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1962  
TEICHLER, A.

THE GEORGE WASHINGTON UNIVERSITY NAVY GRADUATE  
FINANCIAL MANAGEMENT PROGRAM

ADMINISTRATIVE CONTROL OF FUNDS - THE ANTI-DEFICIENCY STORY

A group research project prepared  
in partial fulfillment of the  
requirements in a Research Seminar  
in Comptrollership, (B.A. 295),  
under the direction of Dr. A. Rex Johnson

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January, 1962

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T2287

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## CHAPTER I

HISTORY AND EVOLUTION OF BUDGETARY CONTROLS  
IN THE FEDERAL GOVERNMENT

No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of receipts and expenditures of all public money shall be published from time to time.<sup>1</sup>

The meaning of the above clause has never been in issue.

However, control of the execution of the Government's budget has been hampered by a mutual distrust and lack of cooperation between the Legislative and Executive branches of the Government since the earliest days of our nation. The Congress, in exercising its constitutional right to control the purse strings, has attempted to control the Executive branch through highly specific and minutely detailed appropriations. On the other hand, the Executive, having been denied the principle of flexibility, has often willfully disregarded the congressionally approved financial plan.

Prior to 1870, the highly restrictive appropriation acts usually resulted in the need for deficiency appropriations. On several occasions, and especially during periods of national emergencies,

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<sup>1</sup>U. S. Constitution, Article I, Section IX, clause 7.



the Congress did grant the Executive departments the authority to transfer funds from one appropriation to another as a means of avoiding deficiencies. However, the Executive departments' consistent abuse of this privilege, during and immediately following the Civil War, led Congress to enact legislation in 1870 which removed all legal authority for such transfers and attempted to eliminate deficiency appropriations. Thus the principle of control through minutia was once again employed by the Congress, and the Executive departments were forced to either live within these controls or to bear the wrath of the Congress when requesting deficiency or supplemental appropriations.

In addition, the Act of 1870 contained a section which later became Section 3679 of the Revised Statutes. This original section provided that:

No executive department or other Government establishment of the United States shall expend, in any one fiscal year, any sum in excess of appropriations made by Congress for that fiscal year, or involve the Government in any contract or other obligation for the future payment of money in excess of such appropriations unless such contract or obligation is authorized by law.<sup>2</sup>

The atmosphere, however, in which this modest reform was launched was not conducive to a more stringent control of the purse strings. In the years that followed, the Government's receipts continued to greatly exceed its expenditures. From 1885 to 1893, an average surplus of 21 per cent was realized, reaching a high of 41 per cent

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<sup>2</sup>Section 7 (16 Stat. 251).

in 1888.<sup>3</sup> The financial problem of that era was how to dispose of the surpluses received from excessive tariff revenues. Consequently, little attention was given to the problem of improving the control of budget execution. Such fiscal prosperity bred extravagances; extravagances which led to wasteful, excessive, and uncontrolled government spending. The lackadaisical efforts on the part of the Executive and Legislative branches to control budget execution encouraged the executive departments and agencies willfully to disregard the financial boundaries imposed by the appropriation acts. The practice of incurring "coercive deficiencies" soon developed.

The departments governed their expenditures by the amounts of the estimates rather than by the amounts of the grants. If in any case less were granted than was estimated, the department or bureau affected, instead of revising its plans for the coming year to bring them within the financial limits of the reduced appropriation, continued them without change in perfect confidence that Congress would appropriate supplementary sums when they were requested rather than stop the service.<sup>4</sup>

Such arrogation by the Executive branch resulted in renewed Congressional efforts to curb deficiencies and to tighten control of budget execution. In 1905 and 1906, the Congress strengthened section 3679 of the Revised Statutes. The amendments established specific prohibitions regarding the obligation of funds in excess of appropriated

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<sup>3</sup>U. S. Bureau of the Census, Historical Statistics of the United States, 1789-1945, 1949, pp. 296-299.

<sup>4</sup>Lucius Wilmerding, Jr., The Spending Power (New Haven: Yale University Press, 1943), p. 140.

amounts and the acceptance of voluntary services or personal services in excess of those authorized by law, except in cases of sudden emergency involving the loss of human life or the destruction of property. The Anti-Deficiency Act, as the law became known, also provided a penalty clause which prescribed the punishment to be inflicted on individuals who violated the provisions of the act.

Any person violating any provision of this section shall be summarily removed from office and may also be punished by a fine of not less than \$100.00 or by imprisonment for not less than one month.<sup>5</sup>

But more important, the process of apportioning the appropriated amounts was introduced in 1905 as a tool of budget execution for certain appropriations. The authority to "make, waive, or modify" apportionments was vested in the heads of the departments and agencies concerned. Apportionments were to be made in such a manner as to preclude an expenditure rate which would result in a deficiency.

The most significant contributions to strengthening the link between the financial plan and the program objectives was the creation of the Bureau of the Budget in 1921, and its subsequent transfer to the Executive Office of the President in 1939. The power to apportion appropriations was transferred from the heads of the departments and agencies to the Director of the Bureau of the Budget by Executive Order 6166 of June 10, 1933; and in 1940, the apportionment process was extended by Executive Order 8512 of August 13 to all appropriations

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<sup>5</sup>Section 3679, Revised Statutes, 31 U.S.C.



made to government departments and agencies, including amounts made available by the Congress for the administrative expenses of Government corporations.

During World War II, the control of budget execution was necessarily relaxed. Since resources rather than funds were the primary consideration, the slow and inefficient budgetary process was shelved. Both the Executive and Legislative branches adopted a blank check approach toward financing the war effort. By 1944, however, the Congress, having become increasingly aware of the need for the control of the enormous appropriations, directed the Bureau of the Budget to maintain a continuous surveillance of certain defense appropriations and contract authority. This was done with the view of recommending repeal of those portions which were no longer needed for the purpose for which they had been granted.<sup>6</sup> In the following year, the Congress directed the Bureau to submit a list showing the balances of these appropriations and contract authority, together with recommendations for the repeal of those funds in excess of requirements.<sup>7</sup> Thus, another device required for successful budget execution was temporarily employed--the power to reserve or impound appropriations in excess of requirements.

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<sup>6</sup>General Provision of the Second Deficiency Appropriation Act of 1944.

<sup>7</sup>General Provision of the Second Deficiency Appropriation Act of 1945.

At the end of hostilities, the clamor for the reduction of Government spending and a general dissatisfaction with the administration of the Anti-Deficiency Act intensified interest in developing a more effective system for the control of budget execution. In May of 1947, the Chairman of the Subcommittee on Deficiencies of the Senate Committee on Appropriations, Senator Styles Bridges, requested the Director of the Bureau of the Budget and the Comptroller General to investigate the problem of fiscal control. The purpose of this study was twofold: to determine what controls were needed to prevent deficiency or supplemental appropriations; and to determine what should be done in order to fix responsibility on those officers of the government who incur deficiencies or who obligate appropriations without proper authority or at an excessive rate.

