June 19, 2002

Acquisition

Army Claims Service Military Interdepartmental Purchase Requests
(D-2002-109)

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Acronyms

DFAS	Defense Finance and Accounting Service
FEDSIM	Federal System Integration and Management Center
FMR	Financial Management Regulation
GSA	General Services Administration
MIPR	Military Interdepartmental Purchase Request
O&M	Operation and Maintenance
RDT&E	Research, Development, Test, and Evaluation
UFR	Unfunded Requirements
USARCS	U.S. Army Claims Service
U.S.C.	United States Code

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

June 19, 2002

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER)
AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: Audit Report on Army Claims Service Military Interdepartmental Purchase Requests (Report No. D-2002-109)

We are providing this audit report for review and comment. We considered comments from the Assistant Secretary of the Army (Financial Management and Comptroller), the Acting Deputy Assistant Secretary of the Army (Policy and Procurement), and the Army Claims Service in preparing the final report.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. The Under Secretary of Defense (Comptroller) did not comment on the draft report. We request that the Under Secretary of Defense (Comptroller) provide comments on Recommendation A.1. The Assistant Secretary of the Army (Financial Management and Comptroller) comments were nonresponsive. We request that the Assistant Secretary provide additional comments on Recommendation A.2. The Army Claims Service comments were partially responsive to Recommendations A.4. and B.1.b., and responsive to Recommendation B.1.a. We request that the Army Claims Service provide additional comments on Recommendations A.4. and B.1.b. All comments are requested by August 19, 2002.

If possible, please provide management comments in electronic format (Adobe Acrobat file only). Send electronic transmission to the e-mail addresses cited in the last paragraph of this memorandum. Copies of the management comments must contain the actual signature of the authorizing official. We cannot accept the / Signed / symbol in place of the actual signature.

We appreciate the courtesies extended to the audit staff. Questions on this audit should be directed to Mr. Terry L. McKinney at (703) 604-9288 (DSN 664-9288) (tmckinney@dodig.osd.mil) or Mr. Eric B. Edwards at (703) 604-9219 (DSN 664-9219) (eedwards@dodig.osd.mil). See Appendix F for the report distribution. The audit team members are listed inside the back cover.

David K. Steensma

David K. Steensma
Acting Assistant Inspector General
for Auditing

Office of the Inspector General of the Department of Defense

Report No. D-2002-109 **June 19, 2002**
(Project No. D2001CH-0032)

Army Claims Service Military Interdepartmental Purchase Requests

Executive Summary

Who Should Read This Report and Why? DoD civilian and military personnel who use military interdepartmental purchase requests to satisfy mission requirements should read this report. This report addresses the need for organizations to develop and implement adequate procedures when utilizing military interdepartmental purchase requests.

Background. This report is the first in a series addressing the use and control of military interdepartmental purchase requests. The Army Claims Service supports the Army and the Judge Advocate General Corps by managing the Army claims system, which includes processing tort and personnel claims, and recovering funds owed by transportation carriers and medical care insurers. The Army Claims Service provided the General Services Administration with about $11.6 million in operation and maintenance funds from September 1997 through September 2000 on military interdepartmental purchase requests. The $11.6 million was for technical and management support services, and the acquisition of information technology.

Military interdepartmental purchase requests are used by DoD Components to order goods or services from other DoD Components, as well as other Government activities outside the DoD. Acceptance of the military interdepartmental purchase request will result in an obligation of the funds if the purchase is on a reimbursable basis. The law generally requires agencies purchasing property or services to have legitimate or "bona fide" need for the items or services in the fiscal year of the appropriation before recording the obligation of funds. The inability to demonstrate this need, as well as using funds from the wrong appropriation year or for the wrong purpose, can result in a violation of the Antideficiency Act.

Results. The Army Claims Service did not have adequate policies and procedures for processing and funding military interdepartmental purchase requests. The Army Claims Service did not appropriately plan or fund about $3.8 million of the $11.6 million it provided to the General Services Administration Information Technology Fund for procurement of support services and information technology. The Army Claims Service may have incurred potential Antideficiency Act violations on the $3.8 million by transferring and obligating FY 1997 through FY 2000 operation and maintenance funds to the General Services Administration without establishing a bona fide need.

Of the $11.6 million provided to the General Services Administration Information Technology Fund, the Army Claims Service had about $2.8 million remaining or improperly "banked" in the Fund for future requirements. These funds are potential monetary benefits that may be available for other uses. The banked funds consisted of about $2.7 million obligated for undefined projects for which a bona fide need was not

shown. The remaining $0.1 million was for three projects involving hardware, software, network integration, and acquisition support and one software development project for which specific requirements were identified, but the funds were not expended in the years of the applicable appropriations. The Army Claims Service also incurred higher administrative costs by using the General Services Administration rather than partnering with an Army contracting office. A lack of policy and procedures for processing military interdepartmental purchase requests, inadequate acquisition planning, and questionable year-end spending practices led to the inappropriate handling of funds. (finding A).

The Army Claims Service also inappropriately used $3.3 million of the $11.6 million in operation and maintenance funds for the development of personnel claims software and the torts and affirmative claims software instead of research, development, test and evaluation, and/or procurement funds. Use of the wrong type of funds occurred, in part, because the guidance on funding information technology projects was unnecessarily broad. In addition, USARCS was not aware of the guidance from the Under Secretary of Defense (Comptroller) that clarified procedures for funding information technology systems. (finding B). See the Finding sections of the report for the detailed recommendations.

Management Comments and Audit Response. We did not receive comments on the draft of this report from the Under Secretary of Defense (Comptroller). We request that the Under Secretary of the Defense (Comptroller) provide comments on issuing guidance on the use of the General Services Administration Information Technology Fund. We received comments from the Deputy Assistant Secretary of the Army (Financial Operations) who stated that because the Army Claims Service concluded that Antideficiency Act violations had not occurred, he concluded an investigation of potential Antideficiency Act violations is not warranted. We do not believe the Deputy Assistant Secretary has met the intent of the Financial Management Regulation related to potential Antideficiency Act violations when he did not initiate an independent preliminary review or investigation of a potential violation. The Acting Assistant Secretary of the Army (Policy and Procurement) concurred with the recommendation on issuing guidance to Army organizations to partner with larger Army contracting offices for support to reduce procurement administrative costs. The Army Claims Service's comments were partially responsive to the recommendation on implementing procedures to require adequate acquisition planning, recouping $2.8 million in unliquidated obligations for FY 1997 to 2000, and implementing annual reviews of any unliquidated obligations in the General Services Administration Information Technology Fund; and responsive to the remaining recommendations. We request that the Under Secretary of Defense (Comptroller), the Deputy Assistant Secretary of the Army (Financial Operations), and the Commander, Army Claims Service, provide comments on the final report by August 19, 2002.

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Background

The report is one in a series on military interdepartmental purchase requests (MIPRs) within DoD. This report discusses MIPRs issued by the U.S. Army Claims Service (USARCS) to the General Services Administration (GSA) Information Technology Fund.

Military Interdepartmental Purchase Requests. The DoD uses MIPRs as the primary document to order goods or services from other DoD Components, as well as other Government agencies. The ordering organization should include on the MIPRs a description of the work or services being requested, unit price, total price, and a fund cite. The receiving organization can either accept the MIPR on a reimbursable or direct cite basis. When the receiving organization accepts the funds on a reimbursable basis, the ordering organization should record an obligation at the time of acceptance. If the receiving organization accepts the funds on a direct cite basis, the ordering organization should record an obligation when it is provided a contract or other obligating document citing its funds.

Army Claims Service Mission. The USARCS was created as an independent agency in 1963, and relocated to Fort Meade, Maryland, in July 1971. The mission of USARCS is to support the Army and the Judge Advocate General Corps by managing the Army claims system, which includes processing tort and personnel claims, and recovering funds owed by transportation carriers and medical care insurers. The USARCS performs its mission in more than 150 claims field offices and 60 Foreign Claims Commissions worldwide. The Tort Claims Division supervises the settlement of more than $30 million in tort claims each year. The Personnel Claims and Recovery Division oversees payment of more than $40 million in personnel claims and recovers more than $34 million each year for the Army.

Interagency Agreement for Information Technology Services and Products. On September 29, 1997, USARCS entered into an interagency agreement with the GSA Federal System Integration and Management Center (FEDSIM) for technical, management, and acquisition support to acquire information technology. The interagency agreement identified 23 support areas, which included project management, acquisition, software, testing, configuration management, and system conversion. The interagency agreement also directed that the GSA support system design, install, integrate, and acquire products such as workstations, servers, software, computers, and other related information technology support services.

Funding for Acquisitions. The USARCS provided GSA about $11.6 million in Army operation and maintenance (O&M) funds from September 1997 through September 2000 to procure information technology support services and products. Table 1 lists the MIPRs that USARCS sent to GSA to fund information technology procurements and the source and amount of funds on each MIPR.

Table 1. Army Claims Service Funding Transferred to GSA Pursuant to September 1997 Interagency Agreement

MIPR Number	Date Issued	Date Accepted	Appropriation*	Amount
MIPR7MFEDK4045 basic	9/29/97	9/29/97	2172020	$ 3,361,875
MIPR7MFEDK4045 CH 1	9/30/97	9/30/97	2172020	202,125
MIPR8MFEDK4068	6/24/98	7/02/98	2182020	117,500
MIPR8MFEDK4071 basic	9/25/98	9/28/98	2182020	1,139,000
MIPR8MFEDK4071 CH 1	9/25/98	9/28/98	2182020	114,000
MIPR8MFEDK4071 CH 2	9/28/98	9/29/98	2182020	1,411,000
MIPR8MFEDK4071 CH 3	9/29/98	9/30/98	2182020	6,216
MIPR9MFEDK4045 basic	9/17/99	9/23/99	2192020	1,108,000
MIPR9MFEDK4045 CH 1	9/27/99	9/28/99	2192020	400,000
MIPR9MFEDK4045 CH 2	9/28/99	9/29/99	2192020	100,000
MIPR9MFEDK4045 CH 3	9/23/99	9/29/99	2192020	23,500
MIPR0KGSACOMPU	7/05/00	7/07/00	2102020	8,222
MIPR0LFEDK4023 basic	8/28/00	8/30/00	2102020	35,000
MIPR0LFEDK4023 CH 1	9/27/00	9/28/00	2102020	124,603
MIPR0LFEDK4023 CH 2	9/28/00	9/28/00	2102020	2,641,900
MIPR0LFEDK4023 CH 3	9/28/00	9/28/00	2102020	800,000
Total				**$11,592,941**

CH - Change

*The first two digits (21) of the appropriation indicates an Army appropriation. The third digit identifies the appropriation year and the last four digits (2020) indicates Army operation and maintenance funds.

