

VOLUME 14, CHAPTER 7: “ANTIDEFICIENCY ACT REPORT”**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 February 2008 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
Title	Changed title of chapter.	Update
070101	Clarified report submission requirements and clarified the two different types of reports.	Update
070102	Revised the timeframe to submit a report, removed compressed timeframe for interagency related investigations, and moved overall report submission requirements from section 0703 of previous version.	Update
070201	Moved related timeframes to paragraph 070102. Deleted information from this section already included in Figure 7-1.	Update/Delete
070204	Added a timeframe for those named responsible along with related extension requests. Clarified explanations of responsible individual(s) statement(s) in the ADA Violation Report.	Add/Update
070501	Clarified the Congressional recipients of a violation report and letter requirements. Added reporting requirements in accordance with Office of Management and Budget Circular No. A-11 (2010), <i>Preparing, Submitting, and Executing the Budget</i> . Added requirement for Office of the Deputy Comptroller (Program/Budget) coordination.	Update/Add
070502	Clarified the violation notification process to external authorities.	Update
070602 070603	Added timeframe to resubmit report.	Add

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
Figure 7-1 Figure 7-2	Merged information in Figure 7-1 and Figure 7-2 of the previous version into Figure 7-1. Added Office of Management and Budget Circular No. A-11 (2010), <i>Preparing, Submitting, and Executing the Budget</i> , requirement to send case information to the Department of Justice if it is suspected that the violation was knowing and willful.	Update/Add

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CHAPTER 7

ANTIDEFICIENCY ACT REPORT

0701 OVERVIEW

One of the most important [outcomes of an Antideficiency Act \(ADA\) investigation](#) is preparing the necessary [ADA](#) report.

[*070101.](#) Preparation and Submission

The applicable [Office of the Assistant Secretary of the Military Department for Financial Management and Comptroller or Senior Financial Manager for other Department of Defense \(DoD\) Components \(referred herein as DoD Component\)](#) shall ensure that an [ADA Report](#), either a report with a violation or a report that does not contain a violation, is prepared and submitted to the Office of the Under Secretary of Defense (Comptroller) Deputy Chief Financial Officer ([OUSD\(C\) DCFO](#)).

[*070102.](#) Timeline

The report is due to [OUSD\(C\) DCFO](#) within [twelve months and two weeks](#) from the date the preliminary review ended. If there was no related preliminary review, then the report is prepared and submitted twelve months from the date the formal investigation began. Upon receipt of the report, the [OUSD\(C\) DCFO](#) has three months to develop, coordinate, and process the letters addressed in section 0705. Therefore, the formal investigative process, to include the DoD Component investigating and reporting of the violation, should take no more than fifteen months.

A. The [ADA Report format and content requirements](#) are in [Figure 7-1](#).

B. The original or an electronic copy of the [report](#) shall be submitted to the [OUSD\(C\) DCFO](#) and the report shall contain a copy of all pertinent documents referenced in the body of the report. The investigative report, as prescribed in Chapter 5, may be used as the [ADA Report](#) as long as the report includes the contents in [Figure 7-1](#) and only pertinent data is referenced and enclosed.

0702 ANTIDEFICIENCY ACT VIOLATION REPORT

[*070201.](#) Investigation Results

When an investigation determines a violation has occurred, the applicable DoD Component shall prepare an [ADA Violation Report](#) that documents the results of the investigation and submit the report based on the provisions in paragraphs 070101 and 070102. If the investigation resulted in no violation, then refer to section 0706.

070202. Report Content

The ADA Violation Report shall contain the applicable items in Figure 7-1. The DoD Component and its legal counsel shall also ensure that the ADA Violation Report includes all pertinent items.

070203. Multiple Violations

If the same individual(s) is responsible for more than one violation under the same circumstances, then one ADA Violation Report may encompass multiple violations. As an example, if on several different occasions an individual(s) authorized obligations against an appropriation that should not have been used for that particular purpose, and funds in the correct appropriation were not available, then those violations may be combined into a single ADA Violation Report.

