

§ 3712. Use of funds for certain emergent threats or opportunities

(a) Authority

For purposes of the Program, the Secretary of Defense may obligate and expend Cooperative Threat Reduction funds for a fiscal year, and any Cooperative Threat Reduction funds for a prior fiscal year that remain available for obligation, for a proliferation threat reduction project or activity if the Secretary, with the concurrence of the Secretary of State, determines each of the following:

(1) That such project or activity will—

(A) assist the United States in the resolution of a critical emerging proliferation threat; or

(B) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals.

(2) That such project or activity will be completed in a period not exceeding five years.

(3) That the Department of Defense is the entity of the Federal Government that is most capable of carrying out such project or activity.

(b) Congressional notification

Not later than 15 days before the date on which the Secretary obligates funds under subsection (a) for a project or activity, the Secretary of Defense shall notify, in writing, the congressional defense committees and the Secretary of State shall notify, in writing, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of the determinations made under such subsection with respect to such project or activity, together with—

(1) a justification for such determinations;

(2) a description of the scope and duration of such project or activity; and

(3) a discussion of—

(A) whether authorities other than the authority under this section are available to the Secretaries to perform such project or activity to meet the threats or goals identified under subsection (a)(1); and

(B) if such other authorities exist, why the Secretaries were not able to use such authorities for such project or activity.

(c) Non-defense agency partner-nation contacts

With respect to military-to-military and defense contacts carried out under subsection (a)(6) of section 3711 of this title, as further described in subsection (f) of such section, concurrence of the Secretary of State under subsection (a) is required only for participation in such contacts by personnel from non-defense agencies of foreign countries.

(d) Exception to requirement for certain determinations

The requirement for a determination under subsection (a) shall not apply to a state of the former Soviet Union.

(Pub. L. 113–291, div. A, title XIII, § 1322, Dec. 19, 2014, 128 Stat. 3597; Pub. L. 114–328, div. A, title XIII, § 1302(b)(2), Dec. 23, 2016, 130 Stat. 2566.)

AMENDMENTS

2016—Subsec. (b). Pub. L. 114–328 substituted “Not later than 15 days before the date on which” for “At

the time at which” in introductory provisions and added par. (3).

§ 3713. Authority for urgent threat reduction activities under Department of Defense Cooperative Threat Reduction Program

(a) Limitation on use of funds for urgent threat reduction activities

Subject to subsections (b) and (c), not more than 15 percent of the total amount of Cooperative Threat Reduction funds for any fiscal year may be obligated or expended, notwithstanding any other provision of law, for covered activities.

(b) Secretary of Defense determination and notice for urgent threat reduction activities in governed areas

With respect to an area not covered by subsection (c), the Secretary of Defense may obligate or expend funds pursuant to subsection (a) for covered activities if—

(1) the Secretary determines, in writing, that—

(A) a threat arising in such area from the proliferation of chemical, nuclear, or biological weapons or weapons-related materials, technologies, or expertise must be addressed urgently;

(B) certain provisions of law would unnecessarily impede the ability of the Secretary to carry out such covered activities to address such threat; and

(C) it is necessary to obligate or expend such funds to carry out such covered activities;

(2) the Secretary of State and the Secretary of Energy concur with such determination; and

(3) not later than seven days before the date on which the Secretary of Defense first obligates such funds, the Secretary of Defense, in consultation with the Secretary of State, submits to the congressional defense committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate—

(A) the determination under paragraph (1);

(B) a description of the covered activities to be carried out using such funds;

(C) the expected time frame for such activities; and

(D) the expected cost of such activities.

(c) Presidential determination and notice for urgent threat reduction activities in ungoverned areas

With respect to an ungoverned area or an area that is not controlled by an effective governmental authority, as determined by the Secretary of State, the President may obligate or expend funds pursuant to subsection (a) for covered activities if—

(1) the President determines, in writing, that—

(A) a threat arising in such an area from the proliferation of chemical, nuclear, or biological weapons or weapons-related materials, technologies, or expertise must be addressed urgently; and

(B) it is necessary to obligate or expend such funds to carry out such covered activities to address such threat; and

(2) at the time at which the President first obligates such funds, the Secretary of Defense, in consultation with the Secretary of State, submits to the congressional defense committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate—

- (A) the determination under paragraph (1);
- (B) a description of the covered activities to be carried out using such funds;
- (C) the expected time frame for such activities; and
- (D) the expected cost of such activities.

