

the United States, 180 days after the date on which the judgment becomes final and not appealable.

(2) While available under this section, an amount may be obligated or expended only for a purpose described in subsection (a).

(3) Upon the expiration of the period of availability of an amount under paragraph (1), the amount shall be covered into the Treasury as miscellaneous receipts.

(Added Pub. L. 105-85, div. A, title VIII, § 831(a), Nov. 18, 1997, 111 Stat. 1841, § 2410m; amended Pub. L. 108-136, div. A, title X, § 1031(a)(21), Nov. 24, 2003, 117 Stat. 1598; Pub. L. 111-350, § 5(b)(32), Jan. 4, 2011, 124 Stat. 3845; Pub. L. 112-81, div. A, title X, § 1061(15), Dec. 31, 2011, 125 Stat. 1583; Pub. L. 113-291, div. A, title X, § 1071(a)(8), Dec. 19, 2014, 128 Stat. 3504; renumbered § 3863, Pub. L. 116-283, div. A, title XVIII, § 1836(b), Jan. 1, 2021, 134 Stat. 4241.)

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2410m of this title as this section.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

CHAPTER 283—FOREIGN ACQUISITIONS

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PRIOR PROVISIONS

A prior chapter 283 “FOREIGN ACQUISITIONS”, as added by Pub. L. 115-232, div. A, title VIII, § 801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3881, was repealed by Pub. L. 116-283, div. A, title XVIII, § 1837(a), Jan. 1, 2021, 134 Stat. 4241.

SUBCHAPTER I—GENERAL

Sec.	
3881.	Contracts: consideration of national security objectives.

§ 3881. Contracts: consideration of national security objectives

(a) DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT.—The head of an agency shall require a firm or a subsidiary of a firm that submits a bid or proposal in response to a solicitation issued by the Department of Defense to disclose in that bid or proposal any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) that is owned or controlled (whether directly or indirectly) by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A)¹ of the Export Administration Act of 1979 (50 U.S.C. 4605(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

(b) PROHIBITION ON ENTERING INTO CONTRACTS AGAINST THE INTERESTS OF THE UNITED STATES.—

¹ See References in Text note below.

Except as provided in subsection (c), the head of an agency may not enter into a contract with a firm or a subsidiary of a firm if—

(1) a foreign government owns or controls (whether directly or indirectly) a significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary); and

(2) such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A)¹ of the Export Administration Act of 1979 (50 U.S.C. 4605(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

(c) WAIVER.—(1)(A) If the Secretary of Defense determines under paragraph (2) that entering into a contract with a firm or a subsidiary of a firm described in subsection (b) is not inconsistent with the national security objectives of the United States, the head of an agency may enter into a contract with such firm or subsidiary if in the best interests of the Government.

(B) The Secretary shall maintain records of each contract entered into by reason of subparagraph (A). Such records shall include the following:

(i) The identity of the foreign government concerned.

(ii) The nature of the contract.

(iii) The extent of ownership or control of the firm or subsidiary concerned (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government concerned or the agency or instrumentality of such foreign government.

(iv) The reasons for entering into the contract.

(2) Upon the request of the head of an agency, the Secretary of Defense shall determine whether entering into a contract with a firm or subsidiary described in subsection (b) is inconsistent with the national security objectives of the United States. In making such a determination, the Secretary of Defense shall consider the following:

(A) The relationship of the United States with the foreign government concerned.

(B) The obligations of the United States under international agreements.

(C) The extent of the ownership or control of the firm or subsidiary (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government or an agent or instrumentality of the foreign government.

(D) Whether payments made, or information made available, to the firm or subsidiary under the contract could be used for purposes hostile to the interests of the United States.

(d) LIST OF FIRMS SUBJECT TO PROHIBITION.—(1) The Secretary of Defense shall develop and maintain a list of all firms and subsidiaries of firms that the Secretary has identified as being subject to the prohibition in subsection (b).

(2)(A) A person may request the Secretary to include on the list maintained under paragraph (1) any firm or subsidiary of a firm that the person believes to be owned or controlled by a foreign government described in subsection (b)(2).