



Office of the Under Secretary of Defense (Comptroller)
Office of the Deputy Chief Financial Officer



Antideficiency Act Violations Reporting Requirements

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Topics



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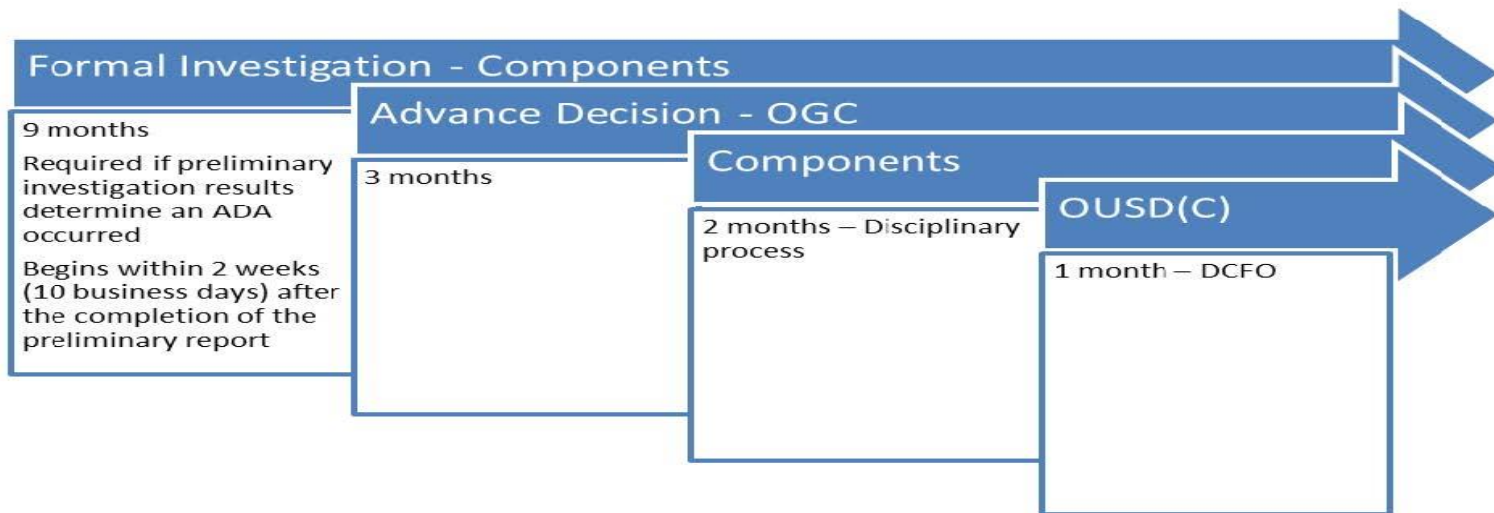
Roles and Responsibilities

- **Component Headquarters** - Investigates potential Antideficiency Act (ADA) violations, and reports to the Office of the Deputy Chief Financial Officer (ODCFO).
- **Component Legal Counsel** - Advises the Component Headquarters (HQs) on legal issues concerning all matters pertaining to the “potential” ADA.
- **Investigating Officer** - Conducts the ADA investigation and prepares an accurate, timely, impartial and complete report.
- **Office of the Deputy Chief Financial Officer** - Manages the reporting of ADA cases. Submits signed letters/ADA report of violation to the President, through the Director of the Office of Management and Budget (OMB), Congress, and the Comptroller General of the United States.
- **Office of the General Counsel (Fiscal)** – Advises the ODCFO on legal issues concerning all matters pertaining to “potential” ADA. Provides a legal decision on the ADA package.
- DoD Components: The Office of the Assistant Secretary of the Military Department for Financial Management and Comptroller or the Senior Financial Manager for other Department of Defense Agencies and field activities.



Timeline

Antideficiency Act (ADA) Reporting Timeline





Discovery Phase

- Ways to discover potential ADA violation
 - Internal reviews (self-identified)
 - Hotline complaint
 - DoDIG or GAO audits.
- Reporting a potential ADA violation
 - Within **two weeks** of discovering a potential ADA violation through their chain of command.
- Components must evaluate the potential violation report for validity and completeness and determine if a potential violation has occurred.



Discovery Phase (Cont'd)

- **The report should include:**
 - Accounting classification of funds involved
 - Name and location of the activity where the alleged violation occurred
 - Name and location of the activity issuing the fund authorization
 - Amount of the alleged violation
 - Nature of the alleged violation,
 - Date the alleged violation occurred and date discovered,
 - Means of discovery,
 - Description of the facts and circumstances of the case,
 - Anticipated dates of completion of the preliminary review report
 - The name(s) and work phone number(s) of the preliminary investigator/review team.



