

OVEROBLIGATION OF ICE-MAN FUNDS

Federal Aviation Administration

Report Number: FI-2003-044

Date Issued: June 12, 2003



Memorandum


**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

Office of Inspector General

Subject: ACTION: Report on FAA's Overobligation
of ICE-MAN Funds
FI-2003-044

Date: June 12, 2003

From: Alexis M. Stefani 
Principal Assistant Inspector General
for Auditing and Evaluation

Reply to
Attn. of: Letko: x61496

To: Federal Aviation Administrator

This report presents our audit results on a Hotline complaint alleging that the Federal Aviation Administration (FAA) had improperly (1) deobligated valid Fiscal Year (FY) 2001 obligations on the Integrated Computing Environment Mainframe and Network (ICE-MAN) contracts to avoid detection of an Antideficiency Act violation, (2) used FY 2001 funds from its Facilities and Equipment (F&E) appropriation rather than the Operations appropriation to pay bills on the deobligated contracts, and (3) used FY 2002 funds to pay FY 2001 obligations. Our audit objective was to determine whether the allegations were valid. Our audit scope and methodology are discussed in Exhibit A.

INTRODUCTION

In May 1997, on behalf of the Department of Transportation (DOT), FAA contracted for specific data processing services with the U.S. Department of Agriculture's (USDA) National Information Technology Center in Kansas City, Missouri. To obtain USDA data processing services for DOT customers, FAA uses the ICE-MAN contracts. One ICE-MAN requirement is to have USDA process financial data for DOT's Departmental Accounting and Financial Information System. FAA's Office of Acquisitions administers ICE-MAN contracts for DOT.

Each year, before appropriations are made, FAA's Office of Acquisitions estimates the costs of ICE-MAN contracts and enters into formal agreements with

customers¹. For data processing services that benefit all Operating Administrations, the Office of the Secretary is the customer. After entering into an agreement with FAA, the Office of the Secretary enters into formal agreements with the Operating Administrations to cover their fair share of the cost using their own Operations appropriation. Upon approval of the agreements, the Operating Administrations transfer funds to FAA. For FY 2001, ICE-MAN costs were about \$9.4 million.

RESULTS IN BRIEF

As of September 18, 2001, we found that FY 2001 obligations that FAA recorded against ICE-MAN contracts exceeded available funds by about \$850,000. At that time, FAA's Office of Acquisitions initiated a series of actions to cover the shortfall within the accounting records. Specifically,

- From September 25 through September 30, 2001, FAA's Office of Acquisitions used about \$526,000 from FAA's Operations appropriation rather than from ICE-MAN customers' appropriations to cover ICE-MAN obligations. FAA's Office of Acquisition also deobligated \$324,000 from valid ICE-MAN contracts without notifying contractors to stop work. The General Accounting Office (GAO) guidance² states:

Absent a valid reason, it is improper to deobligate funds solely to 'free them up' for new obligations. To do so risks violating the Antideficiency Act.

- To pay the bills from the ICE-MAN contracts that had been improperly deobligated, FAA's Office of Acquisitions recorded an obligation for \$311,000, without a supporting obligation document, using funds from FAA's FY 2001 F&E appropriation. Using the F&E appropriation to pay obligations rightfully payable from the Operations appropriation was inappropriate.
- Because FAA did not cancel the contracts, the contractors continued to perform the work and billed FAA \$290,000 for their work on the deobligated contracts, of which about \$30,000 inappropriately was paid from FAA's FY 2002 rather than its FY 2001 Operations appropriation.

FAA also used about \$800,000 of FY 1999 funds designated for ICE-MAN contracts that belonged to DOT Operating Administrations. FAA had no authority

¹ Customers are DOT organizations that use ICE-MAN data processing services.

² Principles of Federal Appropriations Law, GAO/OGC-92-13, Volume II, Chapter 7, Obligation of Appropriations.

to use those funds to offset its own obligations. According to GAO guidance³, FAA's use of these excess funds could be an improper augmentation of its funds.

