

TITLE 22 - FOREIGN RELATIONS AND INTERCOURSE
CHAPTER 39 - ARMS EXPORT CONTROL
SUBCHAPTER V - SPECIAL DEFENSE ACQUISITION FUND

§ 2795. Fund

(a) Establishment; purposes; special requirements and responsibilities; continuous orders for certain articles and services; articles for narcotics control purposes

(1) Under the direction of the President and in consultation with the Secretary of State, the Secretary of Defense shall establish a Special Defense Acquisition Fund (hereafter in this subchapter referred to as the “Fund”), to be used as a revolving fund separate from other accounts, under the control of the Department of Defense, to finance the acquisition of defense articles and defense service in anticipation of their transfer pursuant to this chapter, the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], or as otherwise authorized by law, to eligible foreign countries and international organizations, and may acquire such articles and services with the funds in the Fund as he may determine. Acquisition under this subchapter of items for which the initial issue quantity requirements for United States Armed Forces have not been fulfilled and are not under current procurement contract shall be emphasized when compatible with security assistance requirements for the transfer of such items.

(2) Nothing in this subchapter may be construed to limit or impair any responsibilities conferred upon the Secretary of State or the Secretary of Defense under this chapter or the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.].

(3) The Fund may be used to keep on continuous order such defense articles and defense services as are assigned by the Department of Defense for integrated management by a single agency thereof for the common use of all military departments in anticipation of the transfer of similar defense articles and defense services to foreign countries and international organizations pursuant to this chapter, the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], or other law.

(4) The Fund shall also be used to acquire defense articles that are particularly suited for use for narcotics control purposes and are appropriate to the needs of recipient countries, such as small boats, planes (including helicopters), and communications equipment.

(b) Collections in Fund

The Fund shall consist of—

(1) collections from sales made under letters of offer issued pursuant to section 2761 (a)(1)(A) of this title representing the actual value of defense articles not intended to be replaced in stock,

(2) collections from sales representing the value of asset use charges (including contractor rental payments for United States Government-owned plant and production equipment) and charges for the proportionate recoupment of nonrecurring research, development, and production costs, and

(3) collections from sales made under letters of offer (or transfers made under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.]) of defense articles and defense services acquired under this subchapter, representing the value of such items calculated in accordance with subparagraph (B) or (C) of section 2761 (a)(1) of this title or section 2762 of this title or section 644(m) of the Foreign Assistance Act of 1961 [22 U.S.C. 2403 (m)], as appropriate,

together with such funds as may be authorized and appropriated or otherwise made available for the purposes of the Fund.

(c) Amounts

(1) The size of the Fund may not exceed such dollar amount as is prescribed in section 114 (c) of title 10. For purposes of this limitation, the size of the Fund is the amounts in the Fund plus the value (in terms of acquisition cost) of the defense articles acquired under this subchapter which have not been transferred from the Fund in accordance with this subchapter.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 3, 2005 (see <http://www.law.cornell.edu/uscode/uscp.html>).

(2) Amounts in the Fund shall be available for obligation in any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 90–629, ch. 5, § 51, as added Pub. L. 97–113, title I, § 108(a), Dec. 29, 1981, 95 Stat. 1522; amended Pub. L. 99–83, title I, § 121, Aug. 8, 1985, 99 Stat. 204; Pub. L. 99–139, § 1(a), Oct. 30, 1985, 99 Stat. 562; Pub. L. 99–433, title I, § 110(h)(1), Oct. 1, 1986, 100 Stat. 1004; Pub. L. 101–231, § 4, Dec. 13, 1989, 103 Stat. 1957; Pub. L. 104–164, title I, § 145(b), July 21, 1996, 110 Stat. 1434.)

References in Text

The Foreign Assistance Act of 1961, referred to in subsecs. (a) and (b)(3), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§ 2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Amendments

1996—Subsec. (a)(4). Pub. L. 104–164 redesignated subpar. (A) as entire par. (4) and struck out subpar. (B) which read as follows: “Each report pursuant to section 2795b (a) of this title shall designate the defense articles that have been acquired or are to be acquired pursuant to this paragraph and the defense articles acquired under this subchapter that were transferred for use in narcotics control purposes.”

1989—Subsec. (a)(4). Pub. L. 101–231 added par. (4).

1986—Subsec. (c)(1). Pub. L. 99–433 substituted “section 114 (c)” for “section 138 (g)”.

1985—Subsec. (a)(3). Pub. L. 99–83, § 121(a), added par. (3).

Subsec. (b). Pub. L. 99–139 amended subsec. (b) generally, so as to read similar to how it read prior to the amendment by Pub. L. 99–83.

Pub. L. 99–83 amended subsec. (b) to read as follows: “The Fund shall consist of collections from sales made under letters of offer, or transfers made under the Foreign Assistance Act of 1961, of defense articles and defense services acquired under this subchapter (representing the value of such items calculated in accordance with subparagraph (B) or (C) of section 2761 (a)(1) of this title or section 2762 of this title or section 644(m) of the Foreign Assistance Act of 1961, as appropriate), together with such funds as may be authorized and appropriated or otherwise made available for the purposes of the Fund.”

Effective Date of 1985 Amendments

Section 1(b) of Pub. L. 99–139 provided that: “The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1985.”

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.