

1997—Pub. L. 105–85 amended section generally. Prior to amendment, section related to availability of appropriated funds for payments under contracts for various types of maintenance, leases, and operations and authorized Secretary of Transportation to enter into contracts for procurement of severable services.

1996—Pub. L. 104–324 designated existing provisions as subsec. (a) and added subsec. (b).

1991—Par. (1). Pub. L. 102–190, §342(1), inserted “, equipment,” after “tools”.

Par. (4). Pub. L. 102–190, §342(2), added par. (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title X, §1005(c), Nov. 24, 2003, 117 Stat. 1585, provided that: “The amendments made by this section [amending this section] shall not apply to funds appropriated for a fiscal year before fiscal year 2004.”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

§ 3134. Allocation of appropriations

(a) Appropriations available for procurement by an agency named in section 3063 of this title may, through administrative allotment, be made available for obligation for procurement by any other agency in amounts authorized by the head of the allotting agency and without transfer of funds on the books of the Department of the Treasury.

(b) A disbursing official of the allotting agency may make any disbursement chargeable to an allotment under subsection (a) upon a voucher certified by an officer or civilian employee of the procuring agency.

(Aug. 10, 1956, ch. 1041, 70A Stat. 132, §2309; Pub. L. 97–258, §2(b)(1)(B), Sept. 13, 1982, 96 Stat. 1052; renumbered §3134 and amended Pub. L. 116–283, div. A, title XVIII, §1809(e), Jan. 1, 2021, 134 Stat. 4161; Pub. L. 117–81, div. A, title XVII, §1701(b)(3), Dec. 27, 2021, 135 Stat. 2132.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2309(a)	41:159 (2d sentence).	Feb. 19, 1948, ch. 65, §10
2309(b)	41:159 (less 1st and 2d sentences).	(less 1st sentence), 62 Stat. 25.

In subsection (a), the words “an agency named in section 2303 of this title” are substituted for the words “any such agency”.

In subsection (b), the words “an allotment under subsection (a)” are substituted for the words “such allotments”.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283, §1809(e)(1), renumbered section 2309 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1809(e)(2)(A), substituted “named in section 3063” for “named in section 2303”.

Subsec. (c). Pub. L. 116–283, §1809(e)(2)(B), which directed adding subsec. (c), was repealed by Pub. L. 117–81, §1701(b)(3).

1982—Subsec. (b). Pub. L. 97–258 substituted “disbursing official” for “disbursing officer”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

§ 3135. Comparable budgeting for common procurement weapon systems

(a) MATTERS TO BE INCLUDED IN ANNUAL DEFENSE BUDGETS.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

(1) specifically identify each common procurement weapon system included in the budget;

(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

(3) identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems.

(b) COMPTROLLER.—The Secretary shall carry out this section through the Under Secretary of Defense (Comptroller).

(c) DEFINITIONS.—In this section:

(1) The term “defense budget” means the budget of the Department of Defense included in the President’s budget submitted to Congress under section 1105 of title 31 for a fiscal year.

(2) The term “common procurement weapon system” means a weapon system for which two or more of the Army, Navy, Air Force, Marine Corps, and Space Force request procurement funds in a defense budget.

(Added Pub. L. 100–370, §1(d)(3)(A), July 19, 1988, 102 Stat. 843, §2217; amended Pub. L. 104–106, div. A, title XV, §1503(a)(20), Feb. 10, 1996, 110 Stat. 512; renumbered §3135 and amended Pub. L. 116–283, div. A, title IX, §924(b)(1)(N), title XVIII, §1809(f)(1), Jan. 1, 2021, 134 Stat. 3820, 4161.)

HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 99–500, §101(c) [title X, §955], Oct. 18, 1986, 100 Stat. 1783–82, 1783–173, and Pub. L. 99–591, §101(c) [title X, §955], Oct. 30, 1986, 100 Stat. 3341–82, 3341–173; Pub. L. 99–661, div. A, title IX, formerly title IV, §955, Nov. 14, 1986, 100 Stat. 3953, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283, §1809(f)(1), renumbered section 2217 of this title as this section.

Subsec. (c)(2). Pub. L. 116-283, §924(b)(1)(N), substituted “Marine Corps, and Space Force” for “and Marine Corps”.

