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May 28, 2004

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# Financial Management

Antideficiency Act Investigation  
of the Research, Development, Test  
and Evaluation, Defense-Wide,  
Appropriation Account  
97 FY 1989/1990 0400  
(D-2004-084)

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Department of Defense  
Office of the Inspector General

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Constitution of  
the United States

A Regular Statement of Account of the Receipts and Expenditures of all public Money shall be published from time to time.

Article I, Section 9

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### **Acronyms**

ADA	Antideficiency Act
DFAS	Defense Finance and Accounting Service
FMR	Financial Management Regulation
GAO	General Accounting Office
IG DoD	Inspector General of the Department of Defense
RDT&E	Research, Development, Testing and Evaluation



INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
400 ARMY NAVY DRIVE  
ARLINGTON, VIRGINIA 22202-4704

May 28, 2004

MEMORANDUM FOR UNDERSECRETARY OF DEFENSE (COMPTROLLER)/  
CHIEF FINANCIAL OFFICER  
ASSISTANT SECRETARY OF THE AIR FORCE  
(FINANCIAL MANAGEMENT AND COMPTROLLER)  
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING  
SERVICE

SUBJECT: Report on Antideficiency Act Investigation of the Research, Development,  
Test and Evaluation, Defense-Wide, Appropriation Account  
97 FY 1989/1990 0400 (Report No. D-2004-084)

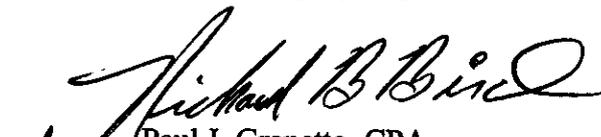
We are providing this report for review and comment. We considered management comments on a draft of the report in preparing the final report.

DoD Directive 7650.3 requires that all issues be resolved promptly. The Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer comments were not fully responsive to the intent of our recommendations. We request the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer reconsider and provide additional information or written guidance addressing our concerns in the revised Financial Management Regulation to satisfy Recommendations 1.a. and 1.b. We deleted draft recommendation 1.a. because the Associate Deputy General Counsel determined that an Antideficiency Act violation did not occur. We renumbered the final recommendations accordingly. We also revised the report to reflect that determination. Therefore, we are requesting management comments on Recommendations 1.a. and 1.b. by July 28, 2004.

If possible, please send management comments in electronic format (Adobe Acrobat file only) to [Auddfs@dodig.osd.mil](mailto:Auddfs@dodig.osd.mil). Copies of the management comments must contain the actual signature of the authorizing official. We cannot accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, they must be sent over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Questions should be directed to Mr. Richard Bird at (703) 604-9102 (DSN 664-9102) or Mr. Timothy Cole at (703) 604-9143 (DSN 664-9143). The team members are listed inside the back cover. For the report distribution, see Appendix C.

By direction of the Deputy Inspector General for Auditing:

  
Paul J. Granetto, CPA  
Assistant Inspector General  
Defense Financial Auditing  
Service

## Office of the Inspector General of the Department of Defense

Report No. D-2004-084

May 28, 2004

(Project No. D2003FM-0122)

### Antideficiency Act Investigation of the Research, Development, Test and Evaluation, Defense-Wide, Appropriation Account 97 FY 1989/1990 0400

#### Executive Summary

**Who Should Read This Report and Why?** DoD accounting officials responsible for recording and adjusting DoD funds should read this report.

**Background.** In September 1995, the Research, Development, Test and Evaluation, Defense-Wide, 0400 Appropriation Account for fiscal years 1989 and 1990 appeared to have been overexpended by \$62 million. The overexpenditure occurred because there were no obligations to match Treasury disbursements. In 1996, the DoD Comptroller established a special working group to research the unmatched disbursements. The working group matched \$64.2 million to other appropriations or sub-allocations eliminating the negative balance. Instead of closing the account and canceling the funds, DoD officials subsequently continued to adjust the fund balance and in August 2000 reported a negative balance of about \$2.9 million.

In June 2002, the Comptroller staff started a preliminary investigation and concluded in their February 2003 report that there was apparently not enough funding in the account to support the expenditures. In a memorandum, "Formal Investigation of a Potential Antideficiency Act (ADA) Violation," March 19, 2003, the Under Secretary of Defense (Comptroller)/Chief Financial Officer requested that the Inspector General of the Department of Defense initiate a formal investigation to determine whether an ADA violation occurred in the Research, Development, Test and Evaluation, Defense-Wide, 0400 Appropriation Account for fiscal years 1989 and 1990.

**Results.** The lack of effective management of suspense accounts in this case obscured evidence that might have substantiated an Antideficiency Act violation and defeated any attempt at an effective investigation. At worst, such ineffective management may result in masking fraud or Antideficiency Act Violations, or both. At best, it creates an inability to determine that Government funds were properly expended. There may be additional potential violations because much of the documentation is not available to substantiate disbursements that were not recorded against appropriations, resulting in inaccurate available balances.

On July 25, 2000, the Defense Finance and Accounting Service (DFAS) Denver posted undistributed disbursements valued at approximately \$3.3 million from the Air Force budgetary clearing account (suspense account) to the Research, Development, Test and Evaluation, Defense-Wide, 0400 Appropriation Account for fiscal years 1989 and 1990 (RDT&E Appropriation). DFAS Denver made the adjustment to clear old disbursements in the suspense account from the cross-disbursing system. The Financial Management Regulation required DFAS Denver to research the disbursements until the disbursements

were matched or a determination was made to discontinue the research. The Air Force recorded expenditures and reduced obligations for approximately \$2.2 million leaving \$1.1 million in discontinued research charged to the appropriation. The \$1.1 million charged to the appropriation is unsupported.

DFAS Denver had written off \$3.3 million in unmatched disbursements using Air Force limits assigned to the RDT&E Appropriation, based on an agreement between DFAS Cleveland and DFAS Denver. Without the disbursement vouchers or disbursement ledgers, DFAS Denver could not properly match the remaining \$1.1 million in disbursements to the RDT&E Appropriation, and DFAS Cleveland could not validate with their ledgers the disbursements they made to the RDT&E appropriation under the Air Force limit.<sup>1</sup> After closed/expired account adjustments to the appropriation, the account remained negative by approximately \$1 million. As a result, a potential Antideficiency Act violation had to be investigated.