Preliminary Review

- The purpose of the preliminary review is to gather facts to establish whether a reportable violation of has occurred.
- Should be completed **within 14 weeks** from the date of initial discovery.
- Performed by adequately trained and qualified individuals.
 - Capable of conducting a complete, impartial, and unbiased review.
 - Selected from an organization external to the installation-level organization being reviewed.
 - Adequate experience in the functional area (ex. SME)



Preliminary Review (Cont'd)

- Investigators must be free of personal, external, and organizational conflict of interest.
- Should be focused on the potential violation **not** the corrective actions.
 - Corrective actions will be developed during the formal investigation.
- The report must be approved by HQs and coordinated with the office of legal counsel.
 - If there is a potential violation, a formal investigation must be initiated within **two weeks** from the approval of the report.
 - If there is **not** a violation, then the preliminary report completes the actions regarding the potential violation.



Formal Investigation

- Component HQs must notify the ADA program manager of the start of the formal investigation.
- The appointing officer must appoint a formal investigator in a formal memorandum.
 - Appointing Officer
 - A commander of a major command or a superior to a commander
 - The equivalent in an organization. (ex. SES, Director)
- The purpose of a potential ADA violation investigation is to determine:
 - the event that caused the potential violation.
 - the responsible individual(s).
 - action(s) required to correct the violation.
 - action(s) taken to ensure that a similar violation does not occur in the future.



Formal Investigation

- Use extreme care in obtaining and documenting all the relevant and specific facts of the case.
- Facts presented in the report must support conclusions in the ADA report.
 - Including the identification of the individual(s) responsible for the violation.
- The formal ADA investigations must be completed within 9 months.
- The investigating officer must submit a “draft” ADA report (without disciplinary action) to the component HQs.
- Component HQs in coordination with legal counsel prepares a request for a legal advance decision.



Advance Decision

- Component HQs must submit the draft ADA report and request an advance decision prior to completing the ADA report and administering the discipline.
- ADA program manager prepares advance decision package for Office of the General Counsel (Fiscal) (OGC(F)).
 - Review the draft ADA report for completeness, clarity, compliance with reporting requirements.
 - If the ADA report does not meet the requirements, the report is returned to the Component for correction.
 - OGC(F) is provided 3 months to complete its review.



Advance Decision

- If OGC(F) determines that a violation does not exist, case is closed.
- If OGC(F) determines that an ADA exists, and concurs with the individual(s) named responsible in the report, the report is sent back to the component to administer disciplinary actions and complete the final report.



• Disciplinary Action - Administrative

- At the conclusion of an investigation, appropriate disciplinary action must be determined.
- Components must notify their commands to appoint disciplinary officers whose individual independence is free from any influence.
- Disciplinary Officer must acknowledge in writing that:
 - ADA violation is a violation of Federal statute.
 - ADA violations constitute a misuse of DoD funds.
 - DoD is required to report the violation.
 - Unwillful or unintentional violation does not justify a decision to not administer disciplinary action.
 - Disciplinary action must be commensurate with the severity of the violation.



• Disciplinary Action - Administrative

- A civilian employee must be given a proposal letter and an opportunity to respond before discipline is assessed.
- Commanders/supervisors, with the assistance of HQs counsel, must determine discipline based on the investigating officer's facts.
 - Administrative discipline for a civilian employee may include written admonishment or reprimand, reduction in grade, suspension from duty without pay, or removal from office.
 - Civilians may not be disciplined after they are no longer employed by the U.S. Government.
 - Military personnel may be subject to appropriate administrative discipline or action under the Uniform Code of Military Justice.



