Report No. D-2007-098 May 18, 2007

# Inspector General

## United States Department of Defense

# The Use and Control of Intragovernmental Purchases at the Defense Intelligence Agency

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**Acronyms**

| | |
|---|---|
| D&F | Determination and Finding |
| DIA | Defense Intelligence Agency |
| FAR | Federal Acquisition Regulation |
| GAO | Government Accountability Office |
| GSA | General Services Administration |
| MIPR | Military Interdepartmental Purchase Request |
| O&M | Operation and Maintenance |

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
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May 18, 2007

MEMORANDUM FOR DIRECTOR, DEFENSE INTELLIGENCE AGENCY

SUBJECT: Report on the Use and Control of Intragovernmental Purchases at the Defense Intelligence Agency (Report No. D-2007-098)

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

DoD Directive 7650.3 requires that all recommendations be resolved promptly. The Defense Intelligence Agency comments were partially responsive. Therefore, we request that the Director, Defense Intelligence Agency provide comments on Recommendations A.5. and B.3.a., b., c., and d. by June 18, 2007.

If possible, please send management comments in electronic format (Adobe Acrobat file only) to Auddfs@dodig.mil. Copies of the management comments must contain the actual signature of the authorizing official. If you arrange to send classified comments electronically, they must be sent over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Questions should be directed to Mr. Marvin (Leon) Peek at (703)325-5777. See Appendix F for the report distribution. The team members are listed inside the back cover.

By direction of the Deputy Inspector General for Auditing:

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

## Department of Defense Office of Inspector General

**Report No. D-2007-098** **May 18, 2007**
(Project No. D2005-D000FA-0198.000)

# The Use and Control of Intragovernmental Purchases at the Defense Intelligence Agency

## Executive Summary


**Who Should Read This Report and Why?** Defense Intelligence Agency (DIA) program, acquisition, and financial management officials responsible for generating, processing, and approving acquisition requirements and recording financial transactions should read this report. This report provides insight on the importance of complying with laws and regulations to ensure that procurements are in the best interest of the Government and obtained in the most feasible and economical way.

**Background.** DoD uses a Military Interagency Purchase Request (MIPR) for intragovernmental procurements within and outside of DoD. Other Federal agencies requesting intragovernmental support for goods or services from DoD may use a memorandum or other format. Congress became concerned about the interagency procurement practices used by Federal agencies and stated in the Committee on Armed Services Senate Report 109-69, "National Defense Authorization Act for Fiscal Year 2006," May 17, 2005, "in too many cases, when one agency uses a contract entered by another agency, it appears that neither agency takes responsibility for making sure that procurement rules are followed and good management sense is applied." The committee recommended that the DoD Inspector General determine whether the policies, procedures, and internal controls are adequate to ensure compliance with Defense procurement laws and regulations. This report discusses DIA compliance with laws and regulations over intragovernmental procurements.

DIA is a combat support agency that produces, analyzes, and disseminates military intelligence information. The overall mission of DIA is to conduct military intelligence activities for the United States. From October 1, 2002, through June 30, 2005, available records showed that DIA issued 2,058 intragovernmental procurement requests, including modifications, totaling $1.5 billion. During the same period, DIA received 596 incoming procurement requests from other Government agencies, totaling $222.4 million.

**Results.** DIA needs to improve acquisition-planning documentation and ensure funds were properly used and accounted for correctly when using MIPRs for acquiring goods and services. A review of 43 outgoing MIPRs, with 70 modifications, totaling $405.1 million, disclosed that DIA did not adequately plan the acquisitions; may have improperly used funds for the acquisitions; and did not properly record and account for transactions in the accounting system. As a result, there was no reasonable assurance that all the procurements were in the best interest of the Government. In addition, seven potential Antideficiency Act violations exist for five MIPRs, totaling $53.4 million, including modifications. DIA must initiate a preliminary review of each identified potential Antideficiency Act violation to determine whether a violation

occurred. In addition, DIA needs to establish procedures and internal controls to improve acquisition planning and oversight to ensure compliance with laws and regulations governing acquisition and financial management (finding A).

In addition, the audit disclosed that DIA did not have adequate internal controls over Economy Act orders received from other Federal entities. A review of 15 incoming reimbursable Economy Act orders, valued at $30.3 million, disclosed that DIA did not:

- promptly bill and collect for goods and services provided;
- ensure that DoD was reimbursed for assigned military personnel detailed to non-DoD organizations;
- promptly return unneeded funds to the requesting agencies;
- establish and collect contracting fees in support of contracting services for reimbursable orders; and
- accept Economy Act orders in writing.

As a result, DIA could not provide reasonable assurance that it effectively used and administered intragovernmental orders in compliance with applicable laws and regulations. DIA needs to implement adequate controls and ensure compliance with established polices and procedures over the reimbursable processes (finding B). We also reviewed the managers' internal control program as it related to controls over intragovernmental purchases and consider the weaknesses discussed to be material. See the Findings section of the report for the detailed recommendations.

**Management Comments and Audit Response.** The DIA Chief Financial Executive nonconcurred with some of the wording in our findings related to the use of funds, and we made some minor revisions to the report based on her comments. However, she concurred with the recommendations related to acquisition planning, preliminary reviews for potential Antideficiency Act violations, and procedures for obligating and deobligating funds. The DIA Chief Financial Executive nonconcurred with both the finding and the recommendation to record the payments that DIA makes in advance for reimbursable orders as assets. The DIA comments reflect a misunderstanding of generally accepted accounting principles, and we request that the DIA Chief Financial Executive provide additional comments in response to the final report.

The DIA Chief Financial Executive concurred with the recommendations related to controls over incoming interagency orders except for the recommendation that DIA should charge organizations receiving contracting services from the DIA contracting office. She commented that DIA billing for such services would amount to supplementing DIA appropriations, which is not allowed. However, DoD Regulation 7000.14-R, volume 11A, requires costs incurred for contracts awarded as part of a reimbursable agreement to be billed to the benefiting organization. Although DIA concurred with recommendations related to reimbursement for military detailees to other organizations and the necessity for approving in writing all intragovernmental orders, her responses did not satisfy the intent of the recommendations.

We request that the Director, DIA provide comments on the final report by June 18, 2007. See the Finding section of the report for a discussion of management comments and the Management Comments section of the report for the complete text of the comments.

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## Background

**Defense Intelligence Agency.** The Defense Intelligence Agency (DIA) mission is to provide timely, objective, and cogent military intelligence to warfighters, Defense planners, and Defense and national security policymakers. DIA is a DoD combat support agency that collects, analyzes, and disseminates military intelligence information. DIA is the nation's primary producer of foreign military intelligence. It serves as the central DoD intelligence manager to support the requirements of the Secretary of Defense, the Joint Chiefs of Staff, and the warfighter.

**DoD Policy on Interagency Agreements.** DoD Instruction 4000.19, "Interservice and Intragovernmental Support," August 9, 1995, implements the policies, procedures, and responsibilities for support agreements between U.S. Government organizations. The instruction states that DoD organizations may provide support to other DoD organizations when the head of the requesting organization determines it is in the best interest of the Government, and the head of the supplying organization determines that providing the support will not jeopardize its own mission. The instruction also states that DoD organizations may enter into support agreements with non-DoD Federal organizations when funding is available to pay for the support, it is in the best interest of the U.S. Government, the supplying activity is able to provide the support, and the support cannot be provided as conveniently or inexpensively by a commercial enterprise.

**Management of Interagency Contracting.** Senate Report 109-69, "National Defense Authorization Act for Fiscal Year 2006," May 17, 2005, states that the DoD is by far the largest user of interagency contracts. The Senate Report further states that DoD:

> does not have an adequate system to track such basic information as who is using these contracts, what they are buying, and how much they are paying. In too many cases, when one agency uses a contract entered by another agency, it appears that neither agency takes responsibility for making sure that procurement rules are followed and good management sense is applied. The Department of Defense Inspector General, the GSA [General Services Administration] Inspector General, and others have identified a long series of problems with interagency contracts, including lack of acquisition planning, inadequate competition, excessive use of time and materials contracts, improper use of expired funds, inappropriate expenditures, and failure to monitor contractor performance.

In the past several years, the Senate Armed Services Committee enacted legislative initiatives designed to address these problems.

**Interagency Orders.** United States Code, title 31, section 1535 (31 U.S.C. 1535), "Agency Agreements," known popularly as the Economy Act, authorizes the head of a Federal agency to place an order with another Federal agency for goods and services if those goods or services are available, it is in the best interest of the U.S. Government, the other agency can fill the order, and the order cannot be provided as conveniently or cheaply by contract with commercial enterprise.

The Economy Act applies when more specific statutory authority does not exist. DoD Regulation 7000.14-R, "Financial Management Regulation," volume 11A, chapter 3, "Economy Act Orders," April 2000, implements the policies and procedures for Economy Act transactions.

A Military Interdepartmental Purchase Request (MIPR), DD Form 448, and MIPR Acceptance, DD Form 448-2, are the primary documents used by DoD agencies to order goods and services from other DoD agencies, as well as non-DoD agencies. Available records showed that from October 1, 2002, through June 30, 2005, DIA issued 2,058 MIPRs procurement requests, including modifications, totaling $1.5 billion. During the same period, DIA received 596 incoming interagency orders from other Government agencies totaling $222.4 million.

## Objectives

Our overall audit objective was to determine whether DIA was in compliance with applicable laws and regulations related to the use and control of interagency agreements. Specifically, we assessed the practices used by DIA to provide and monitor funding to and from other Defense and non-Defense agencies for acquiring goods and services. We determined whether DIA implemented adequate procedures for issuing, recording, reviewing, and reporting interagency agreements. We also reviewed the Management Control Program as it related to the overall objective. See Appendix A for a discussion of the Scope and Methodology and Appendix B for Prior Coverage.

## Review of Internal Controls

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.[1]

**Scope of the Review of the Managers' Internal Control Program.** We reviewed the adequacy of DIA internal controls over intragovernmental purchases. Specifically, we reviewed DIA internal controls over the acquisition and financial management processes for intragovernmental purchases. We also reviewed the adequacy of management's self-evaluation of those controls.

[1] Our review of internal controls was done under the auspices of DoD Directive 5010.38, "Management Control (MC) Program," August 26, 1996, and DoD Instruction 5010.40, "Management Control (MC) Program Procedures," August 28, 1996. DoD Directive 5010.38 was canceled April 3, 2006. DoD Instruction 5010.40, "Managers' Internal Control (MIC) Program Procedures," was reissued on January 4, 2006.

