

management funds are available for obligation only during the fiscal year in which they are advanced.

(Added Pub. L. 87-651, title II, §207(a), Sept. 7, 1962, 76 Stat. 522.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2209(a)	5:172e(a), (b).	July 3, 1942, ch. 484; re-
2209(b)	5:172e(c) (last sentence).	stated Aug. 10, 1949, ch.
2209(c)	5:172e(c) (less last sentence).	412, §11 (16th through
	5:172e(d).	19th pars.), 63 Stat. 588.

In subsection (a), the second sentence is substituted for the second sentence of 5 U.S.C. 172e(a) and the first sentence (less last 21 words) of 5 U.S.C. 172e(b) which are omitted as unnecessary.

In subsection (c), the 13th through 33d words of 5 U.S.C. 172e(d) are omitted as surplusage.

§ 2210. Proceeds of sales of supplies: credit to appropriations

(a)(1) A working-capital fund established pursuant to section 2208 of this title may retain so much of the proceeds of disposals of property referred to in paragraph (2) as is necessary to recover the expenses incurred by the fund in disposing of such property. Proceeds from the sale or disposal of such property in excess of amounts necessary to recover the expenses may be credited to current applicable appropriations of the Department of Defense.

(2) Paragraph (1) applies to disposals of supplies, material, equipment, and other personal property that were not financed by stock funds established under section 2208 of this title.

(b) Obligations may, without regard to fiscal year limitations, be incurred against anticipated reimbursements to stock funds in such amounts and for such period as the Secretary of Defense, with the approval of the President, may determine to be necessary to maintain stock levels consistently with planned operations for the next fiscal year.

(Added Pub. L. 87-651, title II, §207(a), Sept. 7, 1962, 76 Stat. 522; amended Pub. L. 96-513, title V, §511(72), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 105-261, div. A, title X, §1009, Oct. 17, 1998, 112 Stat. 2117.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2210(a)	5:172d-1 (less proviso).	Aug. 1, 1953, ch. 305, §645,
2210(b)	5:172d-1 (proviso).	67 Stat. 357.

In section (a), the words "proceeds of the disposal" are substituted for the words "moneys arising from the disposition".

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-261 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Current applicable appropriations of the Department of Defense may be credited with proceeds of the disposals of supplies that are not financed by stock funds established under section 2208 of this title."

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

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.

§ 2211. Reimbursement for equipment, material, or services furnished members of the United Nations

Amounts paid by members of the United Nations for equipment or materials furnished, or services performed, in joint military operations shall be credited to appropriate appropriations of the Department of Defense in the manner authorized by section 632(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2392(d)).

(Added Pub. L. 87-651, title II, §207(a), Sept. 7, 1962, 76 Stat. 522; amended Pub. L. 96-513, title V, §511(73), Dec. 12, 1980, 94 Stat. 2926.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2211	5:171m-1.	Jan. 6, 1951, ch. 1213, §703, 64 Stat. 1235.

The reference to section 2392(d) of title 22 is substituted for the reference to section 1574(b) of that title to reflect section 542(b) of the Act of August 26, 1954, ch. 937 (68 Stat. 861) and section 642(a)(2) and (b) of the Act of September 4, 1961, Pub. L. 87-195 (75 Stat. 460).

AMENDMENTS

1980—Pub. L. 96-513 substituted "section 632(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2392(d))" for "section 2392(d) of title 22".

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.

§ 2212. Obligations for contract services: reporting in budget object classes

(a) LIMITATION ON REPORTING IN MISCELLANEOUS SERVICES OBJECT CLASS.—The Secretary of Defense shall ensure that, in reporting to the Office of Management and Budget (pursuant to OMB Circular A-11 (relating to preparation and submission of budget estimates)) obligations of the Department of Defense for any period of time for contract services, no more than 15 percent of the total amount of obligations so reported is reported in the miscellaneous services object class.

(b) DEFINITION OF REPORTING CATEGORIES FOR ADVISORY AND ASSISTANCE SERVICES.—In carrying out section 1105(g) of title 31 for the Department of Defense (and in determining what services are to be reported to the Office of Management and Budget in the advisory and assistance services object class), the Secretary of Defense shall apply to the terms used for the definition of "advisory and assistance services" in paragraph (2)(A) of that section the following meanings (subject to the authorized exemptions):

(1) MANAGEMENT AND PROFESSIONAL SUPPORT SERVICES.—The term "management and professional support services" (used in clause (i) of section 1105(g)(2)(A) of title 31) means services that provide engineering or technical support, assistance, advice, or training for the ef-

ficient and effective management and operation of organizations, activities, or systems. Those services—

(A) are closely related to the basic responsibilities and mission of the using organization; and

(B) include efforts that support or contribute to improved organization or program management, logistics management, project monitoring and reporting, data collection, budgeting, accounting, auditing, and administrative or technical support for conferences and training programs.