DFAS Denver charged the disbursements against the appropriation without proper accounting documents. Public Law 107-314 section 1009 grants authority to write-off certain disbursements from suspense accounts without documentation matching them to appropriations. DFAS Denver disbursements exceeded obligations at the Defense-Wide appropriation level, but not at the Air Force limit level because the limits were overstated. The Financial Management Regulation needs to be revised to strengthen controls preventing improper write-offs and to include additional guidance for fund holders in this situation. (See the Finding section of the report for the detailed recommendations.)

Investigating officials determined improper postings were made to these accounts as DFAS had not properly substantiated approximately \$1.1 million of the \$3.3 million in adjustments against the appropriation. In the absence of such proof, the charges should not have been made to that appropriation. Such charges were, therefore, invalid, and cannot be considered in determining whether or not there was an actual negative balance in the appropriation. The DoD Office of General Counsel subsequently determined posting invalid obligations to an appropriation cannot result in a violation of the ADA.

**Management Actions.** DFAS Denver has initiated corrective actions by reversing approximately \$1.1 million in unsupported disbursements and applying for the Public Law 107-314 section 1009 write-off. DFAS has also issued a standard operating procedure applying internal controls for adjustments to canceled appropriation balances.

**Management Comments.** The Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer stated that an Antideficiency Act violation does not result from posting invalid obligations to an appropriation. The Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer agreed to update volume 3 of the Department of Defense Financial Management Regulation with additional guidance to strengthen financial controls for cancelled appropriations. See the Finding section of the report for a discussion of management comments and the Management Comments section of the report for the complete text of the comments. Management comments did not fully meet the intent of the recommendations but may do so if revised policies are sufficient to prevent recurrence and full and aggressive implementation occurs.

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<sup>1</sup>The limit or subhead is a four-digit suffix to the U.S. Treasury account number (basic symbol). The limit is used to identify a subdivision of funds that restricts the amount or use of funds for a certain purpose, or identifies sub-elements within the account for management purposes.

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## **U.S. Treasury Symbol of the Appropriation: 97 FY 1989/1990 0400**

On July 25, 2000, Defense Finance and Accounting Service (DFAS) Denver posted undistributed disbursements valued at approximately \$3.3 million from the 57 F3875 0600 budgetary clearing account (suspense account) to the Research, Development, Test and Evaluation, Defense-Wide, 0400 Appropriation Account for fiscal years 1989 and 1990 (RDT&E Appropriation). DFAS Denver personnel made the adjustment to clear aged disbursements from the suspense account. Even though funding authorization was available within the Air Force limit, there were insufficient funds available in the RDT&E Appropriation to cover the adjustment. Because DFAS Indianapolis had not distributed \$263 million in disbursements to account holders, the Denver adjustment created a negative balance within the RDT&E Appropriation. After closed/expired account adjustments to the appropriation, the account was negative by approximately \$1 million. A potential violation of the Antideficiency Act existed requiring investigation.

Investigating officials determined improper postings were made to these accounts as DFAS had not properly substantiated approximately \$1.1 million of the \$3.3 million in adjustments against the appropriation. In the absence of such proof, the charges should not have been made to that appropriation. Such charges were, therefore, invalid, and cannot be considered in determining whether or not there was an actual negative balance in the appropriation. The DoD Office of General Counsel subsequently determined posting invalid obligations to an appropriation cannot result in a violation of the ADA. See Appendix A for the scope and methodology of our investigation. See Appendix B for more information on closed appropriation policy.

### **Amount of Potential Violation**

The fund balance with Treasury was a negative \$1,059,303.06. After the net reversal of unsupported disbursements and FY 2004 activity to date, the ending balance is \$174,316.

### **Date Potential Violation Occurred**

On July 25, 2000, DFAS Denver posted undistributed disbursements valued at approximately \$3.3 million from the 57 F3875 0600 suspense account to the 97 FY 1989/1990 0400 appropriation, which created a \$2.9 million negative balance.

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## Account Activity

The negative balance was reported on a Fund Balance with Treasury Statement (TFS Form 6653) for the month of August 2000. After the investigation and corrective actions, the balance in the appropriation should be approximately \$0.174 million.

### Defense-Wide RDT&E Appropriation

(Dollars in thousands)

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Beginning Balance July 2000	\$ 559	
Net Disbursements	(81)	DFAS Denver
Net Disbursements	(87)	DFAS Indianapolis
Net Disbursements	(3,320)	DFAS Denver
<hr/>		
Closing Balance July 2000	(\$2,929)	
Net Transactions September 2000 – September 2003	1,870	DFAS Centers
<hr/>		
Closing Balance FY 2003	(1,059)	
Net Reversal of Unsupportable Disbursements	1,166	DFAS Denver
FY 2004 Net Transactions to date	67	DFAS Denver
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Ending Balance	\$174	

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## Effect on Next Higher Level of Funding

The Appropriation level is the highest level of funding.

## Causes and Circumstances Surrounding the Potential Violation

In September 1995, the RDT&E Appropriation appeared to be overexpended by \$62 million. The negative balance occurred because Treasury disbursements could not be matched to fund holder obligations. In 1996, the Under Secretary of

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Defense (Comptroller)/Chief Financial Officer established a special working group to research the unmatched disbursements. The working group matched \$64.2 million to other appropriations or limits, eliminating the negative balance. Then, instead of closing the account as provided by Public Law 101-510, DoD officials continued to adjust the fund balance and, in August 2000, reported a negative balance of about \$2.9 million.

**Use of Closed Appropriations.** In 1990, Congress changed the law governing the use of appropriation accounts. Public Law 101-510, “National Defense Authorization Act for Fiscal Year 1991,” November 1990, amended title 31, United States Code, sections 1551-1557 (31 U.S.C. 1551-1557), and changed the procedures for closing appropriation accounts. The act specifies that 5 years after the expiration of a fixed-term appropriation, the appropriation is closed and all remaining balances canceled. A closed appropriation is “. . . not available for obligation or expenditure for any purpose.”

