

Inspector General

United States
Department of Defense



Management of Emergency Supplemental Appropriations
at Selected Department of the Army Commands
in Response to the Terrorist Attacks

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Acronyms and Abbreviations

AMC	Army Materiel Command
AMCOM LCMC	AMCOM Life Cycle Management Command
ASA(FM&C)	Assistant Secretary of the Army, (Financial Management & Comptroller)
AWCF	Army Working Capital Fund
CECOM LCMC	CECOM Life Cycle Management Command
CIDC	Army Criminal Investigation Command
DERF	Defense Emergency Response Fund
DWCF	Defense Working Capital Fund
IFF	Iraq Freedom Fund
FAD	Fund Authorization Documents
INSCOM	Army Intelligence and Security Command
JMC	Joint Munitions Command
MACOM	Major Command
MIPR	Military Interdepartmental Purchase Request
OMB	Office of Management and Budget
PEO IEW	Program Executive Office, Intelligence and Electronic Warfare
SUBMACOM	Major Army Subcommand
TACOM LCMC	TACOM Life Cycle Management Command
TRADOC	Army Training and Doctrine Command
USD(C)/DOD CFO	Under Secretary of Defense (Comptroller)/DOD Chief Financial Officer



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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ARLINGTON, VIRGINIA 22202-4704

July 12, 2010

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER)/
DOD CHIEF FINANCIAL OFFICER
ASSISTANT SECRETARY OF THE ARMY, (FINANCIAL
MANAGEMENT AND COMPTROLLER)
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE
AUDITOR GENERAL, DEPARTMENT OF THE ARMY
COMMANDER, U.S. ARMY MATERIEL COMMAND
COMMANDER, U.S. ARMY INTELLIGENCE AND SECURITY
COMMAND

SUBJECT: Management of Emergency Supplemental Appropriations at Selected Department of
the Army Commands in Response to the Terrorist Attacks
(Report No. D2010-072)

We are providing this report for your review and comment. We considered comments from the Office of the Assistant Secretary of the Army (Financial Management and Comptroller) in preparing the final report. The report discusses a potential violation of the Antideficiency Act.

DOD Directive 7650.3 requires that recommendations be resolved promptly. The Assistant Secretary of the Army (Financial Management & Comptroller) comments to Recommendations 2 and 3 are responsive and no additional comments are required. The Assistant Secretary of the Army (Financial Management & Comptroller) comments to Recommendation 1 were not responsive. We request additional comments on Recommendation 1 by August 11, 2010.

Please provide comments that conform to the requirements of DOD Directive 7650.3. If possible, send management comments in electronic format (Adobe Acrobat file only) to auidbo@dodig.mil. Copies of your comments must have the actual signature of the authorizing official for your organization. We are unable to accept the /Signed/ symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 601-5868.

Patricia A. Marsh
Patricia A. Marsh, CPA
Assistant Inspector General
Defense Business Operations



Results in Brief: Management of Emergency Supplemental Appropriations at Selected Department of the Army Commands in Response to Terrorist Attacks

What We Did

Our audit objective was to determine whether the emergency supplemental appropriations allocated to the Defense Emergency Response Fund (DERF) for DOD needs subsequent to the events of September 11, 2001, were used as intended and whether the use of the fund complied with the Office of Management and Budget guidance. This is the second of two reports we have issued on the audit. In the first report, we addressed whether DOD closed all balances in DERF and transferred them to the Iraq Freedom Fund as intended by Public Laws 108-11 and 108-106.

What We Found

Four Army Major Commands (MACOMs) and four Subordinate Commands (SUBMACOMs) of the Army Materiel Command (AMC) we visited generally used all or part of their emergency supplemental appropriations in the Defense Emergency Response Fund (DERF) for DOD needs arising from the terrorist attacks of September 11, 2001. However, one MACOM and one AMC SUBMACOM did not always use their emergency supplemental appropriations in DERF for DOD needs arising from the events of September 11, 2001. Specifically:

- the U.S. Army Intelligence and Security Command (INSCOM) expended over \$1.7 million for building repairs, support services, furniture, and construction which were not related to the terrorist attacks of September 11, 2001;
- AMCOM Life Cycle Management Command (AMCOM LCMC), a SUBMACOM of AMC, expended \$5 million to investigate a missile fire mishap that occurred before September 11, 2001; and

- AMCOM LCMC also expended \$82.1 million to acquire spares and \$21.2 million for repairs and billed DOD Components for the full cost of the spares and repairs instead of billing the Components just for its added costs.

These conditions occurred because INSCOM and AMCOM LCMC did not implement DOD policies and procedures to ensure that appropriated funds were expended for the appropriations' intended purposes. As a result, a potential Antideficiency Act violation may have occurred at INSCOM and AMCOM LCMC for the use of the amounts in DERF for other than their intended purposes. In addition, AMCOM LCMC may have used appropriated funds to supplement the AWCF.

What We Recommend

We recommend that the Assistant Secretary of the Army, (Financial Management & Comptroller) (ASA[FM&C]):

- Ensure that the Army Components implement procedures to comply with the legal restrictions and limitations on the use of appropriate funds;
- Investigate and determine whether INSCOM and AMCOM LCMC violated the Antideficiency Act; and
- Decrease the budget authority of the AWCF by establishing a verifiable rate reduction in the AWCF selling prices.

Management Comments and Our Response

ASA(FM&C) comments to Recommendation 1 were not responsive. We request that the ASA(FM&C) provide additional comments to the recommendation by August 11, 2010. The full text of all comments appears in the Management Comments sections of the report. Please see the recommendations table on page ii.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Assistant Secretary of the Army, (Financial Management and Comptroller)	1	2, 3

Please provide comments by August 11, 2010.

Table of Contents

Introduction	1
Objective	1
Background	1
Review of Internal Controls	4
Finding	
Use of the Emergency Supplement Appropriations in Defense Emergency Response Fund	5
Recommendations, Management Comments, and Our Response	11
Appendices	
A. Scope and Methodology	14
Prior Coverage	18
B. Emergency Supplemental Appropriations Affecting the Defense Emergency Response Fund	19
C. Office of Management and Budget Guidelines for Funding Requests for Areas Related to the September 11, 2001, Terrorist Attacks	21
D. Department of the Army Allocation of the DERF	24
Management Comments	
Assistant Secretary of the Army (Financial Management and Comptroller)	25

Introduction

Objective

Our audit objective was to determine whether the emergency supplemental appropriations allocated to the Defense Emergency Response Fund (DERF) for DOD needs subsequent to the events of September 11, 2001, were used as intended and whether the use of the fund complied with the Office of Management and Budget (OMB) guidance. This is the second of two reports addressing this audit objective. In the first report, we addressed whether DOD closed and transferred all balances in DERF to the Iraq Freedom Fund (IFF) as intended by Public Law 108-11, the “Emergency Wartime Supplemental Appropriations Act, 2003,” April 16, 2003, and Public Law 108-106, the “Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004,” November 6, 2003. These public laws require that balances in DERF as of October 31, 2003, be transferred to the IFF. For this report, we reviewed documentation at four Army Major Commands (MACOMs) and four subordinate commands (SUBCOMs) of one of the MACOMs. See Appendix A for a discussion of the scope, methodology, and prior audit coverage.