In a joint report submitted to the Senate Committee on Appropriations, the Director of the Bureau of the Budget and the Comptroller General both stated that, while it was possible to draft legislation designed to firmly fix responsibility for violations of the Anti-Deficiency Act, no law could be devised which would guarantee the elimination of deficiency or supplemental appropriations. There were too many unavoidable and uncontrollable factors which contributed to the necessity of granting such appropriations. Inaccuracies in budget estimates were inevitable because of the lengthy time period between the development and execution phases of the budget. The dynamic planning essential to attaining national objectives often

required revisions to budgeted programs. Also, legislation enacted after the submission of the budget but implemented during the budget year often resulted in unplanned expenditures. The problem, therefore, was not one of eliminating the deficiency or supplemental appropriations, but rather one of establishing "control of the rate of obligation of appropriations and contract authority while maintaining sufficient flexibility to provide for the most efficient and economical use of appropriations, under constantly changing conditions, for the purposes prescribed by the Congress."<sup>8</sup>

It was apparent that revisions to the Anti-Deficiency Act were in order. Section 3679 of the Revised Statutes had last been amended at a time when the executive departments and agencies were relatively few in number, and limited in scope. The rapid expansion of the Executive branch since World War I had caused, among other things, the need for the clarification of certain technical aspects of the act.

It is not at all clear what is meant by the provision that "all appropriations made for contingent expenses or other general purposes" shall be apportioned. Nor is it clear what appropriations are intended to be excluded from the apportionment system by the provision which excepts "appropriations made in fulfillment of contract obligations expressly authorized by law, or for objects required or authorized by law without reference to the amounts annually appropriated therefor." Similarly, it is difficult to obtain any general agreement as to what is meant by the provision authorizing the waiver or modification of apportionments "upon the happening of some extraordinary emergency or unusual circumstance".<sup>9</sup>

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<sup>8</sup>U. S. Bureau of the Budget and General Accounting Office Joint Report of June 5, 1947 to Senate Committee on Appropriations.

<sup>9</sup>Ibid.



But more significant changes were necessary if the control of budget execution was to be firmly established. First, there was no legal method of determining which officer was actually responsible for incurring obligations in excess of appropriated amounts. While the act clearly prohibited the incurrence of obligations in excess of apportionments at the departmental or agency level, there was no legal requirement to extend the prohibition to those officers at the operating level who were actually performing the obligation function. The question of responsibility could never be positively answered. Since the culprits could not be identified, the responsibility for these violations could be fixed only at the departmental or agency level. Obviously, the penalty clause would never be enforced on these grounds. Second, there was no legal requirement for the notification of the Congress when it appeared that the appropriations would be exceeded. In this connection, little progress had been made since the days of the "coercive deficiencies."<sup>10</sup> The first indication of a possible over-expenditure or over-obligation was usually in the form of a request for additional funds, submitted at a time when the only alternative remaining was either to approve the request or to suffer the consequences of sharply curtailed operations. Third, the Anti-Deficiency Act did not provide the legal mechanism for the establishment of reserves for contingencies or the withholding of obligational authority in excess of actual requirements. Legislation designed to

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<sup>10</sup>Ibid.



overcome these weaknesses was proposed by the Director of the Bureau of the Budget and the Comptroller General in 1947, but action was deferred.

In 1951, the Congress included a general provision, Section 1211, in the Appropriation Act of 1951, which modernized Section 3679 of the Revised Statutes. In essence, the changes to the Act of 1906 were those which had been proposed by the Budget Bureau and the General Accounting Office two years earlier. Among other things, the revised Anti-Deficiency Act integrated the provisions of existing related legislation and executive orders. The act continued the prohibitions against exceeding obligational authority or accepting personal services, etc. in excess of those authorized by law. The penalty clause was broadened, prescribing a range of punishment for violators from administrative discipline to a \$5,000 fine or imprisonment for a period of not more than two years, or both. Reports of violations were to be submitted to the President via the Bureau of the Budget, and to the Congress. But the most meaningful amendments were those which expanded the scope of the apportionment process. Thereafter, the apportioning officers were to establish reserves for contingencies in order to effect savings or to provide for changes in requirements. The time periods applicable to the apportionments or reapportionments were clearly defined. The procedure, including realistic time schedules, for the apportioning and reapportioning of obligational authority was

prescribed. In addition, the process was extended to include all appropriations and funds,<sup>11</sup> including contract authority and appropriations which were not limited to a fixed period of time. All apportionments, reapportionments, etc. were to be reviewed by the apportioning officers at least four times each year, and any apportionment or reapportionment of funds which indicated a necessity for a deficiency or supplemental appropriation was prohibited.<sup>12</sup> If such apportionments were made, the officer making them was required to report the circumstances to the Congress. Finally, the act required the establishment of a system of administrative controls which would extend the restrictions and prohibitions imposed by the act to the administrative subdivisions of each department or agency.

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<sup>11</sup>Under Section 3679(f) (1) of the Revised Statutes, apportioning officers may exempt trust funds and working funds expenditures which have no significant effect on the financial operations of the Government; working capital and revolving funds established for intra-governmental operations; receipts from industrial and power operations, and appropriations applicable to the interest or retirement of the public debt, claims, judgments, refunds, etc., private relief acts, and certain grants to states.

<sup>12</sup>Exceptions: apportionments to cover expenditures resulting from (a) laws enacted subsequent to the transmission of the budget to the Congress; (b) emergencies involving the safety of human life, the protection of property, or the immediate welfare of individuals in cases where an appropriation has been made to enable the Government to make payment of, or contribution towards, sums which are required to be paid by law.

The enforcement of the Anti-Deficiency Act, particularly in the Department of Defense, was far from effective in its early stages. Although the effective date for the Defense Department was July 1, 1951, the Secretary of Defense did not issue an implementing directive until March 20, 1952, about nine months after the effective date and eighteen months after the enactment of the amendments to the revised statutes. The lack of adequate criteria as to what constituted a violation further delayed implementation in each military service. Regulations under the revised statutes were first issued by the Department of the Army in September, 1952, and by the Department of the Air Force in August, 1953, after prolonged negotiations with the Department of Defense. The Navy Department issued regulations in April, 1952, by merely transmitting to all Navy installations a copy of the Defense Department directive.

In addition to the lack of criteria as to what constituted a violation, there also was a difference of opinion as to when a violation should be reported to the Congress. The Army proposed a report to the Congress only if the amount of the apportionment or the appropriation were exceeded. The Navy contended that the Army's proposal was actually the intent of the Congress provided that the violations were not willful or intentional, and also believed that once the period of availability for obligation had expired, adjustments which cause them to exceed a subdivision of an appropriation were not



violations. Both the Army and the Navy were cognizant of the large number of minor violations that would result because of their elaborate allotment systems that were then in effect, and attempted, without success, to liberalize the interpretation of the revised statute.

In 1956, the futility of attempting to control expenditures at the lowest possible level was clearly described by Mr. J. Harold Stewart, Chairman of the Hoover Commission Task Force on Budgeting and Accounting, while testifying before a Senate subcommittee.<sup>13</sup> He stated that there were over a million allotments of funds, some so minute and so detailed, that it was impossible to predict in advance what their levels should be. As a result of this minutia, there were over ten thousand violations of the Anti-Deficiency Act in the first year of its implementation. Most of these violations were purely mechanical, but they nevertheless required voluminous correspondence and much time to explain, and they created an administrative burden of sizeable proportion. They made the Anti-Deficiency Act a laughing stock because "it was not the sort of thing the Act was supposed to control."<sup>14</sup>

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<sup>13</sup>Subcommittee on Reorganization of the Senate Committee on Government Operations, Second Session, 84th Congress: Hearing on Senate Bill 3897.

