



Daily Briefing

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Broad contracting reforms part of Defense proposal

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A Pentagon legislative proposal would zero out several laws that govern Defense contracting, including a statute that prohibits contracting for firefighters and security guards.

In a departure from [current law](#), military installations could use contractors as firefighters and security guards under the Pentagon's new legislative proposal for personnel reform. Measures that govern outsourcing at military depots and public-private job competitions at Defense would also be changed under the plan sent to Congress last week.

The proposed legislation would also shift management of the 1,855 Defense employees that perform security investigations to the Office of Personnel Management, as Defense looks to get out of the background check business. The bill would also give Defense greater leeway in complying with certain environmental laws, including the 1972 Marine Mammal Protection Act, which requires the Navy to go through a lengthy permitting process to conduct certain exercises.

Defense has asked Congress to repeal many of these statutes before. For example, in the fiscal 2003 Defense Authorization Act, Congress allowed Defense to hire contract security guards to meet new [base security requirements](#) created by the Sept. 11 terrorist attacks. But this authority is so limited that most bases are still using military personnel to provide needed security, said Ronald Orr, chairman of the Executive Directorate of Defense's Business Initiative Council, in an interview with *Government Executive* last month. The Business Initiative Council is Defense's in-house reform council.

While military personnel typically draw security duty, Defense often relies on civilian employees as firefighters. The American Federation of Government Employees has consistently fought efforts to contract-out firefighters, and the union will oppose this new proposal, according to an AFGE spokesman.

"Many DoD installations are located in relatively isolated areas," said the spokesman. "[Nearby communities] do not employ firefighters with the requisite skills and knowledge to handle the responsibilities performed by federal firefighters."

But Defense contends it needs the latitude to hire contract firefighters.

“DoD believes such contracts would be more cost-effective and would provide DoD needed flexibility to respond more effectively and rapidly to contingencies,” said the legislative proposal.

The plan would also allow Defense to use “best value,” and not cost, as the deciding factor in competitions that decide whether federal jobs should be contracted-out to the private sector. It would repeal Section 2462 of Title 10 of the U.S. Code, which mandates that job competitions at Defense be decided on the basis of cost, although Defense has managed to hold a kind of “best value” competition before.

Additionally, the bill would [revise the so-called “50-50 rule,”](#) which prohibits depots from spending more than half of their maintenance dollars on contract repairs. Under the new proposal, the military services could shift more depot maintenance work to contractors, but would be required to perform at least half of all depot-style repairs at the depots themselves.

This means that contractors could handle more repairs so long as they performed the work at military depots.

Defense included both the depot proposal and its request to use “best value” in its recommendations to the fiscal 2004 Defense authorization bill.

The legislation would also exempt Defense from dozens of congressional reporting requirements. For example, the department would no longer have to tell Congress when it waives the public-private competition process, as outlined in Office of Management and Budget Circular A-76. The legislation would also scrap a requirement that Defense report on the size of the in-house depot workforce each year.

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