

of the contract that exceeds \$500,000 in value and could be performed inside the United States or Canada, the firm shall include the notification in its bid or proposal.

(3) The notification by a firm under paragraph (1) with respect to a first-tier subcontractor shall be made, to the maximum extent practicable, at least 30 days before award of the subcontract.

(b) RECIPIENT OF NOTIFICATION.—The firm shall transmit the notification—

(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 4816 of this title.

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

(1) Commercial products or commercial services (as defined in sections 103 and 103a, respectively, 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, § 2410g; 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; renumbered § 4603 and amended Pub. L. 116-283, div. A, title XVIII, §§ 1861(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4277, 4294.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 4621 and 4622 were renumbered sections 7621 and 7622 of this title, respectively.

A prior section 4623, act Aug. 10, 1956, ch. 1041, 70A Stat. 258, provided that the Quartermaster Corps sell not more than 16 ounces of tobacco a month to an enlisted member of the Army on active duty who requests it, prior to repeal by Pub. L. 91-482, § 1(a), Oct. 21, 1970, 84 Stat. 1082.

Prior sections 4624 to 4629 were renumbered sections 7624 to 7629 of this title, respectively.

AMENDMENTS

2021—Pub. L. 116-283, § 1861(b), renumbered section 2410g of this title as this section.

Subsec. (c). Pub. L. 116-283, § 1883(b)(2), substituted “section 4816” for “section 2505”.

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.

Statutory Notes and Related Subsidiaries

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.

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 2220 of this title.

EFFECTIVE DATE

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 [now 10 U.S.C. 4603] (as added by subsection (a)), shall take effect 90 days after the date of the enactment of this Act [Oct. 23, 1992].”

CHAPTER 363—PROHIBITION AND PENALTIES

Sec. 4651. 4652. 4653. 4654. 4655. 4656. 4657. 4658. 4659. 4660.	<p>Expenditure of appropriations: limitation.</p> <p>Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.</p> <p>Prohibition on use of funds to relieve economic dislocations.</p> <p>Prohibition on doing business with certain offerors or contractors.</p> <p>Prohibition of contractors limiting subcontractor sales directly to the United States.</p> <p>Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.</p> <p>Prohibition on criminal history inquiries by contractors prior to conditional offer.</p> <p>Debarment of persons convicted of fraudulent use of “Made in America” labels.</p> <p>Prohibition on contracting with entities that comply with the secondary Arab boycott of Israel.</p> <p>Prohibition on collection of political information.</p>
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Editorial Notes

PRIOR PROVISIONS

A prior chapter 363 “PROHIBITIONS AND PENALTIES”, consisting of reserved section 4651, was repealed by Pub. L. 116-283, div. A, title XVIII, § 1862(a), Jan. 1, 2021, 134 Stat. 4277.

Another prior chapter 363, consisting of sections 3841 to 3855 relating to separation or transfer to the Retired Reserve, some of which had previously been repealed, was repealed in its entirety by Pub. L. 103-337, div. A, title XVI, §§ 1629(a)(3), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Statutory Notes and Related Subsidiaries

PROHIBITION ON CERTAIN PROCUREMENTS FROM THE XINJIANG UYGHUR AUTONOMOUS REGION

Pub. L. 117–81, div. A, title VIII, § 848, Dec. 27, 2021, 135 Stat. 1843, provided that:

“(a) PROHIBITION ON THE AVAILABILITY OF FUNDS FOR CERTAIN PROCUREMENTS FROM XUAR.—None of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for fiscal year 2022 for the Department of Defense may be obligated or expended to knowingly procure any products mined, produced, or manufactured wholly or in part by forced labor from XUAR or from an entity that has used labor from within or transferred from XUAR as part of a ‘poverty alleviation’ or ‘pairing assistance’ program.

“(b) RULEMAKING.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall issue rules to require a certification from offerors for contracts with the Department of Defense stating the offeror has made a good faith effort to determine that forced labor from XUAR, as described in subsection (a), was not or will not be used in the performance of such contract.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘forced labor’ means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.

“(2) The term ‘person’ means—

“(A) a natural person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group; or

“(B) any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in subparagraph (A).

“(3) The term ‘XUAR’ means the Xinjiang Uyghur Autonomous Region of the People’s Republic of China.”