**Adequacy of Internal Controls.** DIA had internal control weaknesses in managing interagency agreements that we consider to be material. We identified material internal control weaknesses in the way DIA plans, funds, and records MIPRs in the accounting system. DIA internal controls for generating, processing, and approving acquisition requirements; processing of incoming reimbursable orders; as well as recording financial transactions were not adequate to prevent potential Antideficiency Act violations and ensure that the procurements were in the best interest of Government. Recommendations A.1., A.2., A.4. through A.6., and B.1. through B.3, if implemented, will help correct the identified weaknesses.

**Adequacy of Management's Self-Evaluation.** In complying with the Federal Managers' Financial Integrity Act requirement for FY 2006, DIA considered the MIPR acquisition and financial management processes as assessable units. However, DIA did not consider the deficiencies reported in this report as material internal control weaknesses in its annual statement of assurance. (Note that the deficiencies discussed in our report are related to interagency agreements executed prior to FY 2006.)

# A. Use of MIPRs for the Procurement of Goods and Services

DIA did not always use MIPRs properly for acquiring goods and services. Specifically, our review of 43 outgoing MIPRs, with 70 modifications, totaling $405.1 million disclosed that DIA:

- did not adequately plan the acquisitions,
- may have improperly used funds when using MIPRs, and
- did not properly record and account for transactions in its accounting system.

These conditions occurred because DIA did not always comply with established criteria for the procurement of, and accounting for, goods and services. In addition, DIA did not have adequate internal control over the acquisition planning and financial management processes relating to MIPRs. As a result, there was no reasonable assurance that all the purchases made were in the best interest of the Government. In addition, we found seven potential Antideficiency Act violations for five MIPRs, including modifications, totaling $53.4 million.

## Acquisition Planning

DIA did not adequately plan its acquisitions for goods and services using MIPRs. The Federal Acquisition Regulation (FAR) 7.102(b), "Policy," requires agencies to perform acquisition planning for all acquisitions:

> This planning shall integrate the efforts of all personnel responsible for significant aspects of the acquisition. The purpose of this planning is to ensure that the Government meets its needs in the most effective, economical, and timely manner.

Our review of a judgmental sample of 43 outgoing MIPRs with 70 modifications, totaling $405.1 million, showed that prior to the issuance of the MIPRs, DIA did not always:

- develop written acquisition plans, which addressed the total cost of the requirements and the criteria for acceptance of goods and services;
- make cost comparisons between contractor and Government performance of services; and
- completely prepare the required determination and finding documentation.

As a result, there was no reasonable assurance that the purchases made were in the best interest of the Government. (See Appendix C for a listing of the specific deficiencies associated with each MIPR.)

**Written Acquisition Plans.** Thirty-one of the 43 outgoing MIPRs reviewed exceeded the $1 million requirement[1] for a written acquisition plan. DIA did not prepare the required plans for 28 MIPRs, and the 3 prepared written acquisition plans were incomplete and not signed. Appendix C shows the specific MIPRs and modifications that did not have the required written acquisition plans.

DIA Manual 44-2, "Acquisition," July 2001 requires documentation of a written acquisition plan for all MIPRs estimated at $1 million or more. An acquisition plan should include the total estimated cost with all options, period of performance, criteria for acceptance of goods and services, and coordination and approval signatures. In addition, FAR 7.105, "Contents of Written Acquisition Plans," requires that the acquisition plan describe the basis for establishing delivery or performance period requirements, acceptance criteria for all required deliverables, and the performance standards for anticipated services.

**Total Cost.** DIA did not consider the total cost of the requirements, which includes options years, when determining if a written acquisition plan was required. Although we did not quantify the amount, we noticed during the audit that each year DIA issued some MIPRs to the same organizations for the continuous requirements.

For example, DIA issued MIPR HHM402-4-2000, totaling $9.1 million, to the Army Intelligence and Security Command, for linguistic support services. The stated purpose of the MIPR was to extend another MIPR, totaling $6.6 million, for 4 months. DIA later amended MIPR HHM402-4-2000 by adding an additional $9.6 million to extend the performance period for 6 months for a total of $25.3 million for linguistic support. However, the acquisition plan for the MIPR was incomplete because DIA did not consider recurring requirements. In addition, no one signed the acquisition plan; a signature would have indicated coordination with and approval of individuals responsible for significant aspects of the acquisition. DIA stated in the acquisition plan that market research revealed that this service is readily available on the GSA schedule and the best approach would be to procure the services from the schedule. Instead of DIA procuring the services itself, DIA requested that the Army Intelligence and Security Command procure the linguist services on its behalf. As a result, there was no reasonable assurance that all of the $25.3 million that DIA sent to the Army Intelligence and Security Command was in the best interest of the Government.

**Acceptance of Supplies or Services.** DIA did not address the criteria for the acceptance of supplies or services in the three prepared acquisition plans. FAR 7.105 (g) requires that the acquisition plan describe the basis for establishing delivery or performance period requirements, which provide acceptance criteria for all required deliverables and performance standards for anticipated services. Furthermore, FAR 46.502 stipulates that the contracting officer or the cognizant

[1] This includes same year modifications.

contract administration office is responsible for the acceptance of supplies or services. For example, DIA sent approximately $161 million to the Army Field Support Command at Rock Island Arsenal for the Iraq Survey Group without a written acquisition plan. Rock Island Arsenal issued contract modification number 56, which included 17 amendments, to its existing Logistics Civil Augmentation Program contract with a division of Kellogg, Brown & Root, Inc.

Our sample only included $98 million of the $161 million of MIPRs that DIA used to procure goods and services for the Iraq Survey Group. However, neither the DIA Program Office nor the Rock Island Arsenal Contracting Officer could provide any supporting documentation that demonstrated acceptance of supplies or services provided under the contract. Instead, the Defense Finance and Accounting Service paid the contractor invoices based on provisional approval by the Defense Contract Audit Agency without any acceptance or receipt of goods and services by the contracting officer or the cognizant official. As a result, there was no reasonable assurance that DIA received all the $161 million of goods and services that it sent to the Army Operations Support Command. In addition, the MIPRs did not provide enough information to determine what was actually being procured.

**Cost Comparisons.** DIA did not make cost comparisons between contractor and Government performance of services for 4 of the 43 MIPRs reviewed. DIA issued 4 MIPRs and 14 modifications, totaling $161.2 million, to Warner Robins Air Logistics Center for the procurement of information technology services from General Dynamics Corporation under the Economy Act. Attached to the procurement request was a document that stated the request was for acquiring services and outside technical support through the existing Intelligence Information Processing and Production contract; and therefore, an Advance Acquisition Plan was not required. However, there was no evidence in the files that indicated that DIA complied with the cost comparison requirement in FAR Subpart 7.3. Therefore, there was no reasonable assurance that purchases totaling $161.2 million were in the best interest of the Government.

DoD Regulation 7000.14-R, volume 11A, chapter 3, states that acquisitions under the Economy Act are subject to the requirements of FAR Subpart 7.3, "Contractor Versus Government Performance," which requires agencies to consider the relative cost in deciding between Government and contractor performance. In making the cost comparisons, agencies should prepare an estimate of the cost of Government performance based on the same work statement and level of performance and compare the total cost of Government performance to the total cost of contracting.

**Determination and Finding.** DIA issued 41 of the 43[1] outgoing MIPRs reviewed, totaling $400.9 million, under the Economy Act. Of the 41, DIA prepared a determination and finding (D&F) for only 21 MIPRs, totaling $226.2 million. FAR Subpart 17.5, "Interagency Acquisitions Under the Economy Act," and DoD Regulation 7000.14-R, volume 11A, chapter 3, require a D&F document to support each Economy Act order. The D&F must find that the

[1] DIA issued the remaining two outgoing MIPRs to GSA under the Clinger-Cohen Act.

use of interagency support capabilities is in the best interest of the Government and that the required goods, supplies, or services cannot be obtained as conveniently or economically by contracting directly with a private source. In addition, the FAR requires that a contracting officer or designated official approve the D&F. However, only 3 of the 21 D&F documents were signed. As a result, there was no reasonable assurance that the Economy Act orders DIA issued on 38 MIPRs (totaling $400.5 million) for purchases were in the best interest of the Government.

## Use of Funds

DIA did not properly manage its financial resources. Specifically, DIA:

- may have inappropriately used the Operation and Maintenance (O&M) appropriation to fund four MIPRs and two modifications for purchases, totaling $45.4 million;
- obligated funds totaling $8 million on a MIPR in apparent violation of the Bona Fide Needs statute; and
- issued 15 MIPRs and 16 modifications, totaling $252.6 million, without adequate documentation to show that the funds were available.

DoD Regulation 7000.14-R, volume 14, chapter 1, requires DoD organizations to maintain internal control systems to ensure that all proposed obligations of funds are reviewed. The reviews are to ensure that sufficient funds are available to cover the obligation, that the purpose of the obligation is consistent with the authorized purposes of the fund, and that the obligation does not violate any special or recurring provisions and limitations on the incurrence of obligations to prevent Antideficiency Act violations.

**Appropriation Purpose.** DIA transferred funds for procurements that appear to be out of the scope for the purpose of the appropriation. Specifically, DIA may have inappropriately used the O&M appropriation to fund four MIPRs (and two modifications) totaling $45.4 million (Appendix D). DoD annual appropriations acts define the uses of each appropriation and establish specific timelines for the availability of the funds. O&M appropriations are used to fund expenses incurred in continuing operations and current services and are available for obligation for one year. DoD Regulation 7000.14-R and 10 U.S.C. 2805 prohibit entities from funding unspecified minor military construction projects costing more than $750,000 from the O&M appropriation without prior approval from the secretary concerned. Additionally, DoD Regulation 7000.14-R, volume 11A, chapter 3, states that Economy Act orders must be specific, definite, and certain both as to the work encompassed by the order and the terms of the order itself. However, DIA did not maintain in their acquisition files adequate documentation to justify the appropriation that was used to fund the four MIPRs (and two modifications). Therefore, we could not determine whether the MIPRs complied with 31 U.S.C. 1301, “Application,” which states that appropriations must be applied only to the objects for which the appropriations were made

except as otherwise provided by law. As a result, DIA may have violated the Antideficiency Act for $45.4 million.

**Bona Fide Needs.** DIA obligated $8 million for the purchase of office furniture in an apparent violation of 31 U.S.C. 1502(a), "Balances Available," sometimes called the Bona Fide Needs statute. This statute requires that 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 DoD Regulation 7000.14-R, volume 11A, chapter 3, which incorporates the Bona Fide Needs statue, requires that Economy Act orders citing an annual or multiyear appropriation serve a need that existed in the fiscal year for which the appropriation is available for obligation. On March 24, 2004, DIA issued MIPR HHM402-4-0272, totaling $8 million, to the GSA Federal Supply Services under the Economy Act. Prior to acceptance, GSA requested a correction in the description of the procurement to include the statement, "Expect to start procurement in January 2005." GSA faxed the MIPR to the DIA acquisition office, which made the changes and faxed the MIPR back to GSA without routing the changes through the DIA accounting office. On March 31, 2004, the GSA accepted the MIPR on a reimbursable basis, and DIA obligated the funds at that time. Because the procurement was not going to begin until January 2005, when the O&M funds were no longer available for obligation, this MIPR violated 31 U.S.C. 1502(a) and DoD regulation. As a result, an $8 million violation of the Antideficiency Act may have occurred.