O&M funds are available for obligation only during the fiscal year for which they were appropriated. As shown in Table 1, USARCS sent GSA only $117,500 during the first three quarters of the fiscal year from 1997 through 2000. The USARCS provided the remaining $11.4 million to GSA during the fourth quarter of those fiscal years. Of the $11.4 million, USARCS provided about $8.5 million to GSA during the last 3 days of the fiscal year. USARCS attributed the year-end spending to the Army budget process. USARCS receives funds to carry out everyday operations from Resource Services, Washington, designated Operating Agency 22, which is under the Office of Administrative Assistant to the Secretary of the Army. Resource Services pools excess funds from USARCS and other Army organizations at the end of each fiscal year. USARCS receives funds from this pool to support its unfunded requirements, which included the computer/software purchases through the GSA Information Technology Fund.

Cost-to-Spend Ratio. In 1999, the Procurement Executives Association, an informal association of procurement executives in Federal civilian agencies, published a guide on performance management methodology for procurement agencies. The guide identifies performance measures for assessing performance of Federal contracting organizations against agency expectations. The guide

identifies the cost-to-spend ratio, which represents the cost for each office to spend one dollar of their customer's funds, as a performance measure of the status of the acquisition system's efficiency. For example, the cost-to-spend ratio for Army contracting offices in FY 1999 was about 1.2 percent.

Objectives

The audit objective was to evaluate whether MIPRs policies and procedures were adequate and economical. We also reviewed the management control program as it related to the primary audit objective. See Appendix A for a discussion of the audit process and the review of the management control program.

A. Procurement of Information Technology Support

USARCS did not appropriately plan or fund about $3.8 million of the $11.6 million of FYs 1997 through 2000 O&M funds provided to the GSA Information Technology Fund for procurements of technical and management support services and the acquisition of information technology. A lack of policy and procedures for processing MIPRs, inadequate acquisition planning, and year-end spending practices led to the inappropriate handling of funds. As a result, USARCS may have incurred potential Antideficiency Act violations by obligating $3.8 million in O&M funds before defining its requirements and establishing a bona fide need for tasks relating to the personnel claims software development project, the torts and affirmative claims software development project, and acquisitions of hardware and software. Of the $3.8 million obligated without a bona fide need, USARCS had about $2.8 million "banked" in the GSA Information Technology Fund to meet future requirements. Also, by using GSA to perform the procurement function rather than partnering with a larger Army contracting office with expertise in information technology contracting, USARCS incurred higher administrative costs.

Criteria for Interagency Acquisitions and Acquisitions Through the GSA Information Technology Fund

In the absence of other specific statutory authority, interagency acquisitions are governed by section 1535, title 31, United States Code (31 U.S.C. 1535), also known as the Economy Act. Section 1501 of title 31 of the United States Code provides criteria for recording obligations of Government funds. Section 1502 of title 31 of the United States Code provides the statutory basis for the bona fide need rule. Each of the FYs 1997 through 2000 DoD Appropriations Acts stated that, absent specific authority, funds are generally not available for obligation beyond the current fiscal year. DoD Regulation 7000.14-R, "DoD Financial Management Regulation," provides detailed guidance to implement those statutes. Section 757 of title 40 of the United States Code provides the statutory authority for the Information Technology Fund, which USARCS used to procure information technology. See Appendix B for additional details on these laws and regulations.

The DoD General Counsel also provided guidance on using the GSA Information Technology Fund in a memorandum to the GSA General Counsel on December 16, 1997 (included in this report as Appendix C). The GSA General Counsel received several inquires from DoD purchasing offices that questioned whether the Economy Act applies to technology purchases through the GSA Information Technology Fund. In December 1997, the GSA General Counsel sent the DoD General Counsel a memorandum describing the legal authority for Government-wide use of GSA information technology programs on September 23, 1996. The memorandum stated that the Economy Act applies to interagency acquisitions only when more specific statutory authority is absent.

More than a year later, the DoD General Counsel sent GSA a memorandum that stated: " . . . DoD activities may obtain information technology resources from GSA programs that are funded through the Information Technology Fund without relying on the Economy Act." Accordingly, the guidance regarding interagency acquisitions was confusing.

Funding Procurements Through the GSA Information Technology Fund

The USARCS provided GSA about $11.6 million in Army O&M funds from September 1997 through September 2000 to procure information technology support services and products. The USARCS approved seven projects that were documented in project element plans. The project element plans covered the following seven areas: GSA administrative costs; hardware and software acquisitions; hardware, software, and network acquisitions; European software development; torts and affirmative claims software development, hardware and software acquisition support; and personnel claims software development. See Appendix D for the specific MIPRs that USARCS issued to GSA for the project element plans. Table 2 summarizes the total funding for each project element plan.

Table 2. Army Claims Service O&M Funds by Project Element Plan as of April 2001

Project Description[1]	Amount Funded	Amount Obligated or Expended[2]	Balance	Fiscal Year
GSA administrative costs	$ 30,000	$ 30,344	($ 344)	1997/1998
Hardware/software acquisition	661,875	661,828	47	1998
Hardware/software/network integration	2,785,125	2,719,818	65,307	1998
European software development	371,000	368,838	2,162	1997
Torts and affirmative claims software development	2,503,716	1,061,829	1,441,887	1998
Hardware and software acquisition support	1,631,500	1,587,844[3]	43,656	1999
Subtotal FY 1997 through 1999 Funds	**7,983,216**	**6,430,501**	**1,552,715**	
Hardware and software acquisition support	2,809,725	0	2,809,725	2000
Personnel claims software development	800,000	0	800,00	2000
Subtotal FY 2000 Funds	**3,609,725**	**0**	**3,609,725**	
Total	**$11,592,941**	**$6,430,501**	**$5,162,440**	

[1]The project descriptions are the seven project element plans that USARCS approved as part of the interagency agreement with GSA.
[2]Includes awarded delivery orders plus GSA fees and other administrative costs.
[3] The hardware and software acquisition support project was a single project that included FYs 1999 and 2000 O&M funds. GSA did not allocate the $1,587,844 in expenditures to either the FY 1999 or 2000 funds. We attributed the $1,587,844 to FY 1999 funds because GSA issued the delivery orders prior to receiving the FY 2000 funds.

USARCS Contracting and Financial Management Practices

Contracting Practices. The USARCS Information Management Office was responsible for procuring information technology assets for USARCS headquarters and field offices. USARCS did not use Army contracting officials for acquiring technical and management support services, and the acquisition of information technology. During September 1997 an interagency agreement between USARCS and GSA was signed, which delegated the contracting responsibilities to GSA. The interagency agreement requires GSA to perform such contracting functions as preparing statements of work, independent cost estimates, evaluating contractor quotes, and administering delivery orders. The USARCS budget officer processed the MIPRs that provided the funds for its purchases through GSA, and the executive officer approved the project element plans, which identified the work to be performed under the interagency agreement. GSA charged USARCS contract administration fees of 1.5 percent, other transaction fees of .5 percent, and labor charges of $102 per hour when contracting responsibilities were performed.

USARCS Policies and Procedures. USARCS had no internal policies and procedures that addressed interagency agreements, or the issuance of MIPRs. USARCS officials stated that the budget officer and the executive officer were attorneys and they considered any legal issues when the interagency agreement, project element plans, and MIPRs were processed and approved.

Acquisition Planning. Acquisition planning at USARCS was incomplete. USARCS did not identify specific goods or services or identify specific tasks on the MIPRs to GSA. The project element plans that GSA prepared and USARCS approved did not always identify milestones or timeframes for project completion. In addition, USARCS did not have cost estimates that supported Project Element Plan 7 at the time it issued the MIPRs to GSA. Defense Finance and Accounting Service (DFAS) Regulation 37-1, "Finance and Accounting Policy Implementation," provides specific instructions for issuance and acceptance of MIPRs. The DFAS regulation requires agencies to enter a description for each type of work or service requested. The regulation also includes a completed MIPR sample. The interagency agreement between USARCS and GSA specified requirements for project element plans that included identifying key deliverables, delivery schedules, costs, specification of materials, and data. DoD Instruction 7041.3, "Economic Analysis for Decisionmaking," November 7, 1995, and Army Regulation 11-18, "The Cost and Economic Analysis Program," January 31, 1995, require Army organizations to prepare a comparative cost analysis to show that the lowest cost method of acquisition has been considered as the least expensive life-cycle cost to the Government. Appendix E provides details of four projects: the acquisition planning for the personnel claims software development; torts and affirmative claims software development; European software development; and hardware and software acquisition support.

Fiscal Year-End Spending. Of the $11.6 million in O&M funds USARCS sent GSA on reimbursable MIPRs, $8.5 million was provided at the fiscal year end (within the last 3 days). Agencies cannot use O&M annual appropriations for future needs after the funds expire. In addition to the restrictions included on each Appropriation Act, the General Accounting Office Principles of Appropriation Law, volume 1, chapter 5, states:

> If deliveries are scheduled only for a subsequent fiscal year, or if contract timing effectively precludes delivery until the following fiscal year, it will be presumed that the contract was made in the earlier fiscal year to obligate funds from an expiring appropriation, and that the goods or materials were not intended to meet a bona fide need of that year.

Although USARCS could technically obligate funds at the end of a fiscal year, the obligation should be based on a valid need in the fiscal year of the appropriation in order to comply with the bona fide need rule.

Retention of O&M Funds in the GSA Information Technology Fund. Of the $11.6 million, USARCS had about $5.2 million remaining in the GSA Information Technology Fund as of April 2001 (Table 2). USARCS officials stated that they retained the funds in the GSA Information Technology Fund because GSA could keep the funds for 5 years for a single project. GSA documentation states that a customer with an interagency agreement may use the Information Technology Fund to record an obligation without a contract or task order in place if GSA has accepted the funds. However, 40 U.S.C. 757 contains no language that allows a customer with an interagency agreement to "bank" expired funds for contracts in subsequent periods. In addition, the FYs 1997 through 2000 DoD Appropriations Acts state:

> No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

GSA documentation also states that a customer can legally obligate funds even if the interagency agreement with GSA was signed on September 30, the last day of the fiscal year. However, the customer must satisfy the bona fide need rule. If the effort extends into the next fiscal year, it must satisfy the single undertaking exception to the bona fide need rule. A single undertaking is an effort that cannot reasonably be divided between fiscal years. If FEDSIM was following a practice of retaining funds in the Information Technology Fund, it was contrary to GSA policy. The GSA Inspector General addressed the practice of retaining funds for 5 years in its Report No. A001031, "Review of Center for Information Security Services," February 22, 2001. The report states that the Center for Information Security Services' practice of retaining customer's funds for 5 years in the Information Technology Fund was contrary to GSA policy. The report states that GSA policy on the retention of funds indicates ". . . that appropriate disposition of customer's funds occur at the point of completion and not up to four years after work on the order has ceased." The report also states that if no further need for a customer's funds exists, the balance must be deobligated from the Information Technology Fund. The GSA Inspector General recommended that the Center for Information Security Services

implement procedures that complied with GSA policy on unused funds. The procedures should state clearly when it is appropriate to apply the customer's funds for additional work and when the funds should be deobligated. The Commissioner for the GSA Federal Technology Service concurred with the recommendation.

