

# Inspector General

United States  
Department of Defense



Joint Civilian Orientation  
Conference Program

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## Acronyms and Abbreviations

AFIS	American Forces Information Service
ASD(PA)	Assistant Secretary of Defense (Public Affairs)
C.F.R.	Code of Federal Regulations
CLIN	Contract Line Item Number
COR	Contracting Officer Representative
DMA	Defense Media Activity
JCOC	Joint Civilian Orientation Conference
OASD(PA)	Office of the Assistant Secretary of Defense (Public Affairs)
ORF	Official Representation Funds
OSD	Office of Secretary of Defense
U.S.C.	United States Code
USD(C)/CFO	Under Secretary of Defense (Comptroller)/Chief Financial Officer
WHS	Washington Headquarters Services



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December 9, 2009

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE  
(COMPTROLLER)/CHIEF FINANCIAL OFFICER  
ASSISTANT SECRETARY OF DEFENSE (PUBLIC  
AFFAIRS)  
GENERAL COUNSEL OF THE DEPARTMENT OF  
DEFENSE  
DIRECTOR, ADMINISTRATION AND MANAGEMENT  
DIRECTOR, WASHINGTON HEADQUARTERS  
SERVICES

SUBJECT: Audit of the Joint Civilian Orientation Conference Program  
(Report No. D-2010-026)

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 comments from the Deputy Chief Financial Officer and Director, Standards of Conduct Office were responsive. Comments from the Assistant Secretary of Defense (Public Affairs) and Director, Administration and Management were partially responsive. The Principal Deputy Assistant Secretary of Defense (Public Affairs) did not take steps to implement the requirements contained in section 2262, title 10, United States Code and did not agree to conduct a review of possible ethical violations. The Acting Director, Administration and Management, did not agree with the need for a legal review of payments or the need to conduct a review into the potential misuse of Official Representation Funds. As a result of management comments, we redirected the primary responsibility for implementing Recommendations A.2 and B.3 to the Director, Washington Headquarters Services. Based on comments received from the Director, Standards of Conduct Office, we clarified potential ethical violations in Finding D. We request additional comments from the Assistant Secretary of Defense (Public Affairs); the Director, Administration and Management; and the Director, Washington Headquarters Services to the recommendations listed in the table on the second page of the Results in Brief by January 8, 2010.

If possible, send a .pdf file containing your comments to [auidbo@dodig.mil](mailto:auidbo@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.

*Daniel R. Blaw*

*for*

Patricia A. Marsh, CPA  
Assistant Inspector General  
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# Results in Brief: Joint Civilian Orientation Conference Program

## What We Did

We reviewed whether the Assistant Secretary of Defense (Public Affairs) (ASD[PA]) administered the Joint Civilian Orientation Conference (JCOC) program in accordance with public law and DOD policies. This is the third in a series of audits conducted at the request of the ASD(PA) to review the organizational structure and internal controls within that office. We reviewed documentation supporting the three conferences conducted from October 15, 2006, through November 11, 2007.

## What We Found

The ASD(PA) did not ensure that his office effectively administered the JCOC program. Specifically, the program managers did not adhere to the legal requirements, violated the Miscellaneous Receipts Statute, and incurred a potential Antideficiency Act violation. Program managers also failed to implement section 2262, title 10, United States Code correctly; misused Official Representation Funds; and may have violated DOD ethics rules. The JCOC managers augmented their budget by collecting and using participant fees without legal authority and by spending \$97,308 allocated to American Forces Information Service appropriated funds to contract for conference planning services. Internal controls over the JCOC program were ineffective.

## What We Recommend

We recommend that the ASD(PA) work with other DOD entities to:

- Implement detailed procedures in DOD Instruction 5410.19 to ensure that the JCOC program complies with section 2262, title 10, United States Code and update other JCOC program guidance.
- Include the JCOC program in the annual budget formulation process and prepare an annual budget submission for all future conferences.

- Investigate whether the collection and use of conference fees violated public law and whether gift acceptance practices violated DOD ethics rules.
- Report any violation of public law or ethics rules to the Office of Secretary of Defense.
- Review and reconcile the funding and expenditures for one conference and deposit any residual conference fees into the U.S. Treasury.

We also recommend that the Offices of the Under Secretary of Defense (Comptroller) and DOD General Counsel review the use of Official Representation Funds and that the Washington Headquarters Services initiate preliminary reviews to determine whether an Antideficiency Act violation occurred. We also recommend a review of the use of the indefinite-delivery, indefinite-quantity contract for conference planning services.

## Management Comments and Our Response

The Deputy Chief Financial Officer agreed to issue guidance implementing section 2262, title 10, United States Code and agreed that a review was needed to determine whether an Antideficiency Act violation had occurred. Because the Director, Washington Headquarters Services, was the actual fundholder, the Deputy Chief Financial Officer requested that we redirect primary responsibility for conducting a preliminary Antideficiency Act review to the Director. The Principal Deputy ASD(PA) agreed to update DOD Instruction 5410.19 but indicated that he would fund future conferences with DOD appropriated funds and not implement section 2262, title 10, United States Code. We disagree with this decision.

Congress enacted this section of the United States Code to allow DOD to collect fees from non-DOD participants attending DOD conferences such as the JCOC. Therefore, ASD(PA) managers should incorporate these

requirements into the DOD Instruction and other JCOC guidance and use this authority for all future conferences to conserve the use of appropriated funds. However, if the Principal Deputy decides to use appropriated funds only, he needs to formally request this funding using the annual budget process and seek Congressional approval.

The Principal Deputy also disagreed with the need to conduct a review of potential ethical violations and develop procedures for the purchase of mementos and other items used by the JCOC program. He agreed to work with other agencies to reconcile JCOC 74 expenditures, conduct reviews for potential Antideficiency Act violations, and implement the appropriate corrective actions. The Director, Standards of Conduct Office, partially agreed with our recommendations but requested that we revise Finding D to discuss the potential violation of section 2635.704, title 5, Code of Federal Regulations. The Director noted that the ASD(PA) proposed position for funding future conferences fails to invoke the

requirements of section 2262, title 10, United States Code and conserve appropriated funds.

The Acting Director, Administration and Management, agreed to conduct a preliminary investigation into potential Antideficiency Act violations and will rescind Administrative Instruction No. 48. He also agreed to work with ASD(PA) to reconcile JCOC 74 funds and to ensure future delivery orders on the contract meet 10 United States Code 2262. He disagreed with the need to conduct a review of the use of Official Representation Funds or to require a legal review for each use of the fund. He also disagreed with the need to conduct a review into the use of American Forces Information Service funds.

We request that the ASD(PA); Director, Administration and Management; and Director, Washington Headquarters Services reconsider the recommendations addressed in the table below and provide additional comments on the final report by January 8, 2010.

### Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Under Secretary of Defense (Comptroller)/Chief Financial Officer	None	A.2, B.3, C.1
Assistant Secretary of Defense (Public Affairs)	A.1.a, A.1.b, A.2, A.3.b, D.1, D.2	A.1.c, A.3.a, B.3, C.2.a, C.2.b, C.2.c
General Counsel of the Department of Defense	None	A.2, D.1
Director, Administration and Management	B.1, B.2	None
Director, Washington Headquarters Services	A.2, B.3, C.2.a, C.2.b	A.1.a, A.1.b, A.1.c, C.2.c, C.3

# Table of Contents

<b>Introduction</b>	1
Objectives	1
Background	1
Review of Internal Controls	4
<b>Finding A. Joint Civilian Orientation Conference Program Administration</b>	5
Recommendations, Management Comments, and Our Response	13
<b>Finding B. Use of Official Representation Funds</b>	19
Management Actions	22
Recommendations, Management Comments, and Our Response	24
<b>Finding C. Conducting the Program Under the DOD Conference Law</b>	27
Recommendations, Management Comments, and Our Response	37
<b>Finding D. Ethical Practices</b>	40
Management Comments on the Finding and Our Response	44
Recommendations, Management Comments, and Our Response	45
<b>Appendices</b>	
A. Scope and Methodology	48
Prior Coverage	49
B. Conference Dates and Locations	50
C. Review of Financial Activity	51
D. Mementos and Other Items Received by DOD Personnel	54
<b>Management Comments</b>	
Under Secretary of Defense (Comptroller)	57
Assistant Secretary of Defense (Public Affairs)	60
General Counsel of the DOD	64
Administration and Management, Office of Secretary of Defense	69



# Introduction

## Objectives

The audit objective was to determine whether the Assistant Secretary of Defense (Public Affairs) (ASD[PA]) administered the Joint Civilian Orientation Conference (JCOC) program in accordance with public law and DOD policies. We conducted this audit as part of a series of audits requested by the ASD(PA). This is the third in this series. We initiated this audit after we discovered an organizational bank account maintained outside of the U.S. Treasury that program managers used to fund JCOC activities. The audit was expanded to review how the JCOC program manager attempted to conduct the program using the provisions of section 2262, title 10, United States Code (10 U.S.C. 2262). See Appendix A for a discussion of the scope, methodology, and prior audit coverage related to the objective.

## Background

The JCOC program is the oldest existing DOD public outreach program. The Office of Assistant Secretary of Defense (Public Affairs) (OASD[PA]) conducts this program for U.S. civilian leaders interested in expanding their military and national defense knowledge. The OASD(PA) Community Relations and Public Liaison Division manages the program. The initial concept, developed in 1948, was for a 10-day course, held four times a year. The course dealt with national policy; the problems confronting the United States in pursuing its policy; and the economic, political, and military means to carry out the policy. Over time, the 10-day course became a 6- to 8-day conference consisting of Pentagon briefings followed by field visits.

Currently, OASD (PA) hosts two conferences per year. Civilian participants attend Pentagon briefings given by senior DOD leadership. They also observe field exercises, fire weapons, participate in training, and interact with military personnel. The number of participants depends upon how many people the prospective host can accommodate. There is a conference fee for each participant to cover the cost of meals, lodging, receptions, and incidental expenses. Since 2003, the JCOC program has expanded to include field visits to international military installations hosted by overseas commands. For example, JCOC 72 included a 2-day visit in the Washington, D.C. area and a site visit to U.S. Central Command forces in Bahrain, Qatar, Kuwait, and Djibouti. Appendix B contains a list of the sites visited during JCOCs 72, 73, and 74.<sup>1</sup>

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<sup>1</sup> DOD numbers the conferences sequentially. For example, the OASD(PA) held JCOC 72 in October 2006, JCOC 73 in April 2007, and JCOC 74 in November 2007. Since its inception, DOD has held 77 JCOCs.

## ***Roles and Responsibilities***

### **Assistant Secretary of Defense (Public Affairs)**

DOD Directive 5122.05, “Assistant Secretary of Defense for Public Affairs (ASD[PA]),” September 5, 2008, establishes the ASD(PA) as the principal staff assistant and advisor on public affairs matters for the Secretary and Deputy Secretary of Defense. The ASD(PA) is responsible for ensuring that the OASD(PA) effectively conducts assigned programs, such as the JCOC. The ASD(PA) serves as the DOD public spokesperson and information release authority; oversees the development of DOD public affairs policies, plans, and programs; and serves as the official point of contact for public and media activities by the Secretary and Deputy Secretary of Defense. DOD Directive 5105.74, “Defense Media Activity (DMA),” December 18, 2007, established the DMA as a DOD field activity under the ASD(PA). DMA is responsible for providing DOD and external audiences a wide variety of information products. DOD Directive 5105.74 disestablished the American Forces Information Service (AFIS).

### **Office of Secretary of Defense, Director of Administration and Management**

The Office of Secretary of Defense (OSD), Director of Administration and Management (Director of Administration and Management) is the principal staff assistant and advisor on DOD-wide organizational and administrative management matters for the Secretary and Deputy Secretary of Defense. The Director develops and maintains organizational charters, issues DOD directives and instructions, oversees assigned programs, serves as the DOD point of contact for quality management matters, and analyzes and controls OSD personnel requirements. The Director also is responsible for overseeing the Washington Headquarters Services (WHS) field activity and administering Official Representation Funds (ORF). WHS provides consolidated administrative and operational support, such as financial management and contracting services, to DOD field activities, Military Department headquarters elements, the White House, and several Defense agencies. The WHS, Financial Management Directorate, manages a wide array of projects and initiatives for the OSD, WHS, and selected DOD field activities. The directorate develops policies for the administration of funds, provides accounting support, and establishes reporting procedures for funds allotted to OSD and WHS. The WHS, Financial Management Directorate, receives a Defense Operation and Maintenance appropriation allotment from the Under Secretary of Defense (Comptroller)/Chief Financial Officer (USD[C]/CFO) to support the OSD, from which ASD(PA) receives an annual budget target.

### ***Public Law and DOD Guidance***

The ASD(PA) must comply with various sections of the United States Code (U.S.C.) when conducting the JCOC program. Public Law 109-364, Section 1051, “Department of Defense Conferences: Collection of Fees to Cover DOD Costs,” October 17, 2006, as codified in 10 U.S.C. 2262, granted DOD the authority to collect and use funds collected from civilian participants attending a DOD conference.

According to 10 U.S.C. 127, “Emergency and Extraordinary Expenses,” the Secretary of Defense, DOD Inspector General, and Military Department Secretaries may use a portion

of their Operation and Maintenance funds for any emergency or extraordinary expense which they cannot anticipate or classify. At their own discretion, these individuals may spend the funds for any purpose they deem proper. DOD Directive 7250.13, "Official Representation Funds (ORF)," February 17, 2004, as amended, guides the use of ORF to maintain the good standing and prestige of the United States and DOD by extending official courtesies, such as receptions, dinners, and similar events, to authorized guests.

According to 31 U.S.C. 3302, "Custodians of Money,"<sup>2</sup> except when Congress grants authority in another public law to collect and expend public money, a Government official or agent who has custody or possession of public money must keep the money safe without lending, using, exchanging, or depositing the money in a bank. Commonly known as the Miscellaneous Receipts Statute, 31 U.S.C. 3302 provides that a Government official or agent who receives money for the Government from any source must deposit the money in the U.S. Treasury without deduction for any charge or claim.

DOD Instruction 5410.19, "Public Affairs Community Relations Policy Implementation," November 13, 2001, provides procedures for implementing policy, delineates command relationships for community relations activities and procedures, and prescribes procedures for the conduct of DOD public affairs community relations activities and programs. It provides the guidelines for managing the JCOC program, including establishing the staff requirements.

Administrative Instruction No. 48, "Joint Civilian Orientation (JCOC) Fund," February 10, 1992, requires the OASD(PA), Director of Community Relations and Public Liaison to establish the JCOC program conference plan, develop policies for conducting the conferences, and appoint the conference director. The conference director is responsible for:

- implementing the conference plan and policies;
- preparing a financial plan detailing JCOC fund collections and expenditures; and
- furnishing a copy of the approved financial plan to the Director, Budget and Finance, WHS.

Administrative Instruction No. 48 also requires the Director, Budget and Finance, WHS, or an authorized representative, to appoint a treasurer and an assistant treasurer to maintain custody of the JCOC funds and allows the treasurer to operate a bank account outside the U.S. Treasury to pay for conference expenses.

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<sup>2</sup> 31 U.S.C, 3302 was originally passed in 1982.

Administrative Instruction No. 48 requires the conference director to review and approve expenditures based on supporting documentation, such as purchase orders and vendor invoices. The JCOC staff consists of the conference director,<sup>3</sup> the treasurer, representatives from the Military Services, and other OASD(PA) personnel.

## **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 provide reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls. In DOD Inspector General Report No. D-2009-028, “Organizational Structure and Managers’ Internal Control Program for the Assistant Secretary of Defense (Public Affairs) and American Forces Information Service,” December 10, 2008, we recommended significant changes in the OASD(PA) organization structure and internal control processes. During that audit, we determined that internal control weaknesses existed. During this audit, we identified an additional internal control weakness. The ASD(PA) had not established controls to ensure that the JCOC program complied with public law and DOD policies. The implementation of the recommendations contained in Findings A, C, and D will improve internal control over the JCOC program. Finding B will provide additional internal controls over the use of ORF by the OSD. We will provide a copy of the report to the senior OSD official(s) responsible for internal controls in the OASD(PA).

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<sup>3</sup> This report refers to the JCOC conference director as the JCOC program manager. The same individual served as program manager for JCOCs 72 and 73. The ASD(PA) assigned a different program manager for JCOC 74.

## **Finding A. Joint Civilian Orientation Conference Program Administration**

The ASD(PA) did not ensure that the program managers effectively administered and managed the JCOC program. This occurred because the Offices of the Director of Administration and Management and ASD(PA) did not update program guidance to comply with changing public law and DOD policies. In addition, the existing guidance did not require program managers to prepare a submission for the JCOC program as part of the annual OASD(PA) Defense budget formulation process. As a result, the program managers violated the Miscellaneous Receipts Statute by inappropriately collecting or expending \$403,000 in conference fees for JCOCs 72, 73, and 74. Program managers also did not properly budget for and obligate \$160,179 in Defense Operation and Maintenance funds. Consequently, the program managers may have violated 31 U.S.C. 1341(a) (the Antideficiency Act) by inappropriately augmenting the ASD(PA) budget and failing to obligate JCOC program expenses properly before incurring expenses. In addition, they may have inappropriately refunded fees collected from the JCOC civilian participants.

### **JCOC Program Guidance**

JCOC staff followed DOD Instruction 5410.19 and Administrative Instruction No. 48 to conduct the biannual conferences. These instructions contained outdated and inappropriate guidance that directed the staff to collect, maintain, and expend conference fees in direct violation of the Miscellaneous Receipts Statute. The guidance in DOD Instruction 5410.19 and Administrative Instruction No. 48 also did not require the OASD(PA) to prepare an annual submission to the OSD budget estimate for conducting the conference, including the cost for providing DOD personnel to support the conferences and the need for reimbursable authority allowing OASD(PA) to collect and use fees from the participants. DOD Instruction 5410.19 and Administrative Instruction No. 48 inappropriately allowed JCOC program managers to augment the OASD(PA) budget and misuse ORF (see Finding B). In addition, OASD(PA) managers failed to determine the total DOD costs for conducting each conference, which led to the potential misuse of funds.

The guidance also did not implement the legal authority granted in 10 U.S.C. 2262 for DOD to collect and use conference fees. When Congress issued the provisions of 10 U.S.C. 2262 on October 17, 2006, it granted DOD the legal authority to use conference fees collected from individual and commercial participants. However, when we discussed the statute with the JCOC staff in September 2007, they were unaware of the 10 U.S.C. 2262 provisions. The staff assumed that the Office of the Director of Administration and Management would update Administrative Instruction No. 48 and the OASD(PA) would update DOD Instruction 5410.19 to ensure that they complied with the public law. Consequently, the program managers failed to comply with the conferencing provisions of 10 U.S.C. 2262 during JCOC 73, and incorrectly applied them during

JCOC 74.<sup>4</sup> (Finding C discusses the problems that OASD[PA] had complying with the provisions of 10 U.S.C. 2262.) During JCOCs 72 and 73, the JCOC program managers and the treasurer assigned by WHS to support the program continued to follow the outdated guidance in Administrative Instruction No. 48. Specifically, they:

- collected JCOC conference fees,
- maintained a JCOC bank account,
- expended and refunded the fees they collected, and
- maintained residual fees in the bank account.