To correct this situation, we recommended that FAA record all valid FY 2001 ICE-MAN obligations against the ICE-MAN contracts, return funds to the proper appropriation accounts, establish who should be held accountable for improper deobligation and payment actions, and establish proper procedures to account for ICE-MAN funds. In addition, because of the overobligation of funds, FAA needs to determine whether a violation of the Antideficiency Act occurred.

FAA's Acting Chief Financial Officer agreed with our recommendations, identified corrective actions taken or planned, and provided estimated completion dates for planned actions. Actions taken or planned by FAA are adequate for four of our six recommendations.

Regarding our recommendation to determine whether a reportable violation of the Antideficiency Act occurred, FAA responded that after discussions with FAA's Chief Counsel, it was determined that no reportable violation of the Act had occurred. This reply is not responsive to the recommendation. FAA cannot determine whether a violation occurred until it completes its review of obligations recorded against the accounts as we recommended. These actions will not be done until later this month. Therefore, FAA should complete its proposed actions in response to our first two recommendations, and after that it should obtain a written decision by its counsel on whether an antideficiency occurred. In doing so, FAA should work with the DOT General Counsel and the DOT Assistant Secretary for Budget and Programs/Chief Financial Officer. If an antideficiency did occur, FAA should report it.

Concerning our recommendation on determining who was accountable for the improper obligations, FAA's reply was not fully responsive. The actions taken by FAA to reorganize the ICE-MAN program office and appoint a new program manager, will help FAA avoid improper deobligations in the future. However, in our opinion, given that improper obligations were made, FAA should identify the individual(s) responsible. These recommendations will remain open until the actions are completed.

BACKGROUND

DOT Order 2700.7C, Administrative Control of Funds, establishes policy and prescribes a system for the administrative control of all funds in DOT. FAA Order 2500.42C, Administrative Control of Funds, implements the policy and

³ Principles of Federal Appropriations Law, GAO-01-179SP, Volume IV, Chapter 15, Acquisition and Provision of Goods and Services.

procedures in DOT Order 2700.7C. The DOT order requires that obligations be recorded at the earliest possible time and without regard to the availability or nonavailability of funds. The DOT order specifically states:

. . . arbitrary deobligation action is taken at the risk of a future violation if subsequent payment or charges should disclose an overobligation.

RESULTS

Deobligation of ICE-MAN Contracts

We found that as of September 18, 2001, obligations that FAA recorded against ICE-MAN contracts exceeded available funds by about \$850,000. At that time, FAA's Office of Acquisitions initiated a series of inappropriate actions to cover the shortfall. For example,

- On September 25, 2001, FAA's Office of Acquisitions transferred about \$526,000 from its FY 2001 Operations appropriation to cover ICE-MAN contract obligations, and deobligated \$80,000 from one contract.
- On September 27, 2001, in a letter to FAA's Office of Financial Management, the FAA Director of Acquisitions stated:

Unfortunately, accounting has identified year-end deficiencies on the ICE-MAN contract. To avoid ICE-MAN becoming anti-deficient, it is necessary to deobligate . . . \$214,000 from the ICE-MAN undelivered orders account. Please ensure that these funds are deobligated manually. . . .

- On September 30, 2001, FAA deobligated \$30,000 from another ICE-MAN contract, bringing the total deobligations to \$324,000.

By adding \$526,000 in additional money and deobligating \$324,000, the \$850,000 shortfall was covered in the accounting records as of September 30, 2001. However, we reviewed contract files for the transactions that were deobligated and found no valid reason for deobligating the \$324,000. GAO provides clear guidance on such actions:

Absent a valid reason, it is improper to deobligate funds solely to 'free them up' for new obligations. To do so risks violating the Antideficiency Act.

DOT Order 2700.7C also addresses such actions:

. . . arbitrary deobligation action is taken at the risk of a future violation if subsequent payment or charges should disclose an overobligation.