Potential Antideficiency Act Violations

Potential Antideficiency Act violations occur when an organization uses funds from the wrong year, wrong appropriation, or has not established a bona fide need for the goods or services. Questionable year-end spending practices and lack of acquisition planning in funding for the acquisition of information technology products and services by USARCS resulted in its use of appropriations without a bona fide need and use of appropriations from the wrong fiscal year and the wrong appropriation. As a result, USARCS may have incurred Antideficiency Act violations on $3.8 million in O&M funds transferred to the GSA Information Technology Fund for the personnel claims software development ($0.8 million); torts and affirmative claims software development ($2.5 million); and hardware and software acquisition support ($0.5 million); without adequate acquisition planning. For further details, see Appendix E.

Bona Fide Need. USARCS did not always establish that a bona fide need existed at the time it provided the funds to GSA. To the contrary, the lack of details or specific project requirements on the MIPRs and the project element plans indicated that the requirement existed in the future, not in the year the funds were appropriated. The bona fide need rule requires agencies requesting property or services to show a legitimate need in the fiscal year of the appropriation before recording the obligation of funds. According to 31 U.S.C. 1501(a)(1), agencies must have documentary evidence of a binding agreement for specific goods or services to record valid obligations in financial records. Although we recognize that a MIPR may constitute an agreement for purposes of entering a valid obligation, we believe that the MIPRs in this case were so unspecific as to be ineffective in establishing an obligation for a bona fide need of the fiscal years in question. We believe the MIPRs were used instead as a mechanism to "park" the funds until requirements documents could be developed, well into the next fiscal year.

In addition, the projects that USARCS funded through the GSA Information Technology Fund did not always satisfy the "single undertaking exception" to the bona fide need rule. USARCS included multiple undertakings or tasks under the individual projects, which did not require a continuous performance across fiscal years. USARCS funded the tasks as a single project, which resulted in its use of funds from the wrong fiscal year. For example, USARCS used FY 1998 O&M funds for the torts and affirmative claims software development project when

FYs 1999 through 2002 funds would have been more appropriate. The project master plan for the project was not completed until June 1, 1999. USARCS planned to develop the torts and affirmative claims software development project in four distinct phases. The purpose of the four-phase implementation strategy

was to allow USARCS management flexibility in the commitment of fiscal resources and to prioritize its business requirements. Phases three and four could be performed concurrently or consecutively; however, neither could begin until phases one and two could be completed. Phases three and four also could be developed and deployed independently of each other. USARCS did not begin discussing phases three and four with the contractor until May 2001. The torts and affirmative claims software development project also included tasks that USARCS would not require until completion of the software development such as training and maintenance.

Because USARCS did not define its requirements for the personnel claims software development project, torts and affirmative claims software development, and hardware and software acquisition support when the MIPRs were issued, it did not establish that a legitimate need existed in the year of the appropriation. The Army should investigate the potential Antideficiency Act violation that occurred when USARCS obligated the $3.8 million in O&M funds without establishing a bona fide need.

Incorrect Appropriation. USARCS did not distinguish between the use of O&M; research, development, test, and evaluation (RDT&E); or procurement funds for $3.3 of the $11.6 million. As discussed in finding B, USARCS should have used $3.3 million of RDT&E funds and/or procurement funds instead of O&M funds for the personal claims software development project and the torts and affirmative claims software development.

Unliquidated Obligations in the GSA Information Technology Fund

The lack of details or specific requirements in the project element plans was a key reason why GSA had only expended about $6.4 million of the $11.6 million on contract delivery orders. Of the remaining $5.2 million, about $2.8 million of the unliquidated obligations were banked funds, or funds retained to meet future requirements. Approximately $2.7 million of the $2.8 million was for the personnel claims software development project, torts and affirmative claims software development project, and hardware and software acquisition support project. The remaining $0.1 million in unliquidated obligation from FYs 1997 through 1999 was for three projects involving hardware, software, network integration, and acquisition support, and a software development project for which specific requirements were defined but the funds were not expended in the years of the applicable appropriations. We believe that USARCS was continuing to retain or bank $2.8 million with GSA to meet future undefined requirements. For example, the USARCS project for hardware, software, and network integration had an unliquidated obligation of $65,307. GSA awarded a delivery order of $3,076 for this project on August 2, 2000. Before August 2, 2000, the last activity for this project was on September 7, 1999, which was a $12,655 decrease to delivery order DABT63-96-D-0014-03. Proper accounting of the funds would require USARCS to request the return of the $2.8 million in unliquidated obligations from GSA and deobligate those funds. USARCS should also initiate annual reviews of the unliquidated obligations in the GSA Information Technology Fund.

Guidance on the GSA Information Technology Fund

The Under Secretary of Defense (Comptroller) needs to issue supplemental fiscal guidance on the use of the GSA Information Technology Fund. The Deputy Assistant Secretary of the Army (Policy and Procurement), [1] stated that the funding practices discussed in our report were not unique to USARCS and asked that we obtain guidance on the legality of the funding practices, which he could use to initiate action to limit such practices. In addition to his request, similar problems with funding for procurements of support services and information technology through the GSA Information Technology Fund were identified in GSA Inspector General Report No. A001031, "Review of Center for Information Security Services, Federal Technology Services," March 23, 2001, and Inspector General of the Department of Defense Report No. D-2001-034, "Army Healthcare Enterprise Management System," January 16, 2001. The guidance from the Under Secretary of Defense (Comptroller) should address the use of the GSA Information Technology Fund by DoD agencies to extend the useful life of their appropriations beyond the fiscal year limitations. The guidance should also explain that DoD agencies must comply with the bona fide need rules when using the GSA Information Technology Fund. Finally, the guidance should state that if a DoD organization uses the GSA Information Technology Fund and does not comply with the bona fide need rule and/or improperly extends the life of an appropriation, then an Antideficiency Act violation may have occurred.

Administrative Costs

USARCS incurred higher administrative costs by using GSA than it would have partnering with a larger Army contracting office. In performing its contracting responsibilities, GSA charged USARCS contract administration fees of 1.5 percent, other transaction fees of .5 percent, and labor charges of $102 per hour. The GSA fees included its cost of using Army contracts to acquire technical and management support services, and the acquisition of information technology for USARCS. GSA charged USARCS a fee of $6,356, or 1 percent for issuing two delivery orders for $635,671 against Army Communications-Electronics Command contracts DAAB07-97-D-V002 and DAAB07-97-D-V003. GSA also used the Army Intelligence Center and Fort Huachuca Directorate of Contracting to award delivery orders on behalf of USARCS. The fees that GSA paid the Fort Huachuca Directorate of Contracting were sometimes excessive, given the amounts of the delivery orders. For example, a $1,000 fee (37 percent) was charged for a $2,732 purchase. See Table 3 for examples of Fort Huachuca delivery orders fees.

[1] Formerly Deputy Assistant Secretary of the Army (Procurement). Redesignated Deputy Assistant Secretary of the Army (Policy and Procurement).

Table 3. Delivery Orders Issued by Fort Huachuca Directorate of Contracting

Contract Number	Order Number	Amount	Fee	Total	Percent Fee
DABT63-96-D-007	DABT63-96-D-0283	$33,473	$ 670	$34,143	2
GS-35F-4120D	DABT63-00-F-1615-00	31,131	1,000	32,131	3
Small purchase	DABT63-00-P-1154-00	2,732	1,000	3,732	37
Total		**$67,336**	**$2,670**	**$70,006**	

Overall, USARCS incurred $203,125 in GSA service charges, administrative costs and labor costs from FYs 1997 through March 2001, which was 3.2 percent of the $6.4 million obligated by GSA. The cost-to-spend ratio in FY 1999 for Army contracting offices was about 1.2 percent. The ratio for the Military Departments and the Defense Logistics Agency currently average below 2 percent. Because the 3.2 percent cost-to-spend ratio was higher than the Army ratio of 1.2 percent, using GSA may not have been the best use of Army resources. USARCS would have better control over administrative costs by partnering with a larger Army contracting office for the acquisition of technical and management support services, and information technology. The Army needs to issue guidance on Army activities partnering with larger Army contracting offices for contracting support to minimize procurement administrative costs.

Conclusion

USARCS did not adequately plan the acquisition of technical and management support services, and information technology through the GSA Information Technology Fund. Contracting within the Army should have been the first option USARCS explored. The Army should investigate USARCS use of O&M funds to satisfy future requirements. USARCS should request the return of any unused funds that it did not support with requirements in the same appropriation year. In addition, USARCS should establish controls to require statements of work, project element plans, and cost estimates when the MIPRs are issued.

Recommendations, Management Comments, and Audit Response

A.1. We recommend that the Under Secretary of Defense (Comptroller) issue fiscal guidance on the use of the General Services Administration Information Technology Fund.

Management Comments Required

The Under Secretary of Defense (Comptroller) did not comment on a draft of this report. We request that the Under Secretary provide comments on the final report.

A.2. We recommend that the Assistant Secretary of the Army (Financial Management and Comptroller):

a. Investigate the potential $800,000 Antideficiency Act violations on MIPR0lFEDK4023 change 3 for the personnel claims software development project.

b. Investigate the potential $2.5 million Antideficiency Act violations on MIPR8JFEDK4068 and MIPRFEDK4071 basic, and changes 2 and 3 for the torts and affirmative claims software development project.

c. Investigate the potential $500,000 Antideficiency Act violations on MIPR0KGSACOPU, MIPR0LEDK4023 basic, and changes 1 and 2 for the software development project funded through the hardware and software acquisition project.

d. Comply with the reporting requirement in DoD Regulation 7000.14-R, "Financial Management Regulation," volume 14, "Administrative Control of Funds and Antideficiency Act Violations," if any violations occurred.

e. Provide a copy of the preliminary review report and the final formal investigation report to the Inspector General of the Department of Defense.

Management Comments. The Deputy Assistant Secretary of the Army (Financial Operations) agreed that potential Antdeficienciency Act violations should be investigated, but asserted that the Army Claims Service addressed the potential violation in its response to the audit report. The Deputy Assistant Secretary of the Army (Financial Operations) concurs with the Army Claims Service conclusion that an Antideficiency Act violation had not occurred, and that an investigation is not warranted.

