

(4) The term “full costs”, with respect to articles or services provided under a cooperative arrangement entered into under subsection (a), means the variable costs and the fixed costs that are directly related to the production of the articles or the provision of the services.

(5) The term “variable costs” means the costs that are expected to fluctuate directly with the volume of sales or services provided or the use of equipment or facilities.

(Added Pub. L. 108–375, div. A, title III, §353(a), Oct. 28, 2004, 118 Stat. 1859; amended Pub. L. 109–163, div. A, title III, §321, Jan. 6, 2006, 119 Stat. 3191; Pub. L. 109–364, div. A, title X, §1071(a)(29), Oct. 17, 2006, 120 Stat. 2399; Pub. L. 110–181, div. A, title III, §328(a), Jan. 28, 2008, 122 Stat. 66; Pub. L. 111–84, div. A, title III, §324(a), Oct. 28, 2009, 123 Stat. 2253; Pub. L. 112–81, div. A, title III, §323(a), Dec. 31, 2011, 125 Stat. 1362.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 112–81, §323(a)(1), struck out second sentence which read as follows: “This authority may be used to enter into not more than eight contracts or cooperative agreements in addition to the contracts and cooperative agreements in place as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181).”

Subsec. (k). Pub. L. 112–81, §323(a)(2), struck out subsec. (k). Prior to amendment, text read as follows: “The authority to enter into a cooperative arrangement under subsection (a) expires September 30, 2014.”

2009—Subsec. (a). Pub. L. 111–84 inserted “in addition to the contracts and cooperative agreements in place as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181)” after “not more than eight contracts or cooperative agreements”.

2008—Subsec. (a). Pub. L. 110–181, §328(a)(1), inserted at end “This authority may be used to enter into not more than eight contracts or cooperative agreements.”

Subsec. (k). Pub. L. 110–181, §328(a)(2), substituted “2014” for “2009”.

2006—Subsec. (d). Pub. L. 109–364 substituted “Arrangement” for “Arrangement” in heading.

Pub. L. 109–163, §321(b)(1), substituted “subsection (f)” for “subsection (e)” in introductory provisions.

Subsecs. (e), (f). Pub. L. 109–163, §321(b)(2), (3), added subsec. (e) and redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–163, §321(b)(4), substituted “subsection (f)” for “subsection (e)”.

Pub. L. 109–163, §321(b)(2), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsecs. (h), (i). Pub. L. 109–163, §321(b)(2), redesignated subsecs. (g) and (h) as (h) and (i), respectively. Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 109–163, §321(b)(2), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Pub. L. 109–163, §321(a), substituted “September 30, 2009.” for “September 30, 2009, and arrangements entered into under such subsection shall terminate not later than that date.”

Subsec. (k). Pub. L. 109–163, §321(b)(2), redesignated subsec. (j) as (k).

REPORTS

Pub. L. 110–181, div. A, title III, §328(b), Jan. 28, 2008, 122 Stat. 66, as amended by Pub. L. 111–84, div. A, title III, §324(b), Oct. 28, 2009, 123 Stat. 2253; Pub. L. 112–81, div. A, title III, §323(b), Dec. 31, 2011, 125 Stat. 1362; Pub. L. 112–239, div. A, title X, §1076(a)(2), Jan. 2, 2013, 126 Stat. 1948, provided that:

“(1) ANNUAL REPORT ON USE OF AUTHORITY.—The Secretary of the Army shall submit to Congress at the

same time the budget of the President is submitted to Congress for fiscal years 2009 through 2016 under section 1105 of title 31, United States Code, a report on the use of the authority provided under section 4544 of title 10, United States Code.

“(2) ANALYSIS OF USE OF AUTHORITY.—Not later than September 30, 2012, the Secretary of the Army shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report—

“(A) assessing the effect of the use of such authority on the rates charged by each Army industrial facility when bidding on contracts for the Army or for a Defense agency and providing recommendations to improve the ability of each category of Army industrial facility (as defined in section 4544(j) of title 10, United States Code) to compete for such contracts;

“(B) assessing the benefit to the Federal Government of using such authority;

“(C) assessing the impact of the use of such authority on the availability of facilities needed by the Army and on the private sector; and

“(D) describing the steps taken to comply with the requirements under section 4544(g) of title 10, United States Code.”