Background

Defense Emergency Response Fund

In FY 1990, Congress established DERF to reimburse DOD for providing disaster or emergency assistance to other Federal agencies and to state and local governments in anticipation of reimbursable requests. Congress initially funded DERF at \$100 million. The purpose of DERF is to allow DOD to provide disaster and emergency relief assistance without depleting the funds it needs to accomplish its mission. DERF centralizes DOD financial accounting for disaster assistance. From its inception through 2006, DOD has used more than \$384.1 million in DERF funding for overseas disaster and humanitarian assistance projects. Congress allocated more than \$14.6 billion additional funding to DERF for DOD needs arising from the events of September 11, 2001. The Under Secretary of Defense (Comptroller)/DOD Chief Financial Officer, (USD[C]/DOD CFO) allocated about \$2.5 billion¹ of this amount to the Department of the Army (the Army).

Emergency Supplemental Appropriations

Shortly after the terrorist attacks on September 11, 2001, Congress passed several laws that provided funding to Federal agencies to meet their emergency expenses arising from the attacks. The funds were to be used for:

- providing Federal, state, and local preparedness for mitigating and responding to the attacks;

¹ Including funding to the Army National Guard

- providing support to counter, investigate, or prosecute domestic or international terrorism;
- providing increased transportation security;
- repairing public facilities and transportation systems damaged by the attacks; and
- supporting national security.

Public Law 108-11, “Emergency Wartime Supplemental Appropriations Act, 2003,” and Public Law 108-106, “Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004,” required that balances in DERF as of October 31, 2003, be transferred to IFF. In addition, Public Law 108-11 required the DERF balances remain available for the same purposes and terms of conditions as the funds appropriated to the IFF “in this chapter.” The funds appropriated for the IFF “in this chapter” were available until September 30, 2004. See Appendix B for the emergency supplemental appropriations affecting DERF.

OMB Guidance

In a memorandum to the heads of Federal departments and agencies, “Emergency Funding to Respond to the September 11th Terrorist Attacks,” dated September 14, 2001, OMB stated that it is incumbent on heads of Federal departments and agencies to see that every dollar of these resources is used for the intended purposes and is fully accounted for. OMB provided guidance for identifying and evaluating those areas where the funding should be targeted. According to the guidance:

- damage to be repaired must be directly caused by the terrorist acts;
- funding is limited to the amount necessary to restore the entity or facility to current standards;
- the requirement is not competitive with or duplicative of activities of other agencies’ required disaster assistance programs;
- the requirement cannot be met through the use of existing agency funds;
- funds must address specific deficiencies encountered or identified to prevent such as those of September 11, 2001; and
- funds can be used to enhance U.S. abilities to interdict terrorist threats.

See Appendix C for the full text of the OMB guidance.

DOD Financial Management Regulation

DOD Financial Management Regulation, DOD 7000.14-R, provides guidance on financial management requirements, systems, and functions for all appropriated and non-appropriated, working capital, revolving, and trust fund activities at DOD and is applicable to all DOD Components.

Volume 2A, Chapter 1

DOD Regulation 7000.14-R, volume 2A, chapter 1, “General Information,” October 2008, section 010219 provides general guidelines for Defense Working Capital Funds (DWCF) cost recovery and price setting. According to the guidance, DWCF should set

their prices based upon full cost recovery and prices, when set, should remain fixed during the year of execution. Profits or losses should be determined at the end of the year. Accordingly, prices in the budget year will be set either to make up actual or projected losses, or to give back actual or projected gains in the budget year(s).

Volume 11B, Chapters 1 and 3

According to DOD Regulation 7000.14-R, volume 11B, chapter 1, “Defense Working Capital Funds, General Policies and Requirements,” October 2002, DWCFs are managed to provide goods and services to other DOD Components on a reimbursable basis. DWCFs receive their initial funding through an appropriation or a transfer of resources from existing appropriations and use those resources to finance the initial cost of products and services. The acceptance of customer orders generates financial resources to replenish the initial working capital and to sustain the operations of the funds. DWCF activities operate on break-even basis. They establish customer rates (selling prices) to cover the cost of services provided as well as approved surcharges. DWCF operations may result in realized gains or losses, which appear in subsequent years as offsetting adjustments in the rates. Volume 11B, chapter 3, section 0304 states:

A nonexpenditure transfer is to move budgetary resources from one budget account, appropriation, or fund to another that does not involve an outlay. Nonexpenditure transfers of funds may be received from another appropriation or fund or may be made to another appropriation or fund when appropriate and authorized. A nonexpenditure transfer of funds received from another appropriation or fund increases the amount of available budgetary resources. A nonexpenditure transfer of funds made to another appropriation or fund decreases the amount of available budgetary resources.

Volume 14, Chapters 1, 2², and 3

DOD Regulation 7000.14-R, volume 14, chapter 1, “Administrative Control of Appropriations,” October 2002, establishes policy and procedures for the administrative control of funds. The policy requires DOD Components to restrict the use of limitations on available funds to those necessary to comply with statutory provisions, such as those imposed by the appropriate DOD authorization or DOD Appropriations Act, or to address specific management requirements. The policy also requires DOD Components and officials to limit the obligation and expenditure of funds to the purposes authorized by the type of fund or account. In addition, the policy requires DOD Components to make allotments and suballotments in writing and the document must at least include the legal restrictions or limitations on the obligation and disbursement of the allotted funds. Volume 14, chapter 2, “Violations of the Antideficiency Act,” August 2006, states that a violation of the Antideficiency Act may occur if statutory limitations on the purpose for which an appropriation or fund may be used are violated. Chapter 3, “Preliminary Review of Potential Violations,” February 2008, states that upon learning of or detecting

² Chapter 1 was revised in January 2009 and chapter 2 in March 2009. However, the revisions retained the same restrictions on the use of appropriated funds as in the 2002 edition.

a possible violation of the Antideficiency Act, the applicable Office of the Assistant Secretary of the Military Department for Financial Management, or the Comptroller or Senior Financial Manager for other DOD Components, shall assign a case number to the possible violation and report the necessary information to the USD(C) DOD Deputy Chief Financial Officer. Chapter 3 also states that a preliminary review of the potential violation should be done in a timely manner, usually within 90 days.

Review of Internal Controls

DOD Instruction 5010.40, “Managers’ Internal Control (MIC) Program Procedures,” January 4, 2006, requires DOD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls. We identified an internal control weakness in two Army Commands’ use of the emergency supplemental appropriations for other than the funds intended purposes.

The Army Intelligence and Security Command (INSCOM) expended \$1.4 million of the emergency supplemental appropriations in DERF for facility repairs, alterations, and building repair and construction. INSCOM also expended \$310,000 for furniture and support services and transformation construction, and about \$16,000 to replace two air conditioners. These expenditures were not related to the terrorist attacks of September 11, 2001.

