



COMPTROLLER

OFFICE OF THE UNDER SECRETARY OF WAR

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MEMORANDUM FOR

SUBJECT: Fiscal Year (FY) 2025 Budget Execution Flexibilities Memo

This memorandum is only applicable to FY 2025 appropriations to the extent that such FY 2025 appropriations remain available.

Once the Congress appropriates funding to specific accounts for specific purposes, the Department is limited in its flexibility to realign funding within accounts or to transfer funding between accounts/legal subdivision to finance emergent requirements.

Each year the Congress provides the Secretary of War with limited statutory authorities to respond to emergent requirements in the annual National Defense Authorization Act (NDAA) and in the annual Appropriations Act. This memo only addresses funds and authorities provided in:

- Public Law 118-159, the National Defense Authorization Act, FY 2025
- Public Law 119-4, division A, the Full-Year Continuing Appropriations Act, 2025
 - Department of Defense (DoD) Appropriations
 - Military Construction and Veterans Affairs Appropriations

Over the years the Congress has also provided the Department with permanent authorities that are included in Title 10 (Armed Forces) of the United States Code.

The sections accompanying this memo highlight the execution flexibilities provided to the Department in the NDAA and applicable Appropriations Acts for FY 2025. In addition, the final section provides a summary of the reprogramming process for the Department.

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Director Program and Financial Control

Attachments:

1. Execution Flexibilities for DoD Appropriations
2. Execution Flexibilities for the Military Construction Appropriations
3. Reprogramming Action Process

EXECUTION FLEXIBILITIES
FOR THE DEPARTMENT OF DEFENSE APPROPRIATIONS

Congress has provided the Department with limited flexibility to respond to emergent requirements that are financed by those appropriation accounts included in the Department of Defense Appropriations Act.

Transfer Authorities

- The following is a summary of the statutory authorities that enable the Department to transfer funds between legal subdivisions of funds for those programs funded in a specific annual Department of Defense Appropriations Act:
 - **General Transfer Authority (GTA)** – Allows the Department to transfer base budget funds to finance higher priority tasks, based on unforeseen military requirements.
 - Transfers may not be made for items where funds were requested and denied by the Congress.
 - While the law only requires prompt notification to the Congress of any such transfers, the Department and the Defense oversight committees have an understanding that the Department will submit prior approval reprogramming actions to the applicable committees before making any such transfers.
 - For FY 2025, the GTA was \$8.0 billion in the Full-Year Continuing Appropriations Act, 2025 (section 1412(b)).
 - Transfers made between the Military Personnel appropriations do not count against the GTA funding limitation.
 - Transfers between programs funded in the Shipbuilding and Conversion, Navy, Defense Health Program, Office of the Inspector General and Chemical Agents and Munitions Destructions appropriations require GTA as the Congress specifies the amount for each program in law (i.e., line item appropriated).
 - Congress requires the Department to submit any requests for multiple reprogramming of funds using GTA **prior** to June 30th.
 - No funds may be transferred using GTA until the Department submits to the congressional defense committees a report that establishes the appropriation baseline by budget activity and program, project, and activity (DD 1414 Base for Reprogramming Actions) **unless** the Secretary of War certifies in writing that reprogramming/transfer is an emergency (sections 1422(a) and (c)).
 - Section 1422(c) continues the restriction from the FY 2024 DoD Appropriations Act (P.L. 118-47) that specifies that during the current year, funds may not be transferred from programs, projects, and activities with congressional adds in titles III (Procurement) and IV (Research, Development, Test, and Evaluation) except for realignment for proper execution.
 - **Working Capital Fund Transfer Authority** – Allows the Department to transfer cash balances between Working Capital Funds and the Foreign Currency Fluctuations, Defense appropriation and the Operation and Maintenance appropriations.

For FY 2025, the working capital fund transfer authority is continued pursuant to sections 1101(a)(3) and 1105 of Public Law 119-4.

- Cash balances in the Working Capital Funds are maintained only in such amounts necessary to cover anticipated cash disbursements.
- This authority is *in addition* to the GTA for the base budget.
- There is no statutory limitation on the amount of transfers that can be made using this authority.
- 10 U.S.C. § 2208 “Working Capital Funds” requires the Secretary of War to notify the Congressional committees prior to transferring any funds using customary procedures (i.e., prior approval reprogramming actions).