**Availability of Funds.** DIA certified that the funds were available for the procurement and issued 15 MIPRs and 16 MIPR modifications totaling approximately $252.6 million under an "IOU" concept. DIA accounting personnel annotated the purchase requests for the MIPR stating: "insufficient funds," "IOU needed," or "IOU authorized." There was no documented evidence to indicate when and where the funds were coming from to cover the procurements. DIA use of the IOU concept could result in Antideficiency Act violations if DIA incurred obligations prior to the funding being available. For example, DIA issued two MIPRs, on separate days to different activities, totaling approximately $44.9 million, using the IOU concept. For both MIPRs, the IOU and the MIPR issuance and acceptance occurred on the same day. The activities accepted the MIPRs as direct cite, which meant that DIA appropriation would be cited directly on the contract, and the Government would incur an obligation upon the issuance of a signed contract. One of the activities issued a signed contract to fulfill the MIPR on the same day they accepted it, thus creating an obligation.

DIA did not have written procedures for the IOU process. To further understand the IOU concept, we requested that DIA provide the governing policy and procedures for the IOU funding process. The DIA Deputy Comptroller explained the IOU funding process in a written response. He stated that because of system constraints, sometimes funding is not aligned in the funded organization or object class when target changes are requested. In order to override the accounting system and process the purchase request, the DIA budget analyst validates that funds are available prior to initiating the change and approves the IOU to keep the process moving, because target changes are only made about every 2 weeks.

Because the transactions we reviewed occurred in prior years, we did not perform exhaustive analysis to determine whether funds were actually available.

However, DoD Regulation 7000.14-R, volume 14, chapter 2, states that an Antideficiency Act violation may occur when obligations authorized or incurred or expenditures made exceed the available amount of any administrative subdivision of funds. Therefore, DIA must have the funds available when a MIPR was accepted on reimbursable basis and when DIA funds were cited directly on a contract. An absence of adequate documentation indicating the funds availability prior to establishing an obligation could facilitate violations of the Antideficiency Act. DIA should discontinue using this practice.

## Recording Accounting Transactions

DIA improperly recorded transactions in the accounting system relating to MIPRs issued under the Economy Act. Specifically, DIA incorrectly recorded payments it made in advance for goods or services. In addition, we were unable to determine if DIA deobligated funds as required by the Economy Act.

**Advanced Payments.** DIA paid $9.6 million for goods and services in advance for 6 of the 43 MIPRs in our sample. However, it recorded the transactions in the accounting system as expenses prior to receiving goods or services (see Appendix C for a list of the MIPRs). For example, on December 23, 2004, DIA issued MIPR HHM402-5-0157 for $4.6 million to the Air Force to acquire systems engineering expertise for 1 year from the date of acceptance. The Air Force office immediately requested advanced payment, which the disbursement station paid on January 21, 2005. DIA recorded the transaction in the accounting system as an expense instead of recording the payment as an advance.

DoD Regulation 7000.14-R, volume 11A, chapter 3, states that for Economy Act orders, payment may be made in advance for any part of the estimated or actual cost as determined by the agency or unit filling the order. However, DoD Regulation 7000.14-R, volume 4, chapter 5, requires DoD Components making such advances to record them as assets, a separate line on the financial statement, until receipt of the goods or services. When the goods or services are received, the expense or acquired asset should be recognized, and the advances reduced.

**Deobligation of Funds.** We were unable to determine if DIA deobligated funds as required by the Economy Act. DIA issued 41 of the 43 MIPRs sampled, totaling $400.9 million, under the Economy Act. DoD Regulation 7000.14-R, volume 11A, chapter 3, and 31 U.S.C. 1535 state that for Economy Act orders, funds must be deobligated to the extent that the servicing agency has not entered into an authorized contract with another entity to provide the requested goods or services before the end of the appropriation availability. The documentation DIA provided did not show any deobligation as required under the Economy Act. As a result, there was no reasonable assurance that DIA complied with the deobligation requirement under the Economy Act. Failure to deobligate such funds could lead to Antideficiency Act violations.

## Conclusion

DIA needs to improve the acquisition planning and the financial management processes for acquiring goods and services through the issuance of MIPRs. DIA had not identified the MIPR processes as assessable units within its management control program. If DIA had established adequate controls and assessed the internal controls for the acquisition planning and financial management processes relating to outgoing MIPRs, it might have identified the improper use of MIPRs and the potential Antideficiency Act violations.

"The federal government has a responsibility and an obligation to American citizens to be a good financial steward of and properly account for their tax dollars."[1] Adequate internal controls are critical to ensuring that MIPRs are managed and accounted for properly. The lack of adequate internal control over the MIPR process and accounting resulted in potential violations of the Antideficiency Act, violations of public law, and noncompliance with Federal, DoD, and DIA guidance. DIA should improve internal controls over the MIPR process by developing compliant policies and adequate guidance. It should also develop internal controls to ensure established guidance and policies are followed.

## Management Comments on the Report and Audit Response

**DIA Comments and Audit Response on the Review of Internal Controls.** DIA nonconcurred with our Review of Internal Controls section, which stated that DIA had material internal control weaknesses "as defined by DoD Instruction 5010.40" because the Instruction states that "it is management's judgment whether or not a weakness is deemed material." We removed the reference to the DoD Instruction and stated that we consider the weaknesses to be material. DIA also nonconcurred with our statement that it did not identify the acquisition and financial management processes for intragovernmental purchases as assessable units for 2006. We revised the report to reflect their comments. The scope of our review did not include FY 2006 transactions. However, we note that the FY 2006 statement of assurance did not include the deficiencies included in our report as material internal control weaknesses.

**DIA Comments and Audit Reponse on the Use of Funds.** DIA nonconcurred with our use of the word "procurements" to characterize purchases totaling $45.4 million. To clarify DIA comments, we discussed the wording with DIA personnel, who stated that they understood the word "procurements" to mean use of DoD Procurement Appropriation funds. Therefore, we changed the word to "purchases." Our report did not state what type of funding should have been used for the purchases. However, available information suggests that the use of O&M

[1] GAO Accounting and Information Management Division, "Reliable Financial Information: A Key to Effective Program Management and Accountability," January 1997.

funds may not have been appropriate. DIA stated that it is investigating each transaction to substantiate the allegations.

**DIA Comments on Possible Violation of Bone Fide Needs Statute.** DIA nonconcurred that it obligated $8 million on a MIPR "in apparent violation of the Bona Fide Needs statute" because its preliminary review showed that the obligation was to acquire items to satisfy a current need. DIA suggested that we state that the purchase "may violate the Bona Fide Needs statute."

**Audit Response.** The Bona Fide Needs statute is not based solely on whether a specific item is needed during the year that funds are obligated. According to the "Principles of Federal Appropriations Law," volume I, (GAO [Government Accountability Office] Red Book), in order to obligate current year funds when payments are to be made in the following fiscal year, the contract imposing the obligation must be awarded during the fiscal year that the funds are available for obligation. In the example cited in our report, GSA specifically stated that it would not be able to start procuring the requested furniture until January of the following fiscal year. Thus, using the prior year funds appears to have violated the Bona Fide Needs statute.

**DIA Comments on the Discussion of the "IOU" Concept.** DIA nonconcurred with our conclusion regarding its use of the "IOU" because we implied that DIA issued MIPRs without adequate funds available.

**Audit Response.** Our conclusion was that there was no evidence that funding was available. We could not determine whether funding was available for the purchases, which occurred in FYs 2004 and 2005. Our report included the DIA assertion that "the DIA budget analyst validates that funds are available prior to initiating the change and approves the IOU…." However, that statement is not documentation that funds were available. DIA concurred with our recommendation to discontinue use of the IOU process. Therefore, additional discussion concerning whether or not funds were actually available is not necessary.

**DIA Comments on Advanced Payments.** DIA nonconcurred that the $9.6 million described in the report as payments in advance was actually advance payments. According to the DIA General Counsel, "the type of 'advance payment' discussed in the audit report, acceptance by the receiving agency of a MIPR, does not appear to comport with the definition of 'advance payment' cited in the GAO Red Book." The DIA General Counsel further stated that it appears that all of the DIA MIPRs were funded by either direct or reimbursable funds, and there was no need for the servicing agency to make a billing. Therefore, the requirement to record advance payments in accordance with DoD Regulation 7000.14-R, volume 4, chapter 5, does not apply to the DIA MIPR transactions.

**Audit Response.** The comments by the DIA General Counsel suggest a misunderstanding of generally accepted accounting principles. Both the Statement of Federal Financial Accounting Standards No. 1, March 30, 1993, and DoD Regulation 7000.14-R state that payments made in advance should be recorded as assets. See Recommendation A.5 for additional details.

## Recommendations, Management Comments, and Audit Response

**A. We recommend that the Director, Defense Intelligence Agency:**

**1. Develop and maintain written acquisition plans for intragovernmental procurements when the total procurement cost, including option years, equals or exceeds the established threshold for preparing written acquisition plans. Also, ensure each plan considers the criteria for the acceptance of goods and services and requires signatures for coordination and approval.**

**Management Comments.** The DIA Chief Financial Executive concurred and stated that DIA Manual 44-2 already requires documentation of a written acquisition plan. DIA has a number of subject matter experts recently under contract who are working with various DIA directorates to review all procurement requirements to ensure that adequate documentation is prepared, including written acquisition plans. In addition, during the annual risk assessment, the Acquisition Executive directorate (AE) determined that the DIA MIPR process was a risk area and is transferring the MIPR process back to the Chief Financial Executive (FE) directorate to mitigate the risk.

**2. Establish procedures and controls to ensure that procurements using the Economy Act are in the best interest of the Government. Specifically:**

**a. Require that cost comparisons between contractor and Government performance for goods and services be prepared prior to contracting.**

**b. Prepare the required determination and finding and ensure that the approval is documented.**

**Management Comments.** The DIA Chief Financial Executive concurred and stated that all outgoing MIPRs will be reviewed to ensure that the required cost comparisons have been performed. In addition, all MIPRs will include a written D&F, which will be reviewed by DIA contracting officers prior to release.