EMPLOYMENT TRANSPARENCY REGARDING INDIVIDUALS WHO PERFORM WORK IN THE PEOPLE’S REPUBLIC OF CHINA

Pub. L. 117–81, div. A, title VIII, § 855, Dec. 27, 2021, 135 Stat. 1850, provided that:

“(a) DISCLOSURE REQUIREMENTS.—

“(1) INITIAL DISCLOSURES.—The Secretary of Defense shall require each covered entity to disclose to the Secretary of Defense if the entity employs one or more individuals who will perform work in the People’s Republic of China on a covered contract when the entity submits a bid or proposal for such covered contract, except that such disclosure shall not be required to the extent that the Secretary determines that such disclosure would not be in the interest of national security.

“(2) RECURRING DISCLOSURES.—For each of fiscal years 2023 and 2024, the Secretary of Defense shall require each covered entity that is a party to one or more covered contracts in the fiscal year to disclose to the Secretary if the entity employs one or more individuals who perform work in the People’s Republic of China on any such contract.

“(3) MATTERS TO BE INCLUDED.—If a covered entity required to make a disclosure under paragraph (1) or (2) employs any individual who will perform work in the People’s Republic of China on a covered contract, such disclosure shall include—

“(A) the total number of such individuals who will perform work in the People’s Republic of China on the covered contracts funded by the Department of Defense; and

“(B) a description of the physical presence in the People’s Republic of China where work on the covered contract will be performed.

“(b) FUNDING FOR COVERED ENTITIES.—The Secretary of Defense may not award a covered contract to, or

renew a covered contract with, a covered entity unless such covered entity has submitted each disclosure such covered entity is required to submit under subsection (a).

“(c) SEMI-ANNUAL BRIEFING.—Beginning on January 1, 2023, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] semi-annual briefings that summarize the disclosures received by the Department over the previous 180 days pursuant to this section, and such briefings may be classified.

“(d) DEFINITIONS.—In this section:

“(1) COVERED CONTRACT.—The term ‘covered contract’ means any Department of Defense contract or subcontract with a value in excess of \$5,000,000, excluding contracts for commercial products or services.

“(2) COVERED ENTITY.—The term ‘covered entity’ means any corporation, company, limited liability company, limited partnership, business trust, business association, or other similar entity, including any subsidiary thereof, performing work on a covered contract in the People’s Republic of China, including by leasing or owning real property used in the performance of the covered contract in the People’s Republic of China.

“(e) EFFECTIVE DATE.—This section shall take effect on July 1, 2022.”

PROHIBITION ON PROCUREMENTS FROM COMMUNIST CHINESE MILITARY COMPANIES

Pub. L. 109–163, div. A, title XII, § 1211, Jan. 6, 2006, 119 Stat. 3461, as amended by Pub. L. 112–81, div. A, title XII, § 1243(a), (b), Dec. 31, 2011, 125 Stat. 1645; Pub. L. 114–328, div. A, title XII, § 1296, Dec. 23, 2016, 130 Stat. 2562, provided that:

“(a) PROHIBITION.—The Secretary of Defense may not procure goods or services described in subsection (b), through a contract or any subcontract (at any tier) under a contract, from any Communist Chinese military company.

“(b) GOODS AND SERVICES COVERED.—For purposes of subsection (a), the goods and services described in this subsection are goods and services on the munitions list of the International Traffic in Arms Regulations or in the 600 series of the control list of the Export Administration Regulations, other than goods or services procured—

“(1) in connection with a visit by a vessel or an aircraft of the United States Armed Forces to the People’s Republic of China;

“(2) for testing purposes; or

“(3) for purposes of gathering intelligence.

“(c) WAIVER AUTHORIZED.—The Secretary of Defense may waive the prohibition in subsection (a) if the Secretary determines that such a waiver is necessary for national security purposes and the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report described in subsection (d) not less than 15 days before issuing the waiver under this subsection.

“(d) REPORT.—The report referred to in subsection (c) is a report that identifies the specific reasons for the waiver issued under subsection (c) and includes recommendations as to what actions may be taken to develop alternative sourcing capabilities in the future.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘Communist Chinese military company’ has the meaning provided that term by section 1237(b)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 [Pub. L. 105–261] (50 U.S.C. 1701 note).

“(2) The term ‘munitions list of the International Traffic in Arms Regulations’ means the United States Munitions List contained in part 121 of subchapter M of title 22 of the Code of Federal Regulations.

