

September 2008

DOD FINANCIAL MANAGEMENT

Improvements Are Needed in Antideficiency Act Controls and Investigations



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Highlights of [GAO-08-1063](#), a report to congressional committees

Why GAO Did This Study

Senate Report No. 110-77 directed GAO to review the Department of Defense's (DOD) procedures for Antideficiency Act (ADA) violations. GAO focused on whether (1) existing DOD funds control systems, processes, and internal controls provide reasonable assurance that ADA violations will be prevented or detected and whether key funds control personnel are trained; (2) investigations of ADA violations are processed in accordance with applicable DOD regulations; and (3) DOD tracks and reports metrics pertaining to its ADA investigations and what disciplinary actions are taken when ADA violations have occurred. GAO's review included all 54 ADA military service case files closed in fiscal years 2006 and 2007. GAO did not assess the appropriateness of the conclusions reached or of the disciplinary actions taken for the ADA cases.

What GAO Recommends

GAO makes six recommendations related to ensuring that key funds control personnel are trained and to improving compliance with the DOD regulations pertaining to ADA investigations. DOD concurred with the recommendations and identified specific actions that it has taken to implement them.

To view the full product, including the scope and methodology, click on [GAO-08-1063](#). For more information, contact Paula M. Rascona at (202) 512-9095 or rasconap@gao.gov.

DOD FINANCIAL MANAGEMENT

Improvements Are Needed in Antideficiency Act Controls and Investigations

What GAO Found

DOD's complex and inefficient payment processes, nonintegrated business systems, and weak internal controls impair its ability to maintain proper funds control, leaving the department at risk of overobligating or overspending its appropriations in violation of the ADA. DOD Comptroller and military service financial management and comptroller officials responsible for the department's ADA programs have stated that because of weaknesses in DOD's business operations, knowledgeable personnel are critical to improving the department's funds control, and these officials have or are developing training courses. However, only the Army has attempted to identify and determine whether key funds control personnel have received appropriate training to provide them with the knowledge and skills to fulfill their responsibilities, including the ADA, required by DOD regulations.

GAO's analysis of the 54 ADA cases and other documentation provided by the military services disclosed that the military services did not fully comply with DOD regulations intended to ensure that ADA reviews and investigations were conducted by qualified and independent personnel and were completed in a timely manner. More specifically, GAO found the following:

- Only 6 of the 66 investigating officers assigned to the 54 ADA cases reviewed had received all of the required training.
- Nineteen of the 54 ADA cases lacked documentation needed to determine whether the investigating officer was organizationally independent. Further, because the military services focused on organizational independence, they could not be assured that investigating officers were free of personal or external impairments to independence.
- ADA investigations were generally not completed within the 15 months and 25 days set forth by DOD. Of the 54 ADA cases reviewed, 22 cases took over 30 months to complete and only 16 were completed on time.

GAO also noted that DOD, as required, reported the 34 cases in which it had concluded that an ADA violation had occurred to the President and the Congress, with a copy to GAO. For the remaining 20 cases, DOD concluded that an ADA violation had not occurred and therefore external reporting was not required. Further, DOD has taken steps to improve transparency over the ADA investigation process by requiring DOD components to report status information when an ADA investigation is initiated. Additionally, for the 34 ADA cases in which DOD concluded that an ADA violation had occurred, the nature of the disciplinary actions taken and reported to the President and the Congress was consistent with the criteria set forth in the DOD regulations. The ADA requires that employees who are responsible for ADA violations be subject to appropriate administrative discipline. The DOD regulations specify that administrative discipline can range from no action to the termination of the individual's employment.

Contents

Letter		1
	Results in Brief	4
	Background	8
	Long-standing Financial Management Weaknesses Undermine DOD's Ability to Prevent and Identify Potential Antideficiency Act Violations	12
	DOD Lacks Assurance That Potential ADA Investigations Are Processed in Accordance with DOD Regulations	16
	DOD Has Taken Steps to Improve Transparency of Reporting, and the Nature of Disciplinary Actions Taken Is Consistent with the ADA and the DOD FMR	24
	Conclusions	29
	Recommendations for Executive Action	29
	Agency Comments and Our Evaluation	30
Appendix I	Scope and Methodology	33
Appendix II	Comments from the Department of Defense	36
Appendix III	GAO Contact and Staff Acknowledgments	39
Tables		
	Table 1: Crosswalk between Congressional Areas of Interest and GAO Objectives	2
	Table 2: General Classes of Impairments to Independence	22
	Table 3: Disciplinary Actions Taken by the Military Services for ADA Violations Reported in Fiscal Years 2006 and 2007	28

Abbreviations

ADA	Antideficiency Act
DOD	Department of Defense
FMR	Financial Management Regulation
OMB	Office of Management and Budget
OSD	Office of the Secretary of Defense
PCIE/ECIE	President's Council on Integrity and Efficiency/Executive Council on Integrity and Efficiency

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September 26, 2008

Congressional Committees

Federal agencies, including the Department of Defense (DOD), are responsible for ensuring that appropriated funds are used only for purposes, and within the amount and time frames, prescribed by the Congress. In fiscal year 2008, DOD had appropriations totaling more than \$669 billion. To comply with legal and regulatory requirements, DOD must implement and maintain administrative controls that ensure the proper use of its appropriated funds, including the use of accounting and funds control systems that are able to accurately record obligations,¹ collections, and disbursements² against appropriations and the accounts established to track the status of appropriations. DOD financial management has been on our high-risk list since 1995 because of the department's continuing inability to provide accurate, timely, and complete financial and performance information for management use and reporting.³

The Antideficiency Act (ADA)⁴ prohibits any DOD officer or employee from incurring obligations or making expenditures in excess or in advance of appropriations or apportionments.⁵ Under the ADA, the Office of Management and Budget (OMB) apportions appropriated funds and other budgetary resources to DOD. The act further requires DOD to establish by regulation a system of administrative controls to restrict obligations and disbursements to the amounts of appropriations, apportionments, and DOD's subdivisions of those apportionments. Further, when DOD determines that a violation of one of the ADA's proscriptions has occurred, the ADA requires DOD to "report immediately to the President

¹An obligation is a definite commitment that creates a legal liability of the government for the payment of appropriated funds for goods and services ordered and received, or a legal duty on the part of the United States that could mature into a legal liability by virtue of actions on the part of the other party beyond the control of the United States. Obligations include, for example, the awarding of contracts and grants.

²A disbursement is an amount paid by a federal agency, by cash or cash equivalent, during the fiscal year to liquidate obligations, such as payment for goods received under a contract.

³GAO, *High-Risk Series: An Update*, [GAO-07-310](#) (Washington, D.C.: January 2007).

⁴31 U.S.C. §§ 1341-42, 1349-51, 1511-19.

⁵An expenditure is the actual spending of money, typically a disbursement.

and Congress all relevant facts and a statement of actions taken” and to submit a copy to the Comptroller General at the same time.

On January 17, 2007, the DOD Acting Inspector General testified before the Subcommittee on Readiness and Management Support, Senate Committee on Armed Services, on potential violations of the ADA at DOD. Based on the DOD Acting Inspector General’s testimony, the committee expressed concerns about the volume of potential ADA violations, the pace and transparency of ADA investigations, and DOD’s process for preventing, identifying, investigating, and reporting potential ADA violations. Senate Report No. 110-77,⁶ which accompanied the National Defense Authorization Act for Fiscal Year 2008,⁷ directed GAO to review the department’s ADA procedures for preventing, identifying, investigating, and reporting ADA violations and the disciplinary actions taken when violations occur. More specifically, the Senate report identified seven areas of congressional interest, which we have grouped into three objectives, as outlined in table 1.

Table 1: Crosswalk between Congressional Areas of Interest and GAO Objectives

Senate report areas of interest	GAO objectives
Determine the effectiveness of existing measures for the prevention of ADA violations. Determine the adequacy of training provided to DOD military and civilian personnel.	(1) Determine whether existing DOD funds control systems, processes, and internal controls provide reasonable assurance that potential ADA violations will be prevented or identified and whether key funds control personnel are trained.
Determine the adequacy of current procedures utilized for preliminary and formal investigations of potential ADA violations. Determine the qualifications and independence of personnel utilized at each stage of an investigation. Determine the timeliness of investigations of potential violations.	(2) Ascertain whether the military services comply with DOD regulations and criteria related to investigating officer qualifications, including training and independence, and the time frames for conducting preliminary reviews and formal investigations of potential ADA violations.
Determine the transparency both inside and outside DOD of the investigating process. Determine the use and adequacy of available disciplinary measures for ADA violations.	(3) Determine whether DOD tracks and reports metrics pertaining to its preliminary reviews and formal investigations of potential ADA violations and what disciplinary actions are taken when ADA violations have occurred.

Source: GAO.

⁶S. Rep. No. 110-77, at 401 (Oct. 1, 2007).

⁷S. 1547, 110th Cong.; See Pub. L. No. 110-181, 122 Stat. 3 (Jan. 28, 2008).