Other Authorities

- The Congress has provided the Department with other authorities to address emergent requirements.
- **New Start Program Restriction** – In the Full-Year Continuing Appropriations Act, 2025 (section 1409, division A, of Public Law 119-4), the DoD is prohibited from using any funds appropriated in this act to initiate a new start unless the project or activity was provided for in H.R. 8774 (as engrossed in the House of Representatives on June 28, 2024) or S. 4921 (as reported by the Senate Committee on Appropriations on August 1, 2024).
- **Below Threshold Reprogramming (BTR) Authority** - Allows the Department to realign funding within each of the appropriations (except for the Shipbuilding and Conversion, Navy appropriation, whose funding is line-item appropriated) provided it meets the following conditions:
 - Does not change the purpose or the congressional intent
 - Does not affect a designated congressional special interest item
 - Does not initiate a new start
 - Does not terminate a procurement or development project
 - Complies with the established BTR funding limitations for the following appropriation accounts; amounts in excess of these BTR limitations require submission of a prior approval reprogramming action.
 - Military Personnel accounts: \$15 million between budget activities
 - Operation and Maintenance (O&M) accounts: \$15 million between budget activities
 - Special interest O&M budget items are to follow prior approval reprogramming procedures for transfers in excess of \$15 million out of specific Readiness Activity Groups or Subactivity Groups (SAGs)
 - Some special interest O&M budget items are to follow normal prior approval reprogramming procedures when implementing transfers in excess of \$15 million into specific SAGs

- Normal prior approval reprogramming procedures are to be used to transfer funds between subactivity groups of O&M, Defense-Wide, in excess of \$15.0 million.
- The Department is directed to notify the congressional defense committees 30 days prior to the realignment of funds in excess of \$15 million between Special Operations Command sub-activity groups.
- Procurement accounts: \$15 million or 20% of the budget line item, whichever is less, between budget line items
- Research, Development, Test and Evaluation accounts: \$15 million or 20% of the budget line item, whichever is less, between budget line items
- Defense Health Program:
 - In-House Care and Private Sector Care budget sub-activities remain designated as congressional special interest item, and any transfer of funds in excess of \$10.0 million into or out of these sub-activities requires prior approval reprogramming.
- The amount of the BTR is calculated using the net of the increases and decreases to a budget line: For example: If one adjusts the budget line by \$+4.0 million and later adjusts the budget line by \$-5.0 million, then the BTR authority used is \$1.0 million
- BTRs do not apply to supplemental funds. Supplemental funds are considered special interest items; regardless of the amount, the OSD Comptroller must be notified of any supplemental funds movement.
- **Foreign Currency Fluctuations, Defense (FCF, D) Appropriation** - Allows the Department to transfer funds from this account to finance losses in overseas programs due to the decline in the value of the U.S. dollar.
 - Transfers from the FCF, D can only be made to those Military Personnel and Operation and Maintenance accounts that participate in the FCF, D.
 - When the Department formulates its budget, it establishes foreign currency exchange rates for the participants of the FCF, D to use; these exchange rates are used for execution and calculating execution gains or losses, unless the Congress adjusts the rates.
 - The corpus of this account is maintained by transferring:
 - Gains in overseas programs due to the strengthening in the value of the U.S. dollar compared to the approved execution rates; by law, the gains cannot be used to finance other programs or cost increases.
 - Up to \$970 million of 2 years of expired unobligated balances from Military Personnel and Operation and Maintenance appropriations.
- **Emergency and Extraordinary Expenses (EEE) Authority** - Allows the Secretary of War, the Secretaries of the Military Departments, and the Inspector General of the War Department to fund within the limitations of the designated Operation and Maintenance appropriations any emergency or extraordinary expense that could not be anticipated or classified when the budget request was submitted.

