

Inspector General

United States
Department of Defense



Status of the Defense Emergency
Response Fund in Support of
the Global War on Terror

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Acronyms and Abbreviations

| | |
|----------------|--|
| DARPA | Defense Advanced Research Project Agency |
| DERF | Defense Emergency Response Fund |
| DFAS | Defense Finance and Accounting Service |
| DHP | Defense Health Program |
| DISA | Defense Information Systems Agency |
| DLA | Defense Logistics Agency |
| DoDEA | DoD Education Activity |
| DSCA | Defense Security Cooperation Agency |
| DSS | Defense Security Services |
| DTRA | Defense Threat Reduction Agency |
| FAD | Fund Authorization Document |
| GAO | Government Accountability Office |
| GWOT | Global War on Terror |
| IFF | Iraq Freedom Fund |
| JCS | Joint Chiefs of Staff |
| OSD | Office of the Secretary of Defense |
| USD(C)/DoD CFO | Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer |
| ULO | Unliquidated Obligations |
| USSOCOM | United States Special Operations Command |
| WHS | Washington Headquarters Services |



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

July 30, 2009

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER)/
DOD CHIEF FINANCIAL OFFICER
ASSISTANT SECRETARY OF DEFENSE FOR HOMELAND
DEFENSE AND AMERICA'S SECURITY AFFAIRS
OFFICE OF GENERAL COUNSEL
DIRECTOR DEFENSE FINANCE AND ACCOUNTING
SERVICE

SUBJECT: Status of the Defense Emergency Response Fund in Support of the Global
War on Terror (Report No. D-2009-098)

We are providing this report for your review and comment. We considered comments from the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer and the Director, Defense Finance and Accounting Service in preparing the final report.

DoD Directive 7650.3 requires that all recommendations be resolved promptly. We revised draft Recommendations 1.a. and 1.b. to clarify the nature of actions that the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer needs to do to improve the management of the Defense Emergency Response Fund. We added Recommendation 1.c. to update DoD Regulation 7000.14-R, "DoD Financial Management Regulation (FMR)," after the Defense Emergency Response Fund is closed. Therefore, we request comments from the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer on Recommendations 1.a., 1.b., and 1.c. by August 31, 2009. The comments from the Defense Finance and Accounting Service were responsive. Therefore, we do not require any additional comments from the Defense Finance and Accounting Service. See the recommendation table on page ii.

Please provide comments that conform to the requirements of DoD Directive 7650.3. If possible, send your comments in electronic format (Adobe Acrobat file only) to auddbo@dodig.mil. Copies of your comments must have the actual signature of the authorizing official for your organization. We are unable to accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 601-5868.

Patricia A. Marsh
Patricia A. Marsh, CPA
Assistant Inspector General
Defense Business Operations



Results in Brief: Status of the Defense Emergency Response Fund in Support of the Global War on Terror

What We Did

Our objective was to determine whether the Defense Emergency Response Fund (DERF) for the Global War on Terror (GWOT) was used as intended and whether the use of the funds complied with the Office of Management and Budget guidance. We will issue at least one additional report addressing this audit objective. For this report, we determined whether DoD transferred all DERF balances to the Iraq Freedom Fund (IFF) as intended by Public Laws 108-11 and 108-106. These public laws require that balances in DERF as of October 31, 2003, be transferred to IFF.

What We Found

On April 15, 2004, DoD transferred more than \$126 million from DERF to IFF as required by the public laws. However, the DoD Components' internal controls were not adequate to ensure that DoD transferred all DERF for GWOT balances to IFF. The Components did not review their obligations to ensure that they were valid and accurate and that unliquidated obligations were deobligated. As a result, 5 years and 6 months after the public law has mandated the transfer of balance in DERF to IFF, there is still about \$108.9 million, classified as unpaid obligations, and an additional \$151.1 million, classified as unobligated, for a total of \$260 million in DERF for GWOT that DoD needs to transfer to the Department of Treasury because the law to transfer the funds to IFF had expired. In addition, there is \$15.3 million in DERF for disaster and humanitarian assistance that DoD needs to transfer to the Department of Treasury. Because it has been more than 5 years and 6 months since the public law mandated the transfer of

balance in DERF to IFF, the Defense Finance and Accounting Service should not make any more disbursements from DERF.

What We Recommend

We recommend that the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer (USD[C]/DoD CFO):

- require the DoD Components to review their DERF for GWOT obligations and deobligate all unliquidated obligations, withdraw all excess funds, and transfer the funds to the Treasury Department,
- withdraw all unobligated DERF for GWOT funding allocated to the DoD Components and transfer the funds to the Treasury Department, and
- revise DoD financial management regulations on DERF if DERF is closed.

We also recommend that the Director, Defense Finance and Accounting Service not make any more disbursements from DERF.

Management Comments and Our Response

We revised draft Recommendations 1.a. and 1.b. to clarify the nature of the actions that the USD(C)/DoD CFO needs to do to improve the management of DERF. We added Recommendation 1.c. to the USD(C)/DoD CFO to update DoD Regulation 7000.14-R, "DoD Financial Management Regulation (FMR)," after DERF is closed. We request comments from the USD(C)/DoD CFO on Recommendations 1.a., 1.b., and 1.c. by August 31, 2009. The Director, Defense Finance and Accounting Service provided responsive comments. See the recommendation table on page ii.