**3. Conduct a preliminary review for the six potential Antideficiency Act violations, listed in Appendix D, involving the inappropriate use of the Operation and Maintenance appropriation. Also, review MIPR HHM402-4-0272 for potential violation of the Bona Fide Needs statute in compliance with the reporting requirements in DoD Regulation 7000.14-R, volume 14, "Administrative Control of Funds and Antideficiency Act Violations." Provide a copy of the preliminary review report to the DoD Office of Inspector General.**

**Management Comments.** The DIA Chief Financial Executive concurred and has initiated preliminary reviews for the six* potential Antideficiency Act violations. The reviews will be completed within the timeframes required by DoD Regulation 7000.14-R, volume 14. DIA will provide a copy of the preliminary review report when the investigations are complete.

**4. Discontinue use of the "IOU" process, which allows funds to be obligated without sufficient documentation to show that funds are available.**

**Management Comments.** The DIA Chief Financial Executive concurred and has already terminated the IOU process. An operating instruction is being written that will require certification by higher-level personnel when funding targets change.

**5. Establish and implement procedures to record payments made in advance of receipt of goods and services as assets, and recognize expenses when the goods and services are received.**

**Management Comments.** The DIA Chief Financial Executive nonconcurred and stated that advances discussed in the report do not qualify as advanced payments based on the opinion of the DIA General Counsel. The DIA General Counsel stated that "the type of 'advance payment' discussed in the audit report, acceptance by the receiving agency of a MIPR, does not comport with the definition of 'advance payment' cited in the GAO Red Book" (page 5-50). In addition, the audit's reference to advance payments under the Economy Act as being subject to the payment procedures in DoD Regulation 7000-14.R, volume 11A, chapter 3, only applies to the payment of actual billings by the agency filling the order. The DIA General Counsel also stated that because MIPRs are funded by either direct or reimbursable funds without the need for the servicing agency to send a bill, the requirement in DoD Regulation 7000-14R to record advance payments does not appear to apply to MIPR transactions.

**Audit Response.** The DIA comments are not responsive. Our report did not state that we considered acceptance by the receiving agency as an advance payment. The agencies accepting the MIPRs in question from DIA specifically requested that they receive the funds in advance. Whether these requests should be considered a "bill" or not is a matter of semantics. The agencies receiving the MIPRs requested that DIA pay in advance for the goods or services to be provided. DIA complied with the requests. The GAO Red Book, page 5-50, that the DIA Chief Financial Officer referenced, discusses making advance payments to Government contractors. DIA made the advance payments discussed in our report to other Government agencies.

DoD Regulation 7000.14-R, volume 4, chapter 5, states that DoD Components making advances or prepayments should record them as assets until receipt of the goods or services. In addition, Statement of Federal Financial Accounting Standards No. 1 specifically states that advances and prepayments should be

* DIA subsequently clarified that it is conducting preliminary reviews of all seven of the potential violations mentioned in the recommendation.

recorded as assets. We request that the DIA Chief Financial Officer reconsider her position and provide comments in response to the final report.

**6. Establish procedures and controls to ensure that funds obligated under the authority of the Economy Act are deobligated at the end of each fiscal year if the servicing agency has not provided the services or entered into an authorized contract to provide the goods or services.**

**Management Comments.** The DIA Chief Financial Executive concurred and stated that procedures and controls to ensure that funds are deobligated at the end of each fiscal year are being enhanced and will be used for the closeout of FY 2007. In addition, the current data cleansing and data preparation efforts underway to facilitate the implementation of the new financial system for DIA will further enhance deobligation efforts.

## B. Internal Controls over Incoming Economy Act Orders

A review of 15 incoming reimbursable Economy Act orders showed that DIA did not have adequate procedures to effectively and efficiently manage its processes and comply with statutory and DoD requirements. Specifically, DIA did not:

- promptly bill and collect for goods and services provided;
- ensure that DoD was reimbursed for assigned military personnel detailed to non-DoD organizations;
- promptly return unneeded funds to the requesting agencies;
- collect contracting fees when performing reimbursable orders; and
- accept all Economy Act orders in writing.

These conditions occurred because DIA lacked adequate internal control over its incoming Economy Act orders process, and had not established procedures to ensure that it did not violate applicable statutes and Federal procurement and DoD regulations. As a result, DIA could not provide reasonable assurance that it effectively used and administered intragovernmental orders in compliance with applicable laws and regulations. In addition, DIA did not comply with regulatory guidance established to ensure the economical use of Government resources.

### Financial Management and Administration of Incoming Economy Act Orders

DIA did not have effective internal controls over the financial management and administration of incoming Economy Act orders. Specifically, DIA did not promptly bill and collect, have DoD reimbursed for detailed military personnel, return unneeded funds timely, collect contracting and overhead fees, and accept Economy Act orders in writing (see Appendix E for a breakout of the deficiencies for the 15 incoming orders reviewed).

**Billings and Collections.** DIA did not bill or collect funds from reimbursable orders in a timely manner for 10 of the 15 customer orders reviewed, and had not established procedures to determine and report delinquent intragovernmental receivables. As a result, DIA intragovernmental Accounts Receivable were understated, and DIA did not have funds available for use for other needs by not promptly billing and collecting for goods and services provided.

**Billings.** DIA did not promptly bill other Government agencies for goods and services it provided on a reimbursable basis. The 15 orders we reviewed included 23 billings. DIA billed 16 of the 23 billings, totaling $18,874,562, more than 30 days after the service was performed or the goods delivered. The average delay in billing for the 16 late billings was 82 days, and DIA took more than four months (up to 239 days) to bill 9 of the 16. DoD Regulation 7000.14-R, volume 11A, chapter 1, requires agencies to submit bills within 30 days after the month the service was performed or the goods delivered.

**Collections.** DIA collected 20 of the 23 bills, totaling $20,030,346, more than 30 days after the month they were billed. The average number of days to collect was 172 days after the billing date. Higher-level management should become involved when collections are not received within established timeframes. Also, DIA did not properly age and report its intragovernmental receivables in accordance with DoD Regulation 7000.14-R, volume 4, chapter 3. This regulation directs performing entities to promptly collect from the ordering agency and aggressively pursue collections not made within 30 days of the billing date. By not aging delinquent receivables and preparing quarterly reports, DIA was unaware of its delinquent collections. In addition, by not promptly collecting, DIA was not able to use funds to be collected for other legitimate purposes.

**Nonreimbursement for DoD Military Personnel Detailed Outside DoD.** DIA detailed its assigned military personnel to agencies outside of DoD on a nonreimbursable basis in apparent violation of 31 U.S.C. 1301(a). The magnitude of the problem cannot be fully documented because DIA could not provide us with the number of military personnel they have assigned outside of DoD. However, discussions with the military personnel division within the Human Capital directorate of DIA revealed that up to eight military personnel assigned to DIA were detailed at one time or another to non-DoD organizations between January 2003 and June 2006. Using current published DoD labor rates to be charged to non-DoD agencies for the use of military detailees, DoD would lose approximately $1.2 million annually for these personnel.

This may violate 31 U.S.C. 1301(a) by unlawfully augmenting another Federal agency's appropriation. DIA also did not comply with DoD Regulation 7000.14-R, volume 11A, chapters 1 and 3, which require that non-DoD organizations pay the servicing agency for the cost of military labor.[1]

**Timely Return of Unneeded Funds to the Requesting Agency.** DIA did not promptly return unneeded funds to the requesting agencies in four of the 15 reimbursable orders reviewed. 31 U.S.C. 1535(d) requires unneeded funds to be deobligated and returned to the requesting agency before the appropriation expires. DoD Regulation 7000.14-R, volume 11A, chapter 3, states that it is critical for an organization to reconcile the obligation status of Economy Act

[1] In Executive Secretary, Office of the Secretary of Defense Memorandum, "Detail of Department of Defense (DoD) Personnel to Duty Outside DoD," dated July 27, 2005, the reimbursement requirement was reiterated, stating that all details of DoD personnel outside of DoD, except for the most compelling exceptions, will be on a reimbursable basis.

orders and deobligate unused funds before the end of the funds availability. We recognize that monitoring the status of funds in reimbursable orders is a joint responsibility between the requesting and performing agencies. By not actively monitoring the status of funds in a reimbursable order for unneeded funds, DIA denied the requesting entities the use of more than $.9 million for other authorized purposes before their appropriations expired.

- **Customer Orders Q1014F5-05 ($64,120) and Q1093F4-04 ($88,362).** The DIA accounting database shows that it closed customer order Q1014F5-05, with a remaining balance of $64,120, on September 29, 2005, 1 day before the expiration of these funds. DIA also closed customer order Q1093F4-04, with a remaining balance of $88,362, on September 30, 2004, the final day of the fiscal year and expiration of these funds. DIA could have notified the requesting agency of these unneeded funds much earlier because amounts billed were periodic and recurring salary costs that DIA paid each pay period.

- **Customer Order Q1125R5-05 ($100,000).** The DIA accounting database showed that it closed this order for $100,000 on September 29, 2005, 1 day before the expiration of these funds. This customer order was accepted by DIA on May 13, 2005, and subsequently closed on September 29, 2005, due to inactivity–more than 4 months after the order was accepted.

- **Customer Order Q3038R4-04 ($40,000 and $623,225).** The DIA accepted this customer order on January 26, 2004, for $16,580,000. On March 11, 2004, DIA obligated $16,540,000. The remaining $40,000 remained on the books as funds available until September 30, 2004, when it was zeroed out. In addition, the accounting database records showed that $623,225 remains in unfilled customer orders as of December 27, 2006, even though the last activity on the order was on August 3, 2005.

**Collection of Contracting Fees.** DIA did not bill customers for all costs associated with performing incoming reimbursable customer orders – specifically, contracting costs. Six of the 15 customer orders we reviewed required DIA contracting services support (five to non-DoD entities and one to a DoD entity). However, DIA did not charge contracting costs on any of the six orders requiring the use of the DIA contracting office. Discussion with the Chief, Virginia Contracting Activity, DIA, disclosed that DIA does not charge for contracting fees in the performance of an incoming reimbursable order, and no policy exists within DIA to do so. DoD Regulation 7000.14-R, volume 11A, chapter 1, requires that contract costs incurred for contracts awarded as part of a reimbursable agreement shall be billed to the benefiting organization. As a result, the DIA lost use of funds that it expended on its contracting operations. DIA should establish procedures to bill benefiting organizations for contracting costs (and overhead costs, if it determines these costs are significant and it is cost effective).

**Acceptance of Economy Act Orders in Writing.** DIA did not provide a written acceptance to the requesting agency for 10 of the 15 incoming reimbursable Economy Act orders reviewed. These orders were not requested on a MIPR because DIA received these requests from a non-DoD agency. DIA officials stated that they were not required to accept non-DoD interagency orders in writing, and further stated that the acceptance of an interagency order in writing is a DoD requirement applicable only to MIPRs within DoD. However, 31 U.S.C. 1501(a)(1) requires a written, binding agreement, to have a valid, recordable obligation. DoD Regulation 7000.14-R, volumes 3 and 11A, also require acceptance in writing and states that in the absence of such documentation, there can be no assurance that there is a meeting of the minds on the goods or services to be provided or that payment is required.