*070204. Individual(s) Named Responsible

Upon completion of the ADA Violation Report, the individual(s) named responsible for a violation shall be given two weeks to read the ADA Violation Report, including the facts and circumstances leading to the determination of responsibility, and may provide a statement of any circumstances they believe to be extenuating. Extension requests to the two weeks shall be granted by the applicable DoD Component; however, the DoD Component shall adhere to the timeframes in paragraph 070102.

A. The individual(s) named responsible shall be granted this opportunity even if they no longer work where the violation occurred or have retired or separated from the DoD.

1. The statement(s) shall first acknowledge that the individual(s) has read the ADA Violation Report and understands that he or she is being held responsible for the violation.

2. The individual(s) may provide additional information pertinent to the particular violation case, which was not addressed in the investigation or the ADA Violation Report and has a bearing on responsibility for the violation.

3. The individual(s) also may refute statements made in the ADA Violation Report or by others and make other comments. The individual's final written statement, including any extenuating circumstances, shall be included in the ADA Violation Report submitted to the OUSD(C) DCFO.

B. When the statement(s) of the responsible individual(s) refute content in the ADA Violation Report, the DoD Component shall include an evaluation of the statement in the ADA Violation Report. The evaluation shall either support the individual(s) statement and state the modifications made to the ADA Violation Report as a result. Or the evaluation should explain why the individual(s) statement did not lead to modifications to the ADA Violation Report.

C. If the ADA Violation Report is modified based on the statement(s) of the responsible individual(s), the responsible individual(s) shall have the opportunity to review the final ADA Violation Report and provide a second and final statement. The individual's statement(s) shall not be based on an incomplete ADA Violation Report.

D. If the individual(s) named responsible refuses to give a statement(s), then the DoD Component shall request the individual(s) submit a signed statement of declination. If they refuse to sign a declination, include in the ADA Violation Report a statement to that effect, signed by an appropriate official. If the individual(s) named responsible for the violation cannot be located despite due diligence, then include a statement to that effect, signed by an appropriate official and include in the ADA Violation Report.

070205. Legal Review

The DoD Component shall obtain a legal review of the ADA Violation Report from its legal counsel and coordinate the ADA Violation Report with responsible officials in other functional areas involved in the violation (such as contracting, logistics and other financial management organizations) before forwarding the ADA Violation Report to the OUSD(C) DCFO.

0703 ANTIDEFICIENCY ACT VIOLATION REPORT VERIFICATION

If funds of another DoD Component are involved, then a copy of the ADA Violation Report shall be furnished to that DoD Component. When the violation affects the funds of another DoD Component, or when the responsible individual(s) is from another DoD Component, the DoD Component shall notify the OUSD(C) DCFO and obtain coordination on the report from the other DoD Component involved before submission of the ADA Violation Report to the OUSD(C) DCFO.

0704 ANTIDEFICIENCY ACT VIOLATION REPORT REVIEW

The OUSD(C) DCFO shall review each ADA Violation Report for completeness, clarity, compliance with reporting requirements and shall review the adequacy of corrective and disciplinary action taken. If the OUSD(C) DCFO determines that the ADA Violation Report does not meet the requirements of this volume, then the report shall be returned to the applicable DoD Component. The DoD Component will be asked to resubmit the report with the requested information within the period of time specified by the OUSD(C) DCFO.

0705 NOTIFICATION TO EXTERNAL AUTHORITIES

*070501. Letter Preparation

Following receipt of an acceptable ADA Violation Report from the applicable DoD Component, the OUSD(C) DCFO will prepare the required letters, in accordance with the Office of Management and Budget Circular No. A-11, Exhibit 145A, that report an ADA violation to the President through the Director of the Office of Management and Budget, President of the Senate, Speaker of the House of Representatives, and Comptroller General of the United States.

The notification letters shall be coordinated with the Office of the Deputy General Counsel (Fiscal) (OGC(Fiscal)), Office of the Assistant Secretary of Defense Legislative Affairs, and Office of the Deputy Comptroller (Program/Budget).

