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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-132900

2 Addressed

SEP 28 1973

74-0386



The Honorable George H. Mahon
Chairman, Committee on Appropriations
House of Representatives

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Dear Mr. Chairman:

In accordance with agreements made with your office concerning your request of February 26, 1973, we reviewed the Army Audit Agency (AAA) audit of possible Army violations of the Anti-Deficiency Act (31 U.S.C. 665) to determine whether overobligations did occur and whether an attempt was made to prevent their disclosure to the Congress as required by the act.

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Army officials do not believe the Army violated the Anti-Deficiency Act and therefore did not report the matters disclosed in the AAA report to the Congress.

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In our opinion, the Army violated the Anti-Deficiency Act by obligating \$104.5 million more than the obligational authority apportioned by the Office of Management and Budget (OMB) for the fiscal year 1970 Military Personnel, Army appropriation. Further, the Army Comptroller is investigating an apparent overobligation of about \$680,000 of an allotment of fiscal year 1970 Reserve Personnel, Army, funds.

As your office agreed, we discussed our findings with Army officials and the Office of the Assistant Secretary of Defense (Comptroller). The Army then commented on our findings. (See enclosure.) We have incorporated their comments in this report, when appropriate.

AAA AUDIT AND SCOPE OF OUR REVIEW

Because of problems found by the Naval Audit Service during its review of controls and procedures over the Military Personnel, Navy, appropriation, the Assistant Secretary of Defense, Comptroller, requested on August 11, 1972, that AAA audit the administrative controls used for annual appropriations.

AAA audited fiscal year 1972 and, to the extent documentation was available, prior years' transactions for the following appropriations: Military Personnel, Army; Operation and Maintenance, Army; Reserve Personnel, Army; and National Guard Personnel.

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The objectives of the audit included an evaluation of the effectiveness of administrative controls over obligations and expenditures designed to insure compliance with statutory requirements relating to annual appropriations.

You received a copy of AAA's April 5, 1973, report which stated that the reversal of certain transactions AAA considered questionable could possibly result in overobligation at the appropriation level for the fiscal year 1970 Military Personnel, Army, and the fiscal year 1971 Operation and Maintenance, Army, appropriations. AAA also stated that there was an apparent overobligation at the allotment level in the fiscal year 1970 Reserve Personnel, Army, appropriation.

Although AAA made no recommendations, it said that administrative procedures for controlling funds required improvements at both the Department of the Army and operating levels.

In our findings we do not address all the issues that were included in the AAA report. Our findings are restricted to only those matters which we believe have resulted in Anti-Deficiency Act violations.

We examined AAA's audit guidelines and the workpapers supporting its findings and discussed them with AAA personnel. We also examined the documentation used as a basis for the Comptroller of the Army's comments on AAA's findings and discussed them with Army headquarters personnel. We also reviewed applicable statutes and Department of Defense (DOD) and Army regulations on the administrative control of funds.

ARMY ACTIONS REGARDING AAA REPORT

The Comptroller of the Army considered the AAA findings and concluded that there were no overobligations at the appropriation level. The AAA report was then referred to the Deputy Assistant Secretary of the Army (Financial Management) for his consideration and he concurred in the Army Comptroller's conclusion.

An official of the Office of the Secretary of Defense (OSD) advised that OSD accepted the Army Deputy Assistant Secretary's evaluation of AAA's findings. He further advised that OSD would work on strengthening procedures for the administrative control of funds.

VIOLATION OF ANTI-DEFICIENCY ACT

The Anti-Deficiency Act (31 U.S.C. 665) states that

"* * * all appropriations or funds available for obligation for a definite period of time shall be so apportioned as to prevent obligation or expenditure thereof in a manner which would indicate a necessity for deficiency or supplemental appropriations for such period * * *"

* * * * *

"* * * funds shall be apportioned or reapportioned in writing by the Director of the Office of Management and Budget * * *"

* * * * *

"* * * No officer or employee of the United States shall authorize or create any obligation or make any expenditure * * * in excess of an apportionment or reapportionment * * *."

