

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.

§ 4661. Prohibition on certain procurements from the Xinjiang Uyghur Autonomous Region

(a) PROHIBITION ON THE AVAILABILITY OF FUNDS FOR CERTAIN PROCUREMENTS FROM XUAR.—None

of the funds authorized to be appropriated by a national defense authorization Act or any other Act, or otherwise made available for any fiscal year 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) DEFINITIONS.—In this section, the terms “forced labor” and “XUAR” have the meanings given, respectively, in section 2496 of this title.

(Added Pub. L. 117-263, div. A, title VIII, §855(b), Dec. 23, 2022, 136 Stat. 2723.)

Statutory Notes and Related Subsidiaries

POLICY REQUIRED

Pub. L. 117-263, div. A, title VIII, §855(d), Dec. 23, 2022, 136 Stat. 2723, provided that: “Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall issue a policy to require that an offeror or awardee of a Department of Defense contract shall make a good faith effort to determine that forced labor from XUAR, as described in section 4661 of title 10, United States Code (as amended by subsection (b)), will not be used in the performance of such contract.”

§ 4662. Prohibition on the transfer of certain data on employees of the Department of Defense to third parties

(a) IN GENERAL.—Each contract entered into by the Department of Defense on or after the date of the enactment of this section shall include a provision prohibiting the contractor and each subcontractor under such contract from selling, licensing, or otherwise transferring covered individually identifiable Department employee data to any individual or entity other than the Federal Government, except to the extent required to perform such contract or a subcontract under such contract. This provision does not apply in circumstances where the transfer of such data would otherwise be authorized by law.

(b) WAIVER.—The Secretary of Defense may waive the requirements of subsection (a) with respect to the sale, licensing, or other transfer of covered individually identifiable Department employee data if the Secretary determines that such waiver—

(1) appropriately considers the privacy risks to the employee of the Department of Defense to which such data relates; and

(2) is necessary in the interest of national security.

(c) REPORT.—Not later than January 15, 2026, and annually thereafter for four years, the Under Secretary of Defense for Acquisition and Sustainment, shall submit to the congressional defense committees a report on the use of the waiver authority under subsection (b) for the fiscal year preceding the date of submission of the report. The report shall include, for each use of the waiver—

(1) the specific justification for providing the waiver;

(2) an identification of the contractor or subcontractor that is the subject of the waiver request; and

(3) an identification of the purpose of the sale, licensing, or transfer of covered individually identifiable Department employee data that is the subject of the waiver request.

(d) DEFINITIONS.—In this section:

(1) The term “covered individually identifiable Department employee data” means individually identifiable Department employee data obtained by a contractor or subcontractor described in subsection (a).

(2) The term “individually identifiable Department employee data” means information related to an employee of the Department of Defense, including a member of the Armed Forces, that—

(A) identifies such employee; or

(B) which may be used to infer, by either direct or indirect means, the identity of such an employee to whom the information applies.

(Added Pub. L. 118–31, div. A, title VIII, §803, Dec. 22, 2023, 137 Stat. 312; amended Pub. L. 118–159, div. A, title VIII, §836, Dec. 23, 2024, 138 Stat. 1987.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 118–31, which was approved Dec. 22, 2023.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–159, §836(1), struck out “and that would be permissible pursuant to statute or guidance from the Director of the Office of Management and Budget” after “or a subcontract under such contract” and inserted at end “This provision does not apply in circumstances where the transfer of such data would otherwise be authorized by law.”

Subsec. (b). Pub. L. 118–159, §836(2), amended subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary of Defense may waive the requirements of subsection (a) with respect to a sale, licensing, or other transfer of covered individually identifiable Department employee data if the Secretary determines that such waiver is appropriate.”

Subsecs. (c), (d). Pub. L. 118–159, §836(3), (5), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d)(1). Pub. L. 118–159, §836(4), amended par. (1) generally. Prior to amendment, par. (1) defined covered individually identifiable Department employee data.

§ 4663. Prohibition on contracting with covered entities that contract with lobbyists for Chinese military companies

(a) PROHIBITION ON ENTERING INTO CONTRACTS WITH COVERED ENTITIES.—Except as provided in subsection (c), the Secretary of Defense may not enter into a contract with an entity, a parent company of such entity, or a subsidiary of such entity is¹ a party to a contract with a covered lobbyist.

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply with respect to an entity that made reasonable inquiries regarding the lobbying activities of another entity and determined such entity was not a covered lobbyist.

(c) WAIVER.—Upon notification to Congress, the Secretary of Defense may waive the requirements of this section.

¹ So in original.

(d) DEFINITIONS.—In this section:

(1) The term “covered lobbyist” means an entity that engages in lobbying activities for any entity determined to be a Chinese military company listed in accordance with section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (10 U.S.C. 113 note).

(2) The term “lobbying activities” has the meaning given in section 1045(c) of the National Defense Authorization Act for Fiscal Year 2018 (10 U.S.C. 971 note prec.).

(Added Pub. L. 118–159, div. A, title VIII, §851(a), Dec. 23, 2024, 138 Stat. 1995.)

Editorial Notes

REFERENCES IN TEXT

Section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, referred to in subsec. (d)(1), is section 1260H of Pub. L. 116–283, which is set out as a note under section 113 of this title.

Section 1045(c) of the National Defense Authorization Act for Fiscal Year 2018, referred to in subsec. (d)(2), is section 1045(c) of Pub. L. 115–91, which is set out in a note preceding section 971 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 118–159, div. A, title VIII, §851(b), Dec. 23, 2024, 138 Stat. 1995, provided that: “This section [enacting this section] and the amendments made by this section shall take effect on June 30, 2026.”

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.
4705.	Notice of contract cancellation or termination relating to remote or isolated installations.

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.

AMENDMENTS

2024—Pub. L. 118–159, div. A, title VIII, §808, Dec. 23, 2024, 138 Stat. 1977, added item 4705. Amendment was made pursuant to operation of section 102 of this title.

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: