

# A BILL

To authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes.

1           *Be it enacted by the Senate and House of Representatives of the United States of America*  
2           *in Congress assembled,*

## 3           **SECTION 1. SHORT TITLE.**

4           This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2004".

## 5           **SEC. 2. TABLE OF CONTENTS.**

6           The table of contents for this Act is as follows:

Sec. 1. Short title.  
Sec. 2. Table of contents.

## **DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS**

### **TITLE I—PROCUREMENT**

#### **Subtitle A—Authorization of Appropriations**

Sec. 101.       Army.  
Sec. 102.       Navy and Marine Corps.  
Sec. 103.       Air Force.  
Sec. 104.       Defense-wide activities.  
Sec. 105.       Defense Inspector General.  
Sec. 106.       Defense health program.  
Sec. 107.       Chemical agents and munitions destruction.

#### **Subtitle B—Multi-Year Contract Authorizations**

Sec. 111.       Multiyear procurement authority for Navy programs.  
Sec. 112.       Amendment to multiyear procurement authority for C-130J aircraft for the Air Force.

### **TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION**

#### **Subtitle A—Authorization of Appropriations**

Sec. 201.       Authorization of appropriations.

#### **Subtitle B—Ballistic Missile Defense**

Sec. 211.       Renewal of authority to assist local communities impacted by ballistic missile defense system test  
                    bed.

amended by adding at the end the following new item:

"2697. Authorization for Federal participation in wetland mitigation banks."

**SEC. 313. PROVISION TO EXEMPT RESTORATION ADVISORY BOARDS FROM  
THE FEDERAL ADVISORY COMMITTEE ACT.**

Section 2705 (d)(2) of chapter 160 of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(C) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any restoration advisory board established by the Secretary pursuant to this subsection."

**SEC. 314. REPEAL OF MILITARY EQUIPMENT AND INFRASTRUCTURE:  
PREVENTION AND MITIGATION OF CORROSION.**

(a) IN GENERAL.—Section 2228 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 131 of this title is amended by striking the item relating to section 2228.

**SEC. 315. RIGHT OF REMOVAL TO FEDERAL DISTRICT COURT IN CLEAN AIR  
ACT AND SAFE DRINKING WATER ACT CASES FILED AGAINST  
THE FEDERAL GOVERNMENT.**

(a) CLARIFICATION OF RIGHT TO REMOVE.—Section 118(a) of the Clean Air Act (42 U.S.C. 7418(a)) is amended by adding at the end the following new sentence:

"Nothing in this chapter shall be construed to prevent any department, agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof in the performance of his official duties, from removing to the appropriate Federal district court any proceeding in State court to which the department, agency, or instrumentality or officer, agent, or employee thereof is subject pursuant to this subsection, and any such proceeding may be

removed in accordance with section 1441 et seq. of title 28."

2 (b) CLARIFICATION OF RIGHT TO REMOVE.—Section 1447 of the Safe Drinking Water  
3 Act (42 U.S.C. 300j-6) is amended by adding at the end the following new subsection:

4 "(f) REMOVAL.—Nothing in this part shall be construed to prevent any department,  
5 agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof  
6 in the performance of his official duties, from removing to the appropriate Federal district court  
7 any proceeding in State court to which the department, agency, or instrumentality or officer,  
8 agent, or employee thereof is subject pursuant to subsection (a), and any such proceeding may be  
9 removed in accordance with section 1441 et seq. of title 28."

10 (c) APPLICATION.—The amendments made by this section shall apply to any action filed  
11 in a state court after the effective date of this section.

## **SEC. 316. READINESS AND RANGE PRESERVATION INITIATIVE.**

1 (a) IN GENERAL.—(1) Part III of subtitle A of title 10, United States Code, is amended by  
2 inserting after chapter 101 the following new chapter:

### **"CHAPTER 101 A—READINESS AND RANGE PRESERVATION**

"Sec.

"2015 Purpose of this chapter.

"2016. Definitions.

"2017. Military readiness and the conservation of protected species.

"2018. Conformity with State Implementation Plans for air quality.

"2019. Range management and restoration.