**Unmatched Disbursements.** The General Accounting Office (GAO) has stated that DoD has a long-standing and well-documented problem with accounting for and recording obligations and the corresponding disbursements. In August 1997, the Department had approximately \$8.2 billion in unmatched disbursements and negative unliquidated obligations. The DoD Financial Management Improvement Plan (January 2001) states that some payments require additional time and research to ensure the transactions are recorded correctly in DoD accounting records because the accounting systems are not fully integrated, and transactions often require manual input. In fact, the DoD collection and payment process was discussed in the Financial Management Improvement Plan (September 1999) as an impediment to auditable financial statements.

**Liquidating Disbursements for Closed Appropriations.** The Comptroller General of the United States ruled on September 29, 1993, that under certain limited circumstances, the Department of the Treasury could restore unobligated or obligated appropriation account balances.<sup>1</sup> Agencies could use the restored balances to record, as a payment from a closed appropriation, a disbursement made before cancellation of the appropriation. This is an accounting entry to reflect the liquidation of an obligation that was validly incurred and liquidated before cancellation.

Prior to the July 25, 2000, adjustment, DFAS Denver rejected old, unmatched disbursements (chargebacks) from DFAS Cleveland on the grounds of missing documentation. In October 1999, DFAS Denver modified policy to accept these transactions unless the Denver accounting officer had documentation proving that the chargebacks belonged to another accountable activity.

In a memorandum, “Clearing Aged Intransit Disbursements and Collections,” December 10, 1998, the Director of DFAS stated that accounting centers were reporting intransit transactions more than 360 days old. Intransit transactions, in general, include DD 1329 differences, missing and unidentifiable transactions, chargebacks, and suspense transactions. DFAS then began to evaluate the supporting documentation for the transactions and categorized them into two

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<sup>1</sup>72 Comp. Gen. 343, B-251, 287 (September 29, 1993).

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groups. The first group was identifiable to an appropriation and the second group was not identifiable to an appropriation. It is not clear what group the chargebacks belonged to because DFAS Arlington did not maintain the records from the evaluation.

DFAS lacked the authority to write off these chargebacks. The chargebacks were over-aged, unmatched disbursements without documentation. DFAS is permitted to liquidate unmatched disbursements to closed/expired appropriations when research identifies the proper account or obligation. Because DFAS could not support the write-off of \$1,166,865.40, the adjustment to the RDT&E Appropriation was unauthorized. Public Law 107-314 Section 1009 grants authority to cancel certain undistributed disbursements when justified to the Secretary of Defense that documentation does not exist and that continued research is not in the interest of the United States.

DFAS Indianapolis had not distributed \$263 million in disbursements to Component fund holders. Before FY 2000, DFAS was not able to identify Treasury's monthly balance at the limit level. DFAS recorded the Treasury Trial Balance only at the appropriation level. Because DFAS was unable to identify funding problems below the appropriation level, DFAS posted several millions of dollars in undistributed disbursements and collections at the appropriation level every month, without distributing them to the proper limits. As a result, DFAS Indianapolis allowed an overstatement for the limits in the RDT&E Appropriation. The system of administrative control prescribed by DoD Regulation 7000.14-R, "Financial Management Regulation," (FMR) did not provide DFAS Indianapolis with adequate guidance to manage the undistributed/unallocated disbursements. Please refer to the System of Administrative Control section of the report.

In April 2000, DFAS officials agreed to a special project to clear millions in chargebacks. Adjustments totaling \$3.3 million created a \$2.9 million negative balance in the appropriation. Under the agreement, DFAS Denver accepted the chargebacks and DFAS Cleveland agreed to take up future chargeback items through the Navy. Because of the agreement, DFAS Denver took the accounting responsibility of chargebacks from DFAS Cleveland.

## **System of Administrative Control**

The system of administrative control prescribed by FMR volume 3, "Budget Execution—Availability and Use of Budgetary Resources," chapter 11, "Unmatched Disbursements, Negative Unliquidated Obligations, In-transit Disbursements, and Suspense Accounts," January 31, 2001, was inadequate. Specifically the FMR did not provide adequate guidance when disbursements exceeded obligations at the appropriation level, but not at the limit level. Because funds in the appropriation were allocated to a number of limits, and disbursements exceeded obligations at the appropriation level but not at the limit level, corrective actions should be taken by the fund holder and the applicable

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accounting office as appropriate in accordance with FMR section 110503.<sup>2</sup> However, the FMR does not explain what the corrective action should be or how it should be accomplished.

FMR volume 14, “Administrative Control of Funds and Antideficiency Act Violations,” August 1, 1995, Appendix A, states that systems for the administrative control of funds should be designed so that divisions of funds are placed at the highest practical organizational level consistent with effective and efficient management. For this appropriation, DFAS Indianapolis was responsible for the closed appropriation accounting and, because disbursements exceeded obligations at the appropriation level but not at the fund holder’s level, DFAS Indianapolis was the most practical organizational level to make corrective actions. DFAS Indianapolis could have prevented the closed account adjustment by notifying DFAS Denver that a portion of the unmatched disbursements had been allocated to DFAS Denver customer limits and cancelled the Expired Authority.<sup>3</sup> DFAS Indianapolis did not allocate the disbursements because the FMR does not provide guidance to do so. The table on the next page is from the “Preliminary Investigation Report of Potential Antideficiency Act Violation for the Research, Development, Test and Evaluation, Defense-Wide 1989/90 Appropriation,” February 26, 2003, and illustrates disbursements exceeding obligations at the appropriation level, but not at the limit level, as of September 30, 1995.

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<sup>2</sup> Section 110503 guidance was included in the 1996 edition of the regulation.

<sup>3</sup> Expired Authority comprises the unobligated balances and obligated but unliquidated balances remaining in an appropriation. These funds are no longer available for incurring new obligations.

**RDT&E Appropriation  
As of September 30, 1995**

(Dollars in Thousands)			
<b>Limits</b>	<b>Unliquidated Obligations</b>	<b>Unobligated Balances</b>	<b>Expired Authority</b>
Air Force	\$4,156	\$95	\$4,251
Washington Headquarters Service	(2,690)	48,254	45,564
Defense Advanced Research Projects Agency	16,622	48,530	65,152
Ballistic Missile Defense Organization	21,081	20,746	41,827
Defense Special Weapons Agency	4,348	1,197	5,545
Defense Information Systems Agency	6,082	442	6,524
Defense Logistics Agency	(219)	701	482
U.S. Uniformed Health Service	0	30	30
Classified Agencies	20,301	12,078	32,379
Undistributed/Unallocated	(263,835)	0	(263,835)
<b>Total</b>	<b>(\$194,154)</b>	<b>\$132,073</b>	<b>(\$62,081)</b>

The system of administrative control prescribed by FMR volume 3 was not properly implemented. Specifically, DoD officials did not limit the expenditure of funds to the amount currently available at the time of the expenditure, enforce those limitations, and ensure that all personnel involved in administrative control and use of available funds were knowledgeable of such limitations.