## Recommendations, Management Comments, and Audit Response

**B. We recommend that the Director, Defense Intelligence Agency:**

**1. Bill and collect reimbursable customer orders in the timeframe directed in the DoD Regulation 7000.14-R. Involve higher-level management in the collection process when necessary.**

**Management Comments.** The DIA Chief Financial Executive concurred and stated that DIA has re-engineered the customer order process and currently processes bills monthly and follows up on delinquent billings each week. Higher-level management is engaged as needed. In addition, DIA has reviewed prior-year accounts and processed billings to collect previously uncollectible accounts receivable.

**2. Begin aging and reporting intragovernmental receivables in accordance with the DoD Regulation 7000.14-R.**

**Management Comments.** The DIA Chief Financial Executive concurred and stated that its current financial systems do not allow full aging at the desired level. However, until a new financial system is installed, DIA is currently using an Access database to age receivables.

**3. Establish policy and procedures to:**

**a. Require that the Services be reimbursed when the Defense Intelligence Agency details its assigned military members outside of the DoD.**

**Management Comments.** The DIA Chief Financial Executive concurred and has formally established a reimbursable policy for details of military personnel outside of the DoD. DIA also has an informal policy to establish a Memorandum of Agreement when detailing military members outside of the DoD. DIA will determine whether the detail is reimbursable based on whether the detail is of benefit to DIA or not.

**Audit Response.** The DIA comments are partially responsive to the recommendation. The formal policy that DIA referred to is DIA Regulation 20-16, "Temporary Assignment of DIA Personnel to Duty Outside the Agency," September 10, 1999. This regulation contains a statement that "the assignment of military members must be coordinated with the appropriate Military Service." However, it provides no specific information on which DIA office has responsibility for controlling the temporary assignment of military members outside of DIA, which offices within the Military Service need to be coordinated with, or the formal process of creating a Memorandum of Agreement between the organizations providing and receiving the Military personnel.

DIA is not the authority on determining whether a detail would be on a reimbursable or nonreimbursable basis. Office of the Under Secretary of Defense (Intelligence) memorandum, "Detail and Exchanges of DoD Intelligence Employees," October 31, 2003, stated that the Under Secretary of Defense (Intelligence) would review all detail requests prior to submission to the Executive Secretary for approval. Further, he "will decide in such cases whether to provide a waiver to the reimbursement requirement." Therefore, the DIA comment that it has an informal policy to determine whether a detail is reimbursable suggests that DIA may be making the decision. We request that DIA provide a response to the final report describing formal policies and procedures it plans to put into effect to ensure that DoD is reimbursed for DIA-assigned Military personnel detailed outside of the DoD.

**b. Continuously monitor incoming reimbursable orders obligation and expenditure rates to enable the timely return of unneeded funds to the requesting agency. Also, research the $623,225 that is currently obligated under incoming reimbursable customer order Q3038R4-04 to determine if it is needed to complete the performance of this customer order. If it is not needed, initiate appropriate action and documentation to return the funds to the requestor.**

**Management Comments.** The DIA Chief Financial Executive concurred and stated that as part of its re-engineered customer order process, DIA personnel continuously monitor incoming reimbursable orders to enable the timely return of unneeded funds. She further stated that the obligation of $623,225 discussed in the report now has an unliquidated balance of only $9,373 and, based on research, there are no funds to return.

**Audit Response.** The DIA Chief Financial Executive comments are partially responsive to the recommendation. Our audit helped uncover an accounting error related to the customer order mentioned in the recommendation. DIA researched the transaction and provided information to us after we issued the draft report showing that DIA actually paid for the order on April 12, 2004, but failed to update its accounting records until February 2007. Because DIA did not update its accounting records, it did not bill the requesting agency for the funds expended on behalf of the ordering agency. In addition, because there has been no activity for the reimbursable order since September 30, 2005, it would appear that the unliquidated balance of $9,373 should be returned to the ordering agency. We request that DIA provide comments in response to the final report regarding the

disposition of the $9,373 in unliquidated obligations remaining on its accounting records.

**c. Bill benefiting organizations for contracting costs associated with reimbursable orders (and overhead costs, if these costs are significant and it is cost effective).**

**Management Comments.** The DIA Chief Financial Executive nonconcurred and stated that billing for services that DIA receives appropriations for would be supplementing DIA appropriations, which is not authorized. Further, such fees would be immaterial to the financial statements and would be cost prohibitive to track, account for, and bill. Finally, DoD Regulation 7000.14-R, volume 11A, chapter 1, states that "Contract administration costs are not to be charged within a DoD component or to another DoD component when funding for such costs are included in the mission funding of the performing DoD entity." The report does not show what organization is supported by DIA.

**Audit Response.** The DIA comments are not responsive to the recommendation. The purpose of the Economy Act is to allow one Federal agency to provide goods and services to another Federal agency. The Economy Act specifically allows the performing agency to return the collected funds into the appropriation from which the funds were initially expended. This is not supplementing an appropriation. As stated in our draft report, DoD Regulation 7000.14-R, volume 11A, chapter 1, section 010203E1, requires contract costs incurred for contracts awarded as part of a reimbursable agreement to be billed to the benefiting organization. This should not be confused with the DIA reference to section 010203E6 of this regulation, which refers specifically to contract administration costs. Contract administration costs would be associated with an organization such as the Defense Contract Management Agency, which is appointed on contracts as the "contract administrator." Our report specifically refers to the costs incurred by the DIA contracting office in creating a contract or modification that is in support of a reimbursable agreement.

In addition, we subsequently contacted personnel from the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, who confirmed our understanding of billing organizations for contracting costs associated with reimbursable orders and referred us to addendum 1 of DoD Regulation 7000.14-R, volume 11A, chapter 1. This states that actual contract costs should be recouped for sales of material and services procured (contracted) for customers. We request that the DIA Chief Financial Executive reconsider her position and provide comments on the final report regarding how DIA intends to comply with the DoD requirement.

**d. Formally accept, in writing to the requesting agency, all incoming intragovernmental orders.**

**Management Comments.** The DIA Chief Financial Executive concurred and stated that DIA has and will continue to approve in writing all incoming MIPRs with a DD Form 448-2.

**Audit Response.** The DIA comments are not responsive to the recommendation because DIA stated that it approves (accepts) only incoming MIPRs in writing. Our recommendation included all intragovernmental orders received. During the audit, a DIA official stated that DIA was not required to accept non-DoD interagency orders in writing because this was a DoD requirement applicable only to MIPRs within DoD. MIPRs (*Military* Interdepartmental Purchase Requests) are used only by DoD entities. The non-DoD intelligence agency sending orders to DIA did not use a MIPR, and DIA did not formally accept the reimbursable order. We request that DIA provide comments in response to the final report regarding how it intends to formally accept orders from non-DoD agencies.

# Appendix A. Scope and Methodology

We reviewed the use and control of both outgoing and incoming intragovernmental orders by the DIA. We reviewed laws, policies, regulations, and guidance within the Federal Government applicable to the use of intragovernmental orders. We interviewed acquisition, budget, and accounting officials to gain an understanding of the policies and procedures used to process intragovernmental orders. In addition, we traveled to the Defense Finance and Accounting Service, Columbus, Ohio; Army Field Support Command, Rock Island, Illinois; and Warner-Robins Air Logistics Center, Robins, Georgia to obtain additional information on a select number of orders.

We judgmentally selected a sample based on top dollar value, year-end spending, and activities of special interest; and requested supporting documentation for both outgoing and incoming intragovernmental orders processed by the DIA between October 1, 2002, and June 30, 2005. Our review consisted of 43 outgoing MIPRs, with 70 modifications, totaling $405.1 million and 15 incoming reimbursable orders, valued at $30.3 million. In addition, we did a limited review of 13 incoming direct cite orders.

We performed this audit from May 2005, through January 2007, in accordance with generally accepted government auditing standards.

**Use of Computer-Processed Data.** We used computer-processed data from the Rosedust accounting system and the Purchase Request Electronic Support System. We did not assess the reliability of the data because DIA personnel stated its data could not be relied upon as a complete universe of incoming and outgoing interagency orders. We verified the accuracy of the data for each sample item or stated the source of the data. Therefore, the unreliability of the data provided by DIA systems would not change the results or conclusions of the audit report.

**Government Accountability Office High-Risk Area.** The Government Accountability Office has identified high-risk areas within the Federal Government. This report provides coverage of the DoD Financial Management and Management of Interagency Contracting high-risk areas.

# Appendix B. Prior Coverage

During the past 5 years, the Government Accountability Office (GAO), the DoD Inspector General (DoD IG), and the DIA Inspector General have issued nine reports related to intragovernmental purchases and interagency contracting. Unrestricted GAO reports can be accessed over the Internet at www.gao.gov. Unrestricted DoD IG reports can be accessed at www.dodig.mil/audit/reports.

## Government Accountability Office

Report No. GAO-05-201, "Interagency Contracting: Problems with DOD's and Interior's Orders to Support Military Operations," April 2005.

Report No. GAO-05-207, "High-Risk Series: An Update," January 2005.

## DoD Inspector General

Report No. D-2007-007, "FY 2005 DoD Purchases Made Through the General Services Administration," October 30, 2006.

Report No. D-2006-102, "Marine Corps Governmental Purchases," July 31, 2006.

Report No. D-2005-096, "DoD Purchases Made Through the General Services Administration," July 29, 2005.

Report No. D-2003-090, "Use and Control of Military Interdepartmental Purchase Requests at the Air Force Pentagon Communications Agency," May 13, 2003.

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

Report No. D-2002-109, "Army Claims Service Military Interdepartmental Purchase Requests," June 19, 2002.

## DIA Inspector General

Assessment No. U-06-0179/IG, "Acquisition and Accounting Processes Assessment," May 5, 2006.