### ***Collecting Conference Fees***

Since the inception of the JCOC Program at least until 10 U.S.C. 2262 granted them the authority, JCOC program managers did not have legal authority to collect conference fees from either the civilian participants or the organizations that sponsored them. Before October 17, 2006, the Office of General Counsel of the DOD (DOD General Counsel) was unable to identify any specific Congressional authority that granted JCOC program managers the authority to collect conference fees. The Associate Deputy DOD General Counsel (Fiscal) stated that he believed that the authority granted within 10 U.S.C. 113, “Secretary of Defense,” January 3, 2007, provided DOD with broad authority, including the ability to conduct the JCOC conferences.<sup>5</sup>

Administrative Instruction No. 48 permitted the JCOC staff to collect and spend conference fees, as well as to maintain a bank account outside of the U.S. Treasury. For the three conferences reviewed, the JCOC program managers and treasurer collected a \$3,000 conference fee for each JCOC participant. In total, they collected and deposited \$403,000 (\$274,000 in a bank account for JCOCs 72 and 73 and \$129,000 in a reimbursable account assigned to the OASD[PA] for JCOC 74). They spent these conference fees to offset the cost of providing the participants with lodging, meals, mementos, and other items. They retained excess conference fees in either the bank account (JCOCs 72 and 73) or a reimbursable account (JCOC 74). Although the authority in 10 U.S.C. 113 may have supported the collection of conference fees at the inception of the JCOC program in 1948, the subsequent issuance of the Miscellaneous Receipts Statute prohibited DOD from collecting and maintaining funds outside of the U.S. Treasury without specific Congressional authorization.

Also, since the inception of the JCOC program at least until DOD implemented 10 U.S.C. 2262, which provided them with legal authority, the ASD(PA) staff used procedures for collecting and using JCOC conference fees that violated the Miscellaneous

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<sup>4</sup> The issuance of Public Law 109-364 on October 17, 2006, occurred while JCOC 72 was ongoing.

<sup>5</sup> According to 10 U.S.C. 113, the Secretary of Defense has the authority, unless specifically prohibited by law, to perform any of his functions or duties, or exercise any of his powers through, or with the aid of, such persons in, or organizations of the DOD as he may designate.

Receipts Statute.<sup>6</sup> The outdated guidance in Administrative Instruction No. 48 may have also caused the program managers to violate the Antideficiency Act. Specifically, the OASD(PA) augmented the OSD budget with the conference fees the JCOC program managers collected and used, and unless the annual OSD allotment to the Defense Operation and Maintenance appropriation had sufficient appropriated funding available and the ASD(PA) had the authority to use the funds to pay for conference expenses, an Antideficiency Act violation occurred. For conferences held after October 17, 2006, 10 U.S.C. 2262 provides the JCOC program manager with the required authority to collect and use conference fees. Had JCOC program managers properly implemented 10 U.S.C. 2262, they could have prevented the potential Miscellaneous Receipts Statute and Antideficiency Act violations discussed in this finding.

The ASD(PA) and the Director, WHS, should work together to update DOD Instruction 5410.19 to comply with the requirements contained in 10 U.S.C. 2262. They should either update Administrative Instruction No. 48 or rescind it and develop other enforceable guidance delineating the responsibilities for conducting future conferences to the OASD(PA) and WHS. The updated guidance should be coordinated with the Office of DOD General Counsel to ensure legal sufficiency. The ASD(PA) and the Director, WHS, should also work with the Offices of the Under Secretary of Defense (Comptroller) and DOD General Counsel to initiate a preliminary Antideficiency Act review of the use of conference fees in conducting the JCOC program since the issuance of the Miscellaneous Receipts Statute. The review should make a determination as to whether the use of conference fees inappropriately augmented the OSD budget. If the review identifies problems, the ASD(PA) should take appropriate actions and legal remedies to address improprieties and report the findings to the OSD.

### ***Maintaining a JCOC Bank Account***

The JCOC program guidance also sanctioned prohibited practices. Specifically, Administrative Instruction No. 48 inappropriately allowed the treasurer appointed by WHS to establish and maintain a bank account. The treasurer used this account to deposit all conference fees collected and pay for JCOC program expenses. In addition, Administrative Instruction No. 48 directed the treasurer to maintain a residual balance in the bank account to cover any start-up costs for subsequent conferences. From September 2006 through September 2007, the bank account had a balance as high as \$164,000. (Appendix C shows the sources of funds and outlays for each of the three conferences reviewed.) Although the treasurer maintained adequate supporting documentation for most of the deposits and disbursements he made, and generally followed Administrative Instruction No. 48, maintaining a bank account outside the

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<sup>6</sup>Under 10 U.S.C. 2262, DOD Components received the authority to collect fees from non-DOD conference participants. The statute required the DOD Component to credit the fees collected to the appropriation or account from which it would pay conference expenses and required the deposit of any excess fees collected in the U.S. Treasury as miscellaneous receipts.

U.S. Treasury violated the Miscellaneous Receipts Statute. By maintaining the bank account, the JCOC program managers were able to bypass most budgeting, contracting, and purchasing controls in place for appropriated funds.

On August 17, 2007, we discussed our concerns about the bank account with the AFIS General Counsel, who then worked with the Acting DOD Deputy General Counsel (Fiscal) and advised the JCOC program manager that maintaining the bank account violated the Miscellaneous Receipts Statute. The DOD legal counsel advised the program manager to deposit the funds from the bank account into the U.S. Treasury immediately. On September 4, 2007, the treasurer wrote a \$50,118 check to the U.S. Treasury, leaving \$372 in the account to cover two uncleared checks. On December 21, 2007, the treasurer completely removed all funds from the bank account and formally closed the bank account on January 16, 2008. The ASD(PA) and the Director, WHS, should coordinate with the Offices of the Under Secretary of Defense (Comptroller) and DOD General Counsel to review the closure of the bank account to ensure that the treasurer correctly closed the account.

### ***Using Conference Fees***

The JCOC program managers did not effectively manage conference fees. (We discuss other problems with managing conference fees in Findings C and D.) When JCOC participants signed up for the conference, the JCOC staff provided them with a welcome packet. Participants were required to sign a “Letter of Reply” acknowledging that they understood the conference conditions. The letter specified that a participant’s conference fees paid for conference costs, such as meals, receptions, hotel accommodations, official mementos, photos, and other miscellaneous expenses. The welcome packet did not contain information that indicated the staff would also use the conference fees to defray the costs of items or events not directly associated with the conference that the participant attended. For example, documentation supporting JCOC 72 showed the collection of \$135,000 in conference fees, of which the program manager had \$134,000 to use for participant-related expenses.<sup>7</sup> Total participant-related expenses for JCOC 72 amounted to \$121,700, resulting in an excess \$12,300 in conference fees. The treasurer neither returned the excess conference fees to the participants nor deposited the fees in the U.S. Treasury as a miscellaneous receipt. Instead, he retained these fees in the JCOC bank account, and the staff used these fees to begin funding JCOC 73 activities.

In addition, we found that OASD(PA) personnel used the conference fees to purchase items and services that they should have used appropriated funds to acquire. For example:

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<sup>7</sup> The \$135,000 included \$3,000 collected from each of 44 participants (\$132,000) and \$2,000 collected from another individual who also attended JCOC 71 but had to leave that conference early. The JCOC program manager allowed this individual to attend JCOC 72 at a discounted rate. The JCOC program manager also collected and refunded an additional \$1,000 from two prospective JCOC 72 participants who did not participate in the conference. Therefore, the JCOC 72 program manager had \$134,000 available for use.

- On September 11, 2006, the OASD(PA) held a breakfast and a luncheon for the JCOC alumni and others attending the Freedom Walk in Washington, D.C. No individuals scheduled to attend JCOC 72 were present at this reception. However, on November 13, 2006, the treasurer, at the direction of a Deputy Assistant Secretary of Defense, wrote a \$300 check from the JCOC bank account to pay for the luncheon. Because the Freedom Walk is not associated with the JCOC program, the Deputy Assistant Secretary of Defense should not have directed the treasurer to spend any conference fees on a Freedom Walk event. Using the residual fees in the JCOC bank account to pay for this event inappropriately augmented the OASD (PA) budget. The Deputy Assistant Secretary of Defense who conducted the reception should have funded this event using funds appropriated to support the Freedom Walk or had the individuals pay for their own meals.
- On October 13, 2006, the treasurer purchased two combat utility uniforms, totaling \$132.60, for a military member of the JCOC 72 staff. As directed by the JCOC program manager, the treasurer inappropriately used the fees in the bank account to purchase the uniforms. The JCOC program manager should have either required the individual to use personal funds to pay for the uniforms or justified the use of appropriated funds to support a mission need. The bank records did not show any reimbursement for these items.
- On February 16, 2007, the JCOC program manager purchased 1,000 copies of the “JCOC Year in Review” book for \$1,900. The purchase order specifically stated that 50 percent of the books were for JCOC 71 and the other half were for JCOC 72. Although the 88 participants of JCOCs 71 and 72 received a book, the JCOC staff could not explain why they purchased an additional 912 books more than the actual number of participants attending these events. If the JCOC staff purchased the large number of books for any reason other than to provide a memento to the participants attending JCOCs 71 and 72, they should have budgeted for and provided justification for the use of appropriated funds, rather than using the conference fees in the bank account.

For JCOC 73, the treasurer collected a total of \$139,000 in conference fees, of which the program manager could use \$136,000 to pay participant-related expenses.<sup>8</sup> However, documentation supporting the conference showed the JCOC program managers paid \$141,869 in participant-related expenses using the JCOC bank account. The JCOC program manager covered the \$5,869 cost overrun by using the residual fees from previous conferences. Because JCOC program managers should have deposited any residual fees with the U.S. Treasury after each conference, the program manager should not have had these funds available for use during JCOC 73. Therefore, unless the

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<sup>8</sup> The \$139,000 includes \$3,000 collected from each of the 45 participants (\$135,000) who attended the conference and two \$500 nonrefundable deposits retained for individuals who did not attend the conference. The program manager had also collected and refunded another \$3,000 from two individuals who decided not to attend the conference. The program manager had \$136,000 for use during JCOC 73.

OASD(PA) had sufficient Defense Operation and Maintenance funds to support this cost overrun, it may have violated the Antideficiency Act. The ASD(PA) and the Director, WHS, should work with the Offices of the Under Secretary of Defense (Comptroller) and DOD General Counsel to conduct a preliminary review of the JCOC 73 expenditures and determine whether the allotment for the OSD FY 2007 Defense Operation and Maintenance appropriation had sufficient funds available to cover the \$5,869 cost overrun. The preliminary review should be performed in accordance with DOD Financial Management Regulation 7000-14-R, volume 14, "Administrative Control of Funds and Antideficiency Act Violations," chapter 3, "Preliminary Reviews of Potential Violations," February 2008. If sufficient funding was not available, the ASD(PA) should report a potential Antideficiency Act violation.

### ***Refunding Participant Deposits***

The JCOC program managers inappropriately refunded deposits to prospective participants unable to attend or not selected to attend conferences. Through our review of documentation supporting JCOCs 72 and 73, we identified three instances in which the program managers directed the treasurer to refund the deposit paid for by a company or other sponsoring organization directly to the prospective participant. Refunding the deposit to a prospective participant rather than the company or sponsoring organization could have subjected the Government to a potential liability if an organization had subsequently requested a refund. The refunds may have also resulted in the improper distribution of corporate and campaign funds to individuals, which can have legal consequences. Here are the details on the three instances.

- On August 25, 2006, the treasurer received a \$500 check from a newspaper as a deposit for an individual to attend JCOC 72. On September 1, 2006, the newspaper's parent company paid an additional \$3,000 for the same individual to attend the conference. Because each JCOC 72 participant was only required to pay \$3,000, JCOC program managers determined that they owed a \$500 refund. On October 15, 2006, the treasurer issued the refund check to the prospective participant rather than returning the deposit to one of the newspaper companies. This practice may have resulted in an unauthorized payment to an individual.
- On August 30, 2006, the treasurer received a \$500 check from a political action committee for its candidate to attend JCOC 72. On September 28, 2006, after the JCOC program manager did not select the individual to attend the conference, the treasurer refunded the \$500 deposit to the individual rather than refunding the deposit to the political action committee. The treasurer may have improperly distributed funds to the individual.
- On March 9, 2007, the treasurer received a \$500 check from a film company for an individual to attend JCOC 73. On April 17, 2007, another company sent a \$3,000 check for the same individual to attend the conference. On May 7, 2007, the treasurer issued the participant a \$500 check instead of refunding the deposit

to the film company. This action did not ensure that the company paying for the event received the refund. The treasurer may have inappropriately distributed funds to an individual.

Administrative Instruction No. 48 allowed the refund of any unexpended conference fees. However, the Letter of Reply signed by the participants informed them that the \$500 advance deposit was nonrefundable. The refund practices resulted in erroneous payments to individuals and may have violated the Miscellaneous Receipts Statute, which allows the treasurer to deposit funds collected into only the U.S. Treasury. The ASD(PA) and Director, WHS, should work with the Office of DOD General Counsel to review these three incidents and determine whether the treasurer correctly refunded the overpaid conference fees. If not, they should take appropriate actions to ensure that they collect the refunded fees from the individuals and return the funds to the proper sponsoring organization. In addition, the ASD(PA) should ensure that DOD Instruction 5410.19 defines refund procedures.

## **JCOC Program Budget Formulation**

The OASD(PA) did not prepare a budget estimate for conducting the JCOC program. The lack of a specific budget estimate prevented the program managers from making informed decisions regarding funding requirements for JCOCs 72, 73, and 74. Although the JCOC has been an ongoing DOD program since 1948, the OASD(PA) had not routinely submitted a JCOC program budget estimate to conduct the biannual conferences. JCOC program managers knew in advance where and when conference activities would take place, so they had sufficient information to properly budget for these events as part of the normal DOD budget formulation process. Office of Management and Budget Circular A-11, "Preparation, Submission, and Execution of the Budget," June 26, 2008, states that the budget estimate of a Federal entity must reflect all requirements anticipated at the time of budget submission and should cover:

- continuing activities, including those that must be reauthorized for the budget year;
- authorized activities that are proposed for the budget year;
- amounts necessary to meet specific financial liabilities imposed by law; and
- decreases for activities proposed for termination or reduction.

DOD guidance for administering the JCOC program did not require the program managers to prepare and submit a budget as part of the annual Defense budget formulation process. Because the OASD(PA) actually administered the program in accordance with its community relations mission, it should have requested funding to support the JCOC program.<sup>9</sup> The OASD(PA) did not include the JCOC program costs as part of its FY 2006 through FY 2008 budget estimate submissions. Instead, JCOC program managers told us

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<sup>9</sup> DOD Inspector General Report No. D-2009-028 states that OASD (PA) did not conduct an adequate budget formulation process to identify the funding requirements necessary to conduct programs and activities at the OSD level. It also discusses the use of AFIS funding to support JCOC activities. The report recommended that the OASD(PA) identify the funding requirements necessary to support OASD(PA) programs and include the requirements in its annual budget.

that they used Administration Instruction No. 48 to guide their use of a variety of funding sources when conducting each conference. As a result, the ASD(PA) had not accurately quantified the actual cost for each conference or made the appropriate requests for funding and reimbursable authority to conduct the conferences and collect fees. Developing this budget submission would have established the framework for providing the proper management oversight of program fund expenditures.

**JCOC Funding Sources**

The JCOC program managers used two separate funding sources to conduct conferences, without proper controls in place to ensure that they expended funds as required by applicable laws, regulations, and directives. The JCOC program managers used the Defense Operation and Maintenance appropriation and the conference fees that they collected to fund conference activities.<sup>10</sup> Table 1 shows a breakdown of the funds available to support each conference.

**Table 1. JCOC Funding Sources**

<b>Type of Funding</b>	<b>JCOC 72</b>	<b>JCOC 73</b>	<b>JCOC 74</b>	<b>Total</b>
Defense Operation and Maintenance Appropriation	\$ 15,714	\$ 12,107	\$97,308	\$125,129
Official Representation Funds (sub-fund within the Defense Operation and Maintenance appropriation)	10,000	7,000	18,050	35,050
Conference Fees Collected and Available for Use	134,000	136,000	111,000	381,000
<b>Total Funding</b>	<b>\$159,714</b>	<b>\$155,107</b>	<b>\$226,358</b>	<b>\$541,179</b>

**Defense Operation and Maintenance Appropriation**

The JCOC staff did not appropriately obligate \$160,179 (\$125,129 and \$35,050 from Table 1) in Defense Operation and Maintenance appropriation funds used for JCOCs 72, 73, and 74. Before incurring any costs, proper budget execution required that the program managers commit and obligate the estimated costs for providing meals, transportation, hotel accommodations, and other expenses for DOD personnel serving as JCOC staff and escorts or otherwise required to attend conference functions. For JCOCs 72 and 73, the program managers did not obligate the funds needed to support the conferences until more than 3 months after conference completion. This occurred because the treasurer made it a practice to use the conference fees to pay for the costs related to DOD personnel attending the conferences. After each conference, he requested reimbursement from the Defense Operation and Maintenance appropriation to replenish the JCOC bank account for the conference fees used. As a result, the JCOC program managers and treasurer obligated the Government to pay conference costs without the proper authority and incurred

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<sup>10</sup> The use of the Defense Operation and Maintenance appropriation included those funds set aside for use as part of the ORF (see Finding B).

unauthorized commitments that may have resulted in an Antideficiency Act violation, if the OASD(PA) did not have sufficient appropriated funding to cover these costs. In addition, using the conference fees to pay these expenses inappropriately augmented the OASD(PA) budget. Furthermore, reimbursing the JCOC bank account with appropriated funds after the conference violated the Miscellaneous Receipts Statute. We discuss problems with the use of ORF in Finding B.

The ASD(PA) should require that program managers properly budget and obligate for all expenses related to DOD personnel supporting the JCOC program. The budget estimate should include accounting for all anticipated conference costs and should cite the OASD(PA) portion of the Defense Operation and Maintenance appropriation. The ASD(PA) submission to the annual budget should identify the total amount of funding needed to pay for DOD conference expenses and request the reimbursable authority needed to collect and use fees from non-DOD participants.

## **Conclusion**

JCOC program managers used outdated guidance that contradicted the public law and DOD guidance to administer and manage the JCOC program. By following the outdated guidance in DOD Instruction 5410.19 and Administrative Instruction No. 48, the program managers inappropriately collected, maintained, and expended conference fees without authorization and in violation of the Miscellaneous Receipts Statute. As a result, while conducting JCOCs 72, 73, and 74, the program managers inappropriately collected or used \$403,000 in conference fees outside the authority granted under 10 U.S.C. 2262 and did not properly submit a budget request for or correctly obligate \$160,179 in Defense Operation and Maintenance appropriation funds. Program managers also used conference fees for purposes other than those intended by conference participants. By collecting and expending the conference fees without proper authority and for other than the intended purpose, the JCOC program managers augmented the OASD(PA) budget and may have violated the Antideficiency Act. The ASD(PA) and Director, WHS, need to work with the DOD General Counsel to update the guidance used to run the JCOC program and institute controls over the JCOC program's use of funds, which includes implementing the requirements in 10 U.S.C. 2262. After the new guidance is established, the OASD(PA) needs to ensure that the JCOC program manager, other JCOC staff, and WHS personnel supporting the JCOC program receive training on the new guidance. In addition, the ASD(PA) and Director, WHS, must initiate a preliminary review into whether the use of conference fees violated the Miscellaneous Receipts Statute and Antideficiency Act.

## **Recommendations, Management Comments, and Our Response**

### ***Redirected Recommendation***

Based on management comments received from the Deputy Chief Financial Officer, we redirected the primary responsibility for Recommendation A.2 to the Director, WHS, because WHS is the fundholder for the OASD(PA).