<sup>14</sup>Ibid.



On 9 July, 1954 the Acting Secretary of Defense transmitted to the Congress a 5 cent violation with the following explanation: "This over-obligation of \$.05 resulted when an adjustment of \$.05 was made to a FICA voucher dated July 9, 1953. Prior to the date of this adjustment, the balance of the allotment was withdrawn since all known obligations had been liquidated. Accordingly, at the time of the adjustment there was no allotment balance to cover the amount. . . . At the time of the adjustment which created the over-obligation, less than \$6 million of the fiscal year program of \$60 million had been obligated under the appropriation."<sup>15</sup>

As a result of this testimony and other conclusive evidence that the elaborate allotment system when coupled with the reporting requirements of the Anti-Deficiency Act caused an undue administrative burden, the act was again amended in 1956. Section 3679 of the Revised Statutes was amended to provide that each department or agency work toward the objective of financing each operating unit at the highest practical level, from not more than one administrative subdivision of each appropriation in order to simplify the control system.

On April 4, 1957, the Postmaster General of the United States requested a statement of findings from the Comptroller General to ascertain whether the Post Office Department was in violation of the Anti-Deficiency Act. While he recognized that two violations had actually occurred in the early part of the fiscal year 1957, at the regional director's level, his question referred to the entire fiscal year's appropriation. The question posed by the Postmaster General thus required consideration not only of whether the apportionment of

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<sup>15</sup>Interim Report to the Committee on Appropriations, House of Representatives from the Temporary Subcommittee to Investigate the Effectiveness and Enforcement of the Anti-Deficiency Act and Other Federal Fiscal Legislation, 84th Congress, first session.

funds had been exceeded during the fiscal year, but also as to whether these apportionments had been made in accordance with the provisions of the act. Significant reapportionments had been made for July, December, and February at the expense of the funds that had been reserved for operations in the fourth quarter of that fiscal year. As a result, deficiency appropriations had been requested and the Postmaster General had issued instructions which if implemented would severely curtail postal operations during the balance of the year.

In reviewing the case, the Comptroller General reported that the reapportionments made by the Director of the Bureau of the Budget did not appear to come within the exceptions permitted by the Anti-Deficiency Act,<sup>16</sup> and that the Bureau of the Budget had not complied with the provisions of the act which required that the Congress be informed by the apportioning officer whenever, in his opinion, apportionments or reapportionments were being made at a rate which indicated that deficiency or supplemental appropriations would be necessary. The Comptroller General concluded that if the Congress determined that a deficiency appropriation were necessary, or if the Postmaster drastically curtailed services of the Post Office Department in the event no deficiency appropriation was made, there could be no question that the Director of the Bureau of the Budget, not the Postmaster, had violated the Anti-Deficiency Act. The Comptroller

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<sup>16</sup>Ibid.

General also pointed out that the penalty clause was not applicable to the Director of the Bureau of the Budget since the penalty clause did not apply to violators of subsection (c) (1); and added that the Postmaster General, while not technically in violation of the act, had not acted in accordance with the spirit and the purpose of the act.<sup>17</sup>

The circumstances surrounding this decision made it clear that the Anti-Deficiency Act should be revised to insure that the head of each agency could not avoid a deficiency by requesting reapportionments from the apportioning officer. Accordingly, in 1957, the act was amended by adding a prohibition against the requesting of apportionments or reapportionments which indicated the necessity of a deficiency appropriation, unless authorized by the exceptions in the Anti-Deficiency Act.

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<sup>17</sup>Comptroller General Decision B-131361: Comp Gen letter of April 12, 1957, to the Postmaster General, Vol 36, Decisions of the Comptroller General of the United States, July 1, 1956 to June 30, 1957, p. 705: ". . . when the Department requested the reapportionment of its funds it did so in the belief that the requested pattern of management of its funds for the fiscal year would result in the necessity for a deficiency or supplemental appropriation."



## CHAPTER II

### IMPLEMENTATION OF BUDGETARY CONTROLS IMPOSED BY SECTION 3679, REVISED STATUTES

#### Section 1

##### Implementation by the Bureau of the Budget

Section 3679, Revised Statutes as amended in 1951 and 1956, has had a profound impact on budget execution from the Office of the President down through all echelons of all federal agencies. Discussed in this chapter are the directives and the assignment of responsibilities contained therein which were issued by the Director of the Bureau of the Budget, the Secretary of Defense, and the Secretary of the Navy in order to satisfy the desires of Congress as set forth in Section 3679, Revised Statutes.

On the Bureau of the Budget level, control of appropriated funds is exercised primarily through the apportionment process and related reporting system. Present regulations established to serve the purposes of information and control in the execution of the budgetary and financial programs of the entire Federal Government are mainly contained in Bureau of the Budget Circular No. A-34, issued in



July, 1957. This circular includes instructions concerning apportionments, reapportionments, establishment of reserves, administrative control systems, reporting of violations of Section 3679, Revised Statutes, and concepts for apportionments and related budgetary reports. It is quite detailed in its instructions and provides agencies with an adequate framework within which implementing instructions tailored to suit individual agency needs may be formulated. In addition, Bureau of the Budget representatives are available on request to assist agencies in complying with the requirements of the circular.

The circular makes the head of each agency responsible to ensure that his agency's accounting system will provide the necessary controls for budget execution and will also provide the information needed as a basis for management action and for budget reports. Such accounting systems, together with the system of administrative control, must be designed to prevent the incurrence of obligations or the making of expenditures in excess of the limiting figures provided by Congress and by the system of apportionments established by Circular A-34. Also provided for is the reporting of accrued expenditures and applied costs where such data are available from agency accounting records. Each agency head must promptly develop and maintain an accounting system which provides for a full disclosure of resources, liabilities, and cost of operations. Data obtained from such an accrual accounting system are used to provide reports as a basis for review and subsequent action.

Section 3679 of the Revised Statutes, as amended, provides for financial apportionments and reapportionments of appropriations, funds, and contract authorizations to be made by the Director of the Bureau of the Budget. The law also provides that obligations or expenditures shall not be incurred or authorized in excess of such apportionments and reapportionments. Apportionments and reserves are intended to prevent obligation or expenditure of an account in a manner which would require a deficiency or supplemental appropriation; to achieve the most effective and economical use of amounts made available; to provide for contingencies; and to effect savings.

Two systems of apportionment were established as follows:

- a. Apportionments on an obligation basis - This system applies to all accounts and funds except those which are within the scope of the second system described in the next paragraph.
- b. Apportionments on an accrual basis - In those cases where authorizations or limitations set by Congress are on an accrual basis, and the law permits obligations for future payment to be incurred without being limited to the amount currently available in a fund, the apportionments will be on an accrual basis.<sup>1</sup>

Apportionments are usually made at the level of the appropriation or fund. However, upon determination by the Bureau of the Budget, apportionments may be made in certain cases below the appropriation level by activities, functions, projects, objects, or combinations thereof.

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<sup>1</sup>U. S. Executive Office of the President, Bureau of the Budget. Budget Circular A-34, 1960.

Though apportionments are normally made for calendar quarters, they may be made for other time periods within the year, or for the year as a whole, consistent with the purpose and nature of particular apportionments. They are made for periods other than calendar quarters whenever such periods are more representative of program activities and will facilitate their execution.