We believe the Army violated the Anti-Deficiency Act by obligating \$104.5 million more than the obligational authority apportioned by OMB for the fiscal year 1970 Military Personnel, Army, appropriation. This sum consists of \$29.8 million in recorded obligations and \$74.7 million in unrecorded obligations resulting from an improper deobligation.

Recorded obligations \$29.8 million
in excess of amount OMB apportioned

The apportionment received from OMB for the fiscal year 1970 Military Personnel, Army, appropriation totaled \$8.990 billion, including \$123.8 million in anticipated reimbursements. On June 30, 1970, the total obligations recorded by the Army equaled the amount apportioned. Therefore, in accordance with the Anti-Deficiency Act, the Army had no authority to incur additional obligations. In July 1970, however, additional obligations amounting to \$57.5 million were charged against the fiscal year 1970 appropriation. Although these obligations were recorded in July 1970, they were actually incurred in fiscal year 1970.

Also in July 1970, the Army recorded reimbursements of \$57.5 million for subsistence provided other DOD components. The Army believed that, by recording the reimbursements, it increased its obligational authority for the fiscal year 1970 Military Personnel, Army, appropriation above the amount OMB apportioned.

From July 1970 through June 30, 1972, various adjustments were made to recorded obligations which resulted in reducing the amount of excess obligations but, at June 30, 1972, recorded obligations still exceeded the amount OMB apportioned by \$29.8 million.

We informed the Army that, since it actually incurred the additional obligations in fiscal year 1970, it exceeded the amount apportioned during the fiscal year. We therefore believe that the Army violated the Anti-Deficiency Act.

The Army Acting Assistant Comptroller (Fiscal Policy) did not agree that the Army violated the Anti-Deficiency Act. In his memorandum to us (see enclosure), he stated that historically the Army increased the Military Personnel, Army, appropriation fund availability after the end of a fiscal year by collections in excess of the amount OMB and OSD originally apportioned.

We believe that regardless of its historical practices, the Army does not have authority to increase OMB and OSD apportionments. It violated the Anti-Deficiency Act by incurring obligations during fiscal year 1970 in excess of its apportionment.

Improper deobligation of \$74.7 million
for unused stocks

The Army deobligated \$74.7 million representing the value of unused subsistence and clothing in Southeast Asia at the end of fiscal year 1970. The Army deobligated this amount from the fiscal year 1970 Military Personnel, Army, appropriation and simultaneously obligated it in the fiscal year 1971 Military Personnel, Army, appropriation. The transaction was recorded after the 1970 appropriation expired. AAA contended that the obligation should have remained in the fiscal year 1970 appropriation in accordance with the Army's fiscal procedures for Southeast Asia which required that obligations and disbursements be recorded simultaneously upon receipt of bills using appropriations current when bills were presented.

Army comments on AAA's position

The Comptroller of the Army responded to AAA that the transfer of obligations was consistent with the consumption budgeting procedure, under which only funds needed to buy items to be consumed during the year are requested. The Comptroller stated that funds the Congress appropriated for consumption requirements for fiscal year 1971 should not have been augmented by the stockpiles left over from the preceding year. Therefore, since all the items purchased from the stock fund had not been consumed in fiscal year 1970, the Comptroller considered it proper to transfer the cost of unused stock to the following year. According to the Army, the transfer conformed with good fund management and there was no question of an overobligation of funds.

The Army Comptroller also stated the unused items could legally have been returned to the stock fund for credit to the fiscal year 1970 appropriation, with subsequent issue and charge to the fiscal year 1971 appropriation. He indicated that the Army did not follow this procedure to eliminate paperwork and delay.

