



PERSONNEL AND  
READINESS

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WASHINGTON, DC 20301-4000

JUL 16 2007



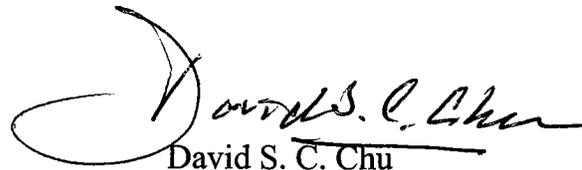
MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Human Resources Management Investment Review Board Guidance for Use  
of Operation and Maintenance Funds for Business System Modernization

The Investment Review Board (IRB) Certification process has identified Component Pre-Certification Authority (PCA) requests for modernization of business systems using Operation and Maintenance (O&M) funds. Development and modernization of business systems must be funded with Research, Development, Technology and Engineering (RDT&E) funds. Similarly, the procurement of systems is to be funded with Procurement funds. Operation and Maintenance (O&M) funds are to be used for continuing operations and current services of business systems.

The Human Resources Management (HRM) IRB has received certification requests that include plans to inappropriately spend O&M money on development, modernization, and/or procurement. We will comply with and enforce strict adherence to the existing law and regulations. The attached Information Paper cites the laws and regulations that combine to define these limits.

Please ensure that all certification requests for modernization of business systems submitted to the HRM IRB cite the appropriate use of funds. If the request includes O&M funds, please provide a statement from your Resource Manager certifying that the funds are being used in accordance with the law and regulations. My point of contact for this issue is Ms. Norma St. Claire. She can be reached at 703-696-8710.

  
David S. C. Chu

Attachment:  
As stated

cc:  
Director, Business Transformation Agency



## INFORMATION PAPER

### Use of Operation and Maintenance (O&M) Funds for Modernization

#### Statute/Regulations:

#### Title 31 U.S.C. Sec. 1301(a) specifies:

- (a) Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.
- (b) The re-appropriation and diversion of the unexpected balance of an appropriation for a purpose other than that for which the appropriation originally was made shall be construed and accounted for as a new appropriation. The unexpected balance shall be reduced by the amount to be diverted.

#### DoDFMR, Vol. 2A, Ch 1, Para 010201, Criteria for Determining Expense and Investment Costs

Para 010201, D, 3, Conditional Cases, provides guidance that will govern when the definitions of expenses and investments appear to conflict:

A major service-life extension program, financed in procurement, extends the life of a weapon system beyond its designed service life through large-scale redesign or other alteration of the weapon system.

Depot and field level maintenance is the routine, recurring effort conducted to sustain the operational availability of an end item. Depot and field level maintenance includes refurbishment and overhaul of end items, removal and replacement of secondary items and components, as well as repair and remanufacturing of reparable components. The maintenance effort may be performed by a depot maintenance activity in the Defense Working Capital Fund, by a direct funded DoD activity, by another government agency, or by a contractor.

Maintenance, repair, overhaul, and rework of equipment are funded in the operation and maintenance appropriations. However, maintenance of equipment used exclusively for research, development, test, and evaluation efforts will be funded by the RDT&E appropriations.

Continuous technology refreshment is the intentional, incremental insertion of newer technology to improve reliability, improve maintainability, reduce cost, and/or add minor performance enhancement, typically in conjunction with depot or field level maintenance. The insertion of such technology into end items as part of maintenance is funded by the operation and maintenance appropriations. However, technology refreshment that significantly changes the performance envelope of the end item is considered a modification and, therefore, an investment (See section on "Product Improvement" 010212 C. 7.). This definition applies equally to technology insertion by commercial firms as part of contractor logistics support, prime vendor, and similar arrangements and to technology insertion that is performed internally by the Department.

Initial outfitting of an end item of investment equipment, such as a ship or aircraft, with the furnishings, fixtures, and equipment necessary to make it complete and ready to operate is a part of the initial investment cost. Material procured through the Defense Working Capital Funds for initial outfitting will be financed by procurement appropriations when drawn from the supply system. This concept includes changes to the allowance lists of ships, vehicles, and other equipment. Changes to allowance lists will be budgeted as investment costs.