# Appendix C. Summary of Deficiencies for Outgoing MIPRs Reviewed

| MIPR | | | Acquisition Planning | | | Financial Management | |
|---|---|---|---|---|---|---|---|
| **Number** | **No. of Mods.** | **Amount** (in millions) | **No Written Acquisition Plan** | **Use of IOU*** | **D&F** | **Potential ADA Violation** | **Advanced Payment Recorded Wrong** |
| HHM402-3-0598 | | $2.00 | X | 1 | No | | |
| HHM402-4-0201 | 4 | $8.47 | X | 2 | No | | |
| HHM402-4-0237 | | $12.00 | X | 1 | No | Wrong Appropriation | |
| HHM402-4-0244 | | $42.50 | X | 1 | No | | |
| HHM402-4-0266 | 16 | $2.85 | X | 1 | N/A | | |
| HHM402-4-0272 | 1 | $7.97 | X | | No | Bona Fide Needs | |
| HHM402-4-0275 | | $55.50 | X | | No | | |
| HHM402-4-0348 | 2 | $3.80 | X | | NS** | | X |
| HHM402-4-0537 | 1 | $0.90 | NR*** | 1 | No | | |
| HHM402-4-0562 | 2 | $1.64 | X | | No | | |
| HHM402-4-0720 | | $34.76 | X | 1 | NS | | |
| HHM402-4-0727 | | $1.28 | X | 1 | NS | | |
| HHM402-4-0750 | 2 | $13.79 | X | 2 | NS | Wrong Appropriation + 2 Mods. | |
| HHM402-4-0756 | 1 | $14.04 | X | 2 | NS | | |
| HHM402-4-1005 | | $11.61 | X | 1 | NS | Wrong Appropriation | |
| HHM402-4-1713 | 1 | $1.32 | X | 1 | N/A | | |
| HHM402-4-1720 | | $2.40 | X | 1 | No | | |
| HHM402-4-1804 | | $8.00 | X | | NS | Wrong Appropriation | |
| HHM402-4-2000 | 1 | $18.68 | NS | 1 | No | | |
| HHM402-5-0128 | | $.50 | NR | | NS | | X |
| HHM402-5-0136 | | $3.00 | NS | | NS | | |
| HHM402-5-0143 | | $.50 | NR | | NS** | | X |
| HHM402-5-0157 | | $4.61 | X | | NS | | X |
| HHM402-5-0178 | | $.10 | NR | | No | | X |

* Number of IOUs issued

** Not Signed

*** Not Required

| MIPR | | | Acquisition Planning | | | Financial Management | |
|---|---|---|---|---|---|---|---|
| **Number** | **No. of Mods.** | **Amount** (in millions) | **No Written Acquisition Plan** | **Use of IOU*** | **D&F** | **Potential ADA Violation** | **Advanced Payment Recorded Wrong** |
| HHM402-5-0196 | | $.10 | NR | | | | |
| HHM402-5-0203 | 1 | $1.65 | NS | 1 | NS | | |
| HHM402-5-0206 | 2 | $.50 | NR | | NS | | |
| HHM402-5-0223 | | $5.94 | X | | NS | | |
| HHM402-5-0236 | 19 | $7.92 | X | 2 | No | | |
| HHM402-5-0240 | 1 | $4.74 | X | | No | | |
| HHM402-5-0278 | | $.10 | NR | | No | | |
| HHM402-5-0280 | 1 | $1.60 | X | 2 | No | | |
| HHM402-5-0300 | | $.15 | NR | | | | |
| HHM402-5-0303 | | $5.00 | X | | No | | |
| HHM402-5-0317 | | $.11 | NR | | | | X |
| HHM402-5-0347 | | $.61 | NR | | No | | |
| HHM402-5-0538 | | $1.43 | X | | No | | |
| HHM402-5-0556 | 1 | $.15 | NR | | No | | |
| HHM402-5-0558 | | $1.0 | X | | No | | |
| HHM402-5-0707 | 13 | $81.68 | X | 8 | NS | | |
| HHM402-5-0713 | 1 | $8.82 | X | | NS | | |
| HHM402-5-0734 | | $.60 | NR | | NS | | |
| HHM402-5-0740 | | $30.75 | X | 1 | NS | | |
| **Totals** | **70** | **$405.07** | **3 NS**<br>**28 X**<br>**12 NR** | **31*** | **18 NS**<br>**20 No** | **7** | **6** |

# Appendix D. Questionable Use of Appropriation Cited on MIPRs

| MIPR Number | Amount | Supplying Activity | Purpose | Appropriation |
|---|---|---|---|---|
| HHM402-4-0237 | $12,000,000 | U.S. Army Corp of Engineers | Modification for Camp Slayer main gate and guardhouse. | O&M |
| HHM402-4-1005 | $11,611,000 | Central Intelligence Agency | The last FY 04 installment of the DIA portion of the community bill on the establishment of the Terrorist Threat Integration Center. | O&M |
| HHM402-4-0750 | $2,400,000 | Coalition Forces Land Component Command | Partial reimbursement to Army for Iraq Survey Group Transponder cost for DKET 24 Ku-Band commercial bandwidth. | O&M |
| HHM402-4-0750-01 (modification) | $9,000,000 | Coalition Forces Land Component Command | Partial reimbursement to Army for Iraq Survey Group Transponder cost for DKET 24 Ku-Band commercial bandwidth. | O&M |
| HHM402-4-0750-02 (modification) | $2,390,000 | Coalition Forces Land Component Command | Partial reimbursement to Army for Iraq Survey Group Transponder cost for DKET 24 Ku-Band commercial bandwidth. | O&M |
| HHM402-4-1804 | $8,000,000 | U.S. Army Corp of Engineers | Modification for Camp Slayer main gate and guardhouse. | O&M |
| **Total** | **$45,401,000** | | | |

# Appendix E. Summary of Deficiencies for Incoming Economy Act Orders Reviewed

| Customer Order Number | Customer Order Value | Late Billings | Late Collections | Non-Reimbursement for Detailed Military Personnel Outside DoD | Untimely Return of Unneeded Funds to Requesting Agency | Non-Collection of Contracting and Overhead Fees | Economy Act Orders Not Accepted in Writing |
|---|---|---|---|---|---|---|---|
| Q1014F5-05 | $1,313,677 | X | X | | X | | X |
| Q1017F5-05 | $187,919 | X | X | | | | X |
| Q1065R5-05 | $4,579,576 | X | X | | | X | X |
| Q1109R5-05 | $850,000 | X | X | | | X | X |
| Q1113R5-05 | $600,000 | | | | | | X |
| Q1125R5-05 | $100,000 | | | | X | | X |
| Q1129R5-05 | $1,700,000 | | | | | X | |
| Q1166R5-05 | $1,200,000 | | | | | X | X |
| Q1171R5-05 | $1,000,000 | | | | | X | X |
| Q1093F4-04 | $400,000 | X | X | X | X | | X |
| Q1106R4-04 | $350,000 | X | X | | | | X |
| Q1168C4-04 | $693,332 | X | X | | | | |
| Q1197P4-04 | $240,000 | | X | | | | |
| Q1198C4-04 | $529,025 | | X | | | | |
| Q3038R4-04 | $16,580,000 | X | X | | X | X | |
| **15** | **$30,323,529** | **8** | **10** | **1** | **4** | **6** | **10** |

# Appendix F. Report Distribution

## Office of the Secretary of Defense

Under Secretary of Defense (Comptroller)/Chief Financial Officer
    Deputy Chief Financial Officer
    Deputy Comptroller (Program/Budget)
Under Secretary of Defense for Intelligence
Assistant to the Secretary of Defense for Intelligence Oversight

## Other Defense Organizations

Director, Defense Intelligence Agency
    Inspector General, Defense Intelligence Agency
Director, National Security Agency
Director, National Geospatial-Intelligence Agency
Director, Defense Finance and Accounting Service

## Non-Defense Federal Organizations

Office of Management and Budget
Office of the Director of National Intelligence
    Office of the Inspector General, Office of the Director of National Intelligence

## 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 Homeland Security and Governmental Affairs
Senate Select Committee on Intelligence
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Committee on Oversight and Government Reform
House Permanent Select Committee on Intelligence

# Defense Intelligence Agency Comments

**DEFENSE INTELLIGENCE AGENCY**

**WASHINGTON, D.C. 20340-**

U-023/FE-2

**APR 0 5 2007**

To: Inspector General
Department of Defense
400 Army Navy Drive
Arlington, VA 22202-4704

Subject: Use and Control of Intergovernmental Purchases at the Defense Intelligence Agency, Project No. D2005-D000FA-0198.000, Draft Report

1. Thank you for conducting this audit and providing DIA the opportunity to comment. The "Use and Control of Intragovernmental Purchases at the Defense Intelligence Agency" audit report is a useful source of information identifying potential areas for improvement in the management and documentation of incoming and outgoing MIPR processes at DIA. A preliminary review of the transactions identified as potential Antideficiency Act violations has been completed and it does not appear that the MIPRs cited were instances of improper fund use or improper contracting actions. However, a formal preliminary Antideficiency Act violation review is in progress as required and the resulting report will be provided to you. Our detailed management comments on the report are enclosed.

2. If you have any questions concerning our comments please contact Ms Deborah Ward or Mr. Ken Murphy at (703) 692- 4581 or (703) 695- 2294, respectively.

enclosure (1) a/s

Michele O. Platt
Chief Financial Executive

Final Report Reference

Revised

**Executive Summary Section.**

**Results Paragraph.**

**Nonconcur** with finding summary statement:

> "DIA did not always **use** MIPRs **properly** for acquiring goods and services. A review … disclosed that DIA … **improperly used funds** for the acquisitions…" (Executive Summary Section, Results paragraph, first two sentences, page i).

There was no substantiation offered in the audit that MIPRs were not the **proper vehicle** to accomplish the transactions or that funds used were ***improper***. The initial part of our preliminary review indicated that all funds used could be reasonably justified. The substantiated part of the audit findings dealt with the adequacy of the **documentation** supporting the transactions.

Suggest changing to "Available **documentation** was not adequate to determine whether or not the DIA used MIPRs properly for acquiring goods and services or that funds used were proper for the goods/services requested".

This more properly aligns with the audit statement (Appropriation Purpose paragraph, page 7, line 14) "However, DIA did not maintain in their acquisition files **adequate documentation** to justify the appropriation that was used to fund the four MIPRs (and two modifications). Therefore, we could not determine whether the MIPRs complied with 31 U.S.C. 1301, "Application," which states that appropriations must be applied only to the objects for which the appropriations were made except as otherwise provided by law".

**Executive Summary Section.**

**Results Paragraph.**

**Nonconcur** with the findings summary statement:

> "DIA did not collect contracting fees when performing reimbursable orders" (Executive Summary Section, Results paragraph, Second paragraph, line 7, page ii)

The finding as written implies that contracting costs were separately identifiable and material in relation to the reimbursable order. The number of orders reviewed were immaterial to the total processed (6 of 596), costs of contracting are immaterial, and costs of contracting were not separately identifiable by any reasonable means.

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Suggest changing to: "DIA should **determine** whether contracting fees are identifiable and material for reimbursable orders and, if so, establish procedures to allocate and charge the direct costs against the orders".

**Review of Internal Controls Section.**

**Adequacy of Internal Controls Paragraph.**

**Nonconcur** with the findings statement:

> "DIA had **material internal control weaknesses** as defined by **DoD Instruction 5010.40**". (Adequacy of Internal Controls paragraph, first sentence, page 3).