AMCOM Life Cycle Management Command (AMCOM LCMC), a Subordinate Command of the Army Materiel Command, expended \$5 million to investigate an accident unrelated to the September 11, 2001 terrorist attacks.

AMCOM LCMC also appropriately expended \$82.1 million emergency supplemental appropriations in DERF in the Army Working Capital Fund (AWCF) to acquire spares and an additional \$21.2 million for repairs. However, AMCOM LCMC billed DOD Components for the full cost of the spares and repairs instead of billing the Components for just the AMCOM LCMC added costs, thereby supplementing the AWCF with appropriated funds. Implementing the recommendations in this report by the Assistant Secretary of the Army, (Financial Management & Comptroller) will improve financial management at the Army Commands. We will provide a copy of this report to the senior official responsible for internal controls in the Office of the USD(C)/DOD CFO and at the Department of the Army.

Finding. Use of the Emergency Supplement Appropriations in Defense Emergency Response Fund

Four Army Major Commands (MACOMs) and four Subordinate Commands (SUBMACOMs) of the Army Materiel Command (AMC) we visited generally used all or part of their emergency supplemental appropriations in the Defense Emergency Response Fund (DERF) for DOD needs arising from the terrorist attacks of September 11, 2001. However, one MACOM and one AMC SUBMACOM did not always use their emergency supplemental appropriations in DERF for DOD needs arising from the events of September 11, 2001. Specifically:

- the U.S. Army Intelligence and Security Command (INSCOM) expended \$1.4 million for facility repairs, alterations, building repairs, and construction; \$310,000 for the purchase of furniture and support services; and about \$16,000 to replace two air conditioners. None of these obligations were related to the terrorist attacks of September 11, 2001.
- AMCOM Life Cycle Management Command (AMCOM LCMC), a SUBMACOM of AMC, expended \$5 million to investigate a missile fire mishap that occurred before September 11, 2001.
- AMCOM LCMC also appropriately expended \$82.1 million emergency supplemental appropriations in DERF in the AWCF to acquire spares and additional \$21.2 million for repairs. However, AMCOM LCMC billed DOD Components for the full cost of the spares and repairs instead of billing the Components just for its added cost.

These conditions occurred because INSCOM and AMCOM LCMC did not implement policies and procedures to ensure that the emergency supplemental appropriations in the DERF were expended in accordance with the Office of Management and Budget (OMB) guidance. As a result, potential Antideficiency Act violations may have occurred at INSCOM and AMCOM LCMC for using the emergency supplemental appropriations in DERF for other than their intended purposes. In addition, AMCOM LCMC may have used appropriated funds to supplement the AWCF.

Emergency Supplemental Appropriations in DERF

Eight public laws either provided funding to DERF for DOD needs arising from the events of September 11, 2001, or allowed DOD to transfer funding from DERF to other DOD appropriations. See Appendix B for the emergency supplemental appropriations affecting DERF. DOD received about \$14.6 billion into DERF and allocated about \$2.5 billion to the Army.

Allocation of DERF to Army Commands

The USD(C)/DOD CFO allocated emergency supplemental appropriations in DERF for DOD needs arising from the events of September 11, 2001, to the Army on Fund Authorization Documents (FAD). The Army then suballocated the funds, also on FADs, to the MACOMs for execution. The MACOMs either expended the funds or suballocated the funds to their SUBMACOMs for execution. The FADs established a written funding authority for the receiving Commands. The allocation and suballocation FADs included restrictions on the use of the funds. However, the MACOMs and the SUBMACOMs did not always follow the restriction or limitation on the FADs as required by DOD Regulation 7000.14-R. Table 1 shows the Army allocation of funds to the MACOMs we visited. See Appendix D for the allocation of the total Army funds.

Table 1. Allocation of Funds to the Army Commands We Visited
(millions)

Army Commands	Amount Received
Army Materiel Command (AMC)	\$434.2
Intelligence and Security Command (INSCOM)*	146.6
Army Training and Doctrine Command (TRADOC)	55.2
Army Criminal Investigation Command (CIDC)	19.8
Total	\$655.8
*INSCOM received \$146.6 million. During the audit, we identified \$3.1 million that had remained unobligated for over 5 years, which INSCOM returned to the Army during our audit.	

Limitations on the Use of the Emergency Supplemental Appropriations

The OMB guidelines state that the emergency supplemental appropriations were only for agency needs arising from the terrorist attacks of September 11, 2001. In addition, the damage to be repaired must be directly caused by the terrorist acts, the requirement cannot reasonably be met with existing agency funds, and the requirement is a known, rather than a speculative need. See Appendix C for the OMB guidance. DOD financial management regulations require DOD Components to use DOD funds for their appropriated purposes. Table 2 shows the results of obligations of emergency supplemental appropriations in DERF we reviewed at the Commands we visited.

**Table 2. Obligations of Emergency Supplemental Appropriations in DERF
Reviewed at the MACOMs Visited
(millions)**

Army Command	Total Received	Amount Reviewed	Used for Other Purposes	Used for Intended Purposes
INSCOM	\$ 146.6	\$143.5	\$1.7	\$141.8
AMC				
AMCOM LCMC	115.7	111.1	5.0	106.1*
CECOM Life Cycle Management Command	84.3	21.6	0	21.6
Joint Munitions Command				
TACOM Life Cycle Management Command	141.8	105.0	0	105.0
	55.0	52.0	0	52.0
CIDC	19.8	15.9	0	15.9
TRADOC				
Transportation Command	1.7	1.5	0	1.5
Total	\$564.9	\$450.6	\$6.7	\$443.9
*AMCOM LCMC expended \$103.3 million of this amount to acquire spares and for repairs for the Army Working Capital Fund. We concluded that AMCOM LCMC used the \$103.3 million for its intended purposes. However, AMCOM LCMC billed DOD Components for the full cost rather than for its added cost as required by OMB guidance. The remaining \$2.8 million was used for non-customer reimbursable expenses (not spares) and were used for intended purposes.				

Emergency Supplemental Appropriations in DERF Used for the Intended Purposes

We identified instances where the MACOMs and the SUBMACOMs we visited expended their emergency supplemental appropriations in DERF for their needs arising from the terrorist attacks of September 11, 2001 as required by OMB guidance. For example,

- CECOM Life Cycle Management Command (CECOM LCMC) received \$84.3 million from AMC and expended about \$1.7 million for survival enhancement program, about \$2 million for intelligence and information support, and \$733,000 to build a fence around the base.
- Joint Munitions Command (JMC) used most of its funding from AMC for Operation Enduring Freedom, Iraq; augmentation support for Operation Noble Eagle, Afghanistan; enhanced force protection, and increased ability to guard against, deter, and respond to terrorist incidents.
- TACOM Life Cycle Management Command (TACOM LCMC) field activity at Rock Island used part of its funding for tracks of field artillery.
- AMCOM LCMC used part of the funding for improvement to the gates at the base by providing a canopy and barriers at the gates.
- The Transportation Command, a SUBMACOM of TRADOC, used most of its \$1.7 million funding for security enhancements at a port and gates to the base.

- The Army Criminal Investigation Command used most of its \$19.8 million for security enhancements such as acquisition and installation of surveillance and telecommunication equipment.