The July 25, 2000, electronic transaction with the Treasury by DFAS for the purpose of adjusting a closed account was not appropriate. Section 1552(a), title 31 United States Code, provides that closed accounts are not available for obligation or expenditure for any purpose. The Comptroller General has noted the only exceptions to the law (72 Comp. Gen. 343). The decision cites cases supported by sufficient proof of “. . . obvious clerical errors such as misplaced decimals, transposed digits or transcribing errors . . .” in order to “. . . record disbursements made before cancellation of expired accounts.” DFAS did not provide proof to the Treasury to justify the proposed adjustment, and it appears that no such proof existed. In August 2000, Treasury agreed to process all closed account adjustments if DoD agreed to maintain the records.

Inspector General of the Department of Defense (IG DoD) Report No. D-2003-133, September 15, 2003, recommended improvements to the approval process for closed account adjustments. Recommendations from that report have not been fully implemented.

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## Component Coordination

We briefed the Office of the Assistant Secretary of the Air Force for Financial Management; the Director for Accounting and Finance Policy and Analysis in the Office of the Under Secretary of Defense Comptroller/Chief Financial Officer; the Office of the Director for Accounting, Defense Finance and Accounting Service, Denver Service Center; and the Director for Indianapolis Operations, Defense Finance and Accounting Service.

## Evaluation of Conflicting Facts or Circumstances

Although the Air Force limits had sufficient funds to make the adjustment, the appropriation did not. DFAS Denver did not verify whether funds were available at the appropriation level to accomplish the write-off. DFAS Denver officials have stated that their processes to verify whether funds were available would not have detected a potential deficiency because there were sufficient funds in the Air Force limits. This condition occurred because DFAS had a large undistributed/unallocated disbursement balance (limit 9999) of approximately \$263 million in the RDT&E Appropriation, and DFAS could not match it to the appropriate limits.<sup>4</sup> DFAS did not centrally approve postings to the appropriation, or control the appropriation with an appropriation manager. As a result, the available funds in the limits were overstated.

DoD officials improperly matched the disbursements to the RDT&E appropriation. DFAS Denver officials stated that the appropriations used to perform write-offs were the initial disbursement appropriations. FMR volume 3, chapter 11, section 1115(D) provides for clearing a suspense account by charging the predominant appropriation, whether it is correct or not, and then reversing the charge after the end of the fiscal year. As such, the initial disbursement having been charged to an appropriation is insufficient evidence that it was charged to the proper appropriation. Because the RDT&E Appropriation had insufficient funds, it was not available for a write-off of chargebacks without the obligating documents, receiving documents, disbursing vouchers, or disbursement ledgers.

After the April 2000 agreement with DFAS Cleveland, DFAS Denver attempted to validate the chargebacks to Air Force obligations. DFAS Denver was required to research the disbursements until the disbursements were matched or to make a determination to discontinue the research. DFAS Denver provided records stating they had matched approximately \$2.2 million of the \$3.3 million to Air Force accounting stations.<sup>5</sup> At that point, DFAS Denver informally decided further expenditure of resources was improbable and not cost-effective. In September 2000, DFAS Denver stated that the disbursements could not be

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<sup>4</sup>Such research can take years. For instance, the Ballistic Missile Defense Agency 0400 special working group worked for 2 years to reconcile funding problems. The Deputy Secretary of Defense congratulated them on their corrective actions.

<sup>5</sup>Based on the information available, the Air Force recorded expenditures of \$2.2 million and reduced obligations.

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matched to an accounting station and asked that they be centrally funded through the Air Force. DFAS Denver posted the remaining \$1.1 million in chargebacks as write-offs over Air Force limits under the appropriation, and discontinued research. DFAS Denver could not properly match the chargebacks to the RDT&E appropriation disbursement vouchers or disbursement ledgers. The chargebacks represented original unmatched disbursements made by DFAS Cleveland. DFAS Cleveland could not validate with their disbursement ledgers the remaining \$1,166,865.40 in disbursements DFAS Denver liquidated against the RDT&E Appropriation under the Air Force limit.

DFAS Denver neither verified whether funds were available to write-off the chargebacks, nor retained documentation demonstrating that a proper chargeback existed for the RDT&E Appropriation.

## **Name and Title of Holder of the Funds Subdivision**

The Office of the Deputy Comptroller, Director for Investment is the fund holder for the RDT&E Appropriation. We did not evaluate fund holder performance because fund holder responsibilities were subdivided to DoD Components.

## **Lessons Learned**

The lack of effective management of suspense accounts in this case obscured evidence that might have substantiated an Antideficiency Act violation and defeated any attempt at an effective investigation. At worst, such ineffective management may result in masking fraud or Antideficiency Act Violations, or both. At best, it creates an inability to determine that Government funds were properly expended. There may be additional potential violations because much of the documentation is not available to substantiate disbursements that were not recorded against appropriations, resulting in inaccurate available balances.

## **Management Actions**

DFAS Denver has initiated corrective actions by reversing approximately \$1.1 million in unsupported disbursements and applying for the Public Law 107-314 section 1009 write-off. The Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer stated that DFAS has also issued a standard operating procedure applying internal controls for adjustments to canceled appropriation balances.

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## Recommendations, Management Comments, and Evaluation Response

**Deleted and Renumbered Recommendations.** As a result of the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer comments we deleted draft recommendation 1.a. because the Associate Deputy General Counsel determined that an Antideficiency Act violation did not occur. We renumbered the final recommendations accordingly.

**1. We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer:**

**a. Permanently close the appropriation and use current available funds to make future adjustments.**

**b. Revise DoD Regulation 7000.14-R, “Financial Management Regulation,” volume 3, to provide guidance for maintenance of cancelled appropriations to fund holders that could prevent potential ADA violations when disbursements exceed obligations at the appropriation level, but not at the limit level.**

**Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer Comments.** The Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer partially concurred with the recommendations stating that charging a current appropriation would not be appropriate for a disbursement made prior to the cancellation of the expired account. The Under Secretary of Defense (Comptroller)/Chief Financial Officer estimated that changes to the Financial Management Regulation will be completed in the first quarter FY2005.

