

**SUMMARY OF CHANGES TO
DOD 7000.14-R, VOLUME 14, CHAPTER 10
“VIOLATIONS--CAUSES, PREVENTION AND CORRECTION”**

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

PARA	EXPLANATION OF CHANGE/REVISION	PURPOSE
100206.D	Adds an example consistent with the description of the other most common types of violations.	Consistency
100404.A.1	Revises provisions to require that reports shall not be forwarded to the OUSD(C) until all funding corrections are made.	Update

TABLE OF CONTENTS

VIOLATIONS--CAUSES, PREVENTION AND CORRECTION

1001	Causes of Violations
★1002	Preventing Violations
1003	Erroneous Charging of Recording
★1004	Corrective Action

CHAPTER 10**VIOLATIONS--CAUSES, PREVENTION, AND CORRECTION****1001 CAUSES OF VIOLATIONS**

100101. Based on an analysis of investigations of violations, the Office of the Under Secretary of Defense (Comptroller) (OUSDC) has developed the following list of the most frequent causes of violations of the Antideficiency Act:

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

100102. Given the above violations, it is clear that supervisors of those Department of Defense (DoD) personnel who have responsibility for control and use of DoD funds shall ensure that their personnel receive proper oversight, support, and necessary training to help prevent violations. The following section discusses specific actions that can be taken to reduce or prevent violations.

1002 PREVENTING VIOLATIONS

100201. To help prevent violations of the Antideficiency Act, DoD personnel shall be knowledgeable of the requirements in this volume. Supervisors at all levels shall ensure that their employees receive the requisite training and experience in the control and use of funds at levels commensurate with their responsibilities. Furthermore, supervisors shall 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. Supervisors shall use their internal management control programs, as required by DoD Directive 5010.38, "Management Control Program," to assess periodically the reliability of internal control systems and employee internal management control accountability.

100202. One of the most effective ways to prevent violations is to perform regular reviews of the status of funds reports. If the amount of commitments and the amount of obligations (undelivered orders, accrued expenditures unpaid, and accrued expenditures paid) exceed the total availability of an allotment, allocation, or appropriation, then a violation could occur if all or some of the commitments eventually become valid obligations.

100203. The most common violations within the Department can be decreased significantly by proactive measures specifically tailored to address the causes and corrective actions required to prevent their occurrence. Those DoD personnel with responsibilities for the control and use of funds of the types described below shall be (A) aware of the common violations and (B) required to take positive actions to avoid their occurrence.

100204. These four violations of the Antideficiency Act are, starting with the most frequent violation, as follows:

A. Exceeding limits on the use of Operation and Maintenance (O&M) funds for minor construction projects.

B. Exceeding the fund availability amount in an appropriation or exceeding the amount of an allotment/suballotment. This often results through failure to record obligating documents in a timely or accurate manner that results in overobligating funds already obligated (because the obligating document was not recorded in a timely or correct manner).

C. Using O&M funds to acquire equipment items that exceed the designated amount for the mandatory use of procurement funds (expense versus investment threshold rule).

D. Obligating in advance of funds being made available.

100205. To prevent the most common violation (subparagraph 100204.A, above), engineering and contracting personnel shall be advised of the provisions of Title 10, United States Code (U.S.C.), section 2805 and DoD rules and regulations that cover minor construction projects. Engineering personnel frequently are determined to be responsible for violations involving construction projects exceeding statutory construction limitations and administrative construction limitations placed in engineering regulations. A brief summary of some of the provisions of 10 U.S.C. 2805 and the DoD rules and regulations follows.

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

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

C. The misclassification of construction costs as alterations by engineering personnel may result in a violation of the Antideficiency Act. 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 violation of the Antideficiency Act if the maintenance and repair later is determined to be construction.

100206. The second most common violation is exceeding availability of funds (subparagraph 100204.B, above). The frequency of this type of overobligation condition is reported to have contributed to the passage of the Antideficiency Act.

A. A violation of the Antideficiency Act occurs when an obligation or expenditure exceeds the amounts available in an apportionment, a reapportionment, a revolving fund, or an administrative subdivision of funds. All DoD commanders, managers, and personnel shall be aware of this type of violation and causal factors.