(2) STUDIES, ANALYSES, AND EVALUATIONS.—The term “studies, analyses, and evaluations” (used in clause (ii) of section 1105(g)(2)(A) of title 31) means services that provide organized, analytic assessments to understand or evaluate complex issues to improve policy development, decisionmaking, management, or administration and that result in documents containing data or leading to conclusions or recommendations. Those services may include databases, models, methodologies, and related software created in support of a study, analysis, or evaluation.

(3) ENGINEERING AND TECHNICAL SERVICES.—The term “engineering and technical services” (used in clause (iii) of section 1105(g)(2)(A) of title 31) means services that take the form of advice, assistance, training, or hands-on training necessary to maintain and operate fielded weapon systems, equipment, and components (including software when applicable) at design or required levels of effectiveness.

(c) PROPER CLASSIFICATION OF ADVISORY AND ASSISTANCE SERVICES.—Before the submission to the Office of Management and Budget of the proposed Department of Defense budget for inclusion in the President’s budget for a fiscal year pursuant to section 1105 of title 31, the Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall conduct a review of Department of Defense services expected to be performed as contract services during the fiscal year for which that budget is to be submitted in order to ensure that those services that are advisory and assistance services (as defined in accordance with subsection (b)) are in fact properly classified, in accordance with that subsection, in the advisory and assistance services object class.

(d) REPORT TO CONGRESS.—The Secretary shall submit to Congress each year, not later than 30 days after the date on which the budget for the next fiscal year is submitted pursuant to section 1105 of title 31, a report containing the information derived from the review under subsection (c).

(e) ASSESSMENT BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct a review of the report of the Secretary of Defense under subsection (d) each year and shall—

(A) assess the methodology used by the Secretary in obtaining the information submitted to Congress in that report; and

(B) assess the information submitted to Congress in that report.

(2) Not later than 120 days after the date on which the Secretary submits to Congress the re-

port required under subsection (d) for any year, the Comptroller General shall submit to Congress the Comptroller General’s report containing the results of the review for that year under paragraph (1).

(f) DEFINITIONS.—In this section:

(1) The term “contract services” means all services that are reported to the Office of Management and Budget pursuant to OMB Circular A-11 (relating to preparation and submission of budget estimates) in budget object classes that are designated in the Object Class 25 series.

(2) The term “advisory and assistance services object class” means those contract services constituting the budget object class that is denominated “Advisory and Assistance Service” and designated (as of October 17, 1998) as Object Class 25.1 (or any similar object class established after October 17, 1998, for the reporting of obligations for advisory and assistance contract services).

(3) The term “miscellaneous services object class” means those contract services constituting the budget object class that is denominated “Other Services (services not otherwise specified in the 25 series)” and designated (as of October 17, 1998) as Object Class 25.2 (or any similar object class established after October 17, 1998, for the reporting of obligations for miscellaneous or unspecified contract services).

(4) The term “authorized exemptions” means those exemptions authorized (as of October 17, 1998) under Department of Defense Directive 4205.2, captioned “Acquiring and Managing Contracted Advisory and Assistance Services (CAAS)” and issued by the Under Secretary of Defense for Acquisition and Technology on February 10, 1992, such exemptions being set forth in Enclosure 3 to that directive (captioned “CAAS Exemptions”).

(Added Pub. L. 105-261, div. A, title IX, §911(a)(1), Oct. 17, 1998, 112 Stat. 2097; amended Pub. L. 106-65, div. A, title X, §1066(a)(17), Oct. 5, 1999, 113 Stat. 771.)

PRIOR PROVISIONS

A prior section 2212, added Pub. L. 100-370, §1(d)(2)(A), July 19, 1988, 102 Stat. 842, directed Secretary of Defense to maintain within each military department an accounting procedure to aid in identification and control of expenditures for contracted advisory and assistance services, prior to repeal by Pub. L. 103-355, title II, §2454(c)(1), Oct. 13, 1994, 108 Stat. 3326.

Another prior section 2212, added Pub. L. 95-356, title VIII, §802(a)(1), Sept. 8, 1978, 92 Stat. 585; amended Pub. L. 97-258, §3(b)(5), Sept. 18, 1982, 96 Stat. 1063, related to transmission of annual military construction authorization request, prior to repeal by Pub. L. 97-214, §7(1), July 12, 1982, 96 Stat. 173, eff. Oct. 1, 1982, applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date. See section 2859 of this title.

AMENDMENTS

1999—Subsec. (f)(2), (3). Pub. L. 106-65 substituted “as of October 17, 1998” for “as of the date of the enactment of this section” and “after October 17, 1998,” for “after the date of the enactment of this section”.

Subsec. (f)(4). Pub. L. 106-65, §1066(a)(17)(B), substituted “as of October 17, 1998” for “as of the date of the enactment of this section”.

