

CHAPTER 3

APPROPRIATION TRANSFER AUTHORITIES0301 GENERAL

In addition to the regular and supplemental appropriations that make funds available, the Congress has provided authority for transfers of funds, i.e., moving funds from one appropriation to another. This section identifies and describes the various transfer authorities that are available to the Department and prescribes action required to exercise transfer authority.

0302 TYPES OF TRANSFER AUTHORITIES

030201. Authority for nonexpenditure transfers maybe included in permanent, one-time or recurring provisions of law. Most of the transfers within the Department, however, are made pursuant to authority granted in the annual Appropriations Act. Some of the transfer authorities are provided solely for administrative convenience and some allow no discretionary action. Basic responsibility for transfer of funds relating to nonexpenditure transfers will be assigned to the DoD Components from which the funds are transferred.

030202. Authority for Transfers Affecting Budget AvailabilityA. Congressionally Directed Transfers

This type of transfer is included in the applicable DoD Appropriations Acts, either in the General Provisions or in the language that enacts the individual appropriations. The Act itself then becomes the authority for DoD Components to process the transfer documents.

B. General Transfer Authority

The General Revisions sections of DoD Appropriations and Authorization Acts provide authority to transfer funds between appropriations, or between appropriation subdivisions approved in the Acts, upon determination by the Secretary of Defense that such action is necessary in the national interest; provided that such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than the items for which funds were originally appropriated, and in no case where the item for which funds are requested has been denied by the Congress. The Congress must be notified promptly of all transfers made under this authority. The Appropriations Act authority requires approval of the OMB; the Authorization Act authority does not include that requirement.

C. Transfers Between Working Capital Funds

Generally, the DoD Appropriations Act provides authority, during the current fiscal year, to transfer cash balances between working capital funds and the Foreign Currency Fluctuations, Defense and Operation and Maintenance appropriation accounts. Transfers may be made

between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the OMB, except that transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in the Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

D. Transfer of Funds for Intelligence Activities

See Chapter 6, section 0606 of this Volume for intelligence-related transfer authorities.

E. Transfer Accounts

Various Appropriation and Authorization Acts have included language making funds available or transfer authority available for accounts such as Environmental Restoration, Defense; Drug Interdiction and Counter-Drug Activities, Defense; Foreign Currency Fluctuations, Defense; Foreign Currency Fluctuations, Construction, Defense; and the Defense Modernization Account.

F. Transfer of Funds and Personnel for Functional Transfers Within the Department of Defense

When a transfer of function, power, or duty is made within the Department of Defense from one Military Department or Defense Agency to another, pursuant to the authority of Title 10, United States Code, section 125, balances of appropriations and civilian employee positions, that the Secretary of Defense determines are available and needed to finance and perform that function, power, duty, or activity, may be transferred, with the approval of the President (as delegated to the OMB). Funds 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 shall be made in accordance with Title 10, United States Code, section 126 (see Chapter 4 of this Volume).

G. Transfer of Funds for Functional Transfers Between Government Agencies

Title 31, United States Code, section 1531 (a) provides similar authority to 10 U.S.C. 126, above, limited to appropriations. Title 31, United States Code, section 1531 (b) provides that the head of the agency, with the President's approval, determines the amounts to be transferred in the case of intra-agency transfers and that the President determines the amounts to be transferred in the case of inter-agency transfers.

H. Transfer of Funds to Other Departments and Agencies: Limitation

Title 10, United States Code, section 2215 provides that funds available for military functions of the Department of Defense may not be made available to any other department or agency of the Federal Government pursuant to a provision of law enacted after November 29, 1989, unless, not less than 30 days before such funds are made available to such other department or agency, the Secretary of Defense submits to the House National Security and Senate Armed Services Committees and the Committees on Appropriations of the Senate and House of Representatives a certification that making those funds available to such other department or agency is in the national security interest of the United States.

0303 STATUS REPORT ON TRANSFER ACTIONS

In order to ensure that all required actions relating to transfers are accomplished in a timely manner, the OUSD(C)/P&FC will maintain and publish periodically a status report on transfer actions.

0304 ACTIONS RELATED TO EXERCISE OF TRANSFER AUTHORITY

030401. Proposals to exercise transfer authority should be submitted formally by the DoD Components to the OUSD(C) for processing. The submission must state the statutory authority for the proposed transfer.

030402. Secretary of Defense Determination

In most cases, authority is provided for transfer by the Secretary of Defense in amounts determined by the Secretary of Defense, or upon determination by the Secretary of Defense that certain conditions exist. Secretary of Defense determinations, when required, either will be obtained or signed by the OUSD(C). In processing SF 1151 transfer documents to the Treasury Department, the statutory authority for the transfer must be cited, with references to documents constituting determinations and copies of the associated OMB or Presidential approvals when required.