Specifically, the Acting Commander, Army Claims Service, disagreed with Recommendations A.2.a., A.2.b., A.2.c., and A.2.d., stating that although the recitation of the bona fide need rule in the report is accurate, its application to this situation is not. The Commander stated that any large spending at the end

of a FY may be evidence of fiscal mismanagement warranting examination. However, the use of Unfunded Requirements (UFR) lists are routinely used in the budget process. Every installation, department, branch, or section of any component has a UFR list to implement the acquisition of a recognized requirement that is used if funding becomes available. The Commander stated that although the report points to the lack of finite documentation in the MIPR or the project requirement as further indication that there was not a bona fide need in the FY in which the obligation was made, the report fails to address the simple truth that the stated purpose on the face of the project requirement was, and is, the need of the Army Claims Service. Any assertion that there was not a bona fide need for these programs is wrong because the need existed and still exists for these programs.

The Commander acknowledged that although the Army could have more thoroughly documented the basis and requirements for the projects and included them with the MIPR, USARCS personnel followed guidance provided by GSA personnel who run the GSA Information Technology Fund on how to do the project requirements and the information necessary to comply with the Act's requirements.

Audit Response. The Deputy Assistant Secretary of the Army (Financial Operations) comments are not responsive. The Deputy Assistant Secretary's assertion that because the Army Claims Service concluded that an Antideficiency Act violation had not occurred, an investigation is not warranted, runs counter to the requirements of the DoD Financial Management Regulation (FMR). Specifically, DoD Regulation 7000.14-R, volume 14, chapter 3 requires that a preliminary review be made to determine whether a violation exists. In this case, the Assistant Secretary of the Army did not conduct a preliminary review of the Antideficiency Act violations and merely relied on the Army Claims Service's conclusions.

Also, the USARCS comments did not address the individual projects in Recommendations A.2.a. through A.2.c. Each project should be investigated for a potential Antideficiency Act violation based on the facts and circumstances surrounding the funding for each project.

The USARCS assertion that there were no Antideficiency Act violations because the applicable need was identified, discussed, and programmed, and that the need still exists, is misleading. USARCS did not have a need in the fiscal year of the funds. Specifically, USARCS used current year funds for out-year projects or tasks. For example, USARCS used current year funds to fund maintenance tasks and training costs that certainly would not be a requirement until the software was developed and installed at some point in the future. Our conclusion was based on a combination of factors such as the lack of specificity in the MIPRs, lack of other documentation (such as cost estimates and statements of work), and even the absence of contract awards.

Further, although these orders were not accomplished under the Economy Act or the Project Orders Act, the FMR guidance with respect to such purchases is analogous here. For example, the FMR requires both such transactions to comply with the bona fide need rule. The fact that an item is or has been an

unfunded requirement of the command is not necessarily dispositive. Guidance in the FMR for each type of acquisition requires that the work "shall be expected to begin within a reasonable time after its acceptance." Although such orders may create a valid obligation of funds, they must be specific, definite, and certain as to the work encompassed by the order and the terms of the order itself. The Comptroller General has specifically applied both the bona fide need rule and the concept of severable services to acquisitions entered upon under authority other than the Economy Act. When, as here, a MIPR lacks a description of the product and sufficient, definite, and certain detail at the time of issuance or acceptance to allow the performing agency to proceed in carrying out the work ordered, we question whether there is a bona fide need or a valid obligation of funds.

In addition, the "off-loading" of contracts poses increased risks to the requesting agency of funding violations. Moreover, USARCS should have ensured that GSA complied with the Memorandum of Understanding, which required the identification of specific tasks, goods and services, milestones, and the preparation of cost estimates in the project element plans. USARCS officials signed and agreed to the project element plans knowing that the required elements were missing. Furthermore, USARCS could have avoided the problems identified in the report if USARCS had followed existing DoD and Army regulations (the Financial Management Regulation, DFAS regulations, and the Army Economic Manual). Nothing in the Memorandum of Understanding or the information technology fund superceded DoD or Army regulations.

We request that the Assistant Secretary reconsider his position and provide additional comments in response to this final report.

A.3. We recommend that the Acting Deputy Assistant Secretary of the Army (Policy and Procurement) issue guidance on Army organizations partnering with larger Army contracting offices for contracting support to minimize procurement administrative costs.

Management Comments. The Acting Deputy Assistant Secretary of the Army (Policy and Procurement) concurred, stating that he will issue the guidance as soon as possible.

A.4. We recommend that the Commander, Army Claims Service:

a. Implement management control procedures that require the planning of acquisitions and preclude issuance of military interdepartmental purchase requests that are not supported by statements of work, cost estimates, and other planning documents, and cite the appropriate type of funds.

Management Comments. The Commander partially concurred, stating that additional management control procedures will be implemented. The Commander also stated that requests are required to include specific documentation on projects or purchases to include statements of work, cost estimates, delivery requirements, and any other required documentation.

Audit Response. The Commander's plan to implement additional management control procedures satisfies the intent of our recommendation. However, we request that the Commander, in response to this final report, specify what management control procedures will be implemented, and when.

b. Recoup the unliquidated obligation of $2.8 million in FYs 1997, 1998, 1999, and 2000 operation and maintenance funds from the General Services Administration and deobligate the funds.

Management Comments. The Commander partially concurred with the recommendation, stating that USARCS has begun the process to deobligate funds for the following completed projects: PEP 2 Hardware/Software Acquisition, PEP 3 Hardware/Software/Network Acquisition, and PEP 6 Hardware/Software Acquisition Support. However, the Commander stated that other projects are properly open and funded. The Commander stated that although the Army Claims Service has not placed any orders on PEP 7 Personnel Claims Software Conversion to the web-based program since this audit, he anticipated that the Army Claims Service would begin placing orders on that project at the conclusion of this report.

Audit Response: We do not agree that the projects for the personnel claims software development project and the torts and affirmative claims software development project were properly funded. The projects included unliquidated obligations for future requirements. See Appendix E for a detailed discussion of the personnel claims software development project and the torts and affirmative claims software development project. Finding B also discusses the type of the funds that should be used. We request that the Commander reconsider his position and provide additional comments in response to this final report.

c. Implement annual reviews of any unliquidated obligations in the General Services Administration Information Technology Fund.

Management Comments. The Commander concurred with the recommendation, stating that the annual review of all projects, including review of funds, is included in the management control procedures to be implemented under Recommendation A.4.a.

B. Funding of Investment Items

USARCS obligated $3.3 million of O&M funds instead of RDT&E and/or procurement funds to develop and acquire software for processing personnel claims and torts and affirmative claims. Use of the wrong type of funds occurred, in part, because the guidance on funding information technology projects was unnecessarily broad. In addition, USARCS was not aware of the guidance from the Under Secretary of Defense (Comptroller) that clarified procedures for funding information technology systems. As a result, USARCS may have committed an Antideficiency Act violation by using the wrong appropriations.

Funding Guidance

On October 26, 1999, the Under Secretary of Defense (Comptroller) issued policy that clarified procedures for funding information technology systems by requiring that development and modernization efforts be budgeted with RTD&E appropriations. The budget policy clarification provides that costs for the development of a new capability, including all organizations involved in bringing a program to the objective system defined in the requirement documents, would be financed with RDT&E appropriations. Costs for obtaining commercial off-the-shelf systems requiring no modification would be financed with procurement appropriations, or if budgeted costs are less than $100,000, with O&M appropriations. However, if software modifications were made to commercial off-the-shelf information systems, costs would be financed with RDT&E appropriations. The Under Secretary of Defense (Comptroller) stated that, as a result of this policy clarification, there would likely be a migration of funds from the O&M appropriations to the RDT&E and procurement appropriations.

The policy clarification on funding information technology systems was incorporated into the June 2000 revision of the FMR. The FMR provides the following guidance on budgeting for information technology and automated information systems.

RDT&E Appropriations. RDT&E funds should be used to develop major upgrades to increase the performance of existing systems, purchase test articles, and conduct developmental testing and/or initial operational test and evaluation prior to system acceptance.

Procurement Appropriations. Acquiring and deploying a complete system with a cost of $100,000 or more is an investment and should be budgeted with procurement appropriations. For system modification efforts, only the cost of the upgrade (for example, new software, hardware, and labor) is counted toward

the $100,000 threshold. When applying the dollar threshold, the acquisition of the investment item may not be fragmented or the item acquired in a piecemeal fashion so as to circumvent the expense and investment policy.

O&M Appropriations. Expenses incurred in continuing operations and current expenses are budgeted in the O&M appropriations. Modernization costs under $100,000 are considered expenses, as are one-time projects such as developing planning documents and studies. Items purchased from a commercial source that can be used without modification (for example, commercial off-the-shelf and nondevelopmental items) will be funded in either the procurement or O&M appropriation, as determined by the expense and investment criteria.

Definition of Information Technology System. The FMR, volume 2B, chapter 18, "Information Technology and National Security Systems," June 2000, defines a system as a combination of computer hardware and computer software, data, and telecommunication that performs functions such as collecting, processing, transmitting, and displaying information.

Planning for Software Development Projects

USARCS did not identify specific tasks to be accomplished or identify the appropriate funds before sending the MIPRs to GSA for the personnel software development project. For the torts and affirmative claims software development, specific tasks were identified but USARCS did not distinguish between the use of O&M, RDT&E, or procurement funds for the tasks.

Personnel Claims Software Development. USARCS initiated the personnel claims software development project on September 28, 2000. USARCS provided GSA with $800,000 in FY 2000 O&M funds on MIPR MIPR0lFEDK4023, change 3. USARCS did not prepare a statement of work or identify specific tasks for the personnel claims software development project. Furthermore, as of April 2001, GSA had not awarded any delivery orders for the project. See finding A for issues related to the bona fide need for the $800,000 development project in FY 2000. After USARCS resolves the bona fide need issue, it should use RDT&E funds for the personnel claims software development project and procurement funds for actual purchase of the completed software and hardware if the cost exceeds the $100,000 investment threshold.

Torts and Affirmative Claims Software Development. USARCS initiated the torts and affirmative claims software development project because the existing system was vulnerable to the effects of the change to the new millennium and did not provide adequate support for mission critical elements of the organization. The purpose of the project was to implement an integrated torts and affirmative claims system to provide USARCS users with instant access to mission-critical management information assets. The project element plan for the projects states, "The initial support under the project plan will provide funding for project development support of the torts and affirmative claims system. The support may include the acquisition of hardware and software for direct support of the claims mission, including operations of current and future

software systems." USARCS provided initial funding for the project on MIPR8JFEDK4068 with $117,500 in O&M funds on June 24, 1998. The total estimated cost in the project element plan was $500,000. On October 15, 1998, USARCS approved a revision that added task 2 to the project element plan and increased the estimated cost to $2.6 million. USARCS provided about $2.4 million in O&M funds for task 2 on MIPR8MFEDK4071 (basic and changes 2 and 3). Task 2 included multiple tasks:

- purchase, tailor, and/or develop software;
- purchase hardware and technology services necessary to complete the project;
- test hardware and software;
- train personnel;
- maintain software, hardware, and services; and
- purchase hardware, which will enhance fielding new software.

