

(i) any claim for damages or injury to any person or property arising out of the use of the equipment or facilities, except under the circumstances described in section 2563(c)(3) of this title; and

(ii) any liability or claim for damages or injury to any person or property arising out of a decision by the Secretary concerned or the Secretary of Defense to suspend or terminate that use of equipment or facilities during a war or national emergency.

(f) EXCLUSION OF CERTAIN EXPENDITURES FROM PERCENTAGE LIMITATION.—Amounts expended for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence under any contract shall not be counted for purposes of applying the percentage limitation in section 2466(a) of this title if the personnel are provided by private industry or other entities outside the Department of Defense pursuant to a public-private partnership.

(g) CONSTRUCTION OF PROVISION.—Nothing in this section may be construed to authorize a change, otherwise prohibited by law, from the performance of work at a Center of Industrial and Technical Excellence by Department of Defense personnel to performance by a contractor.

(Added Pub. L. 105–85, div. A, title III, §361(a)(1), Nov. 18, 1997, 111 Stat. 1700; amended Pub. L. 106–398, §1 [[div. A], title III, §341(a)–(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–61 to 1654A–63; Pub. L. 107–107, div. A, title III, §§342, 343(b), Dec. 28, 2001, 115 Stat. 1060, 1061; Pub. L. 107–314, div. A, title III, §334, Dec. 2, 2002, 116 Stat. 2514; Pub. L. 108–375, div. A, title III, §323, title X, §1084(d)(20), Oct. 28, 2004, 118 Stat. 1846, 2062; Pub. L. 109–364, div. A, title III, §331(a), Oct. 17, 2006, 120 Stat. 2149; Pub. L. 112–81, div. A, title III, §322, Dec. 31, 2011, 125 Stat. 1362; Pub. L. 112–239, div. A, title X, §1076(d)(4), Jan. 2, 2013, 126 Stat. 1951.)

AMENDMENTS

2013—Subsec. (d). Pub. L. 112–239 substituted “section 2667(e)” for “section 2667(d)”.

2011—Subsec. (a)(1). Pub. L. 112–81 inserted “or military arsenal facility” after “depot-level activity”.

2006—Subsec. (f). Pub. L. 109–364 struck out “(1)” before “Amounts”, “entered into during fiscal years 2003 through 2009” before “shall not be counted”, and par. (2) which read as follows: “All funds covered by paragraph (1) shall be included as a separate item in the reports required under paragraphs (1), (2), and (3) of section 2466(d) of this title.”

2004—Subsec. (f)(1). Pub. L. 108–375, §323, substituted “through 2009” for “through 2006”.

Subsec. (f)(2). Pub. L. 108–375, §1084(d)(20), substituted “section 2466(d)” for “section 2466(e)”.

2002—Subsec. (f)(1). Pub. L. 107–314, §334(1), substituted “Amounts expended for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence under any contract entered into during fiscal years 2003 through 2006” for “Amounts expended out of funds described in paragraph (2) for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence”.

Subsec. (f)(2), (3). Pub. L. 107–314, §334(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “The funds referred to in paragraph (1)

are funds available to the military departments and Defense Agencies for depot-level maintenance and repair workloads for fiscal years 2002 through 2005.”

2001—Subsec. (e)(2)(B)(i). Pub. L. 107–107, §343(b), substituted “under the circumstances described in section 2563(c)(3) of this title” for “in a case of willful conduct or gross negligence”.

Subsecs. (f), (g). Pub. L. 107–107, §342, added subsec. (f) and redesignated former subsec. (f) as (g).

2000—Subsec. (a)(1). Pub. L. 106–398, §1 [[div. A], title III, §341(a)(1)], substituted “The Secretary concerned, or the Secretary of Defense in the case of a Defense Agency,” for “The Secretary of Defense” and “of the designee” for “of the activity”.

Subsec. (a)(2). Pub. L. 106–398, §1 [[div. A], title III, §341(a)(2)], inserted “of Defense” after “The Secretary” and substituted “Centers of Industrial and Technical Excellence” for “depot-level activities”.

Subsec. (a)(3). Pub. L. 106–398, §1 [[div. A], title III, §341(a)(3)], substituted “operations at Centers of Industrial and Technical Excellence” for “depot-level operations”, “by the Centers” for “by depot-level activities”, and “of the Centers” for “of such activities”.

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title III, §341(b)], amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary of Defense shall enable Centers of Industrial and Technical Excellence to enter into public-private cooperative arrangements for the performance of depot-level maintenance and repair at such Centers and shall encourage the use of such arrangements to maximize the utilization of the capacity at such Centers. A public-private cooperative arrangement under this subsection shall be known as a ‘public-private partnership.’”

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title III, §341(c)(3)], added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title III, §341(d)], inserted at end “Consideration in the form of rental payments or (notwithstanding section 3302(b) of title 31) in other forms may be accepted for a use of property accountable under a contract performed pursuant to this section. Notwithstanding section 2667(d) of this title, revenues generated pursuant to this section shall be available for facility operations, maintenance, and environmental restoration at the Center where the leased property is located.”

Pub. L. 106–398, §1 [[div. A], title III, §341(c)(1), (2)], redesignated subsec. (c) as (d) and struck out heading and text of former subsec. (d). Text read as follows: “The policy required under subsection (a) shall include measures to enable a private sector entity that enters into a partnership arrangement under subsection (b) or leases excess equipment and facilities at a Center of Industrial and Technical Excellence pursuant to section 2471 of this title to perform additional work at the Center, subject to the limitations outlined in subsection (b) of such section, outside of the types of work normally assigned to the Center.”