#### **"2015. Purpose of this chapter**

"The purpose of this chapter is to:

5 "(1) protect the lives and well-being of citizens of the United States and preserve their  
6 freedoms, economic prosperity, and environmental heritage by ensuring military readiness;

3           "(2) ensure military readiness by addressing problems created by encroachment on  
4 military readiness activities and lands, marine areas, and airspace reserved, withdrawn, or  
5 designated for a military use;

6           "(3) reaffirm the principle that such lands, marine areas, and airspace exist to ensure  
1 military preparedness;

2           "(4) shield military readiness activities and lands, marine areas, and airspace reserved,  
3 withdrawn, or designated for a military use, including land, sea, and air training and operating  
4 areas, from encroachment, while ensuring that the Department of Defense fulfills its  
5 environmental stewardship responsibilities;

6           "(5) manage such lands, marine areas, and airspace for other purposes to the extent the  
7 non-military purpose does not reduce capability to support military readiness activities;

8           "(6) re-establish the appropriate balance between military readiness and environmental  
9 stewardship; and

10          "(7) establish a framework to ensure long-term sustainability of military ranges.

11       **"2016. Definitions**

12       "For purposes of this chapter:

13       "(1) The term 'military readiness activities' includes all training and operations that relate  
14 to combat, and the adequate and realistic testing of military equipment, vehicles, weapons, and  
15 sensors for proper operation and suitability for combat use. The term does not include the  
16 routine operation of installation operating support functions, such as administrative offices,  
17 military exchanges, commissaries, water treatment facilities, storage, schools, housing, motor  
18 pools, laundries, morale, welfare and recreation activities, shops, and mess halls, nor the  
9 operation of industrial activities, or the construction or demolition of such facilities.

1           "(2) The terms 'combat' or 'combat use' include all forms of armed conflict and  
2 operational employment as well as those support functions necessary for armed conflict and  
3 operational employment, including transportation of personnel, weapons, supplies, ammunition  
4 and other military material to the vicinity of actual or potential armed conflict; intelligence  
5 gathering in support of actual or potential armed conflict; command of and communications  
6 between military units; and similar activities necessary for the successful prosecution of armed  
7 conflict, whether or not conducted at the scene of actual conflict.

8           "(3) The term 'the Department' means the Department of Defense as defined in section  
9 101(a)(6) of this title and the Coast Guard when it is not operating as a service in the Department  
10 of the Navy.

11 **"2017. Military readiness and the conservation of protected species**

12           "(a) The completion of an Integrated Natural Resources Management Plan, pursuant to  
13 the Sikes Act Improvement Act (16 U.S.C. 670a), for lands or other geographical areas owned or  
14 controlled by the Department, or designated for its use, that addresses endangered or threatened  
15 species and their habitat, provides the 'special management considerations or protection' required  
16 under the Endangered Species Act (16 U.S.C. 1532(5)(A)) and precludes designation of critical  
17 habitat for any such land or geographical areas under section 4 of the Endangered Species Act  
18 (16 U.S.C. 1533).

19           "(b) This section does not remove the requirement for agency consultation under section  
20 7(a)(2) of the Endangered Species Act (16 U.S.C. 1536(a)(2)).

21 **"2018. Conformity with State Implementation Plans for air quality**

22           "(a) CONFORMITY WITH CLEAN AIR ACT.—In all cases in which the requirements of  
23 section 176(c) of the Clean Air Act would have applied to proposed military readiness activities,

the Department shall not be prohibited from engaging in such military readiness activities, but shall:

"(1) estimate for all criteria pollutants for which the area is designated 'nonattainment' or 'maintenance' the quantity of emissions that are caused by the military readiness activities;

"(2) notify the state air quality planning agency for the affected area of such emission estimates prior to engaging in proposed military readiness activities; and

"(3) ensure that military readiness activities conform with the requirements of section 176(c) within three years of the date new activities begin.