Initial outfitting of a facility construction project financed by a Military Construction appropriation is financed as either expense or investment based on the general criteria. Collateral equipment and furnishings are not considered construction costs since these items are movable and are not installed as an integral part of the facility.

When family housing is initially outfitted with kitchen equipment to include refrigerator, shades, carpeting, etc., these items are considered part of the construction costs.

Construction program costs, associated with construction management in general, as distinguished from supervision of specific construction projects, are expenses. Costs incident to the acquisition (i.e., design, direct engineering, technical specifications) and construction of a specific project are investments. The cost of administering the facilities sustainment program is an expense at all levels.

Costs of facilities restoration and modernization projects, not financed by Military Construction appropriations, meeting the current criterion for funding from appropriations available for operation and maintenance are considered expenses. However, this definition does not abrogate the prohibition against the planned acquisition of, or improvements to, a real property facility through a series of minor construction projects (i.e., incremental construction).

The cost of civilian personnel compensation and other direct costs (i.e., travel, office equipment leasing, maintenance, printing and reproduction) incurred in support of procurement and/or production programs by departmental headquarters staff, contracting offices, contract audit offices, system project offices, and acquisition managers are expenses. Procurement and/or production direct support costs such as production testing, quality assurance, production engineering, and equipment assembly, whether performed under contract or by in-house personnel funded on a reimbursable basis are investments.

When investment equipment is to be installed in a real property facility, the costs of both the equipment and its installation are considered investments.

## DoDFMR, Vol. 2A, Ch 1, Para 010212, Budgeting for Information Technology and Automated Information Systems

Para 010212, B, 1, RDT&E appropriations, states:

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

Para 010212, B, 2, Procurement appropriations, states:

Acquiring and deploying a complete system with a cost of \$250,000 or more is an investment and should be budgeted in a Procurement appropriation. Complete system cost is the aggregate cost of all components (e.g., equipment, integration, engineering support and software) that are part of, and function together, as a system to meet an approved documented requirement. For modification efforts, only the cost of the upgrade (e.g., new software, hardware, and technical assistance) is counted towards the investment threshold.

Para 010212, B, 3, O&M appropriations, further clarifies the upper limit for use of O&M dollars for modernization efforts:

Modernization costs under \$250,000 are considered expenses, as are one-time projects such as developing planning documents and studies.

- Software releases categorized as iterations on the basic release and not involving significant performance improvements or extensive testing are considered a maintenance effort. Minor improvements in software functionality which are accomplished during routine maintenance may also be O&M funded.

DoDFMR, Vol. 2B, Ch 18, Para 180103, B specifies:

All IT resources must be managed in accordance with appropriations guidance and applicable expense and investment criteria.

DoDFMR, Vol. 14, Ch 2, Para 020101, A – I describe how violations of the Antideficiency Act (ADA) occur:

- A. Funding authority is issued in excess of the amount available and the excess amount is obligated or expended. The issuance of funds by means of a formal subdivision of funds (allocation, allotment, suballotment or other formal designation of a limitation), in an amount that exceeds the amount currently available, would result in a violation of the ADA if those excess funds distributed actually are obligated or expended. The individual authorizing the release of those funds would be responsible for the violation. The issuance of a funded order in excess of available funds may also result in a violation of the ADA.
- B. Obligations or expenditures are authorized or incurred in excess of the amount of funds available at the formal subdivision of funds level. Incurring an obligation or disbursement in excess of a target (vice a formal subdivision of funds) does not in itself create a violation of the ADA; however, if exceeding a target causes the governing formal fund subdivision or limitation to be breached, then a potential violation of the ADA arises.
- C. Special and recurring statutory limitations or restrictions on the amounts for which an appropriation or fund may be used are violated.
- D. Regulatory limitation on the amounts for which an appropriation or fund may be used are violated, when specifically carrying an antideficiency limitation.
- E. Statutory limitations on the purposes for which an appropriation or fund may be used are violated.
- F. Regulatory limitation on the purposes for which an appropriation or fund may be used are violated, when specifically carrying an antideficiency limitation and corrective funding is not available.
- G. Obligations are authorized or incurred in advance of funds being available.
- H. Obligations or expenditures of funds do not provide for a bona fide need of the period of availability of the fund or account and corrective funding is not available.
- I. Voluntary services are accepted, or personal services are employed, in excess of that authorized by law.