Report of Antideficiency Act Violation:

1. Review the preliminary review report (see [Chapter 3](#), paragraph 030203, of this volume) and develop questions, as needed, to:
 - a. Ensure a full understanding of the facts and circumstances of the potential violation.
 - b. Validate the existence of the potential violation.
2. Examine the physical evidence associated with the potential violation and document each piece of evidence.
 - a. Make copies of the transaction(s) that caused the potential violation. The transactions may consist of working group documents, planning documents, commitment documents, obligating documents, payment documents, or others. Copies of the transactions related to the violation may be located in the functional area originating the obligation, the contracting office, engineering office, or Defense Finance and Accounting Service offices.
 - b. Trace and document who authorized or approved the transaction(s).
 - c. Trace and document all of the relevant decisions that led up to, and the contributing circumstances that set the stage for, the transaction(s) that caused the potential violation. These decisions might be traced to minutes of installation financial board meetings, installation financial working group meetings, or any other installation group meeting in which decisions concerning an installation's financial decisions are conducted.
 - d. If a regulation, funding document, or other administrative document was violated, then review the pertinent document. Determine specifically what administrative limitation was exceeded. Review Title 31, United States Code, [Sections 1511 through 1519](#) sections related to administrative violations. Determine specifically which section of Title 31 was violated.
 - e. If a statutory limitation was exceeded, then review the pertinent statute. Title 31, United States Code, [Sections 1341 through 1348](#) contain general government-wide provisions dealing with statutory limitations. Voluntary services are covered by [Section 1342](#). Other statutory limitations in [Title 10, United States Code](#) or DoD Appropriations or Authorization Acts may be involved. Determine specifically which statute was violated.

Figure 5-1
(continued)

INVESTIGATING OFFICERS FORMAL INVESTIGATION CHECKLIST

3. Interview the key players and document the results of the interviews. When interviewing DoD civilian employees, who also are bargaining unit members, ensure that the relevant questions of the United States Code and the collective bargaining agreement are adhered to.
 - a. Question each key person to determine the role each played in the violation.
 - b. Question facts and circumstances that do not appear logical or supportable.
 - c. For those individuals who may be potentially responsible in any way, question why they did what they did and when they did it.
 - d. If they indicate that their supervisor instructed them to perform certain acts that contributed to the potential violation, interview their supervisors.
 - e. Reinterview to address conflicts in documented evidence.
4. Examine relevant circumstantial evidence associated with the potential violation and describe how each piece of circumstantial evidence relates to the case. Label all circumstantial evidence as such in the report. Inclusion of photographs, drawings, etc., particularly of construction projects, is not mandatory, but could be helpful in explaining the violation.
5. Assemble and analyze the documented evidence.
 - a. Develop and document a list of findings based upon the evidence. Identify the evidence that supports each finding.
 - b. Develop and document a list of conclusions, including which specific act, or failure to act, caused the potential violation. Identify the evidence and findings that supports each conclusion.
 - c. Determine if an Antideficiency Act violation has, in fact, occurred and if so, which provision of the Act was violated. Include in the documentation the rationale and evidence that support this conclusion and state the type of violation and the related section of the United States Code that was violated.
 - d. Identify the amount and date of the potential violation.
6. Determine if the acts that caused the violation complied with established internal controls or local operating procedures.

Figure 5-1
(continued)

INVESTIGATING OFFICERS FORMAL INVESTIGATION CHECKLIST

- a. If the acts were in compliance with either the controls or procedures, determine what control and procedural improvements are required to prevent future violations of this type.
 - b. If the controls or procedures were deficient or in need of improvement, then interview the supervisors of the operating personnel to determine why the controls and procedures were deficient.
 - c. In consultation with the installation commander, operating personnel, and supervisor(s), recommend or review revised controls and procedures to prevent future violations of the same type. Include in the report any recommended control or procedural improvements and the actions taken on those recommendations by the local command. Describe actions in detail so they may be evaluated for application at other locations.
 - d. Obtain from management officials of the DoD Component involved any lessons learned from this event for use by others in addressing similar circumstances. Include any recommended lessons learned in the report.
7. Determine to what degree each key player was responsible for the violation.
- a. If operating personnel failed to follow established controls or procedures, then assign that individual(s) as bearing a significant responsibility for the violation.
 - b. If a supervisor requested an employee(s) to disregard established controls or procedures, then assign the supervisor (in lieu of the employee) as bearing a significant responsibility for the violation.
 - c. If standard operating procedures or internal controls are deficient and the deficiencies were a major contributing cause of the violation, then assign the supervisor responsible for the procedures or controls as bearing significant responsibility for the violation.
 - d. In most cases, the individual(s) that is determined to be significantly responsible for the violation shall be named as the responsible individual in the Report of Antideficiency Act violation.
 - e. If the violation involves a centrally managed allotment, then the head of the operating agency at the time the violation was incurred shall be named responsible for the violation; however, other individuals also may be named responsible for the violation.
 - f. Identify in the report the individual(s) named responsible by name, rank/grade, position title, job series, and organization.