"(b) EPA APPROVAL.—Notwithstanding any other provisions of law, an implementation plan or plan revision required under the Clean Air Act shall be approved by the Administrator of the Environmental Protection Agency if:

"(1) such plan or revision meets all the requirements applicable to it under the Clean Air Act other than a requirement that such plan or revision demonstrate attainment and maintenance of the relevant national ambient air quality standards by the attainment date specified under the applicable provision of the Act, or in a regulation promulgated under such provision; and

"(2) the submitting State established to the satisfaction of the Administrator that the implementation plan of such State would be adequate to attain and maintain the relevant national ambient air quality standards by the attainment date specified under the applicable provision of the Act, or in a regulation promulgated under such provision, but for emissions emanating from military readiness activities not otherwise meeting section 176(c) of the Act pursuant to paragraph (a) of this section.

1 "(c) EFFECT ON STATE COMPLIANCE WITH OZONE STANDARDS.—Notwithstanding any  
2 other provisions of law, any state that establishes to the satisfaction of the Administrator that,  
3 with respect to an ozone nonattainment area in such State, such State would have attained the  
4 national ambient air quality standard for ozone by the applicable attainment date, but for  
5 emissions emanating from military readiness activities not otherwise meeting section 176(c) of  
6 the Act pursuant to paragraph (a) of this section, shall not be subject to the provisions of section  
7 182(a)(2) or (5) or section 185 of the Act.

8 "(d) EFFECT ON STATE COMPLIANCE WITH CARBON MONOXIDE  
9 STANDARDS.—Notwithstanding any other provision of law, any State that establishes to the  
10 satisfaction of the Administrator, with respect to a carbon monoxide nonattainment area in such  
11 State, that such State has attained the national ambient air quality standard for carbon monoxide  
12 by the applicable attainment date, but for emissions emanating from military readiness activities  
13 not otherwise meeting section 176(c) of the Act pursuant to paragraph (a) of this section, shall  
14 not be subject to the provisions of section 186(b)(2) of the Act.

15 "(e) EFFECT ON STATE COMPLIANCE WITH PM-10 STANDARDS.—Notwithstanding any  
16 other provisions of law, any State that establishes to the satisfaction of the Administrator that,  
17 with respect to a PM-10 nonattainment area in such State, such State would have attained the  
18 national ambient air quality standard for PM-10 by the applicable attainment date, but for  
19 emission emanating from military readiness activities not otherwise meeting section 176(c) of  
20 the Act pursuant to paragraph (a) of this section, shall not be subject to the provisions of section  
21 188(b)(2) of the Act.

22 "**2019. Range management and restoration**

"(a) DEFINITION OF SOLID WASTE.—(1)(A) The term 'solid waste,' as used in the Solid

1 Waste Disposal Act, as amended (42 U.S.C. 6901 et seq.), includes explosives, unexploded  
2 ordnance, munitions, munition fragments, or constituents thereof that;

3           "(i) are or have been deposited, incident to their normal and expected use,  
4 on an operational range, and;

5           "(I) are removed from the operational range for reclamation,  
6 treatment, disposal, treatment prior to disposal, or storage prior to or in  
7 lieu of reclamation, treatment, disposal, or treatment prior to disposal;

8           "(II) are recovered, collected, and then disposed of by burial or  
9 landfilling; or

10           "(III) migrate off an operational range and are not addressed under  
11 the Comprehensive Environmental Response, Compensation, and Liability  
Act of 1980, as amended (42 U.S.C. 9601 et seq.); or

12           "(ii) are deposited, incident to their normal and expected use, off an  
13 operational range, and are not promptly rendered safe or retrieved.

14           "(B) The explosives, unexploded ordnance, munitions, munitions fragments, or  
15 constituents thereof defined as solid waste in subparagraph (a)(1)(A) shall be subject to  
16 the provisions of the Solid Waste Disposal Act, as amended, including but not limited to  
17 sections 7002 and 7003, where applicable.

18           "(2) Except as set out in subparagraph (1), the term 'solid waste,' as used in the Solid  
19 Waste Disposal Act, as amended, does not include explosives, unexploded ordnance, munitions,  
20 munitions fragments, or constituents thereof that:

21           "(A) are used in training military personnel or explosives and munitions  
22 emergency response specialists (including training in proper destruction of unused



propellant or other munitions);

"(B) are used in research, development, testing, and evaluation of military munitions, weapons, or weapon systems;

"(C) are or have been deposited, incident to their normal and expected use, and remain on an operational range, except as provided in subparagraph (a)(1)(A);

"(D) are deposited, incident to their normal and expected use, off an operational range, and are promptly rendered safe or retrieved; or

"(E) are recovered, collected, and destroyed on-range during range clearance activities at operational ranges, but not including the on-range burial of unexploded ordnance and contaminants when the burial is not a result of product use.