- Unless otherwise prohibited by law, this authority can be used to pay for expenses not otherwise authorized to be paid from Defense appropriations.
- In 10 U.S. Code §127(c), Congress limits the obligation and expenditure of funds for EEE to \$500,000 per purpose *unless* the Secretary of War notifies the House and Senate Armed Services and Appropriations Committees when the obligation and expenditure is in excess of:
 - \$1,000,000 requires a 15-day prior notification.
 - \$500,000, but less than \$1,000,000, requires a 5-day prior notification.
- The Secretary of War may waive the prior congressional notifications *if* the Secretary determines that the national security objectives of the United States will be compromised; however, prompt notification that such obligation or expenditure is necessary to the chairmen and ranking minority members of the committees is required.
- In the case of intelligence or counter-intelligence activities, the limit is \$100,000 and 15-day prior notification to the congressional defense committees and the congressional intelligence committees.
- **Defense Intelligence and Counterintelligence (DICE) Authority** - Allows the Secretary of the War to expend up to 5 percent of the amounts made available for the Military Intelligence Program for FY 2020 through FY 2025 for any purpose the Secretary determines to be proper with regard to intelligence and counterintelligence activities of a confidential, extraordinary, or emergency in nature. The 5 percent limitation can be exceeded *if*:
 - The Secretary notifies the congressional defense and intelligence committees of the intent, and 30-day prior notification.
- **Rapid Acquisition Authority (RAA)** - Allows the Department to rapidly acquire and deploy supplies and services that are urgently needed by the combatant commanders to react to an enemy threat or to respond to significant and urgent safety situations. *The Under Secretary of War (Acquisition and Sustainment) is the designated senior official to manage RAA for the Secretary of War.* The RAA legislation:
 - Requires the Secretary of War to make a determination in writing that the supplies and/or services are urgently needed to:
 - Eliminate a documented deficiency that has resulted in combat casualties or is likely to result in combat casualties
 - Eliminate a documented deficiency that impacts an ongoing or anticipated contingency operation and that if left unfilled could potentially result in loss of life or critical mission failure.
 - Eliminate a documented deficiency that as a result of a cyber-attack has resulted, or if left unfilled is likely to result, in critical mission failure, the loss of life, property destruction, or economic effects. *(Cyber-attack is defined as a deliberate action to alter, disrupt, deceive, degrade, or destroy computer systems or networks or the information or programs resident in or transiting these systems or networks.)*

- Allows the Secretary to waive any provision of law, policy, directive, or regulation that would unnecessarily impede the rapid acquisition and deployment of the needed supplies and associated support services; the goal is to award the contract within 15 days of the determination being made. *(Note: 15-day goal does not apply if the designated senior officer is the service acquisition executive.)*
- Allows the Secretary to use any funds available to the War Department for the acquisition of supplies and associated support services up to the following funding limitations in total per fiscal year:
 - \$200 million for deficiencies that have resulted in combat casualties or are likely to result in combat casualties.
 - \$200 million for deficiencies that impact an ongoing or anticipated contingency operation and that if left unfilled could potentially result in loss of life or critical mission failure.
 - \$200 million for deficiencies that as a result of a cyber-attack has resulted, or if left unfilled is likely to result, in critical mission failure, the loss of life, property destruction, or economic effects.
 - \$50 million for projects that must be initiated immediately under a rapid acquisition pathway.
 - \$100 million for programs to initiate urgent or emerging operational development activities for a period of up to one year, in order to (1) leverage an emergent technological advancement of value to the national defense to address a military service-specific need; or (2) provide a rapid response to an emerging threat identified by a military service. Section 229 of the FY 2024 NDAA updates Title 10 U.S. Code §3601 with this additional authority.
 - The DoD Appropriations Act, 2024, as continued for FY 2025, limits the use of FY 2025 funds to \$650 million for all categories.
- Requires the Secretary to notify the congressional defense committees in consultation with the Office of Management and Budget:
 - Within 15 days after the date of the determination to use RAA for combat causality and cyber-attack related activities
 - Within 10 days after the date of the use of the funds to immediately initiate a project under the rapid fielding or rapid prototyping acquisition process provided by section 804 of the FY 2016 NDAA.
 - At least 10 days prior to the effective date of the RAA determination for ongoing or anticipated contingency operations
 - Notification shall include the following information:
 - The supplies and associated support services to be acquired
 - The amount anticipated to be expended for the acquisition
 - The source of funds for the acquisition.

