

## TITLE 22 - FOREIGN RELATIONS AND INTERCOURSE

### CHAPTER 38 - DEPARTMENT OF STATE

#### § 2679c. Prohibition on discriminatory contracts

##### (a) Prohibition

(1) Except for real estate leases and as provided in subsection (b) of this section, the Department of State may not enter into any contract that expends funds appropriated to the Department of State for an amount in excess of the small purchase threshold (as defined in section 403 (11) of title 41)—

(A) with a foreign person that complies with the Arab League boycott of Israel, or

(B) with any foreign or United States person that discriminates in the award of subcontracts on the basis of religion.

(2) For purposes of this section—

(A) a foreign person complies with the boycott of Israel by Arab League countries when that foreign person takes or knowingly agrees to take any action, with respect to the boycott of Israel by Arab League countries, which section 2407 (a) of title 50, Appendix, prohibits a United States person from taking, except that for purposes of this paragraph, the term “United States person” as used in subparagraphs (B) and (C) of section 2407 (a)(1) of title 50, Appendix, shall be deemed to mean “person”; and

(B) the term “foreign person” means any person other than a United States person as defined in section 2415 (2) of title 50, Appendix.

(3) For purposes of paragraph (1), a foreign person shall be deemed not to comply with the boycott of Israel by Arab League countries if that person, or the Secretary of State or his designee on the basis of available information, certifies that the person violates or otherwise does not comply with the boycott of Israel by Arab League countries by taking any actions prohibited by section 2407 (a) of title 50, Appendix. Certification by the Secretary of State or his designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

##### (b) Waiver by Secretary of State

The Secretary of State may waive the requirements of this section on a country-by-country basis for a period not to exceed one year upon certification to the Congress by the Secretary that such waiver is in the national interest and is necessary to carry on diplomatic functions of the United States. Each such certification shall include a detailed justification for the waiver with respect to each such country.

##### (c) Responses to contract solicitations

(1) Except as provided in paragraph (2) of this subsection, the Secretary of State shall ensure that any response to a solicitation for a bid or a request for a proposal, with respect to a contract covered by subsection (a) of this section, includes the following clause, in substantially the following form:

“arab league boycott of israel

“(a) Definitions.—As used in this clause—

“(1) the term ‘foreign person’ means any person other than a United States person as defined in paragraph (2); and

“(2) the term ‘United States person’ means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

“(b) Certification.—By submitting this offer, the Offeror certifies that it is not—

NB: This unofficial compilation of the U.S. Code is current as of Jan. 3, 2005 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

“(1) taking or knowingly agreeing to take any action, with respect to the boycott of Israel by Arab League countries, which section 8(a) of the Export Administration Act of 1979 (50 App. U.S.C. 2407 (a)) prohibits a United States person from taking; or

“(2) discriminating in the award of subcontracts on the basis of religion.”

(2) An Offeror would not be required to include the certification required by paragraph (1), if the Offeror is deemed not to comply with the Arab League boycott of Israel by the Secretary of State or a designee on the basis of available information. Certification by the Secretary of State or a designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(3) The Secretary of State shall ensure that all State Department contract solicitations include a detailed explanation of the requirements of section 2407 (a) of title 50, Appendix.

**(d) Review and termination**

(1) The Department of State shall conduct reviews of the certifications submitted pursuant to this section for the purpose of assessing the accuracy of the certifications.

(2) Upon complaint of any foreign or United States person of a violation of the certification as required by this section, filed with the Secretary of State, the Department of State shall investigate such complaint, and if such complaint is found to be correct and a violation of the certification has been found, all contracts with such violator shall be terminated for default as soon as practicable, and, for a period of two years thereafter, the State Department shall not enter into any contracts with such a violator.

(Pub. L. 103–236, title V, § 565, Apr. 30, 1994, 108 Stat. 484; Pub. L. 105–277, div. G, subdiv. A, title XIII, § 1336(3), Oct. 21, 1998, 112 Stat. 2681–790.)

**Amendments**

1998—Subsec. (e). Pub. L. 105–277 struck out heading and text of subsec. (e). Text read as follows: “The provisions of this section shall apply to the United States Information Agency in the same manner and extent to which such provisions apply to the Department of State. In the application of this section to the United States Information Agency, the Director of the United States Information Agency or a designee shall have the authorities and responsibilities of the Secretary of State.”

**Effective Date of 1998 Amendment**

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

**Short Title**

Section 561 of Pub. L. 103–236 provided that: “This part [part C (§§ 561–565) of title V of Pub. L. 103–236, enacting this section and provisions set out as a note under section 2751 of this title] may be cited as the ‘Anti-Economic Discrimination Act of 1994’.”