

- (1) Amounts appropriated to the Fund.
- (2) Amounts transferred to the Fund.
- (3) Any other amounts made available to the Fund by law.

(c) USE OF FUNDS.—(1) Amounts in the Fund shall be available to the Secretary of Defense for capabilities that are determined by the Secretary, pursuant to the review process required by Department of Defense Instruction 5000.81 (or any successor instruction), dated December 31, 2019, and titled “Urgent Capability Acquisition”, to be suitable for rapid fielding in response to urgent operational needs.

(2) The Secretary shall establish a merit-based process for identifying equipment, supplies, services, training, and facilities suitable for funding through the Fund.

(3) Nothing in this section shall be interpreted to require or enable any official of the Department of Defense to provide funding under this section pursuant to a congressional earmark, as defined in clause 9 of Rule XXI of the Rules of the House of Representatives, or a congressionally directed spending item, as defined in paragraph 5 of Rule XLIV of the Standing Rules of the Senate.

(d) TRANSFER AUTHORITY.—(1) Amounts in the Fund may be transferred by the Secretary of Defense from the Fund to any of the following accounts of the Department of Defense to accomplish the purpose stated in subsection (c):

- (A) Operation and maintenance accounts.
- (B) Procurement accounts.
- (C) Research, development, test, and evaluation accounts.

(2) Upon determination by the Secretary that all or part of the amounts transferred from the Fund under paragraph (1) are not necessary for the purpose for which transferred, such amounts may be transferred back to the Fund.

(3) The transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount so transferred.

(4) The transfer authority provided by paragraphs (1) and (2) is in addition to any other transfer authority available to the Department of Defense by law.

(e) SUNSET.—The authority to make expenditures or transfers from the Fund shall expire on September 30, 2018.

(Added Pub. L. 112–81, div. A, title VIII, § 846(a)(1), Dec. 31, 2011, 125 Stat. 1516; amended Pub. L. 112–239, div. A, title X, § 1076(e)(2), Jan. 2, 2013, 126 Stat. 1951; Pub. L. 113–291, div. A, title VIII, § 860, Dec. 19, 2014, 128 Stat. 3461; Pub. L. 117–263, div. A, title VIII, § 804(d)(1), Dec. 23, 2022, 136 Stat. 2701.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2216a, added Pub. L. 104–106, div. A, title III, § 371(a)(1), Feb. 10, 1996, 110 Stat. 277, § 2216; renumbered § 2216a and amended Pub. L. 104–201, div. A, title III, §§ 363(c), 364, title X, § 1074(a)(10), Sept. 23, 1996, 110 Stat. 2493, 2494, 2659, related to Defense Business Operations Fund, prior to repeal by Pub. L. 105–261, div. A, title X, § 1008(b), Oct. 17, 1998, 112 Stat. 2117.

AMENDMENTS

2022—Subsec. (c)(1). Pub. L. 117–263 substituted “Department of Defense Instruction 5000.81 (or any successor instruction), dated December 31, 2019, and titled ‘Urgent Capability Acquisition’” for “section 804(b) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 2302 note)”.

2014—Subsec. (e). Pub. L. 113–291 substituted “September 30, 2018” for “September 30, 2015”.

2013—Subsec. (e). Pub. L. 112–239 substituted “on September 30, 2015.” for “on the last day of the third fiscal year that begins after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012.”

Statutory Notes and Related Subsidiaries

LIMITATION ON COMMENCEMENT OF EXPENDITURES FROM FUND

Pub. L. 112–81, div. A, title VIII, § 846(b), Dec. 31, 2011, 125 Stat. 1517, provided that: “No expenditure may be made from the Joint Urgent Operational Needs Fund established by section 2216a of title 10, United States Code (as added by subsection (a)), until the Secretary of Defense certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that the Secretary has developed and implemented an expedited review process in compliance with the requirements of section 804 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4256; 10 U.S.C. 2302 note).”

[§ 2217. Renumbered § 3135]

§ 2218. National Defense Sealift Fund

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “National Defense Sealift Fund”.

(b) ADMINISTRATION OF FUND.—The Secretary of Defense shall administer the Fund consistent with the provisions of this section.

(c) FUND PURPOSES.—(1) Funds in the National Defense Sealift Fund shall be available for obligation and expenditure only for the following purposes:

(A) Construction (including design of vessels), purchase, alteration, and conversion of Department of Defense sealift vessels.

(B) Operation, maintenance, and lease or charter of Department of Defense vessels for national defense purposes.

(C) Installation and maintenance of defense features for national defense purposes on privately owned and operated vessels that are constructed in the United States and documented under the laws of the United States.

(D) Expenses for maintaining the National Defense Reserve Fleet under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. 4405),¹ and for the costs of acquisition of vessels for, and alteration and conversion of vessels in (or to be placed in), the fleet, but only for vessels built in United States shipyards.

(2) Funds in the National Defense Sealift Fund may be obligated or expended only in amounts authorized by law.

(3) Funds obligated and expended for a purpose set forth in subparagraph (B) of paragraph (1) may be derived only from funds deposited in the National Defense Sealift Fund pursuant to subsection (d)(1).

¹ See References in Text note below.