Agency heads are responsible for submission of information required by the Bureau of the Budget for use in making apportionments. However, the bureau is not limited to data submitted by agencies and may, without a request from the agency concerned, apportion or reapportion appropriations or funds as conditions warrant. By the apportionment process, as pertains to the Navy, each bureau must again justify fund requirements as in the case of the original budget formulation process. Based on these requests, the Director of the Budget determines the amount of obligations which may be incurred during a specific period under an appropriation and then returns the approved apportionment through the Office of the Secretary of Defense to the Office of the Comptroller, who returns it to the responsible bureau.

Administrative controls for handling apportionments within agencies are the responsibility of the heads of the agencies. Such regulations are, however, subject to the approval of the Director of the Bureau of the Budget. They are to be designed to (a) restrict obligations or expenditures to the amount of apportionments or



reapportionment; made for each appropriation or fund and (b) enable the agency head to fix responsibility for the creation of any obligation or the making of any expenditure in excess of an apportionment or reapportionment.<sup>2</sup>

The Bureau of the Budget's interest does not end with the issuance of an approved apportionment request. A continuing check on all apportionments is maintained through a system of monthly reports. These reports provide essential information in connection with the formulation and execution of the entire budgetary program. They were designed to show on a consistent basis and in practicable detail the budgetary status of appropriations or funds and the financial data related thereto. Together with other available information, they are used for the review of apportionments by the Bureau of the Budget, provide information on which subsequent apportionments or reapportionments will be based, and to point up any deficiencies which might exist.

## Section 2

### Implementation by the Department of Defense

As required by Bureau of the Budget Circular A-34, the Secretary of Defense prescribed administrative controls for appropriations and apportionments by issuing Secretary of Defense Directive, "Administrative Control of Appropriations Within the Department of Defense" on March 20, 1952. This directive was revised on August 11, 1954, and reissued on August 18, 1955.

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<sup>2</sup>Ibid.



The purpose of the directive was in essence the same as that which was stated in Bureau of the Budget Circular A-34. The provisions of the directive were made applicable to all components of the Department of Defense to which appropriations or funds are made available and outlined the Secretary's general regulations for control of funds within the Department of Defense.

It charged the Secretary of the appropriate military department or other designated official of the component with the responsibility to prepare and submit requests through the Office of the Assistant Secretary of Defense (Comptroller) to the Director of the Bureau of the Budget for apportionment or reappropriation of each appropriation or fund. On receipt of approved apportionment requests by the Secretary of Defense, a careful review is made of the funds so authorized prior to the issuance of fund allocations to the appropriate component for further allocation to the requesting bureaus and offices. This review is conducted in light of the "Department of Defense Financial Plan for FY\_\_ Obligation Plan for General and Special Fund Appropriations." Based on this review and in consideration of current defense plans and requirements, the Secretary of Defense allocates the funds and establishes the obligation rate and expenditure targets for the three military departments. Active and continuing control is maintained by the Office of the Secretary of Defense on all apportionments received by the Department of Defense. This active surveillance

by the Office of the Secretary of Defense is felt throughout the Department of the Navy, and as a result, has more than a perfunctory influence on budget execution in the Navy.

The directive also makes the secretaries of the military departments, or designated officials of other Department of Defense components, responsible for making allocations of apportioned amounts, in writing, to the heads of operating agencies. The sums of the allocations within each appropriation must be within the amount indicated within apportionment documents as being available for use for each apportionment period. Upon receipt of allocations, the heads of operating agencies are then responsible for making allotments in specific amounts, in writing, to the heads of installations or other organizational units as are required, but the sums allotted from each allocation may not exceed the amount of that allocation available for each period. Suballotments are authorized to be made in writing by recipients of allotments to such other organizational units, including those of other Department of Defense components, as may be required. But again, the sums suballotted from each allotment may not be in excess of the amount of the allotment available for use for each period. Open allotments may be established by the heads of operating agencies when normal allotment of funds noted above would be impractical of administration. In making such allotments the head of the operating agency is responsible to the extent prescribed by law for such allotment;

he must prescribe frequent accounting and reporting procedures in such manner that will permit his taking action as may be necessary to prevent an overobligation.

The Secretary of Defense Directive reiterates the limitation imposed by Section 3679 of the Revised Statutes regarding obligations and expenditures.<sup>3</sup> It states:

No officer or employee of the Department of Defense shall authorize or create any obligation or make any expenditure, except as provided by Section 3679 of the Revised Statutes as amended, (a) in excess of an apportionment or reapportionment, or (b) in excess of the amount divided or subdivided administratively in accordance with the provisions of this directive.<sup>3</sup>

As the Director of the Bureau of the Budget charged the Secretary of Defense with instituting appropriate administrative controls over apportionments, so has the Secretary imposed similar responsibilities on the Secretaries of the military departments, the heads of operating agencies, the designated official of the Office of the Secretary of Defense, and the heads of other organizational units assigned financial functions. These officials are charged with maintaining accounting records to provide full disclosure of the financial operations and resources as are applicable at each successive organizational level and which may be required to provide data regarding current and continuing available balances at each required stage of funding operations.

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<sup>3</sup>U. S. Department of Defense, Office of the Secretary of Defense, Secretary of Defense Directive, Administrative Control of Appropriations Within the Department of Defense, August 18, 1955.



Financial reports must be taken from such records or be reconcilable thereto.

When any provision of Section 3679, Revised Statutes, or any provisions of the Secretary of Defense's Directive have been violated, the head of the organizational unit under whose jurisdiction the violation has occurred must promptly report each violation in a separate report to the secretary of the respective military department, or to the designated official of the Office of the Secretary of Defense. These officials are in turn charged, upon the basis of such reports, or other data which may be obtained, with taking appropriate disciplinary action. Such action may include suspension from duty without pay, removal from office, or appropriate action under the Uniform Code of Military Justice. In addition, such officials shall take immediate action to institute procedural changes, as required, to preclude recurrence of violations.

The Assistant Secretary of Defense (Comptroller) is responsible for reviewing reports of violations and the administrative disciplinary action taken. He must prepare the reports required for submission by the Secretary of Defense to the President and the Congress with respect to violations and, when necessary, also makes recommendations to the Attorney General for prosecution. Another of his assigned duties is to insure that known violations are reported, that the reports are complete, and that disciplinary action is taken where warranted.



Correspondence files indicate that reports are returned for reconsideration in those instances where it appears that appropriate disciplinary action has not been taken.

### Section 3

#### Implementation by the Secretary of the Navy

The various bureaus and offices of the Navy Department, all commands, activities, and organizational units to which funds are granted are responsible, with respect to appropriations under their administration, for controlling obligations and expenditures.<sup>4</sup> Operating instructions of the Secretary of the Navy which are required to implement the regulations issued by the Secretary of Defense concerning responsibilities for funds are published in the Navy Comptroller Manual augmented by a series of NAVCOMPT Instructions and Notices. Compliance with the instructions appearing in that manual and related directives is mandatory for all persons and activities of the Department of the Navy except when specific authority to deviate therefrom has been obtained from the Comptroller of the Navy. The Secretary of the Navy has designated the commanding officer of naval activities as being responsible for the administration of all authorizations of funds granted to those activities. Such responsibility cannot be delegated, in whole or in part, within

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<sup>4</sup>U. S. Department of the Navy, Office of the Secretary of the Navy, Navy Regulations, Art. 0401.

commands. Any effort to delegate all or part of this responsibility, whether oral or in writing, is a violation of the instructions of higher authority.<sup>5</sup> Commanding officers are held personally responsible for any act of their own, or an act of a subordinate within their activities, which causes an overcommitment, overobligation, or overexpenditure of an authorization of funds. In some instances, certain officers, such as commissary officers or others of similar nature, may be granted authorizations of funds directly in lieu of granting them to the commanding officer. In these cases, the commanding officer is not responsible for the administration of the funds.

