

Antideficiency Act Findings Prompt B-2 Renaissance

Stealth Bomber Emerges From Domestic Flak

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Some of us in contracting, and other functions, are not aware of or do not quite grasp certain aspects of the Antideficiency Act (ADA) or the benefits to be derived from strict compliance. This article relates the Oklahoma City Air Logistics Center's experiences in identifying and resolving ADA violations incurred in the B-2 Program. As in most of life's experiences, we learn by our mistakes or those of others.

ADA, Provisioning Contracts, Investigation

The Air Force is required by law to establish and operate a system of administrative controls over appropriated and non-appropriated funds. Air Force Instruction (AFI) 65-608, *Financial Management: Antideficiency Act Violations*, states that these controls are designed to regulate the quarterly rate of obligation, the management approval levels for obligations according to timing of individual contract actions, cumulative program dollar values, and the purposes for which the funds are used. AFI 65-608 also states:

The Antideficiency Act (ADA) is codified in Sections 1341(a) and 1517(a) of Title 31, United States Code (U.S.C.). Funds are available to support contract obligations only if previously authorized and appropriated by Congress. The legislative process of authorization and ap-

propriation creates different types of funds, with resulting limits on their use as to purpose, time, and amount. If those limitations are exceeded, corrective entries in the accounts are required upon discovery. A shortfall in unobligated funding authority in the proper account or subdivision of funds, whether occurring as of the time the liability was incurred, or at the time the obligation is properly posted, may result in a reportable violation of the ADA. The receipt of additional funds before the end of the accounting period does not necessarily mitigate the violation or eliminate the reporting requirement. However, such over-obligations are not the only source of violations. By law, violations must be reported to the President through the Office of Management and Budget (OMB), and the Congress.

The Stealth Bomber Program has used three provisioning contracts to procure initial spares. The value of these contracts exceeds \$800 million. Since its inception in the early 1980s, the program has issued over 20,000 Provisioning Item Order(s) (PIO). Contract F33657-87-2001 with Northrop Grumman is the largest provisioning with over 9,000 contract modifications. Contract F33657-87-C-2004 with the General Electric Aircraft Engine Company has approximately 500 contract modifications. Finally, contract F33657-87-C-2005 with Boeing has approximately 95 contract

modifications. The number of contract modifications alone serves as a good indication of the magnitude and complexity of this program. These three contracts were the focus of two ADA investigations.

FIRST INVESTIGATION

The first ADA investigation for the B-2 program at the Oklahoma City Air Logistics Center (OC-ALC), Tinker Air Force Base, Okla., occurred in 1994. It involved an illegal procedure referred to as bulk funding. Bulk funding, as implemented in B-2 provisioning, deviated from standard procedures of obligating funds for each PIO on the contract. It replaced the standard procedure with obligating large amounts of funds to the contract with no firm, specific requirement(s), and later allocating these obligated funds on the contract to spares requirements as they developed.¹

SECOND INVESTIGATION

In May of 1997, the second ADA investigation was initiated to review funding procedures for the B-2 program at the OC-ALC. Unique funding procedures that transferred previously incurred obligations for the provisioning of initial spares from one funding classification (fiscal year/appropriation) to another (fiscal year/appropriation) were under review, according to the 1997 B-2 Provisioning ADA Investigation Report (F97-07B-2).

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Air Force Materiel Command Instruction 23-101, *Air Force Provisioning Instructions* (Dec. 1, 1996), describes provisioning as follows:

Provisioning is the process of determining and acquiring the range and quantity of support items necessary to operate and maintain an end item throughout an initial period of service. Provisioned items include, but are not limited to, spares, repair parts, and other support equipment. These initial stocks are to be acquired by means likely to support the end item at the least cost to the government until normal replenishment can be effected.

The primary objectives of provisioning include: 1) assuring timely availability of initial stocks of spares at all levels of supply and maintenance in time to meet the operational need date; 2) buying spares at fair and reasonable prices and minimizing life-cycle costs; 3) maximizing the use of items already in the Department of Defense (DoD) inventory; and 4) minimizing development and use of nonstandard parts.

The acquisition of spares must be integrated with other elements such as support equipment, technical manuals, training, and facilities. Successful provisioning depends on early planning to develop cost-effective logistics support and attain maximum readiness. Provisioning is a team effort and requires the active participation of all personnel in the acquisition office, provisioning office, contractor, and the using command.