Subsecs. (e), (f). Pub. L. 106–398, §1 [[div. A], title III, §341(e)], added subsecs. (e) and (f).

REPORTING REQUIREMENT

Pub. L. 105–85, div. A, title III, §361(c), Nov. 18, 1997, 111 Stat. 1701, provided that, not later than Mar. 1, 1999, the Secretary of Defense was to submit to Congress a report on the policies established by the Secretary pursuant to this section to implement the requirements of this section.

§2475. Consolidation, restructuring, or re-engineering of organizations, functions, or activities: notification requirements

(a) REQUIREMENT TO SUBMIT PLAN ANNUALLY.—Concurrently with the submission of the President’s annual budget request under section 1105 of title 31, the Secretary of Defense shall submit

to Congress each Strategic Sourcing Plan of Action for the Department of Defense (as identified in the Department of Defense Interim Guidance dated February 29, 2000, or any successor Department of Defense guidance or directive), for the following year.

(b) **NOTIFICATION OF DECISION TO EXECUTE PLAN.**—If a decision is made to consolidate, restructure, or reengineer an organization, function, or activity of the Department of Defense pursuant to a Strategic Sourcing Plan of Action described in subsection (a), and such consolidation, restructuring, or reengineering would result in a manpower reduction affecting 50 or more personnel of the Department of Defense (including military and civilian personnel)—

(1) the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing that decision, including—

(A) a projection of the savings that will be realized as a result of the consolidation, restructuring, or reengineering, compared with the cost incurred by the Department of Defense to perform the function or to operate the organization or activity prior to such proposed consolidation, restructuring, or reengineering;

(B) a description of all missions, duties, or military requirements that will be affected as a result of the decision to consolidate, restructure, or reengineer the organization, function, or activity that was analyzed;

(C) the Secretary's certification that the consolidation, restructuring, or reengineering will not result in any diminution of military readiness;

(D) a schedule for performing the consolidation, restructuring, or reengineering; and

(E) the Secretary's certification that the entire analysis for the consolidation, restructuring, or reengineering is available for examination; and

(2) the head of the Defense Agency or the Secretary of the military department concerned may not implement the plan until 30 days after the date that the agency head or Secretary submits notification to the Committees on Armed Services of the Senate and House of Representatives of the intent to carry out such plan.

(Added Pub. L. 106-398, §1 [[div. A], title III, §353(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-72.)

§ 2476. Minimum capital investment for certain depots

(a) **MINIMUM INVESTMENT.**—Each fiscal year, the Secretary of a military department shall invest in the capital budgets of the covered depots of that military department a total amount equal to not less than six percent of the average total combined maintenance, repair, and overhaul workload funded at all the depots of that military department for the preceding three fiscal years.

(b) **CAPITAL BUDGET.**—For purposes of this section, the capital budget of a depot includes investment funds spent to modernize or improve the efficiency of depot facilities, equipment, work environment, or processes in direct sup-

port of depot operations, but does not include funds spent for sustainment of existing facilities, infrastructure, or equipment.

(c) **WAIVER.**—The Secretary of Defense may waive the requirement under subsection (a) with respect to a military department for a fiscal year if the Secretary determines that the waiver is necessary for reasons of national security. Whenever the Secretary makes such a waiver, the Secretary shall notify the congressional defense committees of the waiver and the reasons for the waiver.

(d) **ANNUAL REPORT.**—(1) Not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year under section 1105 of title 31, the Secretary of Defense shall submit to the congressional defense committees a report containing budget justification documents summarizing the level of capital investment for each military department as of the end of the preceding fiscal year.

(2) Each report submitted under paragraph (1) shall include the following:

(A) A specification of any statutory, regulatory, or operational impediments to achieving the requirement under subsection (a) with respect to each military department.

(B) A description of the benchmarks for capital investment established for each covered depot and military department and the relationship of the benchmarks to applicable performance measurement methods used in the private sector.

(C) If the requirement under subsection (a) is not met for a military department for the fiscal year covered by the report, a statement of the reasons why the requirement was not met and a plan of actions for meeting the requirement for the fiscal year beginning in the year in which such report is submitted.

(D) Separate consideration and reporting of Navy depots and Marine Corps depots.

(E) A table showing the funded workload performed by each covered depot for the preceding three fiscal years and actual investment funds allocated to each depot for the period covered by the report.

(e) **COVERED DEPOT.**—In this section, the term “covered depot” means any of the following:

(1) With respect to the Department of the Army:

(A) Anniston Army Depot, Alabama.

(B) Letterkenny Army Depot, Pennsylvania.

(C) Tobyhanna Army Depot, Pennsylvania.

(D) Corpus Christi Army Depot, Texas.

(E) Red River Army Depot, Texas.

(F) Watervliet Arsenal, New York.

(G) Rock Island Arsenal, Illinois.

(H) Pine Bluff Arsenal, Arkansas.

(I) Tooele Army Depot, Utah.

(2) With respect to the Department of the Navy:

(A) The following Navy depots:

(i) Fleet Readiness Center East Site, Cherry Point, North Carolina.

(ii) Fleet Readiness Center Southwest Site, North Island, California.

(iii) Fleet Readiness Center Southeast Site, Jacksonville, Florida.