

## PROHIBITION OF CONTRACTS

Pub. L. 106-398, §1 [[div. A], title VIII, §825(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-220, provided that: “If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a ‘Made in America’ inscription, or another inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code [now 10 U.S.C. 4658], whether the person should be debarred from contracting with the Department of Defense.”

Similar provisions were contained in the following prior authorization acts:

Pub. L. 106-65, div. A, title VIII, §816(b), Oct. 5, 1999, 113 Stat. 712.

Pub. L. 103-160, div. A, title VIII, §849(b), Nov. 30, 1993, 107 Stat. 1725.

**§ 4659. 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, §2410i; 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; renumbered §4659, Pub. L. 116-283, div. A, title XVIII, §1862(b), Jan. 1, 2021, 134 Stat. 4277.)

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

## Editorial Notes

## 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

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

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))”.

2011—Subsec. (b)(1). Pub. L. 111-350 substituted “simplified acquisition threshold (as defined in section 134 of title 41)” for “small purchase threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))”.

## 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.

**§ 4660. Prohibition on collection of political information**

(a) **PROHIBITION ON REQUIRING SUBMISSION OF POLITICAL INFORMATION.**—The head of an agency may not require a contractor to submit political information related to the contractor or a subcontractor at any tier, or any partner, officer, director, or employee of the contractor or subcontractor—

(1) as part of a solicitation, request for bid, request for proposal, or any other form of communication designed to solicit offers in connection with the award of a contract for procurement of property or services; or

(2) during the course of contract performance as part of the process associated with modifying a contract or exercising a contract option.

(b) **SCOPE.**—The prohibition under this section applies to the procurement of commercial products and commercial services, the procurement of commercial-off-the-shelf-items, and the non-commercial procurement of supplies, property, services, and manufactured items, irrespective of contract vehicle, including contracts, purchase orders, task or deliver orders under indefinite delivery/indefinite quantity contracts, blanket purchase agreements, and basic ordering agreements.

(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed as—

(1) waiving, superseding, restricting, or limiting the application of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.) or preventing Federal regulatory or law enforcement agencies from collecting or receiving information authorized by law; or

(2) precluding the Defense Contract Audit Agency from accessing and reviewing certain information, including political information,

for the purpose of identifying unallowable costs and administering cost principles established pursuant to subchapter I of chapter 273 of this title.

(d) DEFINITIONS.—In this section:

(1) CONTRACTOR.—The term “contractor” includes contractors, bidders, and offerors, and individuals and legal entities who would reasonably be expected to submit offers or bids for Federal Government contracts.

(2) POLITICAL INFORMATION.—The term “political information” means information relating to political spending, including any payment consisting of a contribution, expenditure, independent expenditure, or disbursement for an electioneering communication that is made by the contractor, any of its partners, officers, directors or employees, or any of its affiliates or subsidiaries to a candidate or on behalf of a candidate for election for Federal office, to a political committee, to a political party, to a third party entity with the intention or reasonable expectation that it would use the payment to make independent expenditures or electioneering communications, or that is otherwise made with respect to any election for Federal office, party affiliation, and voting history.

(3) OTHER TERMS.—Each of the terms “contribution”, “expenditure”, “independent expenditure”, “candidate”, “election”, “electioneering communication”, and “Federal office” has the meaning given that term in the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.).

(Added Pub. L. 112–81, div. A, title VIII, §823(a), Dec. 31, 2011, 125 Stat. 1502, §2335; amended Pub. L. 113–291, div. A, title X, §1071(f)(17), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115–91, div. A, title X, §1081(a)(32), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 115–232, div. A, title VIII, §836(c)(10), Aug. 13, 2018, 132 Stat. 1866; renumbered §4660 and amended Pub. L. 116–283, div. A, title XVIII, §§1862(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4277, 4294; Pub. L. 117–81, div. A, title XVII, §1701(d)(14), Dec. 27, 2021, 135 Stat. 2137.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Federal Election Campaign Act of 1971, referred to in subsecs. (c)(1) and (d)(3), is Pub. L. 92–225, Feb. 7, 1972, 86 Stat. 3, which is classified principally to chapter 301 (§30101 et seq.) of Title 52, Voting and Elections. For complete classification of this Act to the Code, see Tables.

##### PRIOR PROVISIONS

A prior section 4681, act Aug. 10, 1956, ch. 1041, 70A Stat. 262; Pub. L. 96–513, title V, §512(19), Dec. 12, 1980, 94 Stat. 2930; Pub. L. 107–217, §3(b)(24), Aug. 21, 2002, 116 Stat. 1297, related to sale to States and certain foreign governments of surplus war material, prior to repeal by Pub. L. 114–328, div. A, title XII, §1253(a)(1)(D), Dec. 23, 2016, 130 Stat. 2532.

Prior sections 4682 to 4690 were renumbered sections 7682 to 7690 of this title, respectively.

##### AMENDMENTS

2021—Pub. L. 116–283, §1862(b), renumbered section 2335 of this title as this section.

Subsec. (c)(2). Pub. L. 117–81 substituted “subchapter I of chapter 273” for “section 2324”.

Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to “section 2324”, which was redesignated as multiple sections.

2018—Subsec. (b). Pub. L. 115–232 substituted “commercial products and commercial services” for “commercial items”.

2017—Subsecs. (c)(1), (d)(3). Pub. L. 115–91 substituted “(52 U.S.C. 30101 et seq.)” for “(2 U.S.C. 431 et seq.)”.

2014—Subsec. (d)(2). Pub. L. 113–291, §1071(f)(17)(A), redesignated last sentence as par. (3).

Subsec. (d)(3). Pub. L. 113–291, §1071(f)(17)(B)(ii), (iii), substituted “that term” for “the term” and “Federal Election Campaign” for “Federal Campaign”.

Pub. L. 113–291, §1071(f)(17)(B)(i), which directed amendment of par. (3) by inserting “OTHER TERMS.—” before “each of”, was executed by making the insertion before “Each of” to reflect the probable intent of Congress.

Pub. L. 113–291, §1071(f)(17)(A), redesignated last sentence of par. (2) as (3).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

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.

#### CHAPTER 365—CONTRACTOR WORKFORCE

Sec.

- 4701. Contractor employees: protection from reprisal for disclosure of certain information.
- 4702. Incentives and consideration for qualified training programs.
- 4703. Displaced contractor employees: assistance to obtain certification and employment as teachers or employment as teachers' aides.
- 4704. Defense contractors: listing of suitable employment openings with local employment service office.

#### Editorial Notes

##### PRIOR PROVISIONS

A prior chapter 365 “CONTRACTOR WORKFORCE”, consisting of reserved section 4701, was repealed by Pub. L. 116–283, div. A, title XVIII, §1863(a), Jan. 1, 2021, 134 Stat. 4278.

Another prior chapter 365, consisting of sections 3881 to 3889 relating to retirement for age of certain commissioned officers, some of which had previously been repealed, was repealed in its entirety by Pub. L. 96–513, title II, §216, title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981.

#### Statutory Notes and Related Subsidiaries

POLICIES AND PROCEDURES FOR CONTRACTORS TO REPORT GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

Pub. L. 116–92, div. A, title VIII, §888, Dec. 20, 2019, 133 Stat. 1536, provided that: