

chapter M of title 22 of the Code of Federal Regulations.

“(6) The term ‘Non-SDN Chinese military-industrial complex company’ means any entity on the Non-SDN Chinese Military-Industrial Complex Companies List—

“(A) established pursuant to Executive Order 13959 (50 U.S.C. 1701 note; relating to addressing the threat from securities investments that finance Communist Chinese military companies), as amended before, on, or after the date of the enactment of the [James M. Inhofe] National Defense Authorization Act for Fiscal Year 2023 [Dec. 23, 2022]; and

“(B) maintained by the Office of Foreign Assets Control of the Department of the Treasury.

“(7) The term ‘other covered company’ means a company that—

“(A) is owned or controlled by the government of the People’s Republic of China; and

“(B) is certified by the Secretary of Defense to the congressional defense committees to be a company that must be covered by this section for national security reasons.

“(8) The term ‘strategic and critical materials’ means materials designated as strategic and critical under section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)).

“(f) **EFFECTIVE DATE.**—With respect to goods and services described in clause (ii) of subparagraph (b)(1)(B), the prohibition shall take effect 180 days after the date on which the Secretary of Defense certifies to the congressional defense committees that a sufficient number of commercially viable providers exist outside of the People’s Republic of China that collectively can provide the Department of Defense with satisfactory quality and sufficient quantity of such goods or services as and when needed at United States market prices.”

[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.)