**Evaluation Response.** Comments by the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer were not fully responsive. The legal availability of this appropriation depends on the purpose, time, and amount statutes. The Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer comments only address the time statute. In this instance, the disbursements made prior to account cancellation resided in a suspense account much longer than the 60 days permitted by the Financial Management Regulation, while documentation was being lost or destroyed, and were then improperly recorded in that account because closed account adjustment controls were inadequate. We doubt the department has sufficient records to support additional disbursements against the appropriation and sufficient controls to prevent improper adjustments. The Defense Finance and Accounting Service recorded the disbursements, but was unable to find and liquidate the obligations. Since the 60-day window to clear suspense accounts has long since closed on any disbursements and the Defense Finance and Accounting Service was unable to determine that Government funds were properly expended; additional disbursements should not be posted against this appropriation regardless of when they occurred. Additional information supporting this recommendation is contained in IG DoD Report No. D-2003-133, “Controls Over DoD Closed Appropriations,” September 15, 2003. The Office of the Under Secretary of

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Defense (Comptroller)/Chief Financial Officer comments were not responsive to the intent of our recommendations. We request they reconsider and provide additional information or written guidance addressing these concerns in the revised Financial Management Regulation.

**2. We recommend that the Assistant Secretary of the Air Force, Financial Management and Comptroller assist the Defense Finance and Accounting Service in preparing the Public Law 107-314 Section 1009 suspense account package.**

**Air Force Comments.** The Air Force concurred with the recommendation, stating that the recommended action will be complete before expiration of the authority in September 2004.

**3. We recommend that the Director, Defense Finance and Accounting Service:**

**a. Reverse the unsupported chargeback to the Air Force budget clearing account and cancel the associated undistributed disbursement (uncharged chargeback) by satisfying the provisions of Public Law 107-314 section 1009.<sup>6</sup>**

**b. Allocate all undistributed disbursements to fund holders of DoD closed fixed-term appropriations at statutory time of closing or provide alternate procedures that will provide positive assurance against future potential violations.**

**Defense Finance and Accounting Service Comments.** The Director, Defense Finance and Accounting Service concurred with the recommendations stating that once general counsel provides guidance, the Defense Finance and Accounting Service will allocate the undistributed disbursements of expired, but not yet closed appropriations or develop alternate procedures to provide positive assurance against future potential violations. Comments by the Director of Accounting for the Defense Finance and Accounting Service were responsive. The Defense Finance and Accounting Service estimated that the Public Law 107-314 Section 1009 write-off package and the proposed guidance with the general counsel opinion on the undistributed disbursements would be completed by November 30, 2004, and August 31, 2004, respectively.

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<sup>6</sup> The authority granted in Public Law 107-314 Section 1009 expires on December 2, 2004.

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## Appendix A. Scope and Methodology

In a memorandum, “Formal Investigation of a Potential Antideficiency Act (ADA) Violation,” March 19, 2003, the Under Secretary of Defense (Comptroller)/Chief Financial Officer requested that the IG DoD initiate a formal investigation to determine if a violation of the Antideficiency Act occurred in the RDT&E Appropriation. The Comptroller staff conducted a preliminary investigation and concluded there was apparently not enough funding in the appropriation to support the expenditures.

We reviewed the fund balance with treasury, collected vouchers, reviewed adjustments to the appropriation, and spoke with DFAS Officials. We reviewed adjustments associated with the over expenditure of funds in the Treasury Appropriation Fund Symbol and reviewed contract reconciliation activities to identify additional Potential Antideficiency Act Violations. The investigation was conducted in accordance with DoD Regulation 7000.14-R, “Financial Management Regulation,” volume 14, “Administrative Control of Funds and Antideficiency Act Violations,” April 8, 2003, from May 2003 to January 2004.

Our objective was to determine whether an Antideficiency Act violation occurred within the RDT&E Appropriation. Our scope was limited in that it was not possible to identify all individuals who bear responsibility for the accounting errors or unmatched disbursements associated with the appropriation, just as it was not possible to identify all the errors or unsupported adjustments recorded against the account since 1989. We assumed that the \$263 million in undistributed/unallocated disbursements could not be reconciled for this investigation because DoD already spent time and effort to reconcile the RDT&E Appropriation. We also relied on the “Preliminary Investigation Report of Potential Antideficiency Act Violation for the Research, Development, Test and Evaluation, Defense-Wide 1989/90 Appropriation,” February 26, 2003, provided by the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer without verifying all the facts in the report. In addition, we did not review the management control program.

**Use of Computer-Processed Data.** We did not test system controls for the use of computer-processed data used to report on the balance of the appropriation or to process closed account appropriation adjustments. However, the data, when reviewed in context with other available evidence, validate the opinions, conclusions, and recommendations in this report.

**General Accounting Office High-Risk Area.** The General Accounting Office has identified several high-risk areas in DoD. This report provides coverage of the Financial Management high-risk area.

### Prior Coverage

During the last 5 years, the General Accounting Office (GAO) and the Inspector General of the Department of Defense (IG DoD) have issued three reports

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discussing DoD Appropriations. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted IG DoD reports can be accessed at <http://www.dodig.osd.mil/audit/reports>.

