

(d) INAPPLICABILITY OF OMB CIRCULAR A-76.—Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy) does not apply to a performance change to which subsection (a) applies.

(Added Pub. L. 102-484, div. A, title III, §353(a), Oct. 23, 1992, 106 Stat. 2378; amended Pub. L. 103-160, div. A, title III, §346, title XI, §1182(a)(7), Nov. 30, 1993, 107 Stat. 1625, 1771; Pub. L. 103-337, div. A, title III, §338, Oct. 5, 1994, 108 Stat. 2718; Pub. L. 104-106, div. A, title III, §311(f)(1), Feb. 10, 1996, 110 Stat. 248; Pub. L. 105-85, div. A, title III, §§355(b), 363, Nov. 18, 1997, 111 Stat. 1694, 1702; Pub. L. 106-65, div. A, title III, §334, Oct. 5, 1999, 113 Stat. 568; Pub. L. 108-136, div. A, title III, §333, Nov. 24, 2003, 117 Stat. 1442.)

AMENDMENTS

2003—Subsec. (b). Pub. L. 108-136, §333(1), substituted “Except as provided in subsection (c), subsection” for “Subsection”.

Subsecs. (c), (d). Pub. L. 108-136, §333(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

1999—Subsec. (b). Pub. L. 106-65 inserted “(including the cost of labor and materials)” after “\$3,000,000”.

1997—Pub. L. 105-85, §363, repealed Pub. L. 104-106, §311(f)(1). See 1996 Amendment note below.

Subsecs. (a), (b). Pub. L. 105-85, §355(b), substituted “maintenance and repair” for “maintenance or repair”.

1996—Pub. L. 104-106, §311(f)(1), which directed repeal of this section, was repealed by Pub. L. 105-85, §363.

1994—Pub. L. 103-337 amended section generally. Prior to amendment, section read as follows:

“(a) REQUIREMENT FOR COMPETITION.—The Secretary of Defense or the Secretary of a military department may not change the performance of a depot-level maintenance workload that has a value of not less than \$3,000,000 and is being performed by a depot-level activity of the Department of Defense to performance by a contractor unless the Secretary uses competitive procedures for the selection of the contractor to perform such workload.

“(b) INAPPLICABILITY OF OMB CIRCULAR A-76.—The use of Office of Management and Budget Circular A-76 shall not apply to a performance change under subsection (a).”

1993—Pub. L. 103-160, §346, amended section, as amended by Pub. L. 103-160, §1182(a)(7), (h), by designating existing provisions as subsec. (a), inserting heading, striking out “threshold” before “value”, substituting “to performance by a contractor unless the Secretary uses competitive procedures for the selection of the contractor to perform such workload” for “unless the Secretary uses competitive procedures to make the change”, and adding subsec. (b).

Pub. L. 103-160, §1182(a)(7), struck out “, prior to any such change,” after “Department of Defense unless”.

[§ 2469a. Repealed. Pub. L. 107-314, div. A, title III, § 333(a), Dec. 2, 2002, 116 Stat. 2514]

Section, added Pub. L. 105-85, div. A, title III, §359(a)(1), Nov. 18, 1997, 111 Stat. 1696; amended Pub. L. 106-65, div. A, title III, §335, title X, §1066(a)(20), Oct. 5, 1999, 113 Stat. 568, 771, related to use of competitive procedures in contracting for performance of depot-level maintenance and repair workloads formerly performed at closed or realigned military installations.

§ 2470. Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies

A depot-level activity of the Department of Defense shall be eligible to compete for the performance of any depot-level maintenance and

repair workload of a Federal agency for which competitive procedures are used to select the entity to perform the workload.

(Added Pub. L. 103-337, div. A, title III, §335(a), Oct. 5, 1994, 108 Stat. 2716.)

[§ 2471. Repealed. Pub. L. 106-398, § 1 [[div. A], title III, § 341(g)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-64]

Section, added Pub. L. 103-337, div. A, title III, §336(a), Oct. 5, 1994, 108 Stat. 2717; amended Pub. L. 104-106, div. A, title XV, §1503(a)(26), Feb. 10, 1996, 110 Stat. 512; Pub. L. 105-85, div. A, title III, §361(b)(1), Nov. 18, 1997, 111 Stat. 1701, related to lease of excess depot-level equipment and facilities by persons outside the Department of Defense.

§ 2472. Prohibition on management of depot employees by end strength

The civilian employees of the Department of Defense, including the civilian employees of the military departments and the Defense Agencies, who perform, or are involved in the performance of, depot-level maintenance and repair workloads may not be managed on the basis of any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees. Such employees shall be managed solely on the basis of the available workload and the funds made available for such depot-level maintenance and repair.

(Added and amended Pub. L. 104-106, div. A, title III, §312(a), (b), Feb. 10, 1996, 110 Stat. 250; Pub. L. 105-85, div. A, title III, §360, Nov. 18, 1997, 111 Stat. 1700; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-375, div. A, title III, §322(a), (b)(1), Oct. 28, 2004, 118 Stat. 1846.)

CODIFICATION

The text of section 2466(b) of this title, which was transferred to this section and redesignated subsec. (a) by Pub. L. 104-106, §312(b), was based on Pub. L. 102-190, div. A, title III, §314(a)(1), Dec. 5, 1991, 105 Stat. 1336; Pub. L. 103-337, div. A, title III, §332(b), Oct. 5, 1994, 108 Stat. 2715.

AMENDMENTS

2004—Pub. L. 108-375 substituted “Prohibition on management of depot employees by end strength” for “Management of depot employees” in section catchline, struck out subsec. (a) designation and heading before “The civilian”, and struck out heading and text of subsec. (b). Text read as follows: “Not later than December 1 of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the number of employees employed and expected to be employed by the Department of Defense during that fiscal year to perform depot-level maintenance and repair of materiel. The report shall indicate whether that number is sufficient to perform the depot-level maintenance and repair functions for which funds are expected to be provided for that fiscal year for performance by Department of Defense employees.”

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

1997—Subsec. (a). Pub. L. 105-85 inserted first sentence and struck out former first sentence which read as follows: “The civilian employees of the Department of Defense involved in the depot-level maintenance and repair of materiel may not be managed on the basis of