Recommendation Table

| Management | Recommendations Requiring Comment | No Additional Comments Required |
|--|-----------------------------------|---------------------------------|
| Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer | 1.a., 1.b., and 1.c. | |
| Director, Defense Finance and Accounting Service | | 2. |

Please provide comments by August 31, 2009

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Introduction

Objectives

Our audit objective was to determine whether the Defense Emergency Response Fund (DERF) for the Global War on Terror (GWOT) was used as intended and whether the use of the fund complied with the Office of Management and Budget guidance. We will issue at least one additional report addressing this audit objective. For this report, we determined whether DoD closed and transferred all DERF balances to the Iraq Freedom Fund (IFF) as intended by Public Law 108-11, the “Emergency Wartime Supplemental Appropriations Act, 2003,” April 16, 2003, and Public Law 108-106, the “Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004,” November 6, 2003. These public laws require that balances in DERF as of October 31, 2003, be transferred to IFF. See Appendix A for a discussion of the scope, methodology, and prior audit coverage.

Background

Defense Emergency Response Fund

In FY 1990, Congress established DERF to reimburse DoD for providing disaster or emergency assistance to other Federal agencies and to state and local governments in anticipation of reimbursable requests. Congress initially funded DERF at \$100 million. The purpose of DERF is to allow DoD to provide disaster and emergency relief assistance without depleting the funds it needs to accomplish its mission. DERF centralizes DoD financial accounting for disaster assistance. From its inception through 2006, DoD has used more than \$384.1 million in DERF funding for overseas disaster and humanitarian assistance projects. As of the date of this report, there was \$15.3 million in DERF for disaster and humanitarian assistance. Subsequent to the events of September 11, 2001, Congress allocated more than \$14.6 billion additional funding to DERF as part of DoD efforts to support GWOT.

Public Laws

Shortly after the terrorist attacks on September 11, 2001, Congress passed several laws that provided funding to Federal agencies to meet their emergency expenses arising from the attacks. The funds were to be used for:

- providing Federal, state, and local preparedness for mitigating and responding to the attacks;
- providing support to counter, investigate, or prosecute domestic or international terrorism;
- providing increased transportation security;
- repairing public facilities and transportation systems damaged by the attacks; and
- supporting national security.

In addition, Public Law 108-11 required that all balances in DERF as of October 31, 2003, be transferred to and merged with IFF and remain available for the same purposes and terms of conditions as the funds appropriated to the IFF “in this chapter.” The funds appropriated for the IFF “in this chapter” were good until September 30, 2004. Public Law 108-106 amended Public Law 108-11 by requiring that all unobligated balances in DERF be transferred to IFF. In addition, the Law stated that effective November 1, 2003, adjustments to obligations that would have been chargeable to DERF for GWOT must be charged to any current DoD appropriations account available for the same purpose. See Appendix B for the public laws affecting the DoD DERF for the GWOT.

Iraq Freedom Fund

Public Law 108-11 established IFF to account for additional expenses for ongoing military operations in Iraq and other operations and related activities in support of GWOT. According to the Law, IFF is necessary to finance the estimated partial cost of combat, stability operations, force reconstruction, replacement of munitions and equipment, and other costs. Congress initially funded IFF at about \$15.7 billion. IFF was still an operational account as of the date of this report.

DoD Financial Management Regulation

Volume 3, Chapter 8

DoD Regulation 7000.14-R, “DoD Financial Management Regulation (FMR),” volume 3, chapter 8, “Standards for Recording and Reviewing Commitments and Obligations,” June 2005, requires DoD fund holders, with assistance from supporting accounting offices, to perform triannual reviews of commitments and obligations for timeliness, accuracy, and completeness. The requirement applies to all DoD direct appropriations and reimbursable transactions. All required deobligations, adjustments, or corrections identified during the review are to be documented and processed within 10 working days. The fund holders are required to maintain the documentation of their reviews for a period of 24 months to permit independent verification by organizations, such as the DoD Office of Inspector General and the DoD Component audit agencies.

Volume 3, Chapter 10

DoD Regulation 7000.14-R volume 3, chapter 10, “Accounting Requirements for Expired and Closed Accounts,” October 2008, requires DoD Components to cancel obligated and unobligated balances in appropriations that are available for an indefinite period when:

- no disbursements have been made from the appropriation for a period of 2 years and
- the President, the Secretary of Defense, or a designee of the Secretary determine that the purpose for which the appropriation was made has been carried out.

The Regulation also requires DoD Components to review remaining unliquidated balances in expired accounts and, prior to cancellation, deobligate all amounts not supported by documentary evidence. DoD 7000.14-R also prohibits disbursing from canceled appropriations 5 years following the expiration of the availability of the fund for incurring new obligations.

Defense Finance and Accounting Service Manual 7097.01

The Defense Finance and Accounting Service (DFAS) Manual 7097.01, “Departmental Reporting Manual for the Office of the Secretary of Defense (Treasury Index 97) Appropriations,” June 2004, chapter 2, “Emergency Response Fund, Defense, Appropriation Description and Instructions,” states that Public Law 108-11 requires unobligated balances remaining in DERF for GWOT as of October 31, 2003, be transferred to, and merged with, IFF. In addition, DFAS Manual 7097.01 states that DERF for GWOT has been closed for further obligations in accordance with Public Law 108-106. Furthermore, the DFAS Manual 7097.01 states that, “effective November 1, 2003, adjustments to obligations that would have been properly chargeable to DERF for GWOT shall be charged to any current appropriation available for the same purpose.”