030403. OMB/Presidential Approval

Where the statutory authority requires a determination or OMB/Presidential approval for the transfer, the OUSD(C) will obtain the necessary approval. The OMB approval may also include the apportionment of funds.

030404. Reprogramming Actions

Reprogramming actions (DD 1415) made pursuant to provisions of Chapter 6 of this Volume, will be submitted whenever necessary to provide accountability for increases or decreases between DoD appropriations. Accordingly, reprogramming actions are required to reflect transfer amounts that are not congressionally directed. The timing for submission of the DD 1415 depends upon the nature of the transfer and the amount involved.

030405. Processing of SF 1151 Documents

A. Except as stated below, SF 1151 documents transferring funds between DoD appropriation and fund accounts should not be processed prior to the receipt of an OUSD(C) memorandum directing that such action be taken. The following types of transfers may be made without prior approval of the OUSD(C):

1. Transfers of funds for functional transfers between government agencies (31 U.S.C. 1531) - when the request is initiated by a government agency other than the Department of Defense.

2. Transfers of obligational authority from one agency to a transfer appropriation account that is established in another agency to carry out the purposes of the parent appropriation or fund. Such transfers are not adjustments to budget authority or balances of budget authority.

B. DoD Components must assure that a copy of each SF 1151 is be furnished to the OUSD(C)/P&FC concurrent with distribution of the SF 1151 to the Treasury and affected organizations.

C. The memorandum from the OUSD(C) directing that an SF 1151 be processed will be addressed both to the transferring office and the recipient office, and will include the following information.

1. Identity of the transferring office.
2. Account from which funds are to be transferred and the recipient account.
3. Amount of the transfer in dollars.
4. Statutory references for the transfer authority.
5. Reference to enclosure of a Secretary of Defense determination, if applicable.
6. Reference to enclosure of an OMB approval, if applicable.
7. Statement of whether the action is a budget authority transfer, a reappropriation, or transfers of obligated or unobligated balances.
8. Request that a copy of the SF 1151 be provided to OUSD(C).
9. Statement as to the reprogramming action (DD 1415) serial number on which transfers are reflected.

10. Statement as to the applicable lines on the Apportionment and Reapportionment Schedule (SF 132) on which the transfer amounts must be reflected, when submitting the required schedule or subsequent reapportionments.

11. Statement as to the applicable lines on the Report on Budget Execution (SF 133) on which the transfer amounts must be reflected, when the transfer is made.

12. Statement as to the official responsible for issuance of the applicable fund authorization documents (e.g., EOB, DD 440, approval/deferral memos).

13. Statement that either the OUSD(C) or other applicable designee will make formal notification to the Congress of the amount transferred, if required by law.

030406. Notification to the Congress

A. When there is a statutory requirement that transfers be reported to the Congress, such notification is made to the President of the Senate and to the Speaker of the House of Representatives promptly by the OUSD(C) upon completion of transfer action. In accordance with informal arrangements between the Department of Defense and the cognizant Subcommittees of the Committees on Appropriations, a copy of the report is transmitted to those cognizant Subcommittees and to the House National Security and Senate Armed Services Committees.

B. It should be noted that, although transfers of funds pursuant to Title 10, United States Code, section 126 need not be reported to the Congress, transfers of functions pursuant to 10 U.S.C. 125 must be reported when there is a substantial reduction or elimination of a major weapons system. The OSD office submitting the transfer of function documents to the Secretary of Defense for approval is responsible for preparing documents to notify the Congress.

03047. Apportionment and Reapportionment Schedules

A. Pursuant to provisions of OMB Circular A-34 and Chapter 2 of this Volume, all approved and/or appropriated transfers will be reflected on Apportionment and Reapportionment Schedules (SF 132). For certain transfers specified in Chapter 2 (e.g., Foreign Currency Fluctuations, Defense or Environmental Restoration), the gaining and losing accounts automatically are apportioned and transfers will be reflected on subsequent schedules that are generated for other purposes during the year.

B. Each Apportionment and Reapportionment Schedule submitted must show all transfers processed to date. The SF 132 is processed concurrently for both the gaining and losing appropriations.

030408. Guidance on SF 133 Treatment

Although OMB Circular A-34 does not contemplate that transfers will be included on the “Report on Budget Execution” (SF 133) until the SF 1151 action is completed, transfers may be included on the SF 133 on an anticipated basis when all statutory requirements for the transfer have been met but prior to the processing of the SF 1151. Decisions relating to anticipated transfers on the SF 133 will reflect the agreed-upon position of the OUSD(C) and the OMB.

030409. Fund Authorization Documents

Changes will be made to the EOB, DD 440, etc., to reflect program adjustments resulting from the transfers, as determined by the cognizant Program/Budget appropriation director in the OUSD(C).