We found that FAA reduced valid FY 2001 obligations on the ICE-MAN contracts, but it did not notify contractors to stop work. Accordingly, the contractors continued to do their work. We found that subsequent to the FY 2001 deobligations, contractors continued to bill for their services and FAA paid those bills, which clearly shows that the deobligation actions by FAA's Office of Acquisitions were arbitrary and inappropriate.

On September 28, 2001, the FAA Office of Acquisitions set up an undelivered order, without any supporting obligation documents, to use \$311,000 from the FY 2001 F&E appropriation to pay bills from the deobligated contracts. During FY 2002, FAA made payments totaling about \$290,000 on contracts for which funds had been deobligated. We found that FAA paid about \$180,000 using FY 2001 F&E funds, about \$80,000 using its FY 2001 Operations funds, and about \$30,000 using FY 2002 Operations funds. Use of F&E funds and FY 2002 Operations funds to pay for FY 2001 Operations appropriation obligations was inappropriate.

FAA Used Funds Belonging to Other Operating Administrations

FAA also inappropriately used FY 1999 Operations funds designated for ICE-MAN. On August 9, 2000, the former FAA Assistant Administrator for Financial Services issued a memorandum to the FAA Management Board stating:

The agency has an urgent need to recover as much unobligated balance from the FY 1999 Operations appropriation . . . as possible. . . . Most of these obligations will undoubtedly be found to be valid, but your assistance in identifying documents that can be deobligated is greatly appreciated.

In support of this initiative, FAA's Office of Acquisitions identified and deobligated \$1.3 million of FY 1999 obligations on the ICE-MAN contracts on September 29, 2000. However, as mentioned earlier, funds for ICE-MAN contracts come from the Operations appropriations based on formal agreements with the individual Operating Administrations. About \$800,000 of the \$1.3 million belonged to Operating Administrations other than FAA, and FAA had no authority to use those funds to offset its FY 1999 obligations. Concerning such agreements, GAO guidance states:

Any excess . . . should be returned to the ordering agency. Retention of the excess amount by the performing agency is an improper augmentation of its funds.

We found that the \$1.3 million was available because the USDA had provided rebates to FAA on the ICE-MAN contracts, but the rebates were not returned to the Operating Administrations. None of the rebate activities was recorded in the accounting records. Notwithstanding significant rebates, we found no evidence that any funds were returned to the Operating Administrations from FY 1999 through FY 2002.

RECOMMENDATIONS

We recommend that the Assistant Administrator for Financial Services, in coordination and agreement with the FAA Chief Counsel:

1. Record all valid FY 2001 ICE-MAN contract obligations against the ICE-MAN contracts as of September 30, 2001, and return \$311,000 to the FY 2001 F&E appropriation.
2. Reverse the \$30,000 charges against the FY 2002 Operations appropriation and pay these charges with the proper FY 2001 appropriation.
3. Establish who should be held accountable for the improper deobligation and payment actions and take administrative action, if appropriate.
4. Remove the \$800,000 of FY 1999 Operations funds from FAA's Operations appropriation and return the funds to the proper DOT Operating Administrations.
5. Require FAA's Office of Acquisitions to establish proper procedures to account for ICE-MAN funds and rebates by fiscal year, and return excess funds to the Operating Administrations prior to year-end for use before the funds expire for obligation purposes.
6. Request that the FAA Chief Counsel determine whether or not the circumstances discussed in this report create a reportable violation of the Antideficiency Act.

MANAGEMENT COMMENTS

A draft of this report was provided to the FAA Administrator on April 2, 2003. We also discussed the draft report with FAA's Acting Chief Financial Officer

(CFO) and DOT's Deputy CFO. We considered their comments in preparing the final report. The FAA Acting CFO provided comments on May 13, 2003 (see Appendix). He agreed with our recommendations and provided the following comments.

Recommendation 1. Concur. We have reviewed the program obligations and expenditures for FY 2001, and will return the \$311,000 that was inappropriately obligated to the ICE-MAN account by June 30, 2003.

Recommendation 2. Concur. We plan to complete this recommendation by June 30, 2003.

