

A, title XVIII, §1862(c)(3)(A), Jan. 1, 2021, 134 Stat. 4278, provided that: “Section 4657(a) of title 10, United States Code, as added by paragraph (1), shall apply with respect to contracts awarded pursuant to solicitations issued after the effective date described in section 1122(b)(2) of this subtitle [2 years after Dec. 20, 2019, see Effective Date note set out under section 9202 of Title 5, Government Organization and Employees].”

REVISIONS TO FEDERAL ACQUISITION REGULATION

Pub. L. 116-92, div. A, title XI, §1123(c), Dec. 20, 2019, 133 Stat. 1614, as amended by Pub. L. 116-283, div. A, title XVIII, §1862(c)(3)(B), Jan. 1, 2021, 134 Stat. 4278, provided that:

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of this subtitle [Dec. 20, 2019], the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation to implement section 4714 of title 41, United States Code, and section 4657 of title 10, United States Code, as added by this section.

“(2) CONSISTENCY WITH OFFICE OF PERSONNEL MANAGEMENT REGULATIONS.—The Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation under paragraph (1) to be consistent with the regulations issued by the Director of the Office of Personnel Management under section 1122(b)(1) [5 U.S.C. 9201 note] to the maximum extent practicable. The Council shall include together with such revision an explanation of any substantive modification of the Office of Personnel Management regulations, including an explanation of how such modification will more effectively implement the rights and protections under this section.”

§ 4658. Debarment of persons convicted of fraudulent use of “Made in America” labels

(a) 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 America, the Secretary shall determine, not later than 90 days after determining that the person has been so convicted, whether the person should be debarred from contracting with the Department of Defense.

(b) In this section, the term “debar” has the meaning given that term by section 4654(c) of this title.

(Added Pub. L. 102-484, div. A, title VIII, §834(a)(1), Oct. 23, 1992, 106 Stat. 2461, §2410f; amended Pub. L. 104-106, div. A, title X, §1062(f), title XV, §1503(a)(22), Feb. 10, 1996, 110 Stat. 444, 512; Pub. L. 107-107, div. A, title X, §1048(a)(20), Dec. 28, 2001, 115 Stat. 1223; renumbered §4658 and amended Pub. L. 116-283, div. A, title XVIII, §1862(b), (c)(2), Jan. 1, 2021, 134 Stat. 4277, 4278; Pub. L. 117-81, div. A, title XVII, §1701(b)(20), Dec. 27, 2021, 135 Stat. 2135.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, §1862(b), renumbered section 2410f of this title as this section.

Subsec. (b). Pub. L. 116-283, §1862(c)(2), as amended by Pub. L. 117-81, §1701(b)(20), substituted “section 4654(c)” for “section 2393(c)”.

2001—Subsec. (a). Pub. L. 107-107 inserted “, or another inscription with the same meaning,” after “inscription”.

1996—Subsec. (a). Pub. L. 104-106, §1062(f), struck out at end “If the Secretary determines that the person

should not be debarred, the Secretary shall submit to Congress a report on such determination not later than 30 days after the determination is made.”

Subsec. (b). Pub. L. 104-106, §1503(a)(22), substituted “In” for “For purposes of”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-81 applicable as if included in the enactment of title XVIII of Pub. L. 116-283 as enacted, see section 1701(a)(2) 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

Pub. L. 102-484, div. A, title VIII, §834(b), Oct. 23, 1992, 106 Stat. 2461, provided that: “Section 2410f of title 10, United States Code [now 10 U.S.C. 4658], as added by subsection (a), shall take effect 90 days after the date of the enactment of this Act [Oct. 23, 1992].”

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)¹ 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.

¹ See References in Text note below.

(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.)

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.)