Review of Internal Controls

DoD Instruction 5010.40, “Managers’ Internal Control (MIC) Program Procedures,” January 4, 2006, requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls. We identified internal control weaknesses in the DoD Components’ conduct of triannual reviews. The DoD Components did not perform triannual reviews of commitments and obligations for timeliness, accuracy, and completeness to ensure that unliquidated obligations (ULOs) were deobligated and excess funds put to better use. Implementing the recommendations in the finding will improve financial management at the DoD Components and will result in at least \$260 million being transferred to the Department of the Treasury. We will provide a copy of the report to the senior official responsible for internal controls in the Office of the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer.

Finding. Management of the Defense Emergency Response Fund for the Global War on Terror

On April 15, 2004, DoD transferred more than \$126 million from the Defense Emergency Response Fund (DERF) to the Iraq Freedom Fund (IFF). However, DoD Components' internal controls were not adequate to ensure that DoD transferred all DERF balances to IFF in accordance with Public Laws. This occurred because the DoD Components did not review their obligations as required by DoD Regulation 7000.14-R to ensure that their unliquidated obligations (ULOs) were deobligated to allow DoD to transfer all remaining balances in DERF to IFF. In addition, the DoD Components did not review their obligated and unobligated balances in DERF for the Global War on Terror (GWOT) after the funding in DERF had been canceled, as required by DoD 7000.14-R. As a result, 5 years and 6 months after the public law has mandated the transfer of balance in DERF to IFF, there is still about \$108.9 million, classified as unpaid obligations, and an additional \$151.1 million, classified as unobligated, for a total of \$260 million in DERF for GWOT. DoD needs to transfer this amount to the Department of the Treasury because the law to transfer the funds to IFF has expired. In addition, there is \$15.3 million in DERF for disaster and humanitarian assistance that DoD needs to transfer to the Department of the Treasury. To enable DoD to transfer the amounts, the Defense Finance and Accounting Service (DFAS) should not make any more disbursements from DERF.

DoD DERF for GWOT Funding and Other Transfer Actions

Eight public laws either provided funding to DERF for DoD efforts on GWOT or allowed DoD to transfer funding from DERF for GWOT for other purposes. For example, Public Law 107-38, the "2001 Emergency Supplemental Appropriations Act for Recovery From and Response to Terrorist Attacks on the United States," September 18, 2001, and Public Law 107-117, the "Department of Defense Emergency Supplemental Appropriations for Recovery From and Response to Terrorist Attacks on the United States," January 10, 2002, allowed DoD to transfer funds from DERF for GWOT to other DoD appropriations. In addition, because of Public Law 107-296, the "Homeland Security Act of 2002," November 25, 2002; DoD transferred about \$74.5 million to the Department of Homeland Security. In a December 7, 2005, report the Government Accountability Office opined that DoD acted properly when it transferred funds from DERF for GWOT to other DoD appropriations in accordance with:

- Public Law 107-117 and
- Public Law 107-206, "2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States," August 2, 2002.

See Appendix B for the public laws affecting DERF for GWOT. Table 1 shows the total amount that DoD received into DERF for GWOT and DoD transfer actions in the account.

| Table 1. DERF for GWOT Funding by Public Law and Other DoD Transfer Actions (in millions) ¹ | | | | | |
|--|--|-------------------|-------------------|---------------------|-------------------|
| Public Law² | Purpose | FY 2001 | FY 2002 | FY 2003 | Total |
| 107-38 | Transfer from Office of Management and Budget | \$12,515.7 | \$ | \$ | \$12,515.7 |
| 107-117 | Appropriated for DERF | | 3,395.6 | | 3,395.6 |
| 107-117 | Transferred to White House Commission on National Moment of Remembrance | | (.5) | | (.5) |
| 107-117 | Section 305 Transfer to Pentagon Reservation Maintenance Revolving Fund | | (475.0) | | (475.0) |
| 107-206 | 2002 Supplemental Appropriated for DERF | | 11,901.9 | | 11,901.9 |
| 107-206 | Rescission | | | (601.9) | (601.9) |
| 107-206 | Section 312 Rescission | (224.0) | | | (224.0) |
| 107-248 | Section 8120 From Pentagon Reservation | | 305.0 | | 305.0 |
| 107-296 | Office of Management and Budget directed transfer to Homeland Security | | (74.5) | | (74.5) |
| 108-7 | Transfer to Procurement, Defense-Wide | | | (40.0) | (40.0) |
| | Transfer to Office Management and Budget | (226.2) | (274.0) | | (500.2) |
| | Transfer to Other DoD Appropriations | (40.0) | (244.9) | (11,170.3) | (11,455.2) |
| 108-11/ 108-106 | Directed all DERF balances as of October 31, 2003, be transferred to IFF | | (126.0) | | (126.0) |
| Total | | \$12,025.5 | \$14,407.6 | \$(11,812.2) | \$14,620.9 |

¹ Source: Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer.

² See Appendix B for the description of the public laws.

