

the Department of Defense to improve the efficacy and efficiency of the Department, and to improve the ability of the Department to prioritize among and assess the costs and benefits of covered elements of reform.

(b) **POLICY.**—The Secretary shall develop a policy and issue guidance to implement reform within the Department and to improve the ability of the Department to prioritize among and assess the costs and benefits of covered elements of reform.

(c) **FRAMEWORK FOR REFORM.**—

(1) **IN GENERAL.**—Not later than February 1, 2022, the Secretary shall establish policies, guidance, and a consistent reporting framework to measure the progress of the Department toward covered elements of reform, including by establishing categories of reform, consistent metrics, and a process for prioritization of reform activities.

(2) **SCOPE.**—The framework required by paragraph (1) may address duties under the following:

- (A) Section 125 of this title.
- (B) Section 192 of this title.
- (C) Section 2222 of this title.
- (D) Section 1124 of title 31.
- (E) Section 11319 of title 40.

(3) **CONSULTATION.**—The Secretary shall consult with the Deputy Secretary of Defense, the Performance Improvement Officer of the Department of Defense, the Chief Data Officer of the Department of Defense, the Chief Information Officer of the Department of Defense, and the financial managers of the military departments in carrying out activities under this subsection.

(d) **COVERED ELEMENTS OF REFORM.**—For purposes of this section and the policies, guidance, and reporting framework required by subsection (c), covered elements of reform may include the following:

- (1) Business systems modernization.
- (2) Enterprise business operations process re-engineering.
- (3) Expanded and modernized collection, management, dissemination, and visualization of data to support decision-making at all levels of the enterprise.
- (4) Improvements in workforce training and education and increasing capabilities of the Department workforce to support and execute reform activities and business processes.
- (5) Improvements to decision-making processes to enable cost savings, cost avoidance, or investments to develop process improvements.
- (6) Such other elements as the Secretary considers appropriate.

(e) **ANNUAL REPORT.**—At the same time the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary shall, using the policies, guidance, and reporting framework required by subsection (c), submit to the congressional defense committees a report, including detailed narrative justifications and tradeoff analyses between options, on the actions of the Department as follows:

- (1) The activities, expenditures, and accomplishments carried out or made to effect re-

form under this section during the fiscal year in which such budget is submitted.

(2) The proposed activities, expenditures, and accomplishments to effect reform under this section, and consistent with priorities established by the Secretary, during the fiscal year covered by such budget and each of the four succeeding fiscal years.

(Added Pub. L. 116–283, div. A, title IX, §911(a)(1), Jan. 1, 2021, 134 Stat. 3800.)

#### IMPLEMENTING POLICIES, GUIDANCE, AND REPORTING FRAMEWORK

Pub. L. 116–283, div. A, title IX, §911(b), Jan. 1, 2021, 134 Stat. 3801, provided that:

“(1) **SUBMITTAL TO CONGRESS.**—Not later than March 1, 2022, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the policies, guidance, and reporting framework established pursuant to subsection (c) of section 125a of title 10, United States Code (as added by subsection (a) of this section).

“(2) **UPDATE.**—Not later than 90 days after the date of the submittal to Congress of the report required by section 901(d) of this Act [10 U.S.C. 132a note], the Secretary shall update the reporting framework referred to in paragraph (1).”

#### § 126. Transfer of funds and employees

(a) When a function, power, or duty or an activity of a department or agency of the Department of Defense is transferred or assigned to another department or agency of that department, balances of appropriations that the Secretary of Defense determines are available and needed to finance or discharge that function, power, duty, or activity, as the case may be, may, with the approval of the President, be transferred to the department or agency to which that function, power, duty or activity, as the case may be, is transferred, and used for any purpose for which those appropriations were originally available. Balances of appropriations so transferred shall—

- (1) be credited to any applicable appropriation account of the receiving department or agency; or
- (2) be credited to a new account that may be established on the books of the Department of the Treasury;

and be merged with the funds already credited to that account and accounted for as one fund. Balances of appropriations credited to an account under clause (1) are subject only to such limitations as are specifically applicable to that account. Balances of appropriations credited to an account under clause (2) are subject only to such limitations as are applicable to the appropriations from which they are transferred.

(b) When a function, power, or duty or an activity of a department or agency of the Department of Defense is transferred to another department or agency of that department, those civilian employees of the department or agency from which the transfer is made that the Secretary of Defense determines are needed to perform that function, power, or duty, or for that activity, as the case may be, may, with the approval of the President, be transferred to the department or agency to which that function, power, duty, or activity, as the case may be, is

transferred. The authorized strength in civilian employees of a department or agency from which employees are transferred under this section is reduced by the number of employees so transferred. The authorized strength in civilian employees of a department or agency to which employees are transferred under this section is increased by the number of employees so transferred.