- Any acquisition initiated using RAA (except for those initiated using 10 U.S.C. § 3602) shall transition to the normal acquisition system not later than 2 years after the date on which the Secretary makes the determination.
- 10 U.S.C. § 3602 requires any program initiated under the rapid prototyping and fielding authority to be developed within 6 months and complete fielding within 5 years.
- **Disposal of DoD Real Property Account** – Pursuant to 40 U.S.C. §572(b), the proceeds from the disposal of DoD real property are deposited in a special account (the Disposal of DoD Real Property Account) which are available, as provided in section 8034 of Pub. L. 108-287, only for facility maintenance and repair or environmental restoration as follows:
 - In the case of property located at a military installation that is closed, the amount is available by the military department that had jurisdiction over the property before the closure of the military installation.
 - In the case of property located at any other military installation:
 - 50 percent of the amount is available at the military installation where the property was located before it was disposed of or transferred; and
 - 50 percent of the amount is available by the military department that had jurisdiction over the property before it was disposed of or transferred.
- **Lease of DoD Real Property Account** – Pursuant to 10 U.S.C. §2667, the Secretary of War (with respect to matters concerning the War Agencies) or the Secretary of a Military Department shall retain the receipt of proceeds from the lease of DoD real property. Funds deposited into the Lease of Real Property Account, as provided in section 8034 of Pub. L. 108-287, are available for facility maintenance and repair, construction or acquisition of new facilities, lease of facilities, payment of utility services, real property maintenance services, and administrative expenses. Further, at least 50 percent of the proceeds deposited into this account must be used at military installation or War Agency location where the proceeds were derived, and proceeds derived from a military museum is available only at that museum.
- **DoD Overseas Military Facility Investment Recovery Account (DOMFIRA)** – The War Department Overseas Military Facilities Investment Recovery account, as established pursuant to 10 U.S.C. §2687a, *is available only during fiscal year 2025*, pursuant to section 8038 of division A of Public Law 118-47, as continued for FY 2025 pursuant to sections 1101 and 1105 of division A of Public Law 119-4, the Full-Year Continuing Appropriations Act, 2025.
 - The purpose of the account is to collect payments from host nations for the value of new construction and improvements made by the U.S. at overseas military installations being returned.
 - These funds may be used for facility maintenance and repair and environmental restoration at U.S. facilities and those environmental compliance at military facilities outside the U.S. that are anticipated to be occupied by U.S. Forces for an extended period of time.

- Historically, Congress includes a recurring general provision in the annual appropriations act that makes the funds in the **DOMFIRA** available until expended, during that fiscal year.

EXECUTION FLEXIBILITIES
FOR THE MILITARY CONSTRUCTION APPROPRIATIONS

Congress provided the Department with limited flexibility to respond to emergent requirements that are financed by those appropriation accounts included in the Military Construction (MilCon) and Veterans Affairs (VA) Appropriations Act.

Construction Authorities

- To finance emergent MilCon and Family Housing (FH) requirements, DoD has the following legal authorities and specific requirements for each authority used:
 - **Emergency Construction Authority (10 U.S. Code §2803)** – Congress provides the Secretary of War and each of the Secretaries of the Military Departments with \$50 million of authority annually to execute MilCon projects not otherwise authorized if the Secretary-concerned:
 - Determines that the project is vital to national security or to the protection of health, safety, or the quality of the environment and
 - Determines that the project is so urgent that deferral of the project for inclusion in the next NDAA would be inconsistent with national security or the protection of health, safety, or the quality of the environment.
 - Projects initiated under this authority may not be carried out until 5 days have elapsed following receipt of electronic notification by the appropriate committees. This notification must include a written report that includes the justification for the use of this authority, the justification and estimated cost for the project, and the source of funds to finance the project.
 - *Submit a reprogramming request to the House and Senate MilCon/VA Subcommittees for approval prior to carrying out the MilCon project (known as “Prior Approval Reprogramming”) per agreement with the oversight committees.*
 - **Contingency Construction Authority (10 U.S. Code §2804)** – Within amounts specifically appropriated for §2804 Contingency Construction Authority,” Congress provides the Secretary of War with the authority to execute MilCon projects not otherwise authorized, or authorizes the Secretary of a Military Department to execute such a project, if the Secretary of War:
 - Determines that the deferral of the project for inclusion in the next NDAA would be inconsistent with national security or national interest.
 - Notifies the appropriate congressional committees at least 7 days prior to initiation of the project after an electronic copy is provided. This notification must include a written report to the appropriate congressional committees that includes the justification for the use of this authority, and the justification and estimated cost for the project. *A prior approval reprogramming request is not required to carry out a project under this authority.*
 - **Unspecified Minor Construction Authority (10 U.S. Code §2805)** – Congress provides the Secretary-concerned with the authority to execute unspecified minor MilCon projects not otherwise authorized by law.

