

(1) in the case of a contract of a military department, to such officer or employee of that military department as the Secretary of the military department may direct; and

(2) in the case of any other Department of Defense contract, to such officer or employee of the Department of Defense as the Secretary of Defense may direct.

(c) AVAILABILITY OF NOTIFICATIONS.—The Secretary of Defense shall ensure that the notifications (or copies) are maintained in compiled form for a period of 5 years after the date of submission and are available for use in the preparation of the national defense technology and industrial base assessment carried out under section 2505 of this title.

(d) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section shall not apply to contracts for any of the following:

- (1) Commercial items (as defined in section 103 of title 41).
- (2) Military construction.
- (3) Ores.
- (4) Natural gas.
- (5) Utilities.
- (6) Petroleum products and crudes.
- (7) Timber.
- (8) Subsistence.

(Added Pub. L. 102-484, div. A, title VIII, §840(a)(1), Oct. 23, 1992, 106 Stat. 2466; amended Pub. L. 104-106, div. D, title XLIII, §4321(b)(16), Feb. 10, 1996, 110 Stat. 673; Pub. L. 111-350, §5(b)(30), Jan. 4, 2011, 124 Stat. 3845; Pub. L. 115-232, div. A, title VIII, §836(e)(7), Aug. 13, 2018, 132 Stat. 1870.)

#### AMENDMENT OF SUBSECTION (d)(1)

*Pub. L. 115-232, div. A, title VIII, §836(e)(7), (h), Aug. 13, 2018, 132 Stat. 1870, 1874, provided that, effective Jan. 1, 2020, subject to a savings provision, subsection (d)(1) of this section is amended by striking “Commercial items (as defined in section 103 of title 41)” and inserting “Commercial products or commercial services (as defined in sections 103 and 103a, respectively, of title 41)”. See 2018 Amendment note below.*

#### AMENDMENTS

2018—Subsec. (d)(1). Pub. L. 115-232 substituted “Commercial products or commercial services (as defined in sections 103 and 103a, respectively, of title 41)” for “Commercial items (as defined in section 103 of title 41)”.

2011—Subsec. (d)(1). Pub. L. 111-350 substituted “section 103 of title 41” for “section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))”.

1996—Subsec. (d)(1). Pub. L. 104-106 inserted “(as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))” before period at end.

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115-232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

#### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104-106, see section 4401 of Pub. L. 104-106, set out as a note under section 2302 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-484, div. A, title VIII, §840(b), Oct. 23, 1992, 106 Stat. 2467, provided that: “Section 2410g of title 10, United States Code (as added by subsection (a)), shall take effect 90 days after the date of the enactment of this Act [Oct. 23, 1992].”

#### [§ 2410h. Renumbered § 1747]

#### § 2410i. Prohibition on contracting with entities that comply with the secondary Arab boycott of Israel

(a) POLICY.—Under section 3(5)(A)<sup>1</sup> of the Export Administration Act of 1979 (50 U.S.C. 4602(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

(b) PROHIBITION.—(1) Consistent with the policy referred to in subsection (a), the Department of Defense may not award a contract for an amount in excess of the simplified acquisition threshold (as defined in section 134 of title 41) to a foreign entity unless that entity certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel.

(2) In paragraph (1), the term “foreign entity” means a foreign person, a foreign company, or any other foreign entity.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the prohibition in subsection (b) in specific instances when the Secretary determines that the waiver is necessary in the national security interests of the United States.

(d) EXCEPTIONS.—Subsection (b) does not apply—

(1) to contracts for consumable supplies, provisions, or services that are intended to be used for the support of United States forces or of allied forces in a foreign country; or

(2) to contracts pertaining to the use of any equipment, technology, data, or services for intelligence or classified purposes by the United States Government in the interests of national security or to the acquisition or lease of any such equipment, technology, data, or services by the United States Government in the interests of national security.

(Added Pub. L. 102-484, div. A, title XIII, §1332(a), Oct. 23, 1992, 106 Stat. 2555; amended Pub. L. 111-350, §§4, 5(b)(31), Jan. 4, 2011, 124 Stat. 3841, 3845; Pub. L. 114-328, div. A, title X, §1081(b)(3)(D), Dec. 23, 2016, 130 Stat. 2419; Pub. L. 115-91, div. A, title X, §1051(a)(16), Dec. 12, 2017, 131 Stat. 1561.)

#### REFERENCES IN TEXT

Section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. 4602(5)(A)), referred to in subsec. (a), was repealed by Pub. L. 115-232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

#### AMENDMENTS

2017—Subsec. (c). Pub. L. 115-91 struck out at end “Within 15 days after the end of each fiscal year, the Secretary shall submit to Congress a report identifying each contract for which a waiver was granted under this subsection during that fiscal year.”

2016—Subsec. (a). Pub. L. 114-328 substituted “(50 U.S.C. 4602(5)(A))” for “(50 U.S.C. App. 2402(5)(A))”.

<sup>1</sup> See References in Text note below.