CHAPTER 434—ARMAMENTS INDUSTRIAL BASE

Sec.	
4551.	Definitions.
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4553.	Armament Retooling and Manufacturing Support Initiative.
4554.	Property management contracts and leases.
4555.	ARMS Initiative loan guarantee program.

§ 4551. Definitions

In this chapter:

(1) The term “ARMS Initiative” means the Armament Retooling and Manufacturing Support Initiative authorized by this chapter.

(2) The term “eligible facility” means a Government-owned, contractor-operated ammunition manufacturing facility, or a Government-owned, contractor-operated depot for the storage, maintenance, renovation, or demilitarization of ammunition, of the Department of the Army that is in an active, inactive, layaway, or caretaker status.

(3) The term “property manager” includes any person or entity managing an eligible facility made available under the ARMS Initiative through a property management contract.

(4) The term “property management contract” includes facility use contracts, site management contracts, leases, and other agreements entered into under the authority of this chapter.

(5) The term “Secretary” means the Secretary of the Army.

(Added Pub. L. 106–398, §1 [[div. A], title III, §344(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–67; amended Pub. L. 109–163, div. A, title III, §323(a), Jan. 6, 2006, 119 Stat. 3193.)

AMENDMENTS

2006—Par. (2). Pub. L. 109–163, §323(a), inserted “, or a Government-owned, contractor-operated depot for the storage, maintenance, renovation, or demilitarization of ammunition,” after “manufacturing facility”.

CONSIDERATION OF ARMY ARSENALS’ CAPABILITIES TO FULFILL MANUFACTURING REQUIREMENTS

Pub. L. 113–66, div. A, title III, §323, Dec. 26, 2013, 127 Stat. 733, provided that:

“(a) CONSIDERATION OF CAPABILITY OF ARSENALS.—When undertaking a make-or-buy analysis, a program executive officer or program manager of a military service or Defense Agency shall consider the capability of arsenals owned by the United States to fulfill a manufacturing requirement.

“(b) NOTIFICATION OF SOLICITATIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall establish and begin implementation of a system for ensuring that the arsenals owned by the United States are notified of any solicitation that fulfills a manufacturing requirement for which there is no or limited domestic commercial source and which may be appropriate for manufacturing within an arsenal owned by the United States.”

ARSENAL SUPPORT PROGRAM INITIATIVE

Pub. L. 106-398, § 1 [[div. A], title III, § 343], Oct. 30, 2000, 114 Stat. 1654, 1654A-65, as amended by Pub. L. 107-314, div. A, title III, § 362, Dec. 2, 2002, 116 Stat. 2519; Pub. L. 108-375, div. A, title III, § 342, Oct. 28, 2004, 118 Stat. 1857; Pub. L. 110-181, div. A, title III, § 341, Jan. 28, 2008, 122 Stat. 69; Pub. L. 111-84, div. A, title III, § 354, Oct. 28, 2009, 123 Stat. 2264; Pub. L. 111-383, div. A, title III, § 342, Jan. 7, 2011, 124 Stat. 4190, provided that:

“(a) DEMONSTRATION PROGRAM REQUIRED.—To help maintain the viability of the Army manufacturing arsenals and the unique capabilities of these arsenals to support the national security interests of the United States, the Secretary of the Army shall carry out a demonstration program under this section during fiscal years 2001 through 2012 at each manufacturing arsenal of the Department of the Army.

“(b) PURPOSES OF DEMONSTRATION PROGRAM.—The purposes of the demonstration program are as follows:

“(1) To provide for the utilization of the existing skilled workforce at the Army manufacturing arsenals by commercial firms.

“(2) To provide for the reemployment and retraining of skilled workers who, as a result of declining workload and reduced Army spending on arsenal production requirements at these Army arsenals, are idled or underemployed.

“(3) To encourage commercial firms, to the maximum extent practicable, to use these Army arsenals for commercial purposes.

“(4) To increase the opportunities for small businesses (including socially and economically disadvantaged small business concerns and new small businesses) to use these Army arsenals for those purposes.