Of the $2.5 million ($117,500 plus $2.4 million) USARCS obligated for the torts and affirmative claims software development, USARCS had unsupported, unliquidated obligations of $1.4 million that we addressed previously in finding A. Table 4 shows the nine delivery orders that GSA issued for the remaining $1.1 million.

Table 4. Contracting Actions for the Torts and Affirmative Claims Software Development

Date	Delivery Order No.	Items Purchased	Amount
7/01/99	DABT63-96-D-0085-00	Program manager and computer specialist support services	$ 148,433
8/31/99	GS-00T-99-AJP-3249	Servers and seagate software	9,308
10/18/99	T0099AJ3545	Two servers	27,892
12/28/99	DABT63-96-D-0085-01	Program manager and computer specialist support services	27,000
3/21/00	DABT63-96-D-0085-02	Program manager and computer specialist support services	626,611
4/20/00	DABT63-00-F-1221-00	Software products, maintenance agreement, and technical support	98,034
5/26/00	T0000AJ3640	Scanner	456
9/07/00	DABT63-96-D-0085-03	Program manager and computer specialist support services	54,406
1/31/01	NBCHF010026-00	Software consultant	23,520
Subtotal			1,015,660
GSA Fees and other costs			46,169
Total			**$1,061,829**

Funding for Software Development Projects

USARCS partially funded the torts and affirmative claims software development project before the June 2000 revisions to the FMR. Inspector General of the Department of Defense Report No. D-2000-063, "Information Technology Funding in the Department of Defense," December 17, 1999, stated that the guidance in the FMR on funding information technology systems was unnecessarily broad. The report further stated that O&M funds rather than RDT&E funds were frequently being used for information technology development. The memorandum from the Under Secretary of Defense (Comptroller) and the subsequent changes to the FMR corrected the inconsistencies in funding information technology systems. Accordingly, we are not making a recommendation to address this issue.

However, USARCS provided the funding for the personnel claims software development project after the changes to the FMR. USARCS was not aware of

the guidance from the Under Secretary of Defense (Comptroller) on funding information technology systems. In addition, USARCS did not follow the FMR in providing funds for the personnel claims software development project. The FMR requires that O&M funds be used for such items as technical support costs, training, and maintenance. The FMR also requires the use of RDT&E funds to develop major upgrades to increase the performance of existing systems, purchase test articles, and conduct developmental testing and/or initial operational test and evaluation prior to system acceptance.

The purchase of the completed software and hardware requires the use of procurement funds if the purchase exceeds the $100,000 investment threshold. To determine whether an investment item exceeds the $100,000 threshold, the FMR precludes the use of piecemeal procurements. The FMR requires that an organization consider total system cost, rather than the individual component costs of a system, when determining whether to use O&M or procurement funds. USARCS should determine whether O&M, RDT&E, or procurement funds were appropriate for the personnel claims software development project using the guidance in the FMR, and then make any necessary funding adjustments.

Recommendations, Management Comments, and Audit Response

B.1. We recommend that the Commander, Army Claims Service:

a. Use research, development, and test and evaluation funds for the personnel claims software development project and procurement funds for actual purchase of the completed software and hardware if the cost exceeds the $100,000 investment threshold.

Management Comments. The Commander agreed with the recommendation that USARCS determine which area should be used under current guidance and request funding under that area. However, the Commander stated that USARCS is currently reevaluating its funding and making appropriate adjustments. The Commander stated that until the audit team brought the memorandum to their attention, USARCS was unaware of the guidance sent out by the Under Secretary of Defense (Comptroller), which states that RDT&E funds or procurement appropriations should be used under certain circumstances. The Commander stated if USARCS violated any policy, it would be a violation of the policy to convert O&M dollars into RDT&E or procurement dollars so that the different controls and processes established under the RDT&E or procurement areas would be applied to the acquisition.

Audit Response. The Commander's comments meet the intent of the recommendation. However, we do not agree with the Commander's assertion that USARCS only violated the policy to convert O&M dollars into RDT&E or procurement. The policy from the Under Secretary of Defense (Comptroller) was formalized into the FMR on June 2000. The FMR did not provide for the conversion of the funds. As stated in Appendix E, the personnel claims software development project was initially funded almost 1 year after the policy

guidance and almost 3 months after the FMR change. We believe that the conversion of the funds should not apply to projects funded after the incorporation of the Under Secretary of Defense (Comptroller) policy into the FMR.

b. Establish the controls over military interdepartmental purchase requests to preclude the development and acquisition of investment items with operation and maintenance funds and ensure that the acquisition of investment items is not fragmented to circumvent the $100,000 threshold for using procurement funds.

Management Comments. The Commander concurred with the recommendation, stating that the Army Claims Service plans to implement management controls as a result of finding A will include processes for the development and issuance of MIPRs. The Commander also stated that USARCS has always been aware that fragmenting purchases to circumvent any threshold established by policy or regulation is inappropriate. Determinations are made on any project as to whether acquisition is of a system or for individual component items that are stand-alone. Thus, the purchase of stand-alone computers for the field offices, although in the aggregate more than $100,000, does not fall within the policy as the computers do not form a system, as contemplated by the policy. The Commander stated that USARCS will continue its vigilance to ensure fragmenting does not occur.

Audit Response. The Commander's plan to implement additional management control procedures satisfies the intent of our recommendation. In response to the final report, we request that the Commander provide us a copy of the controls that are implemented.

Appendix A. Audit Process

Scope and Methodology

Work Performed. We reviewed the use and control of MIPRs by USARCS. We reviewed $11.6 million in O&M funds sent to GSA from September 1997 through September 2000. We also reviewed the MIPRs to determine if the use of O&M funds was appropriate for the procurement of information technology assets by USARCS. The documentation that we reviewed included MIPRs, project element plans, statements of work, an interagency agreement, GSA financial records, and GSA and contractor correspondence. The documentation we reviewed covered the period from September 1997 through March 2001. We interviewed officials from DoD and GSA.

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

Use of Computer-Processed Data and Other Data. We obtained a computer-generated list from GSA of MIPRs processed through the GSA Information Technology Fund during FY 2000. From this list, we judgmentally selected specific MIPRs initiated by the Army Claims Service for review. We did not verify the accuracy of the entire GSA list, but the MIPR numbers and amounts of the MIPRs that we examined agreed with the GSA list. We also obtained computer-generated data from GSA on its administrative and labor costs incurred under its interagency agreement with USARCS. We did not verify this information against the GSA detailed records. We do not believe the lack of verification impacted the audit results. Further, in comparing the USARCS cost-to-spend ratio to the overall Army cost-to-spend ratio, we did not assess how the Army computed its cost-to-spend ratio.

Use of Technical Assistance. We obtained legal assistance from the Office of General Counsel, DoD, concerning USARCS compliance with laws and regulations related to the potential Antideficiency Act violations.

Audit Dates and Standards. We performed this audit from October 2000 through August 2001 in accordance with generally accepted government auditing standards.

Contacts During the Audit. We visited or contacted individuals and organizations within DoD and the GSA. Further details are available upon request.

Management Control Program Review

DoD Directive 5010.38, "Management Control (MC) Program," August 26, 1996, and DoD Instruction 5010.40, "Management Control (MC) Program Procedures," August 28, 1996, require DoD organizations to implement a comprehensive system of management controls that provides reasonable assurance that programs are operating as intended and to evaluate the adequacy of the controls.

Scope of the Review of the Management Control Program. We reviewed the adequacy of management controls over the process that USARCS used to plan and fund the interagency transactions with GSA. We examined management controls over compliance with laws and regulations for planning and funding the acquisition of information technology assets. We also reviewed the adequacy of the self-evaluation of management controls at USARCS.

Adequacy of Management Controls. We identified material management control weaknesses for USARCS, as defined by DoD Instruction 5010.40. USARCS management controls for planning and funding interagency transactions with GSA were not adequate to ensure that a valid appropriation was used and other planning documents were prepared to support the type and amount of funding for the interagency transactions with GSA, and that the interagency acquisitions complied with statutory and regulatory requirements. Recommendations A.1., A.3., A.4.a., A.4.c., B.1.a., and B.1.b., if implemented, will assist in correcting the cited weaknesses. A copy of this report will be provided to the senior official responsible for management controls in the Army.

Adequacy of Management's Self-Evaluation. USARCS officials did not identify funding or acquisition of technical and management support services, and information technology as assessable units and, therefore, did not identify or report the material management control weaknesses identified by the audit.

Prior Coverage

During the last 5 years, the Inspector General of the Department of Defense and the GSA Inspector General issued reports that discussed DoD funding for procurements of support services and information technology through the GSA Information Technology Fund.

General Services Administration

GSA Inspector General, Report No. A001031, "Review of Center for Information Security Services, Federal Technology Service," March 23, 2001

Inspector General of the Department of Defense (IG DoD)

IG DoD Audit Report No. D-2002-110, "Policies and Procedures for Military Interdepartmental Purchase Requests at Washington Headquarters Services," June 19, 2002

IG DoD Audit Report No. D-2001-034, "Army Healthcare Enterprise Management System," January 16, 2001

IG DoD Audit Report No. D-2000-063, "Information Technology Funding in the Department of Defense," December 17, 1999

Appendix B. Funding Criteria

United States Code

Section 1501 of title 31, United States Code, establishes minimum requirements for recording obligations for contracts. Specifically, for an agency to record a valid obligation, there must be documented evidence of an executed written agreement between agencies before the obligation of the appropriation or funds expires. The funds must be used for specific goods or services to be leased or purchased.

The statutory basis for the bona fide need rule is found in 31 U.S.C. 1502, which states, "The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability." The bona fide need rule provides that a fiscal year appropriation may be obligated only to meet a legitimate, or bona fide, need arising in the fiscal year for which the appropriation was made.

The Information Technology Fund is established in 40 U.S.C. 757, and specifies the content, costs, and capital requirements for the Information Technology Fund. The purpose of the Information Technology Fund is to provide information technology hardware, software, or services using multiyear contracts. The statute also provides that the funds obligated against the Information Technology Fund are available without fiscal year limitations.

DoD Financial Management Regulation

Volume 2A, chapter 1, states that O&M funds are used for expenses incurred to operate and maintain the organization. Investments are defined as costs resulting in the acquisition of, or an addition to, end items, and are budgeted with procurement or military construction funds. In general, an item with a unit cost exceeding $100,000 is considered an investment. A contractor's labor cost incurred for the production or the construction is included in determining the cost of an investment.