The Secretary of the Navy has recognized that in some commands the commander cannot maintain direct control over each act of a subordinate which results in an obligation, commitment, or expenditure. Even though this is true, the commanding officer is still held responsible and must take whatever action is necessary to establish and maintain adequate control procedures.

In some circumstances authorizations of funds must be made to commanding officers outside of the immediate activity receiving an allotment. In these instances, the commanding officer responsible for the allotment may issue either a suballotment or an operating target amount. The commanding officer receiving a suballotment has the same

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<sup>5</sup>U. S. Department of the Navy, Office of the Comptroller. Navy Comptroller's Manual, Vol. III.

jurisdiction and responsibility for its administration as for an allotment. The allotment holder who grants the suballotment is relieved of legal responsibility for submitting a report of violation under Section 3679, Revised Statutes, in the event of an overcommitment, overobligation, or overexpenditure under the suballotment; however, it does not relieve his responsibility for submission of basic allotment reports. When operating targets are utilized, strict adherence to these amounts does not constitute limitations within the meaning of Section 3679, Revised Statutes. The commander to whom the basic allotment has been issued retains legal responsibility for all commitments and obligations incurred for functions covered by the target amounts.

The administrative controls of appropriations issued by the Secretary of the Navy prescribe that a report or record will be prepared when authorizations of funds are issued, obligations or commitments are created, or expenditures are made or recorded in excess of available funds. Such expenditures in excess of available funds constitute a violation of Section 3679, Revised Statutes, as amended. The Secretary of the Navy's interpretation of what constitutes such a violation is as follows:

a. No violation is considered to exist when an over-obligation, overcommitment, or overexpenditure is the result of not posting available documents which increase fund availability, making erroneous entries, or making an erroneous charge. The apparent violation in these instances is eliminated by taking corrective action as required, providing such action does not necessitate an augmentation of funds or the cancellation of other obligation or authorization of fund documents.



b. Reporting requirements for the following funds, miscellaneous accounts, and special deposit accounts, are applicable only at the appropriation level:

Trust Funds

Deposit Funds

Naval Working Funds

Navy Industrial Fund

Navy Management Fund

Withheld Individual Income and F.I.C.A. Taxes, Navy

Successor Accounts

c. No violation is considered to exist when an obligation or commitment is received in the fiscal office of the accountable activity subsequent to the return of funds under a final report provided both of the following conditions exist:

(1) The obligation or commitment was incurred on or prior to the date of return of the funds, and

(2) The amount of funds returned is the same or in excess of the amount of the obligation or commitment received.

d. No violation is considered to exist when funds are withdrawn prior to submission of a final report and subsequent to such withdrawal an obligation or commitment is received which causes an overobligation or overcommitment if the following conditions exist:

(1) The obligation or commitment was created on or prior to the date of withdrawal of the funds, or

(2) The funds previously withdrawn are sufficient to cover the overobligation or overcommitment and are available for reinstatement to the authorization.

e. No violation is considered to exist when certain adjustments of contractual obligations incurred prior to expiration of an appropriation must be made.

f. When commitments, obligations, or expenditures are made in excess of an authorization of funds under conditions which are covered in a, b, c, d, and e above, a violation of Section 3679, Revised Statutes will exist.<sup>6</sup>

As in the case of the Assistant Secretary of Defense (Comptroller), the Comptroller of the Navy maintains a continuous "watch" over funds allocated to the Navy, but to a more detailed degree. Status of funds

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<sup>6</sup>U. S. Department of the Navy, Office of the Comptroller, Navy Comptroller's Manual, Vol. II.



reports are carefully reviewed to detect adverse trends, and action taken to preclude violations of Section 3679 if at all possible.

The military departments are authorized by statute to incur obligations and commitments in excess of appropriations for the purpose of procuring or furnishing clothing, subsistence, storage, fuel, quarters, transportation, or medical and hospital supplies not to exceed the necessities of the current fiscal year.<sup>7</sup> The Secretary of Defense and the Secretary of the Navy have prescribed that the use of such authority will be restricted to emergency circumstances of such nature that immediate action is imperative and cannot be delayed. Since the specific conditions that could conceivably be considered as an emergency could not reasonably be documented, the exercise of this authority is left to the discretion of the responsible officer or official concerned within the broad policy guidance of emergency circumstances.

The Bureau Accounts and Procedures System<sup>8</sup> for the Department of the Navy is a system of administrative controls which restrict commitments, obligations, and expenditures against appropriations and funds to the amount of apportionments or reapportionments or to the amount permitted by agency regulations for administrative control under apportionments.

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<sup>7</sup>Revised Statutes, (41 U. S. Code 11), Section 3732.

<sup>8</sup>U. S. Department of the Navy, Office of the Comptroller.  
Navy Comptroller's Manual, Vol. VI.

It is in the Office of the Comptroller of the Navy that fund allocations are made to the various bureaus and Headquarters, Marine Corps based on: (a) funds made available for allocation; (b) judgments of the Chief of Naval Operations and the Secretary of the Navy, and (c) recommendations furnished by the bureaus on Budget Activity Allocation Form (NAVEXOS 3147). Allocations made by the Office of the Comptroller are an internal Navy control device and represent an approved subdivision of an appropriation by budget activity. Not all funds made available to NAVCOMPT are passed out by means of budget activity allocations. Reserves are established in light of current plans and programs, and in consideration and respect for Section 3679.

#### Section 4

##### Implementation by Bureaus and Offices of the Navy Department and Headquarters, Marine Corps

Bureau control is maintained by means of monthly status of allotment reports required for submission from each allotment holder. Based on these reports, periodic adjustments are made to the "holder's" basic allotment as a means of obtaining maximum utilization of available funds and/or to preclude a violation of Section 3679. Further, each bureau or office and Headquarters, Marine Corps issues instructions that supplement the Navy Comptroller Manual, and stress the necessity of exercising sound administrative controls over fund authorizations.

On receipt of fund allocations by bureaus or offices and Headquarters, Marine Corps, each determines the amount to be granted to subordinate and other activities and issues authorizations to incur obligations and make expenditures in the amounts granted. Prior to release, however, certain reserves are established with which to fund unforeseen requirements or to "bail out" those activities that require additional funds to prevent a violation of Section 3679 or to eliminate a violation that has been incurred.

Although funds may be authorized in the form of project orders, bureau procurement documents or an interbureau citation of funds, a quarterly allotment of funds is most commonly used. Funds authorized by means of an allotment represent firm limitations under Section 3679 and are available for use only during the "availability for obligation period" of the financing appropriation.

### Section 5

#### Implementation by Field or Allotment Level

The recipient of an allotment, well aware of the implications of Section 3679 of the Revised Statutes, establishes controls that are normally not different from those established on the department level. He cannot, however, delegate his financial responsibility to a subordinate, though he may, through the use of suballotments, establish the personal liability of a subordinate or the commanding officer of another command.