“(5) To maintain in the United States a work force having the skills in manufacturing processes that are necessary to meet industrial emergency planned requirements for national security purposes.

“(6) To demonstrate innovative business practices, to support Department of Defense acquisition reform, and to serve as both a model and a laboratory for future defense conversion initiatives of the Department of Defense.

“(7) To the maximum extent practicable, to allow the operation of these Army arsenals to be rapidly responsive to the forces of free market competition.

“(8) To reduce or eliminate the cost of Government ownership of these Army arsenals, including the costs of operations and maintenance, the costs of environmental remediation, and other costs.

“(9) To reduce the cost of products of the Department of Defense produced at these Army arsenals.

“(10) To leverage private investment at these Army arsenals through long-term facility use contracts, property management contracts, leases, or other agreements that support and advance the demonstration program for the following activities:

“(A) Recapitalization of plant and equipment.

“(B) Environmental remediation.

“(C) Promotion of commercial business ventures.

“(D) Other activities approved by the Secretary of the Army.

“(11) To foster cooperation between the Department of the Army, property managers, commercial inter-

ests, and State and local agencies in the implementation of sustainable development strategies and investment in these Army arsenals.

“(c) CONTRACT AUTHORITY.—(1) In the case of each Army manufacturing arsenal, the Secretary of the Army may enter into contracts with commercial firms to authorize the contractors, consistent with section 4543 of title 10, United States Code—

“(A) to use the arsenal, or a portion of the arsenal, and the skilled workforce at the arsenal to manufacture weapons, weapon components, or related products consistent with the purposes of the program; and

“(B) to enter into subcontracts for the commercial use of the arsenal consistent with such purposes.

“(2) A contract under paragraph (1) shall require the contractor to contribute toward the operation and maintenance of the Army manufacturing arsenal covered by the contract.

“(3) In the event an Army manufacturing arsenal is converted to contractor operation, the Secretary may enter into a contract with the contractor to authorize the contractor, consistent with section 4543 of title 10, United States Code—

“(A) to use the facility during the period of the program in a manner consistent with the purposes of the program; and

“(B) to enter into subcontracts for the commercial use of the facility consistent with such purposes.

“(d) LOAN GUARANTEES.—(1) Subject to paragraph (2), the Secretary of the Army may guarantee the repayment of any loan made to a commercial firm to fund, in whole or in part, the establishment of a commercial activity at an Army manufacturing arsenal under this section.

“(2) Loan guarantees under this subsection may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required by section 504 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

“(3) The Secretary of the Army may enter into agreements with the Administrator of the Small Business Administration or the Administrator of the Farmers Home Administration, the Administrator of the Rural Development Administration, or the head of other appropriate agencies of the Department of Agriculture, under which such Administrators may, under this subsection—

“(A) process applications for loan guarantees;

“(B) guarantee repayment of loans; and

“(C) provide any other services to the Secretary of the Army to administer this subsection.

“(4) An Administrator referred to in paragraph (3) may guarantee loans under this section to commercial firms of any size, notwithstanding any limitations on the size of applicants imposed on other loan guarantee programs that the Administrator administers. To the extent practicable, each Administrator shall use the same procedures for processing loan guarantee applications under this subsection as the Administrator uses for processing loan guarantee applications under other loan guarantee programs that the Administrator administers.

“(e) LOAN LIMITS.—The maximum amount of loan principal guaranteed during a fiscal year under subsection (d) may not exceed—

“(1) \$20,000,000, with respect to any single borrower; and

“(2) \$320,000,000 with respect to all borrowers.

“(f) TRANSFER OF FUNDS.—The Secretary of the Army may transfer to an Administrator providing services under subsection (d), and the Administrator may accept, such funds as may be necessary to administer loan guarantees under such subsection.

“(g) REPORTING REQUIREMENTS.—(1) Not later than July 1 of each year in which a guarantee issued under subsection (d) is in effect, the Secretary of the Army shall submit to Congress a report specifying the amounts of loans guaranteed under such subsection during the preceding calendar year. No report is required after fiscal year 2012.