*070502. Letter Content/Submission

These letters are submitted to the Under Secretary of Defense (Comptroller) for signature and forwarded to the external authorities identified in paragraph 070501. The letters and the attached ADA Violation Report, notify the external authorities of the violation, its cause(s) and circumstances, the names of the individual(s) responsible for the violation, and the disciplinary action taken.

0706 ANTIDEFICIENCY ACT REPORT WITHOUT A VIOLATION

070601. Report Conclusion

If the results of a formal investigation determine there was no violation, then a report that concludes no violation occurred shall be prepared by the DoD Component. The report shall contain applicable items in Figure 7-1 and appropriate justification that support the no violation conclusion. The OUSD(C) DCFO shall evaluate the report that does not contain an ADA violation and submit a copy to the OGC(Fiscal) for a review and concurrence.

*070602. Legal Concurrence/Non-concurrence

If the OUSD(C) DCFO and OGC(Fiscal) agree with the no violation conclusion, then no further action is required by the DoD Component involved. If, however, the OUSD(C) DCFO and/or OGC(Fiscal) do not agree that there was not a violation, the OUSD(C) DCFO shall return the report to the applicable DoD Component. The DoD Component shall be requested to reinvestigate the violation, provide additional documentation, modify the report, or accomplish other actions as requested within the period of time specified by the OUSD(C) DCFO.

*070603. Reinvestigation

If a reinvestigation is requested by the OUSD(C) DCFO, then after the reinvestigation is completed or other requested action has been taken, the applicable DoD Component shall submit the revised report to the OUSD(C) DCFO according to applicable procedures in sections 0702 through 0706. The related ADA Report shall be submitted to the OUSD(C) DCFO within two weeks following completion of the reinvestigation or other requested action.

*Figure 7-1. ANTIDEFICIENCY ACT REPORT FORMAT

DEPARTMENT OF THE (add DoD Component or Agency)
ANTIDEFICIENCY ACT REPORT

Name of Component/Agency and Case Number

1. Appropriation(s) Involved/Title, Treasury Symbol or Fund Account, and Apportionment Status. Example: Fiscal Year (FY) Operation and Maintenance, Defense-wide (97 20102010 0100)
2. Where Violation(s) Occurred.
3. Name and Location of Activity Issuing the Fund Authorization.
4. Amount of Violation. This amount shall correspond to the amount of funds to correct the violation. Provide total and breakdown, if applicable.
5. Date Violation(s) Occurred.
6. Type of Violation(s). Provide the section(s) of title 31, United States Code (U.S.C.) that was violated. For example, sections 1341(a)(1)(A), 1342 or 1517(a)(2) of title 31, U.S.C.
 - a. If a legal limitation is exceeded whereby section 1341(a)(1)(A) of title 31, U.S.C. was violated, then refer to Chapter 2 and subsection 1341(a)(1)(A) of title 31, U.S.C. for more specific details.
 - b. If the DoD or DoD Component administrative limitation was exceeded whereby section 1517(a)(2) of title 31, U.S.C. was violated, then refer to Chapter 2 or section 1517(a) of title 31, U.S.C. for more specific details.
 - c. Section 1342 of title 31, U.S.C. (acceptance of voluntary services) is very seldom violated; however, see Chapter 2 for an example. Also state whether the violation(s) was an over-obligation of an appropriation, an apportionment, or an allotment. If an administrative subdivision of funds is involved with the violation(s), then state whether the administrative subdivision of funds was over-obligated. An administrative subdivision of funds **may** be an allotment, a centrally managed allotment, an operating budget authority, an allocation, a suballotment, or a suballocation.
7. Effect of Violation(s) on the Next Higher Level of Funding. State whether the violation(s) had an effect on the next higher level of funding.