This report presents more details regarding the preliminary observations we provided on July 28, 2008, in response to the Senate report.⁸ To address the first objective, we reviewed prior GAO and DOD Inspector General audit reports and OMB and GAO guidance to obtain an understanding of the deficiencies in DOD's funds control systems, processes, and internal controls that impede its ability to prevent or identify ADA violations. DOD has acknowledged the financial management weaknesses reported by GAO and DOD auditors and the impact these weaknesses have on the reliability of the department's financial information. As a result, we did not perform additional work to substantiate the adequacy of DOD's financial management environment and internal controls. We interviewed DOD and military service personnel and reviewed documentation, such as the DOD Financial Management Regulation (FMR) and military service training curricula, to ascertain whether the military services had processes in place to identify and ensure that key funds control personnel are trained.

To address the second objective, we reviewed the DOD FMR and interviewed appropriate officials within the DOD Comptroller and military services' financial management and comptroller offices responsible for the ADA programs at DOD or the military services to identify DOD criteria pertaining to the qualifications, training, and independence requirements of investigating officers and the reporting of ADA cases. Additionally, we reviewed the President's Council on Integrity and Efficiency/Executive Council on Integrity and Efficiency (PCIE/ECIE) *Quality Standards for Investigations* to obtain an understanding of qualification, independence, and due professional care standards applicable to investigations.⁹ To assess investigating officers' qualifications, we focused our review on whether the investigating officers had received training and if there was an internal control in place to ensure that the investigating officers did not have any personal, organizational, or external impairments to their ability to conduct impartial and independent investigations.

To address the third objective, we interviewed DOD Comptroller and military service financial management and comptroller officials responsible for ADA programs at DOD or the military services and reviewed DOD's metrics for tracking and reporting on preliminary reviews

⁸GAO, *Financial Management: DOD's Ability to Prevent, Identify, Investigate, and Report on Antideficiency Act Violations*, [GAO-08-941R](#) (Washington, D.C.: July 28, 2008).

⁹President's Council on Integrity and Efficiency/Executive Council on Integrity and Efficiency, *Quality Standards for Investigations* (December 2003).

and formal investigations of potential ADA violations and the results of all 54 Army, Navy, and Air Force formal ADA investigations¹⁰ closed by DOD in fiscal years 2006 and 2007. We did not assess whether the conclusions reached by DOD for the 54 closed ADA cases or the disciplinary actions taken on the 34 cases for which DOD concluded that an ADA violation had occurred were appropriate. Further details on our scope and methodology are presented in appendix I.

We conducted this performance audit from July 2007 through September 2008 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 findings and conclusions based on our audit objectives. We received written comments from the Acting Deputy Chief Financial Officer, which are reprinted in appendix II.

Results in Brief

DOD's complex and inefficient payment processes, nonintegrated business systems, and weak internal control environment impair its ability to reliably control transactions and record them when they occur, including the prompt and proper matching of disbursements with the related obligations, which is critical to ensuring proper funds control. As a result of continuing financial management weaknesses, including difficulties in ensuring the proper authorization, processing, and recording of payments, DOD's ability to timely and reliably determine the amount of funds that it has available to spend is impaired, and the department remains at risk of overobligating and overexpending its appropriations in violation of the ADA. In its fiscal year 2006 *Performance and Accountability Report* and fiscal year 2007 *Agency Financial Report*, the department acknowledged that there are pervasive weaknesses in its internal control system, including funds control.¹¹ The department has numerous efforts under way to modernize its business systems, processes, and controls as part of its

¹⁰The purpose of the formal investigation is to determine the relevant facts and circumstances concerning the potential violation and, if a violation occurred, what caused it, what are the appropriate corrective actions and lessons learned, and who is responsible for the violation.

¹¹Department of Defense, *Performance and Accountability Report: Fiscal Year 2006* (Washington, D.C.: Nov. 15, 2006) and *Agency Financial Report: Fiscal Year 2007* (Washington, D.C.: Nov. 15, 2007).

business transformation initiative.¹² Over the past several years, we have made numerous recommendations aimed at improving the department's business transformation efforts. Generally, the department has agreed with our recommendations and has identified or is planning specific actions to implement our recommendations.

Recognizing the importance of knowledgeable personnel in establishing and maintaining effective funds control, the DOD FMR requires DOD components to ensure that appropriate training programs are in place to provide key funds control personnel with the knowledge, skills, and abilities needed to perform their duties. DOD officials stated that they intend to rely on trained and knowledgeable personnel, such as certifying officers¹³ and departmental accountable officials,¹⁴ within the funds control process to prevent, identify, and report potential ADA violations. DOD and the military services rely on fiscal law (or appropriations law) courses or comparable courses to provide key funds control personnel within the department with the knowledge to prevent, identify, and report potential ADA violations. However, there is no DOD-wide requirement to identify key personnel within the funds control process and implement and document processes and controls to ensure that they are identified and have received the appropriate training. While each of the military services has developed courses, including Web-based courses, only the Army has attempted to identify key personnel within its funds control process and

¹²In 2001, DOD began a massive transformation effort to improve the capability of its business systems and processes to provide the timely, reliable, accurate, and relevant information needed for management, decision making, and reporting. To help guide this undertaking, DOD released its first integrated Enterprise Transition Plan on September 30, 2005, which it updates annually.

¹³Under law, disbursements may be made only on vouchers certified by the head of an agency or a certifying officer designated by the head of the agency. 31 U.S.C. §§ 3322; 3325(a). By law, certifying officers are responsible for (1) the correctness of the facts in the certificate, voucher, and supporting documentation; (2) the correctness of computations on the voucher; and (3) the legality of a proposed payment under the appropriation or fund involved. 31 U.S.C. § 3528.

¹⁴A departmental accountable official is an individual who is responsible in the performance of his/her duties for providing a certifying officer with information, data, or services that the certifying officer relies upon in the certification of vouchers for payment. Departmental accountable officials may include resource managers, fund holders, and funds certifying officials, who are responsible for the proper assignment of funding on an obligation document before the obligation is incurred and for maintaining a system of positive funds control. Departmental accountable officers also may include officers and employees who enter into obligations, such as contracting officers, and who make payment eligibility determinations.

determine whether they have received appropriate training. The Navy and the Air Force have not implemented a process for identifying key personnel within their funds control processes and determining whether they have been trained. Without adequate processes, procedures, and controls to (1) identify individuals who are performing key funds control roles, such as certifying officers, contracting officers, program managers, funds certifying officials, and others, and (2) ensure that they have received the training necessary to fulfill their responsibilities in compliance with the FMR and the ADA, DOD and the military services lack reasonable assurance that these key personnel can serve as a mitigating control in reliably preventing, identifying, and reporting potential ADA violations.¹⁵

Our analysis of the 54 ADA cases¹⁶ disclosed that the military services did not comply with the DOD FMR's procedural requirements regarding the assignment of a qualified, trained, and independent investigating officer and the time frames for completing the investigation process.¹⁷ Specifically, the military services did not (1) consistently maintain and utilize a roster of individuals qualified to perform preliminary reviews or formal investigations of potential ADA violations and (2) establish processes, procedures, and controls for ensuring that investigating officers were properly trained and independent and that preliminary reviews and formal investigations of potential ADA violations were completed within the time frame prescribed by the DOD FMR.¹⁸ The DOD FMR states that the investigating officer should be chosen from a roster of qualified personnel and meet specific qualification requirements, including training and independence, but does not specify that documentation be maintained to support that the DOD component complied with the DOD FMR's requirements. Additionally, the DOD FMR requires that the entire ADA investigation process, including the preliminary review, formal

¹⁵Funds certifying officials are responsible for certifying that funds to procure goods or services are properly chargeable to the appropriate allotment(s) and the available balance(s) within the allotment(s) is sufficient to cover the estimated total price of the procurement transaction.

¹⁶Of the 54 ADA cases closed for the military services by DOD in fiscal years 2006 and 2007, 31 were Army, 13 were Navy, and 10 were Air Force.

¹⁷Department of Defense Financial Management Regulation, 7000.14R, Volume 14, *Administrative Control of Funds and Antideficiency Act Violations* (August 1995).

¹⁸The purpose of a preliminary review is to gather basic facts to determine whether a formal investigation is warranted. This should be done in a timely manner—usually within 90 days.

investigation, and Office of the Secretary of Defense (OSD) review, should generally be completed within a total of 475 days.

In 34 of the 54 ADA cases we reviewed, DOD concluded that an ADA violation had occurred and provided a report to the President and the Congress and a copy to GAO as required by the ADA.¹⁹ For the remaining 20 ADA cases, DOD concluded that an ADA violation had not occurred and therefore no external reporting was required.²⁰ The department's internal reporting of ADA formal investigations cases was consistent with the DOD FMR, and the DOD Comptroller has taken steps to improve internal visibility over pending preliminary reviews and formal investigations. For example, in February 2008, the DOD Comptroller revised the DOD FMR to require DOD components, including the military services, to begin reporting information on preliminary reviews of potential ADA violations, such as the number of reviews under way and a brief description of why a review was initiated.²¹ However, as of June 17, 2008, none of the military services had reported the full scope of required information.

Finally, our analysis of the 34 ADA cases with confirmed ADA violations found that the disciplinary actions taken by the military services were in accordance with the criteria set forth in the DOD FMR and were reported to the President and the Congress, with a copy to the Comptroller General, as required by the ADA. The ADA requires that employees who are responsible for an ADA violation be subject to appropriate administrative discipline. Within DOD, the DOD FMR specifies that such administrative discipline can range in severity from no action to the termination of the individual's federal employment. Responsibility for determining what disciplinary action is warranted once it has been determined that an ADA violation has occurred resides with the military service, within established procedures for disciplining civilian and military personnel.