GAO's view

The essence of the Army Comptroller's comments is that, if Army's actions had been different, the accounting would have also differed. The relevant issue here is that the items were not returned for credit during fiscal year 1970. For the unused items to have legally been returned to the stock fund for credit to the fiscal year 1970 appropriation, the items would have to have been returned before the end of the 1970 fiscal year. Since, according to the Army Comptroller, the decision to put the 1970 appropriation on a consumption basis was made in August 1970, the Army could not have returned the inventory to the stock fund in time to credit the value of the

stock to the 1970 appropriation. In this regard, 10 U.S.C. 2208, provides that proceeds from a stock fund credit shall be credited to the current applicable appropriation.

Accordingly, we believe the transaction recording the deobligation should be reversed. According to AAA workpapers, reversing the transaction will reflect an overobligation of the fiscal year 1970 Military Personnel, Army, apportionment in the amount of \$74.7 million--a violation of the Anti-Deficiency Act.

The Army Acting Assistant Comptroller's (Fiscal Policy) comments to us (see enclosure) are similar to the Army Comptroller's reply to the AAA report.

APPARENT OVEROBLIGATION OF AMOUNTS ALLOTTED
FOR THE RESERVE PERSONNEL, ARMY,
FISCAL YEAR 1970 APPROPRIATION

DOD regulations issued pursuant to the Anti-Deficiency Act require, in part, that no officer shall obligate in excess of amounts which have been administratively subdivided. An allotment is an administrative subdivision of funds. OMB regulations contain similar provisions.

AAA reported an apparent overobligation of an allotment at one Army installation in the fiscal year 1970 Reserve Personnel, Army, appropriation. Its review showed that Headquarters, 1st U.S. Army, allotted funds to the Commanding Officer, Indiantown Gap Military Reservation, during fiscal year 1970.

In AAA's opinion, the allottee apparently overobligated its allotment by \$688,022 as of June 1970, due to underestimating yearend obligations. Because the Army is investigating the apparent violation, we did no further work on this matter.

CONCLUSION AND RECOMMENDATION

In our opinion, an overobligation occurred in the fiscal year 1970 Military Personnel, Army, appropriation in violation of the Anti-Deficiency Act. Accordingly, we recommend that the Secretary of Defense submit a formal report to the President and the Congress as required by the act.

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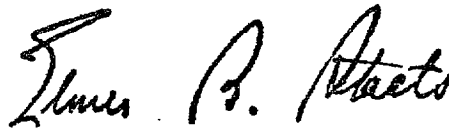
Representative Les Aspin asked us to perform a review similar to the one you requested. Therefore, today we are sending him a separate report.

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B-132900

4 Further, as agreed with your office, we are sending copies of this report to the Secretary of Defense and to Representative J. J. Pickle. We do not plan to distribute this report further unless you publicly announce its contents.

Sincerely yours,

A handwritten signature in cursive script that reads "James B. Peets". The signature is written in dark ink and is positioned above the typed name and title.

Comptroller General
of the United States

Enclosure

C O P Y

ENCLOSURE



DEPARTMENT OF THE ARMY
OFFICE OF THE COMPTROLLER OF THE ARMY
WASHINGTON, D.C. 20310

DACA-FP

23 August 1973

MEMORANDUM FOR: US GENERAL ACCOUNTING OFFICE

SUBJECT: GAO Review of AAA Report on Annual Appropriations and Related Merged Accounts

1. Reference is made to a meeting of 22 August with representatives of GAO and DA on above subject. You desired comments on your draft report.
2. Comments from personnel of DA were made in response to the report of the US Army Audit Agency on the above subject. These comments of which you have a copy are adhered to. It is our position that for the subjects covered in your draft report no violation of the Anti-Deficiency Act has occurred. There is an allegation of an Anti-Deficiency Act violation having occurred at Indiantown Gap Military Reservation involving Reserve Personnel Army appropriation. This matter is presently being investigated at the direction of Department of the Army.
3. Your draft report evidently includes two aspects not raised in the report of the US Army Audit Agency.