Recommendation 3. Concur. Within the ICE-MAN program office, the Information and Technology Division was reorganized and a new program manager, fund certifier, and contracting officer have been appointed.

Recommendation 4. Concur. We will work with the Operating Administrations to determine the reimbursable amounts and develop a methodology to return these funds. The transfer of FY 1999 rebate will be completed by June 30, 2003.

Recommendation 5. Concur. The following procedural changes have been instituted: (a) ICE-MAN has been formally established as a reimbursable account; (b) rebates will be distributed through the accounting system; and (c) all rebates will be identified by August 15 of each year.

Recommendation 6. Concur. After discussions with FAA's Chief Counsel, it was determined that no reportable violation of the Antideficiency Act occurred in FY 1999 or FY 2001.

OFFICE OF INSPECTOR GENERAL RESPONSE

We considered management comments and made changes to the final report as appropriate to address their comments. FAA actions taken and planned for Recommendations 1, 2, 4, and 5 are reasonable.

Regarding Recommendation 3, we recommended that FAA establish who should be held accountable for the improper deobligation and payment actions and take administrative action, if appropriate. FAA responded that within the ICE-MAN program office, the Information and Technology Division was reorganized and a new program manager, fund certifier, and contracting officer had been appointed. While these actions will help FAA prevent improper deobligation and payment actions in the future, FAA did not fully respond to our recommendation. Given

that improper obligations were made, FAA should identify the individual(s) responsible.

Regarding Recommendation 6, we recommended that the FAA Chief Counsel determine whether the overobligation of ICE-MAN funds created a reportable violation of the Antideficiency Act. The Acting FAA CFO responded that after discussions with the FAA Chief Counsel, it was determined that no reportable violations of the Antideficiency Act had occurred. This reply is not responsive to our recommendation. FAA cannot determine whether a violation occurred until it completes its review of obligations recorded against the accounts as we recommended. These actions will not be done until later this month. Therefore, FAA should complete its proposed actions in response to our first two recommendations. After that, the FAA Chief Counsel should work with the DOT General Counsel and the DOT Assistant Secretary for Budget and Programs/Chief Financial Officer to determine whether an antideficiency occurred and provide a written report. These recommendations will remain open until these actions are completed.

ACTION REQUIRED

FAA actions taken and planned for Recommendations 1, 2, 4, and 5 are reasonable, and no further response is necessary. However, in accordance with DOT Order 8000.1C, we are requesting that FAA reconsider its position on Recommendations 3 and 6 and provide the additional information requested within 30 days.

We appreciate the courtesies and cooperation of FAA representatives. If you have questions concerning this report, please call Terry Letko or me at (202) 366-1496.

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EXHIBIT A. SCOPE AND METHODOLOGY

We interviewed the FAA Information Technology Services' Contracting Officers, the Contracting Officers' Technical Representatives, the funds certification manager, and others in FAA's Office of Acquisitions in Washington, D.C.; Atlantic City, New Jersey; and Oklahoma City, Oklahoma. We discussed procedures regarding obligations and deobligations on contracts, and contract procedures for matching invoices to obligation documents with the Accounting Operations Division.

We reviewed the contract documents and accounting records to determine the validity of deobligations totaling about \$1.3 million of FY 1999 funds and \$324,000 of FY 2001 funds.

We matched ICE-MAN contract and accounting records to determine whether the proper funds were used to pay invoices and whether the related invoices were matched to the obligations in the accounting system. We also reviewed invoices from FYs 1999, 2000, 2001, and 2002.

We identified provisions of relevant Federal laws and regulations. Specifically, we reviewed sections of Principles of Federal Appropriations Law, Title 31, United States Code (U.S.C.), Section 1341 and 1342, Limitation on Obligations and Expenditures; Title 31, U.S.C., Section 1535, Economy Act; and Title 31, U.S.C., Section 1553, Availability of Appropriations. We reviewed FAA and DOT policy and procedures. Specifically, we reviewed FAA Order 2500.42C, Administrative Control of Funds; Procurement Guidance T3.1.4, Contract Authority and Procurement Guidance and T3.10.1, Contract Administration; and DOT Order 2700.7C, Administrative Control of Funds.