Figure 5-1
(continued)

INVESTIGATING OFFICERS FORMAL INVESTIGATION CHECKLIST

g. Include in the report a brief, clear description of the causes and circumstances surrounding the violation.

(1) The description shall state clearly what the individual(s) responsible for the violation did, or failed to do, that caused the violation.

(2) State whether the violation was due to careless disregard of instructions; an error; a lack of adequate training, procedures, or controls; or due to other reasons.

(3) The report shall not be so brief that it does not convey clearly the essential facts and circumstances of what happened. Clearly state in sufficient detail what happened.

(4) Identify the name and position of the holder of the funds subdivision (e.g., installation commander) and an evaluation of the performance of their fund control responsibilities. The level of command immediately above the holder normally will furnish this evaluation. This evaluation may be omitted if the holder of funds is named the responsible individual for the violation.

8. The individual(s) named responsible shall be:

a. Advised that they may consult with legal counsel or, when applicable, union representative.

b. Advised that a violation has been determined to have occurred and that they is named a responsible individual for the violation and they will be allowed to review the report and examine evidence on which the determination was based.

c. Allowed to submit a sworn or unsworn statement regarding the alleged violation after reviewing the report and evidence. If the individual declines to make a statement, then the report shall so indicate.

d. Allowed to designate witnesses to provide statements on their behalf.

9. Designated witnesses shall be interviewed for the record.

a. In the report, the investigator shall address any new facts presented in the statement(s).

b. If a designated witness declines to make a statement, then the report will so indicate.

**Figure 5-1
(continued)**

INVESTIGATING OFFICERS FORMAL INVESTIGATION CHECKLIST

10. The investigator shall assess whether the individual(s) named responsible knowingly and willfully committed the violation.
11. In consultation with the investigating officer and legal officials, the disciplinary officer and/or the individual's supervisor or commander shall determine appropriate disciplinary action against the individual(s) named responsible.
- a. The recommended disciplinary action, if any, shall be commensurate with the severity of the violation and the degree of responsibility of the individual.
- b. Include in the report the recommended disciplinary actions and a statement by the local commander describing any administrative discipline imposed and any further action taken with respect to the individual(s) named responsible for the violation. The individual responsible for determining disciplinary action shall attach a written statement to the report acknowledging that:
- (1) A violation is a serious matter.
- (2) Disciplinary action taken shall be appropriate to the causes and circumstances determined during the investigation.
- (3) The DoD shall report the violation to the Congress and the President.
- (4) The disciplinary action taken is commensurate with the severity of the violation, with full justification of extenuating circumstances. [Chapter 9](#) of this volume contains further guidance on these statements. If no disciplinary action is deemed appropriate, then full justification is required.
12. The investigator shall review the report before transmittal to the appointing official to determine that:
- a. The report includes copies of the investigating officer appointment memorandum and the preliminary review report.
- b. The case control number, title of the appropriation or fund involved, Treasury symbol, amount, date of occurrence, date discovered, and a description of how the potential violation was identified are included in the report. In addition, the name and title of the investigator, the dates, place, and scope of the investigation shall be included in the report.

**Figure 5-1
(continued)**

INVESTIGATING OFFICERS FORMAL INVESTIGATION CHECKLIST

- c. There are no obvious questions or issues that have not been addressed.
- d. The documented evidence supports the findings, conclusions, and recommendations in the report.
- e. All key players and designated witnesses have been interviewed.
- f. All relevant evidence has been included in the report.
- g. All circumstantial evidence has been labeled properly to distinguish it from the evidence in item 12f.
- h. The documentation indicates that all witnesses and individuals suspected of committing a criminal offense and supplied testimony were informed properly of their rights; e.g., with respect to military personnel, under [Article 31, Uniform Code of Military Justice](#).
- i. An individual(s) has been named responsible, disciplinary action has been recommended, and the required statement by the commander on the appropriateness of the disciplinary action, whether imposed or not, is included in the report. The individual(s) is identified by name, rank, position title, and organization.
- j. The investigator has indicated that the individual(s) named responsible did not commit the violation willfully and knowingly. If there were indications that an individual(s) may have willfully and knowingly committed a violation, then the case shall have been referred to criminal investigators (see paragraph 050301E).
- k. Corrective actions have been taken or recommended and the report identifies any lessons learned.
- l. Any findings, conclusions, and recommendations that are based upon testimony are cross-referenced to the record of the testimony.
- m. The documentation includes records of applicable legal advice when required.
- n. The report includes the name and position of the fund holder and an evaluation of their performance.
- o. The investigator has signed the report.