DERF for GWOT Account Balance at Closure

The Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer (USD[C]/DoD CFO) allocated DERF for GWOT funding to DoD Major Components on Fund Authorization Documents (FADs). FADs established a written funding authority for the receiving DoD Component. The Major Components then suballocated the funds to their Subordinate Commands for execution. The USD(C)/DoD CFO allocated \$14.6 billion to the DoD Major Components for their GWOT needs after accounting for

the \$126 million that DoD transferred to IFF in accordance with Public Laws 108-11 and 108-106 and other DoD transfer actions as shown in Table 1. Table 2 provides details of the balance of DERF for GWOT as of October 31, 2003, after Public Law 108-11 has mandated the transfer of balance in DERF to IFF.

| Table 2. DFAS 1002 Report³ | | | | |
|--|---|--------------------------|---------------------------------|--|
| DERF for GWOT Account Balance | | | | |
| as of October 31, 2003 | | | | |
| (in millions) | | | | |
| A | B | C | D | E |
| Component | Amount Available for Obligations | Unobligated Funds | Unliquidated Obligations | (C+D) Amount to Transfer to IFF |
| Army | \$ 2,462.7 | \$ 3.3 | \$ 225.8 | \$229.1 |
| Navy | 3,782.1 | 116.3 | 459.2 | 575.5 |
| Air Force | 4,616.7 | 7.1 | 696.8 | 703.9 |
| Washington Headquarters Services (WHS) | 875.5 | 0 | (9.0) | (9.0) |
| Office of the Secretary of Defense (OSD) (Unallocated) | 188.6 | 0 | 47.4 | 47.4 |
| United States Special Operations Command (USSOCOM) | 750.9 | (21.7) | 126.3 | 104.6 |
| Defense Information Systems Agency (DISA) | 252.3 | 0 | (44.1) | (44.1) |
| Defense Threat Reduction Agency (DTRA) | 211.8 | .3 | 30.5 | 30.8 |
| Defense Security Cooperation Agency (DSCA) | 149.5 | 0 | (17.5) | (17.5) |
| Defense Logistics Agency (DLA) | 129.9 | 0 | 2.4 | 2.4 |
| Defense Advanced Research Project Agency (DARPA) | 40.0 | 0 | 6.3 | 6.3 |
| Defense Health Program (DHP) | 31.4 | .1 | 7.7 | 7.8 |
| Defense Security Services (DSS) | 16.5 | 0 | 3.8 | 3.8 |
| DoD Education Activity (DoDEA) | 12.8 | 0 | 5.3 | 5.3 |
| Joint Chiefs of Staff (JCS) | .7 | 0 | .1 | .1 |
| Defense Finance and Accounting Service (DFAS) | .5 | 0 | (.6) | (.6) |
| Other Agencies | 1,133.7 | 29.4 | 149.0 | 178.4 |
| Undistributed/Unallocated | 91.4 | 91.4 | 16.2 | 107.6 |
| Total | \$14,747.0⁴ | \$226.2 | \$1,705.6 | \$1,931.8 |

³ Appropriation status report designed to present budget execution data with respect to obligation authority.

⁴ The difference between the amounts available for obligation in Tables 1 and 2 was caused by the \$126 million transferred to IFF on April 15, 2004.

Review of Obligations

In 2004, DoD lost the chance to transfer more funds from DERF to IFF. On April 15, 2004, DoD transferred more than \$126 million from DERF for GWOT to IFF. On that

date, DoD could have transferred additional \$102 million to IFF. However, 15 days after the DoD transfer on April 15, 2004, \$102 million remained unobligated in DERF for GWOT. Table 3 shows the balance in DERF for GWOT after the DoD transferred. A review of the unliquidated obligations could have identified additional \$942.6 million ULOs that DoD could have transferred to IFF to be put to better use in 2004.

| Table 3. DFAS 1002 Report DERF for GWOT Account Balance as of April 30, 2004 (in millions) | | | | |
|---|---|--------------------------|---------------------------------|--|
| A | B | C | D | E |
| Component | Amount Available for Obligations | Unobligated Funds | Unliquidated Obligations | (C+D) Amount to Transfer to IFF |
| Army | \$ 2,451.8 | \$ 1.8 | \$ 111.3 | \$ 113.1 |
| Navy | 3,675.4 | 4.8 | 215.4 | 220.2 |
| Air Force | 4,610.5 | 3.9 | 381.4 | 385.3 |
| WHS | 875.5 | 0 | 0 | 0 |
| OSD | 188.6 | .2 | 31.8 | 32.0 |
| USSOCOM | 750.4 | .8 | 80.0 | 80.8 |
| DISA | 253.4 | (.1) | 4.9 | 4.8 |
| DTRA | 211.6 | .1 | 15.5 | 15.6 |
| DSCA | 149.5 | 0 | (17.5) | (17.5) |
| DLA | 129.9 | 0 | 2.4 | 2.4 |
| DARPA | 40.0 | 0 | 3.4 | 3.4 |
| DHP | 31.4 | .1 | 7.6 | 7.7 |
| DSS | 16.5 | 0 | 3.2 | 3.2 |
| DoDEA | 12.8 | 0 | 4.0 | 4.0 |
| JCS | .7 | 0 | .1 | .1 |
| DFAS | .5 | 0 | (.3) | (.3) |
| Other Agencies | 1,132.8 | .7 | 100.7 | 101.4 |
| Undistributed | 89.7 | 89.7 | (1.3) | 88.4 |
| Total | \$14,621.0 | \$ 102.0 | \$ 942.6 | \$ 1,044.6 |

Expired Funds

DERF still had account balances 5 years after the account had expired or been canceled. Expired or canceled funds are those funds in which the balances are no longer available for new obligations because the time for incurring new obligations has expired or the funds have been canceled. The unexpended balance of a canceled account is the sum of the unobligated balance and the unliquidated obligations at the time of the cancellation, adjusted for valid obligations and payments, which are charged to the account. DoD Regulation 7000.14-R requires DoD Components to review the remaining unliquidated obligations in expired accounts, prior to cancellation, and deobligate all amounts not supported by documentary evidence. However, as of September 30, 2008, 5 years after the public law has mandated the transfer of balance in DERF to IFF, the DoD