## **GAO**

GAO-02-747, "Cancelled DoD Appropriations: Improvements Made but More Corrective Actions are Needed," July 2002

GAO-01-697, "Canceled DoD Appropriations, \$615 Million of Illegal or Otherwise Improper Adjustments," July 2001

## **IG DoD**

IG DoD Report No. D-2003-133, "Controls Over DoD Closed Appropriations," September 15, 2003

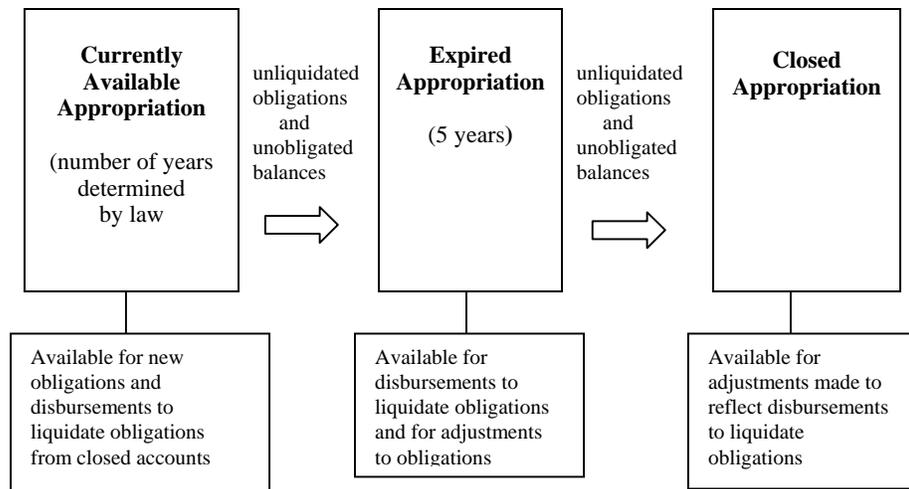
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## Appendix B. Closed Appropriation Policy

The policies in this Appendix were researched and published in IG DoD Report No. D-2003-133, “Controls Over DoD Closed Appropriations,” September 15, 2003. We inserted the policies into this report to assist the reader with fiscal processes.

**Use of Closed Appropriations.** In 1990, Congress changed the law governing the use of appropriation accounts.<sup>1</sup> Public Law 101-510, “National Defense Authorization Act for Fiscal Year 1991,” November 1990, amended Title 31, United States Code, sections 1551-1557 (31 U.S.C. 1551-1157). The act specifies that 5 years after the expiration of a fixed term appropriation, the appropriation is closed and all remaining balances canceled. After an appropriation is closed, agencies cannot use the appropriation account for obligations or expenditures for any purpose. Any collections authorized or required to be credited to an appropriation account, but not received before closing of the appropriation must be deposited with the U.S. Treasury as miscellaneous receipts. The following Figure describes the phases of an appropriation as provided in Public Law 101-510.

### Provisions of Public Law 101-510



After an appropriation closes, obligations and adjustments to obligations that would have been properly chargeable to the appropriation before closing may be charged to currently available appropriations subject to limitations specified by 31 U.S.C. section 1553(b). The total amount of charges to a particular currently available appropriation may not exceed the least of:

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<sup>1</sup>Appropriation accounts are sometimes called “appropriations” and sometimes they are called “accounts.” For consistency and understandability, we will use “appropriation” throughout this appendix.

- 
- the unexpended balance of the closed appropriation;
  - the unexpired unobligated balance of the currently available appropriation; or
  - one percent of the total original amount appropriated to the current appropriation being charged.

**Antideficiency Act.** 31 U.S.C. 1341 (a) stipulates that an officer or employee of the Federal Government may not make or authorize an expenditure or obligation exceeding an amount available in an appropriation for that expenditure or obligation. The provisions of 31 U.S.C. 1554 extend this to include closed appropriations. 31 U.S.C. section 1351 states that if a Federal officer or employee does violate 31 U.S.C. section 1341(a), the head of the agency must report immediately to the President and Congress all relevant facts and a statement of action taken.

**Comptroller General Decisions.** In 1993, the Comptroller General of the United States (Comptroller General) stated that the Department of the Treasury (Treasury), if presented with convincing evidence that a reporting error has occurred because of an obvious clerical mistake, might restore such balances to correct the mistake, subject to reasonable time limitations. The Comptroller General also stated that Treasury may record a disbursement from a closed appropriation as a payment, provided that the disbursement was made before the appropriation was closed. However, the Comptroller General clearly stated that he did not intend for closed appropriation adjustments to correct an agency's accounting system deficiencies. In 1994, the Comptroller General stated that an agency "may not avoid adjusting an appropriation account and reporting any resulting ADA violation because (1) the appropriation has expired, (2) adjusting the appropriation will result in over obligations, or (3) the over obligations were unintentional."

**DoD Financial Management Regulation.** Volumes 3 and 6A of the FMR address policies and procedures for recording and accounting for closed appropriations.

**Memorandum of Agreement.** On August 3, 2000, the Commissioner of the Financial Management Service of the Department of the Treasury, the DoD Deputy Chief Financial Officer, and the Deputy Commissioner of the Office of Management and Budget reached an agreement concerning controls over adjustments to closed appropriations. As part of the agreement, Treasury was to close all reopened DoD appropriations<sup>2</sup> before the end of FY 2000 and establish a new appropriation to process all corrections to closed DoD appropriations when the correction is between a closed and an open appropriation. With the establishment of this new appropriation, Treasury was no longer responsible for tracking individual closed appropriation balances. DoD agreed to internally maintain proper closed appropriation(s) records to prevent ADA violations. Thus the responsibility for maintaining individual closed appropriation balances

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<sup>2</sup>Appropriations that were closed by operation of law under Title 31, USC, sections 1552, 1553, or 1557 and had been reopened to allow Treasury to process corrections between them and current appropriations.

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transferred to DoD. DoD was to provide Treasury with a monthly report of detailed transactions identifying both the open appropriation and the closed appropriation to be charged or credited, and to maintain proper supporting documentation. DoD agreed to document processing of adjustments to provide an audit trail for the recording and reporting of corrections involving closed appropriations.

**Defense Finance and Accounting Service Responsibilities.** The Defense Finance and Accounting Service provides finance and accounting support for DoD. Support includes processing adjustments to closed appropriations and maintaining records of the unobligated and unliquidated balances of closed appropriations. Three DFAS central accounting sites (DFAS Cleveland, DFAS Denver, and DFAS Indianapolis) maintain the closed appropriation balances. DFAS Indianapolis also reconciles to Treasury records all the adjustments that central accounting sites make to closed appropriations.