**A.1. We recommend that the Assistant Secretary of Defense (Public Affairs) and the Director, Washington Headquarters Services, work with the DOD General Counsel to establish detailed policies and procedures for managing future Joint Civilian Orientation Conferences in compliance with section 2262, title 10, United States Code. Specifically, they should:**

**a. Update DOD Instruction 5410.19 to provide guidance on how to effectively administer and manage the Joint Civilian Orientation Conference program. This guidance should require the development and submission of an annual budget estimate for conducting the program, including an estimate of the amount of appropriated funding needed to support DOD personnel involved in the program and the amount of reimbursable authority needed to collect fees from non-DOD participants. The instruction should also describe refund procedures for conference fees.**

**b. Update Administrative Instruction No. 48 or rescind it and issue a new instruction or other enforceable standard operating procedure delineating the responsibilities of the Joint Civilian Orientation Conference program manager and staff to administer and oversee the program. The guidance should also define the responsibilities of the Washington Headquarters Services in supporting the program's planning, execution, and funds control.**

**c. Provide training on the new guidance to the Joint Civilian Orientation Conference program manager and staff, as well as Washington Headquarters Services personnel supporting the program.**

### ***Assistant Secretary of Defense (Public Affairs) Comments***

The Principal Deputy ASD(PA) partially agreed and stated that effective with the conference to be held in the spring of 2010 (JCOC 79), his office would no longer collect participant fees and would fund all future conferences using DOD appropriated funds. He stated that his office would update DOD Instruction 5410.19 to reflect this change and rescind Administration Instruction No. 48. He also agreed to provide training to staff to enhance JCOC program management.

### ***Administration and Management, OSD Comments***

The Acting Director, Administration and Management, responding for WHS, agreed and stated that WHS would rescind Administrative Instruction No. 48 and support ASD(PA) with training to enhance the JCOC program.

### ***DOD General Counsel Comments***

Although not required to comment, the Director, Standards of Conduct Office, agreed with the recommendation and had no legal objections.

## ***Our Response***

The Acting Director's comments were responsive. However, the Principal Deputy's comments were only partially responsive. Congress issued 10 U.S.C. 2262 to permit DOD to collect and use non-DOD participant fees to fund DOD conferences to conserve the use of appropriated funds. Based on this audit, the USD(C)/CFO updated the DOD Financial Management Regulation to provide implementing instructions for Components to comply with the provisions of 10 U.S.C. 2262. The plan to fund future conferences with appropriated funds would not result in the best use of DOD appropriated funds and is not consistent with the authority Congress granted to DOD under 10 U.S.C. 2262. The ASD(PA) plan to use appropriated funds would require an assessment of whether funding future conferences would meet the requirements of 31 U.S.C. 1345, "Expenses of Meetings," and other provisions of fiscal law. In addition, the OASD(PA) would need to develop a budget submission requesting the use of appropriated funds to pay for future conferences and seek Congressional approval. In the absence of such approval, the ASD(PA) should update DOD Instruction 5410.19 to provide procedures on how to effectively administer and manage the JCOC program, as authorized by Congress, using the guidance provided in DOD Financial Management Regulation, volume 12, chapter 32. We request that the ASD(PA) reconsider his position on funding future conferences with DOD appropriated funds and provide additional comments on the final report. The ASD(PA) should provide support on how funding future conferences with DOD appropriated funds meets the requirements of 31 U.S.C. 1345. He should also update DOD Instruction 5410.19 to direct the preparation of an annual budget estimate for conducting the program. If the ASD(PA) changes his position, the additional comments on the final report should explain how his office would update guidance for conducting future conferences using 10 U.S.C. 2262. In either situation, the additional comments should address the roles and responsibilities of the OASD(PA) and WHS in conducting future conferences.

**A.2. We recommend that the Director, Washington Headquarters Services, in conjunction with the Offices of the Under Secretary of Defense (Comptroller), Assistant Secretary of Defense (Public Affairs), and DOD General Counsel, initiate a preliminary review of the use of the Joint Civilian Orientation Conference fees received since the inception of the Miscellaneous Receipts Statute. The review should determine whether:**

- **augmenting the Office of Secretary of Defense appropriated funds allotment with conference fees resulted in an Antideficiency Act violation,**
- **sufficient Defense Operation and Maintenance funds were available for the \$5,869 cost overrun on Joint Civilian Orientation Conference 73, and**
- **the treasurer correctly closed the bank account and refunded overpaid conference fees.**

**Following the preliminary review, they should take appropriate actions or legal remedies to address improprieties and report the findings to the Office of Secretary of Defense.**

### ***Under Secretary of Defense (Comptroller) Comments***

The Deputy Chief Financial Officer partially agreed and stated that DOD needs to conduct a preliminary Antideficiency Act review. However, he stated that we should specifically address the recommendation to the Director, WHS, who is the actual fundholder for OASD(PA). He stated that he would request that the Director, WHS, conduct a preliminary investigation, complete it within 90 days, and provide the results to the USD(C)/CFO.

### ***Assistant Secretary of Defense (Public Affairs) Comments***

The Principal Deputy agreed and stated that he agreed with the Deputy Chief Financial Officer's position that we direct the responsibility for initiating the review to the Director, WHS.

### ***DOD General Counsel Comments***

The Director, Standards of Conduct Office partially agreed and stated that she supported the Deputy Chief Financial Officer's comments. The Director also stated that the ASD(PA) proposed actions failed to exercise the authority granted in 10 U.S.C. 2262 to collect and expend participant fees, thereby conserving the use of appropriated funds.

### ***Administration and Management, OSD Comments***

The Acting Director, Administration and Management, responding for WHS, agreed and stated that he agreed with the Deputy Chief Financial Officer's response. He further stated that the finding was de minimis because they had properly refunded the conference fees to those not attending and the treasurer had informed the program manager that actual costs exceeded fees and the program manager stated that adequate funds existed.

### ***Our Response***

The Deputy Chief Financial Officer's and Director's comments were responsive. The comments from the Principal Deputy ASD(PA) were partially responsive. Although we have redirected primary responsibility for conducting a preliminary review of the use of JCOC fees to the Director, WHS, the OASD(PA) must assist WHS in reviewing past conference practices to determine the nature and extent of any violations. The ASD(PA) and WHS should address whether they collected sufficient fees to defray non-DOD participation at JCOC 73 and whether the use of these fees and other appropriated funds complied with the provisions of the Antideficiency Act. Because the JCOC program manager collected and used fees for JCOC 72 before the implementation of 10 U.S.C. 2262, the provisions of the Miscellaneous Receipt Statute must govern the collection and use of these fees. Consequently, the review should address whether the use of these fees augmented the OSD budget. We request that the ASD(PA) provide additional comments on the final report explaining how and when his office will assist the Director, WHS, in conducting a review for potential Antideficiency Act violations.

The Acting Director's comments were partially responsive. His response does not clearly define when he will conduct and complete the preliminary review and his comment that our findings that gave rise to this recommendation are de minimis is not accurate. Program managers conducted the JCOCs in violation of the Miscellaneous Receipt Statute since at least 1992, when WHS issued Administrative Instruction No. 48. The \$139,000 in fees collected for JCOC 72 and all JCOC fees collected before JCOC 72 inappropriately augmented the DOD appropriation. Therefore, the amount of potential Antideficiency Act violations is considerably larger than addressed in this finding. In addition, the OASD(PA) did not use the provisions of 10 U.S.C. 2262 during JCOC 73. As stated in the report, the refunds sometimes went to individuals who had not provided the conference fees to the JCOC treasurer. The review should determine whether refunding the individual inappropriately provided those individuals with campaign or corporate funds. If so, appropriate remedial actions need to occur. Having a balance in an improperly established JCOC bank account did not provide authority to spend this money to defray JCOC 73 costs. The JCOC program manager should have turned the funds in to the U.S. Treasury as miscellaneous receipts when collected. Therefore, the review must determine whether at least \$5,869 existed in the OSD allotment to the FY 2007 Defense Operation and Maintenance appropriation to cover these expenses. We request that the Director, WHS, provide additional comments on the final report explaining how and when his office will complete a review for potential Antideficiency Act violations.

**A.3. We recommend that the Assistant Secretary of Defense (Public Affairs):**

**a. Address improprieties identified in Recommendation A.2. and take appropriate legal and administrative actions.**

**b. Develop input for the annual Defense Operation and Maintenance budget estimate submission for all future conferences, including a request for sufficient reimbursable authority to collect fees from participants. Before incurring expenses, ensure that program managers obligate all anticipated expenses related to DOD personnel required to support the Joint Civilian Orientation Conference.**

***Assistant Secretary of Defense (Public Affairs) Comments***

The Principal Deputy ASD(PA) agreed and stated that his office would take appropriate actions for any improprieties identified as a result of the preliminary review of the use of JCOC fees. He also stated that beginning with JCOC 79 his office would fully fund the conferences and not use participant fees.

## ***Our Response***

The comments of the Principal Deputy were partially responsive. The decision to fund conference activities of non-DOD participants using DOD appropriated funds may pose legal challenges over the proper use of appropriated funds and does not provide the flexibility granted by Congress to collect fees to defray the conference costs and provide a cost savings to the taxpayer. We request that the ASD(PA) seek a fiscal law review regarding the use of appropriated funds, reconsider his position, and provide additional comments on the final report addressing how his office will implement the provisions of 10 U.S.C. 2262 and properly budget and obligate for future conferences.

## **Finding B. Use of Official Representation Funds**

The Director of Administration and Management did not ensure that the WHS Financial Management Directorate provided proper oversight and administration of the JCOC program's use of ORF. This occurred because the WHS fund manager did not properly apply DOD Directive 7250.13 to JCOC activities, and the directive did not require a legal review of planned ORF uses. As a result, the ASD(PA) inappropriately used \$20,249 in ORF to pay for unqualified expenses.

### **Official Representation Funds**

According to 10 U.S.C. 127, an Emergency and Extraordinary Expenses Fund within the Operation and Maintenance appropriations of the Secretary of Defense, DOD Inspector General, and Secretary of each Military Department allows for the payment of emergency or extraordinary expenses they cannot anticipate or classify. Within the Emergency and Extraordinary Expenses Fund is a subclassification that provides for establishing ORF.

Under certain circumstances, DOD Directive 7250.13 allows DOD organizations to use ORF to pay for DOD employee expenses when extending official courtesies to guests authorized by the directive. To use ORF, DOD Directive 7250.13 requires that for parties of 30 or more, such as a JCOC conference, the authorized guests should make up a minimum of 50 percent of the invitees. The directive defines authorized guests to be either foreign dignitaries or U.S. citizens such as Federal, State, and local dignitaries; members of citizens' committees; other distinguished or prominent citizens who have made a substantial contribution to the DOD or the nation; and members of the news media on certain occasions. The directive requires that the Director of Administration and Management approve ORF expenditures valued at less than \$50,000 made by the components of the OSD. The directive also requires the verification of fund availability before the use of ORF. Once the Director of Administration and Management approves the use of ORF, the fund manager assigned to the WHS Financial Management Directorate appoints a paying agent to use ORF, as authorized by DOD Directive 7250.13.

### **Oversight and Administration of ORF**

The Director of Administration and Management did not ensure that the WHS fund manager had validated that JCOC program managers requested and properly used ORF for authorized purposes. The JCOC program managers failed to meet the requirements established in DOD Directive 7250.13 for justifying the use of ORF. They did not provide, and the fund manager did not require, sufficient information to explain why the program managers needed ORF to support JCOC activities. For JCOCs 72 and 73, none of the requests made by the ASD(PA) contained information that the WHS fund manager could use to support that the program managers planned to extend official courtesies to a sufficient number of authorized guests to justify the use of the fund. The supporting documentation approving the use of ORF showed that the Director of Administration and

Management did not approve the use of ORF for JCOCs 72 and 73 until 2 to 3 months after the conferences had occurred. Consequently, the WHS fund manager did not appoint the treasurer as a paying agent until receiving that approval and did not provide funds until after the events had occurred. For JCOC 74, the program manager requested ORF before the conference, but significantly increased the requested amount without justifying the reasons for the increase.

### ***Criteria for Using ORF***

Before permitting the use of ORF, neither the Director of Administration and Management nor the WHS fund manager ensured that the intended purpose for using the fund met the criteria of DOD Directive 7250.13. The ASD(PA) requests for using ORF for JCOCs 72, 73, and 74 did not contain sufficient data to support a decision on the use of funds. Specifically, each of the requests did not contain the details needed to demonstrate that the JCOC program managers planned to extend official courtesies to qualified individuals and that payment of any expenses for DOD personnel to attend these functions met the appropriate criteria. In addition, because the JCOC program has been in existence since 1948, a justification to use ORF should have included a determination that program expenses were an emergency or extraordinary expense that the program manager could not anticipate and classify under an existing appropriation. OASD(PA) personnel informed us that during the nomination process, the JCOC program managers considered whether prospective participants met the criteria to qualify as authorized guests to whom they could extend official courtesies. However, the program managers did not consider the impact of the participants paying their own expenses. When participants pay their own expenses they are not considered authorized guests. Without authorized guests, the program manager cannot justify paying for DOD personnel to attend JCOC activities. We determined that the JCOC program managers were not hosting the participants or providing them official courtesies. Consequently, none of the expenses qualified for the use of ORF.

For example, on October 17, 2006, the JCOC staff held a dinner and reception in Bahrain. Supporting documentation showed that 85 individuals attended the JCOC 72 event: 45 participants, 16 staff members, and 24 local DOD personnel that the program manager invited to have dinner with the participants. The 24 DOD personnel did not qualify as either escorts or authorized guests, and the program manager should not have paid their expenses using the fund. If the program manager required these individuals to attend this function, she should have budgeted for the cost of their attendance as part of the normal appropriation process. The treasurer used \$1,471.68 from ORF to pay for the 24 DOD personnel attending this dinner. Because the program manager was not extending official courtesies to any of the participants, the use of the fund solely to defray the costs of DOD personnel attending the function was inappropriate. According to DOD Directive 7250.13, DOD cannot consider its employees authorized guests. Consequently, the event did not qualify for the use of ORF, and the 24 DOD personnel who attended the dinner should have paid for their respective portions of the dinner and reception. In total, program managers inappropriately spent \$10,271 of ORF to pay for DOD personnel attending JCOC 72 and 73 events.

The Director of Administration and Management should not have approved the use of ORF to pay for DOD personnel attending the function without first validating whether a sufficient number of JCOC participants qualified as authorized guests and that the ASD(PA) was extending them official courtesies by paying for the meals and entertainment. Our review showed that the OASD(PA) could have covered the cost associated with DOD personnel attending JCOC events under its normal Operation and Maintenance appropriation because the program held at least one conference annually, and JCOC program managers had information available to estimate expenses as part of their request for appropriated funding. DOD Directive 7250.13 does not require that the Office of DOD General Counsel review the appropriateness of each use of the fund before granting approval. However, considering the uniqueness of the JCOC program, it would be prudent to have legal counsel review all planned uses of ORF in support of the JCOC program. The legal review should consider the nature of the JCOC events, what constitutes proof that someone qualifies as an authorized guest, and the plan to pay for the meal and entertainment costs. The Director of Administration and Management should update DOD Directive 7250.13 to require a legal review of all planned uses of ORF in support of the JCOC program. This review would ensure that ORF expenses meet the requirements of 10 U.S.C. 127.

### ***Approval and Use of ORF for JCOCs 72 and 73***

JCOC program managers did not obtain the required approval to use ORF before incurring expenses related to JCOCs 72 and 73. Although the ASD(PA) signed a funding request in advance of the two conferences, JCOC program managers did not receive approval to use the fund from the Director of Administration and Management until months after the conferences had concluded. As a result, the program managers inappropriately incurred \$10,272 in expenses that the Government reimbursed after the fact for the program managers' use of conference fees to pay for DOD employees attending JCOC activities. The program managers should have first verified whether they could use appropriated funds to pay these expenses and then ensured the correct funding authorization and availability. If the OASD(PA) cannot fund these costs with Defense Operation and Maintenance funds, the ASD(PA) may have incurred an Antideficiency Act violation.

### **JCOC 72**

On February 1, 2007, the Director of Administration and Management approved the use of ORF to pay for JCOC 72 events, which took place in October 2006. After the Director approved the request, the fund manager appointed the treasurer as a paying agent to the Director, Disbursing Operations Directorate, Defense Finance and Accounting Service. Once officially appointed, the treasurer processed the supporting documentation for the expenditures he had previously made using the conference fees. He processed a \$6,928 public voucher to cover the meals for DOD personnel at six conference activities and for hotel rooms in Arlington, Virginia, that DOD personnel used before the arrival of conference participants. That same day, the fund manager certified the payment and had the Disbursing Operations Directorate pay the treasurer a U.S. Treasury check for that amount. The treasurer subsequently deposited the check into the JCOC bank account.

## **JCOC 73**

On July 16, 2007, nearly 3 months after JCOC 73 occurred, the Deputy Director of Administration and Management approved the request to use ORF. On July 17, 2007, the fund manager appointed the treasurer as the paying agent. The treasurer then requested a \$3,344 U.S. Treasury check to replace the conference fees he used during JCOC 73. The fund manager certified the payment, and the Defense Finance and Accounting Service paid the treasurer. The treasurer subsequently deposited the check in the JCOC bank account. Besides certifying payments for expenditures made before granting approval to use the fund, the fund manager also inappropriately reimbursed the treasurer to replenish the JCOC bank account. As discussed in Finding A, the JCOC program had no legal authority to retain funds outside the U.S. Treasury in a JCOC bank account. Consequently, no requirement existed to reimburse the JCOC bank account.

## ***Approval and Use of ORF for JCOC 74***

The ASD(PA) requested approval for the use of ORF on October 26, 2007, 10 days before the start of JCOC 74. On October 29, 2007, the fund manager appointed the treasurer as the paying agent. The appointment letter required the treasurer to use the funds to pay for conference expenses, such as social events and official gifts, for which vendors would not accept a credit card. The ASD(PA) increased the JCOC 74 request for ORF to \$18,050, although he had previously requested only \$10,000 for JCOC 72 and \$7,000 for JCOC 73. On October 29, 2007, the Director of Administration and Management approved the request, and the treasurer received an appointment as a paying agent. The fund manager approved an \$18,050 cash advance, which the treasurer deposited in his personal bank account. During the conference, the treasurer made 13 purchases, valued at \$9,997, which he later paid for with the advance. The disbursements covered the costs associated with feeding and entertaining DOD employees at social events and the musicians that provided entertainment at JCOC 74 events.

In violation of the agreement in his appointment letter, the treasurer charged 9 of the 13 transactions, valued at \$7,690, to a Government credit card. The treasurer paid this credit card bill using the cash advanced to him. The treasurer repaid the remaining \$8,053 balance (\$18,050 less \$9,997) to the U.S. Treasury on January 15, 2008, approximately 2 months after completing the conference. The program manager should have ensured that the treasurer reconciled and returned any unused ORF immediately upon returning from the conference, not 2 months later. The program manager should have anticipated the need to budget for the nearly \$10,000 in JCOC 74 related expenses as part of the OASD(PA) annual budget submission for conducting the conference and used the Defense Operation and Maintenance appropriation to pay for them. In addition, the program manager should have included these expenses on the contract used to provide conference planning services during JCOC 74 (see Finding C). The use of ORF during future conferences may not be appropriate or necessary.

## **Management Actions**

In April 2008, WHS contracted for a study of the ORF review and approval process. The results of the study support the need to process ORF requests 2 weeks in advance of an

event and makes the fund manager responsible for the request's completeness and compliance with 10 U.S.C. 127. The study also verified the need for the appointment of a paying agent and the reconciliation of any cash advance provided to that agent. The WHS Financial Management Directorate is using the study to assist the Director of Administration and Management in updating the requirements in DOD Directive 7250.13.

## **Conclusion**

The use of the \$20,249 in ORF for JCOCs 72, 73, and 74 raised significant questions regarding DOD's compliance with the requirements of 10 U.S.C. 127. Our review of JCOCs 72, 73, and 74 showed that the Director of Administration and Management did not require proper justification from the ASD(PA) for using ORF and did not always approve the use of the fund before JCOC program managers incurred expenses. The Director also allowed the fund manager to provide advances and approve expenditures from the fund after the fact. In addition, the fund manager did not ensure that the paying agent returned unused funds within a reasonable number of days after the conference. Consequently, we question the appropriateness of using ORF for JCOC events. The JCOC is an ongoing program and the expenses incurred to conduct the conference did not meet the definition of either an emergency or extraordinary expense. The JCOC program manager should have been able to anticipate the program expenses discussed in this finding and classified them as part of the normal use of the Defense Operation and Maintenance appropriation.