Emergency Supplemental Appropriations in DERF Used for Other Purposes

INSCOM and AMCOM LCMC did not always use their emergency supplemental appropriations in DERF for the intended purposes. This condition occurred because the MACOM and the SUBMACOM did not implement DOD internal controls to ensure that DOD appropriated funds were:

- used for the intended purposes, and
- in compliance with the OMB guidance.

INSCOM

INSCOM did not implement DOD internal control policies to ensure that the use of the emergency supplemental appropriations in DERF complied with OMB guidance and DOD financial management regulations. INSCOM received \$146.6 million emergency supplemental appropriations in DERF from the Army. The Army FADs to INSCOM clearly stated that the funding was to be used for events caused by the terrorist attacks of September 2001. However, INSCOM expended the funds for expenses that were not related to the events of September 2001. For example, INSCOM expended:

- \$1.4 million for facility repairs and alterations,
- \$200,000 for repair and construction in building 1498 and 1499, at Fort Belvoir,
- \$110,000 for furniture and support services and construction, and
- about \$16,000 to replace two air conditioners at Fort Gillen, Georgia.

INSCOM personnel told us that INSCOM had developed a worldwide initiative to increase U.S. force protection in response to the recommendations in the Cole Commission³ report. These initiatives included increased U.S. presence on the ground, counter-intelligence in embassies, equipment, office space, and training for in-transit forces. However, INSCOM did not have the resources to implement the initiatives until DERF became available after September 11, 2001. The subject of the Cole Commission report preceded the terrorist attacks of September 11, 2001, and as such, INSCOM did not use the emergency supplemental appropriations in DERF for the intended purposes. We discussed this finding with INSCOM senior personnel who told us that the person who provided us with the information was a contractor employee and did not represent INSCOM. We stand by our conclusions and findings. We summarized our meetings with INSCOM personnel and provided the summaries to INSCOM government

³ The Cole Commission was established after the attack on USS COLE in the port of Aden, Yemen, on October 12, 2000.

employees who concurred with the summaries. OMB requirements for the use of the funds stated that the damage to be repaired must have been directly caused by the terrorist acts of September 11, 2001. According to the DOD 7000.14-R, if a Component used appropriated funds for other than the intended purposes and does not have current year funds to replace the used appropriated funds, the Component may have an Antideficiency Act violation. Therefore, the INSCOM use of the emergency supplemental appropriations in DERF for building repairs and acquisition of furniture is a potential violation of the Antideficiency Act, which the ASA(FM&C) should investigate. We also identified \$3.1 million of the \$146.6 million that had remained unobligated for over 5 years during our site visit. INSCOM returned this amount to the Army in August 2008.

AMCOM LCMC

AMCOM LCMC did not implement internal control policies to ensure that the emergency supplemental appropriations in DERF were used in compliance with OMB guidance and with DOD financial management regulations. AMCOM LCMC expended about \$5 million to investigate a missile fire incident that occurred before September 11, 2001; about \$82.1 million from its AWCF to acquire inventory; and another \$21.2 million from the AWCF for repairs.

Hellfire Missile Investigation

AMCOM LCMC expended about \$5 million of the \$115.7 million it received from AMC to investigate a missile fire mishap that occurred prior to the terrorist attacks of September 11, 2001, which was contrary to the OMB guidelines and criteria for the use of the funds. On June 30, 2001, an errant Hellfire missile firing occurred during a live fire training exercise at Fort Bragg, North Carolina. The Army initiated an investigation into the errant missile firing using Army Operation and Maintenance funds. AMCOM LCMC expended an additional \$5 million of the emergency supplemental appropriations in DERF to aid in the investigation of the errant missile firing. According to AMCOM LCMC funding documents, the Army approved the use of the funds for the investigation. Because the missile firing occurred before, and was not related to, the terrorist attacks of September 11, 2001, AMCOM LCMC should not have used the emergency supplemental appropriations in DERF for this missile misfiring investigation. OMB requirements for the use of the funds stated that the damage to be repaired must have been directly caused by the terrorist acts of September 11, 2001. According to the DOD 7000.14-R, if a Component used appropriated funds for other than the intended purposes and does not have current year funds to replace the used appropriated funds, the Component may have an Antideficiency Act violation. The AMCOM LCMC use of emergency supplemental appropriations in DERF to investigate the Hellfire Missile mishap that occurred before the terrorist acts of September 11, 2001, is a potential violation of the Antideficiency Act, which the ASA(FM&C) should investigate.

Army Working Capital Fund

AMCOM LCMC used the emergency supplemental appropriations in DERF to supplement cash in the AWCF when it used the DERF to acquire spares and repairs and sold the spares to the DOD Components at full cost rather than for its added cost, as

required by OMB regulations. According to the Defense Finance and Accounting Service 1002 report⁴ for September 30, 2008, the Army expended about \$198 million for spares as part of the Army's increased worldwide posture. AMCOM LCMC expended \$82.1 million of this amount for spares and another \$21.2 million for repairs. This amount was the emergency supplemental appropriation in DERF that AMCOM LCMC appropriately allocated to the AWCF. According to the DOD 7000.14-R, DWCFs are self-sustaining through sales and operated on a break-even basis. DWCF selling prices are established to recover the cost of products and services that the fund provides. Once established, the prices are held constant during the year of execution. Realized gains and losses generally are reflected in offsetting adjustments to stabilized rates established in subsequent fiscal years. By using the emergency supplemental appropriations in DERF to acquire the spares and selling the spares to DOD Components, AMCOM LCMC unintentionally used the appropriations to supplement the AWCF because the AMCOM LCMC selling prices included recovery costs for the spares, which were not funded by the AWCF. AMC and AMCOM LCMC personnel were aware of the effects of this process on the AWCF. For example, in an internal e-mail message on October 4, 2001, a former AMC Headquarters senior staff member wrote:

Let me clarify the intent regarding the \$200M of DERF funding released earlier this week. These funds are to replenish the AWCF inventory for items critically short as defined by LG. Although direct citing DERF funds, the items will be brought into AWCF and sold at AMOF [(also called AMDF) Army Master Data File] price. They will not be free issued. Please clarify this with your staff. This procedure is similar to us receiving TOA [Total Operating Authority] for spares. Would prefer we not discuss externally the benefits to AWCF cash of this process.

According to DOD 7000.14-R, the availability of an appropriation cannot be expanded or otherwise changed by transfer to the DWCF. Therefore, the statutory limitations and restrictions imposed on the use of emergency supplemental appropriations to reimburse agencies for their added costs did not change and remained the same when AMCOM LCMC acquired spares and repairs using the emergency supplemental appropriations in the AWCF. AMCOM LCMC should have treated the amount expended for the spares and repairs as nonexpenditure transfer because the spares and the repairs that AMCOM LCMC acquired did not involve an outlay of any AWCF. A nonexpenditure transfer of funds would have decreased the AWCF by the same amount of the emergency supplemental appropriations in DERF. AMCOM LCMC should have sold the spares to the DOD Components for its added cost. According to the OMB guidance, AMCOM LCMC could use the emergency supplemental appropriations in DERF to pay for its added costs for providing the spares and repairs to the DOD Components. Because AMCOM LCMC did not treat the amount transferred to the AWCF as nonexpenditure and billed the DOD Components for the full cost rather than for its added cost, the budgetary resources in the AWCF increased (gained) by at least \$103.3 million.