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## **Appendix C. Report Distribution**

### **Office of the Secretary of Defense**

Under Secretary of Defense (Comptroller)/Chief Financial Officer  
Deputy Chief Financial Officer  
Deputy Comptroller (Program/Budget)

### **Department of the Navy**

Naval Inspector General  
Auditor General, Department of the Navy

### **Department of the Air Force**

Assistant Secretary of the Air Force (Financial Management and Comptroller)  
Auditor General, Department of the Air Force

### **Other Defense Organizations**

Director, Defense Finance and Accounting Service

### **Non-Defense Federal Organization**

Office of Management and Budget

### **Congressional Committees and Subcommittees, Chairman and Ranking Minority Member**

Senate Committee on Appropriations  
Senate Subcommittee on Defense, Committee on Appropriations  
Senate Committee on Armed Services  
Senate Committee on Governmental Affairs  
House Committee on Appropriations  
House Subcommittee on Defense, Committee on Appropriations  
House Committee on Armed Services  
House Committee on Government Reform  
House Subcommittee on Government Efficiency and Financial Management, Committee on Government Reform  
House Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform  
House Subcommittee on Technology, Information Policy, Intergovernmental Relations, and the Census, Committee on Government Reform

# Under Secretary of Defense (Comptroller)/ Chief Financial Officer Comments



COMPTROLLER

UNDER SECRETARY OF DEFENSE  
1100 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1100



APR 12 2004

MEMORANDUM FOR DIRECTOR, DEFENSE FINANCIAL SERVICE, OFFICE OF THE  
INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: Draft Report on Antideficiency Act (ADA) Investigation of the Research,  
Development, Test and Evaluation, Defense-Wide, Appropriation Account 97  
Fiscal Year (FY) 1989/1990 (RDT&E 89/90) 0400 (Project No. D2003FM-0122)

This is in response to your memorandum of March 2, 2004, forwarding subject proposed draft report. I want to thank you for conducting this formal ADA investigation.

The report indicated that the Defense Finance and Accounting Service (DFAS), Denver posted undistributed disbursements valued at \$3,319,946.60 from the Air Force budgetary clearing account F3875 to the RDT&E 89/90 appropriation to clear old disbursements from the cross-disbursing system. The investigation revealed that \$1,166,865.40 of the \$3,319,946.60 was unsubstantiated and could not be proven to be properly charged to the RDT&E 89/90 appropriation. In the absence of such proof, the charges should not have been made to that appropriation. Such charges were, therefore, invalid. Posting invalid obligations to an appropriation cannot result in a violation of the ADA. The Office of Deputy General Counsel (Fiscal) opinion that there was no violation of the ADA is attached.

Detailed comments are contained in the attachment to this memorandum. My point of contact regarding ADAs is Ms. Becky Allen. She can be reached at 703-697-0718 or by e-mail: becky.allen@osd.mil. My point of contact for the other issues is Mr. Oscar Covelli. He can be reached at 703-697-6149 or by e-mail: oscar.covelli@osd.mil.

Lawrence J. Lanzillo  
Principal Deputy and Deputy Under Secretary  
of Defense for Management Reform

Attachments:  
As stated

cc: Assistant Secretary of the Air Force (Financial Management and Comptroller)  
Acting Director, Defense Finance and Accounting Service



DEPARTMENT OF DEFENSE  
OFFICE OF GENERAL COUNSEL  
1600 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1600

March 17, 2004

MEMORANDUM FOR DIRECTOR, ACCOUNTING & FINANCE POLICY & ANALYSIS,  
ODCFO, OUSD(C)

SUBJECT: Draft Office of the Inspector General Report "Antideficiency Act Investigation of the Research, Development, Test and Evaluation, Defense-Wide, Appropriation Account 97FY 1989/1990 0400" Project No. D2003FM-0122

This is in response to your request for an opinion whether there was an Antideficiency Act violation in the fiscal year 1989/1990 Research, Development, Test, and Evaluation, Defense Agencies appropriation.

Because of an apparent negative balance in the appropriation, on March 19, 2003, the Under Secretary of Defense (Comptroller) asked the Department of Defense Inspector General to conduct a formal investigation to determine whether there was an actual violation of the Antideficiency Act. This investigation was made and the draft report of violation indicates that the amount of the violation is \$1,059,303.06. This amount is based on the fund balance with the Treasury, which was a negative \$1,059,303.06. Included within the charges to the appropriation which resulted in the foregoing negative balance were charges of \$1,166,865.40 which the Inspector General's investigation found were charges against the 1989/1990 RDT&E appropriation that were unsubstantiated and could not be proven to be proper charges to the 1989/1990 appropriation. In the absence of such proof, the charges should not have been made to that appropriation. Such charges were, therefore, invalid and cannot be considered in determining whether or not there was an actual negative balance in the appropriation.

Posting invalid obligations to an appropriation cannot result in a violation of the ADA. While the posting indicated that there was a potential ADA violation, because the potential violation was based on invalid obligations and because there is a positive balance once the improper charges of \$1,166,865.40 are deducted from the \$1,059,303.06 negative balance with the Treasury, there was, in fact, a positive balance in the appropriation. Therefore, based on these facts, there is no violation of the Antideficiency Act in this case.



TOM G. MORGAN

Associate Deputy General Counsel  
(Appropriations and Authorization Matters)  
Office, Deputy General Counsel (Fiscal)

H:\DATA\WP60\ANTI-DEFICIENCY ACT\2004 Actions\RDT&E 89-90 IG ADA\Memorandum to OUSD(C).wpd



DRAFT REPORT DATED MARCH 2, 2004  
IG, DOD PROJECT NUMBER D2003FM-0122

“Report on Antideficiency Act Investigation of the Research, Development, Test and Evaluation,  
Defense-Wide, Appropriation Account 97 FY 1989/1990 (RDT&E 89/90) 0400”

RECOMMENDATION 1: The IG, DoD recommended that the Under Secretary of Defense (Comptroller)/Chief Financial Officer report the Antideficiency Act Violation to the President and the Congress.

Deleted

USD(C) RESPONSE: Nonconcur. The investigation indicated that \$1,166,865.40 of the \$3,319,946.60 which was posted to the appropriation could not be substantiated as being proper charges to the RDT&E 89/90 appropriation. In the absence of such proof, the charges should not have been made to that appropriation. Such charges were, therefore, invalid. Posting invalid obligations to an appropriation cannot result in a violation of the ADA. While the posting indicated that there was a potential ADA violation, because the potential violation was based on invalid obligations and because the valid obligations and disbursements did not result in a negative balance in the appropriation, there was no violation of the ADA.

RECOMMENDATION 2: The IG, DoD recommended that the Under Secretary of Defense (Comptroller)/Chief Financial Officer permanently close the appropriation and use current available funds to make future adjustments.