We performed our audit from June 2002 through January 2003. The audit was conducted in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States.

EXHIBIT B. MAJOR CONTRIBUTORS TO THIS REPORT

THE FOLLOWING INDIVIDUALS CONTRIBUTED TO THIS REPORT.

<u>Name</u>	<u>Title</u>
Terrence Letko	Program Director
Leonard Meade	Project Manager
Linda Toms	Senior Auditor



U.S. Department
of Transportation

**Federal Aviation
Administration**

Memorandum

Subject: **INFORMATION:** Draft Report on Contract
Obligations, Federal Aviation Administration

Date: May 13, 2003

From: Acting Assistant Administrator for Financial
Services and Chief Financial Officer

Reply to
Attn. of:

To: Assistant Inspector General for Financial and
Information Technology Audits

As requested in your memorandum dated April 2, we have reviewed the subject report and the Federal Aviation Administration's (FAA) response to each recommendation is provided in the attachment. We further believe that this title is misleading and request that consideration be given to changing the title to "Integrated Computing Environment Mainframe and Network (ICE-MAN) Program Financial Management".

We appreciate the opportunity to comment on this report. Should you have questions or need further information, please contact Anthony Williams, Budget Policy Division, ABU-100. He can be reached at (202) 267-9000.


John F. Hennigan

Attachment

**Federal Aviation Administration's Response to the
Office of Inspector General's (OIG) Draft Report on
Contract Obligations, Federal Aviation Administration**

OIG Recommendation 1: Record all valid fiscal year (FY) 2001 ICE-MAN contract obligations against the ICE-MAN contracts as of September 30, 2001, and return \$311,000 to the FY 2001 Facilities and Equipment appropriation.

FAA Response: Concur. We have reviewed the program obligations and expenditures for FY 2001, and will return the \$311,000 that was inappropriately obligated to the ICE-MAN account by June 30.

OIG Recommendation 2: Reverse the \$30,000 charges against the FY 2002 Operations appropriation and pay these charges with the proper FY 2001 appropriation.

FAA Response: Concur. We plan to complete this recommendation by June 30.

OIG Recommendation 3: Establish who should be held accountable for the improper deobligation and payment actions and take administrative action, if appropriate.

FAA Response: Concur. Within the ICE-MAN program office, we have reorganized the Information and Technology Division and appointed a new program manager, fund certifier, and contracting officer. These changes satisfy the intent of the recommendation.

OIG Recommendation 4: Remove the \$800,000 of FY 1999 Operations funds from FAA's Operations appropriation and return the funds to the proper Department of Transportation Operating Administrations.

FAA Response: Concur. We will work with the Operating Administrations (OAs) to determine the reimbursable amounts and develop a methodology to return these funds. The following is a list of our planned actions with their estimated completion dates:

- a. Identify all impacted OAs by April 30.
- b. Identify, by OA, usage percentage of total for FY 2001 by May 16.
- c. Notify OA of FY 1999 rebate amount, and request guidance on procedures to return funds by May 30.
- d. Complete transfer of FY 1999 rebate in accounting system by June 30.

OIG Recommendation 5: Require FAA's Office of Acquisitions to establish proper procedures to account for ICE-MAN funds and rebates by fiscal year, and return excess funds to the Operating Administrations prior to year-end for use before the funds expire for obligation purposes.

FAA Response: Concur. The following procedural changes have been or will be instituted immediately:

- a. Formally establish ICE-MAN as a reimbursable account.
- b. Distribute rebates through the accounting system.
- c. Identify all rebates by August 15 of each year.

OIG Recommendation 6: Request that the FAA Chief Counsel determine whether or not the circumstances discussed in this report create a reportable violation of the Antideficiency Act in FY 1999 or FY 2001.

FAA Response: Concur. After discussions with FAA's Chief Counsel, it was determined that no reportable violation of the Antideficiency Act occurred in FY 1999 or FY 2001.