⁴ Appropriation Status Report

ASA(FM&C) needs to ensure that the AWCF provides rebates to its customers by reducing its future selling prices.

Summary

We found that the Army sites we visited generally used the emergency supplemental appropriations in DERF for the appropriations' intended purposes. However, INSCOM and AMCOM LCMC did not always use their emergency supplemental appropriations for the appropriations' intended purposes. INSCOM and AMCOM LCMC did not always implement the DOD financial management regulations to ensure that appropriated funds were used for their intended purposes. As a result, a potential Antideficiency Act violation may have occurred at INSCOM and AMCOM LCMC because of the use of DERF for other than their intended purposes. In addition, AMCOM LCMC may have used appropriated funds to supplement the AWCF. The ASA(FM&C) should determine whether the use of the emergency supplemental appropriations in DERF for other than the appropriations' intended purposes is a potential violation of the Antideficiency Act. The ASA(FM&C) should also ensure that the AWCF gives rebates in the form of lower selling prices to its customers to offset the additional funding that the emergency supplemental appropriations provided to the AWCF.

Recommendations, Management Comments, and Our Response

We recommend that the Assistant Secretary of the Army, (Financial Management and Comptroller):

1. Ensure that the Department of the Army Components implement procedures to comply with the legal restrictions and limitations on obligation and disbursement documents.

Management Comments

The Director, Management and Control, Office ASA(FM&C) stated that the Army believes that appropriate procedures are in place for the Army Components to ensure compliance with legal restrictions and limitations on obligations and disbursement documents. Additionally, the Director stated that the procedures are updated regularly and funding and obligations documents originating from the HQDA [Headquarters, Department of the Army] and from OSD [Office of the Secretary of Defense] contain restrictions on the use of appropriated funds.

Our Response

The Director, Management and Control, Office the ASA(FM&C) comments are not responsive. The Director neither concurred nor nonconcurred with the recommendation. The report did not state that the Army did not have policies and procedures in place, and the report did not recommend that the Army establish new policies and procedures. The report stated that officials at the Army Components we reviewed did not always comply with restrictions and limitations on the funding documents, specifically the Fund

Authorization Documents. The report recommended that policies and procedures need to be implemented to make sure that DOD appropriated funds are used for their intended purposes and in compliance with OMB guidance. We request that the Director, Management and Control, Office ASA(FM&C) provide comments to the final report by August 11, 2010.

2. Perform an independent assessment to determine whether a formal investigation should occur for potential Antideficiency Act violations of INSCOM use of emergency supplemental appropriations in DERF for building repairs, acquisition of furniture, alterations, and construction; and of the AMCOM LCMC use of the emergency supplemental appropriations in DERF to investigate the Hellfire Missile mishap.

Management Comments

The Deputy Assistant Secretary of the Army (Financial Operations), Office of the ASA(FM&C) stated that a directive was sent to INSCOM and AMC on March 30, 2010, requiring them to initiate a preliminary review of the potential Antideficiency Act violations identified in the report.

Our Response

The Deputy Assistant Secretary of the Army (Financial Operations), Office of the ASA(FM&C) neither concurred nor nonconcurred with the recommendation. However, the comments are responsive, and no additional comments are required. We suggest that if the review confirms an Antideficiency Act violation occurred, the ASA(FM&C) should ensure that INSCOM and AMC report the Antideficiency Act violations in accordance with the DOD FMR.

3. Establish a verifiable rate reduction in the AWCF selling prices to provide rebates to DOD Components by the amount equal to the DERF funding used to supplement the AWCF.

Management Comments

The Acting Director of Business Resources, Office of the ASA(FM&C) concurred with the recommendation with comments. The Acting Director stated that unless authorized by the OUSD [Office of Under Secretary of Defense] Comptroller, the Army establishes rates and prices to recover actual cost or projected losses or to return actual or projected gains as stated in the DOD FMR, [DOD Financial Management Regulation] Volume 2b, chapter 9, paragraph 090103F. Prices are established through the budget process to recover full costs including administrative costs and remain fixed during the year of execution. The Acting Director also stated that AMCOM LCMC did not use DERF funding to supplement the AWCF because the funding was used to acquire spares to increase its inventory to support increased customer demands following the attacks of September 11, 2001, and, therefore, selling the inventory at less than the full price prevents replenishment during a period of increased customer demands.

Our Response

The report stated that AMCOM LCMC appropriately used DERF to acquire inventory for the AWCF. However, by not reducing the selling prices by the additional DERF funding to the AWCF, AMCOM LCMC was supplementing the AWCF. Based on the Acting Director's comments, we anticipate that when the surge is over, the USD(C)/CFO and the Army will establish selling prices in the AWCF that will return actual or projected gains (at least by amount equal to DERF funding used to acquire the inventory) to the AWCF customers. The Acting Director's comments are, therefore, responsive, and no additional comments are required.

Appendix A. Scope and Methodology

We conducted this financial-related audit from February 2008 through March 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objectives. This is the second of two reports we are issuing from the audit. We issued DOD IG Report No. D-2009-098, “Status of the Defense Emergency Response Fund in Support of the Global War on Terror,” on July 30, 2009.

We performed the audit by requesting data and conducting interviews with officials and operating personnel at the MACOMs we visited. We judgmentally selected the MACOM and SUBMACOMs we visited based on the funding they received and their proximity to each other to ensure maximum coverage per site visit. We reviewed funding documents to determine the funding authority provided to the Army Commands. We compared the data to actual funding authorization documents to determine the reliability and accuracy of the data. Additionally, we reviewed amounts reported as obligations on the September 30, 2008, Defense Finance and Accounting Services 1002 report to determine the amounts expended and the status of the funds.

Record Retention Period

At three of the seven Major Commands we visited, we could not determine whether the emergency supplemental appropriations were used for their intended purposes. The Commands, in accordance with current regulations, did not maintain documentation past the required retention period mandated by the DOD financial management regulation to enable us to make the determination. The requirement for DOD components to maintain all financial records (except for those supporting settlement vouchers for official travel) for a minimum period of 6 years and 3 months has been deleted from the DOD Regulation 7000.14-R. The April 2009 edition of the regulation refers to record retention policies in DOD Directive 5015.2, November 21, 2003, “DOD Records Management Program,” and to guidance promulgated by the U.S. National Archives and Records Administration. The National Archives and Records Administration require allotment records showing status of obligations and allotments to be destroyed 6 years and 3 months after the close of the fiscal year involved.

Army Materiel Command

AMC received about \$434.2 million of the emergency supplemental appropriations in DERF from the Army and suballocated the funds to its SUBMACOMs. We visited the following AMC SUBMACOMs.