(Added Pub. L. 87-651, title II, §201(a), Sept. 7, 1962, 76 Stat. 516; amended Pub. L. 96-513, title V, §511(2), Dec. 12, 1980, 94 Stat. 2920.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
126(a) .....	5:172f(a). 5:171n(a) (as applicable to 5:172f(a)).	July 26, 1947, ch. 343, § 407; added Aug. 10, 1949, ch. 412, § 11 (21st and 22d pars.), 63 Stat. 589.
126(b) .....	5:172f (less (a)).	July 26, 1947, ch. 343, § 308(a) (as applicable to § 407), 61 Stat. 509.

In subsection (a), the words "under authority of law" are omitted as surplusage. The following substitutions are made: "needed" for "necessary"; "used" for "be available for use by"; and "those appropriations" for "said funds".

In subsection (b), 5 U.S.C. 172f(b) is restated to reflect more clearly its purpose to authorize "transfers of personnel" (Senate Report No. 366, 81st Congress, p. 23).

Editorial Notes

AMENDMENTS

1980—Subsec. (b) Pub. L. 96-513 substituted "President" for "Director of the Bureau of the Budget".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

Executive Documents

DELEGATION OF FUNCTIONS

Authority of President under subsec. (a) of this section to approve transfers of balances of appropriations provided for therein delegated to Director of Office of Management and Budget, see section 9(2) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 127. Emergency and extraordinary expenses

(a) Subject to the limitations of subsection (c), and within the limitation of appropriations made for the purpose, the Secretary of Defense, the Inspector General of the Department of Defense, and the Secretary of a military department within his department, may provide for any emergency or extraordinary expense which cannot be anticipated or classified. When it is so provided in such an appropriation, the funds may be spent on approval or authority of the Secretary concerned or the Inspector General for any purpose he determines to be proper, and such a determination is final and conclusive upon the accounting officers of the United States. The Secretary concerned or the Inspector General may certify the amount of any such expenditure authorized by him that he considers

advisable not to specify, and his certificate is sufficient voucher for the expenditure of that amount.

(b) The authority conferred by this section may be delegated by the Secretary of Defense to any person in the Department of Defense, by the Inspector General to any person in the Office of the Inspector General, or by the Secretary of a military department to any person within his department, with or without the authority to make successive redelegations.

(c)(1) Funds may not be obligated or expended in an amount in excess of \$500,000 under the authority of subsection (a) or (b) until the Secretary of Defense has notified the congressional defense committees of the intent to obligate or expend the funds, and—

(A) in the case of an obligation or expenditure in excess of \$1,000,000, 15 days have elapsed since the date of the notification; or

(B) in the case of an obligation or expenditure in excess of \$500,000, but not in excess of \$1,000,000, 5 days have elapsed since the date of the notification.

(2) Subparagraph (A) or (B) of paragraph (1) shall not apply to an obligation or expenditure of funds otherwise covered by such subparagraph if the Secretary of Defense determines that the national security objectives of the United States will be compromised by the application of the subparagraph to the obligation or expenditure. If the Secretary makes a determination with respect to an obligation or expenditure under the preceding sentence, the Secretary shall immediately notify the committees referred to in paragraph (1) that such obligation or expenditure is necessary and provide any relevant information (in classified form, if necessary) jointly to the chairman and ranking minority member (or their designees) of such committees.

(3) A notification under paragraph (1) and information referred to in paragraph (2) shall include the amount to be obligated or expended, as the case may be, and the purpose of the obligation or expenditure.

(4)(A) Notwithstanding paragraph (1), funds may not be obligated or expended in an amount in excess of \$100,000 under the authority of subsection (a) or (b) for intelligence or counter-intelligence activities until the Secretary of Defense has notified the congressional defense committees and the congressional intelligence committees of the intent to obligate or expend the funds and 15 days have elapsed since the date of the notification.

(B) The Secretary of Defense may waive subparagraph (A) if the Secretary determines that such a waiver is necessary due to extraordinary circumstances that affect the national security of the United States. If the Secretary issues a waiver under this subparagraph, the Secretary shall submit to the congressional defense and congressional intelligence committees, by not later than 48 hours after issuing the waiver, written notice of and justification for the waiver.

(d) ANNUAL REPORT.—(1) Not later than December 1 each year, the Secretary of Defense shall submit—

(A) to the congressional defense committees a report on all expenditures during the pre-