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

"(3) PROHIBITION 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.

"§ 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

waiver issued under subsection (c) and includes recommendations as to what actions may be taken to develop alternative sourcing capabilities in the future.

(b) DEFINITIONS.—In this section:


"(2) The term ‘Commerce Control List’ means the list maintained by the Bureau of Industry and Security and set forth in Supplement No. 1 to part 774 of the Export Administration Regulations.


"(4) The term ‘Export Administration Regulations’ has the meaning given that term in section 1742 of the Export Control Reform Act of 2018 (50 U.S.C. 4801).

"(a) In General.—For purposes of subsection (a), and except as provided in paragraph (2), the goods and services described in this subsection are goods and services—

"(A) on the munitions list of the International Traffic in Arms Regulations; or

"(B) on the Commerce Control List that—

"(i) are classified in the 600 series; or

"(ii) contain strategic and critical materials, rare earth elements, or energetic materials used to manufacture missiles or munitions.

"(2) EXCEPTIONS.—Goods and services in this subsection do not include goods or services procured—

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

"(B) for testing purposes; or

"(C) for purposes of gathering intelligence.

"(3) Waiver.—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.
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).


Historical and Revision Notes


The following substitutions are made: “spent” for “‘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 4652 was renumbered section 7652 of this title.

Amendments

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


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.


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.


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.

§ 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 procurement of goods and services, the Congress finds that it is necessary to prohibit the use of such funds for certain purposes.

(b) No funds appropriated to or for the use of the Department of Defense may be used to pay, in connection with any contract awarded by the Department of Defense, a price differential for the purpose of relieving economic dislocations.


Editorial Notes

Prior Provisions

A prior section 4653 was renumbered section 7653 of this title.