

(2) The workload required to cost-effectively support such requirements.

(3) To the maximum extent practicable, the additional workload beyond the workloads identified under subsection (a)(4) needed to ensure that not more than 50 percent of the non-exempt depot maintenance funding is expended for performance by non-Federal governmental personnel in accordance with section 2466 of this title.

(4) The allocation of workload for each Center of Industrial and Technical Excellence as designated in accordance with section 2474 of this title.

(5) The depot-level maintenance and repair capital investments required to be made in order to ensure compliance with subsection (a)(3) by not later than four years after achieving initial operational capacity.

(6) The outcome of a reassessment of continuation of a waiver granted under subsection (b).

(g) **COMPTROLLER GENERAL REVIEW.**—The Comptroller General shall review each report required under subsections (e) and (f) for completeness and compliance and provide findings and recommendations to the congressional defense committees not later than 60 days after the report is submitted to Congress.

(Added Pub. L. 100-370, §2(a)(1), July 19, 1988, 102 Stat. 853; amended Pub. L. 101-189, div. A, title XVI, §1622(c)(7), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 104-106, div. A, title III, §314, Feb. 10, 1996, 110 Stat. 251; Pub. L. 105-85, div. A, title III, §356(a), Nov. 18, 1997, 111 Stat. 1694; Pub. L. 105-261, div. A, title III, §343(a), Oct. 17, 1998, 112 Stat. 1976; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 112-81, div. A, title III, §327(a), Dec. 31, 2011, 125 Stat. 1366.)

HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 98-525, title III, §307, Oct. 19, 1984, 98 Stat. 2514, as amended by Pub. L. 99-145, title XII, §1231(f), Nov. 8, 1985, 99 Stat. 733.

AMENDMENTS

2011—Pub. L. 112-81 amended section generally. Prior to amendment, section related to core logistics capabilities.

1999—Subsec. (b)(3)(A). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1998—Subsec. (c). Pub. L. 105-261 added subsec. (c).

1997—Pub. L. 105-85 substituted “capabilities” for “functions” in section catchline and amended text generally. Prior to amendment, text related to necessity for core logistics capabilities and restricted contracting out of certain logistics activities and functions of the Department of Defense to non-Government personnel.

1996—Subsec. (b)(3), (4). Pub. L. 104-106 added par. (3) and struck out former pars. (3) and (4) which read as follows:

“(3) A waiver under paragraph (2) may not take effect until—

“(A) the Secretary submits a report on the waiver to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives; and

“(B) a period of 20 days of continuous session of Congress or 40 calendar days has passed after the receipt of the report by those committees.

“(4) For purposes of paragraph (3)(B), the continuity of a session of Congress is broken only by an adjourn-

ment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 20-day period.”

1989—Subsec. (b)(3)(A). Pub. L. 101-189 substituted “Committees on Appropriations” for “Committee on Appropriations”.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title III, §343(b), Oct. 17, 1998, 112 Stat. 1976, provided that: “Subsection (c) of section 2464 of title 10, United States Code (as added by subsection (a)), shall apply with respect to determinations made after the date of the enactment of this Act [Oct. 17, 1998].”

CONDITIONS ON EXPANSION OF FUNCTIONS PERFORMED UNDER PRIME VENDOR CONTRACTS FOR DEPOT-LEVEL MAINTENANCE AND REPAIR

Pub. L. 105-261, div. A, title III, §346, Oct. 17, 1998, 112 Stat. 1979, as amended by Pub. L. 106-65, div. A, title III, §336, Oct. 5, 1999, 113 Stat. 568, prohibited the Secretary of Defense or of a military department from entering into a prime vendor contract for depot-level maintenance and repair of certain military equipment before completing reporting requirements, prior to repeal by Pub. L. 111-383, div. A, title III, §322, Jan. 7, 2011, 124 Stat. 4184.

POLICY REGARDING PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR FOR DEPARTMENT OF DEFENSE

Pub. L. 104-106, div. A, title III, §311, Feb. 10, 1996, 110 Stat. 246, as amended by Pub. L. 105-85, div. A, title III, §363, Nov. 18, 1997, 111 Stat. 1702, required the Secretary of Defense, not later than Mar. 31, 1996, to develop and submit to Congress a comprehensive policy on the performance of depot-level maintenance and repair for the Department of Defense that maintains the capability described in this section and to submit to Congress a report on the depot-level maintenance and repair workload of the Department of Defense and required the Comptroller General to transmit to Congress reports containing a detailed analysis of the Secretary’s proposed policy and report.

§ 2465. Prohibition on contracts for performance of firefighting or security-guard functions

(a) Except as provided in subsection (b), funds appropriated to the Department of Defense may not be obligated or expended for the purpose of entering into a contract for the performance of firefighting or security-guard functions at any military installation or facility.

(b) The prohibition in subsection (a) does not apply to the following contracts:

(1) A contract to be carried out at a location outside the United States (including its commonwealths, territories, and possessions) at which members of the armed forces would have to be used for the performance of a function described in subsection (a) at the expense of unit readiness.

(2) A contract to be carried out on a Government-owned but privately operated installation.

(3) A contract (or the renewal of a contract) for the performance of a function under contract on September 24, 1983.

(4) A contract for the performance of firefighting functions if the contract is—

(A) for a period of one year or less; and

(B) covers only the performance of firefighting functions that, in the absence of the contract, would have to be performed by

members of the armed forces who are not readily available to perform such functions by reason of a deployment.