CECOM Life Cycle Management Command. AMC allocated \$84.3 million to CECOM LCMC. We reviewed the funding documents to determine the amounts that

CECOM LCMC received from AMC and how the funds were suballocated among the CECOM LCMC components. We interviewed operating personnel to obtain an understanding of CECOM LCMC accounting systems and internal control policies. We obtained transactions listing from CECOM LCMC and judgmentally selected for review 25 high dollar value transactions valued at about \$21.6 million from a universe of 49 transactions valued at about \$22.6 million. CECOM LCMC provided part of the \$84.3 million to its Subordinate Commands located outside CECOM LCMC headquarters, which we did not visit. We verified the selected transaction listings to supporting documentation including Military Interdepartmental Purchase Request (MIPR), travel vouchers, billing records, contracts, purchase orders, invoices, and receipt documents to determine if the reported amounts were accurate and were expended for DOD needs arising from the terrorist attacks of September 11, 2001. For example, we reviewed the purpose of the obligation documents to determine if the acquired products or services were related to the CECOM LCMC needs arising from the terrorist acts of September 11, 2001.

Joint Munitions Command. AMC allocated about \$141.8 million to JMC. JMC obligated about \$110.3 million. We obtained the JMC transactions listing and judgmentally selected 73 high dollar value transactions valued at about \$105 million from a universe of 239 transactions valued at \$110.3 million for review. We reviewed the funding documents to determine JMC funding authority. We interviewed operating personnel to obtain an understanding of their accounting systems and internal control policies. We verified the selected transactions to supporting documentation including MIPRs, travel vouchers, billing records, contracts, purchase orders, invoices, and receipt documents to determine if the reported amounts were accurate and obligations were related to DOD needs arising from the terrorist attacks of September 11, 2001.

TACOM Life Cycle Management Command. TACOM LCMC received about \$55 million from AMC. TACOM LCMC then suballocated the funding to its Components at Warren, Michigan, and at Rock Island, Illinois. At both Components, we reviewed their funding documents to determine their funding authority. We interviewed operating personnel to obtain an understanding of their accounting systems and internal control policies. We requested and received transactions listing from the two components and judgmentally selected 61 high dollar value transactions valued at about \$52 million from a universe of 335 transactions valued at \$55 million. We verified the selected transactions to supporting documentation including invoices, MIPRs, purchase orders, billing records and travel vouchers to determine if the amounts reported were accurate and were related to DOD needs arising from the terrorist attacks of September 11, 2001.

AMCOM Life Cycle Management Command. AMC allocated over \$115.7 million to AMCOM LCMC. At AMCOM LCMC, we reviewed funding documents to determine the amounts that AMCOM LCMC received from AMC and how the funds were suballocated among the AMCOM LCMC Components. We interviewed operating personnel to obtain an understanding of their accounting systems and internal

control policies. We judgmentally selected 180 transactions valued at \$111.1 million for review from a universe of 783 transactions valued at \$115.1 million. The sampled transaction include 14 transactions valued \$4.9 million from the Missile Research Development and Engineering Center, 152 transactions valued at \$105.3 million from Integrated Material Management Center, and 14 transaction valued at \$0.9 million from the Garrison office. We verified the selected transactions to supporting documentation including billing records, contracts, purchase orders, invoices, and receipt documents to determine if the reported amounts were accurate and were for DOD needs arising from the terrorist attacks of September 11, 2001.

Army Intelligence and Security Command

INSCOM received about \$146.6 million emergency supplemental appropriations from the Army. We reviewed funding documents to confirm this amount. We interviewed operating personnel to obtain an understanding of the INSCOM accounting systems and internal control policies. INSCOM provided us with a listing of 67 transactions valued at \$143.5 million and documentation supporting the transactions on the listing. We determined that 10 transactions on the listing either were allotments (not obligations) or were obligations that did not involve the use of emergency supplemental appropriations. In addition, we were unable to match the listing to the supporting documentation because each transaction on the listing represented multiple obligation documents. We therefore randomly selected obligation documents from the supporting documentation to ascertain the purposes of the obligations. We communicated the results of our review to INSCOM and provided them with an opportunity to respond to our findings. We subsequently visited INSCOM to discuss their response to our findings.

Army Criminal Investigation Command

CIDC received about \$19.8 million emergency supplemental appropriations from the Army. We reviewed funding documents to confirm the amount that CIDC received from the Army. We interviewed operating personnel to obtain an understanding of their accounting systems and internal control policies. CIDC Headquarters provided us with a listing of 4,374 transactions valued at \$16.2 million. We judgmentally selected 133 high value transactions valued at about \$15.9 million. We verified the selected transactions to supporting documentation including invoices, MIPRs, purchase orders, billing records, contracts, and travel vouchers to determine if the reported amounts were accurate and related to DOD needs arising from the terrorist attacks of September 11, 2001.

Army Training and Doctrine Command

TRADOC received about \$55.2 million emergency supplemental appropriations from the Army. TRADOC suballocated the funds to its SUBMACOMs. We requested and received a listing of 100 transactions valued at about \$1.7 million from TRADOC Transportation Command at Ft. Eustis, Virginia. We judgmentally selected 27 high dollar value transactions valued at about \$1.5 million from the listing. We verified the selected transactions against supporting documents such as invoices, MIPRs, billing records and purchase orders to determine the accuracy of the listing we received and to determine if the amounts expended were for DOD needs arising from the events of

September 11, 2001. We interviewed operating personnel to obtain an understanding of their accounting systems and internal control policies.

Program Executive Office, Intelligence, and Electronic Warfare

The Army allocated \$100.9 million of the emergency supplemental appropriations to the Program Executive Office, Intelligence, and Electronic Warfare (PEO IEW.) We reviewed the funding documents to confirm the amount that PEO IEW received from the Army. We interviewed operating personnel to obtain an understanding of PEO IEW accounting systems and internal control policies. The PEO IEW provided us with transactions listing however; we were unable to verify the listing to supporting documentation. The PEO IEW did not maintain supporting documentation past the retention period mandated by DOD Regulation 7000.14R.

Operating Agencies OA01 and OA22

Operating Agencies OA01 and OA22 received about \$470.5 million of the emergency supplemental appropriations from the Army. Operating Agencies OA01 and OA22 personnel could not provide us with transaction listings by document number on how the \$470.5 million was expended. The personnel told us that they did not maintain the records past the DOD documentation retention period.

Other Sites

In addition to the sites visited, we contacted and received transaction listings from U.S. Army Europe Command. An official told us in an e-mail that their emergency supplemental appropriations in DERF were used for installation security. We did not verify this information. We received transaction listings from the U.S. Army Medical Command and four additional TRADOC SUBMACOMs but did not verify the transactions to source documents. We also contacted other Army MACOMs for site visits. Most of these Commands told us that they did not have the documentation to support our audit objectives because of the passage of time and the people with the corporate knowledge of the program were no longer available to provide us with the information to meet the audit objectives. We also contacted the National Guard Bureau with similar results. We therefore limited our audit fieldwork to the sites already visited.