CHANGE OF NAME

Reference to Under Secretary of Defense for Acquisition and Technology deemed to refer to Under Secretary of Defense for Acquisition, Technology, and Logistics, pursuant to section 911(a)(1) of Pub. L. 106-65, set out as a note under section 133 of this title.

TRANSITION

Pub. L. 105-261, div. A, title IX, §911(b), Oct. 17, 1998, 112 Stat. 2099, provided that for the budget for fiscal year 2000, and the reporting of information to the Office of Management and Budget in connection with the preparation of that budget, this section would be applied by substituting “30 percent” in subsec. (a) for “15 percent”.

§ 2213. Limitation on acquisition of excess supplies

(a) **TWO-YEAR SUPPLY.**—The Secretary of Defense may not incur any obligation against a stock fund of the Department of Defense for the acquisition of any item of supply if that acquisition is likely to result in an on-hand inventory (excluding war reserves) of that item of supply in excess of two years of operating stocks.

(b) **EXCEPTIONS.**—The head of a procuring activity may authorize the acquisition of an item of supply in excess of the limitation contained in subsection (a) if that activity head determines in writing—

(1) that the acquisition is necessary to achieve an economical order quantity and will not result in an on-hand inventory (excluding war reserves) in excess of three years of operating stocks and that the need for the item is unlikely to decline during the period for which the acquisition is made; or

(2) that the acquisition is necessary for purposes of maintaining the industrial base or for other reasons of national security.

(Added Pub. L. 102-190, div. A, title III, §317(a), Dec. 5, 1991, 105 Stat. 1338.)

PRIOR PROVISIONS

A prior section 2213 was renumbered section 2350c of this title.

§ 2214. Transfer of funds: procedure and limitations

(a) **PROCEDURE FOR TRANSFER OF FUNDS.**—Whenever authority is provided in an appropriation Act to transfer amounts in working capital funds or to transfer amounts provided in appropriation Acts for military functions of the Department of Defense (other than military construction) between such funds or appropriations (or any subdivision thereof), amounts transferred under such authority shall be merged with and be available for the same purposes and for the same time period as the fund or appropriations to which transferred.

(b) **LIMITATIONS ON PROGRAMS FOR WHICH AUTHORITY MAY BE USED.**—Such authority to transfer amounts—

(1) may not be used except to provide funds for a higher priority item, based on unforeseen military requirements, than the items for which the funds were originally appropriated; and

(2) may not be used if the item to which the funds would be transferred is an item for which Congress has denied funds.

(c) **NOTICE TO CONGRESS.**—The Secretary of Defense shall promptly notify the Congress of each transfer made under such authority to transfer amounts.

(d) **LIMITATIONS ON REQUESTS TO CONGRESS FOR REPROGRAMMINGS.**—Neither the Secretary of Defense nor the Secretary of a military department may prepare or present to the Congress, or to any committee of either House of the Congress, a request with respect to a reprogramming of funds—

(1) unless the funds to be transferred are to be used for a higher priority item, based on unforeseen military requirements, than the item for which the funds were originally appropriated; or

(2) if the request would be for authority to reprogram amounts to an item for which the Congress has denied funds.

(Added Pub. L. 101-510, div. A, title XIV, §1482(c)(1), Nov. 5, 1990, 104 Stat. 1709.)

EFFECTIVE DATE

Section effective Oct. 1, 1991, see section 1482(d) of Pub. L. 101-510, set out as an Effective Date of 1990 Amendment note under section 119 of this title.

§ 2215. Transfer of funds to other departments and agencies: limitation

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 congressional defense committees a certification that making those funds available to such other department or agency is in the national security interest of the United States.

(Added Pub. L. 103-160, div. A, title XI, §1106(a)(1), Nov. 30, 1993, 107 Stat. 1750; amended Pub. L. 104-106, div. A, title XV, §1502(a)(14), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-375, div. A, title X, §1084(b)(1), Oct. 28, 2004, 118 Stat. 2060.)

PRIOR PROVISIONS

A prior section 2215, added Pub. L. 99-661, div. A, title XIII, §1307(a)(1), Nov. 14, 1986, 100 Stat. 3980, related to reports on unobligated balances, prior to repeal by Pub. L. 101-510, div. A, title XIII, §1301(7), Nov. 5, 1990, 104 Stat. 1668.

Provisions similar to those in this section were contained in Pub. L. 101-189, div. A, title XVI, §1604, Nov. 29, 1989, 103 Stat. 1598, which was set out as a note under section 1531 of Title 31, Money and Finance, prior to repeal by Pub. L. 103-160, §1106(b).

AMENDMENTS

2004—Pub. L. 108-375 struck out subsec. (a) designation and heading before “Funds available”, substituted “congressional defense committees” for “congressional committees specified in subsection (b)”, and struck out heading and text of subsec. (b). Text of subsec. (b) read as follows: “The committees referred to in subsection (a) are—

“(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”