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

C. 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 subject to the Antideficiency Act--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. When obligations are not recorded, the official accounting records reflect an inflated (and incorrect) availability of funds. Since personnel use those records to certify funds availability for other obligations, a violation easily can occur because the records do not reflect the correct amount of funds available for obligation. This potential violation commonly is discovered when an unmatched disbursement is recorded in the accounting system. To help prevent this type of violation, DoD funds managers (e.g., comptrollers) shall require that all organizations that incur obligations and record obligations maintain strict and absolute positive

controls over obligating documents (or their electronic equivalents) to ensure that none is lost or misplaced and all transactions are recorded accurately in a timely manner. Such controls include batch totals of transactions and dollar amounts incurred, transmitted, received, processed, and recorded.

100207. The third most common type of violation (see subparagraph 100204.C, above) involves the use of O&M funds to purchase items of equipment that should be acquired with procurement funds.

A. The Congress designates an amount above which acquisitions of equipment shall be funded from a procurement appropriation. This amount has been increased frequently in recent fiscal years.

B. The commonly reported scenario involves DoD personnel using O&M funds to purchase a computer system when Other Procurement funds are required. Other Procurement funds shall be used whenever a piece of computer equipment becomes an integral part of a computer system or local area network (LAN), unless the total costs of the entire system or LAN is less than the amount designated for use of procurement funds. Additional expense/investment criteria, as it applies to information technology equipment and software, can be found in Volume 2A, Chapter 1, and Volume 2B, Chapter 18, of this Regulation.

C. 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.

D. A violation of the Antideficiency Act does not occur automatically in these situations (see subparagraphs 100207.A-100207.C, above) because, when discovered, the obligation simply is moved from the O&M account to the applicable procurement account. If sufficient funds are available after recording the obligation in the procurement account, including all other known valid obligations and deobligations, then a potential violation of the Antideficiency Act has not occurred. When sufficient funds are not continuously available to cover the obligation in the procurement account, a potential violation of the Antideficiency Act may have occurred.

E. DoD decision makers, such as program managers, information systems managers and contracting personnel shall 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 to reduce the incorrect application of the expense versus investment rule and the resulting violations of the Antideficiency Act.

100208. The fourth most common type of violation (subparagraph 100204.D, above) is caused when managers obligate funds in advance of the availability of those funds.

A. The most common scenario is the use of current year funds to procure goods or services that properly are funded only with an appropriation in the subsequent year. A violation of the Antideficiency Act occurs when an individual obligates funds before those funds are authorized and appropriated by the Congress. For example, the signing of a lease for a facility or equipment and agreeing to pay, or simply obligating, for 2 years of lease costs during the first year would constitute an obligation in advance of the availability of the funds for the second year. Similarly, agreeing to pay for, or obligating, a maintenance agreement for equipment for 2 years would constitute a violation of the Antideficiency Act.

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

100209. The Department can reduce these common violations through proper education and effective training of personnel and ensuring that adequate internal controls and standing operating procedures are in place and being followed.

A. This volume shall be used to communicate the importance of learning about Antideficiency Act provisions and violations to those personnel throughout the Department involved in the stewardship of DoD funds. Other sources on the subject of the Antideficiency Act include the United States Code, as well as opinions and decisions of the Comptroller General.

B. This volume shall be used as source material to conduct seminars and workshops targeted to general and specific audiences including program managers; engineers; contracting, information systems, and comptroller personnel; commanders; and supervisors and managers.

C. Formal education structures within the Department shall be used to educate personnel about the Antideficiency Act. 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 Antideficiency Act 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 Professional Military 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. See Chapter 8 of this volume for a further discussion of training.

100210. DoD commanders and managers shall become aware of the Antideficiency Act and the most common causes of violations as described in this chapter. The full spectrum of DoD formal education programs for all military officers, from staff officer courses to executive development courses, shall incorporate relevant aspects of this volume to highlight the potential pitfalls and risks associated with the Antideficiency Act.

100211. Supervisors and managers shall incorporate the provisions of this volume in their on-the-job training programs for those DoD personnel responsible for funds administration and for use of funds.

1003 ERRONEOUS CHARGING OR RECORDING

100301. No violation of the Antideficiency Act is considered to have occurred when an overobligation or overexpenditure results solely from recording a transaction in an erroneous account, or recording an incorrect amount for a transaction. In each instance, the potential violation status is eliminated by correcting the erroneous transaction or by posting the omitted transaction. Those actions shall not include the deletion or adjustment of any valid transactions. If, after the proper recording of the transactions, an overobligation or expenditure remains, then a potential violation of the Antideficiency Act has occurred.

100302. A violation of 31 U.S.C. 1517, may exist when more funds authorizations are granted to an allotment, operating budget authority, or other administrative subdivision of funds than actually are available. When such errors do occur, and the funds are not obligated or expended, there generally is no potential violation and the error shall be corrected as soon as it is detected. Conversely, errors that require correction by obtaining additional funds in the administrative subdivision of funds cannot eliminate the fact that a violation likely has occurred and shall be investigated.