Volume 14, chapters 2 through 10, address Antideficiency Act violations. Specifically, chapter 2 addresses the types of Antideficiency Act violations and provides examples of the various violations. Chapters 3 through 10 provide requirements for conducting investigations of potential Antideficiency Act violations and reporting the results of the investigations.

Appendix C. Guidance on Using the GSA Information Technology Fund

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

16 DEC 1997

The Honorable Emily C. Hewitt
General Counsel
General Services Administration
Washington, D.C. 20405

Dear Ms. Hewitt:

As you are well aware, questions have been raised by some DoD activities regarding their authority to obtain information technology resources from GSA programs that are funded through the Information Technology Fund without using the authority of the Economy Act, 31 U.S.C. §§1535 and 1536. This office agrees with your conclusion that DoD activities may obtain information technology resources from GSA programs that are funded through the Information Technology Fund without relying on the Economy Act.

In our view, DoD activities may obtain information technology from GSA programs that are funded through the Information Technology Fund as provided by the Office of Management and Budget in its memorandum of August 2, 1996. In that memorandum, GSA is designated under section 5112(e) of Division E of the Clinger-Cohen Act of 1996 (Pub. L. 104-106)(formerly the Information Technology Management Reform Act of 1996 (ITMRA)) as an executive agent for certain Government-wide acquisitions of information technology. This designation is effective through September 30, 1998 and applies to the Federal Systems Integration and Management Center (FEDSIM) and Federal Computer Acquisition Center (FEDCAC) programs, as well as to other then-existing government-wide information technology acquisition programs. The scope of the designation is limited to programs that are funded on a reimbursable basis through the Information Technology Fund established at 40 U.S.C. §757 and that have been, or may be, approved by OMB as part of the annual cost and capital plan for that fund.

I trust this letter will resolve lingering questions regarding application of the Economy Act to DoD use of GSA programs funded through the Information Technology Fund. In addition, we intend to provide assistance, as needed, as OMB continues to review a variety of matters dealing with the procurement of information technology pursuant to the Clinger-Cohen Act. If you, your staff, or other GSA officials need further assistance on this issue, please call Robert S. Gorman of my staff at (703) 697-5073.

Sincerely,

Harvey J. Nathan

Harvey J. Nathan

Appendix D. MIPRs Issued for Project Element Plans

MIPR Number	Amount	Amount Obligated or Expended[1]	Balance
GSA Administrative Costs:			
MIPR7MFEDK4045 Basic	$ 10,000		
MIPR8MFEDK4071 CH2[2]	20,000		
Subtotal	**30,000**	**$ 30,344**	**$ (344)**
Hardware/Software Acquisition:			
MIPR7MFEDK4045 Basic	661,875		
Subtotal	**661,875**	**661,828**	**47**
Hardware/Software/Network Integration:			
MIPR7MFEDK4045 Basic	2,521,125		
MIPR8MFEDK4071 CH1/CH2	264,000		
Subtotal	**2,785,125**	**2,719,818**	**65,307**
European Software Development:			
MIPR7MFEDK4045 Basic/CH1	371,000		
Subtotal	**371,000**	**368,838**	**2,162**
Torts and Affirmative Action Software Development:			
MIPR8JFEDK4068	117,500		
MIPR8MFEDK4071 Basic/CH2/CH3	2,406,216		
Adjustment to Project Funding[2]	(20,000)		
Subtotal	**2,503,716**	**1,061,829**	**1,441,887**
Hardware and Software Acquistion Support:			
MIPR9MFEDK4045 Basic/CH1/CH2/CH3	1,631,500		
MIPR0KGSACOPU	8,222		
MIPR0LFEDK4023 Basic/CH1/CH2	2,801,503		
Subtotal	**4,441,225**	**1,587,844**	**2,853,381**
Personnel Claims Software Development:			
MIPR0LFEDK4023 CH3	800,000		
Subtotal	**800,000**	**0**	**800,000**
Totals	**$11,592,941**	**$6,430,501**	**$5,162,440**

[1] The amount obligated or expended consisted of the GSA delivery orders and administrative costs incurred for the project element plans as of April 2001.
[2] On March 24, 1999, USARCS approved an increase of $20,000 to GSA administrative costs and a $20,000 decrease to the torts and affirmative action software development project. For this appendix we used MIPR8MFEDK4071, change 2, to reflect the increase in the GSA administrative project element plan.

Appendix E. U.S. Army Claims Service Acquisitions Through GSA

Personnel Claims Software Development Project

The USARCS obligated $800,000 in FY 2000 O&M funds for the personnel software development project. On September 28, 2000, USARCS provided the $800,000 to GSA on MIPR0lFEDK4023, change 3. A memorandum from the Information Management Officer to the USARCS Budget Branch dated March 5, 1997, listed the automation projects to support the obligation of the $800,000. USARCS stated that this memorandum demonstrated the need for the project. The list of automation projects showed a personnel claims software program in FY 1997 and adjudication module for the personnel claims software as FYs 1999 and 2000 requirements. We disagree with USARCS that the memorandum established a bona fide need in FY 2000 for the personnel claims software development project. When the MIPR was issued, USARCS had not adequately planned for the acquisition, or identified project details in a statement of work or project element plan. The project element plan GSA issued on September 28, 2000, states ". . . funds were for software development and related activities for the personnel claims program." The phrase "software development" did not identify specific goods or services, or meet the description of work requirements in DFAS Regulation 37-1. Software development projects are complicated, involving designing, installing, and testing the software. We believe that USARCS should have funded the projects with RDT&E, not O&M funds.

In addition, USARCS did not prepare a cost estimate for the personnel claims software development project prior to issuing the MIPR. USARCS officials stated that they based the $800,000 on the costs incurred for the torts and affirmative claims software development project. The "Army Economic Analysis Manual," July 1995, states that the documentation for a cost estimate must provide an audit trail, which includes the computations and methodologies used to develop the estimate. On April 11, 2001, the USARCS Information Management Officer met with the programmers and obtained an estimate of $1.8 million. Six months after the funds would normally have expired, GSA still had not issued any contracts based on the MIPR. Because USARCS did not define its requirements for the personnel claims software development project prior to issuing the MIPR on September 28, 2000, no legitimate need in FY 2000 was established. Further, as discussed in finding B, USARCS should have used RDT&E funds and/or procurement funds instead of O&M funds. The Army should investigate the potential Antideficiency Act violation that occurred when USARCS obligated $800,000 of FY 2000 O&M funds without establishing a bona fide need for the personnel claim software development project in FY 2000. Additionally, USARCS should request the return of the $800,000 in unliquidated obligations from GSA and deobligate those funds.

Torts and Affirmative Claims Software Development Project

USARCS originally identified the need for the torts and affirmative claims software development project in 1997. In June 1997, USARCS requested a planning estimate for a requirement analysis from the Naval Computer and Telecommunications Station. In November 1997, the Naval Computer and Telecommunications Station completed a study that provided USARCS a recommended solution for the torts and affirmative claims systems. A rough estimate for the torts and affirmative claims software development was $1.4 million. At the end of FY 1997, USARCS contracted with Information Systems Support Inc. for a system analysis and definition of the torts and affirmative claims program with the goal of writing an automation plan to guide USARCS in the future. Once the system analysis and definition was completed, USARCS planned to contract for the development of the torts and affirmative claims software development for delivery in FY 1999.

USARCS initially funded the torts and affirmative claims software development project with MIPR8JFEDK4068, for $117,500, dated June 24, 1998. In September 1998, USARCS sent GSA MIPR8MFEDK4071 basic, and changes 2 and 3 for $2.4 million, in FY 1998 O&M funds, for task 2 of the torts and affirmative claims software development. Of the total $2.5 million, GSA used about $1.1 million to issue nine delivery orders for the project. GSA had not obligated the remaining $1.4 million as of April 2001.

Although USARCS approved the initial project element plan on September 28, 1998, USARCS did not sufficiently define its requirements for the torts and affirmative claims software development project to justify the use of $2.5 million in FY 1998 O&M funds. The initial project element plan USARCS approved on September 24, 1998, included $500,000 for task 1, the development of project plans and work breakdown structure. Specifically, such tasks as project plan development, gathering user requirements, and developing software requirement definitions were to be accomplished from 1 to 10 months after project start date. On October 15, 1998 (FY 1999), USARCS approved change 1 to the project element plan, which added task 2 to the project at an estimated cost of $2.1 million. The task 2 project element plan identified software development, software and hardware acquisition, and software installation and support. The project element plan states performance dates for task 2 were "to be determined." In addition, the "Project Master Plan for Torts and Affirmative Claims Information Management System," was not completed until June 1, 1999. The project master plan was the analysis of the business functions and information systems requirements that USARCS needed for implementation of the torts and affirmative claims software development project.

The $1.4 million in unliquidated obligations, as of April 2001, was attributed to the four-phase implementation strategy USARCS used to develop the torts and affirmation claims system. The project master plan proposed a four-phase implementation strategy that allowed flexibility in the commitment of fiscal resources and allowed USARCS management to prioritize its business requirements. Phase three developed a documentation management system with an estimated cost of about $1.1 million, and phase four developed the workflow

management system at a cost of $199,000. The project master plan states that each phase ". . . represents a project, each with its own complete life cycle, consisting of traditional project phases." Phases three and four could be performed concurrently or consecutively; however, neither could begin until phase two, development of the claims system, was completed. USARCS began discussing phases three and four with the contractor in May 2001. Because the documentation management system, and the workflow management system, represented separate systems and could not be started until completion of phase two, they were not legitimate needs in FY 1998. Therefore, USARCS use of FY 1998 O&M funds was not appropriate.

The Army should investigate and determine if a potential Antideficiency Act violation occurred when USARCS obligated the $2.5 million of FY 1998 O&M funds without establishing a bona fide need for the torts and affirmative claims software development project in FY 1998. Additionally, USARCS should request the return of the $1.4 million in unliquidated obligations from GSA and deobligate those funds.

European Software Development Project

In August 1997, USARCS requested that the Naval Computer and Telecommunications Station prepare a planning estimate for the European software development project. The Naval Computer and Telecommunications Station estimated a total project cost of $200,000 and proposed a starting date of October 1, 1997, with an estimated completion date of March 31, 1998. USARCS obligated $371,000 in FY 1997 O&M funds on MIPR7MFEDK4045 (basic and change 1) to fund the European software development project. USARCS sent GSA MIPR7MFEDK4045 on September 29, 1997, and change 1 on September 30, 1997. USARCS did not approve revisions to the interagency agreement or the project element plan for the European software development project until May 1998. The project element plan was also the statement of work for the project. GSA issued delivery order DABT63-96-D-0015/0104 on August 14, 1998, for $355,295 to Information Systems Support Inc., 11 months after USARCS provided $371,000 to GSA.