Revised

DoDI 5010.40 states "Material Weakness in ICs for the FMFIA Overall Process is a reportable condition which is significant enough to report to the next higher level. It is **management's judgment** as to whether or not a weakness is deemed material". Weaknesses deemed material in management's judgment are so reported as material weaknesses in the Agency annual Statement of Assurance. This weakness was not so reported.

Suggest removing the reference to **DODI 5010.40**.

**Review of Internal Controls Section.**

**Adequacy of Management's Self-Evaluation Paragraph.**

**Nonconcur** with the findings statement:

> "DIA officials **did not identify** the acquisition and financial management processes for intragovernmental purchases as an **assessable unit**; and therefore, did not identify or report the material internal control weaknesses identified by the audit". (Adequacy of Management's Self-Evaluation Paragraph, first sentence, page 3).

DIA officials **did identify** acquisition and financial management processes **within the context** of the **DIA** Managers Internal Control **(MIC)** program.

DoDI 5010.40 states: "Assessable Unit. An organizational subdivision and part of the total IC organization that requires compliance with the MIC Program for a DoD Component". The DIA MIC program (DIAI 5010.003, paragraph 4) states: "After establishing ICP responsibilities (Section 3), directorates and special offices subdivide their organizations into assessable units. Assessable units are the activities that management wishes to monitor to ensure organizational level

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objectives are being achieved or supported. Assessable units are where management places internal controls to ensure risks to achieving objectives are identified and mitigated. Documenting assessable units (Enclosure 3 / available on FE2C webpage) provides support for the management's assertions about internal controls. Assessable unit documentation contains information about objectives, resources, measures, risks, controls and control tests. The level and amount of assessable units is a management judgment".

The Acquisition Executive identified MIPRs as an assessable unit in the DIA Acquisition Life Cycle Business Process Reengineering Project Final Report (20 September 2006). That report **identifies** and flowcharts MIPR acquisition and financial management processes, showing risk areas and controls, and, for the purposes of the DIA MIC program, shows these as assessable units. For 2006, DIA did not consider this assessable unit as a reportable material internal control weakness in its statement of assurance.

**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Introductory Summary Results Statement.**

**Nonconcur** with the summary results statement:

> "DIA did not always **use** MIPRs properly for acquiring goods and services". (Section A. Use of MIPRs for the Procurement of Goods And Services, page 4, first sentence).

There was no substantiation offered in the audit that MIPRs were not the **proper vehicle** (use) to accomplish the transactions or that **funds used** were improper. The initial part of the preliminary review indicated that all funds used could be reasonably justified. The substantiated part of the findings dealt with the adequacy of the **documentation** supporting the transactions.

Suggest changing to "DIA **documentation** did not provide adequate support for the proper use of MIPRs and propriety of funds used".

This more properly accords with the audit statement (Appropriation Purpose paragraph, page 7, line 14) "However, DIA did not maintain in their acquisition files **adequate documentation** to justify the appropriation that was used to fund the four MIPRs (and two modifications). Therefore, we could not determine whether the MIPRs complied with 31 U.S.C. 1301, "Application," which states that appropriations must be applied only to the objects for which the appropriations were made except as otherwise provided by law.

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**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Introductory Summary Results Statement.**

"DIA did not adequately plan the acquisitions" (Section A. Use of MIPRs for the Procurement of Goods And Services, page 4, second sentence).

**Concur.**

**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Introductory Summary Results Statement.**

**Nonconcur** with the findings summary results statement:

> "DIA improperly **used** funds for the acquisitions" (Section A. Use of MIPRs for the Procurement of Goods And Services, page 4, second sentence).

Revised

There was no substantiation offered in the audit that **funds used** were improper. The initial part of the preliminary review indicated that all funds used could be reasonably justified. The substantiated part of the findings dealt with the adequacy of the **documentation** supporting the transactions.

Suggest changing to "DIA **documentation** did not provide adequate support for the proper use of MIPRs and propriety of funds used".

This more properly accords with the audit statement (Section A, Appropriation Purpose paragraph, page 7, line 14) "However, DIA did not maintain in their acquisition files **adequate documentation** to justify the appropriation that was used to fund the four MIPRs (and two modifications). Therefore, we could not determine whether the MIPRs complied with 31 U.S.C. 1301, "Application," which states that appropriations must be applied only to the objects for which the appropriations were made except as otherwise provided by law.

**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Introductory Summary Results Statement.**

"DIA did not properly record and account for transactions in its accounting system" (Section A. Use of MIPRs for the Procurement of Goods And Services, page 4, second sentence).

**Concur.**

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Revised

**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Acquisition Planning Section.**

**Concur.**

**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Use of Funds Section.**

**Summary Finding Statement.**

**Nonconcur** with the summary finding results statement:

> "DIA did not properly manage its financial resources. Specifically, DIA may have inappropriately **used** the **Operation and Maintenance** (O&M) appropriation to fund four MIPRs and two modifications **for procurements**, totaling 45.4 million". (Section A. Use of MIPRs for the Procurement of Goods And Services, Use of Funds Section, page 7, first sentence)

**Nonconcur** with the designation of these transactions as **procurements**. The audit does not provide adequate detailed support that these transactions were actual **procurements**. Preliminary review indicates that these were not procurement actions. The preliminary Antideficiency Act violation review, currently in progress, will investigate each transaction and the required resulting report will provide documentation to confirm or contradict this allegation.

Suggest changing to: "DIA may have inappropriately **used** the **Operation and Maintenance** (O&M) appropriation to fund four MIPRs and two modifications **transactions".** DIA **documentation** did not provide adequate support for the propriety of funds used".

This more properly accords with the audit statement (Appropriation Purpose paragraph, page 7, line 14) "However, DIA did not maintain in their acquisition files **adequate documentation** to justify the appropriation that was used to fund the four MIPRs (and two modifications). Therefore, we could not determine whether the MIPRs complied with 31 U.S.C. 1301, "Application," which states that appropriations must be applied only to the objects for which the appropriations were made except as otherwise provided by law.

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**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Use of Funds Section .**

**Summary Findings Statement.**

**Nonconcur** with the findings summary statement:

> "DIA did not properly manage its financial resources. Specifically, DIA **obligated** funds totaling $8 million on a MIPR in apparent **violation** of the Bona Fide Needs statute". (Section A. Use of MIPRs for the Procurement of Goods And Services, Use of Funds, page 7, first sentence).

**Nonconcur** with the designation that DIA **obligated in apparent violation.** The audit does not provide adequate detailed support that the obligation action was invalid. Preliminary review indicates that the obligation was to acquire items to satisfy a current need. Delivery was acceptable at any time. Thus the transaction met the bona fide rule requiring the obligation meet the need of the period available for obligation. The preliminary Antideficiency Act violation review, currently in progress, will further investigate this transaction and the required resulting report will provide documentation to confirm or contradict this allegation. DIA GC will provide an opinion when further details are provided as part of the Preliminary Review Report.

Suggest that the statement be revised to: "Specifically, DIA **documentation** did not adequately support the **obligation of** funds totaling $8 million on a MIPR for delivery after the appropriation availability period, which **may violate** the Bona Fide Needs statute".

This more properly accords with the audit statement (Appropriation Purpose paragraph, page 7, line 14) "However, DIA did not maintain in their acquisition files **adequate documentation** to justify the appropriation that was used to fund the four MIPRs (and two modifications). Therefore, we could not determine whether the MIPRs complied with 31 U.S.C. 1301, "Application," which states that appropriations must be applied only to the objects for which the appropriations were made except as otherwise provided by law.

**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Use of Funds Section.**

**Summary Findings Statement.**

**Nonconcur** with the findings summary statement:

"DIA did not properly manage its financial resources. Specifically, DIA issued 15 MIPRs and 16 modifications, totaling $252.6 million, **without adequate documentation** to show that the funds were **available**". (Section A. Use of MIPRs for the Procurement of Goods And Services, Use of Funds, page 7, first sentence).

**Nonconcur** with the implication that MIPRs were issued without adequate funds being **available**. Funds were **available**, just not properly aligned. This is stated in the Deputy Comptroller's explanation of the systemic deficiencies (A. Use of MIPRs for the Procurement of Goods and Services, Use of Funds, Availability of Funds, page 8, second paragraph). It states "In order to override the accounting system and process the purchase request, the DIA budget analyst validates that funds are **available prior** to initiating the change and approves the IOU to keep the process moving, because target changes are only made about every 2 weeks".

Suggest that the statement be revised to: "DIA **systemic** discrepancies prevented it from updating its financial accounting records in a timely fashion. Funds were available in the appropriation, just not in the specific commodity within the accounting system".

This more properly accords with the audit statement (A. Use of MIPRs for the Procurement of Goods and Services, Use of Funds, Availability of Funds, page 8, second paragraph) which states "In order to override the accounting system and process the purchase request, the DIA budget analyst validates that funds are **available prior** to initiating the change and approves the IOU to keep the process moving, because target changes are only made about every 2 weeks".

**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Use of Funds Section.**

**Appropriation Purpose Paragraph.**

**Nonconcur** with the findings paragraph statement:

"DIA transferred funds for **procurements** that **appear to be** out of the scope for the purpose of the appropriation. (Section A. Use of MIPRs for the Procurement of Goods And Services, Use of Funds, page 7, Appropriation Purpose, first sentence).

Suggest changing to: "DIA may have inappropriately **used** the **Operation and Maintenance** (O&M) appropriation to fund four MIPRs and two modifications

**transactions".** DIA **documentation** did not provide adequate support for the propriety of funds used".

This more properly accords with the audit statement (Section A, Appropriation Purpose paragraph, page 7, line 14) "However, DIA did not maintain in their acquisition files **adequate documentation** to justify the appropriation that was used to fund the four MIPRs (and two modifications). Therefore, we could not determine whether the MIPRs complied with 31 U.S.C. 1301, "Application," which states that appropriations must be applied only to the objects for which the appropriations were made except as otherwise provided by law.

**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Use of Funds Section**

**Bona Fide Needs Finding Paragraph.**

**Nonconcur** with the finding statement:

> "DIA **obligated** $8 million for the purchase of office furniture in an apparent **violation** of 31 U.S.C. 1502(a), "Balances Available," sometimes called the Bona Fide Needs statute". (Section A. Use of MIPRs for the Procurement of Goods And Services, Use of Funds, page 8, Bona Fide Needs paragraph, first sentence).

**Nonconcur** with the designation that DIA **obligated in apparent violation.** The audit does not provide adequate detailed support that the obligation action was invalid. Preliminary review indicates that the obligation was to acquire items to satisfy a current need. Delivery was acceptable at any time. Thus the transaction met the bona fide rule requiring the obligation meet the need of the period available for obligation. The preliminary Antideficiency Act violation review, currently in progress, will further investigate this transaction and the required resulting report will provide documentation to confirm or contradict this allegation. DIA GC will provide an opinion when further details are provided as part of the Preliminary Review Report.

