

Oct. 5, 1999, 113 Stat. 712; Pub. L. 111-84, div. A, title VIII, § 818(a), Oct. 28, 2009, 123 Stat. 2408, required the Secretary of Defense to place conditions on the procurement of property or services in order to preserve the small arms production industrial base.

§ 2474. Centers of Industrial and Technical Excellence: designation; public-private partnerships

(a) DESIGNATION.—(1) The Secretary concerned, or the Secretary of Defense in the case of a Defense Agency, shall designate each depot-level activity or military arsenal facility of the military departments and the Defense Agencies (other than facilities approved for closure or major realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note)) as a Center of Industrial and Technical Excellence in the recognized core competencies of the designee.

(2) The Secretary of Defense shall establish a policy to encourage the Secretary of each military department and the head of each Defense Agency to reengineer industrial processes and adopt best-business practices at their Centers of Industrial and Technical Excellence in connection with their core competency requirements, so as to serve as recognized leaders in their core competencies throughout the Department of Defense and in the national technology and industrial base (as defined in section 4801(1) of this title).

(3) The Secretary of a military department may conduct a pilot program, consistent with applicable requirements of law, to test any practices referred to in paragraph (2) that the Secretary determines could improve the efficiency and effectiveness of operations at Centers of Industrial and Technical Excellence, improve the support provided by the Centers for the armed forces user of the services of the Centers, and enhance readiness by reducing the time that it takes to repair equipment.

(b) PUBLIC-PRIVATE PARTNERSHIPS.—(1) To achieve one or more objectives set forth in paragraph (2), the Secretary designating a Center of Industrial and Technical Excellence under subsection (a) may authorize and encourage the head of the Center to enter into public-private cooperative arrangements (in this section referred to as a “public-private partnership”) to provide for any of the following:

(A) For employees of the Center, private industry, or other entities outside the Department of Defense to perform (under contract, subcontract, or otherwise) work related to the core competencies of the Center, including any depot-level maintenance and repair work that involves one or more core competencies of the Center.

(B) For private industry or other entities outside the Department of Defense to use, for any period of time determined to be consistent with the needs of the Department of Defense, any facilities or equipment of the Center that are not fully utilized for a military department's own production or maintenance requirements.

(2) The objectives for exercising the authority provided in paragraph (1) are as follows:

(A) To maximize the utilization of the capacity of a Center of Industrial and Technical Excellence.

(B) To reduce or eliminate the cost of ownership of a Center by the Department of Defense in such areas of responsibility as operations and maintenance and environmental remediation.

(C) To reduce the cost of products of the Department of Defense produced or maintained at a Center.

(D) To leverage private sector investment in—

(i) such efforts as plant and equipment recapitalization for a Center; and

(ii) the promotion of the undertaking of commercial business ventures at a Center.

(E) To foster cooperation between the armed forces and private industry.

(3) If the Secretary concerned, or the Secretary of Defense in the case of a Defense Agency, authorizes the use of public-private partnerships under this subsection, the Secretary shall submit to Congress a report evaluating the need for loan guarantee authority, similar to the ARMS Initiative loan guarantee program under section 7555 of this title, to facilitate the establishment of public-private partnerships and the achievement of the objectives set forth in paragraph (2).

(c) PRIVATE SECTOR USE OF EXCESS CAPACITY.—Any facilities or equipment of a Center of Industrial and Technical Excellence made available to private industry may be used to perform maintenance or to produce goods in order to make more efficient and economical use of Government-owned industrial plants and encourage the creation and preservation of jobs to ensure the availability of a workforce with the necessary manufacturing and maintenance skills to meet the needs of the armed forces.

(d) CREDITING OF AMOUNTS FOR PERFORMANCE.—Amounts received by a Center for work performed under a public-private partnership shall be credited to the appropriation or fund, including a working-capital fund, that incurs the cost of performing the work. 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(e) 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.

(e) AVAILABILITY OF EXCESS EQUIPMENT TO PRIVATE-SECTOR PARTNERS.—Equipment or facilities of a Center of Industrial and Technical Excellence may be made available for use by a private-sector entity under this section only if—

(1) the use of the equipment or facilities will not have a significant adverse effect on the readiness of the armed forces, as determined by the Secretary concerned or, in the case of a Center in a Defense Agency, by the Secretary of Defense; and

(2) the private-sector entity agrees—

(A) to reimburse the Department of Defense for the direct and indirect costs (in-

cluding any rental costs) that are attributable to the entity's use of the equipment or facilities, as determined by that Secretary; and

(B) to hold harmless and indemnify the United States from—

(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; Pub. L. 115-232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116-283, div. A, title XVIII, §1866(d)(2), Jan. 1, 2021, 134 Stat. 4280.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a)(2). Pub. L. 116-283 substituted “section 4801(1)” for “section 2500(1)”.

2018—Subsec. (b)(3). Pub. L. 115-232 substituted “section 7555” for “section 4555”.

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).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

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) STRATEGIC SOURCING PLAN OF ACTION DEFINED.—In this section, the term “Strategic Sourcing Plan of Action” means a 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) in effect for a fiscal 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 con-

cerned 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; amended Pub. L. 115-91, div. A, title X, §1051(a)(17), Dec. 12, 2017, 131 Stat. 1561.)

Editorial Notes

AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91 amended subsec. (a) generally. Prior to amendment, subsec. (a) required the Secretary of Defense to submit the Strategic Sourcing Plan of Action to Congress annually.

§ 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 support 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