1996—Subsec. (b). Pub. L. 104-106 substituted “Under Secretary of Defense (Comptroller)” for “Comptroller of the Department of Defense”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1809(f)(1) of Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

§ 3136. Defense Modernization Account

(a) ESTABLISHMENT.—There is established in the Treasury an account to be known as the “Defense Modernization Account”.

(b) FUNDS AVAILABLE FOR ACCOUNT.—The Defense Modernization Account shall consist of the following:

(1) Amounts appropriated to the Defense Modernization Account for the costs of projects described in subsection (d)(1), and amounts reimbursed to the Defense Modernization Account under subsection (c)(1)(B)(ii) out of savings derived from such projects.

(2) Amounts transferred to the Defense Modernization Account under subsection (c).

(c) TRANSFERS TO ACCOUNT.—(1)(A) Upon a determination by the Secretary of a military department, or the Secretary of Defense with respect to Defense-wide appropriations accounts, of the availability and source of funds described in subparagraph (B), the Secretary concerned may transfer to the Defense Modernization Account during any fiscal year any amount of funds available to the Secretary described in that subparagraph. Such funds may be transferred to that account only after the Secretary concerned notifies the congressional defense committees in writing of the amount and source of the proposed transfer.

(B) This subsection applies to the following funds that have been appropriated for fiscal years after fiscal year 2016 and are available to the Secretary concerned:

(i) Unexpired funds in appropriations accounts that are available for new obligations and that, as a result of economies, efficiencies, and other savings achieved in carrying out an acquisition program, are excess to the requirements of that program.

(ii) Unexpired funds in appropriations accounts that are available for procurement or operation and maintenance of a system, if and to the extent that savings are achieved for such accounts through reductions in life cycle costs of such system that result from one or more projects undertaken with respect to such systems with funds made available from the Defense Modernization Account under subsection (b)(1).

(C) Any transfer under subparagraph (A) shall be made under regulations prescribed by the Secretary of Defense.

(2) Funds referred to in paragraph (1) may not be transferred to the Defense Modernization Ac-

count if the balance of funds in the account, after transfer of funds to the account, would exceed \$1,000,000,000.

(3) Amounts deposited in the Defense Modernization Account shall remain available for transfer and obligation until the end of the third fiscal year that follows the fiscal year in which the amounts are deposited in the account.

(d) AUTHORIZED USE OF FUNDS.—Funds in the Defense Modernization Account may be used for the following purposes:

(1) For paying the costs of any project that, in accordance with criteria prescribed by the Secretary concerned, is undertaken by the Secretary of a military department or the head of a Defense Agency or other element of the Department of Defense to reduce the life cycle cost of a new or existing system.

(2) For increasing, subject to subsection (e), the quantity of items and services procured under an acquisition program in order to achieve a more efficient production or delivery rate.

(3) For research, development, test, and evaluation, for procurement, and for sustainment activities necessary for paying costs of unforeseen contingencies that are approved by the milestone decision authority concerned, that could prevent an ongoing acquisition program from meeting critical schedule or performance requirements.

(4) For paying costs of changes to program requirements or system configuration that are approved by the configuration steering board for a major defense acquisition program.

(e) LIMITATIONS.—(1) Funds in the Defense Modernization Account may not be used to increase the quantity of an item or services procured under a particular acquisition program to the extent that doing so would—

(A) result in procurement of a total quantity of items or services in excess of—

(i) a specific limitation provided by law on the quantity of the items or services that may be procured; or

(ii) the requirement for the items or services as approved by the Joint Requirements Oversight Council and reported to Congress by the Secretary of Defense; or

(B) result in an obligation or expenditure of funds in excess of a specific limitation provided by law on the amount that may be obligated or expended, respectively, for that acquisition program.

(2) Funds in the Defense Modernization Account may not be used for a purpose or program for which Congress has not authorized appropriations, unless the procedures for initiating a new start program are complied with.

(3) Funds may not be transferred from the Defense Modernization Account in any year for the purpose of—

(A) making an expenditure for which there is no corresponding obligation; or

(B) making an expenditure that would satisfy an unliquidated or unrecorded obligation arising in a prior fiscal year.

(f) TRANSFER OF FUNDS.—(1) The Secretary of a military department, or the Secretary of De-