"Nothing in subparagraphs (2)(A), (B), (C), (D), or (E) hereof affects the legal requirements applicable to explosives, unexploded ordnance, munitions, munitions fragments, or constituents thereof that have been deposited on an operational range once the range ceases to be an operational range.

"(b) DEFINITION OF RELEASE.—(1) The term 'release,' as used in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.), includes the deposit off an operational range, or the migration off an operational range, of any explosives, unexploded ordnance, munitions, munitions fragments, or constituents thereof.

"(2) The term 'release,' as used in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.), does not include the deposit or presence on an operational range of any explosives, unexploded ordnance, munitions, munitions fragments, or constituents thereof that are or have been deposited thereon

incident to their normal and expected use and remain thereon.

2           "(3) Notwithstanding the provisions of paragraph (2), the authority of the President under  
3 section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act  
4 of 1980, as amended (42 U.S.C. 9606(a)), to take action because there may be an imminent and  
5 substantial endangerment to the public health or welfare or the environment because of an actual  
6 or threatened release of a hazardous substance includes the authority to take action because of  
7 the deposit or presence on an operational range of any explosives, unexploded ordnance,  
8 munitions, munitions fragments, or constituents thereof that are or have been deposited thereon  
9 incident to their normal and expected use and remain thereon.

10           "(4) Nothing in this section affects the authority of the Department to protect the  
11 environment, safety, and health on operational ranges."

12           (2) The table of chapters at the beginning of such subtitle and the beginning of part III of  
13 such subtitle are amended by inserting after the item relating to chapter 101 the following new  
14 item:

15           "**101A. Readiness and Range Preservation .....2015**".

16           (b) **MILITARY READINESS AND MARINE MAMMAL PROTECTION RECONCILIATION.**—The  
17 Marine Mammal Protection Act of 1972, as amended (Public Law 92-522; 86 Stat. 1027; 16  
18 U.S.C. 1361, et. seq.), is amended as follows:

19           (1) **DEFINITIONS.**—Section 3 (16 U.S.C. 1362) is amended—

20                   (A) by amending paragraph (18) to read as follows:

21                           "(18)(A) Except as provided in subparagraph (B), the term 'harassment' means  
22 any act of pursuit, torment, or annoyance which—

23                                   (i) has the potential to injure a marine mammal or marine mammal stock

in the wild; or

2           "(ii) has the potential to disturb a marine mammal or marine mammal  
3 stock in the wild by causing disruption of behavioral patterns, including, but not  
4 limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

5           "(iii) The term 'Level A harassment' means harassment described in  
6 subparagraph (A)(i).

7           "(iv) The term 'Level B harassment' means harassment described in  
8 subparagraph (A)(ii).

9           "(B) For purposes of military readiness activities, the term 'harassment' means  
10 any act which—

11           "(i) injures or has the significant potential to injure a marine mammal or  
marine mammal stock in the wild; or

12           "(ii)(I) disturbs or is likely to disturb a marine mammal or marine  
13 mammal stock in the wild by causing disruption of natural behavioral patterns,  
14 including, but not limited to, migration, surfacing, nursing, breeding, feeding, or  
15 sheltering, to a point where such behavioral patterns are abandoned or  
16 significantly altered; or

17           "(II) is directed toward a specific individual, group or stock of marine  
18 mammals in the wild that is likely to disturb the individual, group, or stock of  
19 marine mammals by disrupting behavior, including, but not limited to, migration,  
20 surfacing, nursing, breeding, feeding, or sheltering."; and

21           (2) by adding at the end the following new paragraphs:

22           "(30) The term 'military readiness activities' includes all training and operations  
23

2 that relate to combat, and the adequate and realistic testing of military equipment,  
3 vehicles, weapons, and sensors for proper operation and suitability for combat use. The  
4 term does not include the routine operation of installation operating support functions,  
5 such as administrative offices, military exchanges, commissaries, water treatment  
6 facilities, storage, schools, housing, motor pools, laundries, morale, welfare and  
7 recreation activities, shops, and mess halls, nor the operation of industrial activities, or  
8 the construction or demolition of such facilities.