Use of Computer-Processed Data

We relied on computer-processed data provided by Defense Finance and Accounting Service and the Commands we visited. We verified the data to actual source documents and determined the computer-processed data to be sufficiently reliable. However, we did not evaluate the general and application controls of the computers. Although we did not evaluate the general and application controls of the computers, we did not find significant errors in funding and obligation documents that would cause us to change the conclusions of this report.

Prior Coverage

During the last 5 years, the Government Accountability Office (GAO) and the Department of Defense Office of Inspector General have issued three reports discussing DERF for the Global War on Terror. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted DOD IG reports can be accessed at <http://www.dodig.mil/audit/reports>.

GAO

GAO File No. B-303145, “Department of Defense – Transfer and Use of Defense Emergency Response Fund,” December 7, 2005

DOD IG

DOD IG Report No. D-2009-098, “Status of the Defense Emergency Response Fund in Support of the Global War on Terror,” July 30, 2009

DOD IG Report No. D-2008-105, “Defense Emergency Response Fund,” June 20, 2008

Appendix B. Emergency Supplemental Appropriations Affecting the Defense Emergency Response Fund

Public Law 107-38, “2001 Emergency Supplemental Appropriations Act for Recovery From and Response to Terrorist Attacks on the United States,” September 18, 2001, provides funds for emergency expenses resulting from the terrorist attacks that occurred on September 11, 2001, for assistance to the victims of the attacks, and to deal with other consequences of the attacks. The funds were to be used to:

- provide Federal, state, and local preparedness for mitigating and responding to the attacks;
- provide support to counter, investigate, or prosecute domestic or international terrorism;
- provide increased transportation security;
- repair public facilities and transportation systems damaged by the attacks; and
- support national security.

The Law also states that the funds may be transferred to any authorized Federal Government activity to meet the purposes of the Act.

Public Law 107-117, “Department of Defense Emergency Supplemental Appropriations for Recovery From and Response to Terrorist Attacks on the United States Act, 2002,” January 10, 2002, provides funds for DOD emergency expenses in response to the September 11, 2001 attacks for:

- increased situational awareness;
- increased worldwide posture;
- offensive counterterrorism;
- initial crisis response;
- the Pentagon Reservation Maintenance Revolving Fund; and
- relocation costs and other purposes.

The Law also states that the amount is available for the purposes set forth in Public Law 107-38 and that the funds may be used to reimburse other DOD appropriations for costs incurred for such purposes on or after September 11, 2001.

Public Law 107-206, “2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States,” August 2, 2002, provides funding for military personnel; maintenance; procurement; research, development, test, and evaluation; and for overseas humanitarian, disaster, and civic aid. The funds could be transferred to other DOD accounts for classified activities.

Public Law 107-248, "DOD Appropriation Act, 2003," October 23, 2002, requires an amount not to exceed \$305 million be transferred from the Pentagon Reservation Maintenance Revolving Fund to DERF for reconstruction, recovery, force protection, or security enhancements for the Pentagon Reservation.

Public Law 107-296, "Homeland Security Act of 2002," November 25, 2002, requires DOD to transfer the functions, personnel, assets, and liabilities related to National Communications System to the Department of Homeland Security. Because of this Public Law, DOD transferred about \$74.5 million from DERF to the Department of Homeland Security.

Public Law 108-7, "Consolidated Appropriations Resolution, 2003," February 20, 2003, requires the transfer of \$40 million from DERF to the Defense-Wide Procurement account.

Public Law 108-11, "Emergency Wartime Supplemental Appropriations Act, 2003," requires all balances in DERF as of October 31, 2003, be transferred to and merged with IFF.

Public Law 108-106, "Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004," amended Public Law 108-11 by requiring all unobligated balances in DERF to be transferred to IFF. In addition, the Law states that, effective November 1, 2003, adjustments to obligations that would have been chargeable to DERF must be charged to any current DOD appropriations account available for the same purpose.

Appendix C. Office of Management and Budget Guidelines for Funding Requests for Areas Related to the September 11, 2001 Terrorist Attacks



OFFICE OF MANAGEMENT AND BUDGET

September 14, 2001

M- 01- 31

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

FROM: Mitchell E. Daniels, Jr.
Director

SUBJECT: Emergency Funding to Respond to the September 11th Terrorist
Attacks

Today the Congress passed the "Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States, FY 2001." The President will sign this bill into law shortly. In the aftermath of these unspeakable tragedies, the President and the Congress have shown their mutual commitment to ensuring that the Nation has the resources to respond to and recover from the attacks and to protect our national security.

The supplemental appropriations bill provides \$40 billion for "emergency expenses to respond to the terrorist attacks on the United States that occurred on September 11, 2001." Departments and agencies should continue to take all steps necessary to respond swiftly to urgent requirements and to alleviate human endangerment and suffering. All agency costs directly related to these terrorist attacks will be reimbursed. If you have any questions about the availability of funding, please consult your OMB contact.

The Congress has given us extraordinary authority and funding to address this crisis. It is incumbent on us to see that every dollar of these resources is used for the intended purposes and is fully accounted for. Attached for your information are guidelines that OMB will use in identifying and evaluating with you those areas where the funding enacted today should be targeted. These guidelines have been adapted, usually verbatim, from the procedures followed in response to previous emergencies, including Desert Storm, the Northridge earthquake, and the Northwest floods of 1997. A proposed activity is not expected to meet each of these guidelines but, if a request appears to violate one or more, it will be given very close scrutiny.

As the President stated on Tuesday, these attacks "will require our country to unite in steadfast determination and resolve." The emergency funding approved today will enable the government to express that resolve through swift and decisive action. If additional appropriations are required, the President will work with the Congress to ensure that all resources necessary to deal with these attacks are available.

Attachment



**GUIDELINES/CRITERIA FOR
EMERGENCY FUNDING REQUESTS RELATED TO
THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001**

Response and Recovery

1. The damage to be repaired must have been *directly* caused by the terrorist acts.
2. The absence of funding, and consequently a delay in damage repair, protection or other activities, would result in significant *economic loss/hardship, attack risk, or human endangerment/suffering*, including the cost of enhanced security and relocation of employees to secure sites.
3. Any action ordered by the President to respond to the national security consequences of the events of September 11, 2001.
4. The *requirement is known*, i.e., not a speculative need.
5. The requirement is urgent, i.e., could not reasonably be handled at a later time.
6. The activity to be performed is an *appropriate Federal role* and reflects an appropriate sharing of responsibility among State, local, private, and Federal entities.
7. The level of funding is limited to the amount necessary to *restore* the entity/facility to current standards and requirements (e.g., damage to a 1950s building would be repaired using current building codes and standards and guidelines for counterterrorism defense).
8. The requirement is *not competitive with or duplicative* of activities of other agencies with statutorily mandated disaster assistance programs such as the Small Business Administration and the Federal Emergency Management Agency.
9. The requirement *cannot reasonably be met through the use of existing agency funds*, e.g., through reprogramming actions or the use of other emergency funds.

