

(Pub. L. 102-138, title I, §195, Oct. 28, 1991, 105 Stat. 684.)

§ 2679c. Prohibition on discriminatory contracts

(a) Prohibition

(1) Except for real estate leases and as provided in subsection (b), the Department of State may not enter into any contract that expends funds appropriated to the Department of State for an amount in excess of the small purchase threshold (as defined in section 134 of title 41—¹

(A) with a foreign person that complies with the Arab League boycott of Israel, or

(B) with any foreign or United States person that discriminates in the award of subcontracts on the basis of religion.

(2) For purposes of this section—

(A) a foreign person complies with the boycott of Israel by Arab League countries when that foreign person takes or knowingly agrees to take any action, with respect to the boycott of Israel by Arab League countries, which section 4607(a) of title 50 prohibits a United States person from taking, except that for purposes of this paragraph, the term “United States person” as used in subparagraphs (B) and (C) of section 4607(a)(1) of title 50 shall be deemed to mean “person”; and

(B) the term “foreign person” means any person other than a United States person as defined in section 4618(2) of title 50.

(3) For purposes of paragraph (1), a foreign person shall be deemed not to comply with the boycott of Israel by Arab League countries if that person, or the Secretary of State or his designee on the basis of available information, certifies that the person violates or otherwise does not comply with the boycott of Israel by Arab League countries by taking any actions prohibited by section 4607(a) of title 50. Certification by the Secretary of State or his designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(b) Waiver by Secretary of State

The Secretary of State may waive the requirements of this section on a country-by-country basis for a period not to exceed one year upon certification to the Congress by the Secretary that such waiver is in the national interest and is necessary to carry on diplomatic functions of the United States. Each such certification shall include a detailed justification for the waiver with respect to each such country.

(c) Responses to contract solicitations

(1) Except as provided in paragraph (2) of this subsection, the Secretary of State shall ensure that any response to a solicitation for a bid or a request for a proposal, with respect to a contract covered by subsection (a), includes the following clause, in substantially the following form:

“ARAB LEAGUE BOYCOTT OF ISRAEL

“(a) DEFINITIONS.—As used in this clause—

¹ So in original. Probably should be “41”—.

“(1) the term ‘foreign person’ means any person other than a United States person as defined in paragraph (2); and

“(2) the term ‘United States person’ means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

“(b) CERTIFICATION.—By submitting this offer, the Offeror certifies that it is not—

“(1) taking or knowingly agreeing to take any action, with respect to the boycott of Israel by Arab League countries, which section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) prohibits a United States person from taking; or

“(2) discriminating in the award of subcontracts on the basis of religion.”

(2) An Offeror would not be required to include the certification required by paragraph (1), if the Offeror is deemed not to comply with the Arab League boycott of Israel by the Secretary of State or a designee on the basis of available information. Certification by the Secretary of State or a designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(3) The Secretary of State shall ensure that all State Department contract solicitations include a detailed explanation of the requirements of section 4607(a) of title 50.

(d) Review and termination

(1) The Department of State shall conduct reviews of the certifications submitted pursuant to this section for the purpose of assessing the accuracy of the certifications.

(2) Upon complaint of any foreign or United States person of a violation of the certification as required by this section, filed with the Secretary of State, the Department of State shall investigate such complaint, and if such complaint is found to be correct and a violation of the certification has been found, all contracts with such violator shall be terminated for default as soon as practicable, and, for a period of two years thereafter, the State Department shall not enter into any contracts with such a violator.

(Pub. L. 103-236, title V, §565, Apr. 30, 1994, 108 Stat. 484; Pub. L. 105-277, div. G, subdiv. A, title XIII, §1336(3), Oct. 21, 1998, 112 Stat. 2681-790.)

REFERENCES IN TEXT

Section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)), referred to in subsec. (c)(1) in the quoted clause, is section 8(a) of Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 521, which was editorially transferred to section 4607(a) of Title 50, War and National Defense.

CODIFICATION

In subsec. (a)(1), “section 134 of title 41” substituted for “section 4(11) of the Office of Federal Procurement

Policy Act (41 U.S.C. 403(11))” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105-277 struck out heading and text of subsec. (e). Text read as follows: “The provisions of this section shall apply to the United States Information Agency in the same manner and extent to which such provisions apply to the Department of State. In the application of this section to the United States Information Agency, the Director of the United States Information Agency or a designee shall have the authorities and responsibilities of the Secretary of State.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105-277, set out as an Effective Date note under section 6531 of this title.