9 "(31) The terms 'combat' or 'combat use' include all forms of armed conflict and  
10 operational employment as well as those support functions necessary for armed conflict  
11 and operational employment, including transportation of personnel, weapons, supplies,  
12 ammunition and other military material to the vicinity of actual or potential armed  
13 conflict; intelligence gathering in support of actual or potential armed conflict; command  
14 of and communications between military units; and similar activities necessary for the  
15 successful prosecution of armed conflict, whether or not conducted at the scene of actual  
16 conflict.

17 "(32) The term 'Department of Defense' means the military departments and the  
18 Coast Guard when it is not operating as a service in the Department of the Navy."

19 (2) TAKING AND IMPORTING MARINE MAMMALS. -- Section 101 (16 U.S.C. 1371)  
20 is amended—

21 (A) in subsection (a)—

22 (i) in paragraph (5)—

(I) in subparagraph (A), by inserting "and military  
readiness activities" after "other than commercial fishing"; and

2 (II) in subparagraph (D)(i), by inserting "and military  
3 readiness activities" after "other than commercial fishing"; and  
4 (ii) by adding at the end the following new paragraph:

5 "(7)(A) Upon request by the Department of Defense for an authorization  
6 related to military readiness activities, the Secretary, shall allow, during periods  
7 of not more than five consecutive years each, the incidental, but not intentional,  
8 taking of marine mammals of a species or population stock if the Secretary—

9 "(i) finds that the total of such taking during each five-year (or  
10 less) period concerned will have a negligible impact upon such species or  
11 stock and will not have an unmitigable adverse impact on the availability  
12 of such species or stock for taking for subsistence uses pursuant to  
13 subsection (b) of this section or section 1379(f) of this title, or in the case  
14 of a cooperative agreement under both this chapter and the Whaling  
15 Convention Act of 1949 (16 USC. 916 et seq.), pursuant to section  
16 1382(c) of this title; and

17 "(ii) prescribes regulations setting forth—

18 "(I) permissible methods of taking pursuant to such  
19 activity, and other means of affecting the least practicable adverse  
20 impact on such species or stock and its habitat, paying particular  
21 attention to rookeries and mating grounds, and on the availability  
22 of such species or stock for subsistence uses; and

"(II) requirements pertaining to the monitoring and  
reporting of such taking.

2                   "(B) The Secretary shall withdraw, or suspend for a time certain, the  
3 permission to take marine mammals granted under subparagraph (A), if the  
4 Secretary finds, after notice and opportunity for public comment (unless  
5 subparagraph (C)(i) applies), that—

6                   " (i) the regulations prescribed under subparagraph (A) regarding  
7 methods of taking, monitoring, or reporting are not being substantially  
8 complied with; or

9                   " (ii) the taking allowed under subparagraph (A) is having, or may  
10 have, more than a negligible impact on the species or stock concerned.

11                   "(C)(i) The requirement for notice and opportunity for public comment  
12 shall not apply in the case of a suspension of permission to take if the Secretary  
13 determines that an emergency exists which poses a significant risk to well-being  
14 of the species or stock concerned.

15                   " (ii) Sections 1373 and 1374 of this title shall not apply to the taking of  
16 marine mammals under the authority of this paragraph.

17                   "(D)(i) Upon request by the Department of Defense for an authorization  
18 related to military readiness activities, the Secretary shall authorize, for periods of  
19 not more than 1 year, subject to such conditions as the Secretary may specify, the  
20 incidental, but not intentional, taking by harassment of marine mammals of a  
21 species or population stock if the Secretary finds that such harassment during  
22 each period concerned—

23                   " (I) will have a negligible impact on such species or stock, and

                  " (II) will not have an unmitigable adverse impact on the

2 availability of such species or stock for taking for subsistence uses  
3 pursuant to subsection (b) of this section, or 1379(f) of this title, or  
4 pursuant to a cooperative agreement under section 1388 of this title.