¹⁹Of the 34 military service ADA cases, the Army, Navy, and Air Force were responsible for 21, 7, and 6 of these cases, respectively.

²⁰Of the 20 military service ADA cases that were closed by DOD and did not require external reporting, the Army, Navy, and Air Force were responsible for 10, 6, and 4 of these cases, respectively.

²¹*Department of Defense Financial Management Regulation*, 7000.14R, Volume 14, *Administrative Control of Funds and Antideficiency Act Violations*, ch. 3, "Preliminary Reviews of Potential Violations" (February 2008).

We recommend that the Secretary of Defense direct the Under Secretary of Defense (Comptroller) to take the following two actions to update the DOD FMR to require that (1) ADA case files document that the investigating officer(s) selected to conduct a preliminary review or formal investigation is(are) free of personal, external, and organizational independence impairments and (2) DOD components maintain documentation of the date by which an investigating officer must receive refresher training in order to remain qualified to perform ADA preliminary reviews and investigations. Additionally, we recommend that the Secretary of Defense direct the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force to take the following four actions: (1) implement and document processes, procedures, and controls to identify and help ensure that key funds control personnel, including funds certifying officials, are properly trained so that they can fulfill their responsibilities to prevent, identify, and report potential ADA violations; (2) implement and document processes, procedures, and controls to oversee and monitor compliance with DOD FMR provisions requiring the maintenance and use of a roster for selecting qualified ADA investigating officers; (3) develop, implement, and document policies and procedures to help ensure compliance with the DOD FMR requirements for investigating officer training; and (4) develop, implement, and document policies and procedures to help ensure compliance with the DOD FMR requirements for investigating officer independence. We received written comments from the Acting Deputy Chief Financial Officer, which are reprinted in appendix II. DOD concurred with our recommendations and identified specific actions it has taken to implement these recommendations.

Background

The ADA is one of the major laws in the statutory scheme by which the Congress exercises its constitutional control of the public purse.²² Despite the name, it is not a single act, but rather a series of related provisions that evolved over a period of time in response to various abuses. As late as the post-Civil War period, it was not uncommon for agencies to incur obligations in excess, or in advance, of appropriations. Perhaps most egregious of all, some agencies would spend their entire appropriations during the first few months of the fiscal year, continue to incur obligations, and then return to the Congress for appropriations to fund

²²"No money shall be drawn from the Treasury, but in Consequence of Appropriations made by law." U.S. Const. art. I, § 9, cl. 7.

these “coercive deficiencies.”²³ These were obligations to others who had fulfilled their part of the bargain with the United States and who now had at least a moral—and in some cases also a legal—right to be paid. The Congress felt it had no choice but to fulfill these commitments, but the frequency of deficiency appropriations played havoc with the United States’ budget. The Congress expanded the ADA several times throughout the 20th century to require and enforce apportionments and agency subdivisions of apportionments to achieve more effective control and conservation of funds.

The ADA contains both affirmative requirements and specific prohibitions, as highlighted below. The ADA:

- Prohibits the incurring of obligations or the making of expenditures in advance or in excess of an appropriation. For example, an agency officer may not award a contract that obligates the agency to pay for goods and services before the Congress makes an appropriation for the cost of such a contract or that exceeds the appropriations available.
- Requires the apportionment of appropriated funds and other budgetary resources for all executive branch agencies. An apportionment may divide amounts available for obligation by specific time periods (usually quarters), activities, projects, objects, or a combination thereof. OMB, on delegation from the President, apportions funds for executive agencies.
- Requires a system of administrative controls within each agency, established by regulation, that is designed to (1) prevent obligations and expenditures in excess of apportionments or reapportionments; (2) fix responsibility for any such obligations or expenditures; and (3) establish the levels at which the agency may administratively subdivide apportionments, if it chooses to do so.
- Prohibits the incurring of obligations or the making of expenditures in excess of amounts apportioned by OMB or amounts of an agency’s subdivision of apportionments.
- Prohibits the acceptance of voluntary services, except where authorized by law.

²³For an explanation of coercive deficiencies, see GAO, *Principles of Appropriations Law*, vol. 2, 3rd ed., [GAO/OGC-06-382SP](#) (Washington, D.C.: February 2006), 6-34.

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- Specifies potential penalties for violations of its prohibitions, such as suspension from duty without pay or removal from office. In addition, an officer or employee convicted of willfully and knowingly violating the prohibitions may be fined not more than \$5,000, imprisoned for not more than 2 years, or both.
 - Requires that for violations of the act's prohibitions, the relevant agency report immediately to the President and to the Congress all relevant facts and a statement of actions taken with a copy to the Comptroller General of the United States.

The requirements of the ADA and the enforcement of its proscriptions are reinforced by, among other laws, the Recording Statute, 31 U.S.C. § 1501(a), which requires agencies to record obligations in their accounting systems, and the 1982 law commonly known as the Federal Managers' Financial Integrity Act of 1982, 31 U.S.C. § 3512(c), (d), which requires executive agencies to implement and maintain effective internal controls. Federal agencies use "obligational accounting" to ensure compliance with the ADA and other fiscal laws. Obligational accounting involves the accounting systems, processes, and people involved in collecting financial information necessary to control, monitor, and report on all funds made available to federal agencies by legislation—including both permanent, indefinite appropriations and appropriations enacted in annual and supplemental appropriations laws that may be available for 1 or multiple fiscal years. Executive branch agencies use obligational accounting, sometimes referred to as budgetary accounting, to report on the execution of the budget.²⁴

Overview of DOD's Process for Identifying, Investigating, and Reporting ADA Violations

The DOD FMR, Volume 14, *Administrative Control of Funds and Antideficiency Act Violations*, establishes procedures for DOD components in identifying, investigating, and reporting potential ADA violations. The ADA does not prescribe the process for conducting an ADA investigation.

²⁴DOD must also implement and maintain proprietary (or financial) accounting to record and report financial information in audited financial statements prepared in accordance with generally accepted accounting principles. Agency audited financial statements include a Statement of Budgetary Resources that reports information on the status of appropriations. For a description of the different methods for tracking funds in the federal government, see app. III of GAO, *A Glossary of Terms Used in the Federal Budget Process*, [GAO-05-734SP](#) (Washington, D.C.: September 2005).

Upon learning of or identifying a possible violation of the ADA, an individual should report the potential violation to his/her immediate supervisor within 10 working days.²⁵ Next, the DOD component appoints an investigating officer to perform a preliminary review of the applicable business transactions and accounting records. The purpose of a preliminary review is to gather basic facts and determine whether a violation may have occurred. The DOD FMR states that the preliminary review should be completed in a timely manner, usually within 90 days. If the investigating officer determines, based upon the results of the preliminary review, that there is a potential ADA violation, the DOD component is required to initiate a formal investigation within 15 days.

The purpose of a formal investigation is to determine the relevant facts and circumstances concerning the potential violation, to discern whether a violation actually occurred, and, if so, to determine the cause, the appropriate corrective actions, any lessons learned, and to ascertain who was responsible for the violation. According to the DOD FMR, the DOD component should complete the formal investigation of an ADA violation, including submission of final summary reports to the office of the Under Secretary of Defense (Comptroller), within 9 months of initiating the formal investigation.²⁶ The OSD, including the DOD Comptroller's office, then has 3 months to review the DOD component's final summary report and prepare and submit transmittal letters to the President and the leaders of both Houses of the Congress, with a copy to the Comptroller General. The DOD FMR has established that a preliminary review, formal investigation, and OSD review should be completed within approximately 15 months and 25 days—or about 475 days.

²⁵When apprised of a potential violation by an audit report or other means, the Office of the Under Secretary of Defense (Comptroller) can also request a DOD component to perform a preliminary review of the circumstances surrounding a potential ADA violation.

²⁶The head of a DOD component may grant an extension of up to 3 months on a case-by-case basis with a statement of justification submitted to the DOD Comptroller.

Long-standing Financial Management Weaknesses Undermine DOD's Ability to Prevent and Identify Potential Antideficiency Act Violations

DOD's complex and inefficient payment processes, lack of integrated business systems, and weak internal control environment hinder its ability to control and properly record transactions and to ensure prompt and proper matching of disbursements with obligations, which is essential for the proper recording of transactions. DOD Comptroller and military service financial management and comptroller officials responsible for the department's ADA programs have stated that because of weaknesses in the department's business processes and systems, knowledgeable personnel are critical to improving the department's funds control processes. DOD components responsible for executing the department's budget, such as the military services, are responsible for ensuring that key personnel within their funds control processes are properly trained to fulfill their responsibilities. The military services have efforts under way to provide classroom or Web-based training to key funds control personnel. However, neither the Navy nor the Air Force has identified specific key funds control personnel who should be trained. Moreover, the Navy and the Air Force financial management and comptroller officials responsible for their military services' ADA programs could not provide documentation of the processes and procedures each military service has or will utilize to ensure that key funds control personnel are trained. Army Financial Management and Comptroller Office officials responsible for the Army's ADA program stated that the Army has begun to identify key personnel within the its funds control processes and determine if they have received training. However, the Army officials acknowledged that many of the Army's key funds control personnel have not received training. As discussed later in this report, we also noted that of the 54 ADA cases reviewed, 20 case files (or over 37 percent) indicated that improved training of key funds control personnel was needed. Without adequate processes, procedures, and controls to (1) identify individuals who are performing key funds control roles, such as funds certifying officials, resource managers, fund holders, certifying officers, contracting officers, program managers, and others, and (2) ensure that they have received the training necessary to fulfill their responsibilities in compliance with the FMR and the ADA, DOD and the military services lack reasonable assurance that these key personnel can reliably prevent, identify, and report ADA violations.