In each case, where personal liability under Section 3679 exists, there is a tendency to hold reserve funds and keep more or less elaborate financial records.

Ordinarily, an allotment holder is required to retain responsibilities under Section 3679, and make funds available to station departments in the form of planning estimates. Under this arrangement, it is of utmost importance that a reserve for contingencies be established, that detailed station directives be issued, and that the station comptroller keep the commanding officer advised of the status of his allotment.



### CHAPTER III

#### SUMMARY OF COMMENTS CONCERNING SECTION 3679

##### OF THE REVISED STATUTES

For the most part, this material is based on personal interviews with representatives of the various offices, bureaus, and subordinate echelons of the Department of Defense and Navy Department with particular emphasis directed toward what influences, if any, on controls and reviews stem from the penalties that can be imposed for violation of any provision of Section 3679. For obvious reasons personnel interviewed are not identified, nor are their particular offices names. Most interviewees were cooperative, some to the point of becoming embarrassingly vehement in their convictions.

A summation of comments and opinions received during the course of the interviews follows:

a. As to the necessity of the statute - All levels of control agreed that the Anti-Deficiency Act was a necessary tool in maintaining control in the execution of the Government's budgetary and financial programs. Many representatives described it as "a necessary evil."

b. Does the statute accomplish its purpose? - All representatives agreed that it did, but several questioned the costs involved in rendering violation reports from as low a level as that of the suballotment or allotment holder.

c. Recommendations for change - A majority of representatives thought that violation reports should be required only if the entire appropriation of funds were overobligated or overexpended.

d. As to adverse effects of the statute -

(1) Maximum utilization of funds appropriated cannot be realized because of the necessity for each level of control below the Bureau of the Budget level to hold back reserves for contingency purposes.

(2) Apportionment limitations can and have caused delays in planned programs.

(3) Although funds may be urgently required, the provisions of Section 3679 make virtually impossible the obligation of 100% of funds authorized.

(4) Encourages unorthodox procedures and practices which have an unfavorable influence on subordinates.

(5) Necessitates the employment of additional personnel on each level to review and process the numerous reports that are required.

(6) Considerable costs are involved in maintaining elaborate and, in certain areas, duplicate records.

(7) Poor morale factor - many in a command are "under the gun" when a commanding officer is required to report a violation.

e. As to consistency of the statute -

(1) The commanding officer of a satellite activity has little, if any, control over the office performing his accounting. Therefore, he may overobligate or overexpend because of a lack of adequate financial

management reports.

(2) Large activities which perform work for others can take up receivables in projects 94, 98, 99 on the basis of orders accepted. This is of particular advantage if a violation appears imminent.

(3) In accordance with paragraph 032010-7, Navy Comptroller Manual, the large activity has an advantage in that costs incurred in excess of a customer citation of funds are not considered an overobligation provided the customer is not billed before additional funds are granted.

(4) The commanding officer of a remote station, manned largely by untrained indigenous personnel, is subject to the same penalties for violation of Section 3679 as the commanding officer of a mechanized, well staffed state-side activity.

(5) In accordance with paragraph 022072-3 (a) (2), Navy Comptroller Manual, an industrial-commercial activity can, based on a customer's work request, issue a work request on itself and delay adjustments of obligations until June 30 of that fiscal year, thereby avoiding the necessity of reporting an overobligation should one exist at the time the work is performed.

(6) The higher the level of control, the more the flexibility in administrative control. Generally, this flexibility does not exist for the suballotment or allotment holder.

(7) The retired officer who was responsible for the administration of funds while on active duty does not suffer the same consequences for a violation as the member who remains on active duty.

(8) The commanding officer of a unit or command operating under isolated local emergency conditions is held as responsible under Section 3679 as the commanding officer of a support activity operating under routine and normal conditions.

(9) Type and form of disciplinary action taken against parties to a violation varies according to personal interpretation and involvement of the senior.

(10) Some stations have an allowance for a trained comptroller, others do not.

Opinions of Navy department personnel, as expressed in their various comments, reflect a general belief that Section 3679 of the Revised Statutes hinders the efficient utilization of funds and is not uniformly applied. While it provides a system of administrative control which permits responsibility for an overobligation or overexpenditure to be fixed, costs are considerably increased incident to the fulfillment of reporting and record keeping requirements. Reserves established for contingencies together with the manifest impossibility for allotment holders to obligate fully, lead to end-of-the-year appropriation balances even when funds are desperately needed for urgent programs. Certain variations in accounting procedures may normally be expected in comparing large manufacturing activities with small dependent or isolated units. Most of these variations provide the larger activity a degree of flexibility which



permits the avoidance of some violations. Compliance with Section 3679 of the Revised Statutes is equally applicable to small activities which not only lack flexibility in accounting procedures but are more often handicapped by factors of location, inadequate or untrained personnel, and emergency conditions.

## CHAPTER IV

### AN ANALYSIS OF VIOLATIONS OF SECTION 3679, REVISED STATUTES, OCCURRING DURING THE PERIOD 1958-1960

#### Section 1

##### General

All data and statistics contained in the analysis of the violations reported during the period 1958-1960 were obtained from the official files of the Comptroller of the Navy.<sup>1</sup>

In an attempt to develop trends or reasons for the incurred violations, the data obtained were divided into seven categories for each year examined. These categories are:

1. Violation by appropriation
2. Dollar amount of violation
3. Violations by activity
4. Causes or reasons for violations
5. Elimination of status of violations
6. Procedural action taken or recommended to prevent recurrence

of the type of violation reported.

7. Disciplinary action taken or to be taken.

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<sup>1</sup>Permission to use and record data from these files was obtained from Mr. Phil O'Connell and Mr. McKenzie, both from the Office of the Navy Comptroller.

As nearly as could be determined, all violations were reported in accordance with existing instructions. In this regard the applicable instructions are contained in the Navy Comptroller Manual, which states,

Section 3679(g) of the Revised Statutes, as amended by sec. 1211 of the Act of September 6, 1950 (64 Stat. 767); 31 U. S. Code 665(g), provides that all agencies of the Government receiving appropriations of public funds will establish administrative regulations to prevent any act which will cause an obligation, commitment, or expenditure to be made in excess of an appropriation, apportionment, reapportionment, or subdivision thereof, including allotments. Pursuant to this requirement, the Department of Defense has issued regulations titled "Administrative Control of Appropriations Within the Department of Defense," the contents of which are contained in Volume 2, Appendix A. Paragraphs 032010 and 032011 prescribe the procedures for determining when a violation has occurred, the investigative action to be taken, and the content of reports to be submitted concerning such violation.<sup>1</sup>

When it has been determined by an activity that an actual or apparent violation has been committed, a report will be prepared in letter form with the subject as "Violation of Administrative Control of Appropriations Regulations (Report DD-SD(AR) 170" and submitted via the military chain of command and the bureau having management control of the activity at which the violation occurred.<sup>2</sup>

The letter report submitted for an actual or apparent violation will contain the following:

1. Authorization identification
2. Authority document

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<sup>1</sup>U. S. Department of the Navy, Office of the Comptroller. Navy Comptroller's Manual, Vol. II.

<sup>2</sup>Ibid.