a. The first is that the Army improperly deobligated \$74.7 million for subsistence and clothing in the FY 1970 MPA appropriation, and that reversal of the transaction will result in an overobligation of the MPA appropriation. DOD Directive 7040.3 (cancelled 17 April 1970) prescribed that the Military Personnel Appropriation would be on a consumption basis. However, during the early years of SEA buildup, it was determined that Stock Funds would not be extended to SEA and that each appropriation should budget for both consumption and inventory buildup. In August 1971^[1] decision was made that the Army should return to a true consumption budget. As a result, the Army deobligated the \$74.7 million of inventories in FY 1970 and obligated a like amount in FY 1971. Subsequently, each year a similar transfer has taken place. The Army changed its procedures to comply with existing OSD policy.

b. The second is that the Army violated the Anti-Deficiency Act by obligating more (\$29.8 million) than the obligational authority apportioned by OMB for the FY 1970 MPA appropriation. Historically the Army has increased MPA fund availability during the 2d and 3d quarters^[2] of an appropriation by collections in excess of the amount originally

GAO notes:

1. The Army asked us to correct this to read "1970" instead of "1971."

DOD MANUAL 7110-1-M

PART IV - BUDGET ADMINISTRATION

Section 1 - Apportionment

Chapter 412 - Apportionment and Reapportionment Schedules (DD Forms 1105)

412.1 Purpose

This Chapter provides information for the preparation and submission of DD Forms 1105, Apportionment and Reapportionment Schedules, as required by Office of Management and Budget Circular A-34. Information concerning apportionment back-up material is covered in Chapter 411.

412.2 Coverage

A. Accounts Requiring DD Form 1105. Apportionment and Reapportionment Schedules (DD Forms 1105) will be used for the following types of accounts which are required to be apportioned:

1. Military function accounts
2. Civil function accounts
3. Military assistance

B. Accounts Exempted from Requirements of DD Form 1105. The following accounts are exempted from apportionment on DD Form 1105:

1. Accounts which are available only for nonexpenditure transfer to other accounts (e.g., "Emergency Fund, Defense").
2. Expired accounts.
3. Accounts which have been fully obligated before the beginning of the year.
4. Trust funds, including deposit funds, unless the OMB provides notice that specific accounts will be apportioned.
5. Consolidated working funds.
6. Other accounts individually exempted by the OMB (e.g., "Management Funds," "Industrial Funds," "Claims, Defense").
7. Transfer appropriation accounts (DD Form 1105 is required for consolidated appropriation account only).
8. Foreign currency accounts.

DACA-FP

23 August 1973

SUBJECT: GAO Review of AAA Report on Annual Appropriations and Related Merged Accounts

apportioned by OMB and OSD. Not once, to our knowledge during the past 15 years, has the Army requested or been given an apportionment of funds after the end of a fiscal year. This course of action is supported by the following:

(1) Current OSD procedures make no provision for requesting apportionments after the end of the fiscal year. The attached extract from DOD Manual 7110-1-M states expired accounts are exempt from apportionment. Further, the apportionment form makes no provision for apportionments after the end of the FY of an annual account.

(2) During the 4th quarter of any year, if the Congress makes a supplemental appropriation, the apportionment of funds are not processed by OSD. Rather, the Army assumes an automatic apportionment of the funds.

(3) During several of the past 15 years MPA collections have exceeded those originally apportioned. In each instance, the additional collections increased fund availability without having been apportioned.

(4) Related to the above, is the fact that all the military services have also shifted funds between programs thus exceeding the amounts apportioned in certain budget programs. This has been done without processing a reprogramming document. Several years ago, members of the HAC staff looked into this procedure. As a result, questions were asked at the hearings about this practice. Mr. Marvin Orndorff in DCSPER responded defending the practice as necessary under open allotment procedures. The Congress look no further action and in effect implied their approval.

(5) In view of the above, it should be apparent, the Army was following established procedures in using the \$29.8 million of collections to increase fund availability without the processing an apportionment. It should therefore be obvious that no violation of the Anti-Deficiency Act occurred as the result of this action.

[See GAO note, p. 3.]