Weaknesses in Controls, Processes, and Systems Hinder DOD's Ability to Maintain Effective Funds Control

Given the numerous documented control risks over funds control, DOD does not have reasonable assurance that it has prevented, identified, investigated, and reported all potential ADA violations. These weaknesses have adversely affected the ability of DOD to ensure basic accountability, maintain funds control, and prevent fraud. For example, we reported in 2005 that after decades of continuing financial management and accounting weaknesses, information related to long-standing unreconciled disbursement and collection activity was so inadequate that DOD was unable to determine the true value of certain disbursement and collection suspense differences that it removed from its records by writing them off. As a result, DOD could not determine whether any of the write-off amounts, had they been charged to the proper appropriation, would have caused an ADA violation.²⁷

Pervasive business system, process, and control weaknesses acknowledged by the department have hindered DOD's ability to prevent, identify, investigate, and report ADA violations. Recent reports by the DOD Inspector General indicate that the weak control environment continues to exist today. For instance:

- In November 2006 and 2007, the DOD Inspector General reported, and the department acknowledged, that it continues to have significant internal control deficiencies that impede its ability to produce accurate and reliable information on the results of its operations. These deficiencies adversely affect the ability of the department's financial management systems to reliably and accurately record accounting entries and report financial information, such as its fund balance with Treasury, accounts payable, and accounts receivable. For example, DOD made over \$22 billion in unsupported adjustments for fiscal year 2007 to force its cost accounts to match obligation information. These weaknesses affect the safeguarding of assets and proper use of funds and impair the prevention and identification of fraud, waste, and abuse.²⁸
- The DOD Inspector General reported in March 2008 that the Air Force and the Defense Finance and Accounting Service did not establish and maintain adequate and effective internal control over Air Force vendor

²⁷ GAO, *DOD Problem Disbursements: Long-standing Accounting Weaknesses Result in Inaccurate Records and Substantial Write-offs*, [GAO-05-521](#) (Washington, D.C.: June 2, 2005).

²⁸ Department of Defense, *Performance and Accountability Report: Fiscal Year 2006*, and *Agency Financial Report: Fiscal Year 2007*.

disbursements. The DOD Inspector General noted numerous internal control weaknesses in contract formation and funding, funds control, vendor payment, and financial accounting. According to the report, these weaknesses represent a high risk that violations of laws and regulations not only occurred, but will likely continue to occur if corrective action is not taken.²⁹

As part of its long-term initiative to address such weaknesses, the department has embarked upon a massive effort to transform its business operations, including financial management. Over the next several years, the department will be spending billions of dollars to implement these systems. However, it will be a number of years before the department's business system modernization efforts are complete, and as we have previously reported, DOD has encountered challenges in developing systems that meet time frame, cost, and functionality goals.³⁰ Until DOD can successfully transform its business operations, including implementation of effective business processes, controls, and systems, the department's ability to ensure proper funds control and compliance with the ADA will continue to be impaired. Until then, mitigating controls, including knowledgeable personnel, will be key to effective funds control. Over the past several years, GAO has made numerous recommendations aimed at improving the department's business transformation efforts. Generally, the department has agreed with our recommendations and has identified or is planning specific actions to implement our recommendations.

²⁹Department of Defense Office of Inspector General, *Vendor Pay Disbursement Cycle, Air Force General Fund*, Report No. D-2008-063 (Arlington, Va.: Mar. 12, 2008).

³⁰GAO, *DOD Business Transformation: Lack of an Integrated Strategy Puts the Army's Asset Visibility System Investments at Risk*, [GAO-07-860](#) (Washington, D.C.: July 27, 2007).

Key Funds Control Personnel May Not Have Received Training to Fulfill Their Responsibilities in Preventing, Identifying, and Reporting Potential ADA Violations

As DOD auditors have previously reported, improper disbursements or payments have occurred, in part, because personnel failed to comply with DOD policy and provide accurate and timely information to support the payment of and properly record the transactions.³¹ For example, the DOD Inspector General reported in April 2008 that the Mid-Atlantic, Southeast, and South Central Regional Maintenance Centers inappropriately obligated funds on ship maintenance and repair contracts because of ineffective internal controls. As a result, at least \$103 million of U.S. Fleet Force Command Operations and Maintenance appropriations were not available for other ship maintenance and repair needs.³² The knowledge and understanding of DOD regulations and applicable federal laws, such as the ADA, by DOD personnel involved in the obligation, payment authorization, and recording processes are critical to the prevention and detection of ADA violations within the department. Both DOD and military service officials responsible for ADA programs at DOD or the military services have stated the importance of trained and knowledgeable personnel in establishing and maintaining effective funds control. Additionally, the DOD FMR requires DOD components to ensure that appropriate training programs are in place to provide personnel with the knowledge, skills, and abilities needed to perform their funds control duties. However, there is no DOD-wide requirement for DOD components to establish and document that key employees within their funds control processes, such as fund certifying officials, certifying officials, and departmental accountable officers, are identified and have received the appropriate training.

Efforts are under way to provide key funds control personnel classroom and Web-based training. Additionally, the Army began an effort in 2006 to identify its fund certifying officials and track their training. While the training of these individuals is critical to improving the Army's overall funds control process, this training does not include other key individuals, such as certifying officers and departmental accountable officials. Also, neither the Navy nor the Air Force could provide documentation of the processes, procedures, and controls they have or will utilize to ensure that key funds control personnel are trained. Navy and Air Force financial management and comptroller officials acknowledged that their military

³¹GAO-05-521 and DOD Inspector General Report No. D-2008-063.

³²Department of Defense Office of Inspector General, *Obligation of Funds for Ship Maintenance and Repair at the U.S. Fleet Forces Command Regional Maintenance Centers*, Report No. D-2008-083 (Arlington, Va.: Apr. 25, 2008).

services currently do not identify and track training of individual key funds control personnel to ensure that they have received the training needed to fulfill their responsibilities in preventing, identifying, and reporting potential ADA violations. Moreover, follow-up with two Navy and two Air Force major commands with reported ADA violations in fiscal years 2006 and 2007 revealed that they could not identify specific key funds control personnel or provide information on the training, if any, they had received.

To its credit, in 2006, the Army began an effort to identify key personnel within its funds control process and to begin tracking the training provided. According to a June 2, 2006, memorandum signed by the Assistant Secretary of the Army, Financial Management and Comptroller, “the Army’s ADA portfolio has reached an unacceptable level ... [and] reflects negatively on the Army’s financial stewardship.” The Assistant Secretary directed all Army major commands to identify their funds certifying officials and report back as to the number of these personnel who had received training. Based upon the training information it obtained as of June 5, 2008, Army officials acknowledged that their effort to identify key personnel within the Army’s control processes and the training they received had revealed that many of its key funds control personnel had not been trained. According to Army officials, the Army is now working to ensure that this situation is corrected.

DOD Lacks Assurance That Potential ADA Investigations Are Processed in Accordance with DOD Regulations

DOD and the military services have not established processes and procedures to oversee and monitor compliance with DOD FMR provisions requiring the assignment of qualified, trained, and independent ADA investigating officers and the completion of investigations within the prescribed time frames.³³ The DOD FMR establishes procedures for DOD components to assign investigating officers. Specifically, the DOD FMR states that the investigating officer should be chosen from a roster of qualified personnel to ensure that he/she meets all the following qualifications:

- adequately trained to conduct an investigation of this type,
- adequate experience in the functional area that is involved with the apparent violation,

³³If a potential violation appears to involve a complex situation or a multitude of functional areas, the DOD component may utilize a team of investigating officers to conduct the investigation.

-
- knowledgeable of financial management policies and procedures, and
 - skilled in investigating potential ADA violations.

Each DOD component is responsible for ensuring that its ADA investigating officers are qualified to conduct investigations and have received the required training, as prescribed by the DOD FMR. Training requirements include completion of a fiscal law, or equivalent, course and any additional training on an as-needed basis to ensure that the investigating officer is qualified. To remain qualified to conduct ADA investigations, the DOD FMR also requires that investigating officers receive refresher training every 5 years. Once an individual completes the appropriate training and meets the above-mentioned qualifications, the DOD FMR requires that his/her name be included on a roster of available ADA investigating officers maintained by each DOD component. Further, the DOD FMR states that investigating officers must be independent and capable of conducting a complete, impartial, and unbiased investigation. Finally, the DOD FMR establishes a time frame of approximately 15 months and 25 days for completing an ADA investigation. The following sections highlight specific examples of where the military services did not comply with DOD FMR criteria.