Renumbered  
as  
Recommendation 1.a.

USD(C) RESPONSE: Partially Concur. While the account is closed for the purpose of new obligations and expenditures, disbursements made prior to account cancellation are properly recorded in that account. Such action is consistent with Comptroller General Decision B-251287.3, dated November 1, 1995, which held that “...the recording of the disbursement made prior to the cancellation of the expired account is simply an accounting entry to reflect the completion of the transaction before cancellation of the expired account.” Therefore, it would not be appropriate to charge a current account for a disbursement made prior to the cancellation of the account. In the highly unlikely event that a disbursement would be required to be made currently, such a disbursement would, of course, be made from a current appropriation, subject to the terms and conditions of Title 31, United States Code, section 1553.

RECOMMENDATION 3: The IG, DoD recommended that the Under Secretary of Defense (Comptroller)/Chief Financial Officer revise DoD Regulation 7000.14-R, “Financial Management Regulation,” Volume 3 to provide guidance for maintenance of cancelled appropriations to fund holders that could prevent potential ADA violations when disbursements exceed obligations at the appropriation level, but not at the limit (i.e., subdivision) level.

Renumbered  
as  
Recommendation 1.b.

USD(C) RESPONSE: Partially Concur. It is noted that the “Evaluation of Conflicting Facts or Circumstances” section describes the situation whereby the Defense Finance and Accounting Service (DFAS) had a large undistributed/unallocated disbursement balance (limit 9999) of approximately \$263 million in the RDT&E appropriation. The inclusion of a limit under the RDT&E appropriation designates it as a limit with a large negative balance of \$263 million. As such, the statement that “disbursements exceed obligations at the appropriation level, but not at the limit level” is erroneous and not borne out by the facts. The recommendation does highlight the fact that there is no standard method

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for accounting, monitoring, and applying internal controls for adjustments to canceled appropriation balances. The DFAS issued a standard operating procedure applying internal controls for adjustments to canceled appropriation balances in February 2004. The Under Secretary of Defense (Comptroller) will update the "Department of Defense Financial Management Regulation," Volume 3, Chapter 11 with additional guidance, estimated completion date is first quarter fiscal year 2005.

# Department of the Air Force Comments



Office Of The Assistant Secretary

DEPARTMENT OF THE AIR FORCE  
WASHINGTON DC 20330

30 MAR 2004

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDITING  
OFFICE OF THE INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE

FROM: SAF/FMB

SUBJECT: DoDIG Draft Report, Antideficiency Act Investigation of the Research,  
Development, Test and Evaluation, Defense-Wide, Appropriation Account 97 FY  
1989/1990 0400, (Project Code D2003FM-0122)

This is in reply to your memorandum requesting the Assistant Secretary of the Air Force  
(Financial Management and Comptroller) to provide Air Force comments on subject report.

We concur with recommendation number 2 and will work with the Defense Finance and  
Accounting Service (DFAS) in preparing the P. L. 107-314 Section 1009 suspense account  
package. Based on discussions with DFAS Denver personnel and SAF/FMP (AFAFO)  
personnel this and other packages are currently being processed in accordance with OSD  
guidance. All actions will be complete before expiration of the authority in September 2004.

SAF/FMB point of contact for this report is Ms Marti Maust, SAF/FMBMM. She can be  
reached at 703-695-0305.

Handwritten signature of Robert D. Stuart in cursive.

ROBERT D. STUART  
Deputy for Budget

cc:  
SAF/FMPF

*Financing The Fight*



# Defense Finance and Accounting Service Comments



DFAS-DAS

## DEFENSE FINANCE AND ACCOUNTING SERVICE

1931 JEFFERSON DAVIS HIGHWAY  
ARLINGTON, VA 22240-5291

MAY 7 2004

MEMORANDUM FOR DIRECTOR, FINANCE AND ACCOUNTING DIRECTORATE,  
OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF  
DEFENSE

SUBJECT: Requested Comments for OIG Draft Report No. D2003FM-0122, "Antideficiency  
Act Investigation of the Research, Development, Test and Evaluation, Defense-  
Wide, Appropriation Account 97 FY 1989/1990 0400," March 2, 2004

Our response to the subject draft audit report is attached. The point of contact is

Mr. Jerry Shea, (703) 601-0321 or DSN 329-0321.

  
Robert P. McNamara  
Director, Accounting

Attachment:  
As stated

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**DFAS Comments on OIG Draft Report No. D2003FM-0122, "Antideficiency Act Investigation of the Research, Development, Test and Evaluation, Defense-Wide, Appropriation Account 97 FY 1989/1990 0400," March 2, 2004**

**Responses to Recommendation.**

**Recommendation 3.a.** We recommend that the Director, Defense Finance and Accounting Service, reverse the unsupported chargeback to the Air Force budget clearing account and cancel the associated unsupported disbursement (uncharged chargeback) by satisfying the provisions on Public Law 107-314 Section 1009 suspense account package.

**Management Comments.** Concur. DFAS Denver has reversed the unsupported chargeback to the Air Force budget clearing account and is evaluating to see if it meets the criteria for cancellation under the provisions of Public Law 107-314 Section 1009. If it does, DFAS Denver will include the chargeback in the packages submitted for cancellation.

**Estimated Completion Date.** November 30, 2004.

**Recommendation 3.b.** We recommend that the Director, Defense Finance and Accounting Service, allocated all undistributed disbursements to fund holders of DoD closed fixed-term appropriations at statutory time of closing or provide alternate procedures that will provide positive assurance against future potential violations.

**Management Comments.** Concur. DFAS will ask general counsel to provide an opinion regarding proposed guidance to allocate undistributed disbursements of expired, but not yet closed appropriations, to fund holders of fixed-term appropriations at statutory time of closing. If general counsel does not provide a favorable opinion, DFAS will develop alternate procedures to provide positive assurance against future potential violations.

**Estimated Completion Date.** Expected date to draft proposed guidance and provide to general counsel for an opinion is August 31, 2004.

## **Team Members**

The Defense Financial Auditing Service, Office of the Deputy Inspector General for Auditing of the Department of Defense prepared this report. Personnel of the Office of the Inspector General of the Department of Defense who contributed to the report are listed below.

Paul J. Granetto  
Richard B. Bird  
Timothy A. Cole