- The funding limitations for §2805 minor MilCon projects are:
 - \$9 million or less using MilCon funds; Operation and Maintenance (O&M) funds may be used for projects costing \$4 million or less.
 - \$9 million or less if the minor construction project is for laboratory revitalization; O&M funds may also be used for laboratory revitalization projects costing \$9 million or less.
- Once the Secretary-concerned approves a §2805 minor construction project for execution using MilCon funding, the Secretary-concerned shall notify the appropriate congressional committees at least 14 days prior to initiation of the project from when an electronic copy is provided. (Note: there is no congressional notification required for O&M-funded minor construction projects.)
 - This notification must include a written report justifying the use of this authority and estimated cost for the project.
 - *A prior approval reprogramming is not required to carry out a project under this authority.*
- Section 2805 authority may not be used for MilCon of new housing units.
- Defense Laboratory Modernization Program: Section 2805(g) provides the Secretary of War authority to use Research, Development, Test, and Evaluation to fund major military construction projects at laboratory sties (Research Engineering and Development Centers; and Test and Evaluation Activities).
- **Construction authority in the event of a declaration of war or national emergency (10 U.S. Code §2808)** – Congress provides the Secretary of War with the authority, without regard to any other provision of law, to execute MilCon projects not otherwise authorized, or authorizes the Secretary of a Military Department to execute such a project, if the project is necessary to support the use of the armed forces in the event of a declaration of war or the declaration by the President of a national emergency in accordance with National Emergencies Act (50 U.S.C. 1601 et seq.).
 - Projects that are undertaken using §2808 authority are limited to a total cost not to exceed \$500 million, or \$100 million within the continental U.S., and are sourced from funds appropriated for MilCon (excluding family housing) that have not been obligated, from canceled projects, or from reduced costs as a result of project modifications or other cost savings.
 - The Secretary of War is required to notify the appropriate committees of Congress of the decision to use §2808 authority and provide the estimated cost of the construction to include any real estate action pertaining to the construction project. However, *a prior approval reprogramming request is not required to carry out a project under this authority.*
 - §2808 authority must terminate at the end of the war or national emergency.
- **Authorized cost and scope or work variations (10 U.S. Code §2853)** – Congress provides the Secretary of War and each of the Secretaries of the Military Departments with the authority to increase the authorized cost for a MilCon or FH construction (FHCON) project by up to 25 percent over the amount originally appropriated for major

construction project **or** up to 200 percent of the minor construction threshold (200 percent of the minor construction threshold is currently \$18 million)

- This authority may be used **if** the Secretary-concerned:
 - Determines that the project increase is required for the sole purpose of financing unusual variations in costs and that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by the Congress.
 - Notifies both the House and Senate authorization and appropriations committees at least 14 days (after electronic notification) prior to obligation.
 - Submits a prior approval reprogramming request if cost variation increases exceed \$6 million or 25 percent, whichever is less.
- In §2853, Congress also provides the Department with the authority to increase the scope of a project by up to 10 percent of the amount specified for a project **if**:
 - The increase is approved by the Secretary concerned.
 - Congress is notified in writing of the scope increase and the reasons for the increase.
 - A period of 21 days has elapsed since the written notification or 14 days after electronic notification is provided.
- **Restoration or Replacement of Damaged or Destroyed Facilities Authority (10 U.S. Code §2854)** – Congress provides the Secretary of War and each of the Secretaries of the Military Departments with the authority to repair, restore, or replace a facility under the Secretary’s jurisdiction, including a FH facility, that has been damaged or destroyed when the Secretary-concerned:
 - Determines that the project is needed to be executed under §2854 authority and the maximum cost of the project is greater than the maximum amount of a minor construction project, the Secretary concerned shall notify the appropriate committees of the Congress of the decision and provide the justification and the estimated cost of the project along with identification of the source of funds.
 - Notifies the appropriate committees at least 14 days prior to initiation of the project after an electronic copy is provided.
 - *Submits a reprogramming request to Congress for approval prior* to carrying out the project based on agreement with the committees.
- **Alternative authority for Acquisition and improvement of Military Housing (10 U.S. Code §2871 - §2885)** – In the FY 1996 National Defense Authorization Act, the Congress modified Title 10 of the U.S. Code to provide the Department with authorities designed to attract private sector capital, expertise, and management to speed the revitalization of military housing. The authorities are codified in 10 U.S.C., Chapter 169, Subchapter IV, Alternative Authority for Acquisition and Improvement of Military Housing, and include the key provision:
 - General authority (§2873)
 - Direct and guaranteed loans (§2873)