Rosters Were Not Consistently Used to Select Qualified Investigating Officers

Army and Air Force officials informed us that selection of an investigating officer was left to the major command where the violation had occurred and that each major command is responsible for maintaining its own roster. The data required by the DOD FMR to be maintained on the roster of available investigating officers include name, rank/grade, date initial training was received, organization to which assigned, functional specialties, and the number of investigations previously conducted. Collectively, these attributes help substantiate the qualifications, including training and organizational independence, of the person selected to be an ADA investigating officer. For the Army, we requested rosters from the 10 commands that were responsible for selecting the 39 investigating officers who reviewed the 31 Army ADA cases. The Army commands could not provide the rosters, nor could the Army provide documentation of how it ensures that its investigating officers are qualified. Interviews with 3 Army investigating officers and Army financial management and comptroller officials and our analysis of the Army cases disclosed that the Army appoints investigating officers based on functional specialty or work experience. The Air Force uses a roster in selecting 5 of its 12 investigating officers to review the 10 Air Force ADA cases, but could not provide rosters or other documentation regarding how the remaining 7

investigating officers were selected and how their qualifications were determined. The Navy uses a centralized roster to select its investigating officers; however, only 7 of the 15 investigating officers assigned to the 13 closed Navy ADA cases reviewed were selected from the roster. The Navy financial management and comptroller official responsible for the Navy's ADA program could not provide documentation regarding how the other 8 investigating officers were selected or why they were not selected from the centralized roster.

The requirement to use rosters in selecting investigating officers is intended to ensure that investigating officers are selected from a population of predetermined qualified individuals. During our review, Army and Navy financial management and comptroller officials responsible for their military services' ADA programs stated that the DOD FMR requirement regarding the maintenance and utilization of a roster of qualified individuals to select investigating officers was no longer required. However, follow-up with DOD Comptroller officials responsible for the department's ADA program refuted the military services' assertion. The DOD Comptroller officials stated on several occasions that the requirement to use a roster was still valid and not under consideration for revision. The inconsistent manner in which the military services have complied with this requirement raises concerns as to whether DOD or the military services have reasonable assurance that individuals assigned to conduct ADA reviews and investigations are qualified.

Military Services Were Unable to Provide Documentation That All Investigating Officers Are Properly Trained

The military services do not maintain adequate documentation that investigating officers selected to perform ADA preliminary reviews and formal investigations have been properly trained. Based on our review of the closed ADA case files, the rosters, and other documentation provided by the military services, we were only able to determine that 6 of the 66 investigating officers assigned to the 54 ADA cases reviewed had received the required training. Our analysis of available documentation disclosed that only 13 of the 66 investigating officers had received initial training in fiscal law and 10 of the 13 had received required refresher fiscal law training within 5 years of the initial training.³⁴ Further, our analysis disclosed that only 6 of the 13 investigating officers received all of the required training, including training on how to conduct an investigation.

³⁴Based on additional information received from the Navy and the Air Force, we updated the information presented in our July 28, 2008, report, [GAO-08-941R](#).

Training requirements for investigating officers outlined in the DOD FMR specify the following:

- a fiscal law, or equivalent, course;
- a refresher fiscal law, or equivalent, course within 5 years of initial training; and
- training in interviewing, gathering evidence, developing facts, documenting findings and recommendations, preparing reports of violation, recommending appropriate disciplinary action, meeting time frames established for the completion of an investigation, and recommending corrective actions.

Once an individual completes the required training, the component is to issue a certificate indicating that all of the required courses have been taken, and the individual's name is added to the roster of individuals deemed qualified to be ADA investigating officers. To remain eligible to conduct investigations, an individual is required to renew his/her certificate every 5 years by attending a refresher training course.

While the training requirements for investigating officers are explicit, the military services were not able to provide documentation that clearly indicated that all investigating officers selected to perform the investigations in the 54 ADA cases that were closed in fiscal years 2006 and 2007 had received the required training. Specifically, the Army does not currently track when an investigating officer received initial or subsequent training. As a result, we could not determine if any of the 39 investigating officers used by the Army to complete the 31 ADA cases were properly trained. An Army Financial Management and Comptroller Office official responsible for the Army's ADA program stated that Army investigating officers are required to read the *Army Investigating Officer Handbook*. However, the Army official acknowledged that the Army does not have a process or procedure for ensuring that each of its investigating officers actually reads or receives a copy of the manual, which we confirmed through interviews with Army investigating officers. The Army official further stated that the Army is developing an online investigating officer training course that will require participants to pass a test before they can receive course credit. The Army plans to have the course online later this calendar year.

Regarding the 12 investigating officers assigned to the 10 closed Air Force ADA cases we reviewed, we could not determine from the rosters or ADA

case files if the investigating officers had taken a fiscal law course within the past 5 years. An official within the Air Force's Financial Management and Comptroller Office responsible for the Air Force's ADA program stated that fiscal law is incorporated into the Air Force's Web-based investigating officer training. As a result, the Air Force does not require investigating officers to take an individual fiscal law course. Air Force investigating officers are required to include a copy of the verification of class completion documentation as an attachment to their draft ADA preliminary review or investigation reports. Our analysis of the 10 closed Air Force ADA case files found that only 6 of the 12 investigating officers provided verification that the required training had been completed. The Air Force could not provide documentation that the remaining 6 investigating officers were trained.

With respect to the Navy, 15 investigating officers were used in the 13 closed Navy ADA cases we reviewed. Of the 15 investigating officers, the supporting documentation provided by the Navy indicated that only 7 had received initial training in fiscal law and 4 of the 7 had received required refresher fiscal law training within 5 years of the initial training. In June 2008, an official within the Navy's Financial Management and Comptroller Office responsible for the Navy's ADA program stated that the Navy was in the process of developing and testing an investigating officer training curriculum of online courses designed to provide investigative officers with the required skills and techniques, such as interviewing witnesses and developing facts and conclusions, as prescribed by the DOD FMR. The Navy plans to have these courses online by the end of this calendar year.

Moreover, based on documentation provided, only 10 of the 66 investigating officers assigned to the 54 ADA cases received the required refresher fiscal law training. The FMR does not include a requirement for the roster to document when refresher training was needed or received. Without up-to-date rosters or some comparable method to track the status of training received by potential investigating officers, the military services do not have a process to provide reasonable assurance that the investigating officers appointed to conduct preliminary reviews and investigations of potential ADA violations are properly trained.

Independence of Investigating Officer Is Not Ensured

The military services do not have an established process or procedure for ensuring and documenting that investigating officers do not have any personal or external impairment that would affect their independence and objectivity in conducting ADA reviews and investigations. The DOD FMR states that individuals with no vested interest in the outcome, and who are

capable of conducting a complete, impartial, unbiased investigation, shall conduct investigations of potential violations. Additionally, the regulation states that an investigating officer must be chosen from an organization external to the organization being investigated, which the use of a roster, as discussed earlier, is intended to facilitate.

The PCIE/ECIE publication, entitled *Quality Standards for Investigations*, states that “in all matters relative to investigating work, the investigating organization must be free, both in fact and appearance, from impairments to independence; must be organizationally independent; and must maintain an independent attitude.”³⁵ Further, the standard for independence places the responsibility for maintaining independence upon agencies, investigative organizations, and investigating officers themselves, so that judgments used in obtaining evidence, conducting interviews, and making recommendations will be impartial and will be viewed as impartial by knowledgeable third parties. To maintain a high degree of integrity, objectivity, and independence, organizations should take into account the three general classes of independence—personal, external, and organizational.³⁶ Table 2 illustrates the types of independence impairments.

³⁵President’s Council on Integrity and Efficiency and Executive Council on Integrity and Efficiency, *Quality Standards for Investigations*. These standards provide guidelines primarily for criminal investigating officers working with offices of inspectors general. Because ADA investigating officers in DOD are required to name one or more responsible individuals when they decide that a violation has occurred, and because these individuals are subject to disciplinary actions based on the investigation’s findings, the threats to investigating officer independence are similar to those faced by criminal investigators. Thus, we believe that these are appropriate standards to apply to internal DOD ADA investigations.

³⁶President’s Council on Integrity and Efficiency/Executive Council on Integrity and Efficiency, *Quality Standards for Investigations*. (December 2003).

Table 2: General Classes of Impairments to Independence

General classes of impairments to independence	Examples of impairments
Personal	Relationships or beliefs that might limit the extent of the inquiry, limit disclosure, or weaken or slant the investigation findings.
External	Actual or perceived pressure from management and employees of the entity or oversight organization under investigation that deter an individual from acting independently and objectively and exercising professional skepticism.
Organizational	When the investigating function is organizationally located within the reporting line of the areas under the investigation or when the individual is assigned or takes on responsibilities that affect operations of the area under the investigation.

Source: PCIE/ECIE, *Quality Standards for Investigations*.

If one or more of these impairments affects or can be perceived to affect independence, the individual selected to perform the investigation should not be assigned to perform the work. In addition, organizations should maintain documentation of the steps taken to identify potential personal independence impairments.

Our analysis of the 54 ADA cases closed for the military services in fiscal years 2006 and 2007 disclosed that the military services focused on organizational independence as a criterion for ensuring investigating officer independence. In 35 of the 54 ADA cases reviewed, the investigating officers were chosen from an organization external to the one under investigation and therefore were determined by DOD to be organizationally independent.³⁷ The remaining 19 case files lacked documentation as to whether the investigating officers assigned to the case were organizationally independent. Additionally, the military services did not maintain documentation in the case files or through other means to support that they took steps to ensure that the investigating officers assigned to each of the 54 cases were free from personal or external impairments that may have adversely affected their ability to conduct independent and objective investigations.