Preparedness and Mitigation

10. Funds should address *specific* deficiencies, encountered or identified to prevent events such as those that occurred on September 11, 2001, and may include expenditures for: law enforcement and investigative activities; general preparation and response (planning, training, equipment, and personnel); physical protection of government facilities and employees; physical protection of the national populace and infrastructure; and governmental awareness of potential threats.
11. Funds can be used to enhance U.S. abilities to interdict terrorist threats.
12. The activity to be performed is an *appropriate Federal role* and reflects an appropriate sharing of responsibility among State, local, private, and Federal entities.
13. The requirement is urgent, i.e., could not reasonably be handled at a later time.
14. Activities are not competitive with or duplicative of activities of other agencies with statutorily mandated preparation programs such as DOD and the Federal Emergency Management Agency.
15. The requirement *cannot reasonably be met with existing agency funds*, e.g., through reprogramming actions or the use of other emergency funds.

Appendix D. Department of the Army Allocation of the DERF

Major Command	Amount (millions)
Army Forces Command	\$497.4
Army Intelligence and Security Command	146.6
Army Materiel Command	434.2
Army Medical Command	21.0
Army Test and Evaluation Command	3.3
Army Training and Doctrine Command	55.2
Army Reserve (Funds issued directly by OUSD(C), limit 101)	7.6
Criminal Investigation Command	19.8
Eighth United States Army	9.0
Joint Forces Command	17.6
Military District of Washington	3.9
National Guard Bureau (funds issued directly by the Army)	137.2
National Guard Bureau (funds issued directly by the OUSD(C) limit102)	208.4
Office of the Chief, Army Reserve	1.3
Operating Agency 01	327.2
Operating Agency 22	143.3
Program Executive Office Aviation	26.0
Program Executive Office, Command Control and Communications	40.0
Program Executive Office, Intelligence and Electronic Warfare	100.9
Program Executive Office Tactical Missiles	27.2
U.S. Army Southern Command	6.7
United States Army Corps of Engineers	26.1
United States Army European Command	8.7
United States Army Europe/Seventh Army	75.3
United States Army Pacific Command	20.4
United States Army Reserve Command	13.9
United States Army Space and Missile and Defense Command	18.1
United States Army South	3.9
United States Military Academy	4.7
United States Special Operations Command	4.6
Undistributed Funds	42.4
Total	\$2,451.9

Assistant Secretary of the Army (Financial Management and Comptroller) Comments



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
FINANCIAL MANAGEMENT AND COMPTROLLER
109 ARMY PENTAGON
WASHINGTON, DC 20310-0109

22 April 2009

MEMORANDUM THRU Auditor General, U.S. Army Audit Agency, 3101 Park Center Drive, Alexandria, VA 22303-1596

FOR Inspector General, Department of Defense, Defense Business Operations, 400 Army Navy Drive, Arlington, VA 22202-4704

SUBJECT: Draft report, Management of Emergency Supplemental Appropriations at Selected Department of the Army Commands in Response to Terrorist Attacks (Project Number: D2008-D000FE-0106.001)

1. We appreciate the opportunity to respond to subject report and are providing comments to Recommendation Number 1.
2. The Army believes that appropriate procedures are in place for Army Components to ensure compliance with the legal restrictions and limitations on obligation and disbursement documents. Public Laws, Statutes, OMB Circulars, DoD FMR, DFAS Regulation 37-1 - Finance and Accounting Policy Implementation and DFAS-IN Manual 37-100-10 contain the policy and procedures that Army Components must follow for funds control and execution. These documents are updated regularly and generally have become more restrictive. Additionally, Funding Allocation and Obligation Authority documents originating from HQDA and OSD also contain footnotes and remarks that cite Public Laws and policy further restricting the use of funds.
3. My point of contact is [REDACTED]


Barbara Bonessa

Director, Management and Control



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
FINANCIAL MANAGEMENT AND COMPTROLLER
109 ARMY PENTAGON
WASHINGTON DC 20310-0109

APR 2 2010

MEMORANDUM THRU Auditor General, Department of the Army, 3101 Park Center Drive, Alexandria, Virginia 22302-1596

FOR Inspector General, Department of Defense, Defense Business Operations, 400 Army Navy Drive, Arlington, Virginia 22202-4704

SUBJECT: Draft report, Management of Emergency Supplemental Appropriations at Selected Department of the Army Commands in Response to Terrorist Attacks (Project Number: D2008-D000FE-0106.001)

1. We appreciate the opportunity to comment on subject report and are providing our comments to Recommendation 2.

2. Pursuant to Volume 14, Chapter 3 of the Department of Defense Financial Management Regulation (February 2008), the Army is required to initiate a preliminary review within 30 days of the receipt of draft audit findings alleging that a potential ADA may have occurred. A directive was sent to the U.S. Army Intelligence and Security Command and the U.S. Army Materiel Command on March 30, 2010 requiring them to initiate a preliminary review.

3. My point of contact for this report is [REDACTED].


John J. Argodale
Deputy Assistant Secretary of the Army
(Financial Operations)



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
FINANCIAL MANAGEMENT AND COMPTROLLER
109 ARMY PENTAGON
WASHINGTON DC 20310-0109

21 April 2010

MEMORANDUM THRU Auditor General, U.S. Army Audit Agency, 3101 Park Center Drive, Alexandria, VA 22302-1596

FOR Inspector General, Department of Defense, Defense Business Operations, 400 Army Navy Drive, Arlington, VA 22202-4704

SUBJECT: Draft report, Management of Emergency Supplemental Appropriations at Selected Department of the Army Commands in Response to Terrorist Attacks (Project Number: D2008-D000FE-0106.001)

1. Army's response to recommendation 3 of the subject report is attached at enclosure.

2. Point of contact is [REDACTED].

Encl
as

for 5th EAL
Cecelia M. Trimble
Acting Director of Business Resources

Draft report: DOD-IG Report *D2008-D000FE-0106.001*

Recommendation 3.

Establish a verifiable rate reduction in the AWCF selling prices to provide rebates to DOD Components by the amount equal to the DERF funding used to supplement the AWCF.

Response. Army concurs with comment.

Unless otherwise authorized by OUSD Comptroller, Army establishes rates and prices during the budget formulation process to recover actual or projected losses or to return actual or projected gains. (DOD FMR, Volume 2b, Chapter 9, Paragraph 090103 F)

The draft reports language implies that AMCOM LCMC should have billed the DOD Components for only the added cost of acquiring the spares rather than the full amount. The report also states that AMCOM LCMC may have used appropriated funds to supplement the AWCF. The DOD FMR, Volume 2b, Chapter 9, Paragraph 090103 F, requires activity groups within the Fund to set prices based on full cost recovery, including all general and administrative support provided by others. Prices are established through the budget process and (except for unusual circumstances) remain fixed during the year of execution.

AMCOM LCMC did not use the DERF funding to supplement the AWCF. The appropriated funds were properly used to acquire spares to augment (increase) inventory to support increased customer demands following the attacks of September 11, 2001. The fact that customer demands have remained at high levels demonstrates the need to sell inventory at full price, collecting sufficient cash to pay for continued spares replenishment. Selling the inventory at less than full price prevents replenishment during a period of increased customer demands, resulting in decreases in customer demand satisfaction and weapons system operational readiness – conditions specifically intended to be remedied by the DERF funding.

Encl



Inspector General Department of Defense

