

L. 115-232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 8752 of this title.

§ 4655. Prohibition of contractors limiting subcontractor sales directly to the United States

(a) Each contract for the purchase of supplies or services made by the Department of Defense shall provide that the contractor will not—

(1) enter into any agreement with a subcontractor under the contract that has the effect of unreasonably restricting sales by the subcontractor directly to the United States of any item or process (including computer software) made or furnished by the subcontractor under the contract (or any follow-on production contract); or

(2) otherwise act to restrict unreasonably the ability of a subcontractor to make sales to the United States described in clause (1).

(b) This section does not prohibit a contractor from asserting rights it otherwise has under law.

(c) 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).

(d)(1) An agreement between the contractor in a contract for the acquisition of commercial products or commercial services and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the United States being treated differently with regard to the restriction than any other prospective purchaser of such commercial products or commercial services from that subcontractor.

(2) In paragraph (1), the terms “commercial product” and “commercial service” have the meanings given those terms in sections 103 and 103a, respectively, of title 41.

(Added Pub. L. 98-525, title XII, §1234(a), Oct. 19, 1984, 98 Stat. 2601, §2402; amended Pub. L. 103-355, title IV, §4102(f), title VIII, §8105(g), Oct. 13, 1994, 108 Stat. 3340, 3392; Pub. L. 111-350, §5(b)(25), Jan. 4, 2011, 124 Stat. 3844; Pub. L. 115-232, div. A, title VIII, §836(e)(4), Aug. 13, 2018, 132 Stat. 1869; renumbered §4655, Pub. L. 116-283, div. A, title XVIII, §1862(b), Jan. 1, 2021, 134 Stat. 4277.)

Editorial Notes

PRIOR PROVISIONS

A prior section 4655 was renumbered section 7655 of this title.

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2402 of this title as this section.

2018—Subsec. (d)(1). Pub. L. 115-232, §836(e)(4)(A), substituted “commercial products or commercial services” for “commercial items” in two places.

Subsec. (d)(2). Pub. L. 115-232, §836(e)(4)(B), substituted “the terms ‘commercial product’ and ‘commercial service’ have the meanings given those terms in sections 103 and 103a, respectively, of title 41.” for “the term ‘commercial item’ has the meaning given such term in section 103 of title 41.”

2011—Subsec. (c). Pub. L. 111-350, §5(b)(25)(A), substituted “section 134 of title 41)” for “section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))”.

Subsec. (d)(2). Pub. L. 111-350, §5(b)(25)(B), substituted “section 103 of title 41)” for “section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))”.

1994—Subsecs. (c), (d). Pub. L. 103-355 added subsecs. (c) and (d).

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.

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.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 8752 of this title.

EFFECTIVE DATE

Pub. L. 98-525, title XII, §1234(c), Oct. 19, 1984, 98 Stat. 2604, provided that: “Section 2402 of title 10, United States Code [now 10 U.S.C. 4655] (as added by subsection (a)), shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act [Oct. 19, 1984].”

§ 4656. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors

(a) PROHIBITION.—(1) An individual who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from each of the following:

(A) Working in a management or supervisory capacity on any defense contract or any first tier subcontract of a defense contract.

(B) Serving on the board of directors of any defense contractor or any subcontractor awarded a contract directly by a defense contractor.

(C) Serving as a consultant to any defense contractor or any subcontractor awarded a contract directly by a defense contractor.

(D) Being involved in any other way, as determined under regulations prescribed by the Secretary of Defense, with a defense contract or first tier subcontract of a defense contract.

(2) Except as provided in paragraph (3), the prohibition in paragraph (1) shall apply for a period, as determined by the Secretary of Defense, of not less than five years after the date of the conviction.

(3) The prohibition in paragraph (1) may apply with respect to an individual for a period of less than five years if the Secretary determines that