³⁷ Sixty-six investigative officers were assigned to the 54 closed military service ADA cases we reviewed. In some cases, the preliminary review and formal investigation were performed by different investigative officers.

Currently, the DOD FMR does not require documentation of an investigating officer's independence. Further, the military services do not require documentation of the steps taken to ensure investigating officers' independence or obtain written assertions regarding independence from the investigating officers. Instead, based on our analysis of the ADA case files and statements made by officials responsible for the military services' ADA programs, it appeared that the military services assume that an investigating officer is independent if he/she was selected from an organization external to the one that incurred the potential violation. Due to the constant rotational nature of the military, the act of selecting an "external" individual does not by itself provide assurance that the independence standards will be met. As a result, until the military services document the steps taken to confirm independence, they cannot be assured that the investigating officers who conduct ADA investigations are independent.

DOD Lacks Assurance That ADA Cases Are Completed within Required Time Frames

Our analysis of the 54 ADA cases closed for the military services in fiscal years 2006 and 2007 disclosed that the time frame for completing both the preliminary review and formal investigation of a potential ADA violation was generally longer than the time frame specified in the DOD FMR. While the DOD Comptroller tracks the number and identity of overdue formal ADA investigations and issues memorandums to DOD components to follow up on overdue ADA reports, we found that 22 (or over 41 percent) of the 54 closed ADA cases reviewed took longer than 30 months to complete and only 16 of the 54 cases (or about 30 percent) were completed within the 475 days generally required by the DOD FMR. Including the 3 months allotted to OSD to review the final report, the Army took an average of 33 months and the Air Force took an average of 31 months to complete preliminary reviews and formal investigations. We were unable to ascertain the length of time the Navy took to complete its preliminary reviews because the Navy ADA case files did not contain complete information on the preliminary review phase of the investigation. However, we were able to determine that the Navy took on average 17 months to complete the formal ADA investigation phase, including OSD's review period, for the 13 Navy ADA cases closed in fiscal years 2006 and 2007. The DOD FMR generally requires that this stage of the investigation be completed within 12 months.

Military service officials were unable to provide specific reasons why the established time frames were sometimes not achieved other than indicating that each case has its own set of specific circumstances and complexities. To attempt to identify more specific reasons why the time

frames were not met, we contacted several investigating officers who indicated that inexperience in performing investigations and other job demands had adversely affected their ability to meet the prescribed time frames. They acknowledged, and DOD Comptroller and military service financial management and comptroller officials concurred, that they were not dedicated to the ADA investigation full-time, but were often required to complete the investigation in addition to their regularly assigned jobs. Without effective oversight and monitoring, neither DOD nor the military services can be certain why a preliminary review or formal investigation is not completed within the allotted time frame and what actions, if any, need to be taken to ensure timely completion of the ADA preliminary review or investigation.

DOD Has Taken Steps to Improve Transparency of Reporting, and the Nature of Disciplinary Actions Taken Is Consistent with the ADA and the DOD FMR

The military services provided OSD the required monthly investigation summary information for the 54 ADA cases reviewed. Additionally, for the 34 cases for which DOD concluded that ADA violations had occurred, the violations were reported to the President and the Congress and copies of the reports were provided to the Comptroller General, as required by the ADA. The remaining 20 closed ADA cases were deemed not to have been ADA violations and therefore did not require reporting external to DOD. Additionally, the DOD Comptroller has taken steps in recent years to improve visibility within the department over the ADA investigation process, including preliminary reviews and formal investigations. Further, our analysis of the 34 ADA cases with confirmed ADA violations found that the disciplinary actions taken by the military services were in accordance with the criteria set forth in the DOD FMR. The ADA requires that employees who are responsible for an ADA violation be subject to appropriate administrative action. Within DOD, the FMR specifies that such administrative discipline can range in severity from no action to the termination of the individual's federal employment. Responsibility for determining what disciplinary action is warranted once it has been determined that an ADA violation has occurred resides with the military service, within established procedures for disciplining civilian and military personnel.

DOD Is Taking Steps to Improve Transparency over the ADA Investigative Process

DOD reported the results of the 34 ADA cases that it concluded had an ADA violation to the President and the Congress, with a copy of the report to Comptroller General, as required by the ADA and OMB guidance.³⁸ The act states that reports of violations should include all relevant facts and a statement of actions taken. OMB guidance notes that the report should include

- the title and Department of the Treasury (Treasury) symbol (including the fiscal year) of the appropriation or fund account, the amount involved, and the date on which the violation occurred;
- the name(s) and position(s) of the individual(s) responsible for the violation;
- all facts pertaining to the violation, including the type of violation, the primary reason or cause, and any statement from the responsible individual;
- the disciplinary action taken;
- a statement confirming that all information has been submitted to the Department of Justice if it is deemed that the violation was knowing and willful;
- a statement regarding the adequacy of the system of administrative control prescribed by the head of the agency and approved by OMB and a proposal for a regulation change, if the head of the agency determines a change is needed;
- statement of any additional action taken by, or at the discretion of, the agency head; and
- a statement concerning the steps taken to coordinate the report with the other agency, if another agency is involved.

As noted above, each ADA violation case file should contain a statement regarding additional action(s) taken as result of the violation. Of the 34 ADA violations, DOD reported taking corrective action in 33 cases. In 11 of the 33 cases, DOD indicated that improved training of key funds control

³⁸OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, § 145, (July 2007), specifies report contents.

personnel was needed. In the one case in which no corrective action was identified, the responsible individual was relieved of command. For the 20 ADA cases in which DOD concluded that no ADA violation occurred, we found that 13 of those cases identified corrective actions to be taken by the DOD component. Nine of the 13 cases recommended training of key funds control personnel as a corrective action. Although the ADA reviews and investigations of potential ADA violations recognized the need for the military services to provide key funds control personnel with proper training, as we stated earlier, other than actions initiated by the Army, the military services have not established processes and procedures for ensuring that these important personnel are identified and properly trained.

Required internal reporting for formal investigations is more detailed than the reporting requirements outlined by OMB guidance for reporting ADA violations. The DOD FMR requires DOD components to provide, on a monthly basis, specific status information to the DOD Comptroller regarding their ongoing formal ADA investigations. This status information includes (1) case number, (2) status, (3) amount, (4) appropriation and Treasury account symbol, (5) U.S. Code reference, (6) organization where potential violation occurred, (7) location where potential violation occurred, (8) nature of potential violation, (9) date potential violation occurred, (10) date potential violation was discovered, (11) date investigation began, (12) source of potential violation, (13) brief description of potential violation(s), and (14) progress of the investigation/other comments. Our review of the 54 military service ADA cases closed by DOD in fiscal years 2006 and 2007 found that the military services had complied with DOD's internal reporting requirements.

To enhance DOD's ability to oversee the investigation process, the DOD Comptroller implemented an electronic "dashboard" in 2006 that contains key metrics derived from the monthly status information reported by the DOD components for use in monitoring the status of ongoing formal investigations within the department.³⁹ According to DOD Comptroller and military service personnel, memos are issued to DOD components to

³⁹Metrics are identified by DOD component, including the military services and defense agencies, and include (1) the number of open formal investigations; (2) the number of open formal investigation case files that have been turned over to DOD for processing, concurrence, and external reporting; (3) the number and identity of formal investigations that have been open less than 12 months; and (4) the number and identity of formal investigations that are overdue.

follow up on overdue investigations identified through the “dashboard” metrics. The February 2008 update to the FMR also calls for status tracking of preliminary reviews.⁴⁰ DOD components are now required to report information regarding the status of preliminary reviews of potential ADA violations to the DOD Comptroller on the fifth day of each month.⁴¹ While the military services have begun reporting information regarding their preliminary reviews of potential ADA violations to the DOD Comptroller in response to the updated FMR, as of June 17, 2008, none of the military services had reported the full scope of information required by the FMR. Examples of information missing from military services’ reports regarding their preliminary reviews include (1) the means by which the violation was discovered, (2) anticipated dates of completion, and (3) the names and contact information for members of the preliminary review team. The lack of complete reporting information on preliminary reviews hinders DOD’s ability to monitor and oversee the progress of a specific review.

Disciplinary Actions Taken Were in Accordance with the Act and DOD Guidance

Our analysis of the 34 ADA violations reported by DOD as being closed in fiscal years 2006 and 2007 found that disciplinary actions taken were in accordance with the criteria set forth in the DOD FMR and were reported to the President and the Congress, with a copy to the Comptroller General, as required by the ADA. The ADA requires that employees who are responsible for an ADA violation be subject to appropriate administrative discipline.⁴² Within DOD, the FMR specifies that such administrative discipline can range in severity from no action to the termination of the individual’s federal employment. Additionally, as established by laws and regulations addressing employee discipline within DOD generally, the

⁴⁰ As of July 7, 2008, the Army, Navy, and Air Force reported 14, 2, and 6 preliminary reviews under way, respectively.

⁴¹ Information on preliminary reviews required as a result of the February 2008 update to the DOD FMR include the (1) accounting classification of funds involved, (2) location where the alleged violation occurred, (3) location of the activity issuing the fund authorization, (4) amount of fund authorization or limitation that was exceeded, (5) amount and nature of the alleged violation, (6) date the alleged violation occurred, (7) date the alleged violation was discovered, (8) means of discovery, (9) description of the facts and circumstances of the case, (10) anticipated dates of completion of the investigation and submission of the report, and (11) names and phone numbers of members of the preliminary investigation team.