ENCLOSURE

DACA-FP

23 August 1973

SUBJECT: GAO Review of AAA Report on Annual Appropriations and Related
Merged Accounts

FOR THE COMPTROLLER OF THE ARMY:

/s/
AUTHUR M. SCHEID
Acting Asst Comptroller
Fiscal Policy

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GAO note: The deleted comments relate to matters which were included in a tentative summary of findings furnished to the Army but which have been omitted from this report.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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B-132900

SEP 28 1973

The Honorable Les Aspin
C/ House of Representatives

Dear Mr. Aspin:

In accordance with agreements made with your office concerning your request of March 12, 1973, we reviewed the Army Audit Agency (AAA) audit of possible Army violations of the Anti-Deficiency Act (31 U.S.C. 665) to determine whether overobligations did occur and whether there was a need for us to expand on the scope of the AAA audit.

In view of the comprehensive AAA audit, we saw no need to expand our review beyond the areas covered by AAA.

In our opinion, the Army violated the Anti-Deficiency Act by obligating \$104.5 million more than the obligational authority apportioned by the Office of Management and Budget (OMB) for the fiscal year 1970 Military Personnel, Army, appropriation. Further, the Army Comptroller is investigating an apparent overobligation of about \$680,000 of an allotment of fiscal year 1970 Reserve Personnel, Army, funds.

We discussed our findings with Army officials and the Office of the Assistant Secretary of Defense (Comptroller). The Army then commented on our findings. (See enclosure.) We have incorporated their comments in this report, when appropriate.

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The objectives of the audit included an evaluation of the effectiveness of administrative controls over obligations and expenditures designed to insure compliance with statutory requirements relating to annual appropriations.

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You received a copy of AAA's April 5, 1973, report which stated that the reversal of certain transactions AAA considered questionable could possibly result in overobligation at the appropriation level for the fiscal year 1970 Military Personnel, Army, and the fiscal year 1971 Operation and Maintenance, Army, appropriations. AAA also stated that there was an apparent overobligation at the allotment level in the fiscal year 1970 Reserve Personnel, Army, appropriation.

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ARMY ACTIONS REGARDING AAA REPORT

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An official of the Office of the Secretary of Defense (OSD) advised that OSD accepted the Army Deputy Assistant Secretary's evaluation of AAA's findings. He further advised that OSD would work on strengthening procedures for the administrative control of funds.

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Also in July 1970, the Army recorded reimbursements of \$57.5 million for subsistence provided other DOD components. The Army believed that, by recording the reimbursements, it increased its obligational authority for the fiscal year 1970 Military Personnel, Army, appropriation above the amount OMB apportioned.

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(see enclosure), he stated that historically the Army increased the Military Personnel, Army, appropriation fund availability after the end of a fiscal year by collections in excess of the amount OMB and OSD originally apportioned.

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The Army Comptroller also stated the unused items could legally have been returned to the stock fund for credit to the fiscal year 1970 appropriation, with subsequent issue and charge to the fiscal year 1971 appropriation. He indicated that the Army did not follow this procedure to eliminate paperwork and delay.

GAO's view

The essence of the Army Comptroller's comments is that, if Army's actions had been different, the accounting would have also differed.

The relevant issue here is that the items were not returned for credit during fiscal year 1970. For the unused items to have legally been returned to the stock fund for credit to the fiscal year 1970 appropriation, the items would have to have been returned before the end of the 1970 fiscal year. Since, according to the Army Comptroller, the decision to put the 1970 appropriation on a consumption basis was made in August 1970, the Army could not have returned the inventory to the stock fund in time to credit the value of the stock to the 1970 appropriation. In this regard, 10 U.S.C. 2208 provides that proceeds from a stock fund credit shall be credited to the current applicable appropriation.

Accordingly, we believe the transaction recording the deobligation should be reversed. According to AAA workpapers, reversing the transaction will reflect an overobligation of the fiscal year 1970 Military Personnel, Army, apportionment in the amount of \$74.7 million--a violation of the Anti-Deficiency Act.