“(2) Not later than July 1, 2007, the Secretary of the Army shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the results of the demonstration program since its implementation, including the Secretary’s views regarding the benefits of the program for Army manufacturing arsenals and the Department of the Army and the success of the program in achieving the purposes specified in subsection (b). The report shall contain a comprehensive review of contracting at the Army manufacturing arsenals covered by the program and such recommendations as the Secretary considers appropriate regarding changes to the program.”

§ 4552. Policy

It is the policy of the United States—

(1) to encourage, to the maximum extent practicable, commercial firms to use Government-owned, contractor-operated ammunition manufacturing, storage, maintenance, renovation, and demilitarization facilities of the Department of the Army;

(2) to use such facilities for supporting programs, projects, policies, and initiatives that promote competition in the private sector of the United States economy and that advance United States interests in the global marketplace;

(3) to increase the manufacture of products inside the United States;

(4) to support policies and programs that provide manufacturers with incentives to assist the United States in making more efficient and economical use of eligible facilities for commercial purposes;

(5) to provide, as appropriate, small businesses (including socially and economically disadvantaged small business concerns and new small businesses) with incentives that encourage those businesses to undertake manufacturing and other industrial processing activities that contribute to the prosperity of the United States;

(6) to encourage the creation of jobs through increased investment in the private sector of the United States economy;

(7) to foster a more efficient, cost-effective, and adaptable armaments industry in the United States;

(8) to achieve, with respect to armaments manufacturing, storage, maintenance, renovation, and demilitarization capacity, an optimum level of readiness of the national technology and industrial base within the United States that is consistent with the projected threats to the national security of the United States and the projected emergency requirements of the armed forces; and

(9) to encourage facility use contracting where feasible.

(Added Pub. L. 106-398, §1 [[div. A], title III, §344(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-67; amended Pub. L. 109-163, div. A, title III, §323(c), Jan. 6, 2006, 119 Stat. 3194.)

AMENDMENTS

2006—Pars. (1), (8). Pub. L. 109-163 inserted “, storage, maintenance, renovation, and demilitarization” after “manufacturing”.

§ 4553. Armament Retooling and Manufacturing Support Initiative

(a) **AUTHORITY FOR INITIATIVE.**—The Secretary may carry out a program to be known as the “Armament Retooling and Manufacturing Support Initiative”.

(b) **PURPOSES.**—The purposes of the ARMS Initiative are as follows:

(1) To encourage commercial firms, to the maximum extent practicable, to use eligible facilities for commercial purposes.

(2) To increase the opportunities for small businesses (including socially and economically disadvantaged small business concerns and new small businesses) to use eligible facilities for those purposes.

(3) To maintain in the United States a work force having the skills necessary to meet industrial emergency planned requirements for national security purposes.

(4) To demonstrate innovative business practices, to support Department of Defense acquisition reform, and to serve as both a model and a laboratory for future defense conversion initiatives of the Department of Defense.

(5) To the maximum extent practicable, to allow the operation of eligible facilities to be rapidly responsive to the forces of free market competition.

(6) To reduce or eliminate the cost of Government ownership of eligible facilities, including the costs of operations and maintenance, the costs of environmental remediation, and other costs.

(7) To reduce the cost of products of the Department of Defense produced at eligible facilities.

(8) To leverage private investment at eligible facilities through long-term facility use contracts, property management contracts, leases, or other agreements that support and advance the policies and purposes of this chapter, for the following activities:

(A) Recapitalization of plant and equipment.

(B) Environmental remediation.

(C) Promotion of commercial business ventures.

(D) Other activities approved by the Secretary.

(9) To foster cooperation between the Department of the Army, property managers, commercial interests, and State and local agencies in the implementation of sustainable development strategies and investment in eligible facilities made available for purposes of the ARMS Initiative.

(10) To reduce or eliminate the cost of asset disposal that would be incurred if property at an eligible facility was declared excess to the needs of the Department of the Army.

(c) **AVAILABILITY OF FACILITIES.**—The Secretary may make any eligible facility available for the purposes of the ARMS Initiative.

(d) **CONSIDERATION FOR LEASES.**—Section 1302 of title 40 shall not apply to uses of property or facilities in accordance with the ARMS Initiative.

(e) **PROGRAM SUPPORT.**—(1) Funds appropriated for purposes of the ARMS Initiative may be used for administrative support and management.