⁴² Criminal prosecution may also be sought for violations found to have been committed knowingly and willfully.

specific action that is taken in each case is determined by the employee's commander or supervisor with the assistance of legal counsel. Table 3 illustrates the disciplinary actions taken by the military services.

Table 3: Disciplinary Actions Taken by the Military Services for ADA Violations Reported in Fiscal Years 2006 and 2007

Types of discipline	Army	Navy	Air Force
No discipline	19	6	2
Verbal discipline	2	4	4
Nonpunitive discipline	19	5	1
Formal discipline	19	2	0
Total	59	17	7

Source: GAO analysis of DOD data.

Note: Disciplinary actions may have been taken against multiple individuals.

An explanation of each type of discipline is provided below.

- No discipline: The individual responsible received no discipline in any form. Based on case file analysis, an individual who was identified as responsible for the ADA violation typically did not receive any discipline if (1) the individual had retired from federal service or (2) the investigation concluded that while the individual was responsible for the violation, he/she had acted in good faith and followed what he/she believed to have been the correct policies and procedures when the violation had occurred.
- Verbal discipline: The individual named responsible received verbal discipline from supervisor. An example of this form of discipline could include a one-on-one conversation with the individual named as responsible and his/her immediate supervisor, including a discussion of how to prevent future occurrences.
- Nonpunitive discipline: The individual named responsible received either a memorandum of concern or letter of counseling. An example of this form of discipline could include a written letter of counseling by the named individual's immediate supervisor in conjunction with completion of required additional training.
- Formal discipline: The individual named responsible received written reprimands, reassignment or removal, suspension, or an unfavorable evaluation. Examples of formal discipline, based on our review of case

files, could include dismissal from federal service and removal from current position.

We did not assess the appropriateness of disciplinary actions imposed in any of the cases reviewed.

Conclusions

Given the numerous documented control risks over funds control, DOD does not have reasonable assurance that it has prevented, identified, and investigated all potential ADA violations. DOD's successful completion of modernizing its business operations, including systems, processes, policies, and controls, is critical to helping reduce the department's risk of ADA violations. DOD and the military services' stated intention to rely on better training of key funds control personnel as an interim action for preventing and detecting ADA violations was not supported by actions taken at either the department or military service levels. Specifically, other than an effort by the Army to identify funds certifying officials, the military services had not identified key individuals within their funds control processes and ensured that they had received training needed to fulfill their responsibilities in preventing, identifying, and reporting potential ADA violations. The lack of adherence at the departmental and military service levels to the department's established qualifications, training, and independence requirements for investigating officers undermines the reliability of the investigation process. Although DOD has taken steps to improve visibility over the investigation process, additional actions are needed to improve its ability to prevent, detect, investigate, and report on ADA violations.

Recommendations for Executive Action

To improve management and oversight of preliminary reviews and formal investigations of potential ADA violations, we recommend that the Secretary of Defense direct the Under Secretary of Defense (Comptroller) to take the following two actions to update the department's FMR to require that (1) ADA case files document that the investigating officer(s) selected to conduct a preliminary review or formal investigation is(are) free of personal, external, and organizational impairments and (2) DOD components maintain documentation of the date by which an investigating officer must receive refresher training in order to remain qualified to perform ADA reviews and investigations.

Additionally, we recommend that the Secretary of Defense direct the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force to take the following four actions: (1) implement and document processes, procedures, and controls to identify and help ensure that key

funds control personnel, including funds certifying officials, are properly trained so that they can fulfill their responsibilities to prevent, identify, and report potential ADA violations; (2) implement and document processes, procedures, and controls to oversee and monitor compliance with DOD FMR provisions requiring the maintenance and use of a roster for selecting qualified ADA investigating officers; (3) develop, implement, and document policies and procedures to help ensure compliance with the DOD FMR requirements for investigating officer training; and (4) develop, implement, and document policies and procedures to help ensure compliance with the DOD FMR requirements for investigating officer independence.

Agency Comments and Our Evaluation

We received written comments from the Acting Deputy Chief Financial Officer, which are reprinted in appendix II. DOD concurred with our recommendations and identified specific actions it has taken to implement these recommendations. On September 5, 2008, the department issued a memorandum to the Assistant Secretaries (Financial Management and Comptroller) of the Army, the Navy, and the Air Force, as well as other activities within the department, which detailed new requirements in the areas we recommended. The memorandum noted that the policy changes identified, which were effective immediately, would be included in the next update to the department's *Financial Management Regulation*.

More specifically, the memorandum requires DOD components to document processes, procedures, and controls used to identify key fund control personnel, including fund certifying officials; train those individuals in appropriations law; validate that the individuals have received appropriations law training within the last 5 years; or a combination of these. The memorandum also notes that DOD components must require that these individuals attend a refresher appropriations law course every 5 years.

In addition, the memorandum directs DOD components to retain documentation in each ADA case file that supports that ADA investigators are qualified; trained; and free of personal, external, and organizational impairments. Furthermore, these documents must be provided to the Office of the Under Secretary of Defense (Comptroller) and the Deputy Chief Financial Officer when a formal investigation is initiated. Each DOD component must also implement and document processes, procedures, and controls to oversee and monitor the maintenance and use of a roster for selecting qualified ADA investigators and establish a date by which each investigator must receive required refresher training.

We will send copies of this report to interested congressional committees, the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and the Under Secretary of Defense (Comptroller). We will make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staffs have any questions concerning this report, please contact me at (202) 512-9095 or rasconap@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix III.

A handwritten signature in black ink that reads "Paula M Rascona". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Paula M. Rascona
Director, Financial Management and Assurance

List of Committees

The Honorable Carl Levin
Chairman
The Honorable John McCain
Ranking Member
Committee on Armed Services
United States Senate

The Honorable Daniel K. Inouye
Chairman
The Honorable Thad Cochran
Ranking Member
Subcommittee on Defense
Committee on Appropriations
United States Senate

The Honorable Ike Skelton
Chairman
The Honorable Duncan L. Hunter
Ranking Member
Committee on Armed Services
House of Representatives

The Honorable John P. Murtha
Chairman
The Honorable C.W. Bill Young
Ranking Member
Subcommittee on Defense
Committee on Appropriations
House of Representatives

Appendix I: Scope and Methodology

To determine whether existing Department of Defense (DOD) funds control systems, processes, and internal controls provide reasonable assurance that potential Antideficiency Act (ADA) violations will be prevented and detected, we interviewed DOD Comptroller officials and reviewed GAO and DOD Inspector General audit reports, including financial-related reports; performance reports; and reports specifically related to the ADA, compliance with laws and regulations, or both.¹ Specifically, we reviewed prior GAO reports related to DOD business transformation; High-Risk Series reports; and business modernization, financial management, and problem disbursements reports. These reports document long-standing weaknesses related to funds control, a key element in being able to prevent or detect an ADA violation. DOD has acknowledged the financial management weaknesses reported by GAO and DOD auditors and the impact these weaknesses have on the reliability of the department's financial information. As a result, we did not perform additional work to substantiate the condition of DOD's financial management environment and internal controls.

We reviewed the DOD Financial Management Regulation (FMR), Volume 14, *Administrative Control of Funds and Antideficiency Act Violations*, to determine what controls and procedures had been established to help preclude ADA violations and prevent future occurrences of violations. In addition, we reviewed Office of Management and Budget (OMB) Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, section

¹See GAO, *DOD Business Transformation: Lack of an Integrated Strategy Puts the Army's Asset Visibility System Investments at Risk*, [GAO-07-860](#) (Washington, D.C.: July 27, 2007); *DOD Business Systems Modernization: Progress Continues to Be Made in Establishing Corporate Management Controls, but Further Steps Are Needed*, [GAO-07-733](#) (Washington, D.C.: May 14, 2007); *High-Risk Series: An Update*, [GAO-07-310](#) (Washington, D.C.: January 2007); *DOD Problem Disbursements: Long-standing Accounting Weaknesses Result in Inaccurate Records and Substantial Write-offs*, [GAO-05-521](#) (Washington, D.C.: June 2, 2005); and *Financial Management: Improved Reporting Needed for DOD Problem Disbursements*, [GAO/AIMD-97-59](#) (Washington, D.C.: May 1, 1997). Also, see Department of Defense Office of Inspector General, *Vendor Pay Disbursement Cycle, Air Force General Fund*, Report No. D-2008-063 (Arlington, Va.: Mar. 12, 2008); *Potential Antideficiency Act Violations Made Through Non-DOD Agencies*, Report No. D-2007-042 (Arlington, Va.: Jan. 2, 2007); *FY 2005 DoD Purchases Made Through the General Services Administration*, Report No. D-2007-007 (Arlington, Va.: Oct. 30, 2006); and *Financial Management, DOD Antideficiency Act Reporting and Disciplinary Process*, Report No. D-2005-003 (Arlington, Va.: Oct. 14, 2004). See also Department of Defense, *Performance and Accountability Report: Fiscal Year 2006* (Washington, D.C.: Nov. 15, 2006), and *Agency Financial Report: Fiscal Year 2007* (Washington, D.C.: Nov. 15, 2007).