100303. A violation may not be avoided by declining to record valid obligations or expenditures, in the official accounting records. All obligations or expenditures shall be recorded accurately and promptly even if the recording results in a negative amount in the accounting records.

1004 CORRECTIVE ACTION

100401. Part of an investigating officer's responsibilities includes recommending actions to prevent future violations of a similar type (procedural corrections) and correct the specific adverse funding condition (funding corrections) that resulted from the violation.

100402. The report of violation does not serve to condone, retroactively approve, or financially justify, a violation. All violations shall be corrected with the proper funding, together with the necessary approval from the proper approving authority.

100403. Procedural Corrections

A. These corrective actions usually are made by the installation level activity that causes the violation and may include training or changes in procedures to preclude similar violations. Other organizations also may be involved. For instance, it is possible that, as a part of an installation's overall corrective action, a change in local procedures is required at an organization (such as contracting, engineering, or information systems office) that supports the installation. Additionally, changes in practices or procedures by the finance office could benefit

the activity that caused the violation. Unless individuals in a finance office caused the violation, corrective actions taken by that office would be secondary to the corrective actions taken by the responsible organization.

B. Recommendations for future consideration of installation-level corrective actions are not acceptable in the report. The report shall state clearly the corrective actions actually taken, or being taken, to preclude similar violations in the future.

C. Recommendations that apply at other installations or organizations shall be included in the report. Such recommendations shall be specific in nature. The major command, or equivalent, shall address such recommendations and include a statement whether those recommendations are considered appropriate for adoption by the major command. The Head of the DoD Component, or designee, shall evaluate such recommendations and include a statement whether they are considered appropriate for adoption by the DoD Component.

D. The investigating officer also may make recommendations for improvements in the contents of the checklists or other portions in this volume.

E. If recommendations are directed toward changing DoD Component regulations, then each such recommendation shall include the number and name of the regulation, the paragraph in which the change is recommended, the suggested wording of the change, and the rationale for the recommended change. For a situation in which an investigation determines that a particular regulation caused or contributed to the cause of a violation, the report of violation shall contain a recommendation to change that portion of the regulation.

100404. Funding Corrections

A. The report of violation shall state what actions were taken to request the proper funding. A statement in the report to the effect that funds will be requested is not sufficient. The report shall state the year and type of funds used to make the correction.

★ 1. Under 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which the appropriations were made, except as otherwise provided by law. This means that if improper funds were used, an adjustment shall be made to use the correct funds, as provided by law. The funding correction shall be made as soon as possible. The report shall not be forwarded to the OUSD(C) until all funding corrections are made.

2. As an example, if O&M funds improperly were used for a minor construction project costing in excess of the limitation for minor construction, then the installation shall request proper funding to comply with 31 U.S.C. 1301(a). In this example, funds shall be obligated and transferred from the Military Construction to restore the O&M appropriation to the proper balance. The installation budget office requests the proper funds.

3. Care shall be taken when correcting financial transactions that involve foreign currency fluctuation budget rates. The appropriate budget rate for the appropriate year shall be used.

a. The appropriation from which the incorrect transaction took place shall be corrected, as well as the applicable foreign currency fluctuations centrally-managed allotment from which any gain or loss (difference between the current rate actually paid and the budget rate actually obligated) incorrectly was credited or charged. If the appropriation to which the charge must be made is subject to foreign currency fluctuations budget rates (i.e., when an O&M account was charged when a military construction account instead should have been charged), then a charge to the appropriation at the applicable budget rate and a charge or credit to the applicable centrally-managed allotment will be required.

b. Corrections applying to foreign currency fluctuation centrally managed allotments shall be coordinated with the funds manager of the applicable foreign currency fluctuation, centrally-managed allotment at the DoD Component.

B. In some cases, the appropriation source for proper funding to correct a violation may be closed. Guidance on the treatment of transactions that should have been charged to accounts that now are closed is addressed in Volume 3, Chapter 10 of this Regulation.

C. In some cases involving violations of departmental or DoD Component administrative limitations, additional funding may not be needed. Administrative after-the-fact approval from the proper approving authority shall be obtained in order to properly document the records associated with the violation.

D. The correction of a violation by means of receiving the proper funding or after-the-fact approval does not negate the occurrence of the violation. Violations, even though corrected subsequently with proper funding, still shall be properly investigated and reported.