5 "(ii) The authorization for such military readiness activities shall  
6 prescribe, where applicable—

7 "(I) permissible methods of taking by harassment pursuant to such  
8 military readiness activity, and other means of affecting the least  
9 practicable impact upon such species or stock and its habitat, paying  
10 particular attention to rookeries and mating grounds, and on the  
11 availability of such species or stock for subsistence uses pursuant to  
12 subsection (b) of this section, or 1379(f) of this title, or pursuant to a  
13 cooperative agreement under section 1388 of this title;

14 "(II) the measures that the Secretary of Commerce or Secretary of  
15 Interior determines are necessary to ensure no unmitigable adverse impact  
16 upon the availability of the species or stock for subsistence uses pursuant  
17 to subsection (b) of this section, or 1379(f) of this title, or pursuant to a  
18 cooperative agreement under section 1388 of this title; and

19 "(III) requirements pertaining to the monitoring and reporting of  
20 such taking by harassment, including requirements for the independent  
21 peer review of proposed monitoring plans or other research proposals  
22 where the proposed military readiness activity may affect the availability  
23 of the species or stock for subsistence uses pursuant to subsection (b) of  
24 this section, or 1379(f) of this title, or pursuant to a cooperative agreement

under section 1388 of this title.

2           "(iii) The Secretary shall publish a proposed authorization not later than  
3 45 days after receiving a request under this subparagraph and request public  
4 comment through notice in the Federal Register for a period of 30 days after  
5 publication. Not later than 45 days after the close of the public comment period,  
6 if the Secretary makes the findings set forth in clause (E)(i), the Secretary shall  
7 issue an authorization with appropriate conditions to meet the requirements of  
8 clause (D)(ii).

9           "(iv) The Secretary shall modify, suspend, or revoke an authorization if  
10 the Secretary finds that the provisions of clauses (D)(i) or (D)(ii) are not being  
11 met.

12           "(v) A person conducting a military readiness activity for which an  
13 authorization has been granted under this subparagraph shall not be subject to the  
14 penalties of this chapter for taking by harassment that occurs in compliance with  
15 such authorization.

16           "(E) Nothing in this chapter shall require disclosure of information  
17 classified in the interests of national defense.";

18           (3) by redesignating subsection (e) as subsection (f); and

19           (4) by inserting after subsection (d) the following new subsection (e):

1           "(e) EXEMPTION OF ACTIONS NECESSARY FOR NATIONAL DEFENSE.—The Secretary of  
2 Defense, after conferring with the Secretary of Commerce, the Secretary of Interior, or both, as  
3 appropriate, may exempt any action or category of actions undertaken by the Department of  
4 Defense or its components from compliance with any requirement of the Marine Mammal



Protection Act, 16 U.S.C. 1361 et seq., if he determines that it is necessary for national defense.

Exemptions granted under this section shall be for a period of not more than two years.

Additional exemptions for periods not to exceed two years each may be granted for the same action or category of actions upon the Secretary of Defense, after conferring with the Secretary of Commerce, the Secretary of Interior, or both as appropriate, making a new determination.”.

### **Subtitle C—Workplace and Depot Issues**

#### **SEC. 321. REPEAL OF TIME LIMITATION ON EXCLUSION OF EXPENDITURES ON CONTRACTING FOR DEPOT-LEVEL MAINTENANCE.**

Section 2474(f)(2) of title 10, United States Code, is amended by striking "for fiscal years 2002 through 2005".

#### **SEC. 322. EXCEPTION TO COMPETITION REQUIREMENT FOR DEPOT-LEVEL MAINTENANCE AND REPAIR.**

Section 2469 of title 10, United States Code, is amended by inserting at the end the following new subsection (d):

"(d) EXCEPTIONS.—This section shall not apply with respect to depot-level maintenance and repair workload that is the subject of a public-private partnership entered into pursuant to section 2474(b) of this title provided—

(1) competition is sought to select the source that will partner with the depot to perform the workload;

(2) the payment requests made by the partnership for work performed reflect the full cost to the Government of resources used by the depot for providing services, which shall include costs of resources used, but not paid for, by the depot;