The B-2 Program

The B-2 Program began as the Advanced Technology Bomber development program early in the 1980s. The B-2 stealth bomber brings to areas of threat and conflict all the attributes that increase the Air Force's potential for successful missions — long-range, large-payload, flexibility, lethality, precision, and survivability.² Further, the B-2 is a multi-role bomber capable of delivering nuclear as well as conventional munitions. Its primary mission is to penetrate the most sophisticated defenses and threaten an enemy's most valued targets.



Now the B-2 was thrust into a major cultural change as it began to operate with geographically separated program management ... The program was now faced with the full range of Integrated Weapon System Management and Program Executive Office-related challenges.



According to the Investigation Report, F97-07B-2, the B-2 Program was designated a highly classified, Special Access Required (SAR) program. SAR programs are normally managed in a separate Air Force organizational structure to preserve secrecy. The B-2 was managed in a similar streamlined environment and received program and management oversight by senior-level DoD officials.

Despite the B-2's streamlined management practices, all the normal rules embodied in public law and administrative program management were still applicable. Relief from such requirements required a specific waiver or deviation, provided by the proper authority. This was and still is the case,

particularly for use of appropriated funds. The investigating officer, James McGinley, noted that, "no evidence of any special waivers or deviations granted by the Congress to the B-2 Program was found."

As is the case with any other program, management is one of the most critical factors affecting the program's success. The B-2 Program's management structure was originally established in accordance with the [then] current Air Force program management philosophy. It consisted solely of a System Program Office (SPO), located at Wright-Patterson AFB (WPAFB), Ohio, under Air Force Systems Command (AFSC). The Investigation Report, F97-07B-2 also states:

The B-2 Program Director and SPO staff were responsible for all aspects of the system's development and acquisition. The SPO staff included a Deputy Program Manager for Logistics (DPML), whose primary focus was developing and integrating the program's logistics support requirements as the program matured throughout the acquisition process.

The logistics support planning assumed that, at some time, Program Management Responsibility Transfer (PMRT) would occur between AFSC and Air Force Logistics Command (AFLC). This was a formal process established to transfer program management responsibility as the program progressed from system acquisition to an operational logistics and sustainment environment. This process was the Air Force standard for fielding new weapons systems until the merger of AFSC and AFLC occurred in 1992, forming what is now known as Air Force Materiel Command (AFMC).

As the program matured from development through production, workload associated with sustainment activities increased to include provisioning of initial spares.

The standup of AFMC brought on many changes and challenges throughout the acquisition world. McGinley points out that the emergence of Integrated Weapon System Management (IWSM) was a

major system management change. This management philosophy for developing and acquiring technically evolving and sustaining products became the guiding principle for the new command.

IWSM provides for cradle-to-grave weapon system management through a single program manager. This is a drastic change from the previous PMRT transition approach of AFSC and AFLC. IWSM established a single System Program Director (SPD) and a System Support Manager (SSM) who works directly for the SPD and not for another command.

Thrust into a major cultural change, the B-2 now began to operate with geographically separated program management. The SPD's location is WPAFB, Ohio, and the SSM is located at OC-ALC, Okla. The program was now faced with the full range of IWSM and Program Executive Office-related challenges.

A number of events (e.g., bulk funding, funding irregularities, and other potential funding violations) dating back to January 1994, are cited as potential causes for the inquiries and investigations regarding the B-2 Program. All said, the B-2 represented not only a technical challenge beyond any aircraft development program to date; it, too, was faced with major hurdles (e.g., command reorganizations, classified vs. unclassified environment, changes in funding laws, staffing, and innovative approaches before their time) that further complicated matters.

"Stealthy Hurdles" for the Stealth Bomber

The B-2 Program faced a number of challenges from inception. It represented technological challenges far greater than normal aircraft development programs. The Investigation Report, F97-07B-2 cites the following:

The program was plagued with multiple quantity revisions and threats of cancellation by Congress, which caused significant upheaval and pricing instability. Overall program cost and escalating unit-cost-per-aircraft clouded the program's

future as it emerged from the classified environment. Threats of program cancellation, constantly changing quantities, and new design requirements mounted at the same time the DoD budget was being reduced.