- Leases (existing or build-to-lease) (§2874)
- Investments in non-governmental entities (i.e., limited partnerships, stock/bond ownership) (§2875)
- Rental and occupancy guarantees (§2876)
- Differential lease payments (§2877)
- Conveyance or lease of existing government property & facilities (§2878)
- Temporary authority for acquisition or construction of privatized military unaccompanied housing (§2881a)
- Congress also established two accounts to finance projects using these authorities:
 - **Family Housing Improvement Fund (FHIF)** – In 10 U.S.C. §2883 and the annual MilCon Appropriation Acts, the Congress provides the Secretary with the authorities that permit the transfer of funds from the Family Housing Construction accounts to the FHIF.
 - **Military Unaccompanied Housing Improvement Fund (MUHIF)** – In 10 U.S.C. §2883 and the annual MilCon Appropriation Acts, the Congress provides the Secretary with the authorities that permit the transfer of funds appropriated for unaccompanied housing from DoD's MilCon accounts to the MUHIF.
- Transfer of funds from the construction accounts to the FHIF or MUHIF may be made only after the end of the 14-day period beginning on the date the Under Secretary of War (Comptroller) submits a written notice of, and justification for, the transfer to the appropriate committees of Congress in an electronic medium.
- **Contingency Construction Authority (CCA) using O&M Funding** – Since 2004, Congress has modified Section 2808 in the annual NDAA's to authorize the Secretary of War to use O&M funds for contingency construction projects outside of the United States.
 - Legislated criteria:
 1. Construction is necessary to meet urgent military operational requirements of a temporary nature involving the use of the Armed Forces in support of a declaration of war, the declaration by the President of a national emergency under section 201 of the National Emergencies Act (50 U.S.C. 1621), or a contingency operation.
 2. Construction is not carried out at a military installation where the United States is reasonably expected to have a long-term presence, unless the military installation is located in Afghanistan.
 3. United States has no intention of using the construction after the operational requirements have been satisfied.
 4. Level of construction is the minimum necessary to meet the temporary operational requirements.
 5. Except when waived by the Secretary of War, no project will exceed \$15,000,000.

- Congressional Notification and Reporting
 - The Secretary of War notifies the appropriate committees at least 14 days prior to initiation of the project.
 - This notification must include a certification that the Section 2808 conditions are met, a description of the project, documentation detailing the construction project, and the estimated cost for the project.
- **Special Construction Transfer Authority** – In the annual MilCon/VA appropriations act, the Congress provides the Secretary of War with the authority to transfer funds from the MilCon, Defense-Wide appropriation to other DoD MilCon or FH appropriations as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which the funds are transferred.
 - Transfers are carried out via Internal Reprogramming actions.
 - Authority is provided in a proviso in the annual language for the Military Construction, Defense-Wide appropriation.
- **Split-Year Funding Authority** – In recurring general provisions of the annual MilCon/VA Appropriations Act, the Congress provides the authority to allow split-year funding for MilCon and FHCON projects. *(Note: For FY 2024, this authority is included sections 114 and 116 of Title I of division A of Public Law 118-42, as continued for FY 2025 pursuant to sections 1101 and 1105 of division A of Public Law 119-4, the Full-Year Continuing Appropriations Act, 2025.)*
 - Split-year funding occurs when a project is financed by funds from more than one program year (i.e., funding provided in different appropriations acts).
 - Using the “split funding” authority, the Department can use any unobligated MilCon and FHCON funds in any of the 5 unexpired MilCon appropriations to fund any project authorized in that 5-year period for that appropriation. The following are two examples where the Department can use:
 - Unobligated FY 2022 MilCon/FHCON funds to finance an FY 2024 authorized projects,
 - Unobligated FY 2021 MilCon/FHCON funds to finance FY 2020 authorized projects.
- **Base Realignment and Closure (BRAC) Transfer Authority** – A recurring general provision of the annual Military Construction Appropriations Act authorizes the transfer of funds from the BRAC account to the Homeowners Assistance Fund to pay for expenses associated with the Homeowners Assistance Program as well as to the Department of Transportation for Defense Access Roads projects. *(Note: For FY 2024, this authority is included in section 118 of Title I of division A of Public Law 118-42, as continued for FY 2025 pursuant to sections 1101 and 1105 of division A of Public Law 119-4, the Full-Year Continuing Appropriations Act, 2025.)*
- **Projects being completed with expired or lapsed funds** – For MilCon or FHCON projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any. *(Note: This is a recurring general provision of the annual MilCon/VA Appropriations*