Components have not performed this review. As Table 4 shows, the review would have identified about \$102.6 million, classified as unpaid obligations, and an additional \$253.3 million, classified as unobligated, for a total of \$355.9 million canceled appropriation in DERF that DoD could have transferred to the Department of the Treasury. The funds could not be transferred to the IFF.

| Table 4. DFAS 1002 Report DERF for GWOT Account Balance as of September 30, 2008 (in millions) | | | | |
|---|---|----------------------------|---------------------------------|--|
| A | B | C | D | E |
| Component | Amount Available for Obligations | Unobligated | Unliquidated Obligations | (C+D) Amount to Transfer to IFF |
| Army | \$ 2,451.7 | \$ 51.2 | \$ 7.0 | \$ 58.2 |
| Navy | 3,675.4 | 25.9 | 26.0 | 51.9 |
| Air Force | 4,610.5 | 45.8 | 43.4 | 89.2 |
| WHS | 875.5 | 0 | 0 | 0 |
| OSD | 188.6 | 2.1 | 2.5 | 4.6 |
| USSOCOM | 750.4 | 6.3 | 9.6 | 15.9 |
| DISA | 253.4 | 1.1 | 9.3 | 10.4 |
| DTRA | 211.6 | .8 | 3.1 | 3.9 |
| DSCA | 149.5 | .1 | 0 | .1 |
| DLA | 129.9 | 1.6 | 0 | 1.6 |
| DARPA | 40.0 | .1 | .4 | .5 |
| DHP | 31.4 | .6 | .6 | 1.2 |
| DSS | 16.5 | 2.3 | .1 | 2.4 |
| DoDEA | 12.8 | 0 | .8 | .8 |
| JCS | .7 | .1 | 0 | .1 |
| DFAS | .5 | 0 | 0 | 0 |
| Other Agencies | 1,132.8 | 25.5 | 1.3 | 26.8 |
| Undistributed | 89.8 | 89.8 | (1.5) | 88.3 |
| Total | \$14,621.0 | \$253.3⁵ | \$102.6 | \$355.9 |

⁵The unobligated amount in Table 4 is greater than the same amount in Table 3 because the unliquidated obligations decreased between April 30, 2004, and September 30, 2008.

Transfer to the Department of Treasury

On April 15, 2004, DoD transferred more than \$126 million from DERF to the IFF. However, DoD lost the opportunity to transfer at least \$102 million from DERF to IFF because the DoD Components did not review their obligations for accuracy as required by DoD Regulation 7000.14-R. DoD cannot transfer the funds now because the appropriation to transfer to in IFF expired in 2004. DoD therefore needs to transfer the balances in DERF to the Department of Treasury. As discussed in Table 3, on April 15, 2004, DoD could have transferred an additional \$102 million classified as unobligated in DERF to IFF. A review of the unliquidated obligations could have identified additional

funds that DoD could have transferred to IFF to be put to better use. In a draft of this report, we used the DFAS 1002 report as of September 30, 2008, to conclude that DoD should transfer \$355.9 million to IFF. Since we issued a draft of this report in March 2009, the DFAS 1002 report has been “cleaned.” DFAS told us in an e-mail message on May 9, 2009 that the undistributed amount expired after September 2008 and the funds returned to the Department of the Treasury. The USD(C)/DoD CFO used the DFAS 1002 report subsequent to our draft report to determine the amount that should be transferred to the Department of the Treasury. We updated the draft report to include the status of DERF as of March 31, 2009, in determining the amount that DoD needs to transfer to the Department of the Treasury.

DERF for GWOT

As shown in Table 5, the \$89.8 million classified as “undistributed” on September 30, 2008, has been reduced to \$0.1 million by March 31, 2009 because according to DFAS, \$89.7 million has expired and returned to the Department of the Treasury. Unobligated and unliquidated obligations also changed for some of the DoD Components.

| Table 5. DFAS 1002 Report DERF for GWOT Account Balance as of March 31, 2009 (in millions) | | | | |
|---|---|--------------------|---------------------------------|--|
| A | B | C | D | E |
| Component | Amount Available for Obligations | Unobligated | Unliquidated Obligations | (C+D) Amount to Transfer to IFF |
| Army | \$ 2,451.7 | \$ 51.1 | \$ 6.8 | \$ 57.9 |
| Navy | 3,675.4 | 26.1 | 24.7 | 50.8 |
| Air Force | 4,610.5 | 47.1 | 40.1 | 87.2 |
| WHS | 875.5 | 0 | 0 | 0 |
| OSD | 188.6 | 2.1 | 2.5 | 4.6 |
| USSOCOM | 750.4 | 6.3 | 6.8 | 13.1 |
| DISA | 253.4 | 1.1 | 9.3 | 10.4 |
| DTRA | 211.6 | .8 | 3.3 | 4.1 |
| DSCA | 149.5 | .1 | 0 | .1 |
| DLA | 129.9 | 1.6 | 0 | 1.6 |
| DARPA | 40.0 | .1 | .4 | .5 |
| DHP | 31.4 | .4 | .7 | 1.1 |
| DSS | 16.5 | 2.3 | .1 | 2.4 |
| DoDEA | 12.8 | 0 | .8 | .8 |
| JCS | .7 | .1 | 0 | .1 |
| DFAS | .5 | 0 | 0 | 0 |
| Other Agencies | 1,132.8 | 11.8 | 14.9 | 26.7 |
| Undistributed | .1 | .1 | (1.5) | (1.4) |
| Total | \$14,531.3 | \$151.1 | \$108.9 | \$260.0 |

However, the public laws have prohibited adjustment to the obligations in DERF more than 5 years prior to March 31, 2009. As showed in Table 5, DoD needs to transfer \$260 million in DERF for GWOT to the Department of the Treasury.