Figure 7-1. ANTIDEFICIENCY ACT REPORT FORMAT (continued)

- a. Exceeding an administrative subdivision at the local level can lead to the next higher level exceeding its subdivision of funds and to the DoD Component's apportionment and appropriation being exceeded.
 - b. For instance, if an installation exceeded an amount in an operating budget authority or an allotment, did this cause the higher command operating budget authority or allocation to also be exceeded? If the higher command operating budget authority or allocation is exceeded, also state why the DoD/Component apportionment or appropriation was also exceeded.
8. Name and Rank of Service Members or the Name, Grade, and Civilian Job Series Number of Civilians, Position Title (Spell Out Formal Name), and Organization of Responsible Individual(s) (Spell Out Full Name).
- a. If a violation(s) involves a centrally managed allotment, then the head of the operating agency at the time the violation was incurred shall be named responsible. See Chapter 1, subparagraph 010206.C.5 for centrally-managed allotments.
 - b. Others, in addition to the head of the operating agency, also may be determined to be responsible for the violation.
 - c. See Chapter 5, section 0503 when determining the responsible individual(s).
9. Signed Statement(s) of Responsible Individual(s). State whether a statement(s) was received from the individual(s) and reference enclosure. The ADA Violation Report shall include the required acknowledgements and a written statement(s), from the official responsible for determining the appropriate discipline for the individual(s) responsible for a violation(s). Chapter 9 contains specific requirements. Each individual named responsible for the violation(s) shall be given the opportunity to state any circumstances believed to be extenuating. The statement(s) shall not be based on a preliminary investigation, but should be provided after a determination of responsibility is made. If possible, the responsible individual(s) shall be encouraged not to refer to documents that are not part of the report submission. The individual(s) found responsible for the alleged violation shall be:
- a. Allowed to consult with legal counsel.
 - b. Advised that a violation(s) has been determined to have occurred, and that he or she is named a responsible individual for the violation(s) and shall 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(s) after reviewing the report and evidence.

Figure 7-1. ANTIDEFICIENCY ACT REPORT FORMAT (continued)

- d. The report shall include an evaluation of any facts or circumstances **and the effects on the report** when the statement of the responsible officer(s) or individual(s) differs from the report itself. **If the statement has no effect on the report state the reason(s) why.**
10. Date(s) and Description of How Violation(s) Was Discovered. Provide date(s) and who/how violation(s) was discovered.
 11. Causes and Circumstances Surrounding the Violation(s). Provide a detailed description of the violation(s). Include the following:
 - a. A brief, clear description of the causes and circumstances surrounding the violation(s); what actually caused the violation(s) and the associated circumstances; what actions should have been, but were not, taken by specific individual(s); what actions were taken that should not have been taken, **but were**; and why the violation(s) happened. The description shall state clearly what the individual(s) responsible for the violation(s) did, or failed to do, that caused the violation(s). State whether the violation(s) was due to careless disregard of instructions; an error; a lack of adequate training, procedures, or controls; or due to other reasons. The report should 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. If the violation(s) involved an appropriation with a negative balance, then state whether the cause of the negative balance was systemic or a unique situation.
 - b. The scope of the investigation and the methods used to accomplish the investigation, for example, face-to-face interviews; research of legal, financial, and management issues; written explanation of the facts of the potential violation, etc. Discuss the evolution of the issues investigated, number of people interviewed, mitigating circumstances surrounding the violation(s), issues that could or could not be proven during the investigation and the supporting rationale, any issues that cannot be agreed upon by those individuals involved, and any other comments that are pertinent to the investigation.
 - c. Results of interviews of individuals involved in the violation(s) and a summary of how the area(s) procedures and processes operated that were involved in the investigation. Discuss the issues and the areas or functions that were reviewed, evaluated, and investigated; the names, ranks, and titles of the individuals that were interviewed; and a discussion on any related areas and matters that were not investigated and the rationale for omitting them from the investigation.