Act; for FY 2024, this authority is included in section 115 of Title I of division A of Public Law 118-42, as continued for FY 2025 pursuant to sections 1101 and 1105 of division A of Public Law 119-4, the Full-Year Continuing Appropriations Act, 2025.)

- **Foreign Currency Fluctuations Adjustment Authority** – The Department is authorized to transfer funds from the Foreign Currency Fluctuations, Construction, Defense (FCF,C,D) account to finance losses in overseas programs due to the decline in the value of the U.S. dollar.
 - Transfers from the FCF,C,D can only be made to those MilCon and FH accounts that participate in the FCF,C,D.
 - When the Department formulates its budget, it establishes foreign currency exchange rates for the participants of the FCF,C,D to use; these exchange rates are used for execution unless the Congress adjusts the rates.
 - The corpus of this account is maintained by transferring savings or gains in overseas programs due to the strengthening in the value of the U.S. dollar compared to the approved execution rates; by law, the gains cannot be used to finance other programs or cost increases.
 - In the annual MilCon/VA Act, the Congress includes a general provision that allows the Department to transfer any expired unobligated balances from MilCon and FH appropriations to the FCF,C,D to finance losses in overseas programs due to the decline in the value of the U.S. dollar. *(For FY 2024, the provision is section 121 of Title I of division A of Public Law 118-42, as continued for FY 2025 pursuant to sections 1101 and 1105 of division A of Public Law 119-4, the Full-Year Continuing Appropriations Act, 2025.)*
 - The Department uses Internal Reprogramming (DD-1415-3) actions to provide an audit trail of the transfers into and out of the FCF,C,D account.
- **Below Threshold Reprogramming (BTR) Authority**
 - **Major Construction** - Congress provides the Secretary of War and each of the Secretaries of the Military Departments with the authority to increase the cost appropriated for a MilCon project by up to \$6 million or 25 percent over the current baseline (i.e., original appropriated amount +/- sequestration adjustments, general reductions, rescissions, approved reprogramming actions, etc.) for major construction projects, whichever is less.
 - Any funding realignment for a project exceeding this amount requires a prior approval reprogramming.
 - A project, which has been specifically reduced by the Congress in acting on the budget request, is considered to be a congressional special interest item and as such, congressional prior approval is required before any funding change is made.
 - **Family Housing New Construction, Replacement Construction, and Construction Improvement Projects** – Subject to the same BTR authority extended to Major Construction.
 - **Family Housing O&M** – The DoD Components are permitted to realign funds within the Family Housing O&M subaccounts.

- **Environmental Hazard Remediation** – To provide the Services with flexibility to proceed with construction contracts without disruption or delay, the costs associated with environmental hazard remediation such as asbestos removal, radon abatement, lead-based paint removal or abatement, and any other legislated environmental hazard remediation may be executed without congressional approval, if such remediation requirements could not be reasonably anticipated at the time of the budget submission. *(Note: this flexibility is included in the annual MilCon subcommittee reports.)*