Hardware and Software Acquisition Support Project

European and Korean Software Development. USARCS obligated about $2.8 million in FY 2000 O&M funds on MIPR0KGSACOPU and MIPR0LFEDK4023 basic, and changes 1, and 2, for the hardware and software acquisition support project. USARCS officials stated that $500,000 of the $2.8 million was not for the acquisition of the hardware and software acquisition support project. USARCS officials stated that $60,000 should have been obligated for the European software development project and $440,000 obligated for a new project that involved implementing the European software in Korea. USARCS had correspondence with Information Systems Support Inc., to show that planning for the Korean software project was started in FY 2000. The correspondence on July 14, 2000, included a proposed cost estimate of $108,091. USARCS officials stated that programming and travel costs were

added to the cost estimate to allow the contractor to fix problems that occur from the use of the software. We do not agree that the correspondence established a bona fide need in FY 2000. If a legitimate need existed in FY 2000, then USARCS should have identified a separate requirement for the $500,000. In addition, GSA should have issued a delivery order to satisfy the USARCS requirement; however, as of April 2001, GSA had not funded the requirements. The expenses USARCS included for fixing the software after its development and installation are not a bona fide need in a year prior to the development of the software and should be funded with current year O&M funds. Because USARCS did not identify its requirements for the $500,000 when the MIPR was issued on September 28, 2000, it did not establish that a legitimate need existed that justified the use of FY 2000 O&M funds. USARCS should request the return of the $500,000 in unliquidated obligations from GSA and deobligate those funds. The Army should investigate the potential Antideficiency Act violation that occurred when USARCS obligated the $500,000 of FY 2000 O&M funds without establishing a bona fide need for the European and Korean software development in FY 2000.

Hardware and Software Acquisitions. The remaining $2.3 million for hardware and software purchases consisted of $1.8 million for the USARCS purchase of hardware and software and $0.5 million for a web page development project. USARCS received requests from its field offices for automation equipment in June through August 2000. However, USARCS did not identify specific requirements related to the hardware and software acquisition support project to GSA when issuing the MIPR. The interagency agreement requires that GSA identify "key deliverables" and critical milestones of significance to the client. DFAS Regulation 37-1 requires agencies to enter a description for specific goods or services. USARCS did not identify specific goods or services for delivery schedules and no statement of work was included on MIPR0LFEDK4023, changes 1 and 2, or the project element plan. USARCS only identified specific goods and services for $8,222 on MIPR0KGSACOMPU, and $35,000 on the basic MIPR0LFEDK4023. For example, MIPR0LFEDK4023 stated that USARCS provided $35,000 to purchase facsimile machines and printers. We believe that USARCS should have identified specific types and quantities of equipment either on the MIPR or the project element plan.

Appendix F. Report Distribution

Office of the Secretary of Defense

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

Department of the Army

Assistant Secretary of the Army (Financial Management and Comptroller)
Assistant Secretary of the Army (Acquisition, Logistics, and Technology)
  Deputy Assistant Secretary of the Army (Policy and Procurement)
Auditor General, Department of the Army
Commander, Army Claims Service

Department of the Navy

Naval Inspector General
Auditor General, Department of the Navy

Department of the Air Force

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

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Office of Management and Budget
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Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Committee on Government Reform
House Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, Committee on Government Reform
House Subcommittee on National Security, Veterans Affairs, and International Relations, Committee on Government Reform
House Subcommittee on Technology and Procurement Policy, Committee on Government Reform

Department of the Army Comments

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

REPLY TO
ATTENTION OF

MEMORANDUM FOR THE ASSISTANT INSPECTOR GENERAL FOR
FOR AUDITING, DoDIG, 400 ARMY NAVY DRIVE,
(ROOM 801), ARLINGTON, VA 22202-4704

SUBJECT: DoDIG Draft Audit Report Army Claims Service Military Interdepartmental Purchase Request (Project Number D2001CH-0032)

We concur that potential Antideficiency Act violations should normally be investigated; however, the Claims Service addressed the potential violation in its response to the audit. We have reviewed their response and concur with comment to their conclusions that an Antideficiency Act Violation had not occurred and an investigation is not required. The Army Claims Service and our comments are attached.

Point of contact for this action is Mr. Peter Langevin who can be reached at (703) 614-8411 or email: langepb@hqda.army.mil.

Ernest J. Gregory
Deputy Assistant Secretary of the Army
(Financial Operations)

Attachment

DRAFT AUDIT REPORT

Office of the Inspector General, DOD

Project No. D2001CH-0032 **September 21, 2001**

Army Claims Service Military Interdepartmental Purchase Request

FINDING A:

Procurement of Information Technology Support

RECOMMENDATION:

A.2. We recommend that the Assistant Secretary of the Army (Financial Management and Comptroller):

a. Investigate the potential $800,000 Antideficiency Act violation on MPIR01FEDK4023 change 3, for the personnel claims software development project.

b. Investigate the potential $2.5 million Antideficiency Act violations on MIPR8JED4068 and MIPR0LEDK4071 basic, and changes 2 and 3, for the torts and affirmative claims software development project.

c. Investigate he potential $500,000 Antideficiency Act violations on MIPRKGSACOPU, MIPR0LEDK4023 basic, and changes 1, and 2, for the software development project funded through the hardware and software.

d. Comply with the reporting requirement in DoD7000-14-R, "Financial Management Regulation," Volume 14, "Administrative Control of Funds and Antideficiency Act Violations," if any violations occurred.

e. Provide a copy of the preliminary review report and the final formal investigation report to the Inspector General, DoD.

Assistant Secretary of the Army (Financial Management & Comptroller) (ASA (FM&C)) COMMENTS: We concur with the recommendation that potential Antideficiency Act violations should be investigated to determine whether a violation existed. However, in this situation the Claims Service addressed the recommendation in its response at the attachment. We have reviewed that response and concur with the Claims Service that a bona fide need exists. As a result, no potential Antideficiency Act violation occurred and an investigation is not warranted.

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
ACQUISITION LOGISTICS AND TECHNOLOGY
103 ARMY PENTAGON
WASHINGTON DC 20310-0103

REPLY TO
ATTENTION OF

26 DEC 2001

SAAL-PP

MEMORANDUM FOR DIRECTOR, CONTRACT MANAGEMENT DIRECTORATE, OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE, 400 ARMY NAVY DRIVE, ARLINGTON, VIRGINIA 22202- 4704

SUBJECT: Audit Report on Army Claims Service Military Interdepartmental Purchase Requests (Project No. D2001CH-0032)

This memorandum provides my response to Recommendation A.3. "We recommend that the Deputy Assistant Secretary of the Army for Procurement issue guidance on Army organizations partnering with larger Army contracting offices for contracting support to minimize procurement administrative costs". Concur. We will issue such guidance as soon as possible. Kenneth J. Oscar, Deputy Assistant Secretary of the Army (Procurement), previously issued guidance on this subject in a memorandum dated March 18, 1996.

My POC for this action is Bill Kley who can be reached at (703) 681-1035.

Edward G. Elgart
Acting Deputy Assistant Secretary of the Army
(Procurement)

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DEPARTMENT OF THE ARMY
U.S. ARMY CLAIMS SERVICE
OFFICE OF THE JUDGE ADVOCATE GENERAL
4411 LLEWELLYN AVE
FORT GEORGE G. MEADE, MARYLAND 20755-5360

REPLY TO ATTENTION OF:

Commander

28 November 2001

MEMORANDUM FOR DIRECTOR, CONTRACT MANAGEMENT DIRECTORATE, OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE, 400 ARMY NAVY DRIVE, ARLINGTON, VIRGINIA 22202-4704

SUBJECT: Response to Audit Report on Army Claims Service Military Interdepartmental Purchase Requests (Project No. D2001CH-0032)

1. Subject report has been reviewed and our comments are enclosed.

2. Point of contact is Lieutenant Colonel Enrique B. Mendez, who can be reached at (301) 677-7009, ext. 202, email:enrique.mendez@claims.army.mil.

Encl.

John H. Belser, Jr.
Colonel, U.S. Army
Acting Commander

U.S. Army Claims Service Response to Draft of Proposed
Audit Report on Army Claims Service Military Interdepartmental Purchase Requests

Project No. D2001CH-0032 September 21, 2001

Recommendations:

A.1. No comment. Recommendation is to higher authority. We agree with recommendation, however, that further guidance and information on the Fund should be issued.

A.2. Disagree with recommendation. The IG Audit team cites three areas of "potential Antideficiency Act violation" and recommends that the Assistant Secretary of the Army (Financial Management and Comptroller) conduct an investigation. There were no Antideficiency Act (ADA) violations and no investigation is necessary. Specific comments are provided for each of the areas.

(a) The Draft Audit Report recommends an investigation of potential ADA violations for MIPR01FEDK4023 for personnel claims software development. The areas of concern in the draft report are whether the acquisition met the bona fide need rules and whether a wrong appropriation was used for making the purchase. The discussion of this area concerns sections (b) and (c) as well and will also apply to them.

While the recitation of the bona fide needs rule in the report is accurate, its application to this situation is not. We agree that any large spending at the end of a fiscal year (FY) may be evidence of fiscal mismanagement warranting examination. However, the use of UnFunded Requirements (UFR) lists is something well recognized in the fiscal year process. Every installation, department, branch, section, of any component has a UFR list to implement the acquisition of a recognized requirement that is used if funding becomes available. The statement in the report that, "Although USARCS could technically obligate funds at the end of a fiscal year, the obligation should be based on a valid need in the fiscal year of the appropriation in order to comply with the bona fide need rule" seems to indicate a presumption that the late obligation (within last 3 days) indicates a lack of bona fide need within that FY. While the report later points to the lack of finite documentation in the MIPR or the project requirement as further indication that there was no bona fide need in the FY in which the obligation was made, the report fails to address the simple truth that the stated purpose on the face of the project requirement was and is the need of this Command. Any assertion that there was not a bona fide need for these programs is wrong. The need existed and still exists for these programs. The need was identified, discussed, programmed for in our UFR requests to our budget personnel, and the need still existed when we obligated the funds. While we acknowledge that we likely could have more thouroughly documented the project basis and requirements and included them with the MIPR, USARCS personnel followed guidance provided by GSA personnel who run the GSA Information Technology Fund on how to do the project requirements and the information necessary to comply with the Acts requirements. While this report addresses the findings in a different February 2001 report on possible problems with GSA and how they have been running this program, we obviously were not aware of these problems and have been following directions provided us by the personnel directed to administer the use of the fund. It is they that set the

requirements for the acceptance of the obligation into the fund and while there may be questions now on how they do that, there were never any indications to us that they were doing anything contrary to the Act.