Considering the issues that we found, the Director of Administration and Management should have the WHS Financial Management Directorate work with the Offices of the Under Secretary of Defense (Comptroller) and DOD General Counsel to review the use of ORF, especially for ongoing programs like JCOC, which should include these expenses as part of their normal budget submission. They should determine whether the use of ORF to pay for anticipated JCOC program expenses meets the legal requirements of 10 U.S.C. 127. They should also determine whether it is necessary to continue to use ORF to fund expenses for ongoing DOD programs and whether the use of the JCOC 74 cash advance inappropriately benefitted the contractor. In addition, the Director should update DOD Directive 7250.13 to require a legal review of planned uses of ORF and provide DOD personnel responsible for using ORF with proper training on the legal requirements for administering and using the fund. Based on the determination of the legality of using ORF to pay for JCOC expenses, the ASD(PA) should work with the Office of the Under Secretary of Defense (Comptroller) to initiate a preliminary review into the potential misuse of appropriated funds. As part of the review, they should determine whether it was legal to use Defense Operation and Maintenance funds for the expenses incurred and, if so, whether sufficient funds were available in the appropriation to cover the improper use of ORF. Following the preliminary review, they should coordinate the report with the DOD General Counsel and report their findings to OSD.

## **Recommendations, Management Comments, and Our Response**

### ***Redirected Recommendation***

Based on management comments received from the Deputy Chief Financial Officer, we redirected the primary responsibility for Recommendation B.3 to the Director, WHS, because WHS serves as the fundholder for the OASD(PA).

**B.1. We recommend that the Director of Administration and Management update DOD Directive 7250.13 to require a legal review of all planned uses of Official Representation Funds in support of the Joint Civilian Orientation Conference program, and provide DOD personnel with proper training on the legal requirements for administering and using Official Representation Funds.**

### ***Administration and Management, OSD Comments***

The Acting Director of Administration and Management disagreed and stated that WHS staff followed applicable Federal laws and regulations and that a review of requirements by the Office of General Counsel was not warranted. He also stated that WHS provided us documentation on how they have updated the ORF approval process on April 10, 2009.

### ***Our Response***

As noted in the Management Actions section, we had received and reviewed the documentation provided in April 2009. However, at the time of the draft report, DOD had not incorporated these procedures into DOD Directive 7250.13. On June 30, 2009, the Director of Administration and Management replaced the old directive with DOD Instruction 7250.13. The new instruction incorporated some of the requirements contained in the documentation but did not require a legal review of requests to ensure compliance with 10 U.S.C. 127. We still believe that a legal review similar to what the Department of Army requires is a prudent control to ensure compliance. Army Regulation 37-47, "Representation Funds of the Secretary of the Army," March 2004, requires a legal review for requests by type, nature, or exception that have no prior legal opinion of precedence. We request that the Acting Director reconsider his position on including a legal review in the approval process and provide comments on the final report.

**B.2. We recommend that the Director of Administration and Management direct the Washington Headquarters Services, Financial Management Directorate, to work with the Offices of the Under Secretary of Defense (Comptroller) and DOD General Counsel to:**

**a. conduct a review to determine whether the use of Official Representation Funds by ongoing programs, such as the Joint Civilian Orientation Conference, meet the legal requirements of section 127, title 10, United States Code;**

**b. determine whether the Joint Civilian Orientation Conference program misused the funds and violated public law; and**

**c. determine whether DOD personnel or the conference planner inappropriately benefited from the Joint Civilian Orientation Conference 74 cash advance.**

### ***Administration and Management, OSD Comments***

The Acting Director of Administration and Management disagreed and stated that a separate review of ORF for compliance with 10 U.S.C. 127 was outside our audit scope. He also disagreed with our findings and recommendation regarding the treasurer depositing \$18,050 in the treasurer's personal bank account. He stated that we did not request any supporting documentation related to the matter and needed to verify our results and consider the materiality of the impact of the interest that may have accrued. He also disagreed with the need for determining whether DOD personnel or the conference planner inappropriately benefited from the advance. He stated that we did not obtain adequate evidence to justify what type of Government credit card the JCOC program manager used to pay expenses. He also stated that a reconciliation of the ORF account would have determined that DOD had overpaid the contractor by \$1,064.

### ***Our Response***

The intent of the recommendation was to determine whether the use of ORF by JCOC program managers was appropriate and complied with fiscal law. We concluded that the use of ORF by JCOC program managers to fund ongoing conference activities was not appropriate and violated the purpose of 10 U.S.C. 127. The fact that WHS personnel allowed this to happen raises the question of whether proper scrutiny of the 10 U.S.C. 127 requirements occurs before approving the use of the fund. We do not believe the JCOC treasurer intended to seek personal gain from the cash advance. However, we reported the deposit of the cash advance to a personal bank account to highlight a breakdown in controls. The JCOC treasurer should have been required to deposit the cash advance in a noninterest bearing account that did not commingle these funds with his own and should have returned the unused advance immediately upon returning from the conference. DOD Financial Management Regulation, volume 5, chapter 3, "Keeping and Safeguarding Public Funds," October 2006, states that a paying agent may neither commingle funds advanced to them with any other funds nor advance them to any other person. When circumstances require a paying agent to retain funds overnight, the agent must return the paid vouchers, negotiable instruments, and balance of funds as soon as possible after making the authorized payments, normally within 24 hours.

To clarify our intent, we removed any wording implying personal benefit by the treasurer. We did not question whether the credit card was a personal Government credit card or Government travel card. The finding questioned the appropriateness of using the cash advanced from the ORF to pay for charges made against a Government credit card. The appointment letter of the cash agent specifically prohibited the use of the cash to pay for items that the JCOC program could have charged to a Government credit card. Since the JCOC treasurer procured items using a Government credit card, the JCOC program

manager should have paid for those items using the normal payment process for the Government credit card program and not by using the funds advanced from ORF.

We collected sufficient documentation to support our conclusions regarding the use of ORF for JCOCs 72, 73, and 74. This documentation included all of the request letters, deposit slips and checks written from both the JCOC account and the treasurer's bank account, the invoices paid, and settlement vouchers. Our review showed that the ORF advances for JCOCs 72, 73, and 74 had been reconciled and settled, but the settlement review had not determined that the JCOC program manager overpaid the contractor by \$1,064. We discovered the overpayment and it was resolved only after we brought it to management's attention. We request that the Director of Administration and Management, reconsider his position on whether the use of ORF to fund activities related to ongoing DOD programs, such as JCOC, should continue to occur and provide additional comments on the final report.

**B.3. We recommend that the Director, Washington Headquarters Services, in coordination with the Assistant Secretary of Defense (Public Affairs) and Under Secretary of Defense (Comptroller)/Chief Financial Officer, initiate a preliminary review into the potential misuse of appropriated funds if it is deemed appropriate based on the actions taken in response to Recommendation B.2. As part of the review, they should determine whether it was legal to use Defense Operation and Maintenance funds for the expenses incurred and, if so, whether sufficient funds were available in the appropriation to cover the improper use of Official Representation Funds. Following the preliminary review, they should coordinate the report with the DOD General Counsel and report their findings to the Office of Secretary of Defense.**

### ***Under Secretary of Defense (Comptroller) Comments***

The Deputy Chief Financial Officer partially agreed and stated that he agreed with the need to conduct a preliminary Antideficiency Act review. However, he stated that we should specifically address the recommendation to the Director, WHS, who is the actual fundholder. He further stated that he would request that the Director, WHS, conduct a preliminary investigation, complete it within 90 days, and provide the results to the USD(C)/CFO.

### ***Assistant Secretary of Defense (Public Affairs) Comments***

The Principal Deputy ASD(PA) agreed with the Deputy Chief Financial Officer that we direct the responsibility for initiating the review to the Director, WHS.

### ***Our Response***

The Deputy Chief Financial Officer's and the Principal Deputy's comments were responsive. Although we have redirected primary responsibility for conducting a review to the Director, WHS, the OASD(PA) should continue to assist WHS in reviewing the past conference practices to determine the nature and extent of any violations. We request that the Director, WHS, provide comments on the final report.

## **Finding C. Conducting the Program Under DOD Conference Law**

The JCOC program manager and WHS contracting officer did not demonstrate effective planning and proper contracting actions when obtaining a conference planner for JCOC 74. These individuals did not properly issue delivery orders with funding from the OASD(PA) Defense Operation and Maintenance allotment and did not ensure that the contractor properly submitted invoices for services provided. Additionally, the JCOC program manager and WHS contracting officer did not ensure that the payment of participant costs using the conference fees collected complied with the requirements of 10 U.S.C. 2262. This occurred because DOD policy managers had not issued financial guidance to help DOD Components implement the provisions of 10 U.S.C. 2262. In addition, the program manager did not request Defense Operation and Maintenance funds to pay for JCOC 74 conference planning costs or provide a complete statement of work to the contracting officer detailing the FY 2007 and FY 2008 requirements. As a result, the JCOC program manager potentially violated 31 U.S.C. 1502(a) (known as the Bona Fide Needs Rule) and 31 U.S.C. 1341(a) (Antideficiency Act) by incorrectly expending \$97,308 in Defense-appropriated funds allocated to AFIS to support JCOC 74. In addition, the program manager failed to reconcile the \$91,429 in unexpended program funds to determine how much to return to two AFIS Defense Operation and Maintenance allotments and how much to deposit in the U.S. Treasury as miscellaneous receipts.

### **Legal Authority to Collect and Use Conference Fees**

The Secretary of Defense has the legal authority provided in 10 U.S.C. 2262 to collect in advance, either directly or by using a contract, fees from any individual or commercial participant attending a DOD conference. The provisions of 10 U.S.C. 2262 required DOD Components using this authority to credit the fees collected to the appropriation or account from which they would pay the conference costs. This made the fees collected available to the DOD Component to pay the direct costs associated with participants attending the conference or to reimburse the DOD Component for the direct or indirect costs incurred to conduct the conference. In the event that the total amount of conference fees collected exceeds the conference costs, the DOD Component must deposit the excess with the U.S. Treasury as miscellaneous receipts.

### **Basic Contract**

The WHS Acquisition and Procurement Directorate issued contract number HQ0034-06-D-1007 (an indefinite-delivery, indefinite-quantity contract) to a single contractor for conference and event planning support to the Defense Prisoner of War/Missing Personnel Office and to other OSD and WHS organizations. The basic contract contained a contract line item number (CLIN) for each of three 1-year performance periods that required the contractor to provide and perform conference

planning services in accordance with the statement of work.<sup>11</sup> According to the contract, the contracting officer was to issue a minimum of one delivery order for each period of performance. The contract also required that each delivery order issued against the basic contract specify information such as a contracting officer representative (COR), period of performance, and inspection and acceptance requirements.

The OASD(PA) used this contract to hire the conference planner for JCOC 74. In support of OASD(PA), the WHS contracting office issued two delivery orders (delivery orders 0010 and 0011). Table 2 shows pertinent information about the delivery orders issued to support JCOC 74.

**Table 2. Delivery Order Information**

<b>Delivery Order</b>	<b>CLIN</b>	<b>Service Provided</b>	<b>Funding Source</b>	<b>Amount</b>	<b>CLIN Type</b>	<b>Fiscal Year Funding</b>
0010	0002	Conference Planning	AFIS Allotment 9770100.4101	\$26,512	Firm Fixed Price	2007
0010	0004	Other Direct and Travel Costs	AFIS Allotment 9770100.4101	54,160	Cost	2007
0011	0002	Conference Planning JCOC Staff	AFIS Allotment 9780100.4101	16,636	Firm Fixed Price	2008
0011	0003	Conference Planning Participants	Public Affairs Reimbursable Account for Conference Fees 9780100.1120.9301	76,933	Firm Fixed Price	2008

## Providing JCOC Contract Support

The JCOC program manager and the WHS contracting officer did not adequately plan and contract for the use of a conference planner to support JCOC 74. Specifically:

- the program manager did not adequately identify the correct funding for the contract or provide defined requirements for the statement of work,

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<sup>11</sup> The contract contained a CLIN for each of three 1-year performance periods. The contracting officer should have used CLIN 0001 for delivery orders issued during the base year (August 25, 2006, through August 24, 2007), CLIN 0002 for delivery orders in the first option year (August 25, 2007, through August 24, 2008), and CLIN 0003 for delivery orders issued in the second option year (August 25, 2008, through August 24, 2009).

- the contracting officer did not issue appropriate delivery orders or appoint a COR,
- the program manager and contracting officer did not ensure that the contractor invoiced services to the correct CLIN, and
- the program manager did not reconcile and deposit excess conference fees in the U.S. Treasury as miscellaneous receipts in a timely manner.

### ***JCOC 74 Contract Funding***

The JCOC program manager inappropriately funded the delivery orders using AFIS allotments within the FY 2007 and FY 2008 Defense Operation and Maintenance appropriations.<sup>12</sup> This occurred because the program manager had not requested funding as part of the OASD(PA) submission to the OSD allotment (97X0100.1120) to pay for DOD costs associated with conducting JCOC 74 or requested the reimbursable authority needed to collect the \$129,000 in conference fees collected into a reimbursable account (9780100.1120.9301) to comply with 10 U.S.C. 2262. As discussed in Finding A, the budget should have taken into account the amount of conference fees the program manager planned to collect from non-DOD participants and the amount of additional appropriated funding needed to support the attendance of DOD personnel at JCOC activities, as well as any other costs in support of JCOC 74. The program managers could then have used the fees to pay conference costs.

Instead, the program manager inappropriately provided the WHS contracting officer with \$97,308 from two AFIS Defense Operation and Maintenance allotments (9770100.4101 and 9780100.4101) to fund a majority of the delivery orders. Because the AFIS budget submissions and the corresponding funding allotments did not provide funding to support JCOC 74 activities, the use of these funds inappropriately augmented the funding provided to the OASD(PA) to administer the JCOC program. The program manager had also allowed the treasurer to collect the JCOC 74 conference fees and deposit the fees in a newly established Public Affairs reimbursable account (9780100.1120.9301). The program manager then used \$76,933 from the Public Affairs reimbursable account to fund delivery order 0011, CLIN 003. To comply with 10 U.S.C. 2262, the program manager should have either deposited these funds into the OASD(PA) allotment and used that allotment to pay for the contract or ensured that the collected funds reimbursed the OASD(PA) allotment. The ASD(PA) and Director, WHS, should initiate a preliminary review into whether the use of the AFIS allotments inappropriately augmented the OASD(PA)-appropriated funds.

### ***Defining Statement of Work Requirements***

The delivery orders issued to support JCOC 74 potentially violated the Bona Fide Needs Rule. The rule provides that the balance of a fixed-term appropriation is available only for payment of expenses properly incurred during the period of availability or to

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<sup>12</sup> As stated earlier, in December 2007, DOD Directive 5105.74 established the Defense Media Activity and disestablished AFIS as the OASD(PA) field activity.

complete contracts properly made within that period. The WHS contracting officer informed us that attempting to write the delivery orders supporting JCOC 74 became difficult because the JCOC program manager had never used a contract to support JCOC activities and could not clearly define the requirements to support such a complex conference. The program manager funded delivery order 0010 with an FY 2007 AFIS allotment. The contracting officer issued the delivery order 0010 on September 28, 2007. However, the statement of work provided to the contracting officer did not clearly explain which conference planning and administration requirements met an FY 2007 bona fide need. The statement of work required the conference planner to obtain bids from hotels on the best rates for up to 70 attendees. The statement of work should have clearly identified what the program manager required in FY 2007, and the contracting officer should have limited delivery order 0010 solely to those requirements. The contracting officer should have contracted the remaining severable requirements in FY 2008 using delivery order 0011.<sup>13</sup> The WHS contracting officer explained that conference planning work had started in FY 2007, which made the contracting officer believe that the use of FY 2007 funding was acceptable. However, neither the WHS contracting officer nor the JCOC program manager could provide any supporting documentation to show that the contractor needed to perform work in FY 2007.

Additionally, the WHS contracting officer stated that because the FY 2007 appropriation was for a service contract, it allowed the contract to cross fiscal years. According to the Federal Acquisition Regulation, part 32.703-3, "Contracts Crossing Fiscal Years," March 2005, a contract funded by annual appropriations may not cross fiscal years, except in accordance with statutory authorization or when the contract calls for a product that cannot feasibly be subdivided for separate performance in each fiscal year. Because JCOC 74 occurred in November 2007, the program manager should have provided the WHS contracting officer with detailed requirements that the contracting officer could have used to segregate any requirements to meet a bona fide need in FY 2007. With the FY 2007 requirements isolated, the WHS contracting officer could issue a delivery order to meet a bona fide need after September 30, 2007. (In the next section, we discuss the work requirements for delivery orders 0010 and 0011.) The program manager should then have provided sufficient FY 2007 and FY 2008 funding from the OASD(PA) allotment of the Defense Operation and Maintenance appropriation. The ASD(PA) and Director, WHS, need to conduct a preliminary review into the use of FY 2007 funding to support JCOC 74 to determine whether a potential violation of 31 U.S.C. 1502(a) occurred.

## **JCOC 74 Delivery Orders**

The JCOC program manager did not provide the WHS contracting office with a complete description of the requirements for supporting JCOC 74, which would have allowed the contracting officer to prepare a detailed request for proposal. Upon receipt of a request for proposal for each delivery order, the contractor was supposed to provide a

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<sup>13</sup> Severable contract costs are the tasks that can logically and reasonably be broken into smaller increments.

firm-fixed-price quote based on the labor rates in the contract.<sup>14</sup> However, the incomplete requirement in the statement of work hindered the contracting officer's ability to obtain accurate firm-fixed-price quotes for the delivery orders. In addition, two delivery orders did not correctly cite the CLIN structure established in the basic contract or identify which delivery order would pay for each item specified in the statement of work. Further, the contracting officer inappropriately issued delivery orders against CLIN 0003.

### ***Delivery Order 0010***

The program manager and WHS contracting office did not clearly define in the statement of work which requirements the contractor should accomplish using delivery order 0010. The contracting officer issued the delivery order on September 28, 2007, for \$80,672 to provide services in accordance with the JCOC 74 statement of work. Delivery order 0010 contained two CLINs funded by the FY 2007 AFIS allotment. CLIN 0002 required the contractor to provide and perform conference planning services in accordance with the statement of work. The delivery order contained general requirements for the contractor to enter into contracts with hotels and vendors and provide meals and transportation to JCOC participants, staff, and other DOD personnel attending conference activities. However, it did not define what portions of the statement of work each CLIN was to cover. In addition, because most of the requirements contained in the statement of work would not actually occur until November 2007, the work the contractor needed to perform in FY 2007 under this CLIN should have been limited.

Also, in FY 2007, the contracting officer and the program manager incorrectly established and funded CLIN 0004, a cost-CLIN for \$54,160, to reimburse the contractor for other direct and travel costs.<sup>15</sup> A review of the basic contract showed that although the contract and delivery order allowed for these costs, the basic contract had not established CLIN 0004. Even if the basic contract had established a CLIN 0004, the contracting officer should have only included CLIN 0004 on delivery order 0011, because the contractor's travel costs to be on site at the conference would not occur until November 2007. There was no requirement for the contractor to travel during FY 2007. In addition, the contracting officer had incorrectly included the cost of hotels, meals, and mementos in CLIN 0004. These requirements should be part of the firm-fixed-price CLIN established to pay for participant costs in delivery order 0011.

### ***Delivery Order 0011***

The contracting officer established the wrong CLINs on delivery order 0011 and did not clearly define which requirements from the statement of work the contractor should have invoiced to each CLIN. On October 30, 2007, the program manager issued delivery

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<sup>14</sup> A firm-fixed-price CLIN should reflect the amount paid to the contractor to execute the contract in accordance with the statement of work, which places the risk and requirement for paying outside vendors on the contractor.