SHORT TITLE

Pub. L. 103-236, title V, §561, Apr. 30, 1994, 108 Stat. 483, provided that: “This part [part C (§§ 561-565) of title V of Pub. L. 103-236, enacting this section and provisions set out as a note under section 2751 of this title] may be cited as the ‘Anti-Economic Discrimination Act of 1994.’”

§ 2680. Appropriations for State Department; information to congressional committees

(a)(1) Notwithstanding any provision of law enacted before October 26, 1974, no money appropriated to the Department of State under any law shall be available for obligation or expenditure with respect to any fiscal year commencing on or after July 1, 1972—

(A) unless the appropriation thereof has been authorized by law enacted on or after February 7, 1972; or

(B) in excess of an amount prescribed by law enacted on or after such date.

(2) To the extent that legislation enacted after the making of an appropriation to the Department of State authorizes the obligation or expenditure thereof the limitation contained in paragraph (1) shall have no effect.

(3) The provisions of this section—

(A) shall not be superseded except by a provision of law enacted after February 7, 1972, which specifically repeals, modifies, or supercedes the provisions of this section; and

(B) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the Department as authorized by law.

(b) The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of these committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility.

(Aug. 1, 1956, ch. 841, title I, §15, 70 Stat. 892; Pub. L. 92-226, pt. IV, §407(b), Feb. 7, 1972, 86 Stat. 35; Pub. L. 92-352, title I, §102, July 13, 1972, 86 Stat. 490; Pub. L. 93-475, §11, Oct. 26, 1974, 88 Stat. 1442; H. Res. 163, Mar. 19, 1975; renumbered title I, Pub. L. 97-241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

CODIFICATION

Section was formerly classified to section 170t of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-475 incorporated existing provisions into par. (1) preceding subpar. (A), and par. 3(B), added pars. (1)(A), (B), (2), and (3)(A), and substituted “enacted before October 26, 1974, no money appropriated to the Department of State under any law shall be available for obligation or expenditure with respect to any fiscal year commencing on or after July 1, 1972” of “, no appropriation shall be made to the Department of State under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress.”, in par. (1) preceding subpar. (A), and “section” for “subsection” in par. (3).

1972—Subsec. (a). Pub. L. 92-352 inserted provisions that this subsection shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the Department as authorized by law.

Pub. L. 92-226 substituted provisions constituting subssecs. (a) and (b) and prohibiting any State Department appropriation on and after July 1, 1972, without a prior congressional legislative authorization, and requiring the State Department and Federal agencies to furnish information to congressional committees for former provisions constituting the entire section and authorizing and making appropriations available for the State Department.

FUNDING

Pub. L. 113-76, div. K, title VII, §7082(d)(1), (2), Jan. 17, 2014, 128 Stat. 567, provided that:

“(1) DIPLOMATIC AND CONSULAR PROGRAMS FUNDS.—Amounts made available to the Department of State pursuant to the sixth proviso under the heading ‘Diplomatic and Consular Programs’ in title I of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161) are authorized to be used by the Department of State to pay benefits or payments made available pursuant to this Act [div. K of Pub. L. 113-76].

“(2) AVAILABILITY.—To pay benefits or payments made available pursuant to this Act, the Secretary of State may merge with the amounts described in paragraph (1) unobligated balances of funds appropriated under the ‘Diplomatic and Consular Programs’ heading for fiscal year 2014 and subsequent fiscal years, up until the end of the fifth fiscal year after the fiscal year for which such funds were appropriated or otherwise made available.”

FUTURE ASSISTANCE PROJECTIONS

Pub. L. 101-513, title V, §581, Nov. 5, 1990, 104 Stat. 2046, directed that the Congressional Presentation Documents of departments and agencies included within this Act should contain funding projections for each of its major program components for each of the three years following the year for which new budget or other authority was being requested and provided that the requirements of this section were effective for Congressional Presentation Documents submitted for fiscal year 1992.

REPORT ON EXPENDITURES MADE FROM APPROPRIATION FOR EMERGENCIES IN DIPLOMATIC AND CONSULAR SERVICE

Pub. L. 100-204, title I, §124, Dec. 22, 1987, 101 Stat. 1341, as amended by Pub. L. 102-138, title I, §114, Oct. 28, 1991, 105 Stat. 655, provided that: “The Secretary of State shall provide to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Com-