(Added Pub. L. 99-661, div. A, title XII, § 1222(a)(1), Nov. 14, 1986, 100 Stat. 3976, § 2693; amended Pub. L. 100-180, div. A, title XI, § 1112(a)-(b)(2), Dec. 4, 1987, 101 Stat. 1147; renumbered § 2465, Pub. L. 100-370, § 2(b)(1), July 19, 1988, 102 Stat. 854; Pub. L. 104-106, div. A, title XV, § 1503(a)(25), Feb. 10, 1996, 110 Stat. 512; Pub. L. 108-136, div. A, title III, § 331, Nov. 24, 2003, 117 Stat. 1442.)

AMENDMENTS

2003—Subsec. (b). Pub. L. 108-136 substituted “apply to the following contracts:” for “apply—” in introductory provisions, “A” for “to a” at beginning of pars. (1) to (3), period for semicolon at end of par. (1), and period for “; or” at end of par. (2), and added par. (4).

1996—Subsec. (b)(3). Pub. L. 104-106 substituted “under contract on September 24, 1983” for “under contract or September 24, 1983”.

1988—Pub. L. 100-370 renumbered section 2693 of this title as this section.

1987—Pub. L. 100-180 inserted “or security-guard” before “functions” in section catchline and subsec. (a), and substituted “a function” for “the function” in subsec. (b)(1).

TEMPORARY AUTHORITY TO CONTRACT WITH LOCAL AND STATE GOVERNMENTS FOR PERFORMANCE OF SECURITY FUNCTIONS AT UNITED STATES MILITARY INSTALLATIONS

Pub. L. 107-56, title X, § 1010, Oct. 26, 2001, 115 Stat. 395, provided that:

“(a) IN GENERAL.—Notwithstanding section 2465 of title 10, United States Code, during the period of time that United States armed forces are engaged in Operation Enduring Freedom, and for the period of 180 days thereafter, funds appropriated to the Department of Defense may be obligated and expended for the purpose of entering into contracts or other agreements for the performance of security functions at any military installation or facility in the United States with a proximately located local or State government, or combination of such governments, whether or not any such government is obligated to provide such services to the general public without compensation.

“(b) TRAINING.—Any contract or agreement entered into under this section shall prescribe standards for the training and other qualifications of local government law enforcement personnel who perform security functions under this section in accordance with criteria established by the Secretary of the service concerned.

“(c) REPORT.—One year after the date of enactment of this section [Oct. 26, 2001], the Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives describing the use of the authority granted under this section and the use by the Department of Defense of other means to improve the performance of security functions on military installations and facilities located within the United States.”

PERFORMANCE OF EMERGENCY RESPONSE FUNCTIONS AT CHEMICAL WEAPONS STORAGE INSTALLATIONS

Pub. L. 106-398, § 1 [[div. A], title III, § 355], Oct. 30, 2000, 114 Stat. 1654, 1654A-75, provided that:

“(a) RESTRICTION ON CONVERSION.—The Secretary of the Army may not convert to contractor performance the emergency response functions of any chemical weapons storage installation that, as of the date of the enactment of this Act [Oct. 30, 2000], are performed for that installation by employees of the United States until the certification required by subsection (c) has been submitted in accordance with that subsection.

“(b) COVERED INSTALLATIONS.—For the purposes of this section, a chemical weapons storage installation is

any installation of the Department of Defense on which lethal chemical agents or munitions are stored.

“(c) CERTIFICATION REQUIREMENT.—The Secretary of the Army shall certify in writing to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives that, to ensure that there will be no lapse of capability to perform the chemical weapon emergency response mission at a chemical weapons storage installation during any transition to contractor performance of those functions at the installation, the plan for conversion of the performance of those functions—

“(1) is consistent with the recommendation contained in General Accounting Office [now Government Accountability Office] Report NSIAD-00-88, entitled ‘DoD Competitive Sourcing’, dated March 2000;

“(2) provides for a transition to contractor performance of emergency response functions which ensures an adequate transfer of the relevant knowledge and expertise regarding chemical weapon emergency response to the contractor personnel; and

“(3) complies with section 2465 of title 10, United States Code.”

§ 2466. Limitations on the performance of depot-level maintenance of materiel

(a) PERCENTAGE LIMITATION.—Not more than 50 percent of the funds made available in a fiscal year to a military department or a Defense Agency for depot-level maintenance and repair workload may be used to contract for the performance by non-Federal Government personnel of such workload for the military department or the Defense Agency. Any such funds that are not used for such a contract shall be used for the performance of depot-level maintenance and repair workload by employees of the Department of Defense.

(b) WAIVER OF LIMITATION.—The Secretary of Defense may waive the limitation in subsection (a) for a fiscal year if—

(1) the Secretary determines that the waiver is necessary for reasons of national security; and

(2) the Secretary submits to Congress a notification of the waiver together with the reasons for the waiver.

(c) PROHIBITION ON DELEGATION OF WAIVER AUTHORITY.—The authority to grant a waiver under subsection (b) may not be delegated.

(d) ANNUAL REPORT.—(1) Not later than 90 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to Congress a report identifying, for each of the armed forces (other than the Coast Guard) and each Defense Agency, the percentage of the funds referred to in subsection (a) that was expended during the preceding fiscal year, and are projected to be expended during the current fiscal year and the ensuing fiscal year, for performance of depot-level maintenance and repair workloads by the public and private sectors.

(2) Each report required under paragraph (1) shall include as a separate item any expenditure covered by section 2474(f) of this title that was made during the fiscal year covered by the report and shall specify the amount and nature of each such expenditure.

(Added Pub. L. 100-456, div. A, title III, § 326(a), Sept. 29, 1988, 102 Stat. 1955; amended Pub. L.