<sup>15</sup> The contracting office uses a cost-CLIN to pay for costs that cannot be easily established at the inception of the contract.

order 0011 for \$93,569 using the original statement of work, which the contracting officer had updated to specify which hotel and meals the contractor needed to provide and to include the purchase of mementos for the JCOC participants. The contracting officer did not comply with the basic contract CLIN structure and incorrectly established CLINs 0002 and 0003 to fund conference support services detailed in the statement of work. To comply with 10 U.S.C. 2262, the contracting officer should have established only a single firm-fixed-price for CLIN 0002 to support JCOC 74 using the FY 2008 OASD(PA) Defense Operation and Maintenance allotment. However, because the program manager did not fund the delivery orders correctly or provide detailed requirements in the statement of work, the contracting officer established the two CLINs in delivery order 0011 to attempt to track program costs. The contracting officer established CLIN 0002, a firm-fixed-price CLIN for \$16,636, using the FY 2008 AFIS allotment to fund the costs associated with the JCOC staff's participation at the conference. The contracting officer also established CLIN 0003, a firm-fixed-price CLIN for \$76,933, using the Public Affairs reimbursable account containing the conference fees collected to pay all JCOC participant costs. However, the contracting office should not have used CLIN 0003 in delivery order 0011, because the basic contract established it to provide conference planning services for conferences occurring after August 24, 2008.

In addition, the CLIN structure established in delivery order 0011 did not ensure that the contractor would invoice all participant costs incurred to CLIN 0003 because the statement of work provided by the program manager did not specify which requirements needed to be included in the firm-fixed-price quote for CLIN 0003. Consequently, the program manager had only limited assurance that the Defense Finance and Accounting Service would make invoice payments using the conference fees, as required by 10 U.S.C. 2262.

### ***Invoice Payments***

Issuing two separate delivery orders to fund a very similar statement of work also complicated how the contractor would submit invoices for payment for services provided and resulted in the payment of expenses using the incorrect funds. In addition, the WHS contracting officer did not appoint a knowledgeable individual from the JCOC staff to serve as COR for either of the two delivery orders. This hindered the program manager's efforts to ensure that the contractor had allocated costs to the correct CLINs and that the contracting office would reject invoices that billed costs to the wrong CLINs. The review of invoices by an unknowledgeable JCOC staff member failed to detect that the contractor billed for services on the delivery order and a \$1,064 duplicate payment. Further, the contracting officer and program manager allowed the contractor to bill all costs to delivery order 0010 until the depletion of the funds on the delivery order. Table 3 lists the five invoices paid on delivery order 0010.

**Table 3. Invoices Paid on Delivery Order 0010**

<b>Invoice Number</b>	<b>Date Accepted by Contracting</b>	<b>CLIN</b>	<b>Amount</b>
10111356	October 16, 2007	0002	\$ 5,500
10218313	October 24, 2007	0002	6,000
11130627	November 27, 2007	0002	15,012
10218312	October 24, 2007	0004	51,068
11160727	November 27, 2007	0004	3,092
<b>Total</b>			<b>\$80,672</b>

We reviewed each invoice submitted by the contractor for JCOC 74 to determine whether the program manager maintained proper fund controls. After reviewing the documentation for the invoices submitted on delivery order 0010, CLIN 0002, we determined that the invoiced services appeared to be necessary for planning JCOC 74. However, the contractor submitted one of the two invoices against delivery order 0010, CLIN 0004, that the program manager had funded on delivery order 0011. The contractor described the items and services paid for with invoice number 10218312 as follows:

- \$13,421 for various mementos purchased for JCOC 74 activities,
- \$5,016 for dinner at the Star of Honolulu on November 4, 2007,
- \$16,465 for a deposit on rooms at the Royal Hawaiian, and
- \$16,167 for a deposit on food and beverages at the Royal Hawaiian.

According to delivery order 0010, CLIN 0004 was for the contractor's other direct and reimbursable travel costs, in accordance with the DOD Joint Travel Regulation. The items billed on this invoice were hotel and dinner costs related to the conference and the purchase of participant mementos, which the program manager should have funded as part of the firm-fixed-price established for delivery order 0011, CLIN 0003. Therefore, the contracting officer should have rejected this invoice and required the contractor to bill these items to delivery order 0011. Invoice number 11160727 correctly charged the contractor's travel expenses to CLIN 0004.

The treasurer also may have made a duplicate payment of \$1,064 to the contractor for dinner costs at the Star of Honolulu restaurant on November 4, 2007. The documentation the treasurer gave us to support payments from ORF included a copy of a Star of Honolulu invoice that showed that the contractor paid \$5,016 for 66 meals at \$76 per meal. The total bill matched the amount the contractor had requested payment for on invoice number 10218312. Using the copied invoice as a receipt, on December 11, 2007, the treasurer wrote a \$1,064 check using ORF to reimburse the contractor for 14 local guests who attended the dinner. The contractor had not invoiced the JCOC program for the additional payment because the contractor had already received reimbursement for the meal costs for the 14 guests as part of the original \$5,016 bill. The treasurer made the duplicate payment to the contractor because of inadequate fund controls within the JCOC

program and failure by the contracting officer to appoint a COR for the delivery orders. The treasurer also used ORF to reimburse the contractor for an additional nine events (totaling \$7,582) that the program manager should have identified as part of the firm-fixed-price established in the delivery orders. The contracting officer and program managers should reconcile the payments made to the contractor using ORF to ensure that the Government did not overpay the contractor for the services. The Director, WHS, should ensure that the contracting office appoints a COR on all future delivery orders and ensure that the contractor bills expenses to the correct delivery orders and CLINs.

The two CLINs on delivery order 0011 had a firm-fixed-price of \$93,569. On delivery order 0011, the contractor submitted invoice number 11307589 for only \$54,207 (the contractor billed \$16,636 to CLIN 0002 and \$37,572 to CLIN 0003). The contracting officer did not pay the remaining \$39,361 on CLIN 0003 because the contracting officer allowed the contractor to bill participant-related costs to delivery order 0010 that the contractor should have billed as part of the firm-fixed-price of delivery order 0011, CLIN 0003.

## **Excess Conference Fees**

The JCOC program manager had not promptly reconciled the \$208,308 in JCOC 74 funding available for obligation on the delivery orders to the \$134,879 paid on those delivery orders.<sup>16</sup> This prevented the program manager from determining how much of the remaining \$73,429 the program manager needed to deposit in the U.S. Treasury and how much to return to AFIS. According to 10 U.S.C. 2262, DOD must deposit any excess conference fees in the U.S. Treasury as a miscellaneous receipt. Although the JCOC program manager collected \$111,000 in conference fees that the program manager could have used to fund the participant expenses on the contract, the program manager obligated only \$76,933 on delivery order 0011, CLIN 0003. CLIN 0003 should have reflected a total firm-fixed-price for all participant-related conference expenses incurred during JCOC 74.

The final cost summary provided by the treasurer showed that the program manager spent \$96,714 of the \$111,000 in participant fees collected and available for use on contract-related expenses. However, because the program manager erroneously funded \$51,068 of the participant-related expenses in FY 2007 against delivery order 0010, CLIN 0004, the firm-fixed-price quote that the contracting officer established for delivery order 0011, CLIN 0003, did not accurately reflect the actual firm-fixed-price that the program manager should have funded using the conference fees collected. This resulted in the program manager not providing sufficient funding from the Public Affairs reimbursable account (9780100.1120.9301) to comply with 10 U.S.C. 2262 and may have resulted in

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<sup>16</sup> The JCOC program manager had a total of \$244,358 to fund JCOC 74, of which \$208,308 (\$111,000 collected from participants and \$97,308 in AFIS allotments) was available for use on the contract. For this analysis, we excluded the \$18,050 in ORF received for JCOC 74 because those funds did not affect the contract and the program manager had either used or returned the funds after the conference. We also excluded the \$18,000 collected from individuals who did not attend the conference and may be entitled to a refund. See Appendix C, Table C-3 for more detail on JCOC 74 sources of funding and outlays.

underfunding the actual participant costs by at least \$19,781.<sup>17</sup> The program manager needs to deposit the remaining \$14,286 in conference fees (\$111,000 less \$96,714) into the U.S. Treasury to comply with 10 U.S.C. 2262, unless the program manager can show that the JCOC Program spent these fees on participant-related expenses. In addition, the program manager had collected \$18,000 from six individuals who did not attend JCOC 74. The JCOC program must either return the \$18,000 to the individuals or deposit it in the U.S. Treasury.

In January 2009, we questioned the OASD(PA) staff about the status of the excess conference fees, and they informed us of their concerns that the contractor had charged participant expenses against the wrong CLIN, causing an inappropriate charge to the AFIS funds. Based on our analysis, we agree with this concern. The review of contract payments showed that the contractor had actually charged only \$37,572 to delivery order 0011, CLIN 0003. The contracting officer erroneously deobligated the remaining \$39,361 in conference fees on CLIN 0003. The contracting officer should have been able to deobligate only the AFIS funds provided for the cost-CLIN (delivery order 0010, CLIN 0004), because the other CLINs should have reflected the firm-fixed-price for completing the statement work and no changes to the statement of work occurred. The ASD(PA), along with the WHS Financial Management Directorate, should require the JCOC program manager and contracting officer to realign the \$51,068 improperly invoiced on delivery order 0010, CLIN 0004, to delivery order 0011 and have the contracting officer amend delivery order 0011 to provide sufficient conference fees from the Public Affairs reimbursable account to fund this invoice. As of May 29, 2009, the program manager and the WHS Financial Management Directorate still had not provided documentation showing they had initiated a review of the questionable payments, realigned delivery order costs to the correct CLINs, or reconciled the remaining \$91,429 in funding (see Table C-3) not expended during JCOC 74. Although 10 U.S.C. 2262 does not explicitly state a period for depositing excess funds, we believe that waiting more than 18 months to deposit excess conference fees with the U.S. Treasury is excessive and that the program manager demonstrated a lack of proper funds management. The ASD(PA) should realign the payments made for JCOC 74 and determine how much funding the program manager needs to return to the AFIS allotments. The ASD(PA) should then deposit the remaining unexpended conference fees in the U.S. Treasury as a miscellaneous receipt.

## **DOD Guidance for Conducting Future JCOC Conferences**

When Congress issued 10 U.S.C. 2262 in October 2006, the Office of the Under Secretary of Defense (Comptroller) did not immediately update the DOD Financial Management Regulation to reflect the new requirements. In February 2007, the USD(C)/CFO issued a memorandum informing the DOD Components of the requirements, without explaining how to properly collect and use conference fees to

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<sup>17</sup> We determined the amount by subtracting the \$76,933 obligated on delivery order 0011, CLIN 0003, from the \$96,714 in participant expenses.

support all future DOD conferences. In September 2007, when the OASD(PA) hired a conference planner to support JCOC 74, the Office of the Under Secretary of Defense (Comptroller) still had not issued guidance within the DOD Financial Management Regulation. The lack of detailed procedures for ensuring compliance with 10 U.S.C. 2262 contributed to the JCOC program manager's inability to provide the correct funding and a complete statement of work, both of which are needed for the contracting officer to issue a contract that does not violate 10 U.S.C. 2262. In April 2009, the Office of the Under Secretary of Defense (Comptroller) issued a working draft of a new chapter to the DOD Financial Management Regulation that contained the detailed requirements for conducting future conferences in accordance with 10 U.S.C. 2262. Once the Office of the Under Secretary of Defense (Comptroller) issues the new guidance, the ASD(PA) should update DOD Instruction 5410.19 and other JCOC program guidance discussed in Finding A.

## **Conclusion**

Because there was inadequate DOD guidance in place on how to administer a conference using 10 U.S.C. 2262, the OASD(PA) incorrectly funded the contracting actions needed to support JCOC 74. This resulted in the misuse of \$97,308 in AFIS-appropriated funds that may have inappropriately augmented the funds provided to the OASD(PA) to administer the JCOC program. The ASD(PA) and Director, WHS, must perform a preliminary review to determine whether the use of the AFIS allotment augmented the OASD(PA) budget and resulted in a potential Antideficiency Act violation. They should also determine whether the conference costs incurred in the FY 2007 AFIS allotment met a bona fide need in FY 2007. If they did not meet a bona fide need, the ASD(PA) must take appropriate actions to report an Antideficiency Act violation, reimburse AFIS for funds obligated, and report the findings to the OSD. To prevent future occurrences, the Office of the Under Secretary of Defense (Comptroller) should update the DOD Financial Management Regulation to include procedures for implementing the provisions of 10 U.S.C. 2262. The ASD(PA) and WHS, Financial Management Directorate, must also review the use of the delivery orders during JCOC 74, realign expenses to the appropriate funding sources, determine whether the contract was overpaid, and determine how much of the remaining \$91,429 in unspent conference fees need to be deposited in the U.S. Treasury or reimbursed to AFIS. In addition, the Director, WHS, should have the WHS Senior Acquisition Executive review the use of the indefinite-delivery, indefinite-quantity contract by the WHS contracting office and ensure that any future delivery orders meet the requirements of 10 U.S.C. 2262. The Senior Acquisition Executive should also direct the contracting officer to appoint a COR and obtain a complete statement of work for each delivery order to ensure that the contractor bills costs to the correct delivery order and CLIN.

## **Recommendations, Management Comments, and Our Response**

**C.1. We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer incorporate the requirements of section 2262, title 10, United States Code, into the DOD Financial Management Regulation.**

### ***Under Secretary of Defense (Comptroller) Comments***

The Deputy Chief Financial Officer agreed and stated that his office issued DOD Financial Management Regulation, volume 12, chapter 32, in July 2009.

### ***Our Response***

The Deputy Chief Financial Officer's comments were responsive.

**C.2. We recommend that the Assistant Secretary of Defense (Public Affairs) and Director, Washington Headquarters Services:**

**a. Conduct a preliminary review of the use of American Forces Information Service funds to pay for Joint Civilian Orientation Conference 74 costs. If necessary, reimburse the American Forces Information Service for funds obligated and report Bona Fide Needs Rule or Antideficiency Act violations to the Office of Secretary of Defense.**

### ***Assistant Secretary of Defense (Public Affairs) Comments***

The Principal Deputy ASD(PA) agreed and stated that the DMA would coordinate with WHS to review the use of AFIS-appropriated funds to pay for JCOC 74 and determine the need for corrective action.

### ***Administration and Management, OSD Comments***

The Acting Director, Administration and Management, responding for WHS, disagreed and stated that the mission of AFIS and ASD(PA) are aligned as indicated in the FY 2007 budget.

### ***Our Response***

The Principal Deputy's comments were responsive and his actions meet the intent of the recommendation. He should work with the Director, WHS, to establish a completion date for these actions. The Acting Director's comments were nonresponsive. Although AFIS was organizationally aligned with the ASD(PA) as a field activity, DOD provides funding for the AFIS programs under a separate allotment based on a Budget Estimate Submission detailing the programs funded using that allotment. The JCOC program is an ASD(PA) program in support of the Secretary of Defense that the OASD(PA) should have budgeted for and OSD should have funded using the allotment provided to the OSD.

Therefore, the use of AFIS funding caused a misuse of the funds allotted to AFIS and supplemented the OSD allotment. We request that the Acting Director reconsider his position and provide additional comments on the final report addressing the misuse of AFIS funds.

**b. Require the JCOC program manager and WHS, Financial Management Directorate to work with the WHS contracting officer to review and reconcile the invoice payments for the two delivery orders used to fund Joint Civilian Orientation Conference 74. They should then reallocate the conference expenses to the correct lines of accounting and reimburse the American Forces Information Service as necessary; determine whether the contractor was overpaid for services provided and take any needed collection actions; and deposit any residual conference fees into the U.S. Treasury.**

### ***Assistant Secretary of Defense (Public Affairs) Comments***

The Principal Deputy ASD(PA) agreed and stated that his office would support the efforts of WHS to review and reconcile the financial records of JCOC 74 and take appropriate actions for final disposition of any remaining funds.

### ***Administration and Management, OSD Comments***

The Acting Director, Administration and Management, responding for WHS, agreed and stated that WHS had reconciled invoices and found that the contractor invoiced the items and services correctly and was not overpaid.

### ***Our Response***

The Principal Deputy's comments were responsive and the actions his office plans to take meet the intent of the recommendation. The comments of the Acting Director were partially responsive. The intent of the recommendation was to require a full reconciliation of the funding provided for JCOC 74. The Acting Director's comments did not address how his office handled the \$73,429 remaining at the conclusion of JCOC 74. According to 10 U.S.C. 2262, the JCOC program manager should have deposited the fees collected from the individuals into the appropriation allotment from which the program manager would have paid the conference expenses. Because the AFIS allotment paid the expenses, ASD(PA) and WHS should conduct a reconciliation to determine how much money to return to AFIS. WHS must return the remaining fees to the U.S. Treasury as miscellaneous receipts. Under no circumstances should these funds remain in the account that WHS originally deposited them into. We request that the Acting Director provide additional comments on the final report detailing how his office will work with ASD(PA) to resolve the disposition of the unused JCOC 74 funds.

**c. Determine whether the six individuals who paid for Joint Civilian Orientation Conference 74 but did not attend require a refund. Either make refunds or deposit the \$18,000 collected into the U.S. Treasury as a miscellaneous receipt.**

### ***Assistant Secretary of Defense (Public Affairs) Comments***

The Principal Deputy ASD(PA) agreed and stated that his office had provided all available information to WHS for action.

### ***Administration and Management, OSD Comments***

The Acting Director, Administration and Management, responding for WHS, disagreed and stated that the Defense Finance and Accounting Service had refunded the fees to the six individuals in September 2008.

### ***Our Response***

The Principal Deputy's and Acting Director's comments were responsive. Although the Acting Director disagreed, the intent of the recommendation was for the proper disposition of the \$18,000. Refunding the fees to the individuals not attending the conference meets the intent of the recommendation.

**C.3. We recommend that the Director, Washington Headquarters Services, direct the Senior Acquisition Executive in his office to review the use of indefinite-delivery, indefinite-quantity contract HQ0034-06-D-1007 and ensure that all future delivery orders the contracting officer issues meet the requirements of section 2262, title 10, United States Code. The Senior Acquisition Executive should also direct the contracting officer to appoint a Contracting Officer Representative and obtain a complete statement of work for each delivery order to ensure that the contractor bills costs to the correct delivery order and contract line item number.**

### ***Administration and Management, OSD Comments***

The Acting Director, Administration and Management, responding for WHS, agreed and stated that WHS would no longer use the existing contract and would review all future contracts for correct usage. He also stated that WHS would comply with the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement and that a policy was in place for CORs.

### ***Our Response***

The Acting Director's comments were responsive. The contract delivery orders in question have been fully deobligated. The actions WHS has taken to review the use of the contract and the actions it plans to take to ensure future contracts comply with 10 U.S.C. 2262 and acquisition guidance, and meet the intent of the recommendation.

## Finding D. Ethical Practices

JCOC staff members and other DOD personnel participating in the program may have inappropriately received and accepted gifts and other benefits or misused Government resources valued at up to \$1,304. This occurred because the ASD(PA) had not established internal control procedures addressing how to purchase, distribute, and account for items purchased with conference fees. In the absence of written policies and procedures, former JCOC program managers inappropriately directed the distribution of these items to DOD personnel without justifying the need to dispense appropriated funds for official or authorized purposes. As a result, the DOD personnel who attended JCOCs 72 and 73 may have violated DOD ethics rules or other fiscal law.

### Ethical Conduct Regulations

Title 5, Code of Federal Regulations (C.F.R.), part 2635, sections 2635.202, 2635.203, and 2635.204 (5 C.F.R. 2635) establish the standards of ethical conduct for Executive Branch employees. As a rule, DOD personnel may not directly or indirectly solicit or accept gifts—including meals, entertainment, and hospitality—because of their official position. Executive Branch employees can accept unsolicited gifts having a value of \$20 or less from one source per occasion but cannot accept gifts of more than \$50 in a calendar year. In addition, 5 C.F.R. 2635.704 provides that a Government employee has a duty to protect and conserve Government property and must not use such property, or allow its use, for other than authorized purposes.