The Army Acting Assistant Comptroller's (Fiscal Policy) comments to us (see enclosure) are similar to the Army Comptroller's reply to the AAA report.

APPARENT OVEROBLIGATION OF AMOUNTS
ALLOTTED FOR THE RESERVE PERSONNEL,
ARMY, FISCAL YEAR 1970 APPROPRIATION

DOD regulations issued pursuant to the Anti-Deficiency Act require, in part, that no officer shall obligate in excess of amounts which have been administratively subdivided. An allotment is an administrative subdivision of funds. OMB regulations contain similar provisions.

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CONCLUSION AND RECOMMENDATION

In our opinion, an overobligation occurred in the fiscal year 1970 Military Personnel, Army, appropriation in violation of the Anti-Deficiency Act. Accordingly, we recommend that the Secretary of Defense submit a formal report to the President and the Congress as required by the act.

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B-132900

Chairman George H. Mahon, House Appropriations Committee, and Representative J. J. Pickle asked us to perform a review similar to the one you requested. Therefore today we are sending them a separate report. Further, in accordance with a request from Chairman Mahon's office, we are sending a copy of his report to the Secretary of Defense. We do not plan to distribute this report further unless you publicly announce its contents.

Sincerely yours,

A handwritten signature in cursive script that reads "James B. Stacks". The signature is written in black ink and is positioned above the typed name and title.

Comptroller General
of the United States

Enclosure

C O P Y

ENCLOSURE



DEPARTMENT OF THE ARMY
OFFICE OF THE COMPTROLLER OF THE ARMY
WASHINGTON, D.C. 20310

DACA-FP

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GAO notes:

1. The Army asked us to correct this to read "1970" instead of "1971."
2. The Army asked us to correct this to read "years" instead of "quarters."

DOD MANUAL 7110-1-M

PART IV - BUDGET ADMINISTRATION

Section 1 - Apportionment

Chapter 412 - Apportionment and Reapportionment Schedules (DD Forms 1105)

412.1 Purpose

This Chapter provides information for the preparation and submission of DD Forms 1105, Apportionment and Reapportionment Schedules, as required by Office of Management and Budget Circular A-34. Information concerning apportionment back-up material is covered in Chapter 411.

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(1) Current OSD procedures make no provision for requesting apportionments after the end of the fiscal year. The attached extract from DOD Manual 7110-1-M states expired accounts are exempt from apportionment. Further, the apportionment form makes no provision for apportionments after the end of the FY of an annual account.

(2) During the 4th quarter of any year, if the Congress makes a supplemental appropriation, the apportionment of funds are not processed by OSD. Rather, the Army assumes an automatic apportionment of the funds.

(3) During several of the past 15 years MPA collections have exceeded those originally apportioned. In each instance, the additional collections increased fund availability without having been apportioned.

(4) Related to the above, is the fact that all the military services have also shifted funds between programs thus exceeding the amounts apportioned in certain budget programs. This has been done without processing a reprogramming document. Several years ago, members of the HAC staff looked into this procedure. As a result, questions were asked at the hearings about this practice. Mr. Marvin Orndorff in DCSPER responded defending the practice as necessary under open allotment procedures. The Congress look no further action and in effect implied their approval.

(5) In view of the above, it should be apparent, the Army was following established procedures in using the \$29.8 million of collections to increase fund availability without the processing an apportionment. It should therefore be obvious that no violation of the Anti-Deficiency Act occurred as the result of this action.

[See GAO note, p. 3.]

ENCLOSURE

DACA-FP

23 August 1973

SUBJECT: GAO Review of AAA Report on Annual Appropriations and Related
Merged Accounts

FOR THE COMPTROLLER OF THE ARMY:

/s/
AUTHUR M. SCHEID
Acting Asst Comptroller
Fiscal Policy

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as

GAO note: The deleted comments relate to matters which were included in a tentative summary of findings
furnished to the Army but which have been omitted from this report.