While the report talks of the presumption, it fails to identify that this a rebuttable presumption. Bona fide need rests on the "need" and not on the use. A barefoot man who finally receives money within the last several days of the fiscal year so that he can purchase shoes had a bona fide need for shoes throughtout the year even though they were ordered (due to funding restraints) at the end of the fiscal year and finally deliverd and used the next year. Further, the fact that the only thing stated in the obligation is "shoes" does not, in itself, point to a bona fide need problem for its lack of specificity. While there are many types of shoes in the world and this could mean any of them, the fact that shoes were needed does not change. Without the specificity, questions about the shoes **purchased** may arise but not a question on the **need** for shoes. To keep from having to answer those questions, as we are doing here, it would certainly have been better to have had the specificity in the MIPR or as part of the project requirements. That lack of specificity, however, does not override the fact that USARCS had, and still has, a bona fide need for the acquisition and development of the cited programs. The report acknowledges the initiation of some of the requirements based on the fact that USARCS was running old programs that did not comply with the "Year 2000" (Y2K) requirements to keep the program from crashing when programs switch over to a year "00" reading (thus mistakenly reading programs as "1900" instead of "2000") but fails to relate that to a bona fide need. Mandates from Headquarters, Department of the Army, to review and insure all programs were Y2K compliant clearly begins the bona fide need process as it is the software program that allows USARCS to coordinate the receipt, investigation, and completion of over 90,000 claims a year from over 150 field offices around the world.

This report's use of the lack of specificity in this procurement would be difficult to reconcile with the concept of performance based contracting. In these preferred types of procurements the statement of work is often very broad, nonspecific, and leaves design and execution up to the contractor. Complex, turnkey efforts may leave the entire project up to the contractor's initiative to design and perform with little specific guidance on how to do it. Pulling together a diverse set of laws, regulations, and policies, as this report does, suggests that agencies using performance based contracting in connection with the Information Technology Fund run the risk of violating the ADA.

The report then identifies another area of concern in that the projects funded through the Technology Fund may not satisfy the "single undertaking exception" to the rule. The listing areas of concern raised do not take into account the purpose of the Technology Fund. It is for the express purpose of allowing for the funding of the development of these types of projects that the Fund was created. Too many times there had been instances of entities receiving funding for the development of projects that allowed development only for that FY. When funding was sought for the next FY to continue in the development, no funds were available and all the previous money spent was for nothing as only half the project had been completed. With the Fund, however, we are able to identify the software needed to meet the bona fide need and then fund the full project. The USARCS requirement is a fully developed software application that is fielded and able to be used by all the field offices that link to USARCS for the particular purpose

of the software (personnel claims, tort claims, or affirmative claims). The contractor may, and does, identify how they develop that requirement and identifies decision points on the way to the development, i.e. the contractor, aware that the program must be able to generate letters that the database will automatically insert name and address from database into letter heading, does not need to know the content of the letter as the software is being developed just that the function needs to be accomplished and can get the content of the letter for placement in the software at a later time. This does not change the USARCS requirement for a fully developed, usable, and fielded project. This is part of the difference between the Brooks Act process and the Economy Act process. Trying to place these actions within the framework of an Economy Act transfer of funds would be misleading. For instance, the report finds it significant that it sometimes took GSA months after receipt of funds to issue contracts. Unlike an Economy Act order, however, there was not need for GSA to obligate the funds by contract before the end of the fiscal year – the obligation occurred when we MIPRed the money to GSA and the money remained available for bona fide needs of that project. USARCS worked with GSA's Information Technology Fund to get the completed, developed project. Part of what GSA, as executive agent, was expected to do was help us in defining the requirements before issuing the contract. When GSA issued the contract with identifiable areas of natural breaks, as with almost any contract, that does not mean that the contract must be broken into those parts to meet the rule. Our bona fide need is for the end product, the software, and not the stages or phases of a development. Our requirement was not for a study of options or an exploration of alternatives; our requirement on the projects was for a fully developed and operating web-based software program. That was the basis for the enactment of the Information Technology Fund.

The question on the retention of funds by the Technology Fund appears to be an area of concern for the GSA IG, as well as in this report. The cited report spoke of the practice of some agencies that kept large amounts of funds in an account with GSA that they then used intermittently during a period of five years. The use of five years was apparently developed from the idea that accounts have specific identities for a period of five years at which time the identity is lost and the appropriation is retired. The opinion of that report was that if there is no activity in a fund for over a year or if the funds are used to cross level different projects from the same agency, there **may** be a bona fide need rule violation. USARCS maintains different projects, and different orders, in the GSA Fund. As stated in that report, and cited in this report, the disposition of the funds should occur at the point of completion of the project and not years after the completion. We generally agree. USARCS does not "bank" its funding for cross spending nor do we use funds for anything but the original order within the scope of the original interagency agreement. (However, we do retain funds for a sufficient period to allow us to determine whether any in scope fixes to the delivered program must be funded) In fact, when contacted by our project manager at FEDSIMS on use of "older funds" from a previous project when we were placing an order on a different project, our budget manager specifically informed the project manager that those older funds were not for the use of the new project and that she would not allow any cross funding just to use older funds before they needed to be deobligated. While we agree with the recommendation that USARCS establish a method for the deobligation of unexpended funding, and we have begun the process to deobligated funds since this report, we are fully aware of the requirements for the use of funding and have always complied with those requirements.

d. No comment as compliance with DoD Regulations is always required.

e. No comment

A.3. While USARCS does not disagree with issuance of guidance, the obvious aim of the requested guidance is our use of FEDSIMS for what the IG finds as a question of fiscal responsibility of paying administrative costs at a higher ratio with FEDSIMS over Army cost-to-spend ratios. While the ratios may be lower, the services will sometimes reflect that as well. Based upon our discussions with the IG team, we revisited our decision to use FEDSIMS instead of an Army contracting office for a purchase of computers for 75 field offices. USARCS had previously contacted other contracting offices, including Army programs, and were informed that while they could make the equipment purchases we needed, they could not handle the administrative requirements to have the equipment shipped directly to the user offices located around the world. We would have been required to have all the equipment delivered to USARCS, or warehouse location, and we would have to sort all the equipment purchased by office and arrange for shipment of the items to the office. As we would be an intervening delivery, we also would have had to open all the equipment and test it to ensure that it was in working order as once we accepted delivery but then reshipped the items, the manufacturer would allege that it was the reship that damaged the property and not the manufacturer. FEDSIMS was able to accomplish purchase and delivery to all designated offices by the manufacturer so that if the equipment did not arrive in working order at the field office, the manufacturer would be required to arrange for the pick-up of the damaged goods and delivery of a replacement item. Based upon the recommendations and initial report of the IG Team, we again inquired about the use of an Army contracting office. We were told that HQDA IMCEN (Information Management Support Center) at the Pentagon would be able to make the purchase and that they would be able to meet our requirements for world wide delivery. Since the order has been placed, however, we have been informed that they cannot comply with the shipment request and that the ordered equipment will be delivered with their other orders to a central warehouse location where we will then have to make arrangements for the shipment of the items out to the filed offices. While the cost-to-spend ratios may have been slightly higher purchasing that service from FEDSIMS, USARCS was obviously getting a return for the extra expenditure. USARCS is committed, as we always have been, to proper fiscal responsibility and we continue to seek methods to improve our ratios but will continue to factor in the additional personnel and shipping costs when using any contracting office.

A.4. a. Additional management control procedures will be implemented. Currently, requests are required to include specific documentation on the projects or purchases to include statements of work, cost estimates, delivery requirements, and any other required documentation. Appropriate funds are always used for any purchase.

b. USARCS has begun the process to deobligate funds for the following completed projects: PEP 2, Hardware/Software Acquisition; PEP 3 Hardware/Software/Network Acquisition; PEP 6 Hardware/Software Acquisition Support. However, our other projects are properly open and funded. While we have not placed any orders on PEP 7 Personnel Claims Software Conversion to Web Based Program since the question raised in this invesigation, we anticipate that we will begin placing orders on that project at the conclusion of this report.

c. Annual review of all projects, including review of funds, is included in the management controls established under (a).

B.1. a. The use of the provided funding for the projects identified in USARCS UFR lists to Operating Agency 22 did not result in an ADA violation. While the concern of a possible ADA question was voiced in section **A** of the report, the recommendation in **B** seems the more likely place to address the issue. As stated in the report, until the memorandum was brought to our attention by the IG Team, USARCS was unaware of the guidance sent out by the Under Secretary of Defense (Comptroller). The guidance provided, and as stated in the report, states that RDT&E funds or procurement appropriations **should** be used under certain circumstances. (emphasis added). When looking at possible ADA violations in this area, an initial decision must be made as to whether the identified problem under a policy question deals with a formal subdivision or not. While RDT&E monies is a formal subdivision and the use of those funds for anything but RDT&E approved expenditures would be an ADA violation, the use of O&M funds provided specifically for USARCS projects does not necessarily lead to an ADA violation. As pointed out in the Under Secretary's policy, and cited in this report, "there would likely be a migration of funds from the O&M appropriations to the RDT&E and procurement appropriations." If USARCS violated any policy, it would be a violation of the policy to convert O&M dollars into RDT&E or procurement dollars so that the different controls and processes established under the RDT&E or procurement areas would be applied to the acquisition. Because funds can be properly "migrated" to those categories, this indicates that it is not a formal subdivision and therefore the use of O&M funds for these contracts does not result in an ADA violation. If provided O&M funding that can be converted into RDT&E or into procurement dollars, then it is the policy of converting the funding that is violated and not the ADA. Whether converted into a new arena or not, it is still the O&M funds that are expended as that is what was provided. USARCS agrees with the recommendation that we determine which area should be used under current guidance (O&M, RDT&E or procurement funds) and request funding under that area. For current projects, we are reevaluating our funding and making appropriate adjustments.

b. The management controls discussed in **A** will include processes for the development and issuance of MIPRs. USARCS has always been aware that fragmenting purchases to circumvent any thresholds established by policy or regulation is inappropriate. Determinations are made on any project as to whether acquisition is of a system or are for individual component items that are stand-alone and therefore do not fall under the policy. Thus, the purchase of stand-alone computers for the field offices while in the aggregate over $100,000, does not fall within the policy as they do not form a system as contemplated by the policy. USARCS will continue its vigilance to ensure fragmenting does not occur.

Audit Team Members

The Contract Management Directorate, Office of the Assistant Inspector General for Auditing of the Department of Defense prepared this report. Personnel of the Office of the Inspector General of the Department of Defense who contributed to the report are listed below.

Garold E. Stephenson
Terry L. McKinney
Eric B. Edwards
Harvey I. Gates
George A. Ford
Damian J. Felton
Michael T. Hill
LaVina N. Mensah
Ann L. Thompson