In addition to its political and technological challenges, the provisioning method also generated major program hurdles that required managerial dexterity. The B-2 Program employs Spares Acquisition Integrated with Production (SAIP) to meet the provisioning requirement. SAIP allows for certain support items intended for use as spares and repair parts to be manufactured or purchased along with the manufacture or purchase of like items intended for contractor installation on the end item during production. The intent is to reduce the overall cost of acquiring spares by identifying the total aircraft part requirement early in the process so the contractor can obtain better production efficiencies and lower prices through quantity discounts and economic production lots.

Engineering changes have and continue to create complexities for the provisioning effort. Initial spares are ordered to support fully operational air vehicles. However, as the fleet continues to go through production and modification phases, design configurations change. As a result, funding requirements change, and in most instances an increase in funds is needed.

Funding and the use of funds (e.g., fiscal integrity and bulking) for the provisioning contracts have been cited as primary drivers for the inquiries and investigations brought against the B-2 Program. The final ADA Investigation Report provides thorough insight into the program's previous financial management shortcomings. It identifies changes in organizational structure not conducive to the proper flow and interchanges of financial information. These breakdowns hindered management's ability to make sound decisions.

Miscoding of financial transactions impeded the requirement for fiscal integrity

required by public law. The Logistics Support Management Information System (LSMIS) was another source of intrigue for the program. The B-2 Program developed LSMIS in conjunction with the prime contractor, Northrop Grumman, to enable the program to operate in their closed, classified environment. The Investigation Report, F97-07B2 cites the following:

The LSMIS provided a state-of-the-art, integrated program information system designed to streamline program management and reduce manual operations. It was not only to provide a classified provisioning process in place of the standard provisioning system, the D220 system, but to also improve information retrieval and delivery processes via a paperless environment.

The use of the LSMIS created added internal problems. The organization that was providing financial management support for the B-2 doggedly maintained the Personal Computer Accounting & Finance (PCAF) system, which was the Air Force's officially approved accounting system to support SAR programs. When the use of the LSMIS was proposed as the primary accounting and funds control system, it created friction among staff members and differing opinions as to which system was, in fact, the right financial accounting system.

This breakdown may have contributed to the flaw in the funds certification process. Effective management of appropriated funds has become one of the most important aspects of a program. The B-2 experience further supports the notion that this responsibility rests with the entire program, meaning all functions (e.g., program management, finance, and contracting).

In 1991 the B-2 Program, like all other programs, was faced with another major hurdle. Congressional concern developed over the large merged surplus account balances ("M" account). DoD's use of these funds for modifications and changes, which in some cases caused program outlays to substantially exceed the cumulative amount appropriated in

all the program-specific line items, exacerbated Congress's concern and desire to take action. The Investigation Report, F97-07B-2 further adds:

As a consequence, the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510) implemented fundamental changes to the life cycle of appropriations. Most notably, it phased out the "M" account and extended the expired status of funds (3010-procurement funds) to five years. At that point, the funds cancel and are no longer available for any purpose. The Act also established specific criteria that DoD must follow in recording or adjusting expired or canceled obligations. Adjustments to obligations properly chargeable to the original appropriation are charged to the expired account during the five-year period.

A major fiscal albatross prompted by this legislation is that once the account cancels, unliquidated obligations and upward adjustments to the original funding appropriation are charged against current year appropriations of the same type.

How did these changes ultimately affect the B-2 Program and, more specifically, the provisioning process and its contracts? The Investigation Report, F97-07B-2, points out that official implementation guidance was slow in flowing down from higher headquarters, primarily due to the drastic nature of these changes and their far-reaching implications for program management.

The change in funding life cycle and limited high-level guidance created concern within the B-2 Program regarding the provisioning process and the lengthy delays already being experienced in definitizing many PIOs. As a matter of record, the program was grappling with a serious backlog of undefinitized PIOs, which was a focus of management and contractor attention.

The emphasis by the B-2 staff on overage undefinitized PIOs was now intensified by the probability that obligated funds from the earlier fiscal years of the program would be lost to cancellation before

The B-2 Program has been challenged by internal and external events that have added to its complexity. The issues cited in the ADA Investigations are not just the concern of program management, contracting, or finance. In the new acquisition environment, they should be the concern of everyone involved. ADA violations stress the core of program success.

the government's liability could be fully determined, let alone liquidated. This issue was foreseen by the B-2's Chief of Contracting, who spearheaded an effort to obtain Air Staff recognition of the perceived impact on the program and guidance for managing these fiscal problems.