Reprogramming Process

- The Department uses a formal reprogramming process to realign or transfer funds from one congressionally approved program to another either for different purposes or to provide an audit trail for proper execution.
- The Secretary of War has delegated the authority to transfer/realign resources during execution to the Under Secretary of War (Comptroller).
- The Department uses similar, but different, processes to transfer or realign funds for those appropriation accounts funded in the annual Department of Defense (DoD) Appropriations Act and those appropriation accounts funded in the annual Military Construction and Veterans Affairs (MilCon/VA) Appropriations Act.
- The current policy is that the Department will process all reprogramming requests once a month unless there is a priority program that requires the action to be submitted outside of the monthly submission.
 - Monthly input is due the 5th workday of the month.
 - Inputs for those accounts funded by DoD Appropriations Act are processed separately from those accounts funded in the MilCon/VA Appropriations Act.
 - Normally Components are required to provide funding sources equal to the requested funding increase.
 - An OUSD(C) Program/Budget directorate is assigned as the office of primary responsibility for consolidating the input for that month; responsibilities include:
 - Appropriations funded in the DoD Act use a prior approval reprogramming action document (DD 1415-1).
 - Appropriations funded in the MilCon/VA Act use a letter to transmit the request.
 - If congressional approval is not required, then the Department uses an internal reprogramming action document (DD 1415-3) to provide an audit trail.
 - Preparing a package to obtain approval of the Under Secretary of War (Comptroller).
 - Staffing the consolidated package with applicable OSD functional offices to include the General Counsel.
 - All prior approval reprogramming actions must be cleared by the Office of Management and Budget (OMB) after the USD(C)'s approval **prior** to submission to the congressional defense committees.
- **Congressional Prior Approval (PA) Reprogramming Actions** – When a Component determines that it needs to submit a request to Congress to adjust a program above the below threshold reprogramming (BTR) authority limitation or to affect a designated congressional special interest program or to initiate a new program above the established limits, they must submit a reprogramming request to the Office of the Under Secretary of War (Comptroller) (OUSD(C)) for approval and submission to the Chairmen of the applicable defense oversight committees.

- For the DoD Appropriations Act, the OUSD(C) submits the prior approval reprogramming request (DD 1415-1) to the Chairmen of the House and Senate Appropriations on Defense Subcommittees and Armed Services Committees.
 - If Military Intelligence Programs (MIPs) are involved, then the request is provided to House Permanent Select Committee on Intelligence for approval with an information copy to the Senate Select Committee on Intelligence.
 - *Note: The Director for National Intelligence has his/her own process for the National Intelligence Program (NIP).*
- For the MilCon/VA Appropriations Act, the OUSD(C) submits a letter with a detailed enclosure requesting the approval to reprogram to the Chairmen of the House and Senate MilCon and VA Subcommittees of the Appropriations Committees.
 - The enclosure to the letter must provide the details of the reprogramming request to include the following:
 - Amount of the current approved program and the amount being reprogrammed.
 - Year of project authorization or Authority being used.
 - Justification.
 - Identification of the funding source(s).
 - The Armed Services Committees of both the House and Senate are provided a copy of the request per Sec. 2810 of P.L. 118-159.
- Once signed, these documents are submitted to the applicable committees via e-mail.
 - Note: all prior approval reprogramming actions (DD 1415-1) must be cleared by the OMB prior to submission to the committees.
- Once the documents are submitted, the Department contacts the committees to offer briefings or ask if they need any additional information to support the request.
- When they have completed their review of the reprogramming request, the Chairman of the committees provides a letter to the OUSD(C) advising of the committee's position on the request.
- After all committees have responded, the OUSD(C) staff will prepare the necessary paperwork for implementation to include:
 - Advising the Components of the results of the committees' action on the reprogramming request.
 - Working with the Components to balance the approved increases with approved sources; generally, the committees approve more requirements than there are sources approved.
 - Submitting apportionment request to OMB when funds are transferred between appropriation or legal subdivisions.
 - Releasing the transferred funds once the approved apportionments are received.
 - Post a copy of the implemented reprogramming action on the Comptroller's public website.

- **Internal Reprogramming Actions** – The Department uses internal reprogramming (DD 1415-3) actions to document audit trail type actions processed within DoD that are needed for proper execution and are not otherwise constrained by law or other provisions. Internal reprogramming actions:
 - Do not change the purpose or congressional intent.
 - May use general or special transfer authority.
 - May involve a congressional special interest item if the funds will be used for the same purpose.
 - Provide an audit trail of transfers from the various transfer funds that the Congress has established (such as, Foreign Currency Fluctuations, Environmental Restoration, and Drug Interdiction). *Note: these reprogramming actions are processed separately.*
- After the Under Secretary of War (Comptroller) approves the internal reprogramming action, following OMB guidance on DoD reprogramming actions:
 - The OMB apportions the funds for those actions that require an apportionment.
 - The OUSD(C) Program/Budget staff release the funds to the applicable Components for execution.
 - The document is posted on the Comptroller public website.