DERF for Disaster and Humanitarian Assistance

In FY 1990, Congress established DERF to reimburse DoD for providing disaster or emergency assistance to other Federal agencies and to state and local governments in anticipation of reimbursable requests. Congress initially funded DERF at \$100 million. In June 2008, we reported* that there was \$15.3 million in DERF (97x4965) for disaster and humanitarian assistance. According to the March 31, 2009, DFAS 1002 report for appropriation code 97x4965, the balance has not changed. Since the USD(C)/DoD CFO has concluded that Congress intended to close DERF, DoD needs to transfer this amount to the Department of the Treasury. Therefore, to close the DERF account, DoD needs to transfer \$275.3 million in DERF as of March 31, 2009, to the Department of the Treasury. This includes \$260 million in DERF for GWOT and \$15.3 million in DERF for disaster and humanitarian assistance.

Disbursement From Canceled Accounts

To enable DoD to transfer the balance in DERF to the Department of the Treasury, DFAS should not make any more disbursements from DERF for GWOT. DoD Regulation 7000.14-R states:

[D]o not pay amounts presented for payment that cite canceled appropriations (appropriations beyond the end of the fifth year following the expiration of their availability for incurring new obligations) until the disbursing officer has obtained a current available appropriation fund cite from the funding activity.

DoD Regulation 7000.14-R agrees with the intent of Public Laws 108-11 and 108-106, which closed DERF and prohibited adjustments to DERF for GWOT obligations. Additionally, because it has been more than 5 years and 6 months since DoD closed DERF in accordance with Public Law 108-11 and because Public Law 108-106 prohibited adjustments to DERF for GWOT obligations DFAS, as the disbursing office for DoD, should not make any more disbursements from DERF for GWOT. This will enable DoD to transfer the balance in DERF to the Department of the Treasury.

Recommendations, Management Comments, and Our Response

Revised and Added Recommendations

As a result of management comments, we revised draft Recommendation 1.a. and 1.b. and added Recommendation 1.c. We revised draft Recommendation 1.a. and 1.b. to clarify the nature of the actions that the USD(C)/DoD CFO needs to do to improve the

* Report No. D-2008-105, "Defense Emergency Response Fund," June 20, 2008.

management of DERF. We added Recommendation 1.c. to the USD(C)/DoD CFO to update DoD Regulation 7000.14-R to indicate that DERF is closed and therefore not available for any new obligations. We request the USD(C)/DoD CFO provide comments and a plan of action and milestones to implement this added recommendation by August 31, 2009.

1. We recommend that the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer:

a. Require the DoD Components to review their Defense Emergency Response Fund for the Global War on Terror obligations and deobligate all unliquidated obligations, withdraw all excess funds provided to the DoD Components, and transfer the funds to the Department of the Treasury.

b. Withdraw all unobligated Defense Emergency Response Fund funding allocated to the DoD Components and transfer the funds to the Department of Treasury.

Management Comments

The USD(C)/DoD CFO disagreed with the recommendations and stated that DERF resources are no longer available for transfer because the law required DoD to transfer DERF funds, which are “X-year” appropriations, to the IFF, which is a “03/04 appropriation.” The USD(C)/DoD CFO also stated that the transfer action to IFF occurred in April 2004. Furthermore, he stated that it is clear in the law that Congress intended to close DERF and transfer all funds in DERF as of October 31, 2003, to the IFF and it would be appropriate for the DoD OIG to recommend that DoD close the account and transfer the funds to the Department of the Treasury. In addition, the USD(C)/DoD CFO noted that the \$89.7 million reported as undistributed had expired and the \$3.4 million reported for the Defense Threat Reduction Agency funding is no longer available, leaving a total of \$262.8 million in DERF to be transferred, not \$355.9 million as stated in the report.

Our Response

The USD(C)/DoD CFO comments are partially responsive. DoD Regulation 7000.14-R requires DoD Components to perform triannual reviews of their commitments and obligations for timeliness, accuracy, and completeness. This is a USD(C)/DoD CFO requirement of all DoD Components and is applicable to all DoD appropriations and reimbursable transactions. In addition, in April 2004, USD(C)/DoD CFO made a partial transfer of funds remaining in DERF to the IFF. When the USD(C)/DoD CFO made the transfer, there was an additional \$89.7 million classified as “amount available for obligations” in DERF for GWOT, which should have been transferred to the IFF. In addition, if Congress intended to close the DERF, then an additional \$15.3 million in DERF (appropriation code 97X4965) for humanitarian and disaster assistance should have been transferred to the IFF in 2004. The DoD OIG will not make a recommendation to close DERF because USD(C)/DoD CFO has already concluded in his comments that the “law is clear that Congress meant to close this account.” The technical

correction indicated in the USD(C)/DoD CFO comments concluded that there is \$262.8 million in DERF and not \$355.9 million cited in the draft report. We have updated the amount DoD needs to transfer to the Department of the Treasury in this report using the most current DFAS 1002 report as shown in Table 5. If Congress intended to close DERF, then DoD needs to transfer all the balances in the account to the Department of the Treasury. We request that the USD(C)/DoD CFO reconsider his position and provide comments in response to the final report by August 31, 2009. The comments should include a plan of action and milestones to implement each part of the revised recommendation.

c. We recommend that if the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer decides to close the Defense Emergency Response Fund, he revise chapter 6 of DoD Regulation 7000.14-R, “DoD Financial Management Regulation (FMR),” to indicate that the fund is closed and therefore not available for any new obligations.