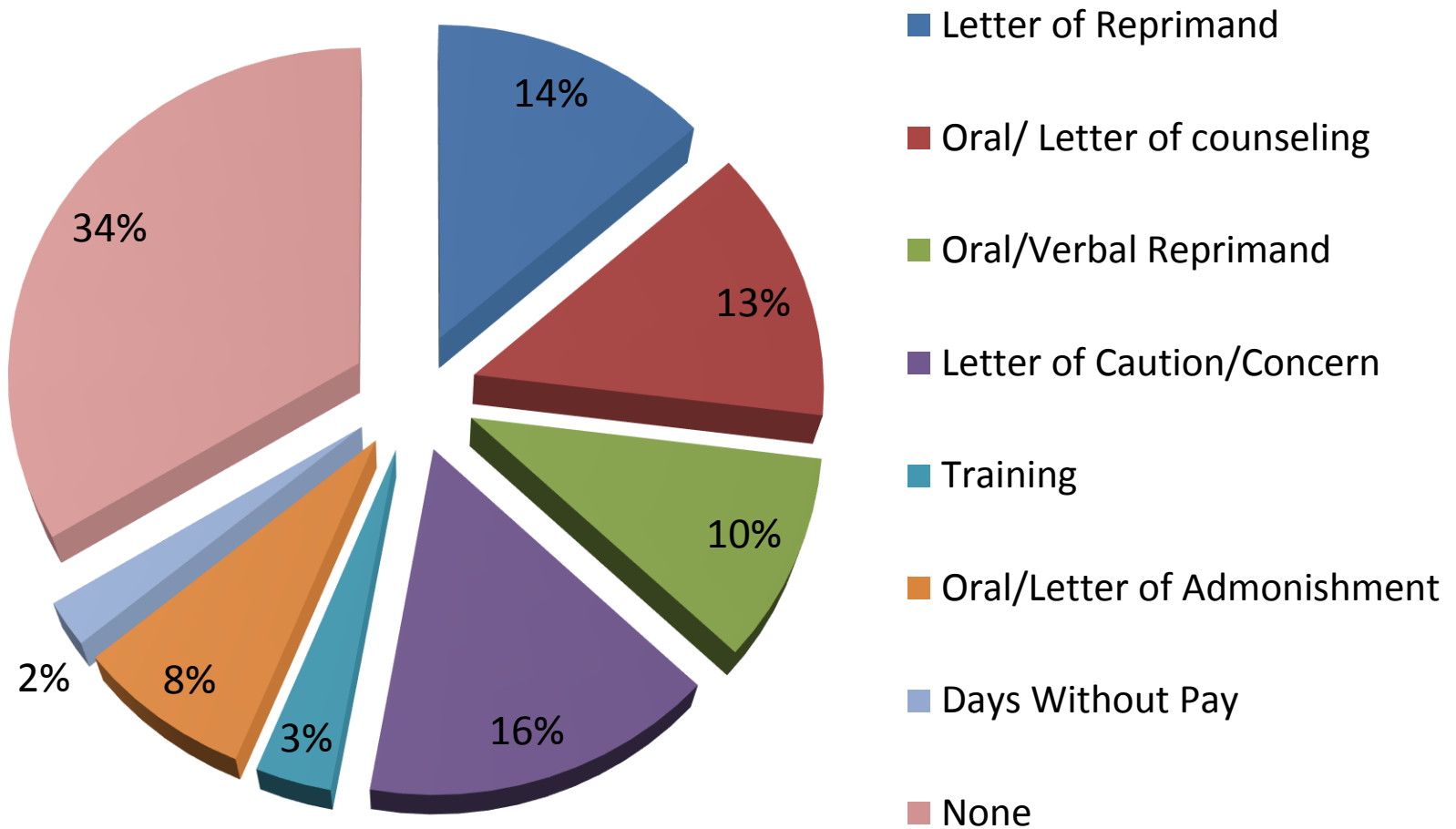
• Disciplinary Action - Criminal

- If a violation has been determined to have been knowingly and willfully committed, there are statutory provisions requiring criminal penalties.
- All investigations that provide any indications that the violation was knowingly and willfully committed will be terminated by the investigating officer.
- The investigating officer should consult with legal counsel to determine if the investigation should be referred to the appropriate criminal investigation organization for action.



• Disciplinary Action

Fiscal Years 2010 - 2015





• Final ADA Violation Report

- The ODCFO will review each final ADA violation report for completeness, clarity, compliance with reporting requirements and the adequacy of corrective and disciplinary action taken.
- If the ODCFO determines that the ADA violation report does not meet the requirements, the report will be returned to the Component.



Final ADA Violation Report – Format

**DEPARTMENT OF THE (add DoD Component or Agency)
ANTIDEFICIENCY ACT REPORT
Name of Component/Agency and Case Number**

1. Appropriation(s) Involved/Title, Treasury Symbol or Fund Account, and Apportionment Status.
2. Where Violation(s) Occurred.
3. Name and Location of Activity Issuing the Fund Authorization.
4. Amount of Violation.
5. Date Violation(s) Occurred.
6. Type of Violation(s).
7. Effect of Violation(s) on the Next Higher Level of Funding.
8. Name and Rank of Service Members or the Name/Grade Job Series Number of Civilians, Position Title, and Organization of Responsible Individual(s)
9. Signed Statement(s) of Responsible Individual(s)
10. Date(s) and Description of How Violation(s) Was Discovered.
11. Causes and Circumstances Surrounding the Violation(s).
12. Evidence of Willful Intent to Violate.
13. Disciplinary Action Taken.
14. Corrective Action Taken.
15. Administrative Control of Funds.
16. Component or Agency Coordination.
17. Name and Title of Holder of the Funds Subdivision.
18. Additional Information.



Letters to POTUS, Congress and GAO

- Following receipt of an acceptable final ADA violation report, the ODCFO will prepare the required letters, in accordance with the [**OMB Circular No. A-11.**](#)
- The notification letters will be coordinated with:
 - The Office of the Deputy General Counsel (Fiscal),
 - The Office of the Assistant Secretary of Defense for Legislative Affairs
 - The Office of the Deputy Comptroller (Budget & Appropriations Affairs).
- The notification letters are submitted to the Under Secretary of Defense (Comptroller) for signature.
- The ODCFO submits the signed letters with the final ADA violation report, to the President through the Director of OMB, President of the Senate, Speaker of the House of Representatives, and Comptroller General of the United States.



THANK YOU

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