Figure 5-2

APPOINTING OFFICERS FORMAL INVESTIGATION CHECKLIST

The appointing officer shall ensure the following items are addressed in the Report of Antideficiency Act Violation:

1. Is a copy of the investigating officer's appointment memorandum and the preliminary review report included in the report?
2. Does the report include the case control number, title of the appropriation/fund involved, Treasury symbol, amount, date of occurrence, date discovered, and a description of how the potential violation was identified, the name and title of the investigating officer, the dates, place and scope of the investigation?
3. Is the evidence clearly documented in the report and is the evidence relevant to the case?
4. Does the evidence appear to be complete or are significant factors missing that should be considered? Do there appear to be relevant unanswered questions?
5. Are the findings clearly stated, logical, supported by the evidence, and relevant to the case?
6. Is each finding that is based upon testimony properly cross-referenced to the testimony?
7. Are the findings and conclusions fully substantiated by the evidence and testimony?
8. Were all conflicts in testimony addressed in the report?
9. Is there an explicit statement that a violation, in fact, occurred or that no violation occurred? If a violation occurred, does the report include a citation of the United States Code section that was violated?
10. Does the report name at least one individual as being responsible for the violation? Does the evidence support the determination of responsibility made by the investigating officer? Is the individual(s) named responsible identified by name, rank/grade, position title, job series, and organization? Does the report identify the date of the potential violation and the amount?
11. Does the report include a clear description of the causes and circumstances surrounding the violation?
 - a. The description shall state clearly what the individual(s) responsible for the violation did, or failed to do, that caused the violation.

**Figure 5-2
(continued)**

APPOINTING OFFICERS FORMAL INVESTIGATION CHECKLIST

b. State whether the violation was due to careless disregard of instructions; an error; a lack of adequate training, procedures, or controls; or due to other reasons.

c. The report shall not be so brief that it does not convey clearly the essential facts and circumstances of what happened. Clearly state in sufficient detail what happened.

d. Identify the name and position of the holder of the funds subdivision (e.g., installation commander) and an evaluation of the performance of the fund control responsibilities. The level of command immediately above the holder normally will furnish this evaluation. This evaluation may be omitted if the holder of funds is named the responsible individual for the violation.

12. Does the report indicate that each individual named responsible was:

a. Advised that they may consult with legal counsel?

b. Advised that a violation has been determined to have occurred, that they are named as a responsible individual for the violation, and they will be allowed to review the report and examine evidence on which the determination was based?

c. Allowed to submit a sworn or unsworn statement regarding the alleged violation after reviewing the report and evidence? If the individual declines to make a statement, then the report shall so indicate.

d. Allowed to designate witnesses to testify in their behalf?

13. Were the rights of the individual(s) named responsible protected? Are there indications in the report that suggest that their rights were not fully protected? If so, the case may have to be reinvestigated.

14. Were all witnesses--designated by the individual(s) named responsible--interviewed or does the report include valid reasons why they were not interviewed?

15. Was there any relevant new information furnished by the oral or written statements by the individual(s) named responsible, or their designated witnesses? If so, does the report address this new evidence and its bearing on the responsibility of the named individual(s)?

16. Does the report explicitly state whether the violation was willfully and knowingly committed? If there are indications the violation willfully and knowingly was committed, the investigation shall have been referred to criminal investigators (see paragraph 050301E).

**Figure 5-2
(continued)**

APPOINTING OFFICERS FORMAL INVESTIGATION CHECKLIST

17. Has the investigating officer included a discussion of the following items in the report and have appropriate actions been taken by the local command to:
 - a. Discipline the named individual(s), if appropriate, and furnish a statement by the local commander justifying the action taken.
 - b. Identify and install corrective actions to prevent similar violations in the future.
 - c. Improve procedures and controls, if appropriate.
18. Has the report been signed by the investigator?