“(3) The term ‘600 series of the control list of the Export Administration Regulations’ means the 600 se-

ries of the Commerce Control List contained in Supplement No. 1 to part 774 of subtitle B of title 15 of the Code of Federal Regulations.”

[Pub. L. 112-81, div. A, title XII, §1243(c), Dec. 31, 2011, 125 Stat. 1646, provided that: “The amendments made by this section [amending section 1211 of Pub. L. 109-163, set out above] take effect on the date of the enactment of this Act [Dec. 31, 2011] and apply with respect to contracts and subcontracts of the Department of Defense entered into on or after the date of the enactment of this Act.”]

§ 4651. Expenditure of appropriations: limitation

(a) Money appropriated to the Department of Defense may not be spent under a contract other than a contract for personal services unless that contract provides that—

(1) the United States may, by written notice to the contractor, terminate the right of the contractor to proceed under the contract if the Secretary concerned or his designee finds, after notice and hearing, that the contractor, or his agent or other representative, offered or gave any gratuity, such as entertainment or a gift, to an officer, official, or employee of the United States to obtain a contract or favorable treatment in the awarding, amending, or making of determinations concerning the performance, of a contract; and

(2) if a contract is terminated under clause (1), the United States has the same remedies against the contractor that it would have had if the contractor had breached the contract and, in addition to other damages, is entitled to exemplary damages in an amount at least three, but not more than 10, as determined by the Secretary or his designee, times the cost incurred by the contractor in giving gratuities to the officer, official, or employee concerned.

The existence of facts upon which the Secretary makes findings under clause (1) may be reviewed by any competent court.

(b) This section does not apply to a contract that is for an amount not greater than the simplified acquisition threshold (as defined in section 134 of title 41).

(Added Pub. L. 87-651, title II, §207(a), Sept. 7, 1962, 76 Stat. 520, §2207; amended Pub. L. 104-106, div. A, title VIII, §801, Feb. 10, 1996, 110 Stat. 389; Pub. L. 111-350, §5(b)(5), Jan. 4, 2011, 124 Stat. 3842; renumbered §4651, Pub. L. 116-283, div. A, title XVIII, §1862(b), Jan. 1, 2021, 134 Stat. 4277.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2207	5:174d.	June 30, 1954, ch. 432, §719, 68 Stat. 353.

The following substitutions are made: “spent” for “expended”; “United States” for “Government”; “if a contract is terminated under clause (1)” for “that in the event any such contract is so terminated”; and “has . . . that it would have had if” for “shall be entitled . . . to pursue . . . as it could pursue in the event of”. The word “official” is inserted for clarity. The words “entered into after June 30, 1954” are omitted as executed.

Editorial Notes

PRIOR PROVISIONS

A prior section 4651, Aug. 10, 1956, ch. 1041, 70A Stat. 260; Pub. L. 99-145, title XIII, §1301(b)(3)(C), Nov. 8, 1985,

99 Stat. 736, related to issuance of arms, tentage, and equipment necessary for proper military training to institutions not maintaining units of the Reserve Officers’ Training Corps, prior to repeal by Pub. L. 112-239, div. A, title V, §552(b), Jan. 2, 2013, 126 Stat. 1741.

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2207 of this title as this section.

2011—Subsec. (b). Pub. L. 111-350 substituted “section 134 of title 41” for “section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))”.

1996—Pub. L. 104-106 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

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.

§ 4652. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs

No funds appropriated by the Congress may be obligated or expended to assist any contractor of the Department of Defense in preparing any material, report, lists, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing, and evaluation has not been completed.

(Added Pub. L. 103-355, title VII, §7202(a)(1), Oct. 13, 1994, 108 Stat. 3379, §2247; renumbered §2249, Pub. L. 104-106, div. D, title XLIII, §4321(b)(2)(A), Feb. 10, 1996, 110 Stat. 672; renumbered §4652, Pub. L. 116-283, div. A, title XVIII, §1862(b), Jan. 1, 2021, 134 Stat. 4277.)

Editorial Notes

PRIOR PROVISIONS

A prior section 4652 was renumbered section 7652 of this title.

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2249 of this title as this section.

1996—Pub. L. 104-106 renumbered section 2247 of this title as section 2249.

Statutory Notes and Related Subsidiaries

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.

EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355 set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

§ 4653. Prohibition on use of funds to relieve economic dislocations

(a) In order to help avoid the uneconomic use of Department of Defense funds in the procure-