

**(UNCLASSIFIED)**  
INFORMATION PAPER

JALS-KFAB  
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SUBJECT: ADA Funding Prohibitions Imposed by 10 U.S.C. § 2222 on Defense Business Systems

1. Purpose: To provide Army JAG-wide guidance about the statutory prohibition on the obligation of funds for Defense Business Systems (DBS), unless they have first been reviewed and certified by the Investment Review Board (IRB) and approved by the Defense Business Systems Management Committee (DBSMC).

2. Analysis:

a. 10 U.S.C. § 2222<sup>1</sup> prohibits the obligation of appropriated or non-appropriated funds for DBS information systems that will have a total estimated cost greater than \$1,000,000, as reported in the program's five-year Program Objective Memorandum (POM) budget estimates,<sup>2</sup> unless *prior* to the obligation of funds: (i) the IRB reviews and certifies<sup>3</sup> that the DBS information system is in compliance with the enterprise architecture requirements of 10 U.S.C. § 2222(c) and (d), and; (ii) the DBSMC approves the IRB's certification.

b. 10 U.S.C. § 2222(j) defines a DBS as an information system,<sup>4</sup> other than a national security system,<sup>5</sup> operated by, for, or on behalf of the Department of Defense, including financial systems, mixed systems, financial data feeder systems, and information technology<sup>6</sup> and information assurance infrastructure, used to support business activities, such as acquisition, financial management, logistics, strategic planning and budgeting, installations and environment, and human resource management.

c. Therefore, unless certified by the IRB and approved by the DBSMC, 10 U.S.C. § 2222 prohibits the obligation of appropriated or non-appropriated funds for:

(1) Department of Defense information systems, other than national security systems – but including financial systems, mixed systems, financial data feeder systems, and information technology and information assurance infrastructure, and;

(2) Are used to support business activities, such as acquisition, financial management, logistics, strategic planning and budgeting, installations and environment, and human resource management, and;

(3) Whose total estimated cost is greater than \$1,000,000, as reported in the program's five-year Program Objective Memorandum (POM) budget estimate.

3. Conclusion: JA's should assist their commands in ensuring that their information system and information technology acquisitions comply with the requirements of 10 U.S.C. § 2222. Obligation of appropriated and non-appropriated funds for a covered DBS that has not been certified by the IRB and approved by the DBSMC will result in an *uncorrectable* Anti-Deficiency Act (ADA) violation in accordance with 10 U.S.C. § 2222 (b).

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<sup>1</sup> §901 of the 2012 NDAA, Pub. L. 112-81, significantly amended 10 U.S.C. § 2222, including applying the \$1M threshold to the 5-year POM costs, whereas previously this threshold only applied to the costs of DBS "modernization."

<sup>2</sup> The POM budget estimated costs include the five-year costs for the development, testing, procurement, operation, maintenance, and sustainment of a covered information system.

<sup>3</sup> For more information on the IRB review and certification process, see Business Transformation Agency, "DoD IT Defense Business Systems Investment Review Process: Guidance," (January 2009), available at <http://asafm.army.mil/Documents/OfficeDocuments/FinancialOps/guidances/ic//DoDitDBSI-rp.pdf>.

<sup>4</sup> 44 U.S.C. § 3502 (8) defines an 'information system,' as used in 10 U.S.C. § 2222.

<sup>5</sup> 44 U.S.C. § 3542 (b)(2) defines a 'national security system,' as used in 10 U.S.C. § 2222.

<sup>6</sup> 40 U.S.C. § 11101 (6) defines 'information technology' as used in 10 U.S.C. § 2222.

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