3. Authorization grantor
4. Authorization holder
5. Detection of violation
6. Financial data
7. Statement of circumstances
8. Elimination of status of violation
9. Evidence of willful intent to violate
10. Responsibility for violation
11. Statement of responsible officials
12. Disciplinary action
13. Procedural action taken or recommended
14. Pertinent remarks<sup>3</sup>

## Section 2

### Specific Breakdown

In 1958, 147 actual or apparent violations were reported. Of this number, 137 were determined to be actual violations, while 10 were nonviolations and so recorded by the Office of the Navy Comptroller. In 1959, of the 52 cases reported, 2 cases were determined to be nonviolations. Of the 54 cases reported in 1960, 4 were nonviolations.<sup>4</sup> All such nonviolations have been excluded from the statistical data.

Table 1, page 41, shows a detailed breakdown of violations reported, by individual appropriation and dollar amount exceeded. The particular classification by amount was selected as being the most representative to show specific trends for the various reported violations. For example, it can be seen that the greatest number of violations in any given year were for amounts less than \$100. A detailed breakdown by percentage, computed by number of violations in each dollar

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<sup>3</sup>U. S. Department of the Navy, Office of the Comptroller, Navy Comptroller's Manual, Vol. III.

<sup>4</sup>Official files, Navy Comptroller Office.



TABLE 1. VIOLATIONS BY APPROPRIATION

Appropriation	1958						1959						1960					
	0-100	100-1000	1000-5000	5000-10000	10000-20000	Over 20000	0-100	100-1000	1000-5000	5000-10000	10000-20000	Over 20000	0-100	100-1000	1000-5000	5000-10000	10000-20000	Over 20000
1701804 Oper & Maint, Navy																		
1771105 Mil Pers MARCORPS						1	1											
1791413 Mil Pers, Navy																		
1791405 Mil Pers, Naval Res																		
1791702 Ordnance & Facilities, Navy																		
1781502 Aircraft & Facilities, Navy																		
17-1101080 Mil Asst Exec																		
17X1611 Ship & Conv, Navy																		
17X1205 Mil Constr																		
17X1109 Procurement, USMC																		
17X4910 Navy Mgt Fund																		
17X4217 Def Housing, Navy																		
1771413 Navy Per Gen Exp																		
17X4911 Naval Stock Fund																		
1791002 Medical Care, Navy																		
17X1319 Research & Development																		
17c1106 MARCORPS Troops & Fac																		
17X1504 Procurement, Navy																		
17X1235 MCON, Res Forces, Navy																		
1781601 Ships & Facilities, Navy																		
1791803 Ser Wide Sup & Fin, Navy																		
1781301 Ser Wide Opns, Navy																		
	50	39	20	7	8	13	21	19	4	1	4	1	16	13	10	5	7	3
	147 cases reported						52 cases reported						58 cases reported					
	10 nonviolations						2 nonviolations						4 nonviolations					
	137						50						54					
	147 cases reported						52 cases reported						58 cases reported					
	10 nonviolations						2 nonviolations						4 nonviolations					

amount classification is as follows:

Year	Amount in Dollars						100%
	0 100	100 1000	1000 5000	5000 10000	10000 20000	Over 20000	
1958	36.5	28.5	14.6	5.1	5.8	9.5	- 100%
1959	42.	38.	8.	2.	8.	2.	-- 100%
1960	29.6	24.1	18.5	9.2	13.0	5.6	- 100%

A review of these percentages indicates that a large majority of the violations for each year was for an amount less than \$1000.

As previously stated, Table 1 shows violations by appropriations for the three years under study as well as dollar amounts. No significant trends which would relate an unusual number of violations to particular appropriations were noted. Violations appear to be fairly well distributed among the appropriations shown. There is no one appropriation which is consistently high in violations over the three year period, although some appear more often in one year than in the other years.

TABLE 2

## VIOLATIONS BY TYPE OF ACTIVITY

	1958	1959	1960
Individual Ships	5	1	1
Naval Air Facility		2	3
Naval Air Station	27	19	12
Naval Shipyard	28	8	9
Bureau	8		1
Fleet Activities	1	2	1
Naval Station	33	2	4
Reserve Training Center	1		
Marine Corps Base	6	2	2
Naval District Headquarters	4		3
Commissary Store	4		
Naval Gun Factory	3		
Supervisor of Shipbuilding	1		
Naval Ammunition Depot	3	2	2
Marine Corps Air Station	2		1
Naval Supply Activity	5	3	4
Military Advisory Group	2	3	1
Fuel Depot	1		
Naval Area Audit Office	1		1
Naval Forces NELM	1		
Naval Forces Korea	1		
Naval Weapons Laboratory		1	5
Medical Facilities		1	1
Reserve Fleet		1	
Electronics Laboratory		2	
Technical Training Center		1	3
	137	50	54

Table 2 depicts the reported violations by activity. It appears that the most frequent offenders in all three years shown are Naval Air Stations and Naval Shipyards. This greater number of violations, in all probability, is caused by the complexity of the operations of these activities. It will be noted that the number of Naval Stations reporting violations for the year 1958 also was quite large in comparison to other activities, except for Naval Air Stations and Naval Shipyards. No apparent reason can be found for the large number of Naval Stations committing reportable violations during that particular year.

Table 3

## CAUSES OF VIOLATIONS

	1958	1959	1960
Inaccurate Accounting Data	4		
Improper Obligations	3		
Posting Mistakes	17		
Internal Control	29	34	27
Price Changes	5	2	2
Shortage of Personnel	1		
Substitution		2	
Improper Estimates	8	1	2
Inexperience	5	5	3
Misunderstanding	14	3	3
Inadequate Department Control	1		
Delay in Granting Funds	1		
Unknown	49	3	17
	137	50	54



Table 3 shows the causes of violations broken down into the most significant reasons behind the violation. Most of the causes or reasons were attributed to a lack of adequate internal control procedures at the activity or field level. In all cases the causes of the violations were those submitted by the reporting activity in their letter report.

Table 3 incorporates the rather detailed reasons for violations under broader but still descriptive categories. Typical of causes shown in reports are the following examples:

- a. Failure to record obligation before expenditure.
- b. Inexperience - Bureau Instruction susceptible of misinterpretation.
- c. Failure to post obligations as they occurred.
- d. Statement of limitation on funds overlooked by procurement office.
- e. Thought material requisitioned was APA.<sup>5</sup>
- f. Weakness in procedure for controlling outfitting allotments. Never a doubt about total funds available, but a problem of timing.
- g. Inadvertently failed to check the amount of procurement against amount of procurement authorization.
- h. Misunderstanding - activity thought it could obligate funds before receipt of allotment.

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<sup>5</sup> Appropriation Purchases Account - Reimbursement not required at activity or field level.

- i. Change in prices between date of order and date of receipt.
- j. Erroneous charges applied to project order.
- k. Failure of the activity to submit a request for funds for the second quarter.
- l. Failure to take into consideration the rate of exchange from United States to Canadian dollars in estimating funds for civilian payroll.
- m. Faulty bookkeeping procedures resulting in failure to establish an obligation for retirement contributions.
- n. Cost of repair job more extensive than anticipated.
- o. Substitution by supply activity of an item having a unit price in excess of price obligated by allottee.
- p. Failure to exercise adequate control over work request.
- q. Inadequate review of funds status.
- r. Obligation of funds to a nonexistent bureau control number.

In all cases examined there was not a single one which reported a willful intent on the part of responsible personnel to exceed authorized amounts.