Figure 7-1. ANTIDEFICIENCY ACT REPORT FORMAT (continued)

- d. If the investigation has been undertaken because of an audit report, then identify that report by title, number, date, and issuing audit organization. If the investigation was conducted as a result of a memorandum or letter directing an investigation, then reference that document and attach a copy to the report. To ensure all essential items are discussed, use the [results of the](#) checklist in Chapter 5, Figure 5-1.
12. Evidence of Willful Intent to Violate. State whether the ADA was knowingly and willfully violated. If the violation was willfully committed, follow the procedures in Chapter 5, paragraph 050302.E; [state why the case was referred to appropriate criminal investigators, and state that the investigation case was provided to the Department of Justice and whether the Department of Justice prosecuted or declined to prosecute.](#)
 13. Disciplinary Action Taken. State what type of disciplinary action was taken and reference enclosure. If no action was taken, then explain why. Chapter 9 contains specific disciplinary requirements. The statement shall include the administrative discipline imposed and any further action taken with respect to the individual(s) named responsible for the violation(s). The individual responsible for determining disciplinary action shall acknowledge, in writing, that they understand that:
 - a. A violation of the ADA is a violation of Federal statute;
 - b. ADA violations constitute a misuse of DoD funds even though the misuse may not have been knowing or willful, and despite whether the disciplinary officer considers the misuse harmful to DoD, the Military Department or Service, or to the Defense Agency;
 - c. The Department is required to report the violation 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;
 - d. An unwillful or unintentional violation does not justify a decision to not administer disciplinary action; and
 - e. Disciplinary action shall be commensurate with the severity of the violation, and factors leading to the violation or its resolution may be considered. If no disciplinary action is deemed appropriate, then a full justification is required. Chapter 9 contains further guidance on these disciplinary actions and statements.
 14. Corrective Action Taken. State what funds were used to make necessary accounting corrections, such as appropriation, title, and fiscal year. In addition, state what procedural actions were taken and completed to preclude violations from happening in the future. This shall include a description of specific action(s) taken to correct the violation. Include any procedural changes or new safeguards established to prevent recurrence of the same type of

Figure 7-1. ANTIDEFICIENCY ACT FORMAT (continued)

violation. Describe actions in detail so that adequacy of the corrective action(s) may be evaluated. This includes improvement of overall and specific policies, procedures, and processes used by the functional areas involved in the violation; revised statutes or regulatory guidance that may have been involved; established or improved internal procedures; and assurance that a similar violation will not occur in the future. Reference documentation of corrective actions in an enclosure.

15. Administrative Control of Funds. State whether the administrative control of funds prescribed in Chapter 1 is adequate. If the official signing the report recommends changes to this chapter, then submit the proposed changes to the OUSD(C) DCFO.
16. Component or Agency Coordination. State steps taken to coordinate the report with the other components or agencies involved, when applicable. Specifically, if another DoD Component or another federal agency is involved, make a statement concerning the steps taken to coordinate the report with the other component or agency. The applicable DoD Component should coordinate the report with the applicable DoD Component senior financial manager or the appropriate official in other federal agencies.
17. Name and Title of Holder of the Funds Subdivision. State who the holder of the funds was and a brief statement of the fund holder's responsibility in the violation(s). Name and position of the holder of the funds subdivision (e.g., an installation commander) and an evaluation of the performance of his or her 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(s).
18. Additional Information. Provide details not covered above. A statement of any additional action taken by, or at the direction of the DoD Component with respect to the overallocation, overallotment, authority, or directive to overobligate, or overexpend, and any procedural changes or new safeguards established to prevent recurrence of such violation. Also, include the actions taken to supply funds, if required, to cover the amount of the violation. A statement summarizing lessons learned from the investigation. Recommended lessons learned shall include those applicable to the installation where the violation occurred, the major command, the DoD Component involved, or all DoD Components.

NOTE: In the ADA Report reference only relevant information. In the case of an ADA Violation Report, do not reference documents that are not sent 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. When references are made, ensure all referenced documents are supplied to the OUSD(C) DCFO with the related report. Within the report include the testimony from witnesses; other documentation such as photographs, drawings, or copies of appropriate pages of regulations that were gathered to support any conclusion(s) reached; and any other pertinent information generated as the result of the investigation.