(d) Covered activity defined

In this section, the term “covered activity” means an activity under the Program to address a threat arising from the proliferation of chemical, nuclear, or biological weapons or weapons-related materials, technologies, or expertise.

(Pub. L. 113–291, div. A, title XIII, §1323, Dec. 19, 2014, 128 Stat. 3598; Pub. L. 114–328, div. A, title XIII, §1302(b)(3), Dec. 23, 2016, 130 Stat. 2566.)

AMENDMENTS

2016—Subsec. (b)(3). Pub. L. 114–328 substituted “not later than seven days before the date on which” for “at the time at which” in introductory provisions.

§ 3714. Use of funds for unspecified purposes or for increased amounts

(a) Notice to Congress of intent to use funds for unspecified purposes

(1) Report

For any fiscal year for which Cooperative Threat Reduction funds are specifically authorized in an Act other than an appropriations Act for specific purposes within the Program, the Secretary of Defense may obligate or expend such funds, or other funds otherwise made available for the Program for that fiscal year, for purposes other than such specified purposes if—

- (A) the Secretary determines that such obligation or expenditure is necessary in the national interests of the United States;
- (B) the Secretary submits to the congressional defense committees—
 - (i) notification of the intent of the Secretary to make such an obligation or expenditure of funds; and
 - (ii) a complete discussion of the purpose and justification for such obligation or expenditure, including the amount of funds to be obligated or expended; and
- (C) a period of 15 days has elapsed following the date on which the Secretary submits the notification and discussion under subparagraph (B).

(2) Construction with other laws

Paragraph (1) may not be construed to authorize the obligation or expenditure of Cooperative Threat Reduction Program funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under section 3731 of this title or any other provision of law.

(b) Limited authority to vary individual amounts provided for any fiscal year for specified purposes

For any fiscal year for which Cooperative Threat Reduction funds are specifically authorized in an Act other than an appropriations Act for specific purposes within the Program, the Secretary may obligate or expend such funds, or other funds otherwise made available for the Program for that fiscal year, in excess of the specific amount so authorized for that purpose if—

(1) the Secretary determines that such obligation or expenditure is necessary in the national interests of the United States;

(2) the Secretary submits to the congressional defense committees—

(A) notification of the intent of the Secretary to make such an obligation or expenditure of funds in excess of such authorized amount; and

(B) a complete discussion of the justification for exceeding such specified amounts, including the amount by which the Secretary will exceed such specified amounts; and

(3) a period of 15 days has elapsed following the date on which the Secretary submits the notification and discussion under paragraph (2).

(Pub. L. 113–291, div. A, title XIII, §1324, Dec. 19, 2014, 128 Stat. 3599; Pub. L. 114–328, div. A, title XIII, §1302(b)(4), Dec. 23, 2016, 130 Stat. 2566; Pub. L. 115–91, div. A, title XIII, §1302(b)(2), Dec. 12, 2017, 131 Stat. 1705.)

AMENDMENTS

2017—Subsecs. (a)(1)(C), (b)(3). Pub. L. 115–91 substituted “15 days” for “45 days”.

2016—Subsecs. (a)(1)(C), (b)(3). Pub. L. 114–328 substituted “45 days” for “15 days”.

§ 3715. Use of contributions to Department of Defense Cooperative Threat Reduction Program

(a) Authority to enter into agreements

(1) Authority

Subject to paragraph (2), the Secretary of Defense may enter into one or more agreements with any person (including a foreign government, international organization, multinational entity, or any other entity) that the Secretary considers appropriate under which the person contributes funds for activities conducted under the Program.

(2) Concurrence by Secretary of State

The Secretary may enter into an agreement under paragraph (1) only with the concurrence of the Secretary of State.

(b) Retention and use of funds

Notwithstanding section 3302 of title 31 and subject to subsections (c) and (d), the Secretary of Defense may retain and obligate or expend funds contributed pursuant to subsection (a) for purposes of the Program. Funds so contributed shall be retained in a separate fund established in the Treasury for such purposes and shall be available to be obligated or expended without further appropriation.