### Conference Fees

JCOC program managers purchased mementos and other items using the conference fees they collected and provided these items to both the civilian participants and others attending the conference. The types of mementos purchased included command coins, polo shirts, and Rungu clubs.<sup>†††††</sup> The program managers also used the conference fees to pay for alcohol and entertainment provided to the JCOC participants and DOD personnel. JCOC staff members and other DOD personnel attending the conferences often consumed the same meals and enjoyed the same drinks and entertainment. According to the welcome package given to each participant, DOD was to use the conference fees to defray the participants' conference activities costs.

### Gifts and Items Funded by JCOC Conference Fees

JCOC staff members and other DOD personnel attending JCOC 72 activities potentially received and accepted gifts purchased using the fees collected from non-Federal participants. Likewise, program managers potentially provided DOD personnel attending JCOC 73 with items procured using appropriated funds and fees collected from civilians under 10 U.S.C. 2262 that resulted in the misuse of Government funds and property. For

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<sup>†††††</sup>A rungu is a wooden throwing club or baton bearing special symbolism and significance in certain East African tribal cultures.

DOD personnel that attended both conferences and received these items, a potential ethical violation valued at up to \$1,304 may have occurred. By using a portion of the JCOC 72 conference fees for gifts (mementos and other items) and other benefits (drinks and entertainment) for DOD personnel, JCOC program managers improperly converted the conference fees to purposes other than intended by the civilian participants. Since JCOC managers had no authority to collect these fees, the JCOC staff and other DOD personnel in attendance who accepted these items had accepted unsolicited gifts that violated ethics rules. In addition, the program manager's use of the fees collected from JCOC 73 participants to purchase mementos and other items potentially resulted in a misuse of funds if they purchased items for DOD personnel that were not required for conducting official duties.

### ***Purchase of Mementos and Other Items***

Documentation showed that program managers routinely purchased mementos and other items in excess of the number of civilian participants attending JCOCs 72 and 73. In most cases, the number of items purchased equaled or exceeded the total number of JCOC participants and appeared to include the purchase of items for DOD personnel attending each conference. A program manager stated that when ordering official mementos, the JCOC staff estimated that 50 JCOC participants would attend each conference. However, our review of documentation showed that the program managers often purchased mementos in quantities exceeding 50. For example, the JCOC 72 program manager purchased 31 different mementos and other items to provide to the 45 JCOC participants in attendance. JCOC 72 documentation showed the program manager purchased 27 of the 31 different items, with a cost per person totaling \$385.89, in quantities that exceeded 50-participant goal or the 45 participants actually in attendance (see Appendix D, Table D-1). Because the JCOC program had no authority to collect fees until October 17, 2006, when Congress issued 10 U.S.C. 2262, the funds used to purchase these items represent the private funds of the civilian participants and any purchase of these items and distribution to DOD personnel would be considered a gift. For JCOC 73, the program manager purchased excess quantities for 23 different items, with a cost per person totaling \$441.05 (see Appendix D, Table D-2). A potential ethics violation arises for JCOC 72 because the program manager potentially misused appropriated funds to purchase mementos and other items and distribute them to DOD personnel without first justifying the requirement to provide DOD personnel with these items in order to conduct official duties. For some mementos provided during JCOCs 72 and 73, such as command coins and clothing, the program manager needed to justify the purpose of using Government funds to procure these items for DOD personnel.

### ***Disposition of Excess Items***

JCOC program managers stated that they did not maintain a record of what they did with the excess items purchased. According to the JCOC staff, a former program manager allowed and encouraged the JCOC staff to provide the DOD personnel attending the conference activities with most, if not all, of the mementos and other items provided to participants. If the program managers gave the excess mementos and other items to DOD personnel, some DOD employees may have received mementos and other items totaling

more than \$800 if they attended both conferences. By receiving items of this dollar value, DOD personnel may have violated the ethics rules in 5 C.F.R. 2635.204 and 704.

We did not verify that individual JCOC staff members or other DOD personnel in attendance at these conferences received one of each of the mementos and other items listed in Appendix D. However, based on the guidance of the former JCOC program manager and discussions we held with other DOD personnel who attended JCOC events, we concluded that JCOC staff members and other DOD personnel did receive some, if not all, of the mementos and other items. On two different occasions, we examined the merchandise in the storage room maintained by the JCOC staff to determine whether the JCOC Program had maintained the excess items purchased in inventory. The storage room did not contain many of the excess mementos and other items purchased.

### ***Receptions and Entertainment***

During JCOCs 72 and 73, the JCOC staff hosted a series of social events that the treasurer paid for primarily using conference fees. The JCOC program managers paid the meal costs for DOD personnel attending using appropriated funds but did not require the DOD personnel to pay for a proportionate share of the receptions and entertainment provided during these events. The program managers required the treasurer to request appropriated funding to pay for the meal costs of the DOD personnel, but directed the use of the fees collected from the non-Federal participants to pay for the other costs associated with attending these events, including any alcoholic drinks and entertainment provided. For example, on April 27, 2007, JCOC 73 held a reception and dinner in Doha, Qatar, for 45 JCOC participants, 14 JCOC staff members, and 16 other DOD personnel. The voucher supporting this event showed a total cost of \$19,312 for the reception and dinner. The voucher showed the following breakdown of expenses.

- Dinner buffet - \$4,415
- Tent rental - \$5,550
- Reception - \$2,468
- Drinks during the reception held before dinner - \$4,558
- Drinks during and after dinner - \$2,321

The treasurer split the dinner buffet expense between the JCOC participants and the staff and other DOD employees. He paid for the DOD share of the dinner buffet using Defense Operation and Maintenance funds and the participants' share using the conference fees collected. The program manager used the conference fees to pay the remaining \$14,897 in costs associated with this event, including the tent rental, the entertainment, and the cost of alcoholic drinks provided before, during, and after dinner. Because DOD personnel attending the events did not pay these additional costs as part of their share of the expenses, the program manager needed to justify the use of the conference fees he collected to defray these costs. Our review showed that that the program manager had not elected to use the provisions of 10 U.S.C. 2262 for JCOC 73 and instead deposited these fees into a bank account. Therefore, the program manager violated the Miscellaneous Receipts Statute. Because the program manager used the conference fees to defray the cost of DOD personnel attending these events, the entertainment and alcoholic drinks received by the

JCOC staff and other DOD personnel participating in the events were gifts. Likewise, use of conference fees to defray costs for DOD personnel attending social events during JCOC 72 resulted in the acceptance of gifts by the DOD personnel involved. If the program manager had used the provision of 10 U.S.C. 2262 correctly, he would have been required to deposit the fees collected into the Defense Operation and Maintenance appropriation and use the fees to pay for the conference expenses. Therefore, the use of the conference fees to fund the purchase of alcoholic drinks and entertainment was a potential misuse of the funds unless the program manager properly justified their use as a necessary expense.

We reviewed the documentation supporting the receptions and entertainment costs during JCOCs 72 and 73 to determine the cost benefit to JCOC staff and other DOD personnel attending the conferences. In Tables 4 and 5, we break out the cost per person of the receptions and entertainment that, according to 5 C.F.R. 2635.202 and 704, DOD personnel attending the activities on JCOCs 72 and 73 should have considered to be gifts or an inappropriate distribution of items to DOD personnel causing a potential misuse of funds.

**Table 4. JCOC 72 Receptions and Entertainment**

<b>Reception Location</b>	<b>Cost of Event</b>	<b>Number of Attendees</b>	<b>Cost Per Attendee</b>	<b>DOD Personnel Attending</b>
Djibouti	\$ 2,060.00	73	\$ 28.22	28
Washington, D.C.	1,314.00	65	20.22	19
Bahrain	2,822.34	85	33.20	40
Doha	5,892.99	72	81.85	25
<b>Totals*</b>	<b>\$12,089.33</b>		<b>\$163.49</b>	

\* Totals are provided only for the dollar values because totaling the number of attendees would count individuals more than once. The presentation of the number of attendees at each event is for information only.

Each of the JCOC staff and other DOD personnel who attended these JCOC 72 events potentially received up to \$163.49 in gifts.

**Table 5. JCOC 73 Receptions and Entertainment**

<b>Reception Location</b>	<b>Cost of Event</b>	<b>Number of Attendees</b>	<b>Cost Per Attendee</b>	<b>DOD Personnel Attending</b>
Sigonella	\$ 254.45	60	\$ 4.24	15
Djibouti	2,502.45	72	34.76	26
Bahrain	5,876.59	84	69.96	39
Doha	14,896.61	75	198.62	30
Al Udeid	352.25	59	5.97	14
<b>Totals*</b>	<b>\$23,882.35</b>		<b>\$313.55</b>	

\* Totals are provided only for the dollar values because totaling the number of attendees would count individuals more than once. The presentation of the number of attendees at each event is for information only.

Each of the JCOC staff and DOD personnel who attended these JCOC 73 events potentially received up to \$313.55 in alcoholic drinks and entertainment that the program manager did not ensure qualified as an appropriate use of funds.

## **Governing Policies and Procedures**

The ASD(PA) did not have effective internal control procedures addressing how to purchase, distribute, and account for items purchased with conference fees. In the absence of written policies and procedures, former JCOC program managers inappropriately directed the distribution of extra mementos and other items to DOD personnel participating in the program. They also allowed staff to attend receptions and entertainment functions paid for using conference fees provided by the civilian participants without justifying the use of these funds.

## **Conclusion**

JCOC staff members and other DOD personnel participating in the JCOC program may have received and accepted gifts and other benefits that exceeded allowable limits or used the fees collected for unauthorized purposes. If so, the program managers and individuals may have violated the ethics rules contained in 5 C.F.R. 2635. JCOC program managers did not keep records of who received the excess items. However, it was routine for JCOC staff and other DOD employees attending JCOC events to receive them and benefit from receptions and entertainment at the events. Because some of the DOD employees attended both JCOCs 72 and 73, they may have received gifts or the program manager may have inappropriately used funds to benefit DOD personnel totaling up to \$1,304 per individual. The ASD(PA) should coordinate with the DOD General Counsel to review JCOC practices for ordering and distributing mementos and other items and paying for receptions and entertainment costs that benefit DOD personnel. They should determine whether any ethics violations occurred and take appropriate actions based on their findings. In addition, the ASD(PA) should establish internal control procedures for purchasing mementos and other items and paying for receptions and entertainment during conferences. The ASD(PA) should incorporate internal control procedures into his policies for conducting the JCOC Program that address who should receive items, the purchase quantities required, and how to maintain an inventory and account for any excess items. If the program managers require JCOC staff members and other DOD personnel to receive the items provided to participants in order to conduct their official duties, the ASD(PA) should coordinate with the Office of General Counsel to determine an appropriate way to fund the purchases.

## **Management Comments on the Finding and Our Response**

The Director, Standards of Conduct Office, DOD General Counsel, stated that the real concern was whether the use of funds violates fiscal law. She stated that it was unclear whether the JCOC program managers purchased excess mementos and other items or whether ordering 50 of each memento or other item was improper. She also stated that distributing items to DOD personnel appears to be a misuse of property and that the JCOC program managers should have preserved the items for official use. However, it was

unclear whether the program managers believed distribution of mementos and other benefits to staff was for official or authorized purposes or whether this was appropriate. Lastly, she said that it was unclear whether the consumption of meals by staff raised ethical issues.

Based on the Director's comments, we updated the finding to address 5 C.F.R. 2635, subsection 704, and the potential that some of the items purchased and the entertainment provided resulted from a misuse of Government property of funds. We do not agree that program managers used Government funds to procure items for JCOC 72, since they had no authority to collect fees. Mementos and other items given to DOD personnel acquired using conference fees should be considered as gifts to those receiving them. Although the authority to collect fees existed for JCOC 73, the program managers had not elected to use that authority when conducting JCOC 73. Therefore, collecting the fees and keeping them instead of depositing them into the Defense Operation and Maintenance appropriation allotment for OASD(PA) made the fees miscellaneous receipts that the program manager should have deposited in the U.S. Treasury. Therefore, depositing the fees into a bank account and using them to pay for items and entertainment amounted to using private funds and should be considered a gift. We agree with the Director that, at a minimum, this was a misuse of Government funds because the JCOC program managers procured and distributed these items to DOD personnel without ensuring compliance with fiscal law.

## **Recommendations, Management Comments, and Our Response**

### ***Revised Recommendation***

Based on management comments received from the Principal Deputy ASD(PA), we revised the wording in Recommendation D.2 to clarify the intent of the recommendation and highlight the need to develop internal control procedures.

**D.1. We recommend that the Assistant Secretary of Defense (Public Affairs) coordinate with the DOD General Counsel to review the potential ethics violations arising from the acceptance of gifts and other benefits during Joint Civilian Orientation Conferences 72 and 73. The review should consider conference practices for ordering and distributing mementos and other items and paying for receptions and entertainment costs that benefited DOD personnel. Based on the review, they should take appropriate actions to resolve any ethics violations.**

### ***Assistant Secretary of Defense (Public Affairs) Comments***

The Principal Deputy ASD(PA) disagreed and stated that his office does not have any records to support or deny the claim that there were ethical violations arising from the acceptance of gifts or other benefits during JCOCs 72 and 73. He stated that as of JCOC 77, his office had standardized the process for ordering and distributing mementos to follow ethics regulations. Excess items resulting from participant cancellation are sent to the participant and deducted from the conference fee refund. He also stated that all DOD

personnel at these events are on official orders and working the event. Therefore, the mementos, entertainment, and receptions are not for the benefit of the DOD personnel.

### ***Our Response***

The Principal Deputy's comments were not responsive. The need for the Principal Deputy to conduct a review as to whether violations of Government ethics regulations occurred during JCOCs 72 and 73 is not mitigated because his office may not have retained all the documentation. Our audit showed that program managers had purchased mementos and other items, paid for with fees received from the conference participants, that exceeded the number of participants in attendance. JCOC personnel involved informed us that DOD personnel received some or all of the items. Government document retention regulations require that documentation used to purchase these goods and services, including invoices and receiving reports, be retained for 6 years and 3 months after payment. Therefore, documentation supporting these purchases should still exist in the OASD(PA), WHS, or with the Defense Finance and Accounting Service. The JCOC treasurer and other individuals currently in the OASD(PA) attended these conferences and can help provide the needed information to determine whether Government personnel received the items highlighted in this report. If this occurred, the ASD(PA) must work with the DOD Standards of Conduct Office, DOD General Counsel, to report an ethics violation and take appropriate actions. We request that the ASD(PA) reconsider his position and provide additional comments on the final report. As discussed in our response below, the ASD(PA) must work with the DOD General Counsel to determine the exact status of the private funds. Therefore, we recommend that as part of the ASD(PA) review, the question of whether the funds remained private or became Government funds receive a fiscal review. This will ensure that the ASD(PA) can appropriately support the management actions needed to address the ethical violations that occurred. We request that the ASD(PA) work with the DOD General Counsel, reconsider his position, and provide additional comments on the final report.

### ***DOD General Counsel Comments***

The Director, Standards of Conduct Office, partially agreed and stated that the analysis for ethical failure was flawed and that 5 C.F.R. 2635, subsection 704, should be the basis for the ethical violations. The Director contended that the ethics violation discussion should address the potential misuse of Government resources (subsection 704) instead of citing the gift provision (subsection 204).

### ***Our Response***

The Director's comments were responsive. We agree that 10 U.S.C. 2262 granted the JCOC program managers authority to collect fees and use them to defray costs associated with conducting conferences that occurred after October 17, 2006. However, the collection of fees and purchase of items for JCOC 72 occurred before this authority. Therefore, we contend that the gift provisions of 5 C.F.R. 2635 were relevant to that conference. We agree that if the ASD(PA) could consider the fees collected for JCOC 73 as Government funds, a potential ethical violation would exist based on a misuse of Government resources. However, because the provisions of 10 U.S.C. 2262 were elective in nature and JCOC program managers did not elect to apply these provisions during JCOC 73, we question

whether the program manager could consider the fees collected as Government funds as contended by the DOD General Counsel. Regardless of which provisions of 5 C.F.R. 2635 are used, we still believe the ASD(PA) must conduct a review of the practices his office used in conducting JCOCs 72 and 73 and determine whether any ethical violations occurred and, if so, coordinate with the Standards of Conduct Office to take appropriate actions. After reviewing the Director's comments, we also believe there is a need for the Office of General Counsel to clarify whether the private funds collected by DOD personnel without authority continued to remain private funds or changed to Government funds.

**D.2. We recommend that the Assistant Secretary of Defense (Public Affairs) establish internal control procedures for the purchase and distribution of mementos and other items during Joint Civilian Orientation Conferences that ensure compliance with DOD ethical practices. The internal control procedures should be incorporated into policies that specify who should receive each item, the purchase quantities for each item, and how to maintain an inventory and account for any excess items. If the program managers require staff members and other DOD personnel to receive conference-related items, the program manager should determine an appropriate way to fund the purchases using appropriated funds. The procedures should be coordinated with the DOD General Counsel.**

### ***Assistant Secretary of Defense (Public Affairs) Comments***

The Principal Deputy disagreed and stated that his office follows established financial management policies and procedures. He stated that he would fund JCOC 79 and all future conferences using appropriated funds. He further stated that his office would make all purchases in accordance with financial management regulations and maintain an accurate inventory and accounting of items.

### ***DOD General Counsel Comments***

Although not required to comment, the Director, Standards of Conduct Office, agreed and had no legal objections to our recommendation. The Director stated that the Office of DOD General Counsel stands ready to assist the ASD(PA) in developing new policy.

### ***Our Response***

The Principal Deputy's comments were not responsive. The intent of the recommendation was not for his office to write new financial management requirements, but to develop internal control procedures that ensure that the purchase and distribution of mementos and entertainment, regardless of whether JCOC program managers use private or DOD-appropriated funds to acquire them, do not subject DOD personnel to ethical violations. We reworded the original recommendation to clarify this issue. In addition, the funding of mementos and other items to provide to non-DOD and DOD participants must meet all required fiscal guidance. We request that the ASD(PA) reconsider his position and provide additional comments on the final report explaining how his office will develop and implement internal control procedures over the purchase and distribution of JCOC mementos and entertainment.

## Appendix A. Scope and Methodology

We conducted this performance audit from October 2007 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 findings and conclusions based on our audit objectives.

We referred to the following public laws and DOD guidance to determine whether OASD(PA) properly administered and funded the JCOC program.

- 5 U.S.C. 5702, “Per Diem; Employees Traveling on Official Business”
- 10 U.S.C. 127, “Emergency and Extraordinary Expenses”
- 10 U.S.C. 2262, codified Public Law 109-364, Section 1051, “Department of Defense Conferences: Collection of Fees to Cover DOD Costs”
- DOD Instruction 5410.19, “Public Affairs Community Relations Policy Implementation”
- DOD Instruction 5010.40, “Managers’ Internal Control (MIC) Program Procedures”
- DOD Directive 7250.13, “Official Representation Funds (ORF)”
- Administrative Instruction No. 48, “Joint Civilian Orientation (JCOC) Fund”

We also reviewed governing regulations and DOD guidance for using ORF and complying with ethics policies. In addition, we reviewed compliance with the Antideficiency Act. Specifically, we reviewed the requirements of 31 U.S.C. 3302(b) to determine whether the procedures used to conduct the JCOC program ensured compliance with the Miscellaneous Receipts Statute. We conducted site visits to the OASD(PA) in the Pentagon and to WHS in Arlington, Virginia, where we interviewed JCOC program managers, the treasurer, and other JCOC staff members to determine how they conducted and accounted for JCOC conference activities. We reviewed the procedures used to administer JCOCs 72, 73, and 74. During the audit, we reviewed the JCOC program managers’ use of \$403,000 in fees collected from participants and \$160,179 in funding received from various Defense Operation and Maintenance appropriation allotments. Pertinent details about the three conferences are contained in Appendix B.