Table 4 lists the means or methods used to eliminate the status of violation. In all cases with the exception of one, the violation was eliminated.<sup>6</sup> In this respect and according to the reports submitted,

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<sup>6</sup>Violation 58-113 of NAVCOMP Official Files, Bureau of Medicine and Surgery, Appn. 1781002, in the amount of \$8,083,885.41. A supplemental request having been denied, the overobligation has not been eliminated.

TABLE 4

## ELIMINATION OF STATUS OF VIOLATION

	1958	1959	1960
Augmentation	111	37	43
Adjustment		3	1
Receipt of Allotment	7	5	
Use of Subsequent Qtrs. Funds	13	3	7
Cancellation of Requisition	1	2	3
Transferred to Primary Allotment	3		
Transferred between Allotments	1		
Not Eliminated	1		
	137	50	54

there appeared to be no difficulties encountered in eliminating the status of the violation. In the majority of cases, activities received an augmentation of funds for the amount of the violation.

TABLE 5

## PROCEDURAL CHANGES

	1958	1959	1960
Restrictive Statements		3	
New Procedures Established (local)	33	11	7
Procedures Modified	26	6	7
Training of Personnel	12	4	4
Procedures Revised	5	4	5
Attempt to Obtain More Experienced Personnel		1	
Enforce Administrative Control	1	1	6
None	60	20	25
	137	50	54

Table 5 shows the procedural changes taken or recommended to be taken to prevent recurrence of the type of violation reported. No remedial action was taken in 44 per cent of the violations reported. This would indicate that the procedures in effect for the administrative control of appropriations were considered adequate in almost half of all cases. Violations occurring in these instances were for the most part caused by the ever present "human element." The relative importance of this factor is clearly indicated when the reasons for the violations are studied.

As for the remainder of the violations committed, the procedural changes listed can, in general, be grouped under one main heading of local procedures or local instructions for the administrative control of appropriations. This becomes more evident if the changes made are studied in relation to the causes of the violations listed in Table 3.

A few examples of the detailed procedural changes taken or recommended are:

- a. Local procedures instituted to provide adequate controls.
- b. Local procedures established.
- c. Enforce administrative control in observing monetary limitations in commitment documents are not exceeded.
- d. Weekly estimates of funds for refueling now made. Unobligated balance to be determined daily.
- e. Implemented more stringent control over allotted funds.



f. New procedures established which insure prevalidation prior to purchase action.

g. Modified internal procedures for control of funds.

h. All obligations will be transmitted promptly. Fiscal officer will conduct monthly reviews to insure receipt of all orders.

i. Internal instructions issued to insure all personnel verify availability of funds prior to issuing procurement document.

j. More stringent controls and effective liaison established.

k. Expanded record keeping procedures.

l. Inclusion of restrictive statement in requisitions.

m. Reindoctrination of personnel as to directives pertaining to obligation of funds.

n. Control procedures amended by transferring review of status of allotment to more experienced unit.

o. Memorandum accounting records revised and personnel indoctrinated.

p. Various new procedures implemented and an attempt made to obtain more experienced personnel.

TABLE 6  
DISCIPLINARY ACTION

	1958	1959	1960
Letter of Warning		1	
Letter of Admonishment	2	3	2
Cautioned		1	
Oral Admonishment			8
Oral Reprimand			2
Oral Warning	1		6
Oral Criticism			1
Nonpunitive Disciplinary Action			1
None	134	45	34
	137	50	54

Table 6 sets forth the disciplinary action taken for each violation reported. It is evident that in the majority of cases in any given year, there was no disciplinary action taken. However, it may be significant that the number of oral admonishments, reprimands, and warnings increased substantially in 1960, in comparison to the other reported years. Out of the total of 241 violations reported over the three year period under study, there were only 8 cases wherein formal disciplinary action was taken.

## CHAPTER V

### SUMMARY AND CONCLUSIONS

Each era of Government since 1870 has contributed refinements to the Anti-Deficiency Act which have imposed more stringent and limiting controls on budget execution. The various legislative acts appear to have been designed for the sole purpose of preventing or minimizing the need for deficiency appropriations. Although it may be concluded that while the Anti-Deficiency Act is a somewhat effective tool for the control of appropriated funds it: (1) is costly to administer; (2) is inconsistent in its application; (3) prevents maximum utilization of available funds; (4) is overly complicated; and (5) unduly restricts commanders in carrying out their missions. In addition, its effectiveness is largely attributed to the threat of disciplinary or penal action that may be taken against a "violator." As with any "threat but no action" situation, its effectiveness as a control device soon begins to diminish. Accordingly, it seems apparent that now is the time for a major revision to the currently existing Anti-Deficiency Act.

First, it is believed that the apportionment system should be abolished, and that agencies be authorized to draw on appropriated funds as their needs so dictate without an additional round of justification

required. Agencies should be required to submit an overall report of obligations incurred and expenditures to Congress via the Bureau of the Budget and the General Accounting Office for review and as a source of reference in the review of subsequent budget requests. At this stage of our national sophistication, it is doubtful if significant abuses will be encountered, or supplemental appropriations required without significant cause. If such should occur, then stiff penalties should be imposed on the head of the agency concerned.

By abolishing the apportionment system, professional talent in each agency would be in a position to manage their operation on a scheduled basis with a minimum of political interference. Contractual commitments could be made in the most economical manner, thousands of man hours would be released for productive work in lieu of preparing duplicated justifications for submission to the Bureau of the Budget, and there would be one less reservation of funds to complicate sound financial management.

Second, the burden of administrative control should begin and end with the agency head level; and only if an appropriation is overobligated or overexpended should a violation report be submitted to the Executive and Legislative branches of our Government. Violations below the appropriation level should be prepared for submission via the chain of command to the agency head concerned. The report format should be substantially changed to be more easily processed and more in line with reports of survey covering the damage or loss of Government property.



It is ironical that there are times when a highly responsible Naval officer, such as a fleet admiral, must place himself "on report" to the highest levels of Government via administrative personnel of all descriptions for a violation amounting to as little as \$.10. In contrast, this same officer has the authority, under current regulations, to approve surveys of damaged or missing Government property which in some instances can involve millions of dollars.

First-hand observations have been made of the tremendous effort which goes into the processing of a violation report. From the time a report is originated to the time it reaches its final resting place, it has been routed, questioned, endorsed, rerouted, requested, catalogued, returned, recatalogued, summarized, resubmitted, resummarized, etc. At each administrative level a voluminous file of correspondence is inevitably accumulated. In the final analysis, the Bureau of the Budget's interpretation of the Secretary of Defense's interpretation, of the Navy Comptroller's interpretation of the original report is sent to the hierarchy of Government for "appropriate action" many months, and sometimes years, subsequent to the occurrence of the violation.

It is believed that a simple, but effective, reporting procedure, such as used in survey reports, would eliminate a great deal of paper work and result in substantial savings. However, to accomplish this objective would be a massive undertaking in our complex form of Government.

Therefore, it appears that the Bureau of the Budget, armed with existing legislative authority, will continue to exercise control over the execution of the Government's budgetary and financial programs based on the provisions of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), commonly referred to as the Anti-Deficiency Act.

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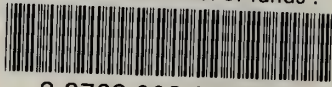
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