Suggest that the statement be revised to: "Specifically, DIA **documentation** did not adequately support the **obligation of** funds totaling $8 million on a MIPR for delivery after the appropriation availability period, which **may violate** the Bona Fide Needs statute".

This more properly accords with the audit statement (Appropriation Purpose paragraph, page 7, line 14) "However, DIA did not maintain in their acquisition files **adequate documentation** to justify the appropriation that was used to fund the four MIPRs (and two modifications). Therefore, we could not determine

whether the MIPRs complied with 31 U.S.C. 1301, "Application," which states that appropriations must be applied only to the objects for which the appropriations were made except as otherwise provided by law.

**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Use of Funds Section.**

**Availability of Funds Finding Paragraph.**

**Nonconcur** with the findings statement:

> "DIA certified that the funds were **available** for the procurement and issued 15 MIPRs and 16 MIPR modifications totaling approximately $252.6 million under an "IOU" concept. DIA accounting personnel annotated the purchase requests for the MIPR stating: "insufficient funds," "IOU needed," or "IOU authorized." There was no documented evidence to indicate when and where the funds were coming from to cover the procurements. DIA use of the IOU concept could result in Antideficiency Act violations if DIA incurred obligations **prior to the funding being available.** (Section A. Use of MIPRs for the Procurement of Goods And Services, Use of Funds, page 8, Availability of Funds, first sentence).

**Nonconcur** with the implication that MIPRs were issued without adequate funds being **available**. Funds were **available**, just not properly aligned by expenditure code. This is stated in the Deputy Comptroller's explanation of the systemic deficiencies (A. Use of MIPRs for the Procurement of Goods and Services, Use of Funds, Availability of Funds, page 8, second paragraph). It states "In order to override the accounting system and process the purchase request, the DIA budget analyst validates that funds are **available prior** to initiating the change and approves the IOU to keep the process moving, because target changes are only made about every 2 weeks".

Suggest that the statement be revised to: "DIA **systemic** discrepancies prevented it from updating its financial accounting records in a timely fashion Funds were available in the appropriation, just not in the specific commodity within the accounting system".

This more properly accords with the audit statement (Section A. Use of MIPRs for the Procurement of Goods and Services, Use of Funds, Availability of Funds, page 8, second paragraph) which states "In order to override the accounting system and process the purchase request, the DIA budget analyst validates that funds are **available prior** to initiating the change and approves the IOU to keep the process moving, because target changes are only made about every 2 weeks".

**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Recording Accounting Transactions Section.**

**Advanced Payments Finding Paragraph.**

**Nonconcur** with findings statement:

> "DIA improperly recorded transactions in the accounting system relating to MIPRs issued under the Economy Act. Specifically, DIA incorrectly recorded **payments it made in advance** for goods or services". (Section A. Use of MIPRs for the Procurement of Goods and Services, Recording Accounting Transactions, page 9, Advanced Payments paragraph).

**Nonconcur** that the transactions described in the report are advanced payments. Per the DIA GC: "The type of "advance payment" discussed in the audit report, acceptance by the receiving agency of a MIPR, does not appear to comport with the definition of "advance payment" cited in the GAO Red Book (see C. Advance Payments on page 5-50). Furthermore, the audit's specific reference (see 2nd para of **Advance Payments,** page 9), to advance payments under the Economy Act as being subject to the Payment Procedures of DoDFMR, Volume 11A, Chap 3, only applies to the payment of actual billings by the order filling agency (DoDFMR, Volume 11A, para 030502). From the information presented, it appears that all of DIA's MIPRS were funded by either direct or reimbursable funds without the need for the servicing agency to make a billing. Consequently, the requirement to record "advance payments" IAW DoD FMR, Volume 4, Chap 5 appears to be not applicable to our MIPR transactions".

Suggest this entire paragraph be eliminated.

**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Recording Accounting Transactions Section.**

**Deobligation of Funds Finding Paragraph.**

**Concur.**

**Audit Report Section A. Use of MIPRs for the Procurement of Goods and Services.**

**Recommendations**

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A. We recommend that the Director, Defense Intelligence Agency:

**1.** Develop and maintain written acquisition plans for intragovernmental procurements when the total procurement cost, including option years, equals or exceeds the established threshold for preparing written acquisition plans. Also, ensure each plan considers the criteria for the acceptance of goods and services and requires signatures for coordination and approval.

DIA/AE Comments: "**Concur:** As noted by the IG, DIAM 44-2 requires documentation of a written acquisition plan for all MIPRs estimated at $1 million or more. AE has recently contracted for a number of Subject Matter Experts (SME's) who are working with the directorates to review all procurement requirements, including MIPR's, to ensure that adequate documentation is prepared, including written acquisition plans. In addition, during the review and approval process, all outgoing MIPR's will receive the review by an AE contracting officer to ensure that such plans are properly prepared and include acceptance criteria and proper signatures prior to release and certification of funds by FE. In addition during our annual risk assessment for the Agency, AE determined that our MIPR process was a risk area and to mitigate this risk the MIPR process will be transferred back to FE."

**2.** Establish procedures and controls to ensure that procurements using the Economy Act are in the best interest of the Government. Specifically:

a. Require that cost comparisons between contractor and Government performance for goods and services be prepared prior to contracting.

b. Prepare the required determination and finding and ensure that the approval is documented.

DIA/AE Comments: "**Concur:** As part of the review and support provided by both the SME's noted above and review by AE's contracting officers, all outgoing MIPR's will be reviewed to ensure that such comparisons have been performed. In addition, all MIPR's will include written Determinations and Findings (D&F's) which will be reviewed by AE contracting officers prior to release and certification of funds by FE "

**3.** Conduct a preliminary review for the six potential Antideficiency Act violations, listed in Appendix D, involving the inappropriate use of the Operation and Maintenance appropriation and MIPR HHM402-4-0272 for the potential violation of the Bona Fide Needs statute in compliance with the reporting requirements in DoD Regulation 7000.14-R, volume 14, "Administrative Control of Funds and Antideficiency Act Violations." Provide a copy of the preliminary review report to the DoD Office of Inspector General.

**Concur.** DIA/FE has initiated the preliminary review for the six potential ADA violations. The report will be completed within the timeframes required by DoD 7000.14-R, Volume 14, Chapter 3, and a copy will be provided to the DOD IG.

**4.** Discontinue use of the "IOU" process, which allows funds to be obligated without sufficient documentation to show that funds are available.

**Concur.** DIA/FE has already terminated the "IOU" process. An operation instruction is being written that will control funds certifications at a higher level pending target changes. This process will be rewritten with the adoption of the FMS/FACTS which will allow us to overcome this systemic discrepancy at the field level prior to funds certification.

**5.** Establish and implement procedures to record payments made in advance of receipt of goods and services as assets, and recognize expenses when the goods and services are received.

**Nonconcur** based on the DIA GC opinion that these transactions do not qualify as advanced payments.

**6.** Establish procedures and controls to ensure that funds obligated under the authority of the Economy Act are deobligated at the end of each fiscal year if the servicing agency has not provided the services or entered into an authorized contract to provide the goods or services.

**Concur.** Procedures and controls to ensure that funds are deobligated at the end of each fiscal year are being enhanced and will continue to be utilized for the closeout cycle of fiscal year 2007. Currently, the Tri-annual Joint Reviews conducted by ACO facilitate this deobligation. Additionally for FY07 a data cleansing/data preparation effort that is underway to facilitate the implementation of the Agency's new financial system FMS/FACT will further enhance agency deobligation efforts.

**Audit Report Section B. Internal Controls over Incoming Economy Act Orders.**

**Findings Statements.**

**Concur**
**Recommendations**

B. We recommend that the Director, Defense Intelligence Agency:

1. Bill and collect reimbursable customer orders in the timeframe directed in the DoD Regulation 7000.14-R. Involve higher-level management in the collection process when necessary.

**Concur.** In response to the conditions similar to those identified during the audit, we re-engineered the customer order process and currently process bills monthly, and follow up weekly on delinquent billings. Higher-level management is engaged as needed. Also, we have instituted a no-check 1080 bill process to automatically collect funds from DoD customers. Additionally, we have re-visited prior year accounts and processed no check 1080 billings to collect previously uncollectible accounts receivable.

2. Begin aging and reporting intragovernmental receivables in accordance with the DoD Regulation 7000.14-R.

**Concur.** Limitations of the current financial system do not allow full aging at the desired level. However, until such time that the new financial system can facilitate this requirement, we are currently utilizing an Access database to age receivables.

3. Establish policy and procedures to:

a. Require that the Services be reimbursed when the Defense Intelligence Agency details its assigned military members outside the DoD.

**Concur.** DIA has formally established reimbursable policy for details of military members outside the DoD. DIA informal policy is to establish a Memorandum of Agreement when detailing military members outside the DoD. Based on whether the detail is of benefit to DIA or not, a decision is made as to whether the agreement is to be reimbursable. DoD 7000.14, Volume 11A, Chapter 6 would be the guidance used to determine reimbursable rates.

b. Continuously monitor incoming reimbursable orders obligation and expenditure rates to enable the timely return of unneeded funds to the requesting agency. Also, research the $623,225 that is currently obligated under incoming reimbursable customer order Q3038R4-04 to determine if it is needed to

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complete the performance of this customer order. If it is not needed, initiate appropriate action and documentation to return the funds to the requestor.

**Concur.** As a part of the re-engineered customer order process, we continuously monitor incoming reimbursable orders to enable the timely return of unneeded funds. The customer order cited above (Q3038R4-04) was researched, has been fully obligated, has a current ULO balance of $9373.21, and has an unused balance of $0.00. Therefore, there are no funds to return.

c. Bill benefiting organizations for contracting costs associated with reimbursable orders (and overhead costs, if these costs are significant and it is cost effective).

**Non-Concur:** Billing for services that DIA receive appropriations for is supplementing an appropriation which DIA is not authorized to do. And, such fees would be immaterial to financial statements and cost prohibitive to track, account for, and bill. The audit does not show who the contracting costs support. For contract administration costs within a DoD component or to another DoD component, contract administration costs are not to be charged (Volume 11A, chapter 1, paragraph 010203E6 - "Contract administration costs are not to be charged within a DoD component or to another DoD Component when funding for such costs are included in the mission funding of the performing DoD entity").

Information Added

d. Formally accept, in writing to the requesting agency, all incoming intragovernmental orders.

**Concur:** DIA has and will continue to approve in writing all incoming MIPR's via a DD Form 448-2. These are returned to the requesting activity to confirm our acceptance of such requirements".

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# Team Members

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# Inspector General
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