We also analyzed supporting documentation, such as bank deposits, expenditure reports, and receipts, to determine whether the OASD(PA) and WHS complied with public laws and DOD policies when conducting JCOC conference activities. Additionally, we obtained and reviewed travel authorizations and vouchers for the JCOC staff attending JCOCs 72 and 73 to ensure that the treasurer did not request reimbursement for Defense Operation and Maintenance appropriation funds for the same travel expenses claimed by the JCOC

staff members. We also reviewed the actions taken to close the JCOC bank in January 2008 to ensure that the U.S. Treasury received the funds and the closure complied with DOD policies.

For JCOC 74, we reviewed the awarding of contract delivery orders to determine whether the JCOC program manager complied with the requirements in Public Law 109-364 for collecting fees to cover conference costs. We also reviewed the documentation supporting contract payments and the use of JCOC participant fees.

## **Use of Computer-Processed Data**

We did not use computer-processed data to perform this audit.

## **Prior Coverage**

During the last 5 years, the Department of Defense Inspector General (DOD IG) has issued two reports discussing the JCOC program. Unrestricted DOD IG reports can be accessed at <http://www.DODig.mil/audit/reports>.

DOD IG Report No. D-2009-032, “The America Supports You Program,” December 12, 2008

DOD IG Report No. D-2009-028, “Organizational Structure and Managers’ Internal Control Program for the Assistant Secretary of Defense (Public Affairs) and American Forces Information Service,” December 10, 2008

## Appendix B. Conference Dates and Locations

JCOG Number	Dates	Locations Visited	Number of JCOG Participants
72	October 15-22, 2006	Washington, D.C.; Manama, Bahrain; Kuwait City, Kuwait; Doha, Qatar; and Djibouti, Djibouti	45
73	April 22-29, 2007	Washington, D.C.; Manama, Bahrain; Kuwait City, Kuwait; Doha, Qatar; and Djibouti, Djibouti	45
74	November 4-11, 2007	Honolulu, Hawaii; Tumon, Guam; Manila, Philippines; and Okinawa, Japan	37

## Appendix C. Review of Financial Activity

In the following tables, we provide a break down of the financial activity for JCOCs 72, 73, and 74.

**Table C-1. JCOC 72 Sources of Funding and Outlays**

<b>Financial Activity</b>	<b>Funds Received</b>	<b>Outlays</b>	<b>Balance</b>
<b>Beginning Balance JCOC 72</b>			<b>\$44,059</b>
Conference Fees Collected	\$135,000		
Official Representation Funds	6,928		
Defense Operation and Maintenance Funds	15,714		
<b>Total Funds Received</b>	<b>\$157,642</b>		
Refunds to Participants		\$ 1,000	
Expenses Charged to Participants		121,700	
DOD Expenses		22,642	
<b>Total Outlays</b>		<b>\$145,342</b>	
Net Funds			\$12,300
<b>Ending Balance for JCOC 72</b>			<b>\$56,359</b>

**Table C-2. JCOC 73 Sources of Funding and Outlays**

<b>Financial Activity</b>	<b>Funds Received</b>	<b>Outlays</b>	<b>Balance</b>
<b>Beginning Balance</b>			<b>\$56,359</b>
Conference Fees Collected	\$139,000		
Official Representation Funds	3,344		
Defense Operation and Maintenance Funds	12,107		
<b>Total Funds Received</b>	<b>\$154,451</b>		
Refunds to Participants		\$ 3,000	
Expenses Charged to Participants		141,869	
DOD Expenses		15,451	
<b>Total Outlays</b>		<b>\$160,320</b>	
Net Funds			(5,869)
<b>Ending Balance JCOC 73<sup>19</sup></b>			<b>\$50,490</b>

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<sup>19</sup> On September 4, 2007, the treasurer wrote a check to the U.S. Treasury for \$50,118.29, leaving \$371.70 in the account to cover two remaining uncleared checks. On December 21, 2007, the treasurer completely removed all funds from the bank account. The treasurer formally closed the bank account on January 16, 2008.

**Table C-3. JCOC 74 Sources of Funding and Outlays**

<b>Financial Activity</b>	<b>Funds Received</b>	<b>Outlays</b>	<b>Balance</b>
<b>Beginning Balance JCOC 74</b>			<b>\$ 0</b>
Conference Fees Collected <sup>20</sup>	\$129,000		
AFIS Funding Allotment 09/27/07	80,672		
AFIS Funding Allotment 10/26/07	16,636		
Official Representation Funds	18,050		
<b>Total Funds Received</b>	<b>\$244,358</b>		
Official Representation Funds Returned		\$ 8,053	
Contract Expenses		134,879	
Official Representation Fund Expenses		9,997	
<b>Total Outlays</b>		<b>\$152,929</b>	
Net Funds			91,429
Less Collected Fees Not Available for Use <sup>21</sup>			(18,000)
<b>Ending Balance JCOC 74</b>			<b>\$73,429</b>

<sup>20</sup> This amount includes \$111,000 collected from the 37 individuals who attended the conference, plus \$18,000 collected from 6 individuals who did not attend.

<sup>21</sup> This amount represents \$3,000 collected and deposited in the reimbursable account from each of the six individuals who did not attend JCOC 74.

## Appendix D. Mementos and Other Items Received by DOD Personnel

According to 5 C.F.R, 2635.204, Executive Branch employees can accept gifts that are valued at less than \$20. However, they cannot accept more than \$50 in gifts in a calendar year. Tables D-1 and D-2 show a breakout of the mementos and other items purchased to support JCOCs 72 and 73. Our interviews with JCOC staff members indicated that the JCOC staff and other DOD personnel received excess items as gifts. Assuming that each person received only one of each item, the unit cost of mementos and other items received by each DOD employee who accompanied the JCOC participants could have amounted to \$385.89 and \$441.04 on JCOCs 72 and 73, respectively.

**Table D-1. JCOC 72 Items Purchased**

<b>Item Description</b>	<b>Invoiced Amount</b>	<b>Number of Items Purchased</b>	<b>Average Cost Per Item</b>
Padfolios	\$ 707.50	70	\$ 10.11
Travel Pillows	1,120.00	70	16.00
Pens, Ink, Cases, and Engraving	450.00	100	4.50
Comfort Packs	837.75	71	11.80
Back Packs	4,174.25	75	55.66
Coin Displays	1,750.00	70	25.00
Coins	372.00	62	6.00
Rungu Clubs	496.00	62	8.00
Lithographs	1,425.00	57	25.00
Shower Shoes	55.18	62	0.89
Shower Towels	133.30	62	2.15
Badge Holders	779.00	100	7.79
Hats	1,280.00	80	16.00
Polo Shirts	1,846.32	65	28.40
Pocket Itineraries	269.10	85	3.17
Floppy Covers	348.40	65	5.36
Command Coins	204.75	65	3.15
Logos for Floppy Covers	455.00	65	7.00
<b>Subtotal</b>			<b>\$235.98</b>

**Table D-1. JCOC 72 Items Purchased (continued)**

<b>Item Description</b>	<b>Invoiced Amount</b>	<b>Number of Items Purchased</b>	<b>Average Cost Per Item</b>
USCG Coins <sup>22</sup>	\$ 325.00	65	\$ 5.00
T-Shirts	325.00	65	5.00
Message Tubes	1,200.00	62	19.35
CENTAF Flags <sup>23</sup>	29.25	65	0.45
SOCCENT Coins <sup>24</sup>	455.00	65	7.00
CFSOCC Coins <sup>25</sup>	455.00	65	7.00
Pairs of Boot Socks	608.60	68	8.95
Pairs of Boots	6,115.60	68	89.94
Coins	3,610.66	500	7.22
		<b>Subtotal</b>	<b>\$149.91</b>
		<b>Total</b>	<b>\$385.89</b>

**Table D-2. JCOC 73 Items Purchased**

<b>Item Description</b>	<b>Invoiced Amount</b>	<b>Number of Items Purchased</b>	<b>Average Cost Per Item</b>
JCOC Hats	\$3,460.00	250	\$ 13.84
Padfolios	725.00	70	10.36
Comfort Packs	828.25	73	11.35
Pens	692.50	250	2.77
Backpacks	4,539.25	75	60.52
Eye Shades	816.25	75	10.88
Walnut Coin Displays	1,500.00	60	25.00
JCOC Coins	5,930.00	2000	2.97
Cufflinks and Gift Boxes	1,307.60	75	17.43
Horn of Africa Command Coins	733.00	60	12.22
Coins	249.00	60	4.15
Ball caps	758.45	62	12.23
Floppy Covers and Command Coins	1,126.45	65	17.33
Shower Shoes	62.37	63	0.99
		<b>Subtotal</b>	<b>\$202.04</b>

<sup>22</sup> United States Coast Guard coins.

<sup>23</sup> U.S. Air Force Central Command flags.

<sup>24</sup> U.S. Special Operations Command Central coins.

<sup>25</sup> U.S. Combined Special Operations Component Command coins.

**Table D-2. JCOC 73 Items Purchased (continued)**

<b>Item Description</b>	<b>Invoiced Amount</b>	<b>Number of Items Purchased</b>	<b>Average Cost Per Item</b>
Bath Towels	184.90	86	\$ 2.15
Message Tubes	1,716.00	66	26.00
CENTCOM Gift <sup>26</sup>	1,105.00	60	18.42
Polo Shirts	2,166.20	80	27.08
Luggage Lanyards	1,211.50	250	4.85
Jackets	11,155.34	78	143.02
CFSOCC Coins	385.00	55	7.00
Socks	696.50	70	9.95
Boxes to Ship Coin Holders	40.51	75	0.54
		<b>Subtotal</b>	<b>\$239.01</b>
		<b>Total</b>	<b>\$441.05</b>

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<sup>26</sup> U.S. Central Command gifts.

# Under Secretary of Defense (Comptroller) Comments



COMPTROLLER

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

AUG 13 2009

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL, DEFENSE BUSINESS  
OPERATIONS

SUBJECT: Response to Draft Audit Report, "Joint Civilian Orientation Conference  
Program" (Project No. D2007-D000FI-0215.001)

This memorandum forwards the Office of the Under Secretary of Defense  
(Comptroller) response to the subject draft audit report. A copy of the response is  
attached.

The Department appreciates the opportunity to comment on the subject report.  
My point of contact is [REDACTED]

  
Mark E. Easton  
Deputy Chief Financial Officer

Attachment:  
As stated



**PROJECT NO. D2007-D000FI-0215.001**

**JOINT CIVILIAN ORIENTATION CONFERENCE PROGRAM**

**OFFICE OF THE UNDER SECRETARY OF DEFENSE (COMPTROLLER) (OUSD)  
COMMENTS TO THE DOD OIG RECOMMENDATIONS.**

**RECOMMENDATION A.2:** We recommend that the Assistant Secretary of Defense (Public Affairs) and Director, Washington Headquarters Services, in conjunction with the Offices of the Under Secretary of Defense (Comptroller) and DoD General Counsel, initiate a preliminary review of the use of the Joint Civilian Orientation Conference fees received since the inception of the Miscellaneous Receipts Statute. The review should determine whether:

- augmenting the Office of Secretary of Defense appropriated funds allotment with conference fees resulted in an Antideficiency Act violation,
- sufficient Defense Operation and Maintenance funds were available for the \$5,869 cost overrun on Joint Civilian Orientation Conference 73, and
- the treasurer correctly closed the bank account and refunded overpaid conference fees.

Following the preliminary review, they should take appropriate actions or legal remedies to address improprieties and report the findings to the Office of Secretary of Defense.

**OUSD(C) RESPONSE:** Partially Concur. The Deputy Chief Financial Officer concurs that a preliminary Antideficiency review should be performed as required by DoD Regulation 7000.14-R, "Financial Management Regulation," volume 14, chapter 3., however; the recommendation must be specifically addressed to the Director, Washington Headquarters Services as the administrator of funds provided to the Office of the Assistant Secretary of Defense (Public Affairs). The Deputy Chief Financial Officer will request the Director, Washington Headquarters Services conduct a preliminary investigation to determine whether formal investigations should occur for any potential Antideficiency Act violation(s), and complete the preliminary review within 90 days as required by DoD Regulation 7000.14-R, "DoD Financial Management Regulation," volume 14, chapter 3, and provide the results of the preliminary investigation to the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer.

**RECOMMENDATION B.3:** We recommend that the Assistant Secretary of Defense (Public Affairs), in coordination with the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer, initiate a preliminary review into the potential misuse of appropriated funds if it is deemed appropriate based on the actions taken in response to Recommendation B.2. As part of the review, they should determine whether it was legal to use Defense Operation and Maintenance funds for the expenses incurred and, if so, whether sufficient funds were available in the appropriation to cover the improper use of Official Representation Funds. Following the preliminary review, they should coordinate the report with the DoD General Counsel and report their findings to the Office of Secretary of Defense.

Revised and  
redirected

**OUSD(C) RESPONSE:** Partially Concur. The Deputy Chief Financial Officer concurs that a preliminary Antideficiency review as required by DoD Regulation 7000.14-R, "Financial Management Regulation," volume 14, chapter 3 should be performed into the misuse of appropriated funds, however; the recommendation must be specifically addressed to the Director, Washington Headquarters Services as the administrator of funds provided to the Office of the Assistant Secretary of Defense (Public Affairs). The Deputy Chief Financial Officer will request the Director, Washington Headquarters Services conduct a preliminary investigation to determine whether formal investigations should occur for any potential Antideficiency Act violation(s), and complete the preliminary review within 90 days as required by DoD Regulation 7000.14-R, "DoD Financial Management Regulation," volume 14, chapter 3, and provide the results of the preliminary investigation to Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer.

**RECOMMENDATION C.1:** We recommend that the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer incorporate the requirements of section 2262, title 10, United States Code, into the DoD Financial Management Regulation.

**OUSD(C) RESPONSE:** Concur. Volume 12, Chapter 32 was published in July 2009 and incorporated the requirements of section 2262, title 10, United States Code with regard to collection and retention of conference fees from individual and commercial participants.

Action completed.

Revised and  
redirected

# Assistant Secretary of Defense (Public Affairs) Comments



PUBLIC AFFAIRS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE  
1400 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1400

SEP 08 2009

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

SUBJECT: Joint Civilian Orientation Conference Program (Project No. D2007-D000FI-  
0215.001)

As the Principal Deputy Assistant Secretary of Defense for Public Affairs (PDASD(PA)), I appreciate the opportunity to comment on the subject draft report. The following represents the actions my office has taken to date regarding the recommendations included in the report.

**Recommendation A.1.** We recommend that the DoD Director of Administration and Management, in conjunction with the Assistant Secretary of Defense (Public Affairs) and DoD General Counsel, establish detailed policies and procedures for managing future Joint Civilian Orientation Conferences in compliance with section 2262, title 10, United States Code. Specifically, they should:

- a. Update DoD Instruction 5410.19 to provide detailed guidance on how to effectively administer and manage the Joint Civilian Orientation Conference program. This guidance should require the development and submission of an annual budget estimate for conducting the program, including an estimate of the amount of appropriated funding needed to support DoD personnel involved in the program and the amount of reimbursable authority needed to collect fees from non-DoD participants. The instruction should also describe refund procedures for conference fees.
- b. Rescind Administrative Instruction No. 48, and update DoD Instruction 5410.19 to provide detailed guidance to program managers on how to effectively administer and manage the Joint Civilian Orientation Conference program, including how to refund overpaid deposits of conference fees and requiring an annual program budget estimate and the recording of obligations before incurring program costs.
- c. Provide training on the new guidance to the Joint Civilian Orientation Conference program manager and staff, as well as Washington Headquarters Services personnel supporting the program.

**Response to Recommendation A.1.**

- a. Partially concur. Effective with Joint Civilian Orientation Conference (JCOC) 79, scheduled for the spring of 2010, JCOC will be fully funded by DoD. No participant fees will be collected. DoD Instruction 5410.19, paragraph 6.9.2, will be updated reflecting this change and paragraph 6.9.5 will be deleted.



b. Concur. Administrative Instruction 48 should be rescinded. Effective with JCOC 79, scheduled for the spring of 2010, JCOC will be fully funded by DoD. No participant fees will be collected.

c. Concur. JCOC staff will take appropriate training to enhance program management.

**Target Implementation A.1. – April 2010**

**Recommendation A.2.** We recommend that the Assistant Secretary of Defense (Public Affairs) (OASD(PA)) and Director, Washington Headquarters Services, in conjunction with Office of the Under Secretary of Defense (Comptroller) and DoD General Counsel, initiate a preliminary review into the use of the Joint Civilian Orientation Conference fees received since the inception of the Miscellaneous Receipts Act. The review should determine whether:

- augmenting the Office of Secretary of Defense appropriated funds allotment with conference fees resulted in an Antideficiency Act violation,
- sufficient Defense Operation and Maintenance funds were available for the \$5,869 cost overrun on Joint Civilian Orientation Conference 73, and
- the treasurer correctly closed the bank account and refunded overpaid conference fees.

**Response for Recommendation A.2.** Concur with Office of the Under Secretary of Defense (Comptroller) OUSD(C) response provided on August 13, 2009.

**Recommendation A.3.:** We recommend that the Assistant Secretary of Defense (Public Affairs):

a. Address improprieties identified in Recommendation A.2. and take appropriate legal and administrative actions.

b. Develop input for the annual Defense Operation and Maintenance budget estimate submission for all future conferences, including a request for sufficient reimbursable authority to collect fees from participants. Before incurring expenses, ensure that program managers obligate all anticipated expenses related to DoD personnel to support the Joint Civilian Orientation Conference.

**Response for Recommendation A.3.:** Concur.

a. If improprieties are identified as a result of the review, OASD(PA) will take appropriate action.

b. Concur. Effective with JCOC 79, scheduled for the spring of 2010, JCOC will be fully funded by DoD. No participant fees will be collected.

**Target Implemented for A.3. – April 2010**

**Recommendation B.3.:** We recommend that the Assistant Secretary of Defense (Public Affairs), in coordination with the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer, initiate a preliminary review into the potential misuse of appropriated funds if it is deemed appropriate based on the actions taken in response to Recommendation B.2. As part of the review, they should determine whether it was legal to use Defense Operation and Maintenance funds for the expenses incurred and if so, whether sufficient funds were available in the appropriation to cover the improper use of Official Representation Funds. Following the preliminary review, they should coordinate the report with the DoD General Counsel and report their findings to the Office of Secretary of Defense.

**Response for Recommendation B.3.:** Concur with OUSD(C) response provided on August 13, 2009.

**Recommendation C.2.:** We recommend that the Assistant Secretary of Defense (Public Affairs) and Director, Washington Headquarters Services:

a. Conduct a preliminary review into the use of American Forces Information Service funds to pay for Joint Civilian Orientation Conference 74 costs. If necessary, reimburse the American Forces Information Service for funds obligated and report Bona Fide Needs Rule or Antideficiency Act violations to the Office of Secretary of Defense.

b. Require the JCOC program manager and WHS, Financial Management Directorate to work with the WHS contracting officer to review and reconcile with the invoice payments for the two delivery orders used to fund Joint Civilian Orientation Conference 74. They should then reallocate the conference expenses to the correct lines of accounting and reimburse the American Forces Information Service as necessary; determine whether the contractor was overpaid for services provided and take any needed collection actions; and deposit any residual conference fees into the U.S. Treasury.

c. Determine whether the six individuals who paid for Joint Civilian Orientation Conference 74 but did not attend require a refund. Either make refunds or deposit the \$18,000 collected into the U.S. Treasury as a miscellaneous receipt.

**Response for Recommendation C.2.:**

a. Concur. Defense Media Activity, formerly the American Forces Information Service (AFIS), will coordinate with Washington Headquarters Services, Financial Management Division (WHS/FMD) to review use of AFIS funds to pay for JCOC 74 and determine if corrective action is necessary.

b. Concur. OASD(PA) will support WHS/FMD and Washington Headquarters Services, Acquisition and Procurement Office's review and reconciliation of the financial records and take necessary corrective actions if necessary.

c. Concur. OASD(PA) has provided all available information to WHS/FMD.