When SSM management concluded that this issue was not receiving the appropriate level of attention, unique B-2 SSM Program initiatives to rectify the problem(s) resulted. These included the "bulk funding" process (1992-93) and efforts to "re-code" funds on various spare-parts orders that would not likely be delivered before the funds canceled, probably re-

quiring the eventual substitution of limited current year funds

The B-2 Program has been challenged by internal and external events that have added to its complexity. All of the issues have not been presented here. The intent is to bring to light some of the issues that have plagued one of DoD's most touted weapons systems. The issues cited, primarily funding, and their impact are not just the concern of program management, contracting, or finance. These issues, especially in the new acquisition environment, should be the concern of everyone involved. ADA violations stress the core of program success.

What to Look For

According to AFI 65-608, ADA violations generally may occur by taking one or more of the following actions:

- Authorizing or creating obligations before funds become available.
- Authorizing or creating obligations in excess of the amount available, including quarterly allotments, sub-allotments and allocations of appropriated funds, or other administrative controls.
- Exceeding a statutory ceiling on the amount of funds that may either be obligated or expended for a specific purpose, even if otherwise available for obligation.
- Distributing funds in excess of the amount available.
- Exceeding the amount available in an administrative subdivision of funds.
- Failing to comply with statutory or regulatory limits or prohibitions on the use of an appropriation or fund.
- Accepting voluntary service, or employing personal services, in excess of that authorized by law, except in case of emergencies involving the safety of human life or the protection of property.
- Augmenting available appropriations by retaining and expending earned re-

ceipts or reimbursements from outside sources without either a DoD charter as a revolving fund activity or a statutory exception to 31 U.S.C. 3302(b) (Miscellaneous Receipts).³

Another ADA and fiscal law pertinent issue is the Bona Fide Needs Rule. The essence of the Rule is that an appropriation may be validly obligated only to meet a legitimate need existing during, or in some cases prior to (but continuing to exist in), the fiscal period for which the appropriation was made. The Bona Fide Need Rule has a statutory support in the ADA, 31 U.S.C. 1341(a) and the Adequacy of Appropriations Act, 41 U.S.C. 11.⁴

As noted earlier, the B-2 Program underwent a preliminary ADA review and a formal investigation. What is the difference?

AFI 65-608 defines the difference:

Preliminary review is performed to determine whether a potential ADA violation has occurred and often forms the foundation for a formal investigation. Preliminary reviews develop the facts and circumstances that are used in deciding whether to commit further resources to a formal investigation. Such review includes checks for duplications or other errors in reviewing, and recording commitments and obligations to ensure they are valid and properly chargeable against the funds involved. The resulting facts and circumstances are also used in verifying actual fund status in the correct account at the time the transaction creating the problem occurred.

A preliminary review does not attempt to identify responsible individuals, recommend corrective actions, or collect other information required during a formal investigation. Formal investigations are performed when the preliminary review determines that a potential ADA violation has occurred or a formal investigation has been requested by the Under Secretary of Defense (Comptroller) (USD[C]) or the Assistant Secretary of the Air Force (Financial Management

and Comptroller) (SAF/FM). Also, when appropriate (e.g., possible fraud or collusion exists), formal investigations should be coordinated with the local Air Force Office of Special Investigations (AFOSI) to determine if an AFOSI investigation is required.

Responsibility for an ADA violation is fixed at the moment the improper activity occurs (e.g., over-obligation or over-expenditure). A responsible party is the person who has authorized or created the overdistribution, obligation, commitment, or expenditure in question or was in a position to prevent the violation. Generally, the responsible party may be or will include the highest-ranking official in the decision-making process who had either actual or constructive knowledge of precisely what actions were taken and the impropriety or questionable nature of the actions.

The formal investigation should be completed and the results reported to the Director for Audit Liaison and Follow-up (SAF/FMPF) no later than six months from the start of the investigation. SAF/FM may approve an extension of six months on a case-by-case basis. However, any extension requires written justification and shall not exceed 45 days.

The ADA violations committed by the B-2 Program initially included violations of 31 U.S.C. 1341 and 31 U.S.C. 1517. The former citation was for improper transfer of funds. The latter was for having insufficient funds to reverse improper obligation transfers. The violations were reviewed again, and ultimately the 31 U.S.C. 1341 violation was changed to reflect another 31 U.S.C. 1517 violation.

