grams while also allowing the depot-level activities to remain in operation to continue to perform their defense readiness mission.

''(b) CONDITIONS.—The Secretary shall ensure that activities conducted under this section—

''(1) do not interfere with the closure or realignment of a depot-level activity of the military departments under a base closure law; and

''(2) do not adversely affect the readiness or primary mission of a participating depot-level activity.''

CONTINUATION OF PERCENTAGE LIMITATIONS ON PERFORMANCE OF DEPOT-LEVEL MAINTENANCE

Pub. L. 103–160, div. A, title III, § 343, Nov. 30, 1993, 107 Stat. 1624, provided that: ''The Secretary of Defense shall ensure that the percentage limitations applicable to the depot-level maintenance workload performed by non-Federal Government personnel set forth in section 2466 of title 10, United States Code, are adhered to.''

EFFECT OF 1992 AMENDMENTS ON EXISTING CONTRACTS

Pub. L. 102–484, div. A, title III, § 352(d), Oct. 23, 1992, 106 Stat. 2378, provided that: ''The Secretary of a military department and the Secretary of Defense, with respect to the Defense Agencies, may not cancel a depot-level maintenance contract in effect on the date of the enactment of this Act [Oct. 23, 1992] in order to comply with the requirements of section 2466(a) of title 10, United States Code, as amended by subsection (a).''

PROHIBITION ON CANCELLATION OF CONTRACTS IN EFFECT ON DECEMBER 5, 1991

Pub. L. 102–190, div. A, title III, § 314(a)(3), Dec. 5, 1991, 105 Stat. 1337, provided that: ''The Secretary of the Army and the Secretary of the Air Force may not cancel a depot-level maintenance contract in effect on the date of the enactment of this Act [Dec. 5, 1991] in order to comply with the requirements of section 2466(a) of such title, as amended by subsection (a).''

COMPETITION PILOT PROGRAM; REVIEW AND REPORT

Pub. L. 102–190, div. A, title III, § 314(b)–(d), Dec. 5, 1991, 105 Stat. 1337, as amended by Pub. L. 102–484, div. A, title III, § 354, Oct. 23, 1992, 106 Stat. 2379, required the Comptroller General to submit to Congress, not later than Feb. 1, 1994, an evaluation of all depot maintenance workloads of the Department of Defense that were performed by an entity selected pursuant to competitive procedures, and required the Secretary of Defense to submit to Congress, not later than Dec. 1, 1993, a report containing a five-year strategy of the Department of Defense to use competitive procedures for the selection of entities to perform depot maintenance workloads and describing the cost savings anticipated.

PILOT PROGRAM FOR DEPOT MAINTENANCE WORKLOAD COMPETITION

Pub. L. 101–510, div. A, title IX, § 922, Nov. 5, 1990, 104 Stat. 1627, authorized a depot maintenance workload competition pilot program during fiscal year 1991, outlined elements of the program, and provided for a report not later than Mar. 31, 1992, to congressional defense committees, prior to repeal by Pub. L. 102–190, div. A, title III, § 314(b)(2), Dec. 5, 1991, 105 Stat. 1337.

## [§ 2467. Repealed. Pub. L. 110–181, div. A, title III, § 322(b)(1), Jan. 28, 2008, 122 Stat. 59]

Section, added Pub. L. 100–456, div. A, title III, § 331(a), Sept. 29, 1988, 102 Stat. 1957; amended Pub. L. 106–65, div. A, title III, § 342(a), (b)(1), Oct. 5, 1999, 113 Stat. 569; Pub. L. 107–107, div. A, title X, § 1048(a)(22), Dec. 28, 2001, 115 Stat. 1224, related to cost comparisons: inclusion of retirement costs; consultation with employees; waiver of comparison.

## [§ 2468. Repealed. Pub. L. 107–107, div. A, title X, § 1048(e)(10)(A), Dec. 28, 2001, 115 Stat. 1228]

Section, added Pub. L. 101–189, div. A, title XI, § 1131(a)(1), Nov. 29, 1989, 103 Stat. 1560; amended Pub. L. 101–510, div. A, title IX, § 921, Nov. 5, 1990, 104 Stat. 1627; Pub. L. 102–190, div. A, title III, § 315(a), Dec. 5, 1991, 105 Stat. 1337; Pub. L. 103–160, div. A, title III, § 370(c), Nov. 30, 1993, 107 Stat. 1634; Pub. L. 103–337, div. A, title III, § 386(c), Oct. 5, 1994, 108 Stat. 2742, related to authority of military base commanders over contracting for commercial activities.

## § 2469. Contracts to perform workloads previously performed by depot-level activities of the Department of Defense: requirement of competition

(a) REQUIREMENT FOR COMPETITION.—The Secretary of Defense shall ensure that the performance of a depot-level maintenance and repair workload described in subsection (b) is not changed to performance by a contractor or by another depot-level activity of the Department of Defense unless the change is made using—

(1) merit-based selection procedures for competitions among all depot-level activities of the Department of Defense; or

(2) competitive procedures for competitions among private and public sector entities.

(b) SCOPE.—Except as provided in subsection (c), subsection (a) applies to any depot-level maintenance and repair workload that has a value of not less than $3,000,000 (including the cost of labor and materials) and is being performed by a depot-level activity of the Department of Defense.

(c) EXCEPTION FOR PUBLIC-PRIVATE PARTNERSHIPS.—The requirements of subsection (a) may be waived in the case of a depot-level maintenance and repair workload that is performed at a Center of Industrial and Technical Excellence designated under subsection (a) of section 2474 of this title by a public-private partnership entered into under subsection (b) of such section consisting of a depot-level activity and a private entity.

(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.)

### Editorial Notes

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''.