**Recommendation D.1.:** We recommend that the Assistant Secretary of Defense (Public Affairs) coordinate with the DoD General Counsel to review the potential ethics violations arising from the acceptance of gifts and other benefits during Joint Civilian Orientation Conferences 72 and

73. The review should consider conference practices for ordering and distributing mementoes and other items and paying for receptions and entertainment costs, which benefited DoD personnel. Based on the review, they should take appropriate actions to resolve any ethics violations.

**Response for Recommendation D.1.:** Nonconcur. OASD(PA) has no records to support or deny this claim. As of JCOC 77, the process of ordering and distributing mementoes and other items has been standardized and follows all ethics regulations. Items that are ordered and remain unused, due to participant cancellation, are forwarded to the cancelled participant. The cost of these items is deducted from the participant's conference reimbursement.

All DoD personnel present at a JCOC event are on official orders and working the event, they are not participants. Mementoes, other items, receptions, and any entertainment are not for the benefit of the DoD personnel who are required to work the event.

**Recommendation D.2.:** We recommend that the Assistant Secretary of Defense (Public Affairs) establish policies and procedures for paying for mementoes and other items and paying for receptions and entertainment during Joint Civilian Orientation Conferences. These policies and procedures should specify who should receive items, the purchase quantities for each item, and how to maintain an inventory and account for the excess items. If the program managers require staff members and other DoD personnel to receive the items, the program manager should determine an appropriate way to fund the purchases. The procedures should be coordinated with the DoD General Counsel.

**Response for Recommendation D.2.:** Nonconcur. OASD(PA) follows established financial management policies and procedures. Effective with JCOC 79, scheduled for the spring of 2010, JCOC will be fully funded by DoD. No participant fees will be collected. All purchases will be made in accordance with current financial management regulations. An accurate inventory and accounting of items will be maintained.

We will continue to work on improving our organization by implementing the recommendations, as indicated above, and we will keep your staff apprised of our progress.



Price B. Floyd  
Principal Deputy Assistant Secretary  
of Defense for Public Affairs

Revised for  
clarification

# General Counsel of the DOD Comments



DEPARTMENT OF DEFENSE  
OFFICE OF GENERAL COUNSEL  
1600 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1600

Standards of Conduct Office

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

Subject: Joint Civilian Orientation Conference Program  
Project No. D2007-D00FI-215.001

This memorandum forwards the Office of General Counsel response to the  
subject draft audit report. A copy of the response is attached.

The Office of General Counsel appreciates the opportunity to comment on  
the subject report.

  
Leigh A. Bradley  
Director

Attachment:  
As Stated



**PROJECT NO. D2007-D000F1-0215.001**

**JOINT CIVILIAN ORIENTATION CONFERENCE PROGRAM**

**DOD OFFICE OF THE GENERAL COUNSEL (GC) COMMENTS TO THE DOD  
OIG RECOMMENDATIONS.**

Initially, GC notes that, while the request only asked for our comments on Recommendations A.2 and D.1, the draft report also includes references to or requires coordination with the Office of General Counsel on Recommendations A.1 and D.2. Therefore, this response includes responses to those recommendations as well.

**RECOMMENDATION A.1:** We recommend that the Assistant Secretary of Defense (Public Affairs) and the Director, Washington Headquarters Services, work with the DoD Office of General Counsel to establish detailed policies and procedures for managing future Joint Civilian Orientation Conferences in compliance with section 2262, title 10, United States Code. Specifically, they should:

a. Update DoD Instruction 5410.19 to provide guidance on how to effectively administer and manage the Joint Civilian Orientation Conference program. This guidance should require the development and submission of an annual budget estimate for conducting the program, including an estimate of the amount of appropriated funding needed to support DoD personnel involved in the program and the amount of reimbursable authority needed to collect fees from non-DoD participants. The instruction should also describe refund procedures for conference fees.

b. Update Administrative Instruction No. 48 or rescind it and issue a new instruction or other enforceable standard operating procedure delineating the responsibilities of the Joint Civilian Orientation Conference program manager and staff to administer and oversee the program. The guidance should also define the responsibilities of the Washington Headquarters Services in supporting the program's planning, execution, and funds control.

c. Provide training on the new guidance to the Joint Civilian Orientation Conference program manager and staff, as well as Washington Headquarters Services personnel supporting the program.

**RESPONSE TO A.1:** Concur. The General Counsel has no legal objection to the recommendations made.

**TARGET DATE:** GC will respond in a timely fashion to any request for coordination or collaboration with regard to this recommendation.

**RECOMMENDATION A.2:** We recommend that the Assistant Secretary of Defense (Public Affairs) and Director, Washington Headquarters Services, in conjunction with the Offices of the Under Secretary of Defense (Comptroller) and DoD General Counsel, initiate a preliminary review of the use of the Joint Civilian Orientation Conference fees received since the inception of the Miscellaneous Receipts Statute. The review should determine whether:

- augmenting the Office of Secretary of Defense appropriated funds allotment with conference fees resulted in an Antideficiency Act violation,
- sufficient Defense Operation and Maintenance funds were available for the \$5,869 cost overrun on Joint Civilian Orientation Conference 73, and
- the treasurer correctly closed the bank account and refunded overpaid conference fees.

Following the preliminary review, they should take appropriate actions or legal remedies to address improprieties and report the findings to the Office of Secretary of Defense.

**RESPONSE TO A.2:** Partially concur. The General Counsel agrees with the Deputy Chief Financial Officer response. The General Counsel further notes that the initial proposed action by the Assistant Secretary for Defense (Public Affairs) fails to include invocation of the authority under 10 U.S.C. § 2262, to collect and expend user fees from participants. Exercising this authority would conserve Operation & Management appropriates.

**TARGET DATE:** GC will respond in a timely fashion to any request for coordination or collaboration with regard to this recommendation.

**RECOMMENDATION D.1:** We recommend that the Assistant Secretary of Defense (Public Affairs) coordinate with the DoD General Counsel to review the potential ethics violations arising from the acceptance of gifts and other benefits during Joint Civilian Orientation Conferences 72 and 73. The review should consider conference practices for ordering and distributing mementos and other items and paying for receptions and entertainment costs that benefited DoD personnel. Based on the review, they should take appropriate actions to resolve any ethics violations.

**RESPONSE TO D.1:** Partially concur. The General Counsel concurs with the recommendation but on different legal grounds. The legal analysis for the ethical failures is flawed. The report cites to 5 C.F.R. § 2635, Subpart B, entitled Gifts from Outside Source. However, the gifts in question—mementos, food, entertainment, and other

Revised

items—were procured using appropriated funds or conference fees which DoD has statutory authority to collect. Subsection 203(b)(7) of the aforementioned rules specifically excludes from the definition of gifts “[a]nything which is paid for by the Government or secured by the Government under Government contract.” Therefore, the items in question were not gifts from outside sources, and the general prohibition on their acceptance is inapplicable.

The applicable ethical rule appears to misuse of government resources. Specifically, 5 C.F.R. § 2635.704. Subsection 704 states: “An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.” However, the real concern here is a question of fiscal law—namely, could the program manager legally expend funds for mementos, meals, entertainment, and other items as a necessary expense for the JCOC program? It is unclear whether the JCOC program manager inappropriately purchased excess mementos and other items. The report does not include factual information about the anticipated number of participants at the time the JCOC program manager made the expenditure. Therefore, it is unclear if ordering 50 of each memento or other item was improper.

Distribution of excess mementos and other items to JCOC staff appears to be misuse of government property, assuming the items were purchased for the purpose of distribution to JCOC participants. The items should have been preserved for official use. There is no information, however, on whether the program manager believed distribution to staff was for official or authorized purposes (e.g., authorized for on the spot awards or the like), and whether this was appropriate.

Finally, it is unclear whether JCOC staff consumption of the meals raises ethical concerns. The report suggests that the staff were on travel orders accompanying JCOC participants on OCONUS site visits in the Middle East. No factual findings were made about the availability of meals for staff while on travel or whether their duties required that they remain with the JCOC participants during meal times. The considerations for ethical purposes is whether the staff appropriately vouchered per diem on the days when meals were provided, and whether those means were a necessary part of the JCOC program. Ethical considerations, however, are superseded by considerations of whether under the Joint Travel Regulations (JTR), employees properly reduced the per diem they received. The JTR requires employees to reduce the per diem received if meals were provided. Otherwise, they would be receiving payment for meals which were already provided using appropriated funds. *See* 5 C.F.R. § 2635.101(b)(7)(“Employees shall not use public office for private gain).

Revised pages  
37-40 to discuss  
5 C.F.R 2635.704

Ultimately, the Office of General Counsel agrees that review of the ethical implications and remedial action to respond to any violations is appropriate, but not for improper acceptance of gifts but rather misuse of government resources—use of appropriated funds and conference fees in violation of fiscal law, the JTR and other applicable law.

**TARGET DATE:** GC will respond in a timely fashion to any request for coordination or collaboration with regard to this recommendation.

**RECOMMENDATION D.2:** We recommend that the Assistant Secretary of Defense (Public Affairs) establish policies and procedures for paying for mementos and other items and paying for receptions and entertainment during Joint Civilian Orientation Conferences. These policies and procedures should specify who should receive items, the purchase quantities for each item, and how to maintain an inventory and account for any excess items. If the program managers require staff members and other DoD personnel to have the items, the program manager should determine an appropriate way to fund the purchases. The procedures should be coordinated with the DoD General Counsel.

**RESPONSE TO D.2:** Concur. The General Counsel has no legal object to this recommendation.

**TARGET DATE:** GC will respond in a timely fashion to any request for coordination or collaboration with regard to this recommendation.

# Administration and Management, Office of Secretary of Defense Comments



ADMINISTRATION AND  
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE  
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WASHINGTON, DC 20301-1950

OCT 15 2009

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

SUBJECT: Response to Draft Audit Report, "Joint Civilian Orientation Conference  
Program" (Project No. D2007-D000FI-0215.001)

Thank you for the opportunity to comment on the subject draft report. The Director Administration and Management and Washington Headquarters Services (WHS) responses to the recommendations are as follows:

**Recommendation A.1:** We recommend that the Assistant Secretary of Defense (Public Affairs) and the Director, Washington Headquarters Services, work with the DoD General Counsel to establish detailed policies and procedures for managing future Joint Civilian Orientation Conferences in compliance with section 2262, title 10, United States Code. Specifically, they should:

- a. Update DoD Instruction 5410.19 to provide guidance on how to effectively administer and manage the Joint Civilian Orientation Conference program. This guidance should require the development and submission of an annual budget estimate for conducting the program, including an estimate of the amount of appropriated funding needed to support DoD personnel involved in the program and the amount of reimbursable authority needed to collect fees from non-DoD participants. The instruction should also describe refund procedures for conference fees.
- b. Update Administrative Instruction No. 48 or rescind it and issue a new instruction or other enforceable standard operating procedure delineating the responsibilities of the Joint Civilian Orientation Conference program manager and staff to administer and oversee the program. The guidance should also define the responsibilities of the Washington Headquarters Services in supporting the program's planning, execution, and funds control.
- c. Provide training on the new guidance to the Joint Civilian Orientation Conference program manager and staff, as well as Washington Headquarters Services personnel supporting the program.

**Response to Recommendation A.1:**

- a. Concur. ASD(PA) will update DoD Instruction 5410.19 to reflect new procedures, to include no collection of participant fees.
- b. Concur. Washington Headquarters Services will rescind Administrative Instruction No. 48.
- c. Concur. Washington Headquarters Services supports ASD(PA) training to enhance the program management of JCOC.

**Recommendation A.2:** We recommend that the Assistant Secretary of Defense (Public Affairs) and Director, Washington Headquarters Services, in conjunction with the Offices of the Under Secretary of Defense (Comptroller) and DoD General Counsel, initiate a preliminary review of the use of the Joint Civilian Orientation Conference fees received since the inception of the Miscellaneous Receipts Statute. The review should determine whether:

- augmenting the Office of Secretary of Defense appropriated funds allotment with conference fees resulted in an Antideficiency Act violation,
- sufficient Defense Operation and Maintenance funds were available for the \$5,869 cost overrun on Joint Civilian Orientation Conference 73, and
- the treasurer correctly closed the bank account and refunded overpaid conference fees.

Following the preliminary review, they should take appropriate actions or legal remedies to address improprieties and report the findings to the Office of Secretary of Defense.

**Response to Recommendation A.2:** Concur with OUSD(C) response to this recommendation dated August 13, 2009. However, the findings that gave rise to this recommendation we find to be de minimis. The \$500 conference fees were properly refunded to the participants who did not attend the events, and no one complained of not receiving their refund. The treasurer informed the JCOC manager that the actual costs exceeded the estimated costs. The JCOC manager informed the treasurer that there were sufficient funds available to cover the actual costs.

**Recommendation B.1:** We recommend that the Director of Administration and Management update DoD Directive 7250.13 to require a legal review of all planned uses of Official Representation Funds in support of the Joint Civilian

Orientation Conference program, and provide DoD personnel with proper training on the legal requirements for administering and using Official Representation Funds.

**Response to Recommendation B.1:** Nonconcur. The WHS staff that manages the Official Representation Funds (ORF) is a trained professional staff, and they follow the federal laws and regulations for administering and using ORF; review of all ORF requirements by OGC is not required. WHS personnel use professional knowledge, experience and judgment to review ORF requests and obtained legal advice as needed. WHS provided the DoDIG on April 10, 2009 with the business process documentation, ORF process overview, ORF approval thresholds, and standard operating procedures for ORF.

**Recommendation B.2:** We recommend that the Director of Administration and Management direct the Washington Headquarters Services, Financial Management Directorate, to work with the Offices of the Under Secretary of Defense (Comptroller) and DoD General Counsel to:

- a. conduct a review to determine whether the use of Official Representation Funds by ongoing programs, such as the Joint Civilian Orientation Conference, meet the legal requirements of section 127, title 10, United States Code;
- b. determine whether the Joint Civilian Orientation Conference program misused the funds and violated public law; and
- c. determine whether DoD personnel or the conference planner inappropriately benefited from the Joint Civilian Orientation Conference 74 cash advance.

**Response to Recommendation B.2:**

- a. Nonconcur. A separate review to determine the use of Official Representation Funds meeting the legal requirements of section 127, title 10, United States Code is outside the scope of this audit.
- b. Nonconcur. Reference page 18, paragraph 2. Disagree with the IG recommendation and findings in reference to the treasurer depositing \$18,050 on October 30, 2007 in the treasurer's personal account and the statement that the treasurer may have received interest earned from the bank account. Prior to JCOC 74, there was a bank account specifically for JCOC financial transactions. This account was closed at the time the treasurer deposited the money in his account. This was done for security reasons in lieu of carrying the money on his person. The treasurer was not aware at the time that his bank account was an interest bearing account.

The amount of \$18,050 was in the treasurer's account for less than 3 months. The treasurer paid several checks from November 1, 2007 through January 15, 2008 for \$9,998.43 to close out ORF expenses. He also issued a check on January 15, 2008 to the US treasury for the remaining amount of \$8,053. The auditor did not request any supporting documentation related to this matter. The auditor should verify the audit finding, obtain adequate supporting documentation, calculate the impact of the interest that may have accrued and consider the materiality of the issue instead of using speculation. WHS requested that the treasurer provide bank statements for CY 2007 and CY 2008 to verify the total interest he gained on his personal account during the two years. The total interest amount was \$6.40. Applying the 0.05% interest rate as shown in the treasurer bank statement for the entire year on the amount of \$18,050 which was in his account for two months, the maximum total interest incurred on that account for CY 2007 could have been \$3.83.

- c. Nonconcur. Reference page 18, paragraph 3. The DoDIG auditor did not obtain or request sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions within the context of the audit objectives. The auditor did not verify if the government credit card was a personal government credit card or government travel credit card. The treasurer used a government travel card for the JCOC program that was issued strictly to pay for the JCOC expenses and not for personal travel expenses. The auditor apparently assumed it was a personal government credit card.

Page 22

The contractor/planner was asked to review their records. The contractor identified the \$1064 mentioned in the review of the ORF funding (page 27) as a possible overpayment since the contractor could not produce a bill that validated the need for payment. The payment was outside the bounds of the contract but was understood at the time to be necessary to reimburse the contractor for additional dining costs for official guests since the CMP business American Express card was held as responsible for incidentals that were not covered by the deposit payment of \$5016. Since there is no evidence additional dining costs were incurred or billed, the contractor has returned the erroneous payment to FMD in a check written to the US Treasury. FMD received the refund after receipt of the IG report. The discovery of this error would have occurred when the ORF account was reconciled.

Page 33

**Recommendation C.2:** We recommend that the Assistant Secretary of Defense (Public Affairs) and Director, Washington Headquarters Services:

- a. Conduct a preliminary review of the use of American Forces Information Service funds to pay for Joint Civilian Orientation Conference 74 costs. If necessary, reimburse the American Forces Information Service for funds obligated and report Bona Fide Needs Rule or Antideficiency Act violations to the Office of Secretary of Defense.
- b. Require the JCOC program manager and WHS, Financial Management Directorate to work with the WHS contracting officer to review and reconcile the invoice payments for the two delivery orders used to fund Joint Civilian Orientation Conference 74. They should then reallocate the conference expenses to the correct lines of accounting and reimburse the American Forces Information Service as necessary; determine whether the contractor was overpaid for services provided and take any needed collection actions; and deposit any residual conference fees into the U.S. Treasury.
- c. Determine whether the six individuals who paid for Joint Civilian Orientation Conference 74 but did not attend require a refund. Either make refunds or deposit the \$18,000 collected into the U.S. Treasury as a miscellaneous receipt.

**Response to Recommendation C.2:**

- a. Nonconcur. The AFIS mission and ASD(PA) mission are aligned as indicated in the FY 2007 budget.
- b. Concur with recommendation to review and reconcile invoices and payments for the two delivery orders. Contracting has reviewed invoices and found that the contractor correctly invoiced for items and services that were within the scope of each task order. The contractor was not overpaid for services performed under the contract.
- c. Nonconcur. The JCOC manager requested the treasurer to refund the JCOC conference fees to the participants who did not attend the conference. The treasurer notified DFAS to refund the fees to the participants, and DFAS refunded the fees in September 2008.

**Recommendation C.3:** We recommend that the Director, Washington Headquarters Services direct the Senior Acquisition Executive in his office to review the use of indefinite-delivery, indefinite-quantity contract HQ0034-06-D-1007 and ensure that all future delivery orders the contracting officer issues meet the requirements of section 2262, title 10, United States Code. The Senior Acquisition Executive should also direct the contracting officer to appoint a

Contracting Officer Representative and obtain a complete statement of work for each delivery order to ensure that the contractor bills costs to the correct delivery order and Contract Line Item Number.

**Response to Recommendation C.3:** Concur. The contract HQ0034-06-D-1007 is at capacity and no further task orders will be placed against it. Future IDIQ contracts will be reviewed for correct usage. Contracting Officers and Contract Specialists contemplating an IDIQ contract will be required to follow guidance found at FAR 16.5 and DFARS 216.5. The task order planning sessions that are the subject of this report began with the review of 10 USC 2262 for application to the contractual work. None of the task orders on this contract required or authorized the contractor to collect funding in support of the events. Only ASD(PA) collected the funding and turned it over to WHS/Financial Management Directorate, which certified the funding for purpose, time, and amount for use on the contract task orders. All excess amounts on the task orders 0010 (none) and 0011 (\$39,360.58), were de-obligated from the contract(s) on November 28, 2007. In addition, the Contracting Officer's Representative (COR) Policy and guidance from OSD dated August 22, 2008 and WHS Operating Instruction WHS OI 50-03 (Contracting Officer's Representative) dated March 30, 2007 are in place.

[REDACTED]

  
Michael L. Rhodes  
Acting Director





# Inspector General Department of Defense