The Renaissance

George Santayana, the poet, wrote "Those who don't remember the mistakes of the past are doomed to repeat them." The B-2 management has recognized this and implemented the following procedures to bring about positive change:

- Stopping the Bulk Funding.
- Training all SPO personnel (e.g., Fiscal law, ADA Violations, Provisioning).

- Performing an outside review by a reputable private auditor (PricewaterhouseCoopers).
- Reconciling program records and accounting records.
- Reconciling program records and contractor records.
- Implementing Management Control Plans, Standard Operating Procedures, and internal controls.
- Increasing teaming processes.
- Increasing use of electronic media (e.g., E-mail and videoconferencing) to facilitate problem solving and decision making.
- Implementing prompt, proactive measures to address the circumstances cited in the preliminary ADA review.
- Responding promptly to the formal ADA investigation findings and implementing corrective actions.

Aggressively implementing these procedures and measures has already contributed to better management of today's B-2 Program.

The B-2 Today

The B-2s are not only ready; they are *combat-ready*. Today, all B-2s operating with the 509th Bomb Wing at Whiteman AFB, Mo., are Block 30 (final) configurations. This means each is capable of delivering a large number of heavy, precision bombs.⁵ The B-2 has outdistanced the domestic flak leveled against it. With its high-tech construction and weaponry, the B-2 should be able to strike a variety of targets anywhere in the world with minimal support.

As the system matures, however, the often forgotten contributions of the support functions (Wright-Patterson AFB, Tinker AFB, and Northrop-Grumman) will become that much more important. These professionals on the support side are comparable to the offensive lineman on a football team – all guts, no glory. They work hard to support the weapon

system and get it to its full operational capability. Yet, their efforts are seldom mentioned in the success stories.

The need for more spares, low observables, avionics hardware and software support, environmental shelters, and maintenance will also rise as the system matures. To meet these requirements, additional funds will be required.

The latest General Accounting Office (GAO) report (June 1998) on the B-2 Program cites \$44.3 billion as the cost estimate to complete development, procurement, and modification of the B-2 Program. The GAO also points out that other requirements, yet to be identified, may require further effort and funding. Regardless of how accurate this figure may be, it is still a very large sum of money. As a result, in this deeply constrained budget environment, proper program, contract, and funds management have as great an impact on the B-2's success as those who actually fly the aircraft. It will take a concerted effort by all parties to bring the entire fleet (21) to full operational capability.

As program managers, contracting officers, and finance officers we should not take our responsibilities lightly; nor should we exceed our authority in performing our duties. The B-2's ADA experience was just that — "experience." In the face of a changing environment, decisions were made. Ultimately, a number of those decisions were questionable. However, the experience, bad as it was, has provided some valuable lessons for the future.

Learning – Sometimes Painful, Always Necessary

Program changes continue to evolve. The lessons gleaned from these experiences are priceless. The B-2 management, as a whole, has sought to instill the following cultural changes throughout the program:

- Communication cannot be overemphasized; contracts and funds management must not be done in a vacuum; and effective/efficient business management practices must be implemented.

Cross-fertilization must be promoted. Contracting must be knowledgeable of fiscal law/funding; finance must be knowledgeable of provisioning and contracting; and program managers/supply support personnel must be aware of fiscal law/funding.

- Procedures for transitioning a program from a classified to unclassified environment must be established.
- Cross-fertilization must be promoted. Contracting must be knowledgeable of fiscal law/funding; finance must be knowledgeable of provisioning and contracting; and program managers/supply support personnel must be aware of fiscal law/funding.
- Expiration/cancellation of funds must be properly managed; tracking and forecasting procedures must be established.

Such actions are not B-2-specific. When in doubt, bring in the lawyers! Consult

with legal for fiscal law advice. Based on our experiences with the B-2 Program, we also recommend that you keep in mind a few broad guidelines for ensuring fiscal integrity of your program:

- Establish clear lines of authority and responsibility of funds certification.
- Train your personnel continuously to enhance knowledge and build experience.
- Provide tools to help your personnel exercise prudent judgment.
- Ensure sufficient funds are available in proper appropriations.
- Ensure adequate internal controls (i.e., management control plan).
- Follow established upward obligation process, as required.
- Exercise proper planning/implementation when transitioning from Special Access Required (SAR) status — removing SAR status (DESAR) — (i.e., coordination, reestablishing security evaluation procedures, remarking of parts/packages, etc.).
- Finally, remember that information must flow to facilitate sound decision making. In this new acquisition environment, *communication is king*.

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