2. We recommend that the Director, Defense Finance and Accounting Service not make any more disbursements from the Defense Emergency Response Fund account.

Management Comments

The Director, Defense Finance and Accounting Service agreed with the recommendation and stated that the Defense Finance and Accounting Service will make the DERF line of accounting inactive from all disbursing and entitlement systems by June 1, 2009.

Our Response

The Director, Defense Finance and Accounting Service comments are responsive and no additional comments are required.

Appendix A. Scope and Methodology

We conducted this financial-related audit from February 2008 through July 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objectives.

We performed the audit by requesting data and conducting interviews with officials and operating personnel at the DoD Components we visited. We reviewed funding documents to determine the funding authority provided to the DoD Components. We compared the DFAS Appropriation Status report dated October 31, 2003, (DFAS 1002 report), to the DFAS Budget Execution report dated October 31, 2003, (DFAS SF 133 report), to determine the amounts available for obligation, amounts obligated, and unpaid obligations at the Components. We reviewed the DFAS 1002 reports for October 31, 2003; April 30, 2004; September 30, 2007; September 30, 2008, and March 31, 2009 to ascertain the changes in the amounts reported as unobligated and unpaid obligations that could be put to better use. We also reviewed the DFAS 1002 reports to determine whether the Components were making any upward adjustments to their obligations and to determine the excess amount that should be transferred to IFF. We compared the data to actual FADs to determine the reliability and accuracy of the data. We computed the excess amount by adding the unobligated funds and the unpaid obligations in the DFAS 1002 reports.

Use of Computer-Processed Data

To achieve our objectives, we relied on computer-processed data provided by DFAS and the Components we visited. We compared the data to actual FADs to determine the accuracy of the data. However, we did not evaluate the general and application controls of the computers. Although we did not evaluate the general and application controls of the computers, we did not find significant errors in funding and obligation documents that would cause us to change the conclusions of this report.

Prior Coverage

During the last 5 years, the Government Accountability Office (GAO) and the DoD Inspector General have issued two reports discussing DERF for the GWOT. Unrestricted GAO reports can be accessed over the Internet at www.gao.gov. Unrestricted DoD IG reports can be accessed over the Internet at <http://www.dodig.mil/audit/reports>.

GAO

GAO File No. B-303145, “Department of Defense – Transfer and Use of Defense Emergency Response Fund,” December 7, 2005

DoDIG

DoD IG Report No. D2008-105, “Defense emergency Response Fund,” June 20, 2008

Appendix B. Public Laws Affecting the Defense Emergency Response Fund for the Global War on Terror

Public Law 107-38, “2001 Emergency Supplemental Appropriations Act for Recovery From and Response to Terrorist Attacks on the United States,” September 18, 2001, provides funds for the emergency expenses resulting from the terrorist attacks that occurred on September 11, 2001, for assistance to the victims of the attacks, and to deal with other consequences of the attacks. The funds were to be used for:

- providing Federal, state, and local preparedness for mitigating and responding to the attacks;
- providing support to counter, investigate, or prosecute domestic or international terrorism;
- providing increased transportation security;
- repairing public facilities and transportation systems damaged by the attacks; and
- supporting national security.

The Law also stated that the “funds may be transferred to any authorized Federal Government activity to meet the purposes of the Act.”

Public Law 107-117, “Department of Defense Emergency Supplemental Appropriations for Recovery From and Response to Terrorist Attacks on the United States Act, 2002,” January 10, 2002, provides funds for DoD emergency expenses in response to the September 11, 2001 attacks for:

- increased situational awareness;
- increased worldwide posture;
- offensive counterterrorism;
- initial crisis response;
- Pentagon Reservation Maintenance Revolving Fund; and
- relocation costs and other purposes.

The Law also states that the amount is available for the purposes set forth in Public Law 107-38 and that the funds may be used to reimburse other DoD appropriations “for costs incurred for such purposes on or after September 11, 2001.”

Public Law 107-206, “2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States,” August 2, 2002, provides funding for military personnel; maintenance; procurement; research, development, test, and evaluation; and for overseas humanitarian, disaster, and civic aid. The funds could be transferred to other DoD accounts for classified activities.

Public Law 107-248, “DoD Appropriation Act, 2003,” October 23, 2002, requires an amount not to exceed \$305 million be transferred from the Pentagon Reservation Maintenance Revolving Fund to DERF for GWOT for reconstruction, recovery, force protection, or security enhancements for the Pentagon Reservation.

Public Law 107-296 “Homeland Security Act of 2002,” November 25, 2002, requires DoD to transfer the functions, personnel, assets, and liabilities related to National Communications System to the Department of Homeland Security. Because of this public Law, DoD transferred about \$74.5 million from DERF for GWOT to the Department of Homeland Security.