145, “Requirements for Reporting Antideficiency Act Violations.”² We interviewed DOD Comptroller and military service officials responsible for ADA programs at DOD or the military services to identify appropriate training for key funds control personnel and to obtain an understanding of the processes, procedures, and controls to ensure that key funds control personnel receive training.

To determine whether preliminary reviews³ and formal investigations⁴ of ADA violations are processed in accordance with applicable DOD regulations and criteria related to qualifications, training, independence, and timeliness of investigations, we reviewed applicable policies, procedures, and guidance contained in the DOD FMR. Additionally, we reviewed the President’s Council on Integrity and Efficiency/Executive Council on Integrity and Efficiency, *Quality Standards for Investigations*, to obtain an understanding of qualification, independence, and due professional care standards and criteria applicable to investigations.⁵ We also reviewed all 54 ADA cases for the military services that were closed by DOD for fiscal years 2006 and 2007 and available military service rosters from which the investigating officers assigned to these cases files were or should have been chosen, and interviewed appropriate agency officials from the Army, the Navy, the Air Force, and the DOD Comptroller’s Office responsible for ADA programs at DOD or the military services to determine how qualifications, training, and independence are ensured and documented. To assess investigating officers’ qualifications, we focused our review on whether the investigating officers had received training and if there was an internal control in place to ensure that the investigating officers did not have any personal, external, or organizational independence impairments to their ability to conduct an investigation. We did not verify their fields of specialty or areas of expertise.

²OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget* (July 2007), and GAO, *GAO Policy and Procedures Manual for Guidance of Federal Agencies*, title VII, “Fiscal Guidance” (May 18, 1993).

³The purpose of a preliminary review is to gather basic facts to determine whether a formal investigation is warranted. This should be done in a timely manner—usually within 90 days.

⁴The purpose of the formal investigation is to determine the relevant facts and circumstances concerning the potential violation and, if a violation occurred, what caused it, what are the appropriate corrective actions and lessons learned, and who is responsible for the violation.

⁵President’s Council on Integrity and Efficiency/Executive Council on Integrity and Efficiency, *Quality Standards for Investigations* (December 2003).

To determine whether DOD tracks and reports metrics on preliminary reviews and formal investigations of ADA violations, we reviewed applicable policies, procedures, and program guidance contained in the DOD FMR. We also obtained and analyzed military service metrics for preliminary reviews and formal ADA investigations to ascertain whether the 54 ADA cases were completed within the time frames established by the DOD FMR. We also obtained and reviewed the DOD FMR, Volume 14, *Administrative Control of Funds and Antideficiency Act Violations*, chapter 6, "Status Reports on Investigations," to determine reporting criteria. With respect to disciplinary actions taken, we analyzed the 34 ADA case files in which DOD had concluded that an ADA violation had occurred to identify the disciplinary action taken. We compared the disciplinary action documented in each case file to the criteria set forth in the DOD FMR. We did not assess the appropriateness of the conclusions reached by DOD for the 54 closed ADA cases or the disciplinary actions taken in the 34 cases for which DOD concluded that an ADA violation had occurred.

The listing of 54 closed ADA cases for fiscal years 2006 and 2007 was obtained from the DOD Comptroller. We compared the listing of 54 closed ADA cases to information maintained by our Office of General Counsel on ADA cases reported to the President and the Congress, as filed with the Comptroller General, to ascertain the completeness and accuracy of the DOD listing. Our comparison and subsequent follow-up with the DOD Comptroller's Office, found that 34 of the 54 ADA cases investigated by DOD concluded that an ADA violation had occurred and were reported as required by law. For the remaining 20 ADA cases, DOD concluded that no ADA violation had occurred, and therefore these cases were not reported externally. We reviewed each case file to ensure that it contained the information set forth in the OMB circular and the DOD FMR. We conducted our work at the Office of the Under Secretary of Defense (Comptroller), the Financial Management and Comptroller Offices of the Army, the Navy, and the Air Force, and 12 military service major commands. We conducted this performance audit from July 2007 through September 2008 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 findings and conclusions based on our audit objectives. We received written comments from the Acting Deputy Chief Financial Officer, which are reprinted in appendix II.

Appendix II: Comments from the Department of Defense



COMPTROLLER

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

Ms. Paula M. Rascona
Director, Financial Management and Assurance
Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Ms. Rascona:

This is the Department of Defense's (DoD) response to the Government Accountability Office (GAO) draft report, DoD Financial Management: Improvements Are Needed in Antideficiency Act Controls and Investigations, dated August 2008, (GAO Code 197078/GAO-08-1063).

I concur with the findings and recommendations in the report. Corrective actions have been taken on all the recommendations directed to the Secretary of Defense.

My point of contact on this matter is Ms. Jodie Fisher. She may be reached by email at jodie.fisher@osd.mil or telephone at (703) 602-0371.

A handwritten signature in black ink, appearing to read "D. P. Smith", is located above the printed name of David P. Smith.

David P. Smith
Acting Deputy Chief Financial Officer

Attachment:
As stated

GAO DRAFT REPORT DATED AUGUST 25, 2008
GAO-08-1063 (GAO CODE 197078)

DOD FINANCIAL MANAGEMENT: IMPROVEMENTS ARE
NEEDED IN ANTIDEFICIENCY ACT CONTROLS AND
INVESTIGATIONS

DEPARTMENT OF DEFENSE COMMENTS
TO THE GAO RECOMMENDATIONS

RECOMMENDATION 1: The GAO recommends that the Secretary of Defense direct the Under Secretary of Defense (Comptroller) to update the Department's Financial Management Regulation (FMR) to require that Antideficiency Act (ADA) case files document that the investigating officer(s) selected to conduct a preliminary review or formal investigation is/are free of personal, external, and organizational impairments. (p. 41/GAO Draft Report)

DOD RESPONSE: Concur. The Office of the Under Secretary of Defense (Comptroller) (OUSD(C)) updated the DoD FMR to require ADA case files contain documentation that the investigating officer(s) selected to conduct a preliminary review or formal investigation is/are free of personal, external, and organizational impairments. **Action is complete.**

RECOMMENDATION 2: The GAO recommends that the Secretary of Defense direct the Under Secretary of Defense (Comptroller) to update the Department's FMR to require that DoD components maintain documentation of the date by which an investigating officer must receive refresher training in order to remain qualified to perform ADA reviews and investigations. (p. 41/GAO Draft Report)

DOD RESPONSE: Concur. The OUSD(C) updated the DoD FMR to require Components maintain documentation of the date by which an investigating officer must receive refresher training in order to remain qualified to perform ADA reviews and investigations. **Action is complete.**

RECOMMENDATION 3: The GAO recommends that the Secretary of Defense direct the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force to implement and document processes, procedures, and controls to identify and help ensure that key funds control personnel, including funds certifying officials, are properly trained so that they can fulfill their responsibilities to prevent, identify, and report potential ADA violations. (p. 41/GAO Draft Report)

DOD RESPONSE: Concur. The OUSD(C) directed the Assistant Secretaries (Financial Management and Comptroller) of the Army, Navy, and Air Force to

Attachment
Page 1 of 2

implement and document processes, procedures, and controls to identify and help ensure that key funds control personnel, including funds certifying officials, are properly trained so that they can fulfill their responsibilities to prevent, identify, and report potential ADA violations. **Action is complete.**

RECOMMENDATION 4: The GAO recommends that the Secretary of Defense direct the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force to implement and document processes, procedures, and controls to oversee and monitor compliance with DoD FMR provisions requiring the maintenance and use of a roster for selecting qualified ADA investigating officer(s). (p. 41/GAO Draft Report)

DOD RESPONSE: Concur. The OUSD(C) directed the Assistant Secretaries (Financial Management and Comptroller) of the Army, Navy, and Air Force to implement and document processes, procedures, and controls to oversee and monitor compliance with DoD FMR provisions requiring the maintenance and use of a roster for selecting qualified ADA investigating officer(s). **Action is complete.**

RECOMMENDATION 5: The GAO recommends that the Secretary of Defense direct the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force to develop, implement, and document policies and procedures to help ensure compliance with the DoD FMR requirements for investigating officer training. (p. 41/GAO Draft Report)

DOD RESPONSE: The OUSD(C) directed the Assistant Secretaries (Financial Management and Comptroller) of the Army, Navy, and Air Force to develop, implement, and document policies and procedures to help ensure compliance with the DoD FMR requirements for investigating officer training. **Action is complete.**

RECOMMENDATION 6: The GAO recommends that the Secretary of Defense direct the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force to develop, implement, and document policies and procedures to help ensure compliance with the DoD FMR requirements for investigating officer independence. (p. 41/GAO Draft Report)

DOD RESPONSE: Concur. The OUSD(C) directed the Assistant Secretaries (Financial Management and Comptroller) of the Army, Navy, and Air Force to develop, implement, and document policies and procedures to help ensure compliance with the DoD FMR requirements for investigating officer independence. **Action is complete.**

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Paula M. Rascona, (202) 512-9095 or rasconap@gao.gov

Acknowledgments

In addition to the contact named above, the following individuals made key contributions to this report: Darby Smith, Assistant Director; Evelyn Logue, Assistant Director; F. Abe Dymond, Assistant General Counsel; Lauren Catchpole; Francine DeVecchio; Jamie Haynes; Wil Holloway; Kristi Karls; Jason Kelly; Jason Kirwan; and Sandra Lord-Drakes.

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