Public Law 108-7, “Consolidated Appropriations Resolution, 2003,” February 20, 2003, requires the transfer of \$40 million from DERF for GWOT to the Defense-Wide Procurement account.

Public Law 108-11, “Emergency Wartime Supplemental Appropriations Act, 2003,” April 16, 2003, requires all balances in DERF for GWOT account as of October 31, 2003, be transferred to and merged with IFF.

Public Law 108-106, “Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004,” November 6, 2003, amended Public Law 108-11 by requiring all unobligated balances in DERF account to be transferred to IFF. In addition, the Law states that, effective November 1, 2003, adjustments to obligations that would have been chargeable to DERF must be charged to any current DoD appropriations account available for the same purpose.

Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer Comments Comments



COMPTROLLER

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

MAY 21 2008

MEMORANDUM FOR OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT
OF DEFENSE

SUBJECT: Management Response to Report "Defense Emergency Response Fund (DERF)
in Support of the Global War on Terror" (Project No. D2008-
D000FE-0106.000)

I do not agree with the recommendation in the subject report that the Department should transfer unobligated and unliquidated obligation balances from the DERF to the Iraq Freedom Fund (IFF). It is the Department's position that applicable law does not allow us to implement the recommendation.

The Defense Finance and Accounting Service responded directly to you with their comments on recommendation two of the report. I agree with their comments.

Attached are additional comments on the report. As always, I appreciate this opportunity to comment on draft reports to ensure they are as accurate as possible.

My point of contact for this information is [REDACTED]

A handwritten signature in cursive script that reads "Robert F. Hale".

Robert F. Hale

Attachment:
As stated

Draft Report
Project No. D2008-D000FE-0106.000
Audit of the Defense Emergency Response Fund (DERF)

Revised

Recommendation 1. We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer:

- Require the DoD Components to review their DERF for Global War on Terror (GWOT) obligations and deobligate all unliquidated obligations, withdraw all excess funds, and transfer the funds to the Iraq Freedom Fund (IFF).
- Withdraw all unobligated DERF funding allocated to the DoD Components, and transfer the funds to IFF.

DoD Response: Nonconcur because the DERF resources are no longer available for transfer. Existing law on the matter directed the transfer of DERF X-year unobligated balances as of October 31, 2003 to the IFF 03/04 appropriation. As noted in the report, this action was accomplished in April of 2004. The Department does not believe the law provides the authority for follow on transfer actions.

- The law is clear that Congress meant to close this account.
 - The Department was to identify all excess DERF funding as of October 31, 2003, and transfer it to the IFF.
 - Moreover, the law says effective November 1, 2003, adjustments to obligations that before that date would have appropriately been chargeable to the DERF will now be charged to any current appropriations account of the DoD available for the same purpose.
- References:
 - Emergency Wartime Supplemental Appropriations Act, 2003, P.L. 108-11, Section 1313;
 - Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, P.L. 108-106, Section 1105;
 - FY 04-56 IR, Iraq Freedom Fund Transfer, dated April 15, 2004.

It would be more appropriate for the DoDIG to recommend the Department close the account and return the funds to the Treasury.

Recommendation 2. We recommend that the Director, Defense Finance and Accounting Service not make any more disbursements from DERF for GWOT.

DoD Response: The Defense Finance and Accounting Service concurs with recommendation and responded accordingly. Attached is the DFAS response.

Technical correction: During its review of the report, the Department noted that at the end of FY 2008, \$89.7 million in DERF undistributed funds expired and \$3.4 million of Defense Threat Reduction Agency funding is no longer available leaving a balance of \$262.8 million in available DERF funding instead of the original \$355.9 million amount cited in the draft report (page 8, table 3).

Defense Finance and Accounting Service Comments



DEFENSE FINANCE AND ACCOUNTING SERVICE
8899 EAST 56TH STREET
INDIANAPOLIS, INDIANA 46249

APR 16 2009

MEMORANDUM FOR DIRECTOR, DEFENSE FINANCIAL AUDITING SERVICE,
OFFICE OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL

SUBJECT: Management comments to Department of Defense Inspector General Draft Report, "Status of the Defense Emergency Response Fund in Support of the Global War on Terror," dated March 9, 2009, Project No. D2008-D000FE-0106.000

Attached are management comments to Department of Defense Inspector General Draft Report, "Status of the Defense Emergency Response Fund in Support of the Global War on Terror," dated March 9, 2009, Project No. D2008-D000FE-0106.000 for recommendation 2.

Questions your staff may have concerning these matters may be directed to

A handwritten signature in black ink, appearing to read "David E. McDermott".

David E. McDermott
Director, Standards & Compliance

Attachment:
As stated

**Management comments to Department of Defense Inspector General Draft Report,
“Status of the Defense Emergency Response Fund in Support of the Global War on
Terror,” dated March 9, 2009
Project No. D2008-D000FE-0106.000**

Recommendation 2: We recommend that the Director, Defense Finance and Accounting Service not make any more disbursements from the Defense Emergency Response Fund account.

Management Comments: Concur. The Defense Finance and Accounting Service (DFAS) will inactivate the Defense Emergency Response Fund (DERF) line of accounting (LOA) (Treasury Symbol 97X0833) from all disbursing and entitlement systems. Within system constraints, any payments coming from outside DFAS will be rejected in Disbursing. These will be handled in accordance with standard reject procedures.

